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**CHAPTER NO. 535**

[SB 85]

AN ACT PROVIDING FOR A VOLUNTARY INCOME TAX CHECKOFF TO FUND THE MONTANA END-STAGE RENAL DISEASE PROGRAM; ESTABLISHING AN ACCOUNT IN THE STATE SPECIAL REVENUE FUND; AND PROVIDING AN APPLICABILITY DATE AND A CONTINGENT TERMINATION DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Voluntary checkoff for assistance to persons suffering from end-stage renal disease.** (1) Each individual taxpayer who is required to file an income tax return under Title 15, chapter 30, may contribute to a program to provide financial assistance to persons suffering from end-stage renal disease by marking the appropriate box on the state income tax return.

(2) The department shall include on each Montana state individual income tax return form a clear and conspicuous provision by which the taxpayer may indicate a contribution to the Montana end-stage renal disease program. The provision must be in substantially the following form:

Montana end-stage renal disease program funding. Check the appropriate blank if you wish to contribute, in addition to your existing tax liability, \_\_\_\$5, \_\_\_\$10, or \_\_\_(specify an amount) to fund a program to provide financial assistance to persons suffering from end-stage renal disease. If a joint return, check the appropriate blank if your spouse wishes to contribute, in addition to your existing tax liability, \_\_\_\$5, \_\_\_\$10, or \_\_\_(specify an amount) for the same purpose.

(3) Money received under this section, after the department has deducted the administrative charge provided for in 15-30-153, must be deposited in the account established by [section 2] to provide financial assistance to persons suffering from end-stage renal disease.

**Section 2. End-stage renal disease program account — administration.** (1) There is an end-stage renal disease program account in the state special revenue fund provided for in 17-2-102.

(2) All money collected under [section 1] must be deposited in the account.

(3) Money in the account must be used by the department of public health and human services for the treatment of end-stage renal disease under 50-44-102.

**Section 3. Codification instruction.** (1) [Section 1] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 50, chapter 44, part 1, and the provisions of Title 50, chapter 44, part 1, apply to [section 2].

**Section 4. Applicability.** [This act] applies to tax years beginning after December 31, 2005.

**Section 5. Contingent termination.** The voluntary income tax checkoff created in [section 1] terminates on January 1 of the first tax year following the 2 immediately preceding tax years in which the voluntary checkoff raises less than \$10,000 in each of those 2 tax years.

Approved April 28, 2005

**CHAPTER NO. 536**

[SB 87]

AN ACT CLARIFYING THAT PROPERTY TAXES OR FEES ON CENTRALLY ASSESSED PROPERTY MUST BE PAID UNDER PROTEST IN ORDER FOR THE TAXPAYER TO RECEIVE A REFUND OR CREDIT OF THE PROPERTY TAXES; REQUIRING THAT THE PROTESTED PAYMENT BE REPORTED TO THE DEPARTMENT OF REVENUE; ESTABLISHING A CENTRALLY ASSESSED PROPERTY TAX STATE SPECIAL REVENUE FUND FOR THE DEPOSIT OF 50 PERCENT OF THE PROTESTED STATE PROPERTY TAXES HELD IN RESERVE; PROVIDING THAT THE DEPARTMENT OF REVENUE AND NOT THE STATE TREASURER RECEIVE AND DISBURSE PROTESTED PROPERTY TAX PAYMENTS; PROVIDING FOR THE DISBURSEMENT OF FUNDS UPON COMPLETION OF A PROTEST ACTION; TRANSFERRING FROM THE GENERAL FUND TO THE CENTRALLY ASSESSED PROPERTY TAX STATE SPECIAL REVENUE FUND 50 PERCENT OF THE MONEY RECEIVED BY THE DEPARTMENT OF REVENUE FROM PAYMENTS OF PROPERTY TAXES OR FEES UNDER PROTEST; AMENDING SECTIONS 15-1-402 AND 15-23-116, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 15-1-402, MCA, is amended to read:

**“15-1-402. Payment of property taxes or fees under protest.** (1) (a) The person upon whom a property tax or fee is being imposed under this title may, before the property tax or fee becomes delinquent, pay under written protest that portion of the property tax or fee protested.

(b) The protested payment must:

~~(a)~~(i) be made to the officer designated and authorized to collect it;

~~(b)~~(ii) specify the grounds of protest; and

~~(c)~~(iii) not exceed the difference between the payment for the immediately preceding tax year and the amount owing in the tax year protested unless a different amount results from the specified grounds of protest, which may include but are not limited to changes in assessment due to reappraisal under 15-7-111.

(c) *If the protested property tax or fee is on property that is subject to central assessment pursuant to 15-23-101, the person shall report to the department the grounds of the protest and the amount of the protested payment for each county in which a protested payment was made. By November 1 of each year, the department shall mail a notice stating the requirements of this subsection (1)(c) to owners of property subject to central assessment under 15-23-101(1) and (2) who have filed a timely appeal under 15-1-211.*

(2) A person appealing a property tax or fee pursuant to chapter 2 or 15, including a person appealing a property tax or fee on property that is subject to central assessment pursuant to 15-23-101(1) or (2), shall pay the tax or fee under protest when due in order to receive a refund. If the tax or fee is not paid under protest when due, the appeal may continue but a tax or fee may not be refunded as a result of the appeal.

(3) If a protested property tax or fee is payable in installments, a subsequent installment portion considered unlawful by the state tax appeal board need not be paid and an action or suit need not be commenced to recover the subsequent

installment. The determination of the action or suit commenced to recover the first installment portion paid under protest determines the right of the party paying the subsequent installment to have it or any part of it refunded to the party or the right of the taxing authority to collect a subsequent installment not paid by the taxpayer plus interest from the date the subsequent installment was due.

(4) (a) Except as provided in subsection (4)(b), all property taxes and fees paid under protest to a county or municipality must be deposited by the treasurer of the county or municipality to the credit of a special fund to be designated as a protest fund and must be retained in the protest fund until the final determination of any action or suit to recover the taxes and fees unless they are released at the request of the county, municipality, or other local taxing jurisdiction pursuant to subsection (5). This section does not prohibit the investment of the money of this fund in the state unified investment program or in any manner provided in Title 7, chapter 6. The provision creating the special protest fund does not apply to any payments made under protest directly to the state.

(b) (i) Property taxes that are levied by the state against property that is centrally assessed pursuant to 15-23-101 must be remitted by the county treasurer to the ~~state treasurer~~ *department*.

(ii) ~~The state treasurer department shall deposit 50% of that portion of the funds levied for the university system pursuant to 15-10-107 in the state special revenue fund to the credit of the university system, and the other 50% of the funds levied pursuant to 15-10-107 must be deposited in a centrally assessed property tax state special revenue fund.~~

(iii) ~~The Fifty percent remainder of the funds remaining after the deposit of university system funds must be deposited in the state general fund, and the other 50% must be deposited in a centrally assessed property tax state special revenue fund.~~

(5) (a) Except as provided in subsection (5)(b), the governing body of a taxing jurisdiction affected by the payment of taxes under protest in the second and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year of the protest. The decision in a previous year of a taxing jurisdiction to leave protested taxes in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled, except the first-year protest amount.

(b) The governing body of a taxing jurisdiction affected by the payment of taxes under protest on property that is centrally assessed pursuant to 15-23-101 in the first and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled. The decision in a previous year of a taxing jurisdiction to leave protested taxes of centrally assessed property in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled.

(6) (a) If action before the county tax appeal board, state tax appeal board, or district court is not commenced within the time specified or if the action is commenced and finally determined in favor of the department of revenue, county, municipality, or treasurer of the county or the municipality, the amount

of the protested portions of the property tax or fee must be taken from the protest fund *or the centrally assessed property tax state special revenue fund* and deposited to the credit of the fund or funds to which the property tax belongs, less a pro rata deduction for the costs of administration of the protest fund and related expenses charged to the local government units.

(b) (i) If the action is finally determined adversely to the governmental entity levying the tax, then the treasurer of the municipality, county, or state entity levying the tax shall, upon receipt of a certified copy of the final judgment in the action and upon expiration of the time set forth for appeal of the final judgment, refund to the person in whose favor the judgment is rendered the amount of the protested portions of the property tax or fee that the person holding the judgment is entitled to recover, together with interest from the date of payment under protest.

(ii) The taxing jurisdiction shall pay interest at the rate of interest earned by the pooled investment fund provided for in 17-6-203 for the applicable period.

(c) If the amount retained in the protest fund is insufficient to pay all sums due the taxpayer, the treasurer shall apply the available amount first to tax repayment, then to interest owed, and lastly to costs.

(d) (i) If the protest action is decided adversely to a taxing jurisdiction and the amount retained in the protest fund is insufficient to refund the tax payments and costs to which the taxpayer is entitled and for which local government units are responsible, the treasurer shall bill and the taxing jurisdiction shall refund to the treasurer that portion of the taxpayer refund, including tax payments and costs, for which the taxing jurisdiction is proratably responsible. The treasurer is not responsible for the amount required to be refunded by the state treasurer as provided in subsection (6)(b).

(ii) For an adverse protest action against the state for centrally assessed property, ~~the state treasurer~~ *department* shall refund *from the centrally assessed property tax state special revenue fund* the amount of protested taxes and *from the state general fund* the amount of interest as required in subsection (6)(b). *The amount refunded for an adverse protested action from the centrally assessed property tax state special revenue fund may not exceed the amount of protested taxes or fees required to be deposited for that action pursuant to subsections (4)(b)(ii) and (4)(b)(iii) or, for taxes or fees protested prior to [the effective date of this act], an equivalent amount of the money transferred to the fund pursuant to [section 3]. If the amount available for the adverse protested action in the centrally assessed property tax state special revenue fund is insufficient to refund the tax payments to which the taxpayer is entitled and for which the state is responsible, the department shall pay the remainder of the refund proportionally from the state general fund and from money deposited in the state special revenue fund levied pursuant to 15-10-107.*

(e) In satisfying the requirements of subsection (6)(d), the taxing jurisdiction, including the state, is allowed not more than 1 year from the beginning of the fiscal year following a final resolution of the protest. The taxpayer is entitled to interest on the unpaid balance at the rate referred to in subsection (6)(b) from the date of payment under protest until the date of final resolution of the protest and at the combined rate of the federal reserve discount rate quoted from the federal reserve bank in New York, New York, on the date of final resolution, plus 4 percentage points, from the date of final resolution of the protest until refund is made.

(7) A taxing jurisdiction, except the state, may satisfy the requirements of this section by use of funds from one or more of the following sources:

(a) imposition of a property tax to be collected by a special tax protest refund levy;

(b) the general fund or any other funds legally available to the governing body; and

(c) proceeds from the sale of bonds issued by a county, city, or school district for the purpose of deriving revenue for the repayment of tax protests lost by the taxing jurisdiction. The governing body of a county, city, or school district is authorized to issue the bonds pursuant to procedures established by law. The bonds may be issued without being submitted to an election. Property taxes may be levied to amortize the bonds.

(8) If the department revises an assessment that results in a refund of taxes of \$5 or less, a refund is not owed.”

**Section 2.** Section 15-23-116, MCA, is amended to read:

**“15-23-116. Statute of limitations.** (1) Except as otherwise provided in this section, no deficiency may be assessed or collected with respect to the year for which a return is filed unless the notice of additional tax proposed to be assessed is mailed within 5 years from the date the return was filed. For the purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last day. If the taxpayer, before the expiration of the period prescribed for assessment of the tax, consents in writing to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period agreed upon.

(2) *Except as provided in subsection (3), a refund or credit may not be allowed or paid unless the taxpayer has paid the tax under protest as provided by 15-1-402.*

~~(3) No refund or credit may be allowed or paid with respect to the year for which a return is filed after~~ *If the department determines that the taxpayer has made an overpayment, the department shall refund or credit the overpayment if the overpayment was discovered within 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period the taxpayer files a claim therefor or the department of revenue has determined the existence of the overpayment and has approved the refund or credit thereof. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit may be filed or a credit or refund allowed if no claim is filed is automatically extended.*

~~(3)(4)~~ (4) If a return is required to be filed and the taxpayer fails to file the return, the tax may be assessed or an action to collect the tax may be brought at any time. If a return is required to be filed and the taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery of the fraud by the department.”

**Section 3. Fund transfer.** Fifty percent of the property tax or fee protest money held pursuant to 15-1-402(4)(b) on [the effective date of this act], but not more than \$4 million for protested taxes deposited in the state general fund, is transferred to the centrally assessed property tax state special revenue fund from the state general fund and from funds in the state special revenue fund levied pursuant to 15-10-107.

**Section 4. Effective date.** [This act] is effective on passage and approval.

Approved April 28, 2005

**CHAPTER NO. 537**

[SB 133]

AN ACT CREATING THE MONTANA EQUITY CAPITAL INVESTMENT ACT; PROVIDING CONTINGENT, DEFERRED TAX CREDITS TO INVESTORS OR THEIR ASSIGNEES; ESTABLISHING AND PROVIDING THE DUTIES OF A MONTANA EQUITY CAPITAL INVESTMENT BOARD; PROVIDING FOR PRIVATE SECTOR ORGANIZATION AND MANAGEMENT OF THE MONTANA EQUITY FUND; PROVIDING FOR REGISTRATION AND VERIFICATION OF TAX CREDIT USE OR TRANSFER; REQUIRING AN ANNUAL FEE FOR THE DESIGNATED INVESTOR GROUP; SETTING TERMS FOR TAX CREDIT REDEMPTION; SETTING CONTRACT TERMS FOR DESIGNATED INVESTOR GROUP INVESTMENTS AND THE DISTRIBUTION OF PROCEEDS; PROVIDING FOR TRANSFER AND TERMINATION OF THE MONTANA EQUITY FUND AND MONTANA EVERGREEN FUND; RESTRICTING CERTAIN INVESTMENTS; REQUIRING AN ANNUAL AUDIT AND AN ANNUAL REPORT; MAKING INVESTMENT IN THE MONTANA EQUITY FUND A PERMISSIBLE INVESTMENT FOR CERTAIN ENTITIES; REQUIRING AN APPLICATION FOR A SECURITIES EXEMPTION; INCORPORATING EQUITY CAPITAL INVESTMENT INTO STATE POLICY; AMENDING SECTIONS 33-2-705 AND 90-1-112, MCA; AND PROVIDING AN EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Short title.** [Sections 1 through 15] may be cited as the “Montana Equity Capital Investment Act”.

**Section 2. Purpose.** The purpose of [sections 1 through 15] is to benefit Montana by attracting out-of-state venture investment funds interested in providing equity capital and near-equity capital to Montana entrepreneurs and economic innovators in Montana. Through investment incentives, the state seeks to nourish creation of a private seed and venture capital industry in Montana to fund academic, technological, and innovative startup companies and other companies that are expanding or restructuring. A further purpose is to encourage lead local investors with which out-of-state venture investors can partner in a way that strengthens the state’s economy and builds a significant, permanent capital resource available to serve the needs of Montana businesses in a way that minimizes the use of state funds or tax credits.

**Section 3. Definitions.** As used in [sections 1 through 15], unless the context requires otherwise, the following definitions apply:

(1) “Board” means the Montana capital investment board provided for in [section 4].

(2) “Capitalize” means to acquire or provide debt, equity, or a combination of debt and equity.

(3) “Certificate” means the document authorized by the board for which contingent, deferred tax credits may be available pursuant to a contract between the board and the designated investor group.

(4) “Certificate holder” means the person to whom a tax credit initially is allowed pursuant to [section 8] and any person who receives a tax credit allocated under [section 8] under a transfer agreement that meets the registration and verification requirements provided for in [section 6].

(5) "Designated investor group" means the investor group selected by the board pursuant to [section 5].

(6) "Equity capital" means cash invested in common or preferred stock, royalty rights, limited partnership interests, limited liability company interests, and any other securities or rights that evidence ownership in private business.

(7) "Investor" means an individual, corporation, partnership, limited liability company, or other legal entity organized under state or federal laws that has contracted with the designated investor group and that has capitalized the Montana equity fund.

(8) "Montana business or project" means an entity with at least 50% of its employees or assets located in Montana.

(9) "Montana equity fund" means the private investment fund to be organized, capitalized, and administered by the designated investor group pursuant to [section 10].

(10) "Montana evergreen fund" means the private investment fund to be organized, capitalized, and administered by the designated investor group as a subfund of the Montana equity fund with investments to be made in primary sector businesses as defined in 39-11-103. These businesses must be headquartered in Montana or have 50% of gross sales receipts from products principally produced in Montana or services provided from a Montana location.

(11) "Near-equity capital" means cash invested in unsecured, undersecured, subordinated, or convertible loans or debt securities.

(12) "Person" means a taxpayer as defined in 15-30-101 or a corporation as described in 15-31-101.

(13) "Proceeds" means revenue arising from the designated investor group's investments after deducting contractual obligations to the designated investor group's investors and the Montana equity fund's investors. Contractual obligations include but are not limited to fees, reimbursement of expenses, and up to 10% of net realized gains that may be allocated and contractually obligated to the designated investor group and specified Montana equity fund investors.

(14) "Tax credits" means credits allowed pursuant to [section 8] and available to a certificate holder against tax liabilities imposed by Title 15, chapter 30 or 31, or by 33-2-705.

**Section 4. Montana capital investment board.** (1) There is a Montana capital investment board. The board has the authority to carry out the activities provided for in [sections 1 through 15].

(2) The board consists of five voting members appointed by the governor. Members must be selected based upon demonstrated expertise and competence in the supervision of investment managers, in the fiduciary management of investment funds, or in the management and administration of tax credit allocation programs. Members may not have an interest in the designated investor group or in any person to whom a tax credit is allocated and issued by the board.

(3) Board members shall serve staggered 4-year terms as provided in 2-15-124(2).

(4) The board shall meet at least once a year.

(5) The governor shall designate a presiding officer.

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

(7) Vacancies must be filled in the same manner as the appointment of the original members.

(8) Members must be compensated for expenses and mileage, as provided in Title 2, chapter 18, part 5, but members may not receive a director's fee, per diem, or salary for service on the board.

(9) The board is attached to the department of commerce for administrative purposes as provided in 2-15-121.

**Section 5. Duties of board — appointment or termination of designated investor group — investment plan — rulemaking.** (1) The board may hire and fire staff, engage consultants, expend funds, enter into contracts, or terminate contracts.

(2) (a) The board shall solicit investment plans from investor groups for the raising and investing of equity capital and near-equity capital pursuant to [sections 1 through 15]. An investment plan must address:

(i) the applicant's philosophy and process;

(ii) evidence of probable success in building equity capital;

(iii) past experience and expertise in the design, implementation, and management of venture capital investment programs or in capital formation;

(iv) a plan for achieving the purposes of [section 2]; and

(v) a plan for achieving Montana investment as described in [section 10(2)].

(b) The board shall select, certify as the designated investor group, and contract with the one investor group considered best qualified to:

(i) organize, capitalize, manage, and direct the Montana equity fund and the Montana evergreen fund as provided for in [section 10]; and

(ii) make investments in private seed and venture capital partnerships or entities based on the investment plan provided for in subsection (2)(a).

(c) The designated investor group shall maintain an office in Montana.

(3) The board shall approve the timing of the initial sale of certificates and the implementation of the investment plan provided for in subsection (2) and may terminate the contract of the designated investor group for lack of compliance with the contract, including but not limited to the specifications for Montana investments referred to in [section 10(2)].

(4) The board shall approve the designated investor group's scheduled return of capital and rate of return on capital to the certificate holder. The scheduled rate of return may not exceed the sum of 400 basis points and the return on a U.S. treasury obligation that has a maturity similar to the investment being made by the certificate holder, plus actual tax and other expenses. These rates, whether fixed rates or variable rates, must be reasonable and prudent, based on competitive market rates.

(5) The board, through one of its members, shall, once each calendar quarter while the legislature is not in session, report to the economic affairs interim committee on the board's progress in implementing [sections 1 through 15] and the board's success in achieving the purpose of [sections 1 through 15].

(6) The board may adopt rules to implement [sections 1 through 15].

**Section 6. Tax credit registration — verification system.** The board shall develop, in conjunction with the department of revenue, a system for registration of tax credits allowed or transferred under [section 8] and a system that permits verification of the validity of a tax credit or a tax credit transfer pursuant to [section 8].

**Section 7. Fee.** (1) The board shall charge the designated investor group an annual fee that is reasonable and commensurate with costs for implementation of [sections 1 through 15].

(2) Fees collected under this section must be deposited in an account in the state special revenue fund to the credit of the board. The funds deposited in the state special revenue account may be used only to defray the expenses of implementing [sections 1 through 15].

**Section 8. Contingent, deferred tax credits.** (1) (a) A total of \$60 million of tax credits is available to certificate holders. The amount of tax credits certified for use may not exceed \$25 million prior to January 1, 2009. No more than \$12 million of tax credits may be claimed in a year.

(b) In calculating the \$12 million of tax credits that may be claimed in a year, the board shall notify the department of revenue or the state auditor, as applicable, of all tax certificates presented for redemption in each year and the amount of taxes against which the board has determined the tax credits are to be applied.

(c) Tax credits must be allocated on a first-come, first-serve basis.

(d) Expired tax credits do not count against the aggregate calculated in subsection (1)(b).

(2) A tax credit may not be claimed prior to July 1, 2010, or after July 1, 2031.

(3) Tax credits may be claimed or redeemed by a certificate holder only in accordance with conditions set forth in the certificate issued by the board.

(4) The certificate must state the amount of the tax credit and the tax year in which the tax credit may first be claimed or redeemed as provided in [section 9] and this section.

(5) Subject to subsection (2), a tax credit may be carried forward by the holder for up to 12 years.

(6) (a) The amount of tax credits certified for use by investors in the Montana equity fund is limited to an amount that offsets a shortfall in the scheduled returns of invested capital and returns on invested capital at rates of return in the contract between the designated investor group and the investor as approved by the board.

(b) The certificate must contain the conditions for claiming a tax credit, including:

(i) the scheduled rate of return for the holder and all predecessors of the holder of the certificate;

(ii) the formula by which a shortfall in returns of invested principal and interest is to be calculated;

(iii) the upper limit of tax credits available under the certificate; and

(iv) the dates by which the tax credits may be first redeemed and last redeemed.

(7) A holder of a certificate may transfer the certificate and the associated tax credits.

(8) The tax credit of an investor group that is a partnership, a limited liability company taxed as a partnership, or an S. corporation may be claimed by the partner, member, or shareholder. The tax credit of an investor group that is an estate or trust may be claimed by the beneficiary. The amount of credit claimed by a partner, member, shareholder, or beneficiary must be the partner's, member's, shareholder's, or beneficiary's pro rata share of the earnings of the partnership, limited liability company, S. corporation, trust, or estate.

(9) The certificate must permit a person claiming an interest in a tax credit to record that interest.

(10) (a) A certificate is binding on the board and the department of revenue once capital is provided to the Montana equity fund.

(b) A certificate may not be modified, rescinded, or terminated, except that redemption as provided in [section 9] terminates a certificate.

**Section 9. Redemption of tax credits.** (1) When a certificate holder submits a certificate for redemption, the board shall request documentation from the designated investor group regarding a shortfall in the scheduled return of capital and rate of return on capital listed on the certificate. The board shall calculate the amount of the allowable tax credit based upon the specifications in the certificate and the documentation from the designated investor group.

(2) The board shall notify the department of revenue or the state auditor, as applicable, of the maximum amount of a tax credit that may be claimed by a certificate holder who has presented a certificate for redemption.

**Section 10. Designated investor group duties — contract with board.** (1) The designated investor group shall organize, capitalize, and administer the Montana equity fund and a Montana evergreen fund pursuant to its contract with the board.

(2) The contract between the board and the designated investor group must contain the following language as part of the designated investor group's implementation plan regarding investments in the Montana equity fund: "For every \$1 invested by the Montana equity fund in its aggregate portfolio of fund investments, the designated investor group shall seek to cause a minimum of \$1 of equity capital or near-equity capital to be invested in Montana businesses or projects or primary sector businesses, as defined in 39-11-103, that are headquartered in Montana or have at least 50% of gross sales receipts from products principally produced in Montana or services provided from a Montana location".

(3) The contract between the board and the designated investor group must identify those investments recognized by the designated investor group as meeting the purposes of subsection (2) regarding investments made in Montana businesses or projects or primary sector businesses.

(4) The designated investor group may receive fees for services. Fees paid to the designated investor group may not be used for lobbying, governmental relations, litigation of the contract with the board, or penalty payments to the state.

(5) A contract between the designated investor group and the board must include:

(a) terms under which the designated investor group or fund partners will share with the state any proceeds;

(b) the term of the contract, which may exceed 7 years, and the effective date of the contract terms;

(c) provisions for investing as described in subsection (2) and allocating the proceeds; and

(d) the timing of distributions.

(6) (a) Proceeds must be reinvested until the Montana equity fund has invested or reserved for investment \$60 million in seed and venture capital partnerships or entities.

(b) Subject to subsection (8), when the condition in subsection (6)(a) is met, distribution of 75% of the proceeds must be made to the Montana evergreen fund and the remainder must be made to the state general fund. When the Montana evergreen fund has invested or reserved for investment \$60 million, distribution of all the proceeds must be made to the state general fund.

(7) The contract must include provisions for the transfer of all investments in the Montana equity fund and the Montana evergreen fund to a new designated investor group upon termination of a contract.

(8) The contract must contain a termination clause for the Montana equity fund and the Montana evergreen fund providing for the liquidation of investments in both funds 50 years after organization of the Montana equity fund. At termination, the proceeds from both funds must be deposited in the general fund.

(9) The designated investor group shall submit to the board for review the contract between the designated investor group and investors.

**Section 11. Restrictions on investment.** The designated investor group may not, without permission of the board, invest:

(1) more than 25% of the Montana equity fund or the Montana evergreen fund in any one company, that company's affiliates, and that company's subsidiaries; or

(2) in a business venture if the designated investor group's investment in combination with other investments by investors in the Montana equity fund exceeds 49% of the business venture's ownership at the time of the investment decision.

**Section 12. Annual audit.** (1) The designated investor group shall provide annually to the board, the governor, and the legislative audit committee a financial audit performed each calendar year by an independent auditor.

(2) The audit must include:

(a) the investments made by the designated investor group through the Montana equity fund but may not extend to the audit of individual portfolio companies;

(b) the redemption or claiming of tax credits available to investors in the Montana equity fund, reported in the aggregate; and

(c) a valuation of the aggregate portfolio assets owned by the Montana equity fund and the Montana evergreen fund as of the end of each year and a description of how the designated investor group has implemented the Montana investment plan described in [section 5].

(3) The Montana equity fund shall pay the cost of the audit.

**Section 13. Annual report.** (1) The designated investor group shall publish an annual report, which must include:

(a) a summary of the annual audit of the Montana equity fund and the Montana evergreen fund conducted pursuant to [section 12];

(b) a review of the designated investor group's progress in implementing its investment plan; and

(c) the number of certificates and the amount of tax credits claimed or redeemed under [section 9].

(2) The designated investor group shall provide copies of the annual report to the governor, an appropriate interim committee of the legislature, and the board.

**Section 14. Permissible investments.** Investments in the Montana equity fund are permissible investments under applicable state laws for banks, credit unions, and insurance companies.

**Section 15. Application for securities exemption.** (1) The designated investor group shall apply to the securities commissioner, provided for in 2-15-1901, for an exemption under 30-10-104(11) for any securities transaction undertaken pursuant to [sections 1 through 15].

(2) The tax credits allowed or transferred pursuant to [sections 1 through 15] may not be considered securities under Title 30.

**Section 16. Equity capital tax credit.** There is allowed a credit against taxes otherwise due under this chapter as provided in [sections 1 through 15].

**Section 17. Credit for equity capital investment.** There is allowed a credit against taxes otherwise due under this chapter as provided in [sections 1 through 15].

**Section 18.** Section 33-2-705, MCA, is amended to read:

**"33-2-705. Report on premiums and other consideration — tax.** (1) Each authorized insurer and each formerly authorized insurer with respect to premiums received while an authorized insurer in this state shall file with the commissioner, on or before March 1 each year, a report in a form prescribed by the commissioner showing total direct premium income, including policy, membership, and other fees, premiums paid by application of dividends, refunds, savings, savings coupons, and similar returns or credits to payment of premiums for new or additional or extended or renewed insurance, charges for payment of premium in installments, and all other consideration for insurance from all kinds and classes of insurance, whether designated as a premium or otherwise, received by a life insurer or written by an insurer other than a life insurer during the preceding calendar year on account of policies covering property, subjects, or risks located, resident, or to be performed in Montana, with proper proportionate allocation of premium as to property, subjects, or risks in Montana insured under policies or contracts covering property, subjects, or risks located or resident in more than one state, after deducting from the total direct premium income applicable cancellations, returned premiums, the unabsorbed portion of any deposit premium, the amount of reduction in or refund of premiums allowed to industrial life policyholders for payment of premiums direct to an office of the insurer, all policy dividends, refunds, savings, savings coupons, and other similar returns paid or credited to policyholders with respect to the policies. As to title insurance, "premium" includes the total charge for the insurance. A deduction may not be made of the

cash surrender values of policies. Considerations received on annuity contracts may not be included in total direct premium income and are not subject to tax.

(2) Coincident with the filing of the tax report referred to in subsection (1), each insurer shall pay to the commissioner a tax upon the net premiums computed at the rate of 2 3/4%.

(3) That portion of the tax paid under this section by an insurer on account of premiums received for fire insurance must be separately specified in the report as required by the commissioner, for apportionment as provided by law. When insurance against fire is included with insurance of property against other perils at an undivided premium, the insurer shall make a reasonable allocation from the entire premium to the fire portion of the coverage as must be stated in the report and as may be approved or accepted by the commissioner.

(4) With respect to authorized insurers, the premium tax provided by this section must be payment in full and in lieu of all other demands for any and all state, county, city, district, municipal, and school taxes, licenses, fees, and excises of whatever kind or character, excepting only those prescribed by this code, taxes on real and tangible personal property located in this state, and taxes payable under 50-3-109.

(5) *Insurers paying a premium tax under subsection (2) and holding a certificate pursuant to [sections 1 through 15] may redeem the certificate under the terms of [section 9] as a credit against the premium tax after excluding the portion of premiums identified in subsection (3).*

~~(5)~~(6) The commissioner may suspend or revoke the certificate of authority of any insurer that fails to pay its taxes as required under this section.

~~(6)~~(7) In addition to the penalty provided for in subsection ~~(5)~~ (6), the commissioner may impose upon an insurer who fails to pay the tax required under this section a fine of \$100 plus interest on the delinquent amount at the annual interest rate of 12%.

~~(7)~~(8) The commissioner may by rule provide a quarterly schedule for payment of portions of the premium tax under this section during the year in which tax liability is accrued.”

**Section 19.** Section 90-1-112, MCA, is amended to read:

**“90-1-112. Policy — purpose.** (1) It is the policy of this state to:

(a) strengthen the foundations of the state’s business environment and diversify and expand existing economic endeavors to achieve long-term economic stability;

(b) cooperate with business enterprises, local governments, other public organizations, and the federal government and use all practical means and measures, including financial and technical assistance, to:

(i) establish an economic climate in which the state’s natural resources and agricultural operations remain constant contributors to the state’s economic welfare;

(ii) articulate a coherent economic development vision for the future; and

(iii) take a proactive role to ensure that Montana has the flexibility and resources to be an effective competitor in the changing global marketplace.

(2) The purpose of 2-15-218, 2-15-219, ~~and~~ 90-1-112 through 90-1-114, *and [sections 1 through 15]* is to provide a vision and a direction through the

development of strategies and initiatives to ensure that the state's role in expanding the economy takes place in an orderly and effective manner.”

**Section 20. Codification instruction.** (1) [Sections 1 through 15] are intended to be codified as an integral part of Title 90, and the provisions of Title 90 apply to [sections 1 through 15].

(2) [Section 16] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 16].

(3) [Section 17] is intended to be codified as an integral part of Title 15, chapter 31, and the provisions of Title 15, chapter 31, apply to [section 17].

**Section 21. 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 22. Effective date.** [This act] is effective July 1, 2005.

Approved April 28, 2005

## CHAPTER NO. 538

[SB 217]

AN ACT REVISING APPRENTICE TRAINING LAWS TO ESTABLISH AN APPRENTICE WAGE RATE TIED TO THE STANDARD PREVAILING WAGE RATE FOR CONSTRUCTION SERVICES FOR A PREVAILING WAGE RATE DISTRICT; EXCLUDING CERTAIN APPRENTICE WAGES; DEFINING “APPRENTICE”; AMENDING SECTIONS 18-2-411, 39-6-101, AND 39-6-106, MCA; REPEALING ARM 24.21.414; AND PROVIDING A DELAYED EFFECTIVE DATE.

WHEREAS, the Legislature has required the creation of at least 10 prevailing wage rate districts in 18-2-411, and these districts cover the entire state and use an annual survey to establish prevailing wage rates; and

WHEREAS, the Department of Labor and Industry has created a separate biennial survey of journeyman's wages in districts outside of Cascade, Flathead, Gallatin, Lewis and Clark, Missoula, Silver Bow, and Yellowstone Counties for a building construction occupation and has used this wage rate rather than the standard prevailing wage rate as a base for calculating the wages of apprentices, thus duplicating efforts.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Apprentice wage rate.** (1) Except as provided in subsection (3), a wage paid to an apprentice employed for construction services, as defined in 18-2-401, under Title 18, chapter 2, part 4, must:

(a) be based on the standard prevailing rate of wages for construction services, as defined in 18-2-401, for a prevailing wage rate district as provided in 18-2-411; and

(b) increase progressively to no more than the employer's lowest journeyman hourly wage from a starting wage of no less than 40% of the hourly wage paid to a journeyman in the same craft and working in the same area or region. A higher wage must be paid if required by federal law, by other state law, or by contract. If the apprentice performs labor in more than one locality, the

apprentice must be paid based on the progressive wage schedule for the journeyman wage rate in the area in which the apprentice is working.

(2) The wage does not include a travel allowance or benefits. Benefits must be paid to an apprentice if work is being performed on a project that is covered by requirements to pay the Montana prevailing wage or a project covered by the federal Davis-Bacon Act, pursuant to 29 CFR, parts 1, 3, and 5.

(3) Wages paid under an individual's written apprenticeship agreement registered with the department of labor and industry as of [the effective date of this act] are excluded from the rate set in subsection (1).

(4) For purposes of this section, "apprentice" means a worker employed to learn a skilled trade under a written apprenticeship agreement registered with the department of labor and industry.

**Section 2.** Section 18-2-411, MCA, is amended to read:

**"18-2-411. Creation of prevailing wage rate districts.** (1) Without taking into consideration heavy and highway construction wage rates, the commissioner shall divide the state into at least 10 prevailing wage rate districts.

(2) In initially determining the districts, the commissioner must:

(a) follow the rulemaking procedures in the Montana Administrative Procedure Act; and

(b) publish the reasons supporting the creation of each district.

(3) A district boundary may not be changed except for good cause and in accordance with the rulemaking procedures in the Montana Administrative Procedure Act.

(4) The presence of collective bargaining agreements in a particular area may not be the sole basis for the creation of boundaries of a district, nor may the absence of collective bargaining agreements in a particular area be the sole basis for changing the boundaries of a district.

(5) For each prevailing wage rate district established under this section, the commissioner shall determine the standard prevailing rate of wages to be paid employees, as provided in 18-2-401 and 18-2-402. *The standard prevailing rate of wages for construction services, as determined by the commissioner in this subsection, must be used for calculating an apprentice's wage, as provided in [section 1].*"

**Section 3.** Section 39-6-101, MCA, is amended to read:

**"39-6-101. Duties of department.** (1) The department of labor and industry shall:

(a) encourage and promote the making of apprenticeship agreements conforming to the standards established by or in accordance with this chapter;

(b) register ~~such~~ apprenticeship agreements ~~as that~~ are in the best interests of the apprenticeship and conform to the standards established by or in accordance with this chapter;

(c) keep a record of apprenticeship agreements and, ~~upon taking into consideration performance thereof of the agreement,~~ issue certificates of completion of apprenticeship;

(d) terminate or cancel any apprenticeship agreements in accordance with the provisions of ~~such the~~ agreements; ~~and~~

(e) provide assistance for the development of on-the-job training programs in nonapprenticeable occupations;

(f) establish standards for apprenticeship agreements in conformity with the provisions of this chapter;

(g) use the standard prevailing wage rate for construction services, as defined in 18-2-401, for a prevailing wage rate district as provided in 18-2-411 as a base on which an apprenticeship wage is calculated pursuant to [section 1] for apprentices;

~~(g)~~(h) issue such adopt rules as may be necessary to carry out the intent and purposes of this chapter; and

~~(h)~~(i) perform such other duties as that may be required by federal regulations, provided that such the federal regulations are not in conflict with this chapter.

(2) Not less often than once every 2 years, the department shall make a report of its activities and findings to the governor and, as provided in 5-11-210, to the legislature. The department shall also make the report available to the public.”

**Section 4.** Section 39-6-106, MCA, is amended to read:

**“39-6-106. Contents of apprenticeship agreements — credit for prior training or experience.** (1) Apprenticeship agreements ~~shall~~ must contain:

(a) a statement of the trade or craft to be taught and the required hours for completion of apprenticeship, which must be not less than 2,000 hours of reasonably continuous employment;

(b) a statement of the processes in the trade or craft divisions in which the apprentice is to be taught and the approximate amount of time to be spent at each process;

(c) a statement of the number of hours to be spent by the apprentice in related and supplemental instruction, which is recommended to be 144 hours per year;

(d) a statement that apprentices must be not less than 16 years of age;

(e) a statement of the progressively increasing scale of wages to be paid the apprentice using the criteria established in [section 1];

(f) provision for a period of probation during which the department of labor and industry must terminate an apprenticeship agreement at the request in writing of any participating party thereto. After the probationary period, the department may terminate the registration of an apprentice upon agreement of the parties.

(g) provision that the services of the department may be ~~utilized~~ used for consultation regarding the settlement of differences arising out of the apprenticeship agreement where such if the differences cannot be adjusted locally or in accordance with the established trade procedure;

(h) provision that, if an employer is unable to fulfill his an obligation under the apprenticeship agreement, he the employer may transfer the obligation to another employer if the other employer has been approved as a training facility;

(i) provision for the specification of the ratio of apprentices to journeymen. The department will shall continue to honor and recognize ratio provisions as established in existing labor/management bargaining agreements or as established by an industry practice.

(j) ~~such~~ additional standards as may be prescribed in accordance with this chapter.

(2) An apprentice who, prior to entering into an agreement, has had training or experience in the trade or craft in which ~~he~~ *the apprentice* is employed as an apprentice may be granted full or partial credit for the training or experience on the recommendation of the employer or the joint apprenticeship committee and with the approval of the department.”

**Section 5. Repealer.** ARM 24.21.414 is repealed.

**Section 6. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 39, chapter 6, and the provisions of Title 39, chapter 6, apply to [section 1].

**Section 7. Effective date.** [This act] is effective October 1, 2006.

Approved April 28, 2005

## CHAPTER NO. 539

[SB 222]

AN ACT TRANSFERRING THE RESPONSIBILITY FOR COLLECTING AND ISSUING REFUNDS FOR LOCAL OPTION MOTOR FUEL EXCISE TAX FROM THE DEPARTMENT OF TRANSPORTATION TO COUNTY TREASURERS; REQUIRING RETAIL SELLERS OF GASOLINE IN COUNTIES IN WHICH THE TAX IS IMPOSED TO RENDER MONTHLY STATEMENTS TO THE COUNTY TREASURER; REQUIRING A COUNTY THAT IMPOSES THE TAX TO ESTABLISH A MOTOR FUEL EXCISE TAX ACCOUNT FOR DEPOSIT OF THE TAX REVENUE; PROVIDING METHODS FOR APPORTIONMENT OF THE REVENUE; AMENDING SECTIONS 7-14-301, 7-14-302, 7-14-303, AND 7-14-304, MCA; AND PROVIDING AN EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 7-14-301, MCA, is amended to read:

**“7-14-301. Local option motor fuel excise tax authorized — definitions.** (1) A motor fuel excise tax may be imposed within a county:

(a) by the people of the county by initiative; or

(b) by the board of county commissioners by adoption of a resolution and referral to the people.

(2) The motor fuel excise tax must be imposed in increments of 1 cent per gallon and may not exceed 2 cents per gallon. The tax must be imposed upon gasoline sold to the ultimate consumer within the county for use in motor vehicles operated upon public highways, streets, and roads.

(3) The initiative or referendum must specify that the tax is to be collected by the ~~department of transportation~~ *county treasurer*.

(4) The motor fuel excise tax may not be assessed sooner than 90 days from the date of passage of the initiative or referendum.

(5) ~~Each distributor~~ *By the 25th day of each month, each retail seller of gasoline* shall render a monthly statement to the ~~department of transportation~~ *county treasurer* of all gasoline ~~distributed~~ *distributed sold* during the preceding calendar

month in the county in which it is sold to the ultimate consumer and other information that the ~~department~~ *county treasurer* requires in order to administer the motor fuel excise tax.

~~(6) The information, recordkeeping, and examination of records provisions of Title 15, chapter 70, apply to this part.~~

~~(7)(6) The department of transportation~~ *county treasurer* shall establish procedures to provide a refund to a person who has paid the tax but who can substantiate that the motor fuel was purchased for a use other than on public highways, streets, and roads.

~~(8)(7) In this part, the terms “distributor”, “gasoline”, “motor vehicle”, “person”, and “use” have the meanings ascribed to them in 15-70-201.”~~

**Section 2.** Section 7-14-302, MCA, is amended to read:

**“7-14-302. Use of local motor fuel excise tax revenue.** (1) A county or municipality receiving revenue from the tax authorized by 7-14-301 ~~shall may~~ use the revenue derived only for the construction, reconstruction, maintenance, and repair of public streets and roads.

~~(2) A county shall contract with the department for reimbursement of the actual costs of collection. One percent of the motor fuel excise tax revenue collected in a county is to be reimbursed to the distributor retail seller for the cost of compliance with this part.”~~

**Section 3.** Section 7-14-303, MCA, is amended to read:

**“7-14-303. Allocation of revenue and disposition of funds from county-imposed motor fuel excise tax.** (1) *A county that imposes a motor fuel excise tax shall establish a motor fuel excise tax account. When allocating the tax under subsection (2), county commissioners shall take into account any funding requested by a transportation district in the county.*

(2) Revenue derived from a motor fuel excise tax imposed by a county under 7-14-301 ~~must be deposited into the county’s motor fuel excise tax account and~~ apportioned among the county and municipalities in the county ~~according to one of the following methods that is mutually agreed upon by the county and municipalities:~~

~~(a) in the proportion of motor vehicles registered in the county outside of the municipalities to those registered within the municipalities during the preceding year; or~~

~~(b) as determined by an interlocal agreement by distributing 50% to the county and 50% to the incorporated cities and towns within the county apportioned on the basis of population. The distribution to a city or town must be determined by multiplying the amount of money available by the ratio of the population of the city or town to the total county population. The distribution to the county must be determined by multiplying the amount of money available by the ratio of the population of unincorporated areas within the county to the total county population.~~

~~(b) by basing the distribution upon the proportion of road miles outside municipalities and street miles within each municipality as a ratio of total road and street miles in the county, using the most recent public road miles available from the department of transportation; or~~

~~(c) by using any other method agreed upon by the affected county and municipalities as determined by an interlocal agreement.~~

~~(2)(3)~~ All taxes, interest, and penalties collected by the ~~department of transportation county treasurer~~ under this part shall ~~must~~ be promptly transmitted to the state treasurer who shall deposit such funds in the state special revenue fund to the credit of the department of transportation account. ~~Such funds shall be paid quarterly by the state treasurer directly to the county in which the tax was imposed deposited into the account established in subsection (1)."~~

**Section 4.** Section 7-14-304, MCA, is amended to read:

**~~7-14-304. Lien for Collection of delinquent tax — interest and penalty — statute of limitations.~~** (1) ~~The lien provisions of 15-70-211 apply to all delinquent motor fuel excise taxes, penalties, and interest due from a distributor under this part. Such a lien has the same force and effect as a lien for delinquent gasoline license tax imposed under Title 15, chapter 70, part 2. Motor fuel taxes imposed pursuant to 7-14-301 and collected by a retailer but not transmitted to the county treasurer are delinquent after the date that they are due to the county treasurer and become a lien upon all real and personal property owned by the retail seller in the county. The county shall collect the delinquent motor fuel taxes in the manner that delinquent personal property taxes are collected.~~

(2) Penalties and interest for any delinquent motor fuel excise tax are the same as provided for the gasoline license tax under Title 15, chapter 70, part 2.

(3) Any action to recover a delinquent motor fuel excise tax must be initiated within 3 years from the due date of the return or the date of filing the return, whichever period expires later. Upon discovery of fraud, an action must be initiated within 3 years of the discovery."

**Section 5. Effective date.** [This act] is effective July 1, 2005.

Approved April 28, 2005

## CHAPTER NO. 540

[SB 271]

AN ACT ALLOWING FOR AN ADJUSTMENT OF THE GUARANTEED TAX BASE AID PAYMENT TO A SCHOOL DISTRICT AFFECTED BY A TAX PROTEST IN THE EVENT THAT THE FINAL TAXABLE VALUATION OF THE SCHOOL DISTRICT IS REDUCED AS A RESULT OF THE RESOLUTION OF THE PROTEST; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. State guaranteed tax base aid adjustments for protested valuation.** For any school district that has taxable valuation that was protested for tax year 2002 through 2004 that exceeds 10% of the district's taxable valuation in each respective year, upon resolution of the protest, the superintendent of public instruction shall compare the amount that the school district would have been eligible to receive, using the revised valuation, to the amount of guaranteed tax base aid that the district general fund actually received. If the calculation exceeds the amount of guaranteed tax base aid paid to the school district's general fund, the superintendent of public instruction shall request an appropriation for the difference.

**Section 2. Effective date — retroactive applicability.** [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to school fiscal years beginning after June 30, 2002.

Approved April 28, 2005

## CHAPTER NO. 541

[SB 278]

AN ACT CREATING A SPECIAL PRACTICE PERMIT FOR NONRESIDENT CERTIFIED PUBLIC ACCOUNTANTS; PROVIDING CRITERIA FOR OBTAINING THE SPECIAL PRACTICE PERMIT; REQUIRING REGISTRATION WITH THE BOARD OF PUBLIC ACCOUNTANTS; PROHIBITING THE PRACTICE OF PUBLIC ACCOUNTING BY NONRESIDENTS WITHOUT REGISTRATION; AND AUTHORIZING THE BOARD TO ADOPT RULES IMPLEMENTING PROCEDURES AND FEES FOR SPECIAL PRACTICE PERMITS AND REGISTRATION BY NONRESIDENT CERTIFIED PUBLIC ACCOUNTANTS.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Special practice permit for nonresident certified public accountant — rules.** (1) A person may obtain a special practice permit if the person:

- (a) is not a Montana resident;
  - (b) does not maintain an office in Montana;
  - (c) is licensed, under an active status license, to practice public accounting as a certified public accountant in one or more jurisdictions recognized by the board as having licensing standards substantially equivalent to the standards authorizing the practice of public accounting in this state; and
  - (d) has not had an adverse disciplinary action taken against the person for the practice of public accounting by any other jurisdiction.
- (2) A person who obtains a special practice permit:
- (a) is subject to the disciplinary authority of the board for acts performed pursuant to this section in this state; and
  - (b) consents to the appointment of the board of accountancy or a corresponding entity of the jurisdiction in which the person was issued a license to practice public accounting as a certified public accountant as the person's agent for the service of process in any action or proceeding by the board of this state against the person.
- (3) A special practice permit issued under this section may be renewed on an annual basis in the manner prescribed by the board by rule.
- (4) The board may adopt rules, including rules establishing fees that are commensurate with costs, to implement [section 2] and this section.

**Section 2. Nonresident registration.** (1) A person, firm, partnership, corporation, or other business entity that offers to engage in or engages in public accounting services in Montana through a person holding a special practice permit shall register with the board.

(2) (a) A person with a special practice permit engages in unprofessional conduct if the person offers services for or on behalf of a person, firm,

partnership, corporation, or other business entity that is not registered with the board pursuant to 37-50-335 or this section.

(b) A person, firm, partnership, corporation, or other business entity may not lawfully engage in or assist in providing public accounting services in this state unless properly registered with the board under 37-50-335 or this section.

**Section 3. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 37, chapter 50, part 3, and the provisions of Title 37, chapter 50, part 3, apply to [sections 1 and 2].

Approved April 28, 2005

## CHAPTER NO. 542

[SB 285]

AN ACT GENERALLY REVISING THE MOTOR VEHICLE LAWS; REORGANIZING AND RECODIFYING DEFINITIONS; REPLACING ALLOCATIONS OF MOTOR VEHICLE REVENUE TO SPECIAL ACCOUNTS WITH A PERCENTAGE OF THE REVENUE COLLECTED RATHER THAN AN AMOUNT PER VEHICLE; PROVIDING FOR THE DIRECT DEPOSIT OF THE OPTIONAL MOTOR VEHICLE REGISTRATION FEE FOR STATE PARKS; REVISING THE TRANSFER OF FUNDS BY COUNTY TREASURERS TO THE STATE; REQUIRING THE TRANSFER OF VEHICLE AND VESSEL TRANSACTION FEES TO THE DEPARTMENT OF JUSTICE BEGINNING ON JULY 1, 2006; REVISING AND CLARIFYING REGISTRATION FEES FOR WATERCRAFT, SNOWMOBILES, AND VEHICLES; COMBINING FEES IN LIEU OF TAX AND REGISTRATION FEES; AMENDING SECTIONS 10-2-112, 10-3-801, 15-1-101, 15-1-122, 15-1-504, 15-6-138, 15-6-201, 15-6-215, 15-8-201, 15-8-202, 15-15-201, 15-16-202, 15-24-301, 15-30-121, 15-50-207, 15-68-101, 20-9-331, 20-9-333, 20-9-360, 23-1-128, 23-2-512, 23-2-513, 23-2-515, 23-2-519, 23-2-601, 23-2-614, 23-2-616, 23-2-619, 23-2-631, 23-2-634, 23-2-641, 23-2-642, 23-2-644, 23-2-804, 23-2-809, 23-2-818, 30-11-701, 33-23-204, 37-72-101, 45-5-205, 61-1-101, 61-3-101, 61-3-103, 61-3-106, 61-3-107, 61-3-110, 61-3-201, 61-3-202, 61-3-204, 61-3-205, 61-3-206, 61-3-208, 61-3-210, 61-3-211, 61-3-212, 61-3-216, 61-3-217, 61-3-218, 61-3-219, 61-3-220, 61-3-221, 61-3-222, 61-3-223, 61-3-224, 61-3-301, 61-3-302, 61-3-303, 61-3-311, 61-3-312, 61-3-313, 61-3-314, 61-3-315, 61-3-316, 61-3-317, 61-3-318, 61-3-321, 61-3-322, 61-3-323, 61-3-324, 61-3-325, 61-3-331, 61-3-332, 61-3-333, 61-3-334, 61-3-335, 61-3-342, 61-3-345, 61-3-401, 61-3-403, 61-3-404, 61-3-411, 61-3-412, 61-3-413, 61-3-421, 61-3-422, 61-3-423, 61-3-425, 61-3-431, 61-3-446, 61-3-448, 61-3-456, 61-3-458, 61-3-460, 61-3-465, 61-3-467, 61-3-468, 61-3-474, 61-3-479, 61-3-480, 61-3-481, 61-3-501, 61-3-503, 61-3-506, 61-3-507, 61-3-509, 61-3-520, 61-3-526, 61-3-529, 61-3-535, 61-3-537, 61-3-562, 61-3-603, 61-3-604, 61-3-607, 61-3-701, 61-3-702, 61-3-703, 61-3-704, 61-3-707, 61-3-708, 61-3-709, 61-3-711, 61-3-712, 61-3-714, 61-3-715, 61-3-716, 61-3-717, 61-3-718, 61-3-719, 61-3-720, 61-3-721, 61-3-722, 61-3-723, 61-3-724, 61-3-725, 61-3-727, 61-3-728, 61-3-729, 61-3-730, 61-3-732, 61-3-733, 61-3-736, 61-3-737, 61-4-101, 61-4-102, 61-4-104, 61-4-109, 61-4-110, 61-4-111, 61-4-112, 61-4-113, 61-4-120, 61-4-121, 61-4-122, 61-4-123, 61-4-125, 61-4-129, 61-4-131, 61-4-141, 61-4-143, 61-4-202, 61-4-204, 61-4-208, 61-4-301, 61-4-302, 61-4-306, 61-4-307, 61-4-310, 61-4-404, 61-4-501, 61-4-503, 61-4-504, 61-4-505, 61-4-506, 61-4-511, 61-4-519, 61-4-525, 61-5-104, 61-5-112, 61-5-119, 61-5-121, 61-5-208, 61-6-102, 61-6-301, 61-8-102, 61-8-201, 61-8-210, 61-8-310, 61-8-336, 61-8-341, 61-8-354,

61-8-371, 61-8-380, 61-8-383, 61-8-384, 61-8-401, 61-8-605, 61-8-704, 61-8-713, 61-8-801, 61-9-102, 61-9-103, 61-9-226, 61-9-302, 61-9-304, 61-9-321, 61-9-402, 61-9-405, 61-9-406, 61-9-412, 61-9-415, 61-9-426, 61-10-102, 61-10-104, 61-10-123, 61-10-141, 61-10-148, 61-10-206, 61-10-225, 61-11-203, 61-12-101, 61-12-102, 61-13-103, 75-10-532, 76-2-202, 76-2-302, 87-2-803, AND 87-3-101, MCA; REPEALING SECTIONS 23-2-516, 23-2-517, 23-2-518, 23-2-626, 23-2-803, 23-2-817, 61-1-102, 61-1-103, 61-1-104, 61-1-105, 61-1-106, 61-1-107, 61-1-108, 61-1-109, 61-1-110, 61-1-111, 61-1-112, 61-1-113, 61-1-114, 61-1-115, 61-1-116, 61-1-117, 61-1-118, 61-1-119, 61-1-120, 61-1-121, 61-1-123, 61-1-124, 61-1-125, 61-1-126, 61-1-127, 61-1-128, 61-1-129, 61-1-130, 61-1-131, 61-1-132, 61-1-133, 61-1-134, 61-1-135, 61-1-136, 61-1-137, 61-1-138, 61-1-139, 61-1-140, 61-1-141, 61-1-142, 61-1-201, 61-1-202, 61-1-203, 61-1-204, 61-1-205, 61-1-206, 61-1-207, 61-1-208, 61-1-209, 61-1-210, 61-1-211, 61-1-212, 61-1-301, 61-1-302, 61-1-303, 61-1-304, 61-1-305, 61-1-306, 61-1-307, 61-1-308, 61-1-309, 61-1-310, 61-1-311, 61-1-313, 61-1-314, 61-1-315, 61-1-316, 61-1-317, 61-1-318, 61-1-319, 61-1-320, 61-1-321, 61-1-401, 61-1-402, 61-1-403, 61-1-404, 61-1-405, 61-1-406, 61-1-407, 61-1-408, 61-1-409, 61-1-410, 61-1-411, 61-1-412, 61-1-413, 61-1-414, 61-1-415, 61-1-501, 61-1-502, 61-1-503, 61-1-504, 61-1-505, 61-1-506, 61-1-507, 61-1-508, 61-1-509, 61-1-510, 61-1-511, 61-1-512, 61-1-513, 61-1-514, 61-1-515, 61-1-601, 61-1-602, 61-1-603, 61-1-604, 61-3-521, 61-3-522, 61-3-523, 61-3-527, 61-3-528, 61-3-530, 61-3-560, AND 61-3-561, MCA; AND PROVIDING EFFECTIVE DATES.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 10-2-112, MCA, is amended to read:

**“10-2-112. Veterans’ services special revenue account — sources of funds — designated uses.** (1) There is a veterans’ services account in the state special revenue fund, established pursuant to 17-2-102(1)(b), to the credit of the board.

(2) Money transferred pursuant to ~~15-1-122(3)(h)~~ 15-1-122(3)(d) from license plate sales as described in 10-2-114 and from gifts, grants, or donations must be deposited in the veterans’ services account.

(3) Legislative appropriations of money in the veterans’ services account must be used for the purposes identified in 10-2-102 or other functions authorized by the board.

(4) There is a veterans’ services federal account in the federal special revenue fund established for federal funds received under 10-2-106.”

**Section 2.** Section 10-3-801, MCA, is amended to read:

**“10-3-801. Account created for funding search and rescue operations — rules.** (1) There is an account in the state special revenue fund established in 17-2-102. The account must be administered by the disaster and emergency services division of the department exclusively for the purposes of search and rescue as provided in this section. The department may retain up to 5% of the money in the account to pay its costs of administering this section.

(2) There must be deposited in the account:

(a) fund transfers pursuant to ~~15-1-122(3)(g)~~ 15-1-122(3)(f);

(b) fund transfers pursuant to 87-1-601(9). These funds may be used only as provided in 87-1-601(9).

(c) all money received by the department in the form of gifts, grants, reimbursements, or appropriations from any source intended to be used for search and rescue operations.

(3) (a) Not less than 50% of the money in the account must be used by the department to defray costs of search and rescue missions conducted by a county sheriff's office at a maximum of \$3,000 for each rescue mission, regardless of the number of counties or county search and rescue organizations involved.

(b) The remaining money in the account may be used by the department:

(i) to match local funds for the purchase of equipment for use by local search and rescue units at a maximum of \$2,000 for each unit in a calendar year. The cost-sharing match must be 35% local funds to 65% from the account.

(ii) for reimbursement of expenses related to the training of search and rescue volunteers.

(4) The department may adopt rules to implement the proper administration of the account. The rules may include:

(a) a method of reimbursing ~~a county sheriff offices~~ *sheriff's office*, on a case-by-case basis, for authorized search and rescue operations conducted pursuant to subsection (3)(a), including verification of search missions, claims procedures, fiscal accountability, and the number and circumstances of search missions involving persons engaged in hunting, fishing, and trapping in a fiscal year;

(b) methods for processing requests for equipment matching funds and training funds made pursuant to subsection (3)(b), including any verification and accounting necessary to ensure that the provisions of subsection (3)(b) are met, and determining the percentage of all search missions involving persons engaged in hunting, fishing, or trapping in a fiscal year; and

(c) a system involving input from representatives of county sheriff organizations and state and local search and rescue organizations for assistance in verifying and processing claims for reimbursement, equipment, and training."

**Section 3.** Section 15-1-101, MCA, is amended to read:

**"15-1-101. Definitions.** (1) Except as otherwise specifically provided, when terms mentioned in this section are used in connection with taxation, they are defined in the following manner:

(a) The term "agricultural" refers to:

(i) the production of food, feed, and fiber commodities, livestock and poultry, bees, biological control insects, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes; and

(ii) the raising of domestic animals and wildlife in domestication or a captive environment.

(b) The term "assessed value" means the value of property as defined in 15-8-111.

(c) The term "average wholesale value" means the value to a dealer prior to reconditioning and the profit margin shown in national appraisal guides and manuals or the valuation schedules of the department.

(d) (i) The term “commercial”, when used to describe property, means property used or owned by a business, a trade, or a corporation as defined in 35-2-114 or used for the production of income, except property described in subsection (1)(d)(ii).

(ii) The following types of property are not commercial:

(A) agricultural lands;

(B) timberlands and forest lands;

(C) single-family residences and ancillary improvements and improvements necessary to the function of a bona fide farm, ranch, or stock operation;

(D) mobile homes and manufactured homes used exclusively as a residence except when held by a distributor or dealer as stock in trade; and

(E) all property described in 15-6-135.

(e) The term “comparable property” means property that:

(i) has similar use, function, and utility;

(ii) is influenced by the same set of economic trends and physical, governmental, and social factors; and

(iii) has the potential of a similar highest and best use.

(f) The term “credit” means solvent debts, secured or unsecured, owing to a person.

(g) (i) “Department”, except as provided in subsection (1)(g)(ii), means the department of revenue provided for in 2-15-1301.

(ii) In chapters 70 and 71, department means the department of transportation provided for in 2-15-2501.

(h) The terms “gas” and “natural gas” are synonymous and mean gas as defined in 82-1-111(2). The terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other natural gas found in any coal formation.

(i) The term “improvements” includes all buildings, structures, fences, and improvements situated upon, erected upon, or affixed to land. When the department determines that the permanency of location of a mobile home, manufactured home, or housetrailer has been established, the mobile home, manufactured home, or housetrailer is presumed to be an improvement to real property. A mobile home, manufactured home, or housetrailer may be determined to be permanently located only when it is attached to a foundation that cannot feasibly be relocated and only when the wheels are removed.

(j) The term “leasehold improvements” means improvements to mobile homes and mobile homes located on land owned by another person. This property is assessed under the appropriate classification, and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on leasehold improvements are a lien only on the leasehold improvements.

(k) The term “livestock” means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas, bison, ostriches, rheas, emus, and domestic ungulates.

(l) (i) The term “manufactured home” means a residential dwelling built in a factory in accordance with the United States department of housing and urban development code and the federal Manufactured Home Construction and Safety Standards.

(ii) A manufactured home does not include a mobile home, as defined in ~~61-1-501~~ 61-1-101 and in subsection (1)(m) of this section, a housetrailer, as defined in ~~61-1-501~~ 61-1-101, or a mobile home or housetrailer constructed before the federal Manufactured Home Construction and Safety Standards went into effect on June 15, 1976.

(m) The term "mobile home" means forms of housing known as "trailers", "housetrainers", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any trailer, housetrailer, or trailer coach up to 8 feet in width or 45 feet in length used as a principal residence.

(n) The term "personal property" includes everything that is the subject of ownership but that is not included within the meaning of the terms "real estate" and "improvements" and "intangible personal property" as that term is defined in 15-6-218.

(o) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in domestication to produce food or feathers.

(p) The term "property" includes money, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition may not be construed to authorize the taxation of the stocks of a company or corporation when the property of the company or corporation represented by the stocks is within the state and has been taxed.

(q) The term "real estate" includes:

(i) the possession of, claim to, ownership of, or right to the possession of land;

(ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and Title 15, chapter 23, part 8;

(iii) all timber belonging to individuals or corporations growing or being on the lands of the United States; and

(iv) all rights and privileges appertaining to mines, minerals, quarries, and timber.

(r) "Recreational" means hunting, fishing, swimming, boating, waterskiing, camping, biking, hiking, and winter sports, including but not limited to skiing, skating, and snowmobiling.

(s) "Research and development firm" means an entity incorporated under the laws of this state or a foreign corporation authorized to do business in this state whose principal purpose is to engage in theoretical analysis, exploration, and experimentation and the extension of investigative findings and theories of a scientific and technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

(t) The term "stock in trade" means any mobile home, manufactured home, or housetrailer that is listed by the dealer as inventory and that is offered for sale, is unoccupied, and is not located on a permanent foundation. Inventory does not have to be located at the business location of a dealer or a distributor.

(u) The term "taxable value" means the percentage of market or assessed value as provided for in Title 15, chapter 6, part 1.

(2) The phrase "municipal corporation" or "municipality" or "taxing unit" includes a county, city, incorporated town, township, school district, irrigation

district, or drainage district or a person, persons, or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

(3) The term "state board" or "board" when used without other qualification means the state tax appeal board."

**Section 4.** Section 15-1-122, MCA, is amended to read:

**"15-1-122. Fund transfers.** (1) There is transferred from the state general fund to the adoption services account, provided for in 42-2-105, \$36,764 for fiscal year 2003. Beginning with fiscal year 2004, the amount of the transfer must be increased by 10% in each succeeding fiscal year.

(2) There is transferred from the state general fund to the department of transportation state special revenue nonrestricted account the following amounts:

~~(a) \$75,000 in fiscal year 2003;~~

~~(b)(a) \$0 in fiscal years 2004 and 2005;~~

~~(e)(b) \$3,050,205 in fiscal year 2006; and~~

~~(d)(c) in each succeeding fiscal year, the amount in subsection (2)(e) (2)(b), increased by 1.5% in each succeeding fiscal year.~~

(3) For each fiscal year, there is transferred from the state general fund to the accounts, entities, or recipients indicated the following amounts:

(a) to the motor vehicle recycling and disposal program provided for in Title 75, chapter 10, part 5,:

~~(i) \$2 for each new application for a motor vehicle title and for each transfer of a motor vehicle title for which a fee is paid pursuant to 61-3-203; and~~

~~(ii) \$1 for each passenger car or truck under 8,001 pounds GVW that is registered for licensing pursuant to Title 61, chapter 3, part 3, and \$5 for each permanently registered light vehicle. Fifteen cents of each dollar must be used for the purpose of reimbursing the hired removal of abandoned vehicles during the calendar year following the calendar year in which the fee was paid. Any portion of the 15 cents not used for abandoned vehicle removal reimbursement during the calendar year following its payment must be used as provided in 75-10-532. 1.63% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 1.5% of the motor vehicle revenue deposited in the state general fund in succeeding fiscal years. The amount of 8.75% of the allocation in fiscal year 2006 and 9.48% of the allocation in fiscal year 2007 and succeeding years must be used for the purpose of reimbursing the hired removal of abandoned vehicles. Any portion of the allocation not used for abandoned vehicle removal reimbursement must be used as provided in 75-10-532.~~

(b) to the noxious weed state special revenue account provided for in 80-7-816,:

~~(i) \$1 in fiscal year 2006 and, in each subsequent year, \$2.75 for each off highway vehicle for which the fee in lieu of tax is paid, as provided for in 23-2-803; and~~

~~(ii) for vehicles registered or reregistered pursuant to 61-3-321:~~

~~(A) \$1.50 for each registered light vehicle, truck or bus weighing less than 1 ton, logging truck, vehicle weighing more than 1 ton, and motor home; and~~

~~(B) \$1.50 in fiscal year 2006 and, in each subsequent year, \$3.65 for each motorcycle and quadricycle; and~~

~~(C) \$7.50 for each permanently registered light vehicle 1.54% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 1.52% of the motor vehicle revenue deposited in the state general fund in succeeding fiscal years;~~

(c) to the department of fish, wildlife, and parks:

~~(i) \$2.50 in fiscal year 2006 and, 0.47% of the motor vehicle revenue deposited in the state general fund in each subsequent fiscal year, \$14.50 for each motorboat, sailboat, or personal watercraft receiving a certificate of number under 23-2-512, with 20% of the amount received with the applicable percentage to be:~~

~~(A) used to:~~

~~(I) acquire and maintain pumpout equipment and other boat facilities, 5.2% in fiscal year 2006 and 4.8% in fiscal year 2007 and succeeding years;~~

~~(II) administer and enforce the provisions of Title 23, chapter 2, part 5, 20.8% in fiscal year 2006 and 19.1% in fiscal year 2007 and succeeding years;~~

~~(III) enforce the provisions of 23-2-804, 12.1% in fiscal year 2006 and 11.1% in fiscal year 2007 and succeeding fiscal years; and~~

~~(IV) develop and implement a comprehensive program and to plan appropriate off-highway vehicle recreational use, 18.1% in fiscal year 2006 and 16.7% in fiscal year 2007 and succeeding fiscal years; and~~

~~(B) deposited in the state special revenue fund established in 23-1-105 in an amount equal to 43.8% in fiscal year 2006 and 48.3% in fiscal year 2007 and succeeding fiscal years;~~

~~(ii) \$5 in fiscal year 2006 and, 0.12% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 0.10% of the motor vehicle revenue deposited in the state general fund in each subsequent fiscal year, \$19 for each snowmobile registered under 23-2-616, with 50% of the amount to be used for enforcing the purposes of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-619, 23-2-621, 23-2-622, ~~23-2-626~~, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644 and 50% of the amount designated for use in the development, maintenance, and operation of snowmobile facilities; and~~

~~(iii) \$1 for each duplicate snowmobile registration decal issued under 23-2-617;~~

~~(iv) \$5 in fiscal year 2006 and, in each subsequent year, \$13.25 for each off highway vehicle decal issued under 23-2-804 and each off highway vehicle duplicate decal issued under 23-2-809, with 40% of the money used to enforce the provisions of 23-2-804 and 60% of the money used to develop and implement a comprehensive program and to plan appropriate off-highway vehicle recreational use;~~

~~(v) to the state special revenue fund established in 23-1-105, \$3.50 in fiscal year 2006 and, in each subsequent year, \$8 for each recreational vehicle, motor home, and travel trailer registered or reregistered and subject to the fee in 61-3-321;~~

~~(vi)(iii) an amount equal to 20% 0.5% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 0.16% of the motor vehicle revenue deposited in the state general fund in each succeeding fiscal year of the funds collected pursuant to 23-2-518 to be deposited in the motorboat account to be used as provided in 23-2-533; and~~

~~(vii) to the state special revenue fund established in 23-1-105, \$4 for each passenger car or truck under 8,001 pounds GVW registered for licensing pursuant to 61-3-321(11)(a), with \$3.50 of the money used for state parks, 25 cents used for fishing access sites, and 25 cents used for the operation of state-owned facilities at Virginia City and Nevada City;~~

~~(d) 0.75% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 0.65% of the motor vehicle revenue deposited in the state general fund in each succeeding fiscal year with 21.30% in fiscal year 2006 and 24.55% in fiscal year 2007 and succeeding fiscal years to be deposited in the state veterans' cemetery account; provided for in 10-2-603, \$10 for each veteran's license plate subject to the fee in 61-3-459 and with 78.70% in fiscal year 2006 and 75.45% in fiscal year 2007 and succeeding fiscal years to be deposited in the veterans' services account provided for in 10-2-112(1);~~

~~(e) to the supplemental benefits for highway patrol officers' retirement account provided for in 19-6-709, 25 cents for each motor vehicle registered, other than:~~

~~(i) trailers or semitrailers registered in other jurisdictions and registered through a proportional registration agreement; and~~

~~(ii) vehicles registered under 61-3-527, 61-3-530, and 61-3-562;~~

~~(f)(e) 25 cents a year for each registered vehicle and \$1.25 for each permanently registered vehicle subject to the fee in 61-3-321(6) 0.59% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 0.31% of the motor vehicle revenue deposited in the state general fund in each succeeding fiscal year for deposit in the state special revenue fund to the credit of the senior citizens and persons with disabilities transportation services account provided for in 7-14-112; and~~

~~(g)(f) to the search and rescue account provided for in 10-3-801,;~~

~~(i) \$2 a year for each vessel [subject to the search and rescue surcharge] in 23-2-517;~~

~~(ii) \$2 a year for each snowmobile [subject to the search and rescue surcharge] in 23-2-615(1)(b) and 23-2-616(3); and~~

~~(iii) \$2 a year for each off-highway vehicle [subject to the search and rescue surcharge] in 23-2-803 0.20% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 0.05% of the motor vehicle revenue deposited in the state general fund in each succeeding fiscal year; and~~

~~(h) 50 cents a year for each vehicle subject to the fee in 61-3-321(7) for deposit in the state special revenue fund to the credit of the veterans' services account provided for in 10-2-112(1).~~

(4) For each fiscal year, the department of justice shall provide to the department of revenue a count of the vehicles required for the calculations in subsection (3). The department of justice shall provide a separate count of vehicles that are permanently registered pursuant to 61-3-562. A permanently registered vehicle may be included in vehicle counts only in the year in which the vehicle is registered or reregistered. Transfer amounts in each fiscal year must be based on vehicle counts in the most recent calendar year for which vehicle information is available. Vehicles that are permanently registered may be included in vehicle counts only in the year in which the vehicles are registered by new owners. For the purposes of this section, "motor vehicle revenue deposited in the state general fund" means revenue received from:

(a) *fees for issuing a motor vehicle title paid pursuant to 61-3-203;*

(b) *fees, fees in lieu of taxes, and taxes for vehicles, vessels, and snowmobiles registered or reregistered pursuant to 61-3-321 and 61-3-562;*

(c) *GVW fees for vehicles registered for licensing pursuant to Title 61, chapter 3, part 3; and*

(d) *all money collected pursuant to 15-1-504(3).*

(5) The amounts transferred from the general fund to the designated recipient must be appropriated as state special revenue in the general appropriations act for the designated purposes.”

**Section 5.** Section 15-1-504, MCA, is amended to read:

**“15-1-504. Settlement of county treasurer with department.** (1) Except as provided in ~~subsection~~ *subsections (2) and (3)*, the county treasurer, between the 1st and 20th days of each month, shall remit to the department all money belonging to the state that was collected by the county treasurer during the preceding month. The remittance must be accompanied by a detailed report upon a form that the department prescribes. The department may assess counties an interest charge of 10% a year on all money not remitted within 5 days from the time required by this section.

(2) By June 20 of each year, the county treasurer shall remit to the department an estimate of all money belonging to the state that was collected by the county treasurer by June 15, in addition to the amount collected during the preceding month. ~~In~~ *By July 15*, the county treasurer shall remit all money belonging to the state that was collected by the county treasurer during the remainder of June.

(3) *Beginning July 1, 2006, the county treasurer shall remit to the department of justice by the 20th of each month all state money that was collected by the county treasurer due to motor vehicle, vessel, and snowmobile transactions during the preceding month. The remittance must be accompanied by a detailed report upon a form prescribed by the department of justice. The department may assess counties an interest charge, at the rate of 10% a year, on all money that is not remitted by the prescribed time.”*

**Section 6.** Section 15-6-138, MCA, is amended to read:

**“15-6-138. (Temporary) Class eight property — description — taxable percentage.** (1) Class eight property includes:

(a) all agricultural implements and equipment that are not exempt under 15-6-201(1)(bb);

(b) all mining machinery, fixtures, equipment, tools that are not exempt under 15-6-201(1)(r), and supplies except those included in class five;

(c) all oil and gas production machinery, fixtures, equipment, including pumping units, oil field storage tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water flood units, gas boosters, and similar equipment that is skidable, portable, or movable, tools that are not exempt under 15-6-201(1)(r), and supplies except those included in class five;

(d) all manufacturing machinery, fixtures, equipment, tools, except a certain value of hand-held tools and personal property related to space vehicles, ethanol manufacturing, and industrial dairies and milk processors as provided in 15-6-201, and supplies except those included in class five;

(e) all goods and equipment that are intended for rent or lease, except goods and equipment that are specifically included and taxed in another class;

(f) special mobile equipment as defined in ~~61-1-104~~ *61-1-101*;

(g) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;

(h) x-ray and medical and dental equipment;

(i) citizens' band radios and mobile telephones;

(j) radio and television broadcasting and transmitting equipment;

(k) cable television systems;

(l) coal and ore haulers;

(m) theater projectors and sound equipment; and

(n) all other property that is not included in any other class in this part, except that property that is subject to a fee in lieu of a property tax.

(2) As used in this section, "coal and ore haulers" means nonhighway vehicles that exceed 18,000 pounds per axle and that are primarily designed and used to transport coal, ore, or other earthen material in a mining or quarrying environment.

(3) "Commercial establishment" includes any hotels, motels, offices, petroleum marketing stations, or service, wholesale, retail, or food-handling business.

(4) Class eight property is taxed at 3% of its market value.

(5) (a) If, in any year beginning with tax year 2004, the percentage growth in inflation-adjusted Montana wage and salary income is at least 2.85% from the year prior to the base year, then the tax rate for class eight property will be reduced by 1% each year until the tax rate reaches zero.

(b) For each tax year, the base year is the year 3 years before the applicable tax year and the target year is the year 2 years before the applicable tax year.

(c) The department shall calculate the percentage growth in subsection (5)(a) by October 30 of each target year by using the formula  $(W/CPI) - 1$ , where:

(i) W is the Montana wage and salary income for the calendar base year divided by the Montana wage and salary income for the calendar year prior to the base year; and

(ii) CPI is the consumer price index for the calendar base year used in subsection (5)(c)(i) divided by the consumer price index for the year prior to the most current calendar year prior to the base year used in subsection (5)(c)(i).

(d) For purposes of determining the percentage growth in subsection (5)(a), the department shall use the bureau of economic analysis of the United States department of commerce Montana wage and salary disbursements, fall SA07 (state annual) for the target year wage and salary data series.

(e) Inflation must be measured by the consumer price index, U.S. city average, all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(6) The class eight property of a person or business entity that owns an aggregate of \$5,000 or less in market value of class eight property is exempt from

taxation. (Repealed on occurrence of contingency—secs. 27(2), 31(4), Ch. 285, L. 1999.)”

**Section 7.** Section 15-6-201, MCA, is amended to read:

**“15-6-201. Exempt categories.** (1) The following categories of property are exempt from taxation:

- (a) except as provided in 15-24-1203, the property of:
  - (i) the United States, except:
    - (A) if congress passes legislation that allows the state to tax property owned by the federal government or an agency created by congress; or
    - (B) as provided in 15-24-1103;
  - (ii) the state, counties, cities, towns, and school districts;
  - (iii) irrigation districts organized under the laws of Montana and not operating for profit;
  - (iv) municipal corporations;
  - (v) public libraries; and
  - (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;
- (b) buildings, with land that they occupy and furnishings in the buildings, that are owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of the buildings;
- (c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.
- (d) property that is:
  - (i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;
  - (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and
  - (iii) not maintained and operated for private or corporate profit;
- (e) subject to subsection (2), property that is owned or property that is leased from a federal, state, or local governmental entity by institutions of purely public charity if the property is directly used for purely public charitable purposes;
- (f) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;
- (g) public museums, art galleries, zoos, and observatories that are not used or held for private or corporate profit;
- (h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

- (i) truck canopy covers or toppers and campers;
- (j) a bicycle, as defined in ~~61-1-123~~ 61-8-102, used by the owner for personal transportation purposes;
- (k) motor homes;
- (l) all watercraft;
- (m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;
- (n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;
- (o) (i) property that is owned and used by a corporation or association organized and operated exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with physical or mental impairments that constitute or result in substantial impediments to employment and that is not operated for gain or profit; and  
(ii) property that is owned and used by an organization owning and operating facilities that are for the care of the retired, aged, or chronically ill and that are not operated for gain or profit;
- (p) all farm buildings with a market value of less than \$500 and all agricultural implements and machinery with a market value of less than \$100;
- (q) property owned by a nonprofit corporation that is organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and that is not held or used for private or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation" means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.
- (r) (i) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily hand-held and that are used to:
  - (A) construct, repair, and maintain improvements to real property; or
  - (B) repair and maintain machinery, equipment, appliances, or other personal property;(ii) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture, launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and that are directly used for space vehicle design, manufacture, launch, repair, and maintenance;
- (s) harness, saddlery, and other tack equipment;
- (t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105;
- (u) timber as defined in 15-44-102;

(v) all trailers ~~as defined in 61-1-111~~, semitrailers ~~as defined in 61-1-112~~, pole trailers ~~as defined in 61-1-114~~, and travel trailers as *those terms are defined in 61-1-131 61-1-101*;

(w) all vehicles registered under 61-3-456;

(x) (i) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors, including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and

(ii) personal property that is attached to a bus, truck, or truck tractor that is exempt under subsection (1)(x)(i);

(y) motorcycles and quadricycles;

(z) the following percentage of the market value of residential property described in 15-6-134(1)(e) and (1)(f):

~~(i) 31% for tax year 2003;~~

~~(ii) 31.4% for tax year 2004;~~

~~(iii)(i) 32% for tax year 2005;~~

~~(iv)(ii) 32.6% for tax year 2006;~~

~~(v)(iii) 33.2% for tax year 2007;~~

~~(vi)(iv) 34% for tax year 2008 and succeeding tax years;~~

(aa) the following percentage of the market value of commercial property as described in 15-6-134(1)(g):

~~(i) 13% for tax year 2003;~~

~~(ii) 13.3% for tax year 2004;~~

~~(iii)(i) 13.8% for tax year 2005;~~

~~(iv)(ii) 14.2% for tax year 2006;~~

~~(v)(iii) 14.6% for tax year 2007;~~

~~(vi)(iv) 15% for tax year 2008 and succeeding tax years;~~

(bb) personal property used by an industrial dairy or an industrial milk processor and dairy livestock used by an industrial dairy;

(cc) items of personal property intended for rent or lease in the ordinary course of business if each item of personal property satisfies all of the following:

(i) the acquired cost of the personal property is less than \$15,000;

(ii) the personal property is owned by a business whose primary business income is from rental or lease of personal property to individuals and no one customer of the business accounts for more than 10% of the total rentals or leases during a calendar year; and

(iii) the lease of the personal property is generally on an hourly, daily, or weekly basis;

(dd) all manufacturing machinery, fixtures, equipment, and tools used for the production of ethanol from grain during the course of the construction of an ethanol manufacturing facility and for 10 years after completion of construction of the manufacturing facility;

(ee) light vehicles as defined in ~~61-1-139 61-1-101~~; and

(ff) the following property, except property included in 15-6-135, 15-6-137, 15-6-141, 15-6-145, and 15-6-156, if the tax rate in 15-6-138 reaches zero:

- (i) all agricultural implements and equipment;
  - (ii) all mining machinery, fixtures, equipment, tools, and supplies;
  - (iii) all oil and gas production machinery, fixtures, equipment, including pumping units, oil field storage tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water flood units, gas boosters, and similar equipment that is skidable, portable, or movable, tools, and supplies;
  - (iv) all manufacturing machinery, fixtures, equipment, tools, and supplies;
  - (v) all goods and equipment that are intended for rent or lease;
  - (vi) special mobile equipment as defined in ~~61-1-104~~ 61-1-101;
  - (vii) furniture, fixtures, and equipment;
  - (viii) x-ray and medical and dental equipment;
  - (ix) citizens' band radios and mobile telephones;
  - (x) radio and television broadcasting and transmitting equipment;
  - (xi) cable television systems;
  - (xii) coal and ore haulers; and
  - (xiii) theater projectors and sound equipment.
- (2) (a) For the purposes of subsection (1)(e):
- (i) the term "institutions of purely public charity" includes any organization that meets the following requirements:
    - (A) The organization offers its charitable goods or services to persons without regard to race, religion, creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal Revenue Code, as amended.
    - (B) The organization accomplishes its activities through absolute gratuity or grants. However, the organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public performances or entertainment or by other similar types of fundraising activities.
  - (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually with the department a copy of its federal tax return reporting any unrelated business taxable income received by the charity during the tax year, together with a statement indicating whether the exempt property was used to generate any unrelated business taxable income.
- (b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:

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

(ii) held for future display; or

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

(3) For the purposes of subsection (1)(bb):

(a) "industrial dairy" means a large-scale dairy operation with 1,000 or more milking cows and includes the dairy livestock and integral machinery and equipment that the dairy uses to produce milk and milk products solely for export from the state, either directly by the dairy or after the milk or milk product has been further processed by an industrial milk processor. After export, any unprocessed milk must be further processed into other dairy products.

(b) "industrial milk processor" means a facility and integral machinery used solely to process milk into milk products for export from the state.

(4) The following portions of the appraised value of a capital investment in a recognized nonfossil form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

(a) \$20,000 in the case of a single-family residential dwelling;

(b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure."

**Section 8.** Section 15-6-215, MCA, is amended to read:

**"15-6-215. Exemption for motion picture and television commercial property.** Except as provided in 15-24-305 and 61-3-520, all property, including vehicles, brought into the state or otherwise used for the exclusive purpose of filming motion pictures or television commercials is exempt from property taxation and registration fees under ~~61-3-560 and 61-3-561~~ 61-3-321(2), provided that the property does not remain in the state for a period in excess of 180 consecutive days in a calendar year."

**Section 9.** Section 15-8-201, MCA, is amended to read:

**"15-8-201. General assessment day.** (1) The department shall, between January 1 and the first Monday of August in each year, ascertain the names of all taxable inhabitants and assess all property subject to taxation in each county.

(2) The department shall assess property to:

(a) the person by whom it was owned or claimed or in whose possession or control it was at midnight of the preceding January 1; or

(b) except in the case of land splits, the new owner if the provisions of 15-7-304 have been met and the transfer certificate has been received and processed prior to determining the taxes that are due as provided in 15-10-305(2).

(3) The department shall also ascertain and assess all mobile homes arriving in the county after midnight of the preceding January 1.

(4) A mistake in the name of the owner or supposed owner of real property does not invalidate the assessment.

(5) The procedure provided by this section does not apply to:

- (a) motor vehicles;
- (b) motor homes, travel trailers, and campers;
- (c) watercraft;
- (d) livestock;
- (e) property defined in ~~61-1-104~~ as special mobile equipment in *61-1-101* that is subject to assessment for personal property taxes on the date that application is made for a special mobile equipment plate;
- (f) mobile homes and manufactured homes held by a distributor or dealer as stock in trade; and
- (g) property subject to the provisions of 15-16-203.”

**Section 10.** Section 15-8-202, MCA, is amended to read:

**“15-8-202. Motor vehicle assessment by department of justice.** (1) (a) The department of justice shall determine the registration fee on light vehicles in accordance with ~~61-3-560 through 61-3-321~~ and 61-3-562.

(b) For the purposes of the local option *motor* vehicle tax under 61-3-537, the department of justice shall assess all light vehicles, subject to 61-3-313 through 61-3-316 and 61-3-501, for taxation in accordance with 61-3-503.

(c) The department of justice shall determine the *registration fee in lieu of tax* for all buses, trucks having a manufacturer’s rated capacity of more than 1 ton, and truck tractors in accordance with ~~61-3-528~~ 61-3-321 and 61-3-529.

(d) Taxes, *and* registration fees, ~~or fees in lieu of tax~~ on a motor vehicle under this subsection (1) must be assessed or imposed in each year on the person who owned or claimed the motor vehicles or in whose possession or control the motor vehicle was on the anniversary registration date.

(2) A tax or fee ~~in lieu of tax~~ may not be assessed or imposed against motor vehicles subject to taxation or to a fee ~~in lieu of tax~~ that constitute inventory of motor vehicle dealers as of January 1. These vehicles and all other motor vehicles subject to taxation or a fee in lieu of tax that are brought into the state after January 1 as motor vehicle dealers’ inventories must be assessed to their respective purchasers as of the dates the vehicles are registered by the purchasers.

(3) “Purchasers” includes dealers who apply for registration or reregistration of motor vehicles.

(4) Goods, wares, and merchandise of motor vehicle dealers, other than new motor vehicles and new mobile homes, must be assessed at market value as of January 1.

(5) (a) The department of justice is authorized to appear in any proceeding before a county tax appeal board, the state tax appeal board, or a court that seeks to dispute an assessment made by the department pursuant to the authority granted under this section.

(b) For the purposes of proceedings before county tax appeal boards or the state tax appeal board, service of the application required under 15-15-201 must be made on the attorney general. A copy of any application giving rise to a proceeding before a county tax appeal board or the state tax appeal board must also be served on the county treasurer of the county in which the vehicle that is the subject of the proceeding was registered.”

**Section 11.** Section 15-15-201, MCA, is amended to read:

**“15-15-201. Motor vehicle tax appeals — payment and protest of local option taxes or fees in lieu of tax on motor vehicles.** (1) (a) A taxpayer who seeks to appeal the imposition of local option taxes on light vehicles or fees in lieu of tax assessed against a motor vehicle and imposed by the department of justice under authority of 15-8-202 shall file a written application for the appeal not later than 30 days after the anniversary date for reregistration, as determined by 61-3-315, of the *motor* vehicle that is the subject of the appeal. The application must be on a form prescribed by the department of justice in consultation with the state tax appeal board.

(b) The application must include a specific explanation of the basis for the taxpayer’s appeal. The basis for appeal must be related to the factors to be considered and applied by the department of justice under 61-3-503, 61-3-506, ~~61-3-528~~, and 61-3-529.

(2) (a) The treasurer of the county or municipality is not required to deposit local option vehicle taxes or fees in lieu of tax on a motor vehicle paid under protest in the special fund designated as a protest fund as required for property taxes under 15-1-402. The taxes or fees paid under protest may be reported and distributed in the same manner as those received without protest.

(b) If a refund is payable as a result of the taxpayer prevailing in a tax appeal or court proceeding concerning the protested motor vehicle taxes or fees, a refund may be made in accordance with 15-16-603.

(3) (a) A motor vehicle tax appeal may be heard by the county tax appeal board during its next regularly scheduled session if the application for the appeal was filed by December 1. If during its current session, a county tax appeal board refuses or fails to hear a taxpayer’s application that was timely filed by December 1, then the taxpayer’s application is considered to be granted on the day following the board’s final meeting for that year.

(b) A motor vehicle tax appeal filed after December 1 may be held over by the board to a session in the following year. If a taxpayer’s application that was timely filed after December 1 of the current session of the county tax appeal board is held over to a session in the following year and if the county tax appeal board refuses or fails to hear the application during the following session, then the application is considered to be granted on the day following the board’s final meeting for that year.”

**Section 12.** Section 15-16-202, MCA, is amended to read:

**“15-16-202. Boats, snowmobiles, and motor Motor vehicles — payment of fees.** ~~(1) The fee in lieu of personal property taxes assessed against a motorboat, sailboat, or personal watercraft described in 23-2-517 for the year in which application for a registration decal is made must be paid before the registration decal may be issued pursuant to 23-2-515.~~

~~(2) The fee in lieu of tax imposed on a snowmobile for the year in which application for registration is made must be paid before a snowmobile may be registered pursuant to 23-2-616.~~

~~(3)~~(1) (a) Except for mobile homes and manufactured homes as defined in 15-1-101 and except as provided in subsection ~~(3)(b)~~ (1)(b) of this section, the light vehicle registration fee or fee in lieu of tax imposed against a motor vehicle for the current year and the immediately previous year must be paid before a motor vehicle may be registered or reregistered pursuant to 61-3-303.

(b) The vehicle registration fees or fee in lieu of tax imposed against a motor vehicle described in 61-3-303(9) must be paid before a motor vehicle may be registered pursuant to 61-3-303.

~~(4)(2)~~ The provisions of ~~subsections (1) and (3)(a)~~ *subsection (1)(a)* do not require payment of the immediately previous year's fees if the fees have already been paid."

**Section 13.** Section 15-24-301, MCA, is amended to read:

**"15-24-301. Personal property brought into the state — assessment — exceptions — custom combine equipment.** (1) Except as provided in subsections (2) through (5), property in the following cases is subject to taxation and assessment for all taxes levied that year in the county in which it is located:

(a) personal property, excluding livestock, brought into this state at any time during the year that is used in the state for hire, compensation, or profit;

(b) property ~~whose~~ *belonging to an* owner or user *who* is engaged in a gainful occupation or business enterprise in the state; or

(c) property that becomes a part of the general property of the state.

(2) The taxes on this property are levied in the same manner, except as otherwise provided, as though the property had been in the county on the regular assessment date, provided that the property has not been regularly assessed for the year in some other county of the state.

(3) This section does not levy a tax against a merchant or dealer within this state on goods, wares, or merchandise brought into the county to replenish the stock of the merchant or dealer.

(4) Except as provided in 15-6-217, a motor vehicle subject to the registration fee imposed by ~~61-3-560 and 61-3-561~~ *61-3-321(2)* that is brought into this state by a nonresident person temporarily employed in Montana and used exclusively for transportation of the person is subject to registration fees as follows:

(a) The motor vehicle fee is imposed by the county in which it is located.

(b) One-fourth of the annual fee of the motor vehicle must be paid for each quarter or portion of a quarter of the year that the motor vehicle is located in Montana.

(c) The quarterly fees are due the first day of the quarter.

(5) Agricultural harvesting machinery classified under class eight, licensed in another state, and operated on the land of a person other than the owner of the machinery under a contract for hire is subject to a fee in lieu of tax of \$35 for each machine for the calendar year in which the fee is collected. The machinery is subject to taxation under class eight only if the machinery is sold in Montana."

**Section 14.** Section 15-30-121, MCA, is amended to read:

**"15-30-121. Deductions allowed in computing net income.** (1) In computing net income, there are allowed as deductions:

(a) the items referred to in sections 161, including the contributions referred to in 33-15-201(5)(b), and 211 of the Internal Revenue Code, 26 U.S.C. 161 and 211, subject to the following exceptions, which are not deductible:

(i) items provided for in 15-30-123;

(ii) state income tax paid;

(iii) premium payments for medical care as provided in subsection (1)(g)(i);

(iv) long-term care insurance premium payments as provided in subsection (1)(g)(ii); and

(v) a charitable contribution using a charitable gift annuity unless the annuity is a qualified charitable gift annuity as defined in 33-20-701;

(b) federal income tax paid within the tax year, not to exceed \$5,000 for each taxpayer filing singly, head of household, or married filing separately or \$10,000 if married and filing jointly;

(c) expenses of household and dependent care services as outlined in subsections (1)(c)(i) through (1)(c)(iii) and (2) and subject to the limitations and rules as set out in subsections (1)(c)(iv) through (1)(c)(vi), as follows:

(i) expenses for household and dependent care services necessary for gainful employment incurred for:

(A) a dependent under 15 years of age for whom an exemption can be claimed;

(B) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross income do not apply, who is unable to provide self-care because of physical or mental illness; and

(C) a spouse who is unable to provide self-care because of physical or mental illness;

(ii) employment-related expenses incurred for the following services, but only if the expenses are incurred to enable the taxpayer to be gainfully employed:

(A) household services that are attributable to the care of the qualifying individual; and

(B) care of an individual who qualifies under subsection (1)(c)(i);

(iii) expenses incurred in maintaining a household if over half of the cost of maintaining the household is furnished by an individual or, if the individual is married during the applicable period, is furnished by the individual and the individual's spouse;

(iv) the amounts deductible in subsections (1)(c)(i) through (1)(c)(iii), subject to the following limitations:

(A) a deduction is allowed under subsection (1)(c)(i) for employment-related expenses incurred during the year only to the extent that the expenses do not exceed \$4,800;

(B) expenses for services in the household are deductible under subsection (1)(c)(i) for employment-related expenses only if they are incurred for services in the taxpayer's household, except that employment-related expenses incurred for services outside the taxpayer's household are deductible, but only if incurred for the care of a qualifying individual described in subsection (1)(c)(i)(A) and only to the extent that the expenses incurred during the year do not exceed:

(I) \$2,400 in the case of one qualifying individual;

(II) \$3,600 in the case of two qualifying individuals; and

(III) \$4,800 in the case of three or more qualifying individuals;

(v) if the combined adjusted gross income of the taxpayers exceeds \$18,000 for the tax year during which the expenses are incurred, the amount of the employment-related expenses incurred, to be reduced by one-half of the excess of the combined adjusted gross income over \$18,000;

(vi) for purposes of this subsection (1)(c):

(A) married couples shall file a joint return or file separately on the same form;

(B) if the taxpayer is married during any period of the tax year, employment-related expenses incurred are deductible only if:

(I) both spouses are gainfully employed, in which case the expenses are deductible only to the extent that they are a direct result of the employment; or

(II) the spouse is a qualifying individual described in subsection (1)(c)(i)(C);

(C) an individual legally separated from the individual's spouse under a decree of divorce or of separate maintenance may not be considered as married;

(D) the deduction for employment-related expenses must be divided equally between the spouses when filing separately on the same form;

(E) payment made to a child of the taxpayer who is under 19 years of age at the close of the tax year and payments made to an individual with respect to whom a deduction is allowable under 15-30-112(5) are not deductible as employment-related expenses;

(d) in the case of an individual, political contributions determined in accordance with the provisions of section 218(a) and (b) of the Internal Revenue Code of 1954 (now repealed) that were in effect for the tax year that ended December 31, 1978;

(e) that portion of expenses for organic fertilizer and inorganic fertilizer produced as a byproduct allowed as a deduction under 15-32-303 that was not otherwise deducted in computing taxable income;

(f) contributions to the child abuse and neglect prevention program provided for in 52-7-101, subject to the conditions set forth in 15-30-156;

(g) the entire amount of premium payments made by the taxpayer, except premiums deducted in determining Montana adjusted gross income, or for which a credit was claimed under 15-30-128, for:

(i) insurance for medical care, as defined in 26 U.S.C. 213(d), for coverage of the taxpayer, the taxpayer's dependents, and the parents and grandparents of the taxpayer; and

(ii) long-term care insurance policies or certificates that provide coverage primarily for any qualified long-term care services, as defined in 26 U.S.C. 7702B(c), for:

(A) the benefit of the taxpayer for tax years beginning after December 31, 1994; or

(B) the benefit of the taxpayer, the taxpayer's dependents, and the parents and grandparents of the taxpayer for tax years beginning after December 31, 1996;

(h) light vehicle registration fees, as provided for in ~~61-3-560 through 61-3-321(2)~~ and 61-3-562, paid during the tax year; and

(i) per capita livestock fees imposed pursuant to 15-24-921, 15-24-922, 81-6-104, 81-6-204, 81-6-209, 81-7-118, or 81-7-201.

(2) (a) Subject to the conditions of subsection (1)(c), a taxpayer who operates a family day-care home or a group day-care home, as these terms are defined in 52-2-703, and who cares for the taxpayer's own child and at least one unrelated

child in the ordinary course of business may deduct employment-related expenses considered to have been paid for the care of the child.

(b) The amount of employment-related expenses considered to have been paid by the taxpayer is equal to the amount that the taxpayer charges for the care of a child of the same age for the same number of hours of care. The employment-related expenses apply regardless of whether any expenses actually have been paid. Employment-related expenses may not exceed the amounts specified in subsection (1)(c)(iv)(B).

(c) Only a day-care operator who is licensed and registered as required in 52-2-721 is allowed the deduction under this subsection (2).”

**Section 15.** Section 15-50-207, MCA, is amended to read:

**“15-50-207. Credit against other taxes — credit for personal property taxes and certain fees.** (1) The additional license fees withheld or otherwise paid as provided in this chapter may be used as a credit on the contractor’s corporation license tax provided for in chapter 31 of this title or on the contractor’s income tax provided for in chapter 30, depending upon the type of tax the contractor is required to pay under the laws of the state.

(2) Personal property taxes and the fee in lieu of tax on buses, trucks having a manufacturer’s rated capacity of more than 1 ton, or truck tractors, as provided in 61-3-529, and the registration fee on light vehicles, as provided in ~~61-3-560 through 61-3-321(2)~~ and 61-3-562, paid in Montana on any personal property or vehicle of the contractor that is used in the business of the contractor and is located within this state may be credited against the license fees required under this chapter. However, in computing the tax credit allowed by this section against the contractor’s corporation license tax or income tax, the tax credit against the license fees required under this chapter may not be considered as license fees paid for the purpose of the income tax or corporation license tax credit.”

**Section 16.** Section 15-68-101, MCA, is amended to read:

**“15-68-101. Definitions.** For purposes of this chapter, unless the context requires otherwise, the following definitions apply:

(1) (a) “Accommodations” means a building or structure containing individual sleeping rooms or suites that provides overnight lodging facilities for periods of less than 30 days to the general public for compensation.

(b) Accommodations includes a facility represented to the public as a hotel, motel, campground, resort, dormitory, condominium inn, dude ranch, guest ranch, hostel, public lodginghouse, or bed and breakfast facility.

(c) The term does not include a health care facility, as defined in 50-5-101, any facility owned by a corporation organized under Title 35, chapter 2 or 3, that is used primarily by persons under 18 years of age for camping purposes, any hotel, motel, hostel, public lodginghouse, or bed and breakfast facility whose average daily accommodation charge for single occupancy does not exceed 60% of the amount authorized under 2-18-501 for the actual cost of lodging for travel within the state of Montana, or any other facility that is rented solely on a monthly basis or for a period of 30 days or more.

(2) (a) “Admission” means payment made for the privilege of being admitted to a facility, place, or event.

(b) The term does not include payment for admittance to a movie theater or to a sporting event sanctioned by a school district, college, or university.

(3) (a) "Base rental charge" means the following:

- (i) charges for time of use of the rental vehicle and mileage, if applicable;
- (ii) charges accepted by the renter for personal accident insurance;
- (iii) charges for additional drivers or underage drivers; and
- (iv) charges for child safety restraints, luggage racks, ski racks, or other accessory equipment for the rental vehicle.

(b) The term does not include:

- (i) rental vehicle price discounts allowed and taken;
- (ii) rental charges or other charges or fees imposed on the rental vehicle owner or operator for the privilege of operating as a concessionaire at an airport terminal building;
- (iii) motor fuel;
- (iv) intercity rental vehicle drop charges; or
- (v) taxes imposed by the federal government or by state or local governments.

(4) (a) "Campground" means a place used for public camping where persons may camp, secure tents, or park individual recreational vehicles for camping and sleeping purposes.

(b) The term does not include that portion of a trailer court, trailer park, or mobile home park intended for occupancy by trailers or mobile homes for resident dwelling purposes for periods of 30 consecutive days or more.

(5) "Engaging in business" means carrying on or causing to be carried on any activity with the purpose of receiving direct or indirect benefit.

(6) (a) "Lease", "leasing", or "rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.

(b) Lease or rental includes agreements covering motor vehicles and trailers when the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property, as defined in 26 U.S.C. 7701(h)(1).

(c) The term does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of \$100 or 1% of the total required payments; or

(iii) providing tangible personal property with an operator if an operator is necessary for the equipment to perform as designed and not just to maintain, inspect, or set up the tangible personal property.

(d) This definition must be used for sales tax and use tax purposes regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, the

Montana Uniform Commercial Code, or other provisions of federal, state, or local law.

(e) This definition must be applied only prospectively from the date of adoption and has no retroactive impact on existing leases or rentals.

(7) (a) "Motor vehicle" means a light vehicle as defined in ~~61-1-139~~ 61-1-101, a motorcycle as defined in ~~61-1-105~~ 61-1-101, a motor-driven cycle as defined in ~~61-1-106~~ 61-1-101, a quadricycle as defined in ~~61-1-133~~ 61-1-101, a motorboat or a sailboat as defined in 23-2-502, or an off-highway vehicle as defined in 23-2-801 that:

- (i) is rented for a period of not more than 30 days;
- (ii) is rented without a driver, pilot, or operator; and
- (iii) is designed to transport 15 or fewer passengers.

(b) Motor vehicle includes:

- (i) a rental vehicle rented pursuant to a contract for insurance; and
- (ii) a truck, trailer, or semitrailer that has a gross vehicle weight of less than 22,000 pounds, that is rented without a driver, and that is used in the transportation of personal property.

(c) The term does not include farm vehicles, machinery, or equipment.

(8) "Permit" or "seller's permit" means a seller's permit as described in 15-68-401.

(9) "Person" means an individual, estate, trust, fiduciary, corporation, partnership, limited liability company, limited liability partnership, or any other legal entity.

(10) "Purchaser" means a person to whom a sale of personal property is made or to whom a service is furnished.

(11) "Rental vehicle" means a motor vehicle that is used for or by a person other than the owner of the motor vehicle through an arrangement and for consideration.

(12) "Retail sale" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.

(13) "Sale" or "selling" means the transfer of property for consideration or the performance of a service for consideration.

(14) (a) "Sales price" applies to the measure subject to sales tax and means the total amount or consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented or valued in money, whether received in money or otherwise, without any deduction for the following:

- (i) the seller's cost of the property sold;
- (ii) the cost of materials used, labor or service costs, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;
- (iii) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;
- (iv) delivery charges;
- (v) installation charges;

(vi) the value of exempt personal property given to the purchaser when taxable and exempt personal property have been bundled together and sold by the seller as a single product or piece of merchandise; and

(vii) credit for any trade-in.

(b) The amount received for charges listed in subsections (14)(a)(iii) through (14)(a)(vii) are excluded from the sales price if they are separately stated on the invoice, billing, or similar document given to the purchaser.

(c) The term does not include:

(i) discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;

(ii) interest, financing, and carrying charges from credit extended on the sale of personal property or services if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser; or

(iii) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(d) In an exchange in which the money or other consideration received does not represent the value of the property or service exchanged, sales price means the reasonable value of the property or service exchanged.

(e) When the sale of property or services is made under any type of charge or conditional or time-sales contract or the leasing of property is made under a leasing contract, the seller or lessor shall treat the sales price, excluding any type of time-price differential, under the contract as the sales price at the time of the sale.

(15) "Sales tax" and "use tax" mean the applicable tax imposed by 15-68-102.

(16) "Seller" means a person that makes sales, leases, or rentals of personal property or services.

(17) (a) "Service" means an activity that is engaged in for another person for consideration and that is distinguished from the sale or lease of property. Service includes activities performed by a person for its members or shareholders.

(b) In determining what a service is, the intended use, principal objective, or ultimate objective of the contracting parties is irrelevant.

(18) "Use" or "using" includes use, consumption, or storage, other than storage for resale or for use solely outside this state, in the ordinary course of business."

**Section 17.** Section 20-9-331, MCA, is amended to read:

**"20-9-331. Basic county tax for elementary equalization and other revenue for county equalization of elementary BASE funding program.**

(1) Subject to 15-10-420, the county commissioners of each county shall levy an annual basic county tax of 33 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a tax or fee under ~~23-2-517, 23-2-803, 61-3-321(2) or (3), 61-3-521, 61-3-527, 61-3-529, 61-3-537, 61-3-560 through~~ 61-3-562, 61-3-570, and 67-3-204, for the purposes of elementary equalization and state BASE funding program support. The revenue collected from this levy must be apportioned to the support of the elementary BASE funding programs of the school districts in the county and to the state general fund in the following manner:

(a) In order to determine the amount of revenue raised by this levy that is retained by the county, the sum of the estimated revenue identified in subsection (2) must be subtracted from the total of the BASE funding programs of all elementary districts of the county.

(b) If the basic levy and other revenue prescribed by this section produce more revenue than is required to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.

(2) The revenue realized from the county's portion of the levy prescribed by this section and the revenue from the following sources must be used for the equalization of the elementary BASE funding program of the county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue by the county treasurer in accordance with 20-9-212(1):

(a) the portion of the federal Taylor Grazing Act funds designated for the elementary county equalization fund under the provisions of 17-3-222;

(b) the portion of the federal flood control act funds distributed to a county and designated for expenditure for the benefit of the county common schools under the provisions of 17-3-232;

(c) all money paid into the county treasury as a result of fines for violations of law, except money paid to a justice's court, and the use of which is not otherwise specified by law;

(d) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's accounts for the various sources of revenue established or referred to in this section;

(e) any federal or state money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213;

(f) gross proceeds taxes from coal under 15-23-703; and

(g) oil and natural gas production taxes."

**Section 18.** Section 20-9-333, MCA, is amended to read:

**"20-9-333. Basic county tax for high school equalization and other revenue for county equalization of high school BASE funding program.**

(1) Subject to 15-10-420, the county commissioners of each county shall levy an annual basic county tax of 22 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a tax or fee under ~~23-2-517, 23-2-803, 61-3-321(2) or (3), 61-3-521, 61-3-527, 61-3-529, 61-3-537, 61-3-560~~ through 61-3-562, 61-3-570, and 67-3-204, for the purposes of high school equalization and state BASE funding program support. The revenue collected from this levy must be apportioned to the support of the BASE funding programs of high school districts in the county and to the state general fund in the following manner:

(a) In order to determine the amount of revenue raised by this levy that is retained by the county, the sum of the estimated revenue identified in subsection (2) must be subtracted from the sum of the county's high school tuition obligation and the total of the BASE funding programs of all high school districts of the county.

(b) If the basic levy and other revenue prescribed by this section produce more revenue than is required to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.

(2) The revenue realized from the county's portion of the levy prescribed in this section and the revenue from the following sources must be used for the equalization of the high school BASE funding program of the county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue by the county treasurer in accordance with 20-9-212(1):

(a) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's accounts for the various sources of revenue established in this section;

(b) any federal or state money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213;

(c) gross proceeds taxes from coal under 15-23-703; and

(d) oil and natural gas production taxes."

**Section 19.** Section 20-9-360, MCA, is amended to read:

**"20-9-360. State equalization aid levy.** Subject to 15-10-420, there is a levy of 40 mills imposed by the county commissioners of each county on all taxable property within the state, except property for which a tax or fee is required under ~~23-2-517, 23-2-803, 61-3-321(2) or (3), 61-3-521,~~ 61-3-527, 61-3-529, 61-3-537, ~~61-3-560 through~~ 61-3-562, 61-3-570, and 67-3-204. Proceeds of the levy must be remitted to the department of revenue, as provided in 15-1-504, and must be deposited to the credit of the state general fund for state equalization aid to the public schools of Montana."

**Section 20.** Section 23-1-128, MCA, is amended to read:

**"23-1-128. Protection of riparian vegetation — limit on motorized camping, operation of off-highway vehicles.** 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:

(1) camping in a motor vehicle, as defined in ~~61-1-102~~ 61-1-101, is discouraged within 25 feet of a river or stream in state parks and fishing access sites; and

(2) the off-road operation of an off-highway vehicle, as defined in 23-2-801, within state parks and fishing access sites is prohibited except for administrative purposes."

**Section 21.** Section 23-2-512, MCA, is amended to read:

**"23-2-512. Identifying number.** (1) The owner of each motorboat, sailboat, or personal watercraft requiring numbering by this state shall file an application for number in the office of the county treasurer in the county where the motorboat, sailboat, or personal watercraft is owned, on forms prepared and furnished by the department of justice. The application must be signed by the owner of the motorboat, sailboat, or personal watercraft and be accompanied by ~~a fee of \$3.50 in calendar year 2004 and, in each subsequent year, \$15.50~~

*prescribed in 61-3-321(10)*. Any alteration, change, or false statement contained in the application renders the certificate of number void. Upon receipt of the application in approved form, the county treasurer shall issue to the applicant a certificate of number prepared and furnished by the department of justice, stating the number assigned to the motorboat, sailboat, or personal watercraft and the name and address of the owner.

~~(2)~~ The applicant, upon the filing of the application, shall pay to the county treasurer the fee in lieu of tax required under 23-2-517 for a motorboat 10 feet in length or longer, a sailboat 12 feet in length or longer, or a personal watercraft before the application for certification or, if applicable, recertification may be accepted by the county treasurer.

~~(3)~~(2) If the ownership of a motorboat, sailboat, or personal watercraft changes, a new application form with the certification fee must be filed within a reasonable time with the county treasurer and a new certificate of number assigned in the same manner as provided for in an original assignment of number.

~~(4)~~(3) If an agency of the United States government has in force a comprehensive system of identification numbering for motorboats in the United States, the numbering system employed pursuant to this part by the department of justice must be in conformity.

~~(5)~~(4) A certificate of number and a registration decal issued under this part are effective unless terminated or discontinued in accordance with the provisions of this part.

~~(6)~~(5) If ownership is transferred, the purchaser shall notify the county treasurer within a reasonable time of the acquisition of all or any part of the purchaser's interest, other than the creation of a security interest, in a motorboat, sailboat, or personal watercraft numbered in this state or of the loss, theft, destruction, or abandonment of the motorboat, sailboat, or personal watercraft. The transfer, loss, theft, destruction, or abandonment terminates the certificate of number for the motorboat, sailboat, or personal watercraft. Recovery from theft or transfer of a part interest that does not affect the owner's right to operate the motorboat, sailboat, or personal watercraft does not terminate the certificate of number.

~~(7)~~(6) A holder of a certificate of number shall notify the county treasurer within a reasonable time if the holder's address no longer conforms to the address appearing on the certificate and shall furnish the county treasurer with the new address. The department of justice may provide by rule for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or the alteration of an outstanding certificate to show the new address of the holder.

~~(8)~~(7) (a) The number assigned must be painted on or attached to each outboard side of the forward half of the motorboat, sailboat, or personal watercraft or, if there are no sides, at a corresponding location on both outboard sides of the foredeck of the motorboat, sailboat, or personal watercraft. The number assigned must read from left to right in Arabic numerals and block characters of good proportion at least 3 inches tall excluding border or trim of a color that contrasts with the color of the background and be so maintained as to be clearly visible and legible. The number may not be placed on the obscured underside of the flared bow where it cannot be easily seen from another vessel or ashore. Numerals, letters, or devices other than those used in connection with the identifying number issued may not be placed in the proximity of the

identifying number. Numerals, letters, or devices that might interfere with the ready identification of the motorboat, sailboat, or personal watercraft by its identifying number may not be carried in a manner that interferes with the motorboat's, sailboat's, or personal watercraft's identification. A number other than the number assigned to a motorboat, sailboat, or personal watercraft or granted reciprocity under this part may not be painted, attached, or otherwise displayed on either side of the forward half of the motorboat, sailboat, or personal watercraft. A registration decal issued under this part must be placed next to the identifying number located on the left side of a motorboat, sailboat, or personal watercraft or, if there are no sides, at the corresponding location on the left outboard side of the foredeck of the motorboat, sailboat, or personal watercraft.

(b) The certificate of number must be pocket size and available to federal, state, or local law enforcement officers at all reasonable times for inspection on the motorboat, sailboat, or personal watercraft whenever the motorboat, sailboat, or personal watercraft is on waters of this state.

(c) Boat liveries are not required to have the certificate of number on board each motorboat, sailboat, or personal watercraft, but a rental agreement must be carried on board livery motorboats, sailboats, or personal watercraft in place of the certificate of number.

~~(9) Fees, other than the fee in lieu of tax, collected under this section must be transmitted to the department of revenue, as provided in 15-1-504, for deposit in the state general fund.~~

~~(10)~~(8) An owner of a motorboat, sailboat, or personal watercraft shall within a reasonable time notify the department of justice, giving the motorboat's, sailboat's, or personal watercraft's identifying number and the owner's name if the motorboat, sailboat, or personal watercraft is transferred, lost, destroyed, or abandoned or within 60 days after a change of the state of principal use or if a motorboat becomes documented as a vessel of the United States."

**Section 22.** Section 23-2-513, MCA, is amended to read:

**"23-2-513. Dealer's or manufacturer's identifying number — premises — inspection — bond — judgment — temporary registration permit.** (1) A dealer or manufacturer may apply directly to the department of justice for one identifying number and one or more certificates of number. A dealer's or manufacturer's identifying number must be displayed on a dealer's or manufacturer's boat while the boat is operating for a purpose related to the buying, selling, or exchanging of the boat by the dealer or manufacturer.

(2) The application for a dealer's or manufacturer's identifying number must include the dealer's or manufacturer's name and business address. Each dealer or manufacturer must have one identifying number assigned to the dealer's or manufacturer's business.

(3) An application for a dealer's or manufacturer's identifying number and a certificate of number must be accompanied by the following fees:

(a) for the identifying number, first certificate of number, and registration decal, \$5;

(b) for each additional certificate of number and registration decal applied for in any application, \$2.

(4) The department of justice shall issue certificates of number for the identifying number assigned to a dealer or manufacturer in the same manner as

provided in 23-2-512(1) and ~~(8)~~ (7), except that a boat may not be described in a certificate and each certificate must state that the identifying number has been assigned to a dealer or manufacturer. A dealer's or manufacturer's certificate of number expires on December 31 of the year for which it is issued.

(5) A dealer's or manufacturer's identifying number must be displayed in the same manner as provided in ~~23-2-512(8)~~ 23-2-512(7), except that the number may be temporarily attached. The last three letters must be "DLR" for dealer and "MFR" for manufacturer. These letters must be included, respectively, in dealer or manufacturer identification numbers.

(6) A person other than a dealer or manufacturer or an employee of a dealer or manufacturer may not display or use a dealer's or manufacturer's identifying number. A dealer's or manufacturer's identifying number may be displayed only on motorboats owned by the dealer or manufacturer.

(7) A dealer or manufacturer or an employee of a dealer or manufacturer may not use a dealer's or manufacturer's identifying number for any purpose other than the purpose described in subsection (1).

(8) A dealer shall maintain a principal place of business, coinciding with the business address listed on the application, where all business records are maintained and where the dealer displays, sells, and services merchandise. The dealer shall display a sign at the place of business that clearly states the name of the business. The premises of the dealer's principal place of business must be inspected by an official of the department of justice to ensure compliance with this section.

(9) To qualify for renewal of a boat dealer's license, the dealer shall certify to the department of justice, upon application for renewal, that the dealer sold five or more boats during the previous license year. If five or more boats were not sold, an additional fee of \$50 is required for renewal of the dealer's license.

(10) (a) The applicant for a boat dealer's license shall file with the application a bond of \$5,000. The bond must be conditioned that the applicant will conduct the business in accordance with the requirements of the law. All bonds must run to the state of Montana, must be approved by the department of justice and filed in its office, and must be renewed annually.

(b) A person who suffers loss or damage because of the unlawful conduct of a dealer licensed under this section shall obtain a judgment from a court of competent jurisdiction prior to collecting on the bond. The judgment must determine a specific loss or damage amount and conclude that the licensee's unlawful operation caused the loss or damage before payment on the bond is required.

(11) Prior to the delivery of a motorboat or a sailboat 12 feet in length or longer to a purchaser, the dealer shall issue and affix to a motorboat or a sailboat constructed after October 31, 1972, a temporary registration permit, as defined in ~~61-1-603~~ 61-1-101. The temporary registration permit expires 30 days after the date of issuance. The dealer shall keep a copy of the temporary registration permit for the dealer's records and shall send a copy of the temporary registration permit to the department of justice."

**Section 23.** Section 23-2-515, MCA, is amended to read:

**"23-2-515. Registration decal to be displayed.** (1) A Montana motorboat, sailboat, or personal watercraft numbered in accordance with the provisions of 23-2-512 or 23-2-513 must display a registration decal. For this purpose, the county treasurer, upon proof of payment of the *registration fee* in

~~lieu of tax~~ as required by ~~15-16-202~~ for motorboats 10 feet in length or longer, sailboats 12 feet in length or longer, or personal watercraft ~~61-3-321(10)~~, shall issue a registration decal prepared and furnished by the department of justice with all new certificates of number and, if applicable, all renewals of the certificates of number.

(2) (a) The registration decal must be of a style and design prescribed by the department of justice.

(b) The registration decal must be serially numbered.

(c) The registration decals issued for a motorboat or sailboat do not expire while the motorboat or sailboat remains in the same ownership.

(3) A registration decal must be displayed on the left side of the forward half, 3 inches aft of the identifying numbers.”

**Section 24.** Section 23-2-519, MCA, is amended to read:

**“23-2-519. (Temporary) Penalty — disposition.** (1) Failure to pay the *registration fee in lieu of tax* as provided for in ~~23-2-517~~ ~~61-3-321(10)~~ is a misdemeanor, punishable by a fine equal to four times the *registration fee in lieu of tax* 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 the enforcement of this part. (Terminates June 30, 2006—sec. 4, Ch. 95, L. 2001.)

**23-2-519. (Effective July 1, 2006) Penalty — disposition.** (1) Failure to pay the *registration fee in lieu of tax* as provided for in ~~23-2-517~~ ~~61-3-321(10)~~ is a misdemeanor, punishable by a fine equal to five times the *registration fee in lieu of tax* 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 the enforcement of this part.”

**Section 25.** Section 23-2-601, MCA, is amended to read:

**“23-2-601. Definition of terms.** As used in 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-619, 23-2-621, 23-2-622, ~~23-2-626~~, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644, unless the context requires otherwise, the following definitions apply:

(1) “Certificate of title” means the document issued by the department of justice as prima facie evidence of ownership.

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

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

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

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

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

(7) "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.

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

(9) "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.

(10) "Roadway" means only those portions of a highway, road, or street improved, designed, or ordinarily used for travel or parking of motor vehicles.

(11) "Snowmobile" means a self-propelled vehicle of an overall width of 48 inches or less, excluding accessories, designed primarily 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."

**Section 26.** Section 23-2-614, MCA, is amended to read:

**"23-2-614. Exemptions.** (1) (a) The provisions of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-619, 23-2-621, 23-2-622, ~~23-2-626~~, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644, with respect to registration, registration decals, and certification of ownership, do not apply to snowmobiles owned or used by the United States or another state or any agency or political subdivision of the United States or another state.

(b) Snowmobiles owned by the state of Montana or any agency or political subdivision of this state are exempt only from the payment of fees and must otherwise comply with all the requirements of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-619, 23-2-621, 23-2-622, ~~23-2-626~~, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644.

(2) The provisions of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-619, 23-2-621, 23-2-622, ~~23-2-626~~, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644 with respect to registration, registration decals, and certification of ownership do not apply to unregistered snowmobiles owned by nonresidents of Montana who either:

(a) display visual proof that a nonresident temporary-use permit has been purchased; or

(b) use the snowmobile only in races and for not more than 30 days in the state. "Race" means an organized competition on a predetermined course that is run according to accepted rules."

**Section 27.** Section 23-2-616, MCA, is amended to read:

**"23-2-616. Registration and registration decal — application and issuance — use of certain fees.** (1) Except for a snowmobile registered under

23-2-621, a snowmobile may not be operated on public lands by any person unless it has been registered and a registration decal is displayed in a conspicuous place on the left side of the cowl.

(2) (a) A Montana resident who owns a snowmobile operated on public land shall register the snowmobile at the county treasurer's office in the county where the owner resides.

(b) A county treasurer shall register a snowmobile if:

(i) as of the date that the snowmobile is to be registered, the owner delivers or has delivered an application for a certificate of title to the department, its authorized agent, or a county treasurer; or

(ii) the county treasurer has confirmed that the department of justice has an electronic record of title for the snowmobile as provided in 61-3-101.

(c) To register a snowmobile, the county treasurer shall update the electronic record of title maintained by the department of justice, by entering the fees paid and recording any changes to the record.

(3) The owner registering a snowmobile shall pay a *the* registration fee of ~~\$6.50 in calendar year 2004 and, in each subsequent year, \$20.50 prescribed in 61-3-321(11)~~ and, if the snowmobile has previously been registered, show the county treasurer the registration receipt for the most recent year in which the snowmobile was registered. Upon payment of the proper fees, ~~including the fee in lieu of tax,~~ the treasurer shall issue a registration receipt that contains information considered necessary by the department of justice and a listing of fees paid. The owner shall retain possession of the registration receipt until it is surrendered to the county treasurer or to a purchaser or subsequent owner pursuant to a transfer of ownership.

(4) The county treasurer shall forward the application to the department of justice and shall issue to the applicant a registration decal in the style and design prescribed by the department of justice.

(5) The county treasurer may not register a snowmobile under this section unless the applicant has paid the registration fee ~~and the fee in lieu of property tax on the snowmobile as required by 15-16-202.~~

(6) All money collected from payment of registration fees and all interest accruing from use of this money must be forwarded to the ~~department of revenue state,~~ as provided in 15-1-504, for deposit in the state general fund.

~~(7) The county treasurer shall credit all fees in lieu of tax collected on snowmobiles to the state general fund.~~

~~(8) The fee imposed in subsection (3) is a one-time fee except on change of ownership. When ownership of the snowmobile changes, the new owner shall pay the fee in subsection (3)."~~

**Section 28.** Section 23-2-619, MCA, is amended to read:

**"23-2-619. Dealer registration certificate — use of fees — temporary registration permit.** (1) (a) Unless the dealer is licensed under the provisions of 61-4-101, a dealer registration certificate must be issued in accordance with 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-619, 23-2-621, 23-2-622, ~~23-2-626,~~ 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644.

(b) To qualify as a dealer, the applicant, when registering or renewing a registration, shall:

(i) complete an application:

(A) stating the name under which the business is to be conducted and the location of the premises (street address, city, county, and state) where records are kept, sales are made, and stock is displayed;

(B) stating the name, address, date of birth, and social security number of all owners or persons having an interest in the business, provided that in the case of a corporation, the names and addresses of the president and secretary are sufficient;

(C) identifying other dealerships owned by the applicant, identifying all persons in Montana or in another state having an interest in another dealership owned by the applicant, and disclosing whether the applicant or any other person with interest in a dealership owned by the applicant has been convicted of a felony; and

(D) stating the name and make of all snowmobiles handled and the name and address of the manufacturer, importer, or distributor with whom the applicant has a written franchise or sales agreement;

(ii) provide an affidavit certifying that the applicant has acquired and shall maintain liability insurance for any snowmobile offered for demonstration or loan to a customer;

(iii) execute a certificate to the effect that the applicant has a permanent building for the display and sale of snowmobiles at the location of the premises where sales are conducted;

(iv) execute a certificate to the effect that the applicant has a bona fide service department for the repair, service, and maintenance of snowmobiles; and

(v) execute a certificate to the effect that the applicant is a bona fide dealer in snowmobiles and that the dealer is recognized by a manufacturer, importer, or distributor as a dealer in snowmobiles.

(2) The dealer application must be accompanied by an application fee of \$5 and a registration fee of \$5. Upon receipt of the dealer application and payment of fees, the dealer must be issued two dealer snowmobile identification cards that must be carried by the dealer or the dealer's customer when demonstrating the dealer's snowmobiles.

(3) (a) A dealer shall file a bond in the amount of \$5,000.

(b) The bond must be conditioned that the applicant shall conduct business in accordance with the requirements of the law. The bond must run to the state of Montana, must be approved by the department and filed in its office, and must be renewed annually.

(c) A person who suffers loss or damage because of the unlawful conduct of a dealer registered under this section shall obtain a judgment from a court of competent jurisdiction prior to collecting on the bond. Before payment on the bond is required, the judgment must determine a specific loss or damage amount and conclude that the dealer's unlawful operation caused the loss or damage.

(4) The dealer shall have a principal place of business where the dealer maintains all business records and where the dealer displays and sells merchandise.

(5) An applicant for renewal of a snowmobile dealer registration shall certify that the applicant has sold five or more snowmobiles during the preceding year

or pay an additional \$50 renewal registration fee or provide a copy of a written new snowmobile franchise or sales agreement that the applicant has with a manufacturer, importer, or distributor.

(6) Additional dealer snowmobile identification cards as required by need justified to the department of justice may be purchased by the dealer for a fee of \$2.

(7) Dealer registration certificates and identification cards expire on June 30 following the date of issuance.

(8) Prior to the delivery of a snowmobile to the purchaser, the dealer shall issue and affix to the snowmobile a temporary registration permit. The temporary registration permit expires 20 days after the date of issuance. The dealer shall keep a copy of the temporary registration permit for the dealer's records and shall send a copy of the temporary registration permit to the department of justice.

(9) (a) The dealer application fees and all interest accruing from use of this money must be deposited in the state special revenue fund to the credit of the department, with one-half designated for use in enforcing the purposes of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-619, 23-2-621, 23-2-622, ~~23-2-626~~, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644 and one-half designated for use in the development, maintenance, and operation of snowmobile facilities.

(b) All money collected from dealer registration and renewal registration fees must be deposited in the general fund."

**Section 29.** Section 23-2-631, MCA, is amended to read:

**"23-2-631. Operation on public roads, streets, and highways.** (1) A person may not operate a snowmobile upon a controlled-access highway or facility at any time. Snowmobile 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 in the event that:

(a) the street, road, or highway is drifted or covered by snow to the extent that travel on the street, road, or highway by other motor vehicles is impractical or impossible;

(b) 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

(c) operation has been authorized on municipal streets by a municipal ordinance.

(2) A snowmobile may make a direct crossing of a street or highway whenever the crossing is necessary to get to another authorized area of operation. The crossing must be made at an angle of approximately 90 degrees to the direction of traffic at a place where no obstruction prevents a quick and safe crossing. The snowmobile must make a complete stop before entering upon any part of the traffic way, and the operator shall yield the right-of-way to all oncoming traffic.

(3) A snowmobile may not be operated upon a public street or highway when permitted to do so by 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-619, 23-2-621, 23-2-622, ~~23-2-626~~, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644 unless equipped with at least one headlamp and one taillamp, which

must be lighted at all times during operation, and unless equipped with a suitable braking device operable by either hand or foot.

(4) (a) Unless operation is otherwise allowed under subsection (4)(b) or (4)(c), the operator of a snowmobile who operates the snowmobile upon a public roadway, street, or highway when allowed to do so under the provisions of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-619, 23-2-621, 23-2-622, ~~23-2-626~~, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644 must have in possession a license to drive a motor vehicle as required by the laws of the state of Montana.

(b) The operator of a snowmobile may operate the snowmobile upon a public roadway, street, or highway when allowed to do so under the provisions of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-619, 23-2-621, 23-2-622, ~~23-2-626~~, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644 if the operator:

(i) has in possession a certificate showing the successful completion of a Montana-approved snowmobile safety education course; and

(ii) is in the physical presence and under the supervision of a person who is 18 years of age or older.

(c) An operator who crosses a street, road, or highway, who operates a snowmobile upon a street, road, or highway that is drifted or covered with snow to the extent that travel on the street, road, or highway by other motor vehicles is impractical or impossible, or who operates a snowmobile in any other areas of the state where operation is lawfully permitted is not required to apply for or possess a driver's license under the laws of the state of Montana."

**Section 30.** Section 23-2-634, MCA, is amended to read:

**"23-2-634. Regulation of snowmobile noise.** (1) Except as provided in this section, each snowmobile must be equipped at all times with noise-suppression devices, including an exhaust muffler in good working order and in constant operation. A snowmobile may not be modified by any person in any manner that will amplify or otherwise increase total noise emissions to a level greater than that emitted by the snowmobile as originally constructed, regardless of date of manufacture.

(2) Each person who owns or operates a snowmobile manufactured after June 30, 1972, but prior to June 30, 1975, shall maintain the machine in such a manner that it will not exceed a sound level limitation of 82 dbA measured at 50 feet.

(3) A snowmobile manufactured after June 30, 1975, except snowmobiles designated for competition purposes only, may not be sold or offered for sale unless that machine has been certified by the manufacturer as being able to conform to a sound level limitation of not more than 78 dbA measured at 50 feet. Each person who owns or operates a snowmobile manufactured after June 30, 1975, shall maintain the machine in a manner so that it will not exceed a sound level limitation of 78 dbA measured at 50 feet.

(4) A manufacturer who certifies that a new snowmobile can comply with the noise limitation requirements of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-619, 23-2-621, 23-2-622, ~~23-2-626~~, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644 shall affix a permanent notice of that certification to every snowmobile offered for sale in the state of Montana.

(5) In certifying that a new snowmobile can comply with the noise limitation requirements of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-619, 23-2-621, 23-2-622, ~~23-2-626~~, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644, a manufacturer shall make the certification based upon measurements made in accordance with SAE recommended practice J192, as amended. The department, in enforcing the provisions of this section, shall make measurements of snowmobile noise in accordance with applicable practices outlined in the "Procedure for Sound Level Measurements of Snowmobiles" (January, 1969), as amended, used by the international snowmobile industry association or with other standards for measurement of sound level that the department may adopt.

(6) This section does not apply to organized races or similar competitive events held on:

(a) private lands or waters, with the permission of the owner, lessee, or custodian of the land or waters; or

(b) public lands or waters, with the consent of the public agency having the authority to grant consent."

**Section 31.** 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 23-2-619, 23-2-621, 23-2-622, ~~23-2-626~~, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644, 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 23-2-619, 23-2-621, 23-2-622, ~~23-2-626~~, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644.

(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 and the fish, wildlife, and parks 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 32.** Section 23-2-642, MCA, is amended to read:

**"23-2-642. Penalties.** (1) The failure to display a current registration decal on a snowmobile is a misdemeanor, punishable by a fine in an amount equal to five times the applicable *registration* fee ~~in lieu of tax~~ payable under ~~23-2-626~~ *61-3-321*.

(2) A person who violates any other provision of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-619, 23-2-621, 23-2-622, ~~23-2-626~~, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644 or a rule adopted pursuant to

those sections shall pay a civil penalty of not less than \$15 or more than \$500 for each separate violation. If the violation is willful, the person shall pay a civil penalty of not less than \$50 or more than \$1,000 for each separate violation.

(3) A manufacturer who certifies that a new snowmobile meets the sound level limitations imposed by 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-619, 23-2-621, 23-2-622, ~~23-2-626~~, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644 is subject to the penalty provisions of subsection (2) if the machine so certified does not meet the appropriate sound level limitation. For the purposes of this section, each sale of a new snowmobile that does not meet the sound level limitations imposed by 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-619, 23-2-621, 23-2-622, ~~23-2-626~~, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644 constitutes a separate violation.”

**Section 33.** Section 23-2-644, MCA, is amended to read:

**“23-2-644. Deposit of funds from fines and forfeitures.** All fines and forfeitures collected under 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-619, 23-2-621, 23-2-622, ~~23-2-626~~, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644 relating to snowmobiles, except those collected by a justice’s court, must be transmitted to the ~~department of revenue~~ *state, as provided in 15-1-504, for deposit in the state general fund.*”

**Section 34.** Section 23-2-804, MCA, is amended to read:

**“23-2-804. Decal required.** (1) Except as provided in 23-2-802, an off-highway vehicle may not be operated by a person for off-road recreation on public lands in Montana unless there is displayed in a conspicuous place a decal, in a form prescribed by the department of justice and issued by the county treasurer, as visual proof that the following fees have been paid:

- (a) ~~(i) the fee in lieu of tax provided for in 23-2-803; and~~
- (ii) the registration fee provided for in 61-3-321(5); or

(b) when the vehicle will be used as provided in this section, the registration and taxation fees for motorcycles and quadricycles subject to licensure under 61-3-321(8), as evidenced by presentation of an owner’s certificate of registration and payment receipt. The county treasurer may confirm the registration status of a motorcycle or quadricycle by examining the current registration receipt for the vehicle or checking the electronic record of title for the vehicle.

- (2) The decal must be serially numbered.”

**Section 35.** Section 23-2-809, MCA, is amended to read:

**“23-2-809. Duplicate decal.** If a decal required in 23-2-804 indicating that the off-highway vehicle fee has been paid is lost, mutilated, or becomes illegible, the person to whom it was issued shall immediately apply for and obtain a duplicate decal upon payment of a fee of \$5 to the county treasurer, who shall ~~distribute forward the fee as provided in 23-2-803 to the state, as provided in 15-1-504, for deposit in the state general fund.~~”

**Section 36.** Section 23-2-818, MCA, is amended to read:

**“23-2-818. Dealer registration certificate — temporary registration permit.** (1) (a) Unless the dealer is licensed under the provisions of 61-4-101, a dealer may not sell off-highway vehicles unless the dealer has first obtained a dealer registration certificate from the department of justice under the provisions of this section.

(b) To qualify as a dealer the applicant, when registering or renewing a registration, shall:

(i) complete an application:

(A) stating the name under which the business is to be conducted and the location of the premises (street address, city, county, and state) where records are kept, sales are made, and stock is displayed;

(B) stating the name, address, date of birth, and social security number of all owners or persons having an interest in the business, provided that in the case of a corporation, the names and addresses of the president and secretary are sufficient;

(C) identifying other dealerships owned by the applicant, identifying all persons in Montana or in another state having an interest in another dealership owned by the applicant, and disclosing whether the applicant or any other person with interest in a dealership owned by the applicant has been convicted of a felony; and

(D) stating the name and make of all off-highway vehicles handled and the name and address of the manufacturer, importer, or distributor with whom the applicant has a written franchise or sales agreement;

(ii) provide an affidavit certifying that the applicant has acquired and shall maintain liability insurance for any off-highway vehicle offered for demonstration or loan to a customer;

(iii) execute a certificate to the effect that the applicant has a permanent building for the display and sale of off-highway vehicles at the location of the premises where sales are conducted;

(iv) execute a certificate to the effect that the applicant has a bona fide service department for the repair, service, and maintenance of off-highway vehicles; and

(v) execute a certificate to the effect that the applicant is a bona fide dealer in off-highway vehicles and that the dealer is recognized by a manufacturer, importer, or distributor as a dealer in off-highway vehicles.

(2) The dealer application for registration or renewal of registration must be accompanied by an application or renewal fee of \$5 and a registration fee of \$5. To qualify for the fees in this subsection, the applicant for renewal shall certify that the applicant has sold three or more off-highway vehicles during the preceding year. Upon receipt of the dealer application or renewal and payment of fees, the dealer must be issued two dealer off-highway identification cards to be carried by the dealer or the dealer's customer when demonstrating the dealer's off-highway vehicles. Additional dealer off-highway vehicle identification cards may be purchased by the dealer from the department of justice for a fee of \$2 each.

(3) (a) A dealer shall file a bond in the amount of \$5,000.

(b) The bond must be conditioned that the applicant shall conduct business in accordance with the requirements of the law. The bond must run to the state of Montana, must be approved by the department and filed in its office, and must be renewed annually.

(c) A person who suffers loss or damage because of the unlawful conduct of a dealer registered under this section shall obtain a judgment from a court of competent jurisdiction prior to collecting on the bond. Before payment on the

bond is required, the judgment must determine a specific loss or damage amount and conclude that the dealer's unlawful operation caused the loss or damage.

(4) The dealer shall have a principal place of business where the dealer maintains all business records and where the dealer displays and sells merchandise.

(5) An applicant for renewal of an off-highway vehicle dealer registration who does not qualify under subsection (2) shall:

(a) pay an additional \$50 renewal registration fee; and

(b) provide a copy of a new off-highway vehicle franchise or sales agreement that the applicant has with a manufacturer, importer, or distributor.

(6) Dealer registration certificates and identification cards expire on December 31 following the date of issuance.

(7) Prior to delivery of an off-highway vehicle to a purchaser, the dealer shall issue and affix to the off-highway vehicle a temporary registration permit, as defined in ~~61-1-603~~ *61-1-101*. The dealer shall keep a copy of the temporary registration permit for the dealer's records and shall send a copy of the temporary registration permit to the department of justice.

(8) (a) The dealer application fees and all interest accruing from use of this money must be deposited in the general fund to be used by the department of justice for the administration of this part.

(b) All dealer registration fees and renewal fees collected must be deposited in the state general fund."

**Section 37.** Section 30-11-701, MCA, is amended to read:

**"30-11-701. Definitions.** As used in this part, the following definitions apply:

(1) "Current net price" means:

(a) with respect to a dealership contract, the price listed in the wholesaler's, manufacturer's, or distributor's price list or catalog in effect at the time a dealership contract is discontinued or, if none is then in effect, the last available price so listed; and

(b) with respect to a distribution contract, the price listed in the manufacturer's or distributor's price list or catalog in effect at the time a distribution contract is discontinued or, if none is then in effect, the last available price so listed.

(2) "Dealership contract" means a written contract between a retailer and a wholesaler, manufacturer, or distributor in which the retailer becomes a dealer in goods sold by the wholesaler, manufacturer, or distributor, evidenced by a franchise agreement, sales agreement, security agreement, or other similar agreement or arrangement.

(3) "Distribution contract" means a written contract between a wholesaler and a manufacturer or distributor in which the wholesaler becomes a dealer in goods sold by the manufacturer or distributor, evidenced by a franchise agreement, sales agreement, security agreement, or other similar agreement or arrangement.

(4) "Inventory" means:

(a) farm implements, machinery, attachments, and repair parts;

(b) industrial and construction equipment and repair parts;

(c) automobiles, trucks, and repair parts sold by an automobile or truck dealer as defined in ~~61-1-314~~ 61-1-101;

(d) motorcycles, motor-driven cycles, recreational vehicles, and quadricycles, as those terms are defined in ~~Title 61, chapter 1, part 1~~ 61-1-101, and repair parts;

(e) snowmobiles, as defined in 23-2-601, and repair parts;

(f) off-highway vehicles, as defined in 23-2-801, and repair parts; and

(g) vessels, as defined in 23-2-502, detachable motors or engines used to propel vessels, and repair parts.

(5) "Net cost" means:

(a) with respect to a dealership contract, the price actually paid for an inventory item by the retailer to the wholesaler, manufacturer, or distributor, plus applicable freight costs paid by or charged to the retailer; and

(b) with respect to a distribution contract, the price actually paid for an inventory item by the wholesaler to a manufacturer or distributor, plus applicable freight costs paid by or charged to the wholesaler.

(6) "Retailer" or "retail dealer" means any individual, partnership, association, or corporation engaged in the business of selling inventory, as defined in this section, to the general public.

(7) "Wholesaler" means any individual, partnership, association, or corporation engaged in the business of selling inventory, as defined in this section, to retailers."

**Section 38.** Section 33-23-204, MCA, is amended to read:

**"33-23-204. Definitions.** As used in this part, the following definitions apply:

(1) (a) "Motor vehicle" means a vehicle propelled by its own power and designed primarily to transport persons or property upon the highways of the state.

(b) The term does not include a bicycle as defined in ~~61-1-123~~ 61-8-102.

(2) "Motor vehicle liability policy" means a policy of automobile or motor vehicle insurance against liability required under Title 61, chapter 6, parts 1 and 3, and all additional coverages included in or added to the policy by rider, endorsement, or otherwise, whether or not required under Title 61, including, without limitation, uninsured, underinsured, and medical payment coverages."

**Section 39.** Section 37-72-101, MCA, is amended to read:

**"37-72-101. Construction blasting restrictions — license required — definitions — exemptions.** (1) A person may not engage in the practice of construction blasting unless licensed or under the supervision of a person licensed as a construction blaster by the department.

(2) For the purposes of this chapter:

(a) "construction blaster" means a person who engages in construction blasting;

(b) "construction blasting" means the use of explosives to:

(i) reduce, destroy, or weaken any residential, commercial, or other building; or

(ii) excavate any ditch, trench, cut, or hole or reduce, destroy, weaken, or cause a change in grade of any land formation in the construction of any building, highway, road, pipeline, sewerline, or electric or other utility line;

(c) "department" means the department of labor and industry;

(d) "explosive" has the meaning provided in ~~61-1-506~~ 61-9-102.

(3) This chapter does not apply to the private or commercial use of explosives by persons engaged in farming, ranching, logging, geophysical work, drilling or development of water, oil, or gas wells, or mining of any kind or to the private use of explosives in the removal of stumps and rocks from land owned by the person using the explosives, except that the persons exempted from this chapter by this subsection shall comply with rules adopted under 37-72-201(1)(c) and the provisions of 37-72-102 apply to a violation of those rules by an exempted person.

(4) This chapter does not apply to persons conducting blasting operations when the persons and operations are subject to rules adopted under 82-4-231(10)(e)."

**Section 40.** Section 45-5-205, MCA, is amended to read:

**"45-5-205. Negligent vehicular assault — penalty.** (1) A person who negligently operates a vehicle, other than a bicycle as defined in ~~61-1-123~~ 61-8-102, while under the influence of alcohol, a dangerous drug, any other drug, or any combination of the three, as provided for in 61-8-401(1), and who causes bodily injury to another commits the offense of negligent vehicular assault.

(2) Subject to subsection (3), a person convicted of the offense of negligent vehicular assault shall be fined an amount not to exceed \$1,000 or incarcerated in a county jail for a term not to exceed 1 year, or both, and shall be ordered to pay restitution as provided in 46-18-241.

(3) A person convicted of the offense of negligent vehicular assault who caused serious bodily injury to another shall be fined an amount not to exceed \$10,000 or incarcerated for a term not to exceed 10 years, or both, and shall be ordered to pay restitution as provided in 46-18-241.

(4) If a term of incarceration is imposed under subsection (2) or (3), the judge may suspend the term of incarceration upon the condition of payment of any fine imposed and of restitution. If the person does not pay the fine or restitution, the term of incarceration may be imposed."

**Section 41.** Section 61-1-101, MCA, is amended to read:

**"61-1-101. Definitions.** ~~Unless~~ *As used in this title, unless the context indicates otherwise, the words and phrases defined in this chapter have, as used in this title, the meanings respectively ascribed to them in this chapter. following definitions apply:*

(1) "Bus" means a motor vehicle designed for carrying more than 10 passengers and used for the transportation of persons and any other motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

(2) (a) "Camper" means a structure designed to be mounted in the cargo area of a truck or attached to an incomplete vehicle for the purpose of providing shelter for persons. The term includes but is not limited to a cab-over, half cab-over, noncab-over, telescopic, and telescopic cab-over.

(b) *The term does not include a truck canopy cover or topper.*

(3) *“Certificate of title” means the paper record issued by the department or by the appropriate agency of another jurisdiction that establishes a verifiable record of ownership between an identified person or persons and the motor vehicle specifically described in the record and that provides notice of a perfected security interest in the motor vehicle.*

(4) *“Commercial driver’s license” means:*

(a) *a driver’s license issued under or granted by the laws of this state that authorizes a person to operate a class of commercial motor vehicle; and*

(b) *the privilege of a person to drive a commercial motor vehicle, whether or not the person holds a valid commercial driver’s license.*

(5) (a) *“Commercial motor vehicle” means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:*

(i) *has a gross combination weight rating or a gross combination weight of 26,001 pounds or more, whichever is greater, inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;*

(ii) *has a gross vehicle weight rating or a gross vehicle weight of 26,001 pounds or more, whichever is greater;*

(iii) *is designed to transport at least 16 passengers, including the driver;*

(iv) *is a school bus as defined in 20-10-101; or*

(v) *is of any size and is used to transport any quantity or form of hazardous material, as defined in 61-8-801, required to be placarded pursuant to Title 49, Code of Federal Regulations.*

(b) *The following vehicles are not commercial motor vehicles:*

(i) *an authorized emergency service vehicle:*

(A) *equipped with audible and visual signals as required under 61-9-401 and 61-9-402; and*

(B) *entitled to the exemptions granted under 61-8-107; or*

(ii) *a vehicle:*

(A) *controlled and operated by a farmer, family member of the farmer, or person employed by the farmer;*

(B) *used to transport farm products, farm machinery, or farm supplies within Montana within 150 miles of the farm or, if there is a reciprocity agreement with a state adjoining Montana, within 150 miles of the farm, including any area within that perimeter that is in the adjoining state; and*

(C) *not used to transport goods for compensation or for hire.*

(c) *For purposes of this subsection (5):*

(i) *“farmer” means a person who operates a farm or who is directly involved in the cultivation of land or crops or the raising of livestock owned by or under the direct control of that person;*

(ii) *“gross combination weight rating” means the value specified by the manufacturer as the loaded weight of a combination or articulated vehicle; and*

(iii) *“gross vehicle weight rating” means the value specified by the manufacturer as the loaded weight of a single vehicle.*

(6) "Commission" means the state transportation commission.

(7) (a) "Dealer" means a person, firm, association, or corporation that, for commission or profit, engages in whole or in part in the business of buying, selling, exchanging, accepting on consignment, or acting as a broker, as defined in 61-4-131, of new or used motor vehicles, trailers, semitrailers, or pole trailers that are not registered in the name of the person, firm, association, or corporation and that are required to be licensed under chapter 4 of this title.

(b) The term does not include the following:

(i) receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under a judgment or order of any court of competent jurisdiction;

(ii) employees of the persons included in subsection (7)(b)(i) when engaged in the specific performance of their duties as employees; or

(iii) public officers while performing or in the operation of their duties.

(8) "Declared weight" means the total unladen weight of a vehicle plus the weight of the maximum load to be carried on the vehicle as stated by the registrant in the application for registration.

(9) "Department" means the department of justice acting directly or through its duly authorized officers or agents.

(10) "Dolly or converter gear" means a device consisting of one or two axles with a fifth wheel and trailer tongue used to support the forward end of a semitrailer, converting a semitrailer into a trailer.

(11) "Driver" means a person who drives or is in actual physical control of a vehicle.

(12) "Driver's license" means a license or permit to operate a motor vehicle issued under or granted by the laws of this state, including:

(a) any temporary license or instruction permit;

(b) the privilege of any person to drive a motor vehicle, whether or not the person holds a valid license;

(c) any nonresident's driving privilege;

(d) a motorcycle endorsement; or

(e) a commercial driver's license.

(13) "For hire" means an action performed for remuneration of any kind, whether paid or promised, either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived for transportation service.

(14) "Gross vehicle weight" means the weight of a vehicle without load plus the weight of any load on the vehicle.

(15) "Highway" or "public highway" means the entire width between the boundary lines of every publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel.

(16) "Highway patrol officer" means a state officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(17) "Implement of husbandry" means a vehicle that is designed for agricultural purposes and exclusively used by the owner of the vehicle in the conduct of the owner's agricultural operations.

(18) *“Light vehicle” means a motor vehicle commonly referred to as an automobile, van, sport utility vehicle, or truck having a manufacturer’s rated capacity of 1 ton or less.*

(19) (a) *“Manufactured home” means a residential dwelling built in a factory in accordance with the United States department of housing and urban development code and the federal Manufactured Home Construction and Safety Standards.*

(b) *The term does not include a mobile home, as defined in 15-1-101 or this section, a housetrailer, or a mobile home or housetrailer constructed before the federal Manufactured Home Construction and Safety Standards went into effect on June 15, 1976.*

(20) *“Manufacturer” includes any person, firm, corporation, or association engaged in the manufacture of motor vehicles, trailers, or semitrailers as a regular business.*

(21) *“Manufacturer’s certificate of origin” means the original paper record produced and issued by the manufacturer of a vehicle or, if in a medium authorized by the department, an electronic record created and transmitted by the manufacturer of a vehicle to the manufacturer’s agent or a licensed dealer. The record must establish the origin of the vehicle specifically described in the record and, upon assignment, transfers of ownership of the vehicle to the person or persons named in the certificate.*

(22) *“Mobile home” or “housetrailer” means a trailer or a semitrailer that is designed, constructed, and equipped as a dwelling place, living abode, or sleeping place, either permanently or temporarily, and that is equipped for use as a conveyance on streets and highways or a trailer or semitrailer whose chassis and exterior shell is designed and constructed for use as a housetrailer but that is used permanently or temporarily for the advertising, sales, display, or promotion of merchandise or services or for any commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.*

(23) *“Motor home” means a motor vehicle:*

(a) *designed to provide temporary living quarters, built as an integral part of or permanently attached to a self-propelled motor vehicle chassis or van;*

(b) *containing permanently installed independent life support systems that meet the ANSIA/A119.2 standard; and*

(c) *providing at least four of the following types of facilities:*

(i) *cooking, refrigeration, or icebox;*

(ii) *self-contained toilet;*

(iii) *heating or air-conditioning, or both;*

(iv) *potable water supply, including a faucet and sink; or*

(v) *separate 110-volt or 125-volt electrical power supply or a liquefied petroleum gas supply; or both.*

(24) (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.*

(25) (a) *“Motor carrier” means a person or corporation or its lessees, trustees, or receivers appointed by a court that are operating motor vehicles upon a public highway in this state for the transportation of property for hire on a commercial basis.*

(b) *The term does not include motor carriers regulated under Title 69, chapter 12.*

(26) (a) *“Motorcycle” means a motor vehicle having not more than three wheels in contact with the ground and a saddle on which the operator sits or a platform on which the operator stands and a driving wheel in contact with the ground in addition to the wheels of the vehicle itself. A motorcycle may carry one or more attachments and a seat for the conveyance of a passenger.*

(b) *The term does not include a tractor or a bicycle as defined in 61-8-102.*

(27) (a) *“Motor-driven cycle” means a motorcycle, including a motor scooter, with a motor that produces 5 horsepower or less.*

(b) *The term does not include a bicycle as defined in 61-8-102.*

(28) (a) *“Motor vehicle” means a vehicle propelled by its own power and designed or used to transport persons or property upon the highways of the state;*

(b) *The term does not include a bicycle as defined in 61-8-102.*

(29) *“New motor vehicle” means a motor vehicle, regardless of the mileage of the vehicle, the legal or equitable title to which has never been transferred by a manufacturer, distributor, or dealer to another person as the result of a retail sale.*

(30) *“Nonresident” means a person who is not a resident of this state.*

(31) (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.*

(b) *The term does not include:*

(i) *vehicles designed primarily for travel on, over, or in the water;*

(ii) *snowmobiles; or*

(iii) *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.*

(32) *“Owner” means a person who holds the legal title to a vehicle. If a vehicle is the subject of an agreement for the conditional sale of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, or in the event a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security or otherwise, or in the event a mortgagor of a vehicle is entitled to possession, then the owner is the person in whom is vested the right of possession or control.*

(33) *“Operator” means a person who is in actual physical control of a motor vehicle.*

(34) "Person" means an individual, corporation, partnership, association, firm, or other legal entity. (35) "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.

(36) "Pole trailer" means a vehicle without power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable generally of sustaining themselves as beams between the supporting connections.

(37) "Police officer" means an officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(38) (a) "Quadricycle" means a four-wheeled motor vehicle, designed for on-road or off-road use, having a seat or saddle upon which the operator sits and a motor capable of producing not more than 50 horsepower.

(b) The term does not include golf carts.

(39) "Railroad" means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

(40) (a) "Railroad train" or "train" means a steam engine or electric or other motor, with or without cars coupled to the engine, that is operated upon rails.

(b) The term does not include streetcars.

(41) "Recreational vehicle" includes self-propelled vehicles originally designed or permanently altered to provide temporary facilities for recreational, travel, or camping use.

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

(43) "Registration receipt" means a paper record that is produced and issued or, if authorized by the department, an electronic record that is transmitted by the department, its authorized agent, or a county treasurer to the owner of a vehicle that identifies a vehicle, based on information maintained in the electronic record of title for the vehicle, and that provides evidence of the payment of all fees required to be paid for the registration of the vehicle for the registration period indicated in the receipt.

(44) "Retail sale" means the sale of a new motor vehicle or used motor vehicle, a recreational vehicle, a trailer, a travel trailer, a motorcycle, a quadricycle, or special mobile equipment by a dealer to a person for purposes other than resale.

(45) "Revocation" means that the driver's license and privilege to drive a motor vehicle on the public highways are terminated and may not be renewed or restored. An application for a new license may be presented and acted upon by the department after the expiration of the period of the revocation.

(46) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the

*event that a highway includes two or more separate roadways, the term refers to any roadway separately but not to all roadways collectively.*

(47) (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.*

(48) *“Semitrailer” means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that some part of its weight and that of its load rests upon or is carried by another vehicle.*

(49) *“Snowmobile” means a self-propelled vehicle of an overall width of 48 inches or less, excluding accessories, that is designed primarily 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.*

(50) *“Special mobile equipment” means a vehicle not designed for the transportation of persons or property on the highways but incidentally operated or moved over the highways, including road construction or maintenance machinery, ditch-digging apparatus, and well-boring apparatus. The fact that equipment is permanently attached to a vehicle does not make the vehicle special mobile equipment. The enumeration in this subsection is partial and does not exclude other vehicles that are within the general terms of this subsection.*

(51) (a) *“Sport utility vehicle” means a light vehicle designed to transport 10 or fewer persons that is constructed on a truck chassis or that has special features for occasional off-road use.*

(b) *The term does not include trucks having a manufacturer’s rated capacity of 1 ton or less.*

(52) (a) *“Stop”, when required, means complete cessation from movement.*

(b) *“Stop”, “stopping”, or “standing”, when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer, highway patrol officer, or traffic control sign or signal.*

(53) *“Street” means the entire width between the boundary lines of every publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel.*

(54) *“Suspension” means that the driver’s license and privilege to drive a motor vehicle on the public highways are temporarily withdrawn, but only during the period of suspension.*

(55) *“Temporary registration permit” means:*

(a) *a paper record produced and issued by the department, its authorized agent, a county treasurer, or a law enforcement officer to a person to whom ownership of a vehicle was transferred that, when mounted in the left-hand corner of a rear window of a motor vehicle or affixed as prescribed on a motorboat, a sailboat that is 12 feet in length or longer, a snowmobile, or an off-highway vehicle, authorizes the operation of the vehicle for a specified time period prior to registration under 23-2-512, 23-2-616, 23-2-804, or 61-3-303; or*

(b) *a durable license plate-style placard approved by the department and issued by an authorized agent of the department or a county treasurer to a person to whom ownership of a vehicle has been transferred that, when attached to the rear of the vehicle in a manner prescribed by the department, authorizes the*

*operation of a motor vehicle for a specified time period prior to registration under 61-3-303.*

(56) *“Traffic” means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highways for purposes of travel.*

(57) *“Trailer” means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.*

(58) *“Transaction summary receipt” means an electronic record produced and issued by the department, its authorized agent, or a county treasurer for which a paper receipt is issued. The record may be created by the department and transmitted to the owner of a vehicle, a secured party, or a lienholder. The record must contain a unique transaction record number and summarize and verify the electronic filing of the transaction described in the receipt on the electronic record of title maintained under 61-3-101.*

(59) *“Travel trailer” means a trailer 45 feet or less in length and 8 feet or less in width originally designed or permanently altered to provide temporary facilities for recreational, travel, or camping use and not used as a principal residence.*

(60) *“Truck” or “motortruck” means a motor vehicle designed, used, or maintained primarily for the transportation of property.*

(61) *“Truck tractor” means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load drawn.*

(62) *“Under the influence” has the meaning provided in 61-8-401.*

(63) *“Used motor vehicle” includes any motor vehicle that has been sold, bargained, exchanged, given away, or had its title transferred from the person who first took title to it from the manufacturer, importer, dealer, wholesaler, or agent of the manufacturer or importer and that has been used so as to have become what is commonly known as “secondhand” within the ordinary meaning of that term.*

(64) *“Van” means a motor vehicle designed for the transportation of at least six persons and not more than nine persons and intended for but not limited to family or personal transportation without compensation.*

(65) *“Vehicle” means a device in, upon, or by which any person or property may be transported or drawn upon a public highway, except devices moved by animal power or used exclusively upon stationary rails or tracks.*

(66) *“Vehicle identification number” means the number, letters, or combination of numbers and letters assigned by the manufacturer, by the department, or in accordance with the laws of another state or country for the purpose of identifying the motor vehicle or a component part of the motor vehicle.*

(67) *“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.*

(68) *“Wholesaler” means a person, firm, partnership, association, or corporation that for a commission or with intent to make a profit or gain of money or other thing of value sells, exchanges, or attempts to negotiate a sale or exchange of an interest in a used motor vehicle, recreational vehicle, trailer,*

*semitrailer, pole trailer, special mobile equipment, motorcycle, or quadricycle only to vehicle dealers and auto auctions licensed under chapter 4, part 1.”*

**Section 42.** Section 61-3-101, MCA, is amended to read:

**“61-3-101. Duties of department — records.** (1) (a) The department shall create and maintain a central registry of electronic files that includes an electronic record of title as specified in this section for motor vehicles, *trailers, semitrailers, pole trailers, campers, motorboats, personal watercraft, sailboats, and snowmobiles* for which:

(i) an application for a certificate of title has been received by the department, its authorized agent, or a county treasurer;

(ii) a certificate of title has been issued by the department; or

(iii) a registration, security interest, or lien transaction has been recorded by the department.

(b) The central registry of electronic files described in subsection (1) must include an electronic record of registration for each *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, and snowmobile* registered in this state:

(i) for which the certificate of title was issued by another jurisdiction and that was registered in another jurisdiction; or

(ii) for which a certificate of title has not been issued or is not required.

(2) The electronic record of title for a motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* must contain the following information:

(a) the name, residence, and mailing address of the owner and:

(i) if the owner is the holder of a driver’s license or identification card issued by the department or by a motor vehicle agency of another jurisdiction, the owner’s driver’s license or identification card number and the issuing jurisdiction; or

(ii) if the owner is a corporation, the registered agent’s name and, if the agent is the holder of a driver’s license or identification card, the agent’s driver’s license or identification card number and the issuing jurisdiction;

(b) a description of the motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*, including, as pertinent to the motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*:

(i) the manufacturer of the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*;

(ii) the manufacturer’s designation of the style of the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*;

(iii) the identifying number;

(iv) the manufacturer’s designated model year of manufacture and the odometer reading, *if applicable*, at the time of the transfer of ownership;

(v) the character of the motive power and the shipping weight of the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* as shown by the manufacturer;

(vi) the distinctive license number assigned to the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*, if any;

(vii) the gross vehicle weight and gross vehicle weight rating, as determined by the manufacturer, or, for a trailer operating interstate, the declared weight;

(viii) the unique transaction record number, when available and assigned by the department, for each transaction pertaining to the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* and the date of each transaction;

(ix) any brand required under state law or any brand carried forward from a certificate of title surrendered from another jurisdiction;

(x) if the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* has been or is currently registered in this state, the distinctive license plate number or certificate number assigned to the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* and a record of all fees and local option taxes, if applicable, paid for the current and preceding registration periods; and

(xi) other information that may be required for registration or may from time to time be found desirable.

(3) The electronic record of registration for a *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* must contain, at a minimum, the following information:

(a) the name, residence, and mailing address of the owner and the driver's license or identification card data required in subsections (2)(a)(i) and (2)(a)(ii);

(b) the same data that is required under subsection (2)(b) for the electronic record of title; and

(c) any other data consider to be pertinent by the department.

(4) In order to prevent an accumulation of unneeded records and files, regardless of any other statutory requirements, the department may destroy all records and files that relate to *motor vehicles, trailers, semitrailers, pole trailers, campers, motorboats, personal watercraft, sailboats, or snowmobiles* that have not been registered within the preceding 4 years and that do not have an active lien.

(5) Subject to the provisions of Title 61, chapter 11, part 5, *motor vehicle* records maintained by the department must be open to inspection during reasonable business hours, and the department shall furnish any information from the records, except personal information and highly restricted personal information, as defined in 61-11-503, upon payment by the applicant of the cost of the information requested. Prior to providing the information, the department shall require the applicant to provide identification. The department may not disclose personal information or highly restricted personal information except as permitted or required under 61-11-507, 61-11-508, or 61-11-509."

**Section 43.** Section 61-3-103, MCA, is amended to read:

**"61-3-103. Filing of security interests — perfection — rights — procedure — fees.** (1) (a) Except as provided in subsection (2), the department, its authorized agent, or a county treasurer shall, upon payment of the fee

required by subsection (8), enter a voluntary security interest or lien against the electronic record of title for a motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* upon receipt of a written acknowledgment by a motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* owner of a voluntary security interest or lien on a form required by the department. The entry may be made if:

(i) the person is applying for a certificate of title and the manufacturer's certificate of origin or a certificate of title is being surrendered; or

(ii) a transfer of ownership is not sought.

(b) After the voluntary security interest or lien has been entered on the electronic record of title for the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*, the department, its authorized agent, or a county treasurer shall issue a transaction summary receipt to the owner and, if requested, to the secured party or lienholder, showing the date that the security interest or lien was perfected.

(c) A voluntary security interest or lien is perfected on the date that the department, its authorized agent, or a county treasurer receives the written acknowledgment of the voluntary security interest or lien from the owner of the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*.

(d) Unless a person applying for a certificate of title requests issuance of a certificate of title under 61-3-201, the department may not record a voluntary security interest or lien on the face of a certificate of title.

(2) A security interest in a motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* held as inventory by a dealer licensed under Title 23, chapter 2, part 5, 6, or 8, or chapter 4 of this title must be perfected in accordance with Title 30, chapter 9A.

(3) Whenever a security interest or lien is filed against the electronic record of title for a motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* that is subject to two security interests previously perfected under this section and the applicant has requested issuance of a certificate of title under 61-3-201, the department shall endorse on the face of the certificate of title, "NOTICE. This ~~motor~~ vehicle is subject to additional security interests on file with the Department of Justice." Other information regarding the additional security interests is not required to be endorsed on the certificate.

(4) Upon default under a chattel mortgage or conditional sales contract covering a motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*, the mortgagee or vendor has the same remedies as in the case of other personal property. In case of attachment of motor vehicles, *trailers, semitrailers, pole trailers, campers, motorboats, personal watercraft, sailboats, or snowmobiles*, all the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable except that deposits must be made with the department.

(5) A secured party or lienholder who has a perfected security interest in a *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* and who fails to file a satisfaction of the security interest or lien within 21 days after receiving final payment is required

to pay the department \$25 for each day that the secured party or lienholder fails to file the satisfaction.

(6) Within 24 hours after receiving notice of any involuntary liens or attachments against the record of any motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* registered in this state, the department shall mail to the owner or any secured party or lienholder of record a notice showing the name and address of the lien claimant, the amount of the lien, the date of execution of the lien, and, in the case of attachment, the full title of the court and the action and the names of the attorneys for the plaintiff and attaching creditor.

(7) (a) This section does not prevent a secured party or lienholder from assigning the secured party's or lienholder's interest in a motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*, for which a certificate of title is issued under this chapter, to any other person without the consent of and without affecting the interest of the holder of the certificate of title.

(b) If a secured party assigns all or part of the party's interest in a motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* for which a certificate of title is issued under this chapter, the secured party assigning the interest shall file a copy of the assignment with the department and the department shall record the assignment in the department's records.

(8) (a) A fee must be paid to the department to file any security interest or other lien against a motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*. The fee covers the cost of entering and, upon the subsequent satisfaction or release, of removing the security interest or lien from the electronic record of title.

(b) Beginning January 1, 2002, and ending June 30, 2011, the fee is \$8. Of the \$8 fee, \$4 must be deposited in the state general fund in accordance with 15-1-504. The remaining \$4 must be forwarded to the ~~department of revenue~~ *state* for deposit in the motor vehicle information technology system account provided for in 61-3-550.

(c) Beginning July 1, 2011, the fee is \$4 and must be deposited in the state general fund.

(9) A fee of \$10 must be paid to the department by a vehicle owner if, following satisfaction or release of a security interest and its removal from the department's records, the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* owner requests issuance of a new certificate of title without the security interest or lien shown on the face of the title. The \$10 fee must be deposited in the motor vehicle information technology system account provided for in 61-3-550. (Subsection (9) terminates June 30, 2013—sec. 15, Ch. 562, L. 2003.)”

**Section 44.** Section 61-3-106, MCA, is amended to read:

**“61-3-106. Report of stolen and recovered motor vehicles — accessibility — insurance fraud and theft reporting — immunity.** (1) It is the duty of the sheriff of each county of the state and of the chief of police or commissioner of police of each city to make an immediate entry regarding each *theft or recovery of a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* ~~theft or recovery~~ into the state automated stolen *motor* vehicle file maintained by the department on

the state's criminal justice information system. Failure on the part of any officer to make the immediate entry is considered ~~misfeasance~~ *malfesance* in office and constitutes grounds for removal. Upon entry of the information, the state's criminal justice information system and the national crime information center must be allowed immediate access to the state automated stolen *motor* vehicle file. The department shall file reports of stolen and recovered motor vehicles, *trailers, semitrailers, pole trailers, campers, motorboats, personal watercraft, sailboats, or snowmobiles* reported to it from other states.

(2) The state automated stolen *motor* vehicle file must be made available to the secretary of state or other proper official in each state of the United States through access to the national crime information center.

(3) Upon written request to an insurer by an authorized governmental agency or upon an insurer's own initiative to notify a specific lienholder, an insurer or an agent authorized by an insurer to act on its behalf shall release to the requesting agency or lienholder relevant information in the insurer's possession relating to any specific motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* theft or motor vehicle insurance fraud.

(4) (a) Except as otherwise provided by law, information furnished pursuant to this section is privileged and may not become part of a public record. The evidence or information is not subject to a subpoena duces tecum in a civil or criminal proceeding unless the court determines after reasonable notice to the parties listed in subsection (4)(b) and a hearing that the public interest and any ongoing investigation by the parties listed in subsection (4)(b) will not be jeopardized by compliance with the subpoena duces tecum.

(b) The notice required by subsection (4)(a) must be sent to an insurer, an agent authorized by an insurer to act on its behalf, an authorized governmental agency that has an interest in the information, and a specific lienholder.

(5) An authorized governmental agency provided with information pursuant to this section may release or provide the information to any other authorized governmental agency.

(6) An insurer, an agent authorized by an insurer to act on its behalf, or an employee of an insurer or agent is not subject to civil or criminal liability in any cause of action for releasing or receiving information under this section.

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

(a) "Authorized governmental agency" means:

(i) any constituted criminal investigative department or agency of the United States;

(ii) the state department of justice;

(iii) the state auditor's office;

(iv) a peace officer of the state or a political subdivision of the state; or

(v) a prosecuting attorney of any state, of any political subdivision of any state, or of the United States or any district of the United States.

(b) "Relevant information" includes but is not limited to:

(i) insurance policy information related to any motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* theft or motor vehicle insurance fraud under investigation, including an application for a policy;

- (ii) available policy premium payment records;
- (iii) the history of previous claims made by the insured; and

(iv) information relating to the investigation of any motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* theft or motor vehicle insurance fraud, including statements of any person, proof of loss and notice of loss, and any information that an insurer knows or reasonably believes reveals or may reveal the identity of a person who it has reason to believe committed a criminal or fraudulent act relating to a motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* theft or motor vehicle insurance claim or has knowledge of an act that has not been reported to an authorized governmental agency.

(c) "Specific lienholder" means a person or firm that holds a security interest in a motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* involved in a specific motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* theft or motor vehicle insurance fraud."

**Section 45.** Section 61-3-107, MCA, is amended to read:

**"61-3-107. Identification number for trailers, campers, and other motor vehicles.** (1) A trailer, semitrailer, *pole trailer*, housetrailer, or camper that does not have a manufacturer's or other identifying number on the trailer, semitrailer, *pole trailer*, housetrailer, or camper must be assigned an identification number by the department.

(2) The department may not issue a certificate of ownership or a certificate of title or reissue a certificate of ownership or a certificate of title covering a *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* on which the identification number has been altered, removed, obliterated, defaced, omitted, or is otherwise absent unless the owner or other person lawfully in possession of the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* files an application with the department, accompanied by a fee of \$5. The application must be on a form provided by the department and must contain information required by the department for the assignment of a special identification number for a *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*. Upon receipt of the application and if the department is satisfied that the applicant is entitled to the assignment of an identification number, the department shall designate a special identification number for the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*. The department shall note the special identification number on the application and on records to be kept by the department. This assigned identification number must be stamped or securely attached in a conspicuous position on the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* in the manner and form prescribed by the department.

(3) If the true identity of a *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* can be established by restoring the original manufacturer's serial number or other distinguishing numbers or identification marks, the department may not assign a special identification number and shall replace the *motor vehicle's, trailer's, semitrailer's, pole trailer's, camper's, motorboat's, personal watercraft's,*

*sailboat's, or snowmobile's* identification mark by duplicating the manufacturer's full numeric or alphanumeric identification sequence. The department may replace an identification mark only after conducting an inquiry to determine that ownership of the *motor* vehicle bearing a restored identification mark has been lawfully transferred to the applicant. The applicant shall apply for and the department shall replace the identification mark on the *motor* vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* as required under subsection (2).

(4) Upon receipt by the department of a certificate of inspection completed by a peace officer or authorized member of the department verifying that the identification number has been stamped or securely attached in a conspicuous position upon the *motor* vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*, accompanied by an application for a certificate of ownership or a certificate of title and the required fee, the department shall use the number as the numeric or alphanumeric identification mark for the *motor* vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* in any certificate of ownership or a certificate of title that may be issued."

**Section 46.** Section 61-3-110, MCA, is amended to read:

**"61-3-110. Contract rental price adjustment — not sale or security interest.** In the case of a motor vehicle, trailer, ~~or~~ semitrailer, *pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*, a transaction does not create a sale or security interest solely because it permits or requires that the rental price be adjusted either upward or downward under the agreement by reference to the amount realized upon the sale or other disposition of the motor vehicle, trailer, ~~or~~ semitrailer, *pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*. To the extent that a conflict exists, this section supersedes any other provision of law."

**Section 47.** Section 61-3-201, MCA, is amended to read:

**"61-3-201. Certificate of title required — exclusions.** (1) Except as provided in subsection (2), the owner of a motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* that is in this state and for which a certificate of title has not been issued by or an electronic record of title has not been created by the department shall apply to the department, its authorized agent, or a county treasurer for a certificate of title for the motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*.

(2) The following *motor* vehicles, *trailers, semitrailers, pole trailers, campers, motorboats, personal watercraft, sailboats, or snowmobiles* are exempt from the requirements of this part:

(a) a *motor* vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* owned by the United States, unless the *motor* vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* is registered in this state;

(b) a *motor* vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* that is:

(i) owned by a manufacturer, a dealer, a wholesaler, or an auto auction; and

(ii) held for sale, even though incidentally moved on the highway, used for purposes of testing or demonstration, or used solely by a manufacturer for testing;

(c) a *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* owned by a nonresident of this state;

(d) a *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* regularly engaged in the interstate transportation of ~~person~~ *persons* or property and:

(i) for which a currently effective certificate of title has been issued in another state or jurisdiction; or

(ii) that is properly registered under the provisions of Title 61, chapter 3, part 7;

(e) a vehicle moved solely by human or animal power;

(f) an implement of husbandry;

(g) special mobile equipment *or a motor vehicle or trailer designed and used to apply fertilizer to agricultural land*;

(h) a self-propelled wheelchair or tricycle used by a person with a disability; or

(i) a dolly or converter gear.

(3) The certificate of title is valid until canceled by the department upon a transfer of any interest shown in the certificate of title, and annual renewal is not needed.”

**Section 48.** Section 61-3-202, MCA, is amended to read:

**“61-3-202. Certificate of title — issuance — contents — joint ownership.** (1) A certificate of title issued by the department must contain:

(a) the date issued;

(b) the name and address of the owner;

(c) the mileage disclosed by the transferor when ownership of the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* was transferred, including a notation that the record mileage is actual, not actual, or exceeds mechanical limits;

(d) the name and address of each secured party and lienholder, in the order of priority and perfection or, if the application was based on a surrendered certificate of title, in the order that the names and addresses are shown on the certificate of title;

(e) the title number assigned to the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*;

(f) the name of the jurisdiction in which the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* owner resides; the words “certificate of title”; the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* identification number; the manufacturer’s designated model year of manufacture, make, and model of the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*; and any required or carried-forward brands;

(g) the unique transaction record number, if available and assigned by the department; and

(h) any other data that the department prescribes.

(2) A certificate of title issued by the department is valid until canceled by the department upon:

(a) a transfer, in the electronic record, of title of any ownership interest shown in the certificate of title;

(b) notice received by the department of the surrender of the certificate of title to a motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* ~~title issuing to a title-issuing~~ agency of another jurisdiction for an issuance of a title in that jurisdiction;

(c) the issuance of a duplicate certificate of title; or

(d) a determination by the department that the certificate of title contains a substantial error or that the person who requested issuance of the certificate of title paid the required fees and taxes with an insufficient funds check.

(3) (a) Whenever the conditions described in subsection (2)(d) occur, the department shall:

(i) give prompt written notice of the cancellation of the certificate of title to any owner, secured party, or lienholder of record; and

(ii) stop any change to the electronic record of title.

(b) The action taken by the department under subsection (3)(a) prevents the transfer of any ownership interest until the error is corrected or the fees and taxes have been paid.

(4) If the names and addresses of more than one owner are listed on the certificate of title, joint ownership with right of survivorship, and not as tenants in common, is presumed.”

**Section 49.** Section 61-3-204, MCA, is amended to read:

**“61-3-204. Replacement certificate of title — application.** (1) If a certificate of title is lost, stolen, destroyed, mutilated, or becomes illegible or if the owner wants to update personal information on the electronic record of title or have a replacement certificate of title issued with updated information, the owner, as shown on the electronic record of title, may apply for and request the department to issue a replacement certificate of title. The application must include satisfactory evidence of the facts requiring the replacement certificate of title and be accompanied by a fee of \$10. Of the \$10 fee, \$5 must be deposited in the state general fund in accordance with 15-1-504, and the remaining \$5 must be ~~forwarded to the department for deposit~~ *deposited* in the motor vehicle information technology system account provided for in 61-3-550.

(2) Each replacement certificate of title issued by the department must contain the following statement: “This replacement voids any previously issued title.””

**Section 50.** Section 61-3-205, MCA, is amended to read:

**“61-3-205. Transfer of ownership of vehicles by insurance company.** (1) When an insurance company or its adjuster has taken possession of a motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* as a result of settling an insurance claim and transfers ownership of the motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*, it shall deliver to the transferee at the time of transfer a certificate of title signed and acknowledged by the registered owner or owners before the county treasurer, a deputy county treasurer, or a notary public.

(2) If the certificate of title names one or more holders of a perfected security interest in the motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*, the insurance company or its adjuster shall also secure and deliver to the transferee a release from the secured party of the security interest.”

**Section 51.** Section 61-3-206, MCA, is amended to read:

**“61-3-206. Odometer disclosure requirements on transfer of vehicle — dealer to preserve record.** (1) Except as provided in subsection (3), before executing any transfer of ownership document relating to a motor vehicle, each seller of a motor vehicle shall record on the certificate of title the odometer reading at the time of transfer or, if the certificate of title does not provide for the recording of the odometer reading, furnish to the purchaser a written statement that is signed by the seller, who shall also print the seller’s name on the written statement, and that contains the following information:

- (a) the odometer reading at the time of transfer;
- (b) the date of transfer;
- (c) the seller’s name and current address;
- (d) the purchaser’s name and current address;
- (e) the *motor* vehicle year, make, model, body style, and identification number;
- (f) one of the following statements or certification:
  - (i) a certification by the seller that, to the best of the seller’s knowledge, the odometer reading reflects the actual miles or kilometers the vehicle has been driven;
  - (ii) if the seller knows that the odometer reading reflects the amount of mileage in excess of the designed mechanical odometer limit of 99,999 miles or kilometers, the seller shall include a statement to that effect; or
  - (iii) if the seller knows that the odometer reading differs from the number of miles or kilometers the *motor* vehicle has actually traveled and that the difference is greater than that caused by odometer calibration error, the seller shall include a statement that the odometer reading is not the actual mileage and should not be relied upon.

(2) The purchaser shall acknowledge receipt of the disclosure statement by signing it and printing the purchaser’s name on the disclosure statement.

(3) The seller of the following types of motor vehicles need not disclose the odometer reading of the vehicle as required in subsection (1):

- (a) a motor vehicle that is 10 years old or older;
  - (b) a vehicle, *trailer, semitrailer, pole trailer, camper, or sailboat* that is not self-propelled;
  - (c) a new motor vehicle transferred between dealers or wholesalers prior to its first retail sale, unless the *motor* vehicle has been used as a demonstrator;
  - (d) a *motor* vehicle having a gross weight rating of more than 16,000 pounds;
- or
- (e) a *motor* vehicle sold directly by the manufacturer to an agency of the United States.

(4) A dealer or wholesaler licensed under chapter 4 of this title shall create a record of the information required in subsection (1) and shall maintain and

preserve that record for at least 5 years after the date of sale of the motor vehicle to which the information pertains.”

**Section 52.** Section 61-3-208, MCA, is amended to read:

**“61-3-208. Affidavit and bond for certificate of title.** (1) If an applicant for a certificate of title cannot provide the department with the certificate of title that assigns the prior owner’s interest in the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* to the applicant, the department may issue a certificate of title if subsection (2) is complied with.

(2) (a) The applicant shall submit an affidavit in a form prescribed by the department that must be signed and sworn to before an officer authorized to administer oaths and affirmations. The affidavit must accompany the application for the certificate of title and must:

(i) include the facts and circumstances through which the applicant acquired ownership and possession of the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*;

(ii) disclose security interests, liens, or encumbrances that are known to the applicant and that are outstanding against the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*;

(iii) state that the applicant has the right to have a certificate of title issued.

(b) The application must satisfy one of the following conditions:

(i) The vehicle for which the application is being made must be a ~~boat~~ *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat 12 feet in length or longer, or snowmobile*, and the loss of the certificate of title must be established by the applicant to the department’s satisfaction.

(ii) The applicant shall certify in the affidavit that the value of the ~~vehicle~~ *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat 12 feet in length or longer, or snowmobile* for which the application is made is \$500 or less as indicated by the average trade-in or wholesale value of the ~~vehicle~~ *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat 12 feet in length or longer, or snowmobile* as determined by the applicable national appraisal guide for the vehicle as of January 1 for the year in which the application is made or, if a national appraisal guide is not available for a ~~vehicle~~ *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat 12 feet in length or longer, or snowmobile*, according to the applicant’s knowledge and belief.

(iii) The applicant shall provide a bond, in a form prescribed by the department, issued by a surety company authorized to do business in this state, in an amount equal to the value of the ~~vehicle~~ *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat 12 feet in length or longer, or snowmobile* for which the application is being made, as determined by the surety company. The bond is conditioned to indemnify a prior owner, lienholder, subsequent purchaser, secured creditor, or encumbrancer of the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat 12 feet in length or longer, or snowmobile* and any respective successors in interest against expenses, losses, or damages, including reasonable attorney fees, caused by the issuance of the certificate of title or by a

defect in or undisclosed security interest upon the right, title, and interest of the applicant in the ~~vehicle~~ *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat 12 feet in length or longer, or snowmobile.*

(3) Any interested person has a right of action to recover on the bond furnished under this section for a breach of its conditions, but the aggregate liability of the surety to all persons may not exceed the amount of the bond.

(4) Unless the department has been notified of a pending action to recover the bond furnished under this section, the department shall return the bond at the earlier of:

(a) 3 years from the date of issuance of the certificate of title; or

(b) the date of surrender of the valid certificate of title to the department if the ~~vehicle~~ *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* is no longer required to have a certificate of title in this state.”

**Section 53.** Section 61-3-210, MCA, is amended to read:

**“61-3-210. Definitions.** As used in this part, the following definitions apply:

(1) “Cab” means the passenger compartment of a ~~common~~ truck or pickup truck. It is a unit of construction that includes the top or roof and the cowl and may or may not include glass, instrumentation, the steering column, and a seat or seats.

(2) “Center structure” includes the section of either a unibody or frame-type passenger *motor* vehicle that consists of a unit of sheet metal that extends from the firewall to the back of the rear seat or the centerline of the rear wheels. The structure may comprise the roof, side and rear window posts, cowl panel, dash panel, floor pans, doors, and rocker panels if two or more of these parts are assembled together as one unit.

(3) “Component part” means the front-end assembly, center structure, or tail section of an automobile, the cab of a truck, the bed of a 1-ton or lighter truck, the frame of a *motor* vehicle, or any part of a *motor* vehicle that contains a vehicle identification number or a derivative of a vehicle identification number.

(4) “Frame” means the structure that supports the automobile body and other external component parts.

(5) “Front-end assembly” includes the hood, right front and left front fenders, grill, bumper, and radiator supports if two or more of these parts are assembled together as one unit forward of the firewall.

(6) “Salvage certificate” means a certificate of title issued by the department for a salvage vehicle that may be used to retitle the *motor* vehicle.

(7) “Salvage vehicle” means a *motor* vehicle damaged by collision, fire, flood, accident, trespass, or other occurrence to the extent that the owner, an insurer, or ~~other~~ *another* person acting on behalf of the owner determines that the cost of parts and labor makes it uneconomical to repair the vehicle.

(8) “Salvage vehicle purchaser” means a person, other than an insurer, who purchases or otherwise obtains possession of a salvage vehicle.

(9) “Tail section” includes the floor pan, right rear and left rear quarter panels, deck lid, upper rear and lower rear panels, and rear bumper if two or more of these parts are assembled together as one unit.

~~(10) "Vehicle identification number" means the number, letters, or combination of numbers and letters assigned by the manufacturer, by the department, or in accordance with the laws of another state or country for the purpose of identifying the vehicle or a component part of the vehicle.~~

**Section 54.** Section 61-3-211, MCA, is amended to read:

**"61-3-211. Surrender of certificate of title — issuance of salvage certificate — salvage retitling requirements.** (1) An insurer acquiring ownership of a *motor* vehicle that is less than 5 years of age *and* that the insurer determines to be a salvage vehicle shall surrender the certificate of title to the department within 15 days after acquiring the certificate of title. If the insurer has not sold the salvage vehicle prior to the time of surrendering the certificate of title, the insurer shall apply for a salvage certificate on a form prescribed by the department. If the certificate of title names one or more holders of a perfected security interest in the *motor* vehicle, the insurer shall secure and deliver to the department a release from each secured party of the secured interest.

(2) Upon receipt of a properly executed certificate of title and a salvage certificate application from an insurer, the department shall issue a salvage certificate to the insurer within 5 working days of the date of receipt of the application. Upon receipt of a salvage certificate issued by the department, an insurer may possess, retain, transport, sell, transfer, or otherwise dispose of the salvage vehicle. The salvage certificate is prima facie evidence of ownership of a salvage vehicle.

(3) If the insurer sells a salvage vehicle within the 15-day period established in subsection (1) prior to surrendering the certificate of title, the insurer shall complete a salvage receipt on a form prescribed by the department. The insurer shall deliver the original salvage receipt to the salvage vehicle purchaser only after obtaining a clear title and lien release. Prior to disposing of the salvage vehicle, the salvage vehicle purchaser shall apply for a salvage certificate by completing the salvage receipt and submitting it to the department. The insurer shall deliver a copy of the salvage receipt with the surrendered certificate of title to the department. Upon receipt of the certificate of title from the insurer and the application from the salvage vehicle purchaser, the department shall issue a salvage certificate to the salvage vehicle purchaser that is prima facie evidence of ownership.

(4) If an insurer determines that a salvage vehicle will remain with the owner after an agreed settlement, the insurer shall notify the department of the settlement on a form prescribed by the department. Upon receipt of the notice, the department may require the owner to surrender the certificate of title in compliance with this part, regardless of whether ownership of the salvage vehicle was obtained in a jurisdiction not requiring the surrender of the certificate of title or a comparable ownership document.

(5) At the time of surrender of a certificate of title for a salvage vehicle not acquired by an insurer, the department shall issue a salvage certificate to the owner. Upon receipt of a salvage certificate issued by the department to a noninsurer, the owner may possess, retain, transport, sell, transfer, or otherwise dispose of the salvage vehicle. A salvage certificate is prima facie evidence of ownership of a salvage vehicle.

(6) A fee of \$5 must be paid to the department for the issuance of a salvage certificate.

(7) A salvage vehicle owned by or in the inventory of a motor vehicle wrecking facility on October 1, 1991, is exempt from the provisions of this section if the owner of the facility has complied with the provisions of 75-10-513(2)."

**Section 55.** Section 61-3-212, MCA, is amended to read:

**"61-3-212. Retitling salvage vehicles — penalty.** (1) Prior to operating a salvage vehicle on the roads and highways of this state, the owner shall present the *motor* vehicle and the salvage certificate, if one has been issued, or the certificate of title, the appropriate receipts or bills of sale establishing ownership, and the source of component parts used to rebuild the *motor* vehicle to a department employee or designated peace officer for inspection, as provided in 61-3-223. An owner may obtain a 72-hour temporary registration permit from the department or its designee for the purpose of moving a salvage vehicle to and from the designated inspection site.

(2) (a) The inspector shall inspect the *motor* vehicle to verify the identity of the *motor* vehicle.

(b) The inspector shall verify that the component parts used to rebuild the *motor* vehicle are evidenced by traceable receipts or bills of sale and that there are no indications that the *motor* vehicle or any of its parts are stolen. Documentation provided by the owner or employee of a wrecking facility licensed under the provisions of Title 75, chapter 10, part 5, is prima facie evidence of the facts stated in the documentation.

(3) Following inspection and prior to operating the *motor* vehicle on the roads and highways of this state, the owner shall apply for a new certificate of title by submitting the application, the salvage certificate, receipts or bills of sale, and a copy of the inspection report to the department.

(4) Upon receipt of the application, required documentation, and payment of the fee required in 61-3-203, the department shall issue a new certificate of title with the words "rebuilt salvage" on the face of the certificate of title.

(5) A person failing to comply with the provisions of this part is guilty of a misdemeanor and upon conviction shall be fined an amount not to exceed \$500. The salvage vehicle purchaser shall produce the salvage certificate upon request of a public official legally entitled to request the certificate. A person may not operate or use a salvage vehicle on the roads or highways of this state except when a temporary registration permit has been issued as provided in subsection (1)."

**Section 56.** Section 61-3-216, MCA, is amended to read:

**"61-3-216. Certificates of title — application — contents — issuance.**

(1) The owner of a *motor* vehicle, *trailer*, *semitrailer*, *pole trailer*, *camper*, *motorboat*, *personal watercraft*, *sailboat*, or *snowmobile* shall apply for a certificate of title on a form prescribed by the department or, if authorized by the department, in an electronic record provided by the department and made available to an authorized agent of the department or a county treasurer.

(2) The application for a certificate of title, upon completion, must include:

(a) the name, residence, and mailing address of the owner and:

(i) if the owner is the holder of a driver's license or identification card issued by the department or a motor vehicle agency of another jurisdiction, the owner's driver's license number or identification card number and the name of the jurisdiction issuing the license or card; or

(ii) if the owner is a corporation, the name of the corporation's registered agent's and, if the agent is the holder of a driver's license or identification card, the agent's driver's license number or identification card number and the name of the jurisdiction issuing the license or card;

(b) a description of the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*, including, as available and pertinent to the vehicle:

(i) the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* make, model, manufacturer's designated model year of manufacture, vehicle identification number, and type of body and a description of motive power;

(ii) the odometer reading, *if applicable*, at the time of transfer of ownership;

(iii) the gross vehicle weight rating, gross vehicle weight, or shipping weight, *if applicable*, as determined by the manufacturer;

(iv) whether the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* was new or used at the time of transfer; and

(v) ~~if the vehicle is~~ for a trailer operating intrastate, its declared weight;

(c) the date on which the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* was purchased by or was transferred to the applicant, the name and address of the person from whom the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* was acquired, and the names and addresses of any secured parties or lienholders for whom the applicant is acknowledging a voluntary security interest;

(d) any other information that the department requires to identify the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* and to enable the department to determine whether the owner is entitled to a certificate of title and to determine the existence of security interests in the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*;

(e) if applicable, an odometer statement containing the information required in 61-3-206 or, if the title does not contain a space for the information, a separate document approved by the department that provides the same information that is required in 61-3-206; and

(f) a section that gives the applicant the option to direct the department, upon examination and review of the records and completion of the application process, to:

(i) issue a certificate of title as soon as possible; or

(ii) update the electronic record of title for the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*, issue a transaction summary receipt, and postpone the issuance of a certificate of a title until the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* owner submits a separate request for issuance of the certificate of title.

(3) If the application is for a certificate of title to a new *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*, the application must be accompanied by a manufacturer's certificate of origin, properly assigned to the applicant.

(4) Except as provided in 61-3-208 or subsection (4)(b) of this section, if the application is for a certificate of title to a used motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*, the application must be:

(a) accompanied by a certificate of title that is properly assigned by the prior owner to the applicant; or

(b) acknowledged by the prior owner if the prior owner's interest in the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* was assigned to the applicant by means of a transfer on the electronic record of title entered by an authorized agent of the department or a county treasurer.

(5) If the application is for a certificate of title to a camper and if a certificate of title properly assigned by the prior owner is not available, the application must be accompanied by a notarized bill of sale or a conditional sales contract.

(6) If the application is for a certificate of title to a motorboat, a personal watercraft, a sailboat that is 12 feet in length or longer, or a snowmobile and a certificate of title properly assigned by the prior owner is not available, the application must be accompanied by a notarized bill of sale, an invoice, the ~~vehicle's~~ current registration receipt *for the motorboat, personal watercraft, sailboat, or snowmobile*, or a certificate of number showing the transfer of ownership, which may be used to show the transfer of ownership for a motorboat, personal watercraft, or sailboat, *or snowmobile* from the immediate prior owner to the applicant."

**Section 57.** Section 61-3-217, MCA, is amended to read:

**"61-3-217. Certificate of title — duties — examination of application — records check — incomplete application.** (1) (a) Upon receipt of an application for a certificate of title and any supporting documents, an authorized agent of the department or a county treasurer shall:

(i) review the application and documents;

(ii) complete the records check required in subsection (2); and

(iii) if an authorized agent of the department or the county treasurer is satisfied as to the genuineness and regularity of the application and satisfied that the applicant is entitled to the issuance of a certificate of title, enter the transfer of interest on the electronic record of title.

(b) If an authorized agent of the department or the county treasurer is not satisfied as to the genuineness and regularity of the application or is not satisfied that the applicant is entitled to the issuance of a certificate of title, the authorized agent or the county treasurer may not enter the transfer of interest on the electronic record of title.

(c) If an authorized agent of the department or the county treasurer enters the transfer of interest on the electronic record of title, an authorized agent or the county treasurer shall:

(i) issue a transaction summary receipt to the applicant and, if requested, to any secured party or lienholder with a perfected security interest; and

(ii) as prescribed by the department, forward to the department the application, the assigned certificate of title, and any other documents provided in support of the application.

(2) The department, its authorized agent, or a county treasurer who first receives an application for a certificate of title shall check the vehicle identification number shown on the application against:

(a) the records of *motor vehicles, trailers, semitrailers, pole trailers, campers, motorboats, personal watercraft, sailboats, or snowmobiles* maintained by the department under 61-3-101;

(b) the reported stolen *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* databases maintained on the state's criminal justice information network and by the national crime information center; and

(c) any other records or databases prescribed by the department.

(3) (a) Upon receipt of an application for a certificate of title and supporting documents that have been processed by an authorized agent of the department or a county treasurer, the department shall review the documents to determine if the application is complete. If the department determines that the application is incomplete, the department shall enter the incomplete status of the application on the electric record of title for the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* and return to the applicant, by first-class mail, the application and all supporting documents. The department shall provide a statement with a specific description of the additional information or documents that must be supplied by the applicant to complete the application process.

(b) Except as provided in 61-3-342, the department may not complete the application process, remove the incomplete status notation on the electronic record of title, or issue a certificate of title until the applicant returns the completed application, including any supporting additional information or documents, to the department.”

**Section 58.** Section 61-3-218, MCA, is amended to read:

**“61-3-218. Certificate of title — issuance — delivery.** (1) Except as provided in subsection (2), if a person who applied for a certificate of title also requested the issuance of the certificate of title as provided in 61-3-216(2)(f)(i), upon receipt of the application and all supporting documents and after an examination and determination that the application is complete and regular, the department shall issue a certificate of title of the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* and shall mail the certificate of title to the owner.

(2) If a person to whom a *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* was transferred has not satisfied the titling and registration provisions of this chapter or, if applicable, the registration provisions of Title 23, chapter 2, part 5 or 6, within the 20-day period provided in 61-3-220(3) and the secured party or lienholder pays the title fee required in 61-3-203, the department may mail a certificate of title to the secured party or lienholder upon request of the secured party or lienholder.

(3) (a) A *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* owner who requested the delayed issuance of a certificate of title under 61-3-216(2)(f)(ii), in the initial application for a certificate of title, may submit a request for the issuance of the certificate of title to the department, its authorized agent, or a county treasurer in a manner prescribed by the department. Upon receipt, the department shall issue a

certificate of title for the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* and mail the certificate of title to the owner.

(b) A title fee may not be demanded from the owner or collected by the department, its authorized agent, or a county treasurer for a certificate of title requested or issued under subsection (3)(a)."

**Section 59.** Section 61-3-219, MCA, is amended to read:

**"61-3-219. Refusal to issue certificate of title.** The department may refuse to issue a certificate of title if any required fee is not paid or if the department has reasonable grounds to believe that:

- (1) the applicant is not the owner of the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*;
- (2) the application contains a false or fraudulent statement;
- (3) the applicant failed to furnish any information or document required by the department; or
- (4) based on the check performed under 61-3-217(2), the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* has been reported as stolen."

**Section 60.** Section 61-3-220, MCA, is amended to read:

**"61-3-220. Certificate of title — voluntary transfer — timeliness — penalty.** (1) Upon the voluntary transfer of any interest in a *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* for which a certificate of title was issued under the provisions of this chapter, the owner whose interest is to be transferred shall:

- (a) authorize, in writing and on a form prescribed by the department, its authorized agent, or a county treasurer, to enter the transfer of the owner's interest in the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* to the transferee on the electronic record of title maintained under 61-3-101; or
- (b) execute a transfer in the appropriate space provided on the certificate of title issued to the owner and deliver the assigned certificate of title to:
  - (i) the transferee at the time of delivery of the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*; or
  - (ii) the department, its authorized agent, or a county treasurer if an application for a certificate of title has been completed by the transferee and accompanies the assigned certificate of title.

(2) The transferor's signature on the certificate of title, or the form authorizing transfer of interest upon the electronic record of title, must be acknowledged before the county treasurer, a deputy county treasurer, an elected official authorized to acknowledge signatures, an employee or authorized agent of the department, or a notary public.

(3) Except as provided in sections 23-2-513, 23-2-619, 23-2-818, or 61-4-111, the person to whom an interest in a motor vehicle has been transferred shall:

- (a) execute an application for a certificate of title in the space provided on the assigned certificate of title or as prescribed by the department; and

(b) within 20 days after the interest in the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* was transferred to the person, mail or deliver the assigned certificate of title or application to the county treasurer of the person's county of residence or, as permitted by the department, its authorized agent.

(4) If the person to whom an interest in a motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* has been transferred fails to submit the application for a certificate of title to the department's authorized agent or a county treasurer within the 20-day grace period described in subsection (3), a late penalty of \$10 must be imposed against the transferee. The penalty must be paid by the transferee to the county treasurer when the application for a certificate of title is finally submitted by the transferee or before the transferee may register the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* in this state. The penalty is in addition to the fees otherwise provided by law.

(5) If the transferee does not apply for a certificate of title within the 20-day grace period, a secured party or lienholder of record may pay the fees for the transfer of title and for filing a voluntary security interest or lien. The secured party or lienholder is not liable for the late penalty imposed in subsection (4) or for registration fees, taxes, or fees in lieu of tax on the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile.*"

**Section 61.** Section 61-3-221, MCA, is amended to read:

**"61-3-221. Involuntary transfer.** (1) (a) An involuntary transfer of title to or any interest in a motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* may occur by operation of law through inheritance, devise, bequest, order in bankruptcy or insolvency, execution sale, or repossession upon default in the performance of the terms of a lease, executory sales contract, or security agreement or in any other manner other than by voluntary act of the person whose title or interest is transferred. Upon the involuntary transfer, the executor, administrator, receiver, trustee, sheriff, secured party, or other representative or successor in interest of the person whose interest is transferred shall send to the department:

(i) an application for a certificate of title; and

(ii) a verified or certified statement of the transfer of interest or a transfer statement, as defined in 30-9A-619.

(b) The statement of transfer of interest must state the reason for the involuntary transfer, the interest transferred, the name of the person to whom the interest is to be transferred, the process or procedure creating the transfer, and other information requested by the department. A transfer statement submitted under this section must meet the requirements of 30-9A-619. Evidence and instruments that are required by law in order to effect a transfer of legal or equitable title to or an interest in chattels must be submitted with the statement.

(c) Except as provided in subsection (2), if the department determines that the transfer is regular and that all legal requirements have been complied with, the department shall send notice of the intended transfer to the owner, conditional sales vendor, lessor, mortgagee, and other lienholder, as shown in the department's records. Deposit in the U.S. mail of the notice, postage prepaid,

addressed to the person at the respective address shown in the department's records satisfies the notice required by this section. Not less than 5 days after sending the notice, the department shall issue a new certificate of title to the transferee.

(2) (a) Except as provided in subsection (2)(b), if an interest in a *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* that is not registered in this state is involuntarily transferred to a person in this state, the person to whom the interest is transferred shall follow the procedure provided in subsection (1).

(b) In lieu of the statement required in subsection (1), the department may accept an affidavit of repossession as executed by the person seeking the involuntary transfer.

(3) The department is not required to send notice for a transfer of interest occurring under subsection (2)."

**Section 62.** Section 61-3-222, MCA, is amended to read:

**"61-3-222. Surviving spouse or heir — small estates.** (1) Subject to the limitations of Title 72, chapter 3, part 11, the surviving spouse or other heir may secure transfer of a decedent's ownership interests in one or more motor vehicles, *trailers, semitrailers, pole trailers, campers, motorboats, personal watercraft, sailboats, or snowmobiles* for which a certificate of title was issued under this chapter if:

(a) the combined value of the interests does not exceed \$20,000;

(b) the decedent did not leave other property that requires the procuring of letters of administration or letters testamentary; and

(c) the decedent did not by execution of a will otherwise bequeath the property.

(2) The person seeking transfer of the decedent's interests under this section shall file an affidavit with the department setting forth the fact of survivorship, the name and address of any other heirs, and any other facts determined necessary to entitle the person to the transfer.

(3) If the department determines that the transfer is regular and that all legal requirements have been met, the department shall issue a certificate of title, subject to any security interests shown by the department's records, to the surviving spouse or other heir."

**Section 63.** Section 61-3-223, MCA, is amended to read:

**"61-3-223. Salvage vehicles.** (1) A salvage vehicle for which a certificate of title is sought must be inspected for the vehicle identification number to authenticate the identity of the *motor* vehicle before an electronic record of title can be created or a certificate of title can be issued. The inspection does not attest to the roadworthiness or safety condition of the *motor* vehicle and must be performed by an authorized employee or an authorized agent of the department or by a peace officer designated by the department.

(2) The department may contract with a person or entity for use of a facility as a regional inspection site for salvage vehicles.

(3) The department shall collect an inspection fee of \$18.50 from the person requesting the inspection for each salvage vehicle inspected. The fees collected under this section must be distributed as follows:

(a) \$5 must be deposited in the state general fund; and

(b) \$13.50 must be deposited in an account in the state special revenue fund to be appropriated only for the inspection of salvage vehicles.

(4) (a) A person authorized to inspect salvage vehicles may seize and hold a vehicle:

(i) if the person has probable cause to believe that the *motor* vehicle has been stolen;

(ii) on which a motor number or vehicle identification number has been defaced, altered, removed, covered, destroyed, or obliterated; or

(iii) that has a vehicle identification number that does not conform with the vehicle identification number on the certificate of title.

(b) A seized *motor* vehicle must be held until the identity of the *motor* vehicle is established and arrangements are made for its lawful disposition. A person authorized to inspect salvage vehicles may use any means necessary to identify a *motor* vehicle by its vehicle identification number or numbers.

(5) The department may not create an electronic record of title or issue a certificate of title for a salvage vehicle until the identity of the *motor* vehicle is established.

(6) The department may adopt rules for the inspection of salvage vehicles.”

**Section 64.** Section 61-3-224, MCA, is amended to read:

**“61-3-224. Temporary registration permit.** (1) A county treasurer or a law enforcement officer may issue a temporary registration permit under the provisions of 61-3-317. A county treasurer may also issue a temporary registration permit under the provisions of 61-3-342.

(2) An employee or agent of the department may issue a temporary registration permit only under express authorization from the department and in accordance with the provisions of this chapter.

(3) A dealer licensed under Title 23, chapter 2, part 5, 6, or 8, or under Title 61, chapter 4, part 1, may issue a temporary registration permit only as authorized under 23-2-513, 23-2-619, 23-2-818, 61-4-111, or 61-4-112.

(4) A temporary registration permit issued under subsections (1) through (3) must contain the following information:

(a) a temporary registration permit control number, registration receipt number, or transaction record number, as prescribed by the department;

(b) the expiration date of the temporary registration permit; and

(c) if required by the department, a description of the *motor* vehicle, *trailer*, *semitrailer*, *pole trailer*, *camper*, *motorboat*, *personal watercraft*, *sailboat*, or *snowmobile*, including year, make, model, and vehicle identification number, the name and address of the person from whom ownership of the *motor* vehicle, *trailer*, *semitrailer*, *pole trailer*, *camper*, *motorboat*, *personal watercraft*, *sailboat*, or *snowmobile* was transferred, the name and residence address of the person to whom ownership of the *motor* vehicle, *trailer*, *semitrailer*, *pole trailer*, *camper*, *motorboat*, *personal watercraft*, *sailboat*, or *snowmobile* has been transferred, and the date of transfer.”

**Section 65.** Section 61-3-301, MCA, is amended to read:

**“61-3-301. Registration — license plate required — display.** (1) Except as otherwise provided in this chapter, a person may not operate a motor vehicle, *trailer*, *semitrailer*, or *pole trailer* upon the public highways of Montana unless

the *motor vehicle, trailer, semitrailer, or pole trailer* is properly registered and has the proper number plates conspicuously displayed, one on the front and one on the rear of the *motor vehicle, trailer, semitrailer, or pole trailer*, each securely fastened to prevent it from swinging and unobstructed from plain view, except that *motor vehicles, trailers, semitrailers, or pole trailers* authorized to display demonstrator plates under 61-4-125 or 61-4-129 may have only one number plate conspicuously displayed on the rear. A person may not display on a *motor vehicle, trailer, semitrailer, or pole trailer* at the same time a number assigned to it under any motor vehicle law except as provided in this chapter. A junk vehicle, as defined in Title 75, chapter 10, part 5, being driven or towed to an auto wrecking graveyard for disposal is exempt from the provisions of this section.

(2) A person may not purchase or display on a *motor vehicle, trailer, semitrailer, or pole trailer* a license plate bearing the number assigned to any county, as provided in 61-3-332, other than the county of the person's permanent residence at the time of application for registration. However, the owner of a *motor vehicle, trailer, semitrailer, or pole trailer* requiring a license plate on a *motor vehicle, trailer, semitrailer, or pole trailer* used in the public transportation of persons or property may make application for the license in any county through which the *motor vehicle, trailer, semitrailer, or pole trailer* passes in its regularly scheduled route, and the license plate issued bearing the number assigned to that county may be displayed on the *motor vehicle, trailer, semitrailer, or pole trailer* in any other county of the state.

(3) It is unlawful to:

(a) display license plates issued to one *motor vehicle, trailer, semitrailer, or pole trailer* on any other *motor vehicle, trailer, or semitrailer, or pole trailer* unless legally transferred as provided by statute;

(b) repaint old license plates to resemble current license plates; or

(c) display a prior design of number plates issued under 61-3-332(4)(a) or special license plates issued under 61-3-332(10) or 61-3-421 more than 18 months after a new design of number plates or special license plates has been issued, except as provided in 61-3-332(4)(c) and (4)(d), 61-3-448, or 61-3-468.

(4) This section does not apply to a *motor vehicle, trailer, semitrailer, or pole trailer* exempt from taxation under 15-6-215 or subject to the registration fee or fee in lieu of tax under as provided in 61-3-520.

(5) A person violating these provisions is guilty of a misdemeanor and is subject to the penalty prescribed in 61-3-601.

(6) For the purposes of this section, "conspicuously displayed" means that the required license plates are obviously visible and firmly attached to:

(a) the front and the rear bumper of a *motor vehicle, trailer, semitrailer, or pole trailer* equipped with front and rear bumpers; or

(b) other clearly visible locations on the front and the rear exteriors of a *motor vehicle, trailer, semitrailer, or pole trailer.*"

**Section 66.** Section 61-3-302, MCA, is amended to read:

**"61-3-302. Residents operating motor vehicles under licenses issued by any state other than Montana forbidden.** ~~It shall especially be provided that a~~ A resident of the state of Montana ~~shall~~ may not operate a *motor vehicle, trailer, semitrailer, or pole trailer* under a license issued by any other state than Montana."

**Section 67.** Section 61-3-303, MCA, is amended to read:

**“61-3-303. Registration — process — fees.** (1) A Montana resident who owns a motor vehicle, *trailer, semitrailer, or pole trailer* operated or driven upon the public highways of this state shall register the motor vehicle, *trailer, semitrailer, or pole trailer* in the office of the county treasurer in the county where the owner permanently resides or, if the *motor vehicle, trailer, semitrailer, or pole trailer* is owned by a corporation or used primarily for commercial purposes, in the county where the *motor vehicle, trailer, semitrailer, or pole trailer* is permanently assigned.

(2) (a) Except as provided in subsection (3), the county treasurer shall register any *motor vehicle, trailer, semitrailer, or pole trailer* for which:

(i) as of the date that the *motor vehicle, trailer, semitrailer, or pole trailer* is to be registered, the owner delivers an application for a certificate of title to the department, its authorized agent, or a county treasurer; or

(ii) the county treasurer confirms that the department has an electronic record of title for the *motor vehicle, trailer, semitrailer, or pole trailer* as provided under 61-3-101.

(b) To register a *motor vehicle, trailer, semitrailer, or pole trailer*, the county treasurer shall update the electronic record of title maintained by the department under 61-3-101 by entering the fees paid and recording any changes to the recorded data.

(3) (a) A county treasurer shall register a motor vehicle, *trailer, semitrailer, or pole trailer* for which a certificate of title and registration were issued in another jurisdiction and for which registration is required under 61-3-701 after the county treasurer examines the current out-of-jurisdiction registration certificate or receipt and receives payment of the fees required in 61-3-701. The county treasurer may ask the *motor vehicle, trailer, semitrailer, or pole trailer* owner to provide additional information, prescribed by the department, to ensure that the electronic record of registration maintained by the department is complete.

(b) A county treasurer may register a motor vehicle, *trailer, semitrailer, or pole trailer* for which the new owner cannot present the previously issued certificate of title only as authorized by the department under 61-3-342.

(4) The department or the county treasurer shall determine the amount of fees, including local option taxes or fees, to be collected at the time of registration for each light vehicle subject to a registration fee under ~~61-3-560 through 61-3-321(2)~~ or 61-3-562 and for each bus, truck having a manufacturer's rated capacity of more than 1 ton, and truck tractor subject to a fee in lieu of tax under 61-3-529. The county treasurer shall collect the registration fee, other appropriate fees, and local option taxes or fees, if applicable, on each motor vehicle, *trailer, semitrailer, or pole trailer* at the time of its registration.

(5) A person who seeks to register a motor vehicle, except a mobile home, ~~or a manufactured home as those terms are defined in 15-1-101(1)~~, *trailer, semitrailer, or pole trailer*, shall pay to the county treasurer:

(a) the registration fee, as provided in 61-3-311 and 61-3-321 or 61-3-456;

(b) except as provided in 61-3-456 or unless it has been previously paid, the ~~motor vehicle~~ fees in lieu of tax or registration fees under ~~61-3-560 through 61-3-321(2)~~ or 61-3-562 imposed against the *motor vehicle, trailer, semitrailer,*

or *pole trailer* for the current year of registration and the immediately previous year; and

(c) a donation of \$1 or more if the person has indicated on the application that the person wishes to donate to promote awareness and education efforts for procurement of organ and tissue donations in Montana to favorably impact anatomical gifts; and

(d) a donation of \$1 or more if the person has indicated on the application that the person wishes to donate to promote education on, support for, and awareness of traumatic brain injury.

(6) The county treasurer may not issue a registration receipt or license plates for the *motor vehicle, trailer, semitrailer, or pole trailer* to the owner unless the owner makes the payments required by subsection (5). Except as provided in ~~61-3-560 through 61-3-321(2)~~ or 61-3-562, the department may not assess or impose and the county treasurer may not collect taxes or fees for a period other than:

(a) the current year; and

(b) except as provided in subsection (9), the immediately preceding year if the *motor vehicle, trailer, semitrailer, or pole trailer* was not registered or operated on the highways of the state, regardless of the period of time since the *motor vehicle, trailer, semitrailer, or pole trailer* was previously registered or operated.

(7) The department may make full and complete investigation of the registration status of the *motor vehicle, trailer, semitrailer, or pole trailer*. A person seeking to register a motor vehicle, *trailer, semitrailer, or pole trailer* under this section shall provide additional information to support the registration to the department if requested.

(8) Revenue that accrues from the voluntary donation provided in subsection (5)(c) must be forwarded by the respective county treasurer to the department of revenue for deposit in the state special revenue fund to the credit of an account established by the department of public health and human services to support activities related to awareness and education efforts for procurement of organ and tissue donations for anatomical gifts.

(9) (a) Except as provided in subsection (9)(b), the fees in lieu of tax, taxes, and fees imposed on or collected from the registration of a travel trailer, motorcycle, or quadricycle or a trailer, *semitrailer, or pole trailer, or semitrailer* that has a declared weight of less than 26,000 pounds are required to be paid only once during the time that the ~~vehicle~~ *travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer* is owned by the same person who registered the ~~vehicle~~ *travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer*. Once registered, a ~~vehicle described in this subsection (9)(a)~~ *travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer* is registered permanently unless ownership of the ~~vehicle~~ is transferred.

(b) Whenever ownership of a ~~vehicle described in subsection (9)(a)~~ *travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer* is transferred, the new owner is required to register the ~~vehicle~~ *travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer* as if it were being registered for the first time, including paying all of the required fees in lieu of tax, taxes, and fees.

(10) Revenue that accrues from the voluntary donation provided in subsection (5)(d) must be forwarded by the respective county treasurer to the

department of revenue for deposit in the state special revenue fund to the credit of the account established in 2-15-2218 to support activities related to education regarding prevention of traumatic brain injury.”

**Section 68.** Section 61-3-311, MCA, is amended to read:

**“61-3-311. Registration — annual renewal — time periods.** (1) Registration must be renewed annually, and registration fees must be paid annually. Except as provided in 61-3-313 through 61-3-316, 61-3-318, 61-3-526, and 61-3-721, all registrations expire on December 31 of the year in which they are issued and must be renewed annually upon payment of all required fees to the county treasurer or the department’s agent not later than February 15 of each year. If the ownership of a motor vehicle, *trailer, semitrailer, or pole trailer* is transferred during the registration year, the new owner shall apply for a certificate of title and register the motor vehicle, *trailer, semitrailer, or pole trailer* as provided by this chapter.

(2) The department, its authorized agent, or a county treasurer may not renew the registration of a *motor vehicle, trailer, semitrailer, or pole trailer* whose for which ownership has been transferred and that was originally registered under the provisions of 61-3-342(3) unless:

(a) the previously issued certificate of title has been surrendered to the department, its authorized agent, or the county treasurer and the process for issuing a certificate of title has been completed; or

(b) the person to whom ownership of the *motor vehicle, trailer, semitrailer, or pole trailer* has been transferred presents an affidavit and bond in support of the application for a certificate of title as permitted in 61-3-208.”

**Section 69.** Section 61-3-312, MCA, is amended to read:

**“61-3-312. Renewal of registration — exceptions — grace period.** (1) Except as provided in 61-3-311(1), 61-3-314, ~~61-3-321(2)~~, 61-3-318, 61-3-526, ~~61-3-560~~, 61-3-562, and 61-3-721, the registration of a *motor vehicle, trailer, semitrailer, or pole trailer* under this chapter expires on December 31 of each year and must be renewed annually upon payment of registration fees as provided in 61-3-303 and 61-3-321. The renewal takes effect on January 1 of each year. A registration receipt is valid only during the registration year for which it is issued.

(2) The owner of a *motor vehicle, trailer, semitrailer, or pole trailer* registered under the provisions of this section may operate the *motor vehicle, trailer, semitrailer, or pole trailer* between January 1 and February 15 without displaying the registration decal of the current year if, during the period, the owner displays upon the *motor vehicle, trailer, semitrailer, or pole trailer* the number plates or plate assigned for the previous year.”

**Section 70.** Section 61-3-313, MCA, is amended to read:

**“61-3-313. ~~Vehicles~~ Motor vehicles subject to staggered registration.** For purposes of 61-3-313 through 61-3-316, “*motor vehicle*” means a motor vehicle, as defined in ~~61-1-102~~, that is subject to annual registration in this state except:

(1) *motor* vehicles owned or leased and operated by the government of the United States or by the state of Montana or a political subdivision of the state;

(2) mobile homes and motor homes;

- (3) *motor* vehicles that are registered in accordance with or subject to 61-3-411 or 61-3-458(3)(b);
- (4) trucks exceeding a 1-ton rated capacity;
- (5) trailers, semitrailers, *pole trailers*, tractors, and buses;
- (6) special mobile equipment, ~~as defined in 61-1-104~~ *a motor vehicle or trailer designed and used to apply fertilizer to agricultural land, or a log loader*;
- (7) motor vehicles registered as part of a fleet under 61-3-318; and
- (8) apportionable *motor* vehicles registered as part of a fleet, as defined in 61-3-712, that is subject to the provisions of 61-3-711 through 61-3-733.”

**Section 71.** Section 61-3-314, MCA, is amended to read:

**“61-3-314. Registration period.** (1) Except as provided in 61-3-315, each *motor* vehicle subject to the provisions of 61-3-313 through 61-3-316 must be registered for a 12-month period based upon the date it is first registered in this state pursuant to 61-3-313 through 61-3-316.

(2) There are 12 registration periods, each of which commences on the first day of a calendar month. The periods are:

- |                                       |              |
|---------------------------------------|--------------|
| (a) January 1 through January 31      | 1st period   |
| (b) February 1 through February 28/29 | 2nd period   |
| (c) March 1 through March 31          | 3rd period   |
| (d) April 1 through April 30          | 4th period   |
| (e) May 1 through May 31              | 5th period   |
| (f) June 1 through June 30            | 6th period   |
| (g) July 1 through July 31            | 7th period   |
| (h) August 1 through August 31        | 8th period   |
| (i) September 1 through September 30  | 9th period   |
| (j) October 1 through October 31      | 10th period  |
| (k) November 1 through November 30    | 11th period  |
| (l) December 1 through December 31    | 12th period” |

**Section 72.** Section 61-3-315, MCA, is amended to read:

**“61-3-315. Reregistration on anniversary date — department to make rules — early reregistration.** (1) A *motor* vehicle that has been registered for any of the periods designated in 61-3-314 must be reregistered for the same period on or before the anniversary date of the initial registration unless that period is changed as provided in subsections (2) and (4). The anniversary date for reregistration is the last day of the month for the designated registration period.

(2) (a) The owner of a *motor* vehicle subject to the provisions of 61-3-313 through 61-3-316 and subject to the registration fee, as provided in ~~61-3-560 and 61-3-561~~ *61-3-321(2)*, may register the *motor* vehicle for a period not to exceed 24 months. The registration expires on the last day of the 24th month commencing from the date of the designated registration period under 61-3-314 for which the *motor* vehicle is registered.

(b) The owner of a *motor* vehicle 11 years old or older subject to the provisions of 61-3-313 through 61-3-316 and subject to the registration fee, as

provided in ~~61-3-560 and 61-3-561~~ 61-3-321(2), may permanently register the motor vehicle as provided in 61-3-562. The registration remains in effect until ownership of the *motor* vehicle is transferred to another person by the registered owner.

(3) The department shall adopt rules for the implementation and administration of 61-3-313 through 61-3-316 and for the identification of the registration on the *motor* vehicles. The rules adopted by the department pursuant to this section must also allow early reregistration of motor vehicles that are subject to the provisions of 61-3-313 through 61-3-316 and subject to the registration fee, as provided in ~~61-3-560 and 61-3-561~~ 61-3-321(2), when an owner of a motor vehicle presents extenuating circumstances.

(4) The department shall provide for simultaneous registration of multiple *motor* vehicles that have common ownership. The rules must provide for a change of the registration period to coincide with the date an owner desires to register the *motor* vehicles.”

**Section 73.** Section 61-3-316, MCA, is amended to read:

**“61-3-316. New registrations under staggered registration.** A *motor* vehicle that is registered for the first time in this state must be assigned a registration period corresponding to when the *motor* vehicle is first registered in this state. Except as provided in 61-3-315, the registration period for a *motor* vehicle must remain the same from year to year.”

**Section 74.** Section 61-3-317, MCA, is amended to read:

**“61-3-317. New registration required for transferred *motor* vehicle — grace period — penalty — display of proof of purchase.** (1) Except as otherwise provided in this section, the new owner of a transferred motor vehicle, *trailer, semitrailer, or pole trailer* has a grace period of 20 calendar days from the date of purchase to make application for a certificate of title and pay the registration fees, fees in lieu of tax and other fees required by part 5 of this chapter, and local option taxes, if applicable, unless the fees and taxes have been paid for the year or for the 24-month period as provided in 61-3-315, as if the *motor* vehicle, *trailer, semitrailer, or pole trailer* were being registered for the first time in that registration year.

(2) The new owner of a *motor* vehicle, *trailer, semitrailer, or pole trailer* described in 61-3-303(9) shall make application and pay the registration fees, fees in lieu of tax, and other fees required by part 5 of this chapter and local option taxes, if applicable, whether or not the fees and taxes have been paid previously.

(3) If the motor vehicle, *trailer, semitrailer, or pole trailer* was not purchased from a licensed motor vehicle dealer as provided in this chapter, it is not a violation of this chapter or any other law for the purchaser to operate the *motor* vehicle, *trailer, semitrailer, or pole trailer* upon the streets and highways of this state without a current registration receipt or registration decal during the 20-day period if at all times during that period, a temporary registration permit, obtained from the county treasurer or a law enforcement officer as authorized by the department, is clearly displayed in the rear window of the motor vehicle or, if a durable placard has been issued for the *motor* vehicle, *trailer, semitrailer, or pole trailer*, the placard is attached to the rear of the *motor* vehicle, *trailer, semitrailer, or pole trailer*.

(4) Registration fees collected under 61-3-321 are not required to be paid when a license plate is transferred under 61-3-335 and this section.

(5) Failure to make application for a certificate of title within the time provided in this section subjects the purchaser to a penalty of \$10. The penalty must be collected by the county treasurer at the time of registration and is in addition to the fees otherwise provided by law. The penalty must be deposited in the state general fund.”

**Section 75.** Section 61-3-318, MCA, is amended to read:

**“61-3-318. Fleet registration period.** (1) (a) Notwithstanding any other provisions of this title regarding the registration of motor vehicles, a person owning or leasing a fleet may register its ~~motor vehicles~~ *fleet* for a 6-month period, commencing from the date of original registration.

(b) A *motor* vehicle remaining in the fleet at the end of a 6-month period must be reregistered for a minimum of 12 months.

(2) As used in this section, “fleet” means more than 25 automobiles or trucks having a rated capacity of three-quarters of a ton or less that are rented or offered for rental without drivers and that are designated by a rental owner as a rental fleet.”

**Section 76.** 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, reregistration of motor vehicles, *snowmobiles, watercraft, trailers, and semitrailers, and pole trailers* ~~in accordance with this chapter, as follows provided in subsections (2) through (18):~~

(2) (a) *Except as provided in subsection (2)(b), there is a registration fee imposed on light vehicles. The registration fee is in addition to other annual registration fees.*

(b) *The following vehicles are exempt from the registration fee imposed in this subsection (2):*

(i) *light vehicles that meet the description of property exempt from taxation under 15-6-201(1)(a), (1)(c) through (1)(e), (1)(g), (1)(m), (1)(o), (1)(q), or (1)(w), 15-6-203, or 15-6-215, except as provided in 61-3-520;*

(ii) *a light vehicle owned by a person eligible for a waiver of registration fees under 61-3-460;*

(iii) *a light vehicle registered under 61-3-456.*

(c) *The owner of a light vehicle subject to the provisions of 61-3-313 through 61-3-316 may register the light vehicle for a period not to exceed 24 months. The application for registration or reregistration must be accompanied by the registration fee and all other fees required in this chapter for each 12-month period of the 24-month period.*

~~(a)(d) The annual registration fee for light vehicles under 2,850 pounds, \$13.75 in calendar year 2004 and, in each subsequent year, \$17; trucks and buses under 1 ton, and logging trucks less than 1 ton is as follows:~~

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

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

~~(iii) if the vehicle is 11 or more years old, \$28;~~

~~(e) The owner of a light vehicle 11 years old or older may permanently register the light vehicle as provided in 61-3-562.~~

~~(b)(3)~~ (a) Except as provided in subsection (3)(c), the owner of a trailer, semitrailer, or pole trailer that has a declared weight of less than 6,000 pounds shall pay a one-time fee of \$61.25.

(b) The owner of a trailer, semitrailer, or pole trailer with a declared weight of 6,000 pounds or more shall pay a one-time fee of \$148.25.

(c) Except as provided in subsection (17), whenever a transfer of ownership of a trailer, semitrailer, or pole trailer described in subsection (3)(a) or (3)(b) occurs, the one-time fee required under subsection (3)(a) or (3)(b) must be paid by the new owner. ~~trailers with a declared weight of less than 2,500 pounds and semitrailers, \$8.25. For a trailer or semitrailer described in 61-3-530(1), this fee is a one-time fee, except upon transfer of ownership of the trailer or semitrailer.~~

~~(e)(4)~~ The annual registration fee for motor vehicles ~~registered~~ owned and operated solely as collector's items pursuant to 61-3-411 that are for motor vehicles:

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

~~(ii)(b)~~ under 2,850 pounds, \$5;

~~(d)(5)~~ (a) The registration fee for off-highway vehicles ~~registered pursuant to 23-2-817, \$9 in calendar year 2004 and, in each subsequent year, \$19.25 is~~ \$61.25. This fee is a one-time fee, except upon transfer of ownership of an off-highway vehicle. Except as provided in subsection (17), whenever a transfer of ownership of an off-highway vehicle occurs, the one-time fee required under this subsection must be paid by the new owner.

(b) The application for registration for an off-highway vehicle must be made to the county treasurer of the county in which the owner resides, on a form furnished by the department for that purpose. The application must contain:

(i) the name and home mailing address of the owner;

(ii) the certificate of title number;

(iii) the name of the manufacturer of the off-highway vehicle;

(iv) the model number or name;

(v) the year of manufacture;

(vi) a statement evidencing payment of the fee in lieu of property tax; and

(vii) other information that the department may require.

(c) If the off-highway vehicle was previously registered, the application must be accompanied by the registration certificate for the most recent year in which it was registered. Upon payment of the registration fee, the county treasurer shall sign the application and issue a registration receipt containing the information considered necessary by the department. The owner shall retain possession of the registration receipt until it is surrendered to the county treasurer or to a purchaser or subsequent owner pursuant to a transfer of ownership.

~~(e)(6)~~ The annual registration fee for ~~light vehicles over 2,850 pounds, trucks and buses less than 1 ton, and heavy trucks, buses, and logging trucks in excess of 1 ton, \$18.75 in calendar year 2004 and, in each subsequent year, \$22 is~~ \$22.75;

~~(f)~~ logging trucks less than 1 ton, \$23.75;

~~(g)(7)~~ (a) motor homes, \$22.25; The owner of a motor home shall pay an annual fee based on the age of the motor home according to the following schedule:

- (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) (i) Except as provided in subsection (7)(b)(ii), the age of a motor home is determined by subtracting the manufacturer's designated model year from the current calendar year.

(ii) If the purchase year of a motor home precedes the designated model year of the motor home and the motor home is originally titled in Montana, then the purchase year is considered the model year for the purposes of calculating the fee in lieu of tax.

~~(h)(8)~~ (a) The registration fee for motorcycles and quadricycles, ~~\$9.75 for a motorcycle or quadricycle with special license plates issued under 61-3-415 and, for a motorcycle or quadricycle under one-time registration, \$9.75 in calendar year 2004 and, in each subsequent year, \$11.25 registered for use on public highways is \$53.25, and the registration fee for motorcycles and quadricycles registered for both off-road use and for use on the public highways is \$114.50. This fee is~~

(b) An additional fee of \$5 for a motorcycle or quadricycle with special license plates issued under 61-3-415 and, for a motorcycle or quadricycle under one-time registration, an additional fee of \$16 must be collected for the registration of each motorcycle as a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002.

(c) The registration fees in this subsection (8) are a one-time fee, except upon transfer of ownership of a motorcycle or quadricycle.

(i) trailers and semitrailers between 2,500 and 6,000 pounds, \$11.25. For a trailer or semitrailer described in 61-3-530(1), this fee is a one-time fee, except upon transfer of ownership of the trailer or semitrailer.

(j) trailers and semitrailers in excess of 6,000 pounds, other than trailers and semitrailers registered in other jurisdictions and registered through a proportional registration agreement, \$16.25. For a trailer or semitrailer described in 61-3-530(1), this fee is a one-time fee, except upon transfer of ownership of the trailer or semitrailer.

~~(h)(9)~~ (a) The registration fee for travel trailers under 16 feet in length, ~~\$11.75 is \$72 and the registration fee for travel trailers 16 feet in length or longer is \$152.~~ This fee is a one-time fee, except upon transfer of ownership of a travel trailer.

(b) Except as provided in subsection (17), whenever a transfer of ownership of a travel trailer occurs, the one-time fee required under subsection (9)(a) must be paid by the new owner.

~~(i) recreational vehicles, \$3.50 in calendar year 2004 and, in each subsequent year, \$9.75. If the recreational vehicle is a travel trailer, this fee is a one-time fee, except upon transfer of ownership of a travel trailer.~~

(10) (a) The owner of each motorboat, sailboat, personal watercraft, or motorized pontoon requiring numbering by this state shall file an application for number in the office of the county treasurer in the county where the motorboat, sailboat, personal watercraft, or motorized pontoon is owned, on forms prepared and furnished by the department. The application must be signed by the owner of the motorboat, sailboat, personal watercraft, or motorized pontoon and be

accompanied by the appropriate registration fee. The owner of a motorboat, a sailboat, personal watercraft, or a motorized pontoon shall pay a one-time fee as follows:

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

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

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

(b) This fee is a one-time fee, except upon transfer of ownership of the motorboat, sailboat, personal watercraft, or motorized pontoon.

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

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

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

(ii) if the business reregisters the snowmobile for a second year, a fee of \$20. If the business reregisters the snowmobile for a third year, the snowmobile must be permanently registered and the business is assessed the fee in lieu of tax imposed in subsection (11)(a).

(c) Except as provided in subsection (17), whenever a transfer of ownership of a snowmobile occurs, the applicable fee required under this subsection (11) must be paid by the new owner.

~~(2)(a) Except as provided in subsection (2)(b), if a motor vehicle, trailer, or semitrailer is originally registered 6 months after the time of registration as set by law, the registration fee for the remainder of the year is one-half of the regular fee.~~

~~(b) For a trailer or semitrailer described in 61-3-530(1), the applicable fees must be paid regardless of when the fees were last paid or if the fees were paid at all.~~

~~(3) An additional fee of \$5 for a motorcycle or quadricycle with special license plates issued under 61-3-415 and, for a motorcycle or quadricycle under one-time registration, \$5 in calendar year 2004 and, in each subsequent year, \$16 must be collected for the registration of each motorcycle as a safety fee and must be deposited in the state motorcycle safety account provided for in 20-25-1002.~~

~~(4)(12) A fee of \$5 for each set of new number plates must be collected when number plates provided for under 61-3-332(2) are issued.~~

~~(5)(13) 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.~~

~~(6)(a) Except as provided in 61-3-562 and subsection (6)(b) of this section, a fee of 25 cents a year for each registration of a vehicle must be collected when a vehicle is registered or reregistered. The revenue derived from this fee must be forwarded by the county treasurer for deposit in the state general fund for~~

~~transfer to the credit of the senior citizens and persons with disabilities transportation services account provided for in 7-14-112.~~

~~(b) The following vehicles are not subject to the fee imposed in subsection (6)(a):~~

~~(i) trailers and semitrailers registered in other jurisdictions and registered through a proportional registration agreement; and~~

~~(ii) travel trailers, recreational vehicles, and off-highway vehicles registered pursuant to 23-2-817.~~

~~(7) (a) Except as provided in 61-3-562 and subsection (7)(b) of this section, a fee of 50 cents a year for each registration of a vehicle must be collected when a vehicle is registered or reregistered. The county treasurer shall forward revenue derived from this fee to the state for deposit in the general fund.~~

~~(b) The following vehicles are not subject to the fee:~~

~~(i) trailers and semitrailers registered in other jurisdictions and registered through a proportional registration agreement;~~

~~(ii) off-highway vehicles registered pursuant to 23-2-817; and~~

~~(iii) vehicles bearing license plates described in 61-3-458(3)(d).~~

~~(8)(14) The provisions of this section relating to the payment of registration fees or new number plate fees do not apply when number plates are transferred to a replacement vehicle under 61-3-317, 61-3-332, or 61-3-335. When the license plates for a registered motor vehicle are transferred to a replacement vehicle under 61-3-317, 61-3-332, or 61-3-335, the owner of the motor vehicle shall pay a registration fee as follows:~~

~~(a) heavy trucks, buses, and logging trucks in excess of 1 ton, 75 cents;~~

~~(b) light vehicles, trucks and buses under 1 ton, and logging trucks less than 1 ton:~~

~~(i) if the vehicle is 4 years old or less, \$195.75;~~

~~(ii) if the vehicle is 5 years old through 10 years old, \$65.75; and~~

~~(iii) if the vehicle is 11 years old or older, \$6.75;~~

~~(c) motor homes:~~

~~(i) less than 2 years old, \$250.50;~~

~~(ii) 2 years old and less than 5 years old, \$192.25;~~

~~(iii) 5 years old and less than 8 years old, \$100.50; and~~

~~(iv) 8 years old and older, \$65.50;~~

~~(d) motorcycles and quadricycles registered for use on the public highways, \$42, and motorcycles and quadricycles registered for both off-road use and for use on the public highways, \$103.25. This fee is a one-time fee, except upon transfer of ownership.~~

~~(e) travel trailers under 16 feet in length, \$50.50, and travel trailers 16 feet in length or longer, \$130.50. This fee is a one-time fee, except upon transfer of ownership.~~

~~(f) trailers, semitrailers, or pole trailers with a declared weight of less than 6,000 pounds, \$52. This fee is a one-time fee, except upon transfer of ownership.~~

~~(g) trailers, semitrailers, or pole trailers with a declared weight of 6,000 pounds or more, \$139. This fee is a one-time fee, except upon transfer of ownership.~~

~~(9)~~(15) A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section.

~~(10)~~(16) Except as otherwise provided in this section, revenue collected under this section must be deposited in the state general fund.

(17) *The fees imposed by subsections (2) through (11) are not required to be paid by a dealer for the enumerated vehicles or vessels that constitute inventory of the dealership.*

~~(11)~~(18) (a) Unless a person exercises the option in subsection ~~(11)(b)~~ (18)(b), an additional fee of \$4 must be collected for each light vehicle or truck under 8,001 pounds GVW registered for licensing pursuant to this part. *This fee must be accounted for and transmitted separately from the registration fee.* The fee must be deposited in *an account in the state general special revenue fund* to be used for state parks, for fishing access sites, and for the operation of state-owned facilities ~~as provided in 15-1-122(3)(e)(vii).~~ *Of the \$4 fee, the department shall use \$3.50 for state parks, 25 cents for fishing access sites, and 25 cents for the operation of state-owned facilities at Virginia City and Nevada City.*

(b) A person who registers a light vehicle or truck under 8,001 pounds GVW may, at the time of annual registration, certify that the person does not intend to use state parks and fishing access sites and may make a written election not to pay the additional \$4 fee provided for in subsection ~~(11)(a)~~ (18)(a). If a written election is made, the fee may not be collected.

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

**Section 77.** Section 61-3-322, MCA, is amended to read:

**“61-3-322. Registration receipts — issuance.** (1) Upon completion of the registration process, the county treasurer shall issue a registration receipt to the owner of the *motor vehicle, trailer, semitrailer, or pole trailer*.

(2) The registration receipt must contain the name and address of *the owner* of the *motor vehicle, trailer, semitrailer, or pole trailer* ~~owner~~, the license plate number assigned to the *motor vehicle, trailer, semitrailer, or pole trailer*, sufficient information to identify the registered *motor vehicle, trailer, semitrailer, or pole trailer* and determine its registration date and period of registration, and any additional information required by rule.

(3) The registration receipt must at all times be carried in the *motor vehicle, trailer, semitrailer, or pole trailer* to which it refers or must be carried by the person driving or in control of the *motor vehicle, trailer, semitrailer, or pole trailer*, who shall display it upon demand of a peace officer or any officer or employee of the department or the department of transportation.”

**Section 78.** Section 61-3-323, MCA, is amended to read:

**“61-3-323. Definitions.** As used in 61-3-323 through 61-3-325, unless the context requires otherwise, the following definitions apply:

(1) “Domicile” means the county in which a motor vehicle is most frequently used, dispatched, or controlled.

(2) “Fleet” means 100 or more motor vehicles, *trailers, semitrailers, or pole trailers* owned or leased by a person operating the *motor vehicles, trailers, semitrailers, or pole trailers* in this state.”

**Section 79.** Section 61-3-324, MCA, is amended to read:

**“61-3-324. Fleet registration — application — additions to and deletions from fleet.** (1) A person owning or leasing a fleet may apply to the department of transportation to register the fleet annually through the department of transportation in lieu of registering each motor vehicle, *trailer, semitrailer, or pole trailer* in its domicile.

(2) The application for fleet registration must:

(a) be submitted to the department of transportation prior to November 1 of each year;

(b) include a list of the motor vehicles, *trailers, semitrailers, or pole trailers* in the fleet;

(c) include the current registration receipt for each motor vehicle, *trailer, semitrailer, or pole trailer*; and

(d) include any other relevant information required by the department of transportation.

(3) A motor vehicle, *trailer, semitrailer, or pole trailer* may be added to the fleet.

(4) A motor vehicle, *trailer, semitrailer, or pole trailer* may be removed from a fleet if the owner of the fleet surrenders to the department of transportation the current registration receipt and the license plate for the *motor vehicle, trailer, semitrailer, or pole trailer* no later than December 31. If the receipt or license plate has been lost or stolen, the owner shall submit an affidavit explaining why ~~he~~ *the owner* is not able to surrender the receipt or license plate.”

**Section 80.** Section 61-3-325, MCA, is amended to read:

**“61-3-325. Vehicles subject to staggered registration — fees and taxes — disposition.** (1) Any motor vehicle, *trailer, semitrailer, or pole trailer* in the fleet that is subject to staggered registration under 61-3-313 through 61-3-316 may be registered as part of the fleet on the following fleet renewal date. The department of transportation shall collect the remaining fees and taxes due for the registration year after crediting the registrant for the period that was previously paid.

(2) (a) The department of transportation shall compute fees and taxes due on each motor vehicle, *trailer, semitrailer, or pole trailer* in the fleet as provided in part 5 of this chapter, based on its domicile.

(b) The department of transportation shall also collect a registration fee of \$7.50 for each motor vehicle, *trailer, semitrailer, or pole trailer* in the fleet in lieu of the registration fee provided for in 61-3-321. The department shall retain \$4.50 of each registration fee for administrative costs and forward the remaining \$3 to the state treasurer for deposit in the general fund.

(c) All fees and taxes must be paid no later than February 15 each year.”

**Section 81.** Section 61-3-331, MCA, is amended to read:

**“61-3-331. Assignment of number plates.** The county treasurer shall, at the time of issuing a registration receipt under 61-3-322, assign ~~such~~ *the* motor vehicle, *trailer, semitrailer, or pole trailer* a distinctive number, ~~viz.,~~ *which is* the license plate number, and deliver to the applicant two license plates, as received from the department, which ~~shall~~ *must* bear ~~such~~ *the* distinctive numbers. The department shall ship ~~said~~ license plates to ~~the various county treasurers by freight,~~ *each county treasurer* so that they will be received by the county treasurer on or before January 1 of each year.”

**Section 82.** Section 61-3-332, MCA, is amended to read:

**“61-3-332. Number plates.** (1) A motor vehicle, *trailer, semitrailer, or pole trailer* that is driven *or operated* upon the streets or highways of Montana must display both front and rear number plates, bearing the distinctive number assigned to the vehicle.

(2) In addition to special license plates, collegiate license plates, and generic specialty license plates authorized under this chapter, a separate series of number plates must be issued, in the manner specified, for each of the following vehicle or dealer types:

(a) passenger vehicles, including automobiles, vans, and sport utility vehicles;

(b) motorcycles and quadricycles, bearing the letters “MC” or “CYCLE”;

(c) trucks, bearing the letter “T” or the word “TRUCK”;

(d) trailers, bearing the letters “TR” or the word “TRAILER”;

(e) dealers of new, or new and used, motor vehicles, including trucks and trailers, bearing the letter “D” or the word “DEALER”;

(f) dealers of used motor vehicles only, including trucks, ~~and~~ trailers, *semitrailers, and pole trailers*, bearing the letters “UD” or the letter “U” and the word “DEALER”;

(g) dealers of motorcycles or quadricycles, bearing the letters “MCD” or the letters “MC” and the word “DEALER”;

(h) dealers of trailers, ~~or~~ *semitrailers, or pole trailers*, bearing the letters “DTR” or the letters “TR” and the word “DEALER”; and

(i) dealers of recreational vehicles, bearing the letters “RV” or the letter “R” and the word “DEALER”.

(3) (a) Except as provided in 61-3-479 and subsections (3)(b), (4)(c), and (4)(d) of this section, all number plates for motor vehicles, *trailers, semitrailers, or pole trailers* must be issued for a minimum period of 4 years, bear a distinctive marking, and be furnished by the department. In years when number plates are not issued, the department shall provide a registration decal that must be affixed to the rear license plate of the vehicle.

(b) For light vehicles that are permanently registered as provided in ~~61-3-527 or~~ 61-3-315 and 61-3-562 and *motor* vehicles described in 61-3-303(9) that are permanently registered, the department shall provide a distinctive registration decal indicating that the *motor* vehicle is permanently registered. The registration decal must be affixed to the rear license plate of the permanently registered *motor* vehicle.

(4) (a) Subject to the provisions of this section, the department shall create a new design for number plates as provided in this section, and it shall manufacture the newly designed number plates for issuance after December 31, 2005, to replace at renewal, as required in 61-3-312 and 61-3-314, number plates that were displayed on motor vehicles, *as described in subsection (2)*, before that date.

(b) Beginning January 1, 2006, the department shall manufacture and issue new number plates after the existing plates have been used for a minimum period of 4 years.

(c) A light vehicle that is registered for a 24-month period, as provided in 61-3-315 and ~~61-3-560~~ 61-3-321(2), may display the number plate and plate design in effect at the time of registration for the entire 24-month registration period.

(d) A light vehicle described in subsection (3)(b) that is permanently registered may display the number plate and plate design in effect at the time of registration for the entire period that the *light* vehicle is permanently registered.

(5) For passenger *motor* vehicles and trucks, plates must be of metal 6 inches wide and 12 inches in length. Except for generic specialty license plates, the outline of the state of Montana must be used as a distinctive border on the license plates, and the word "Montana" must be placed on each plate. Registration plates must be treated with a reflectorized background material according to specifications prescribed by the department.

(6) The distinctive registration numbers must begin with a number one or with a letter-number combination, such as "A 1" or "AA 1", or any other similar combination of letters and numbers. Except for special license plates, collegiate license plates, and generic specialty license plates, the distinctive registration number or letter-number combination assigned to the *motor* vehicle, *as described in subsection (2)*, must appear on the plate preceded by the number of the county and appearing in horizontal order on the same horizontal baseline. The county number must be separated from the distinctive registration number by a separation mark unless a letter-number combination is used. The dimensions of the numerals and letters must be determined by the department, and all county and registration numbers must be of equal height.

(7) For the use of exempt motor vehicles, *trailers, semitrailers, or pole trailers* and motor vehicles, *trailers, semitrailers, or pole trailers* that are exempt from the registration fee as provided in ~~61-3-560(2)(a)~~ 61-3-321, in addition to the markings provided in this section, number plates must bear the following distinctive markings:

(a) For *motor* vehicles, *trailers, semitrailers, or pole trailers* owned by the state, the department may designate the prefix number for the various state departments. All numbered plates issued to state departments must bear the words "State Owned", and a year number may not be indicated on the plates because these numbered plates are of a permanent nature and will be replaced by the department only when the physical condition of numbered plates requires it.

(b) For *motor* vehicles, *trailers, semitrailers, or pole trailers* that are owned by the counties, municipalities, and special districts, as defined in 18-8-202, organized under the laws of Montana and not operating for profit, and that are used and operated by officials and employees in the line of duty and for vehicles on loan from the United States government or the state of Montana to, or owned by, the civil air patrol and used and operated by officials and employees in the line of duty, there must be placed on the number plates assigned, in a position that the department may designate, the letter "X" or the word "EXEMPT". Distinctive registration numbers for plates assigned to motor vehicles, *trailers, semitrailers, or pole trailers* of each of the counties in the state and those of the municipalities and special districts that obtain plates within each county must begin with number one and be numbered consecutively. Because these number plates are of a permanent nature, they are subject to replacement by the

department only when the physical condition of the number plates requires it and a year number may not be displayed on the number plates.

(8) Number plates issued to a passenger *motor* vehicle, truck, trailer, *semitrailer*, *pole trailer*, motorcycle, or quadricycle may be transferred only to a replacement passenger *motor* vehicle, truck, trailer, *semitrailer*, *pole trailer*, motorcycle, or quadricycle. A registration fee may not be assessed upon a transfer of a number plate under 61-3-317 and 61-3-335.

(9) For the purpose of this chapter, the several counties of the state are assigned numbers as follows: Silver Bow, 1; Cascade, 2; Yellowstone, 3; Missoula, 4; Lewis and Clark, 5; Gallatin, 6; Flathead, 7; Fergus, 8; Powder River, 9; Carbon, 10; Phillips, 11; Hill, 12; Ravalli, 13; Custer, 14; Lake, 15; Dawson, 16; Roosevelt, 17; Beaverhead, 18; Chouteau, 19; Valley, 20; Toole, 21; Big Horn, 22; Musselshell, 23; Blaine, 24; Madison, 25; Pondera, 26; Richland, 27; Powell, 28; Rosebud, 29; Deer Lodge, 30; Teton, 31; Stillwater, 32; Treasure, 33; Sheridan, 34; Sanders, 35; Judith Basin, 36; Daniels, 37; Glacier, 38; Fallon, 39; Sweet Grass, 40; McCone, 41; Carter, 42; Broadwater, 43; Wheatland, 44; Prairie, 45; Granite, 46; Meagher, 47; Liberty, 48; Park, 49; Garfield, 50; Jefferson, 51; Wibaux, 52; Golden Valley, 53; Mineral, 54; Petroleum, 55; Lincoln, 56. Any new counties must be assigned numbers by the department as they are formed, beginning with the number 57.

(10) Each type of special license plate approved by the legislature, except collegiate license plates authorized in 61-3-463 and generic specialty license plates authorized in 61-3-472 through 61-3-481, must be a separate series of plates, numbered as provided in subsection (6), except that the county number must be replaced by a nonremovable design or decal designating the group or organization to which the applicant belongs. Unless otherwise specifically stated in this section, the special plates are subject to the same rules and laws as govern the issuance of regular license plates, must be placed or mounted on a *motor* vehicle, *trailer*, *semitrailer*, or *pole trailer* owned by the person who is eligible to receive them, with the registration decal affixed to the rear license plate of the *motor* vehicle, *trailer*, *semitrailer*, or *pole trailer*, and must be removed upon sale or other disposition of the *motor* vehicle, *trailer*, *semitrailer*, or *pole trailer*.

(11) A Montana resident who is eligible to receive a special parking permit under 49-4-301 may, upon written application on a form prescribed by the department, be issued a special license plate with a design or decal bearing a representation of a wheelchair as the symbol of a person with a disability. If the *motor* vehicle to which the license plate is attached is permanently registered, the owner of the *motor* vehicle shall maintain evidence of continued eligibility to use the license plate, which must be attached to the registration document in the *motor* vehicle.

(12) The provisions of this section do not apply to a motor vehicle, trailer, ~~or~~ *semitrailer*, or *pole trailer* that is registered as part of a fleet, as defined in 61-3-712, and that is subject to the provisions of 61-3-711 through 61-3-733."

**Section 83.** Section 61-3-333, MCA, is amended to read:

**"61-3-333. Replacing number plates.** If loss, mutilation, or destruction of number plates or a motor vehicle's, *trailer's*, *semitrailer's*, or *pole trailer's* registration decal occurs, the owner of the registered motor vehicle, *trailer*, *semitrailer*, or *pole trailer* may obtain from the department replacements of the number plates or a duplicate registration decal upon filing a sworn declaration stating that fact and payment of a fee of \$5. If loss, mutilation, or destruction of

pioneer plates occurs, duplicates may be obtained in the same manner upon payment of a fee of \$5.”

**Section 84.** Section 61-3-334, MCA, is amended to read:

**“61-3-334. Expiration of registration on transfer of ownership of motor vehicle — duty to remove plates.** Upon the transfer of ownership of a motor vehicle, *trailer, semitrailer, or pole trailer*, the registration of the motor vehicle, *trailer, semitrailer, or pole trailer* ~~shall expire~~ expires and it ~~shall be~~ is the duty of the transferor immediately to remove the license plates from the *motor vehicle, trailer, semitrailer, or pole trailer.*”

**Section 85.** Section 61-3-335, MCA, is amended to read:

**“61-3-335. Transfer of license plates to another motor vehicle.** (1) ~~Should~~ If the transferor ~~make application~~ *applies* for the registration of another motor vehicle, *trailer, semitrailer, or pole trailer* at any time during the remainder of the current registration year as shown on the original certificate of registration, ~~he~~ *the transferor* may file an application in the office of the county treasurer where the motor vehicle, *trailer, semitrailer, or pole trailer* is registered, upon a form to be prepared and furnished by the department, accompanied by the original certificate of registration, for the transfer of the license plates. The application for transfer of the license plates from the motor vehicle, *trailer, semitrailer, or pole trailer* for which *the license plates* were originally issued to a motor vehicle, *trailer, semitrailer, or pole trailer* acquired by the same person in whose name the original license plates were issued ~~shall~~ *must* be made within 20 days from *the* date of acquiring the *motor vehicle, trailer, semitrailer, or pole trailer*. The use of the license plates ~~shall~~ *may* not be legalized until proper transfer of *the* license plates has been made.

(2) License plates may be transferred pursuant to this section without transferring ownership of the first *motor vehicle, trailer, semitrailer, or pole trailer*.

(3) Upon transfer of the license plates, the registration of the motor vehicle, *trailer, semitrailer, or pole trailer* from which the license plates were transferred expires. The certificate of registration for ~~such~~ *that* *motor vehicle, trailer, semitrailer, or pole trailer* must be surrendered to the county treasurer with the application for transfer.”

**Section 86.** Section 61-3-342, MCA, is amended to read:

**“61-3-342. Temporary registration permit — validity — expiration.** (1) Any purchaser of a motor vehicle, *trailer, semitrailer, or pole trailer* who is unable to fully complete the process of applying for a certificate of title because the previously issued certificate of title is lost, in the possession of third parties, in the process of reissuance in this state or elsewhere, or subject to a disputed, preexisting security interest may, upon making affidavit to that effect upon a form prescribed by the department and upon the payment of all applicable registration fees and taxes, plus an additional fee of \$2 to be collected by the county treasurer and remitted to the department, obtain a temporary registration permit from the county treasurer. The temporary registration permit, when issued by the county treasurer, is valid for 60 days from the date of issuance. The purchaser, upon displaying the temporary registration permit in the manner prescribed by the department, may operate the *motor vehicle, trailer, semitrailer, or pole trailer* during the period stated in the temporary registration permit without displaying the number plates or plate for the current year. The county treasurer may not sell, and a person may not purchase,

more than one 60-day temporary registration permit for any *motor vehicle, trailer, semitrailer, or pole trailer*, the ownership of which has not changed since the issuance of the previous 60-day temporary registration permit.

(2) The department may authorize the county treasurer to extend the previously issued temporary registration permit for an additional 60-day period if:

(a) an unusual circumstance prevents the owner of a *motor vehicle, trailer, semitrailer, or pole trailer* from presenting the certificate of title within the 60-day period permitted under subsection (1);

(b) the owner requests, on a form prescribed by the department, an extension of the time for which the temporary registration permit is valid and pays a \$10 fee.

(3) Upon the expiration of the second 60-day temporary registration permit, if the purchaser still cannot present the previously issued certificate of title, properly assigned to the purchaser by the prior owner, or if a dispute remains as to any preexisting, perfected security interests created by the prior owner or the owner's assignee, the department may authorize the county treasurer to register the *motor vehicle, trailer, semitrailer, or pole trailer* and advise the purchaser that the registration will not be renewed at the end of the registration period unless:

(a) the previously issued certificate of title has been surrendered to the department, its authorized agent, or the county treasurer and the process for issuing a certificate of title has been completed; or

(b) the purchaser complies with the requirements of 61-3-208.”

**Section 87.** Section 61-3-345, MCA, is amended to read:

**“61-3-345. County motor vehicle computer system.** (1) The department shall maintain a statewide online computer system to be used to register and reregister motor vehicles, *trailers, semitrailers, pole trailers, boats campers, motorboats, personal watercraft, sailboats*, snowmobiles, and off-highway vehicles.

(2) The department shall establish the user advisory group to assist in the development of policies governing the registration and reregistration of motor vehicles, *trailers, semitrailers, pole trailers, boats campers, motorboats, personal watercraft, sailboats*, snowmobiles, and off-highway vehicles. The user advisory group must be appointed by the attorney general and must include:

(a) an employee of the department of administration selected by the director of the department of administration;

(b) two county treasurers, selected by the Montana county treasurers association;

(c) one county motor vehicle section supervisor, selected by the Montana county treasurers association;

(d) an employee of the department of revenue who is engaged in property assessment, selected by the director of the department of revenue;

(e) an employee of the department of justice, data processing division, selected by the division administrator;

(f) an employee of the department of justice, motor vehicle division, registrar's bureau, selected by the division administrator;

(g) an employee of the department of justice, motor vehicle division, driver services bureau, selected by the division administrator;

(h) a member of the Montana bankers' association, selected by the association director;

(i) a member of the Montana automobile dealers association, selected by the association director; and

(j) a member or employee of the Montana American automobile association, selected by the association director.

(3) Committee members who are not employees of the state of Montana shall serve a term of 2 years, and state employee members shall serve at the pleasure of the attorney general.

(4) Travel and per diem expenses for the committee must be charged to the motor vehicle division.

(5) Secretarial and support services for the committee must be provided by the motor vehicle division.

(6) The committee shall meet no more than four times a year unless specifically called by the attorney general."

**Section 88.** Section 61-3-401, MCA, is amended to read:

**"61-3-401. Definition of personalized license plates.** Personalized license plates, as used in 61-3-401 through 61-3-406, mean license plates that have displayed upon them the registration number assigned to the passenger motor vehicle for which ~~such~~ *the* registration number was issued in a combination of letters or numbers, or both, requested by the owner of the *passenger motor vehicle*."

**Section 89.** Section 61-3-403, MCA, is amended to read:

**"61-3-403. Color and design of personalized license plates — exception — county designation.** (1) Except as provided in 61-3-466, the personalized license plates must be the same color and design as regular passenger motor vehicle license plates and must consist of numbers or letters, or any combination ~~thereof~~ *of numbers or letters*, not exceeding eight positions and not less than two positions, provided that there are no conflicts with existing *passenger motor vehicle*, *commercial motor vehicle*, *trailer*, *semitrailer*, *pole trailer*, *motorcycle*, *quadricycle*, or special license plate series under this title.

(2) Upon the issuance of personalized license plates or upon the reregistration of any motor vehicle assigned personalized license plates that do not bear a county designation or no longer bear the correct county designation, the department shall provide nonremovable stickers bearing the appropriate county designation, which must be affixed to the license plates in use in accordance with instructions by the department."

**Section 90.** Section 61-3-404, MCA, is amended to read:

**"61-3-404. Personalized license plates restricted to registered owner.** Personalized license plates ~~shall~~ *may* be issued only to the registered owner of the *motor vehicle* upon which they are displayed."

**Section 91.** Section 61-3-411, MCA, is amended to read:

**"61-3-411. Registration of a motor vehicle owned and operated solely as a collector's item.** (1) An owner of a motor vehicle, *trailer*, *semitrailer*, or *pole trailer* that is more than 30 years old and that is used solely

as a collector's item and not for general transportation purposes may file with the department an application for the registration of the motor vehicle, *trailer, semitrailer, or pole trailer*. The application must be sworn to before an officer authorized to administer oaths. The application must state:

- (a) the name and address of the owner;
- (b) the name and address of the person from whom purchased;
- (c) the make, the gross weight, the year and number of the model, and the manufacturer's identification number and serial number of the motor vehicle, *trailer, semitrailer, or pole trailer*; and
- (d) that the *motor vehicle, trailer, semitrailer, or pole trailer* is owned and operated solely as a collector's item and not for general transportation purposes.

(2) Upon receipt of the application for registration and payment of the registration fees, including fees in lieu of tax, the department shall file the application and register the motor vehicle, *trailer, semitrailer, or pole trailer* in the manner specified in 61-3-303 and, unless the applicant chooses to exercise the option allowed in 61-3-412, shall deliver to the applicant:

(a) for a motor vehicle, *trailer, semitrailer, or pole trailer* manufactured in 1933 or earlier, two license plates bearing the inscription "Pioneer—Montana" and the registration number; or

(b) for a motor vehicle, *trailer, semitrailer, or pole trailer* manufactured in 1934 or later and more than 30 years old, two license plates bearing the inscription "Vintage—Montana" and the registration number.

(3) The year of issuance may not be shown on the plates.

(4) Annual renewal of the registration of a motor vehicle, *trailer, semitrailer, or pole trailer* registered under this section is not required, and the registration is valid as long as the *motor vehicle, trailer, semitrailer, or pole trailer* is in existence and owned by the initial registrant. Upon sale of the motor vehicle, *trailer, semitrailer, or pole trailer*, the purchaser shall renew the registration and pay a license renewal fee of \$10 for a vehicle weighing more than 2,850 pounds and \$5 for a vehicle weighing 2,850 pounds or less."

**Section 92.** Section 61-3-412, MCA, is amended to read:

**"61-3-412. Display of original Montana license plates on collector's item and general transportation collector's item *motor vehicles* — definition — validation.** (1) As used in 61-3-413 and this section, "original Montana license plate" means a license plate issued according to the provisions of 61-3-331; section 53-116, R.C.M. 1947; section 1759.1, R.C.M. 1935; or section 1759, R.C.M. 1921; whichever section was effective during the year of the manufacture of the motor vehicle, *trailer, semitrailer, or pole trailer* on which the license plate is authorized to be displayed.

(2) Notwithstanding the provisions of 61-3-332, the department shall authorize the owner of a motor vehicle, *trailer, semitrailer, or pole trailer* registered as provided in 61-3-411 or 61-3-413 to display original Montana license plates, with validation as required in 61-3-413 or subsection (3) of this section, after:

- (a) payment of the fee required in subsection (5);
- (b) inspection by a highway patrol officer of the original Montana license plate to be displayed on the motor vehicle, *trailer, semitrailer, or pole trailer* and,

upon payment of a \$5 fee, receipt of the highway patrol officer's certification that the officer has determined that:

(i) the license plate is legible and meets the requirements of subsection (1); and

(ii) in the case of a license plate intended for use on a general transportation collector's item, the license plate is visible at night;

(c) receipt of an application by the owner of the motor vehicle, *trailer, semitrailer, or pole trailer* as provided for in 61-3-411 or 61-3-413; and

(d) in the case of a general transportation collector's item application, certification from the department that a duplicate license plate number does not exist among currently issued license plates.

(3) If the owner of a *motor vehicle, trailer, semitrailer, or pole trailer* registered under the provisions of 61-3-314 meets the requirements of subsection (2) of *this section*, the department shall:

(a) file the application and register information on the motor vehicle, *trailer, semitrailer, or pole trailer* in the manner prescribed in 61-3-303; and

(b) issue a validating decal inscribed with:

(i) a unique number; and

(ii) the letter:

(A) "P" to designate *motor vehicles, trailers, semitrailers, or pole trailers* described in 61-3-411(2)(a); or

(B) "V" to designate *motor vehicles, trailers, semitrailers, or pole trailers* described in 61-3-411(2)(b).

(4) The owner of the motor vehicle, *trailer, semitrailer, or pole trailer* shall permanently affix the validating decal to the windshield of the collector's item motor vehicle, *trailer, semitrailer, or pole trailer* or, if a windshield does not exist, to another prominent and visible position on the *motor vehicle, trailer, semitrailer, or pole trailer*.

(5) The owner of the motor vehicle, *trailer, semitrailer, or pole trailer* shall pay to the department with the application required under this section a one-time special collector's item motor vehicle, *trailer, semitrailer, or pole trailer* license fee of \$20."

**Section 93.** Section 61-3-413, MCA, is amended to read:

**"61-3-413. Registration of motor vehicle as general transportation collector's item — definition — permanent registration required.** (1) For the purposes of 61-3-412 and this section, a "general transportation collector's item" is a motor vehicle, *trailer, semitrailer, or pole trailer* that is 25 years old or older and that is used for general transportation purposes.

(2) An owner of a general transportation collector's item who wishes to display original Montana license plates on the motor vehicle, *trailer, semitrailer, or pole trailer* shall file with the department an application for the registration of the motor vehicle, *trailer, semitrailer, or pole trailer*. The application must state:

(a) the name and address of the owner;

(b) the year and number of the license plate the applicant wishes to use; and

(c) the make, the gross weight, the year and number of the model, and the manufacturer's identification number and serial number of the motor vehicle, *trailer, semitrailer, or pole trailer*.

(3) Upon receipt of an application for registration of a general transportation collector's item, the department shall compare the number of the license plate that the applicant intends to use with the license plate numbers assigned to currently registered *motor vehicles, trailers, semitrailers, or pole trailers*. The department may reject an application if the number the applicant intends to use matches a number that is assigned to a currently registered *motor vehicle, trailer, semitrailer, or pole trailer*. If the department approves the application, the department shall file the application and register the motor vehicle, *trailer, semitrailer, or pole trailer* in the manner specified in 61-3-101.

(4) Once an application is approved, appropriate fees are paid, and the requirements provided in 61-3-412(2) are met, an owner of a general transportation collector's item shall permanently register the motor vehicle, *trailer, semitrailer, or pole trailer* as provided in 61-3-562 and shall display on the motor vehicle's, *trailer's, semitrailer's, or pole trailer's* license plate a decal indicating that the motor vehicle, *trailer, semitrailer, or pole trailer* has been permanently registered."

**Section 94.** Section 61-3-421, MCA, is amended to read:

**"61-3-421. Amateur radio operators — special license plate.** A motor vehicle, *trailer, or pole trailer* owner and resident of this state who holds an unrevoked and unexpired official amateur radio station license and operator's license, "conditional" or higher class, issued by the federal communications commission of the United States, upon written application on a form prescribed by the department, accompanied by proof of ownership of the amateur radio station license and operator's license, must be issued lettered license plates in pairs (two identically lettered plates), in lieu of the regular license plates prescribed by law. There must be stamped or impressed upon the special license plates in clear lettering the official amateur radio call letters of the owner as assigned to the owner by the federal communications commission, and the plates so lettered must be renewed as provided in 61-3-312."

**Section 95.** Section 61-3-422, MCA, is amended to read:

**"61-3-422. Issuance — application — additional fee.** The department shall issue lettered license plates as provided in 61-3-421 to amateur radio operators upon:

(1) application showing proof that the applicant is the owner and holder of an amateur radio station license and operator's license;

(2) compliance with the state ~~motor vehicle~~ laws relating to registration and licensing of motor vehicles, *trailers, semitrailers, or pole trailers*;

(3) payment, or proof of payment, of all other fees and taxes applicable to regular motor vehicle, *trailer, semitrailer, or pole trailer* license plates; and

(4) payment of a \$5 additional fee."

**Section 96.** Section 61-3-423, MCA, is amended to read:

**"61-3-423. Rules — limit of one identical pair of plates for each operator.** The department shall ~~make such~~ *adopt* rules as may be necessary to procure compliance with all the laws of the state regulating the issuance of motor vehicle, *trailer, semitrailer, or pole trailer* licenses relating to the use and operation of motor vehicles, *trailers, semitrailers, or pole trailers* before issuing

the lettered license plates. The department ~~shall~~ *may* not issue more than one identical pair of lettered license plates for any licensed amateur radio station in any one licensing period.”

**Section 97.** Section 61-3-425, MCA, is amended to read:

**“61-3-425. Special plates — how affixed to car — sale or transfer of auto — revocation or expiration of radio license.** The lettered license plates, as ~~herein~~ provided in *61-3-421 through 61-3-423*, are in lieu of the regular license plates on the motor vehicle, *trailer, semitrailer, or pole trailer* owned by the amateur radio licensee for the period of time that the amateur radio license is in force under the federal communications commission and the special license issued ~~hereunder~~ *under 61-3-421 through 61-3-423* is in force, but no longer. If the official amateur radio license is revoked or expires for any reason, the license plate must be removed immediately by the owner of the motor vehicle, *trailer, semitrailer, or pole trailer*, and it is the responsibility of the owner to ~~then~~ obtain regular license plates. If the motor vehicle, *trailer, semitrailer, or pole trailer* is sold or ~~otherwise~~ transferred, the owner and holder of valid official amateur radio station and operator’s licenses has the right to transfer the lettered plates to another motor vehicle, *trailer, semitrailer, or pole trailer* owned by ~~him~~ *the holder* upon ~~such~~ reasonable conditions ~~as that~~ may be prescribed by the department. On the revocation or expiration of the amateur radio station and operator’s licenses, the lettered license plates as issued must be returned and surrendered to the department.”

**Section 98.** Section 61-3-431, MCA, is amended to read:

**“61-3-431. Special mobile equipment — exemption from registration and payment of fees and charges — identification plate — special demonstration permit — publicly owned special mobile equipment.** (1) A person, firm, partnership, or corporation ~~who~~ *that* owns, leases, or rents special mobile equipment, ~~as defined in 61-1-104 a motor vehicle or trailer designed and used to apply fertilizer to agricultural land, or a log loader~~ and that occasionally moves that equipment on, over, or across the highways of the state is not subject to registration of that equipment or required to pay the fees and charges provided for in 61-4-301 through 61-4-308 or ~~part 2 of Title 61, chapter 10, part 2.~~ Prior to movement on the highways:

(a) each piece of equipment must display an equipment identification plate or a dealer’s license plate attached to the equipment, except for ~~equipment referred to in 61-1-104(2) motor vehicles or trailers designed and used to apply fertilizer to agricultural land that is~~ *are* brought into Montana for demonstration purposes;

(b) each ~~piece of equipment referred to in 61-1-104(2) motor vehicle or trailer designed and used to apply fertilizer to agricultural land~~ that is brought into Montana for demonstration purposes must have a special demonstration permit conspicuously displayed.

(2) (a) Annual application for the identification plate must be made to the county treasurer before any piece of equipment is moved on the highways. Application must be made on a form furnished by the department, together with the payment of a fee of \$5. The equipment for which a special mobile equipment plate or for which a special demonstration permit is sought is subject to the assessment of personal property taxes on the date application is made for the plate or the date determined pursuant to subsection (4). The personal property taxes assessed against the special mobile equipment, *a motor vehicle or trailer designed and used to apply fertilizer to agricultural land, or a log loader* must be

paid before ~~a special mobile equipment~~ *an identification* plate may be issued. The fees collected under this section must be deposited in the state general fund, except that \$25 of the special demonstration permit fee must be remitted to the department of transportation.

(b) Application must be made for a special demonstration permit as provided in subsection (1)(b). The application must be made to the county treasurer or to a weigh station before the piece of equipment is moved on Montana highways. Application for the special demonstration permit must be made on a form furnished by the department and must be accompanied by the payment of a fee of \$50.

(3) The identification plate expires on December 31 of each year. If the expired identification plate is displayed, an owner of special mobile equipment, *a motor vehicle or trailer designed and used to apply fertilizer to agricultural land, or a log loader* registered under the provisions of this section is entitled to operate the equipment between January 1 and February 15 following expiration without displaying the identification plate or receipt of the current year.

(4) (a) The special demonstration permit expires 45 days after its issuance. Special mobile equipment, *a motor vehicle or trailer designed and used to apply fertilizer to agricultural land, or a log loader* that remains in the state past the expiration of the permit is subject to the assessment of personal property taxes, starting on the first day following expiration of the permit.

(b) If the holder of a special demonstration permit leases or sells the piece of equipment during the term that is covered by the permit, the permit is no longer valid and the special mobile equipment, *motor vehicle or trailer designed and used to apply fertilizer to agricultural land, or log loader* is subject to the assessment of personal property taxes, starting on the first day of the lease or the date of the sale.

(5) Publicly owned special mobile equipment, *motor vehicles or trailers designed and used to apply fertilizer to agricultural land, or log loaders* and implements of husbandry used exclusively by an owner in the conduct of the owner's farming operations are exempt from this section."

**Section 99.** Section 61-3-446, MCA, is amended to read:

**"61-3-446. Retention of special license plates.** If during a registration year the holder of special license plates issued under 61-3-332(10) or generic specialty license plates issued as provided in 61-3-472 through 61-3-481 disposes of the *motor* vehicle to which the plates are affixed, the holder may retain the plates and affix them to another vehicle."

**Section 100.** Section 61-3-448, MCA, is amended to read:

**"61-3-448. Commemorative centennial license plates — continued use and replacement authorized.** (1) A person who owns and displays commemorative centennial license plates on a motor vehicle on or before June 30, 1996, may continue to display the commemorative centennial plates on the *motor* vehicle after that date as long as the plates remain legible or as long as replacement plates are available from the department, whichever is later.

(2) The department shall authorize the continued display of commemorative centennial license plates after June 30, 1996, as provided for in subsection (1), and shall replace commemorative centennial license plates for persons who owned and displayed the plates on or before June 30, 1996, as long as replacement stock owned by the department on October 1, 1993, remains available and usable."

**Section 101.** Section 61-3-456, MCA, is amended to read:

**“61-3-456. Registration of motor vehicle owned and operated by Montana resident on active military duty stationed outside Montana.**

(1) As an incentive for military service, an owner of a motor vehicle, *trailer, semitrailer, or pole trailer* who is a Montana resident who entered active military duty from Montana and who is stationed outside Montana may file with the department an application for the registration of the motor vehicle, *trailer, semitrailer, or pole trailer*. The application must be sworn to before an officer authorized to administer oaths. The application must state:

(a) the name and address of the owner;

(b) the make, the gross weight, the year and number of the model, and the manufacturer's identification number and serial number of the motor vehicle, *trailer, semitrailer, or pole trailer*; and

(c) that the *motor vehicle, trailer, semitrailer, or pole trailer* is owned and operated by a Montana resident who meets the qualifications of subsection (1) and is on active military duty and stationed outside Montana.

(2) The registration fee for a motor vehicle, *trailer, semitrailer, or pole trailer* registered under subsection (1) is as provided in 61-3-311 and 61-3-321.

(3) A *motor vehicle, trailer, semitrailer, or pole trailer* registered under this section is not subject to:

(a) the taxes described in 61-3-303(5)(b);

(b) assessment under 15-8-202 or 61-3-503, the fee in lieu of tax under 61-3-529, or the registration fee under ~~61-3-560 through 61-3-321(2)~~ or 61-3-562; or

(c) any of the fees provided in part 5 of this chapter.”

**Section 102.** Section 61-3-458, MCA, is amended to read:

**“61-3-458. Special plates for military personnel, veterans, and spouses.** (1) (a) Active military personnel, veterans, or the surviving spouse of an eligible veteran, if the spouse has not remarried, may be issued special military or veteran license plates as provided in this section.

(b) Subject to the provisions of 61-3-332 and except as otherwise provided in this chapter, special license plates issued pursuant to this section must be numbered in sets of two with a different number on each set and must be properly displayed as provided in 61-3-301.

(2) (a) Upon application, after paying all applicable *motor vehicle, trailer, semitrailer, or pole trailer* registration fees and special license plate fees and providing an official certificate from the applicant's unit commander verifying the individual's eligibility and authorizing the department to issue the plates to the individual, eligible military personnel may be issued one set of special military license plates as provided in this subsection (2).

(b) A member of the Montana national guard who is a state resident may be issued special license plates with a design or decal displaying the letters “NG”. However, the member shall surrender the plates to the department when the member becomes ineligible.

(c) A member of the reserve armed forces of the United States who is a state resident may be issued special license plates according to the member's branch of service verified in the application with a design or decal displaying one of the following: United States army reserve, AR (symbol); United States naval

reserve, NR (anchor); United States air force reserve, AFR (symbol); or United States marine corps reserve, MCR (globe and anchor). However, the member shall surrender the plates to the department when the member becomes ineligible.

(d) An active member of the regular armed forces of the United States who is a state resident may be issued special license plates inscribed with a symbol signifying the United States army, United States navy, United States air force, United States marine corps, or United States coast guard, according to the member's branch of service verified in the application. However, the member shall surrender the plates to the department upon becoming ineligible.

(3) (a) Upon application, after presenting proper identification and a department of defense form 214 (DD-214) or its successor or documents showing an other-than-dishonorable discharge or a reenlistment verifying the applicant's eligibility and paying the veterans' cemetery fee specified in 61-3-459 and all applicable *motor vehicle, trailer, semitrailer, or pole trailer* registration fees under this chapter, subject to the provisions of 61-3-460, an eligible veteran must be issued any set and more than one set of the special license plates provided for in this subsection (3) that the member requests and is eligible to receive.

(b) A veteran may be issued special license plates displaying the letters "DV", which entitles the veteran to the parking privileges allowed to a person with a special parking permit issued under Title 49, chapter 4, part 3, if the veteran:

(i) has been awarded the purple heart and has been rated by the U.S. department of veterans affairs as 50% or more disabled because of a service-connected injury; or

(ii) is currently rated 100% disabled or is paid at the 100% disabled rate by the U.S. department of veterans affairs for a service-connected disability.

(c) A veteran who has been awarded the purple heart may be issued special license plates with the purple heart decal displaying the words "combat wounded".

(d) A veteran who was captured and held prisoner by the military force of a foreign nation may be issued special license plates with a design or decal displaying the words "ex-prisoner of war" or an abbreviation that the department considers appropriate.

(e) If the veteran was a member of the United States armed forces on December 7, 1941, and during the hours of 7:55 a.m. to 9:45 a.m. (Hawaii time) was on station at Pearl Harbor on the island of Oahu or was offshore from Pearl Harbor at a distance of not more than 3 miles, the veteran may be issued special license plates designed to show that the veteran is a survivor of the Pearl Harbor attack.

(f) A person who is a member of the legion of valor may be issued special plates displaying a design or decal depicting the recognized legion of valor medallion.

(g) A veteran may be issued special license plates displaying the word "VETERAN" and a symbol signifying the United States army, United States navy, United States air force, United States marine corps, or United States coast guard, according to the veteran's service record verified in the application.

(h) A member or a former ~~members~~ *member* of the Montana national guard eligible to receive a military retirement may be issued special license plates displaying the Montana national guard insignia and the words "National Guard veteran".

(4) Upon request, after paying the veterans' cemetery fee provided in 61-3-459 and all applicable vehicle registration fees under this chapter, subject to the provisions of 61-3-460, the surviving spouse of an eligible veteran, if the spouse has not remarried, may retain the special license plates issued to the deceased veteran, except the special "DV" plates provided for under subsection (3)(b).

(5) For purposes of this section, "veteran" has the meaning provided in 10-2-101."

**Section 103.** Section 61-3-460, MCA, is amended to read:

**"61-3-460. Vehicle registration fee and veterans' cemetery fee waivers.** (1) Except as otherwise provided in this section, a person eligible under subsection (2) is exempt from the veterans' cemetery fee provided in 61-3-459 for one set of special veteran license plates and all *motor* vehicle registration fees imposed by this chapter for one *motor* vehicle that is not used for commercial purposes.

(2) The following persons are eligible for the waiver provided in subsection (1):

(a) a veteran who was a prisoner of war who presents official documentation from the U.S. department of defense verifying the veteran's status, or the veteran's surviving spouse, if the spouse has not remarried;

(b) a veteran who is currently rated 100% disabled or is paid at the 100% disabled rate by the U.S. department of veterans affairs for a service-connected disability, as verified by official documentation from the U.S. department of veterans affairs, or the veteran's surviving spouse, if the spouse has not remarried;

(c) a veteran determined by the U.S. department of veterans affairs to be 50% or more disabled because of a service-connected injury and who has been awarded the purple heart, as verified by official documentation from the U.S. department of veterans affairs and the veteran's military service record issued by the U.S. department of defense, or the veteran's surviving spouse, if the spouse has not remarried, except that the veteran or the surviving spouse shall pay the veterans' cemetery fee as provided for in 61-3-459;

(d) the surviving spouse, if the spouse has not remarried, of a military service member killed while on active duty as verified in official documentation issued by the U.S. department of defense; and

(e) the surviving spouse, if the spouse has not remarried, of a military service member or veteran who died of a service-connected injury or disability as determined by and verified in official documentation from the U.S. department of veterans affairs."

**Section 104.** Section 61-3-465, MCA, is amended to read:

**"61-3-465. Issuance — application — additional fee — disposition.** (1) The department shall issue or renew collegiate license plates upon receipt of an application that shows:

(a) compliance with 61-3-303, 61-3-311, and 61-3-312; and

(b) payment to the county treasurer of:

- (i) an initial application and manufacturing fee of \$5, when required; and
- (ii) an annual scholarship donation of \$30 for the benefit of the institution named in the application.

(2) Once each month, the county treasurer shall, as provided in 15-1-504, transfer to the ~~department of revenue~~ *state* the total of the amounts collected for:

(a) the initial application and manufacturing fee for deposit in the state general fund; and

(b) scholarship donations provided for in subsection (1)(b)(ii), along with a schedule showing the number of collegiate license plates issued and the total donations received for the benefit of each institution.

(3) Once each month, ~~the department of revenue shall distribute to the student academic scholarship fund or foundation of each institution~~ an amount equal to the total donations credited to that institution and transferred to the ~~department of revenue~~ *state* by the county treasurers during the preceding month *must be distributed to the student academic scholarship fund or foundation of each institution.*"

**Section 105.** Section 61-3-467, MCA, is amended to read:

**"61-3-467. Authorization to receive and transmit donations.** As provided in 61-3-465 and notwithstanding any other provisions of Title 7, Title 17, or this title:

(1) the county treasurer must receive the annual scholarship donations provided for in 61-3-465 and once each month transmit, as provided in 15-1-504, those donations to the ~~department of revenue~~ *state*; and

(2) the ~~department of revenue~~ *appropriate agency* shall accept the annual scholarship donations and once each month distribute the accumulated proceeds to the beneficiary institutions specified by and according to the totals contained in the county treasurers' reports."

**Section 106.** Section 61-3-468, MCA, is amended to read:

**"61-3-468. Collegiate license plates — continued use with institution's former name authorized — replacement.** (1) A person who owns and displays on the person's *motor* vehicle, collegiate license plates that bear the name of an institution that has been renamed by its governing body or as part of the Montana university system reorganization may continue to display on the vehicle the license plate bearing the former name of the institution as long as the plates remain legible or as long as replacement plates are available from the department, whichever is later.

(2) The department may issue or replace a collegiate license plate bearing the former name of an institution, as defined in 61-3-462, as long as replacement stock owned by the department of corrections is available."

**Section 107.** Section 61-3-474, MCA, is amended to read:

**"61-3-474. Responsibility for design of generic specialty license plates — numbering — rulemaking — approval — registration decal — listing of plate sponsors.** (1) The department shall:

(a) design the background and general format of generic specialty license plates;

(b) in consultation with the department of corrections, determine which license plate processing system is the most efficient and versatile manufacturing method for the production of generic specialty license plates;

(c) use a numbering system for generic specialty license plates that is distinctive from the numbering system required under 61-3-332 or used for collegiate license plates;

(d) adopt rules that prescribe:

(i) the minimum and maximum number of characters that a generic specialty license plate may display;

(ii) the general placement of the sponsor's name, identifying phrase, and graphic; and

(iii) any specifications or limitations on the use or choice of color or detail in the sponsor's graphic design.

(2) All sponsor names, identifying phrases, and graphics intended for use on generic specialty license plates must be approved by the department prior to the manufacture of the plates.

(3) Upon the issuance of generic specialty license plates, the department shall provide registration decals bearing the appropriate county designation as provided in 61-3-332. The registration decal must be affixed to the license plates in use in accordance with instructions by the department.

(4) The department shall maintain a list of the sponsors that have been approved to promote the sale and issuance of generic specialty license plates, the initial distribution date for sale of each sponsored generic specialty license plate, and the donation fee established by the sponsor for each sponsored generic specialty license plate. The department shall, upon request, make copies of this list available to interested members of the public.

(5) The department may, in its discretion, revoke its previous approval of a sponsor's generic specialty license plate sponsorship if:

(a) the sponsor fails to comply with the provisions of 61-3-472 through 61-3-481;

(b) fewer than 400 sets of a sponsor's generic specialty license plate have been sold or renewed in the 12-month period immediately preceding the third anniversary of the date of initial distribution of the sponsored generic specialty license plate; or

(c) the department has reliable information that the sponsor is no longer qualified for sponsorship under 61-3-472 through 61-3-481.

(6) (a) Upon revocation of a sponsor's generic specialty license plate sponsorship status, the issuance and sale of the sponsor's generic specialty license plates must be terminated and a donation fee may not be charged or collected upon registration renewal of a *motor* vehicle displaying previously issued generic specialty license plates affiliated with that sponsor.

(b) A person who owns a *motor* vehicle displaying valid generic specialty license plates affiliated with a sponsor whose sponsorship status has been revoked may continue to display those generic specialty license plates on the person's *motor* vehicle if the *motor* vehicle's registration is properly renewed in subsequent years and the plates remain legible.

(c) Following revocation of a sponsor's sponsorship status, the department may not issue duplicates of generic specialty license plates affiliated with that sponsor that are lost, destroyed, or mutilated."

**Section 108.** Section 61-3-479, MCA, is amended to read:

**"61-3-479. Issuance of generic specialty license plates — qualifications.** (1) (a) Except as provided in subsection (1)(b), the department shall issue a set of generic specialty license plates to a person who applies for a particular style of generic specialty license plates and pays the donation fee established by the plate sponsor and the administrative fee required in 61-3-480.

(b) If the sponsor of a generic specialty license plate is not listed on the county collection report published by the ~~department of revenue~~ *state* and required under 15-1-504 as of the initial distribution date for the sale of the sponsor's plates, the department shall require the sponsor to collect the initial donation fee from, and issue a special certificate of registration to, a person who is eligible to receive the sponsor's generic specialty license plates. The person shall present the special certificate of registration upon application for the generic specialty license plates.

(2) A set of generic specialty license plates may be issued for any *motor* vehicle, except a trailer of any size, a motorcycle, or a quadricycle.

(3) (a) Except as provided in 61-3-472 through 61-3-481 and 61-3-562, a person who receives generic specialty license plates is subject to the same rules and laws as those that govern number plates.

(b) Except as provided in 61-3-472 through 61-3-481 and 61-3-562, the department is subject to the same rules and laws that govern the issuance of number plates.

(c) Generic specialty license plates issued under 61-3-472 through 61-3-481 are not subject to any maximum issuance or use limitation that may be imposed on number plates.

(4) A person may combine an application for a generic specialty license plate with an application for a license plate with a design bearing a representation of a wheelchair as the symbol of a person with a disability as provided in 61-3-332(11)."

**Section 109.** Section 61-3-480, MCA, is amended to read:

**"61-3-480. Fees for generic specialty license plates — disposition.** (1) In addition to the other fees and taxes imposed by law, an eligible person who applies for a generic specialty license plate shall pay an administrative fee of \$15 and, except as provided in 61-3-479(1)(b), the donation fee specified by the sponsor.

(2) The county treasurer shall, upon receipt of the fees:

(a) deposit \$5 of the \$15 administrative fee in the county general fund;

(b) notwithstanding any other provisions of Title 7, Title 17, or this title and unless otherwise provided in 61-3-479(1)(b), accept the donation fee paid by the plate purchaser; and

(c) as provided in 15-1-504, once each month, transmit to the ~~department of revenue~~ *state* for distribution:

(i) \$10 of the \$15 administrative fee to the state general fund; and

(ii) all donation fees provided for in subsections (1) and (3), along with a schedule showing the number and type of generic specialty license plates issued and total donations received for the benefit of each sponsor of a generic specialty license plate issued or renewed, to each respective sponsor.

(3) If the donation fee is required by a sponsor upon renewal of generic specialty license plates, the fee must be paid to the county treasurer upon renewal of registration and transmitted to the ~~department of revenue~~ *state* as prescribed in subsection (2).

(4) Once each month, the ~~department of revenue~~ *state* shall distribute to the generic specialty license plate liaison designated by a sponsor under 61-3-475(1)(c) or 61-3-476(3) an amount equal to the total donations credited to that sponsor and transferred to the department of revenue by the county treasurers during the preceding month.”

**Section 110.** Section 61-3-481, MCA, is amended to read:

**“61-3-481. Generic specialty license plates — restrictions on use.** (1) Generic specialty license plates may be issued by the department in conjunction with the registration of any *motor* vehicle, except a trailer of any size, a motorcycle, or a quadricycle. The department may not issue generic specialty license plates without the motor vehicle having been registered.

(2) Generic specialty license plates may be used only as the official number plates for a motor vehicle.”

**Section 111.** Section 61-3-501, MCA, is amended to read:

**“61-3-501. When *motor* vehicle taxes and fees are due.** (1) Light vehicle registration fees, local option *motor* vehicle taxes or fees, fees in lieu of tax, and other fees must be paid on the date of registration or reregistration of the *motor* vehicle.

(2) (a) If the anniversary date for reregistration of a *motor* vehicle passes while the *motor* vehicle is owned and held for sale by a licensed new or used car dealer, light vehicle registration fees, local option *motor* vehicle taxes or fees, or fees in lieu of tax abate on the vehicle properly reported with the county treasurer until the *motor* vehicle is the subject of a retail sale. After the sale, the purchaser shall pay the pro rata balance of the light vehicle registration fees, local option *motor* vehicle taxes or fees, or fees in lieu of tax due and owing on the *motor* vehicle.

(b) A person selling a *motor* vehicle or trading a *motor* vehicle to a dealer shall disclose to the purchaser any amount of taxes or fees in lieu of tax that are due or past due on the *motor* vehicle at the time the person sells a *motor* vehicle or trades a *motor* vehicle to a dealer. If the disclosure is not made, the person selling the *motor* vehicle or trading the *motor* vehicle to the dealer shall pay the taxes or fees. Taxes or fees in lieu of tax that are due or past due on a *motor* vehicle at the time that a person sells or trades the *motor* vehicle to a dealer must be paid by the person who sold or traded the *motor* vehicle to the dealer, unless the person who purchases the *motor* vehicle from the dealer agrees in writing to assume the payment of those taxes or fees. This subsection (2)(b) does not apply to fleet *motor* vehicles, leased *motor* vehicles, or rental return *motor* vehicles.

(c) For the purposes of this subsection (2), a retail sale does not include a transfer between any of the following:

(i) a licensed new motor vehicle or used motor vehicle dealer;

- (ii) another licensed new motor vehicle or used motor vehicle dealer;
- (iii) a licensed wholesaler; or
- (iv) a licensed auto auction.

(3) In the event that a *motor* vehicle's registration period is changed under 61-3-315, all light vehicle registration fees, local option *motor* vehicle taxes or fees, fees in lieu of tax, and other fees due must be prorated and paid from the last day of the old period until the first day of the new period in which the *motor* vehicle is registered. The light vehicle registration fees, local option *motor* vehicle taxes or fees, fees in lieu of tax, and other fees must be paid from the first day of the new period for a minimum period of 1 year. When the change is to a later registration period, light vehicle registration fees, local option *motor* vehicle taxes or fees, and other fees must be prorated and paid based on the same tax year as the original registration period. Thereafter, during the appropriate anniversary registration period, each *motor* vehicle must again be registered or reregistered and all light vehicle registration fees, local option *motor* vehicle taxes or fees, and other fees must be paid for a 12-month period."

**Section 112.** Section 61-3-503, MCA, is amended to read:

**"61-3-503. Assessment — definition.** (1) Except as provided in 61-3-520 and subsection (4) of this section, the following apply to the taxation of motor vehicles:

(a) For the purposes of imposing the local option *motor* vehicle tax under 61-3-537, light vehicles subject to the provisions of 61-3-313 through 61-3-316 must be assessed as of the first day of the registration period, using the depreciated value of the manufacturer's suggested retail price as determined in subsection (2).

(b) A lien for taxes and fees due on the *motor* vehicle occurs on the anniversary date of the registration and continues until the fees and taxes have been paid. If the depreciated value is less than \$500, the department shall value the *motor* vehicle at \$500.

(2) (a) Except as provided in subsections (2)(c) and (2)(d), the depreciated value for the taxation of light vehicles is computed by multiplying the manufacturer's suggested retail price by a percentage multiplier based on the type and age of the *light* vehicle determined from the following table:

Age of Vehicle (in years)	Type of Vehicle			
	Automobile	Truck	Van	Sport Utility
-1	100%	100%	100%	100%
0	90	96	93	98
1	80	91	86	94
2	69	86	78	90
3	58	80	69	84
4	49	73	60	76
5	41	66	52	67
6	33	57	45	57
7	26	49	38	48
8	21	43	32	39
9	17	37	27	33

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10	14	31	22	29
11	12	26	18	25
12	10	22	15	22
13	09	18	13	21
14	09	15	11	19
15	09	13	09	17
16	09	12	09	15

(b) The age for the light vehicle is determined by subtracting the manufacturer's model year of the *light* vehicle from the calendar year for which the tax is due.

(c) If the value of the *light* vehicle determined under subsection (2)(a) is \$500 or less, the value of the *light* vehicle is \$500 and the value must remain at that amount as long as the *light* vehicle is registered.

(d) The depreciated value of a light vehicle that is 17 years old or older is computed by depreciating the value obtained for the vehicle at 16 years old, as determined under subsection (2)(a), by 10% a year until a minimum value of \$500 is attained. The value must remain at that amount as long as the *light* vehicle is registered.

(3) (a) For the purposes of this section, "manufacturer's suggested retail price" means the price suggested by the manufacturer for each given type, style, or model of light vehicle produced and first made available for retail sale by the manufacturer.

(b) The manufacturer's suggested retail price is based on standard equipment of a *light* vehicle and does not contain price additions or deductions for optional accessories.

(c) When a manufacturer's suggested retail price is unavailable for a motor vehicle, the department shall determine an alternative valuation for the *motor* vehicle.

(4) The provisions of subsections (1) through (3) do not apply to buses, trucks having a manufacturer's rated capacity of more than 1 ton, truck tractors, motorcycles, motor homes, quadricycles, travel trailers, campers, mobile homes or manufactured homes as those terms are defined in 15-1-101(1)."

**Section 113.** Section 61-3-506, MCA, is amended to read:

**"61-3-506. Rules.** The department of justice may adopt rules:

(1) for the assessment and collection of ~~taxes and~~ registration fees under ~~61-3-560 through 61-3-321 and~~ 61-3-562, including the proration of fees under 61-3-520, on light vehicles, including criteria for determining the *motor* vehicle's age;

(2) for the imposition and collection of fees in lieu of tax, including the proration of fees in lieu of tax under 61-3-520, on buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors, including criteria for determining the *motor* vehicle's age and manufacturer's rated capacity; and

(3) for the administration of fees for trailers, *semitrailers*, and pole trailers; ~~and semitrailers~~, including criteria for determining a trailer's age and weight."

**Section 114.** Section 61-3-507, MCA, is amended to read:

**“61-3-507. Exemption.** A *motor vehicle, trailer, semitrailer, or pole trailer* that is exempt from taxation and registration fees under 15-6-215 or subject to the provisions of 61-3-520 is exempt from all other taxes and fees generally imposed on a *motor vehicle, trailer, semitrailer, or pole trailer* by this part.”

**Section 115.** Section 61-3-509, MCA, is amended to read:

**“61-3-509. Disposition of fees.** All registration fees imposed by ~~61-3-561 61-3-321~~ from on light vehicles, ~~all registration fees imposed by 61-3-522 from~~ motor homes, ~~all fees in lieu of tax imposed by 61-3-527 from~~ motorcycles, and quadricycles, and ~~all fees imposed by 61-3-529 from~~ buses, motor vehicles having a manufacturer’s rated capacity of more than 1 ton, and truck tractors, for which a license is sought and an original application for title that includes a manufacturer’s statement of origin is made, must be remitted to the ~~department of revenue state, as provided in 15-1-504,~~ every 30 days. The ~~department of revenue shall credit the payments to~~ *must be deposited in* the state general fund.”

**Section 116.** Section 61-3-520, MCA, is amended to read:

**“61-3-520. Fees on *motor vehicles used exclusively in filming motion pictures or television commercials.*** (1) A *motor vehicle, trailer, semitrailer, or pole trailer* used exclusively in the filming of motion pictures or television commercials that has been in the state for a period exceeding 180 consecutive days in a calendar year is subject to a registration fee under ~~61-3-560 and 61-3-561 61-3-321~~ or a fee in lieu of tax as if the *motor vehicle, trailer, semitrailer, or pole trailer* were not used exclusively for filming motion pictures or television commercials, but the registration fee ~~or fee in lieu of tax~~ must be prorated as provided in subsection (2).

(2) (a) The registration fees ~~or the fees in lieu of tax~~ imposed under subsection (1) must be prorated by dividing the number of days in excess of 180 consecutive days in the calendar year by 365.

(b) Fees on a *motor vehicle, trailer, semitrailer, or pole trailer* imposed pursuant to this section must be collected as provided in this chapter.”

**Section 117.** Section 61-3-526, MCA, is amended to read:

**“61-3-526. Registration of motor homes and travel trailers — reregistration by mail allowed.** (1) Except for a motor home displaying amateur radio operator license plates as provided in 61-3-421, all registrations of motor homes expire annually on April 30. Application for registration or reregistration must be made to the county treasurer not later than June 15. Reregistration may be made by mail in the manner provided in 61-3-535. If the ownership of a motor home is transferred during the registration year, it must be reregistered as provided by statute.

(2) The owner of a motor home registered under the provisions of this section may operate the ~~vehicle~~ *motor home* between May 1 and June 15 without displaying the certificate of registration of the current registration year if the owner, during that period, displays upon the motor home the number plates or plate or the registration decal assigned to the motor home for the previous registration year.

(3) A travel trailer that is initially registered under this chapter remains registered unless ownership of the travel trailer is transferred. If ownership is transferred, the new owner shall register the travel trailer as if the travel trailer were being registered for the first time.

(4) The department shall adopt rules to assign a registration period for motor homes that display amateur radio operator license plates.”

**Section 118.** Section 61-3-529, MCA, is amended to read:

**“61-3-529. Schedule of fees for buses, motor vehicles having rated capacity of more than 1 ton, and truck tractors — proration — exemption.** (1) (a) There is a fee in lieu of property tax imposed on buses, trucks having a manufacturer’s rated capacity of more than 1 ton, and truck tractors. The fee is in addition to annual registration fees.

(b) The fee imposed by subsection (1)(a) is not required to be paid by a dealer of buses, trucks, or truck tractors that constitute inventory of the dealership.

(2) Subject to the conditions of subsection (4), the owner of a bus, truck with a manufacturer’s rated capacity of more than 1 ton, or truck tractor shall pay a fee in lieu of tax based on the age and manufacturer’s rated capacity of the *motor* vehicle according to the following schedule:

Age of <i>Motor</i> Vehicle (in years)	Rated Capacity (in pounds)			
	16,999 or less	17,000-26,999	27,000-54,999	55,000 or more
1 or less	\$117	\$167	\$284	\$375
2	109	150	250	300
3	100	134	220	266
4	92	117	184	242
5	83	109	160	195
6	75	100	134	167
7	66	91	117	147
8	58	83	100	125
9	50	75	92	109
10	41	58	79	92
11-12	33	50	67	76
13-14	28	37	52	61
15-16	25	30	38	47
17-18	18	26	29	36
19-20	13	19	22	26
21 or more	10	12	16	20

(3) The age of the *motor* vehicle is determined by subtracting the manufacturer’s model year of the *motor* vehicle from the calendar year for which the fee in lieu of tax is due.

(4) (a) The manufacturer’s rated capacity for a bus or truck with a manufacturer’s rated capacity of more than 1 ton is the manufacturer’s rated gross vehicle weight.

(b) The manufacturer’s rated capacity for a truck tractor is the manufacturer’s rated gross combined weight.

(5) A motor vehicle brought into the state or otherwise used for the exclusive purpose of filming motion pictures or television commercials is exempt from the fee in lieu of tax if the vehicle does not remain in the state for a period in excess of 180 consecutive days in a calendar year.

(6) Except as provided in 61-3-520, the fee in lieu of tax on a *motor* vehicle subject to this section that is brought or driven into this state by a nonresident person for hire, compensation, or profit must be prorated according to the ratio that the remaining number of months in the year bears to the total number of months in the year.

(7) (a) The fee in lieu of tax on a *motor* vehicle subject to this section that is registered in the state for the first time must be prorated as provided in subsection (6).

(b) The fee in lieu of tax on a *motor* vehicle subject to this section that is reregistered in the state is for a full year.

(8) The fee in lieu of tax may not be refunded.”

**Section 119.** Section 61-3-535, MCA, is amended to read:

**“61-3-535. Vehicle Motor vehicle reregistration by mail — reminder notice and reregistration notice by mail.** (1) The department may allow the owner of a motor vehicle, *trailer, semitrailer, or pole trailer* to renew the registration of a *motor* vehicle, *trailer, semitrailer, or pole trailer* by mail when the value, age, length, weight, or other criteria used to determine the tax or fee for a particular type of *motor* vehicle, *trailer, semitrailer, or pole trailer* is available to the department by electronic means.

(2) Any mail reregistration procedure developed by the department must include a procedure to facilitate automated handling of mail reregistration and must provide for a written reminder notice by mail to *the owner of a motor* vehicle, *trailer, semitrailer, or pole trailer* ~~owner~~ of the requirement to reregister the owner’s *motor* vehicle, *trailer, semitrailer, or pole trailer* with the county treasurer or to apply for the annual registration decal.

(3) The department shall adopt rules to implement the mail reregistration and registration decal application procedure.”

**Section 120.** Section 61-3-537, MCA, is amended to read:

**“61-3-537. Local option motor vehicle tax.** (1) A county may impose a local *option motor* vehicle tax on *motor* vehicles subject to the registration fee imposed under ~~61-3-560 through 61-3-321(2)~~ or 61-3-562 at a rate of up to 0.7% of the value determined under 61-3-503 or a local flat fee, in addition to the fee imposed under ~~61-3-560 through 61-3-321(2)~~ or 61-3-562.

(2) A local *option motor* vehicle tax or flat fee is payable at the same time and in the same manner as the fee imposed under ~~61-3-560 through 61-3-321(2)~~ or 61-3-562. The tax or fee is distributed as follows:

(a) 50% to the county; and

(b) the remaining 50% to the county and the incorporated cities and towns within the county, apportioned on the basis of population. The distribution to a city or town is determined by multiplying the amount of money available by the ratio of the population of the city or town to the total county population. The distribution to the county is determined by multiplying the amount of money available by the ratio of the population of unincorporated areas within the county to the total county population.

(3) The governing body of a county may impose, revise, or revoke a local *option motor* vehicle tax or flat fee if the imposition, revision, or revocation of the tax or fee is approved by the electorate of the county. The imposition, revision, or revocation of the tax or fee is effective on January 1 following its approval by the

electorate. The county governing body by resolution may provide for the distribution of the local *option motor* vehicle tax or flat fee.”

**Section 121.** Section 61-3-562, MCA, is amended to read:

**“61-3-562. Permanent registration — transfer of *light* vehicle ownership — rules.** (1) (a) Except as provided in subsection ~~(1)(c)~~ (1)(b), the owner of a light vehicle 11 years old or older subject to the registration fee, as provided in ~~61-3-561~~ 61-3-321(2), may permanently register the *light* vehicle upon payment of a \$50 \$87.50 registration fee, the applicable registration and license fees under ~~61-3-321~~ and 61-3-412, and an amount equal to five times the applicable fees imposed for each of the following:

- ~~(i) junk vehicle disposal fees under 15-1-122(3)(a);~~
- ~~(ii) weed control fees under 15-1-122(3)(b);~~
- ~~(iii)~~(i) the former county motor vehicle computer fees under 61-3-511;
- ~~(iv)~~(ii) the local *option motor* vehicle tax or flat fee on vehicles under 61-3-537; and
- ~~(v)~~(iii) if applicable, special license plate fees under 61-3-332 and renewal fees for personalized plates under 61-3-406; and
- ~~(vi) senior citizens and persons with disabilities transportation services fees as provided in 61-3-321(6).~~

~~(b) A person who permanently registers a vehicle as provided in subsection (1)(a) shall pay an additional \$2 fee at the time of registration for deposit in the state general fund. The department shall pay from the general fund an amount equal to the \$2 fee collected under this subsection (1)(b) from each motor vehicle registration to the pension trust fund for payment of supplemental benefits provided for in 19-6-709.~~

~~(e)(b)~~ The following series of license plates may not be used for purposes of permanent registration of a *light* vehicle:

- (i) Montana national guard license plates issued under 61-3-458(2)(b);
- (ii) reserve armed forces license plates issued under 61-3-458(2)(c);
- (iii) license plates bearing a wheelchair design as a symbol of a person with a disability issued under 61-3-332(11);
- (iv) amateur radio operator license plates issued under 61-3-422;
- (v) collegiate license plates issued under 61-3-465; and
- (vi) generic specialty license plates issued under 61-3-479.

(2) In addition to the fees described in subsection (1), an owner of a truck with a manufacturer’s rated capacity of 1 ton or less that is permanently registered shall pay five times the applicable fees imposed under 61-10-201.

(3) The owner of a vehicle that is permanently registered under this section is not subject to additional *registration* fees under ~~61-3-561~~ or to other motor vehicle registration fees described in this section for as long as the owner owns the vehicle.

(4) The county treasurer shall:

~~(a) distribute the \$50 registration fee collected under this section as provided in 61-3-509;~~

~~(b) once each month, remit to the department of revenue state the amounts collected under this section, other than the local *option motor* vehicle tax or flat~~

fee, for the purposes of 61-3-321(3) and 61-10-201. The county treasurer shall retain the local option *motor* vehicle tax or flat fee.

(5) (a) The permanent registration of a *light* vehicle allowed by this section may not be transferred to a new owner. If the *light* vehicle is transferred to a new owner, the department shall cancel the *light* vehicle's permanent registration.

(b) Upon transfer of a *light* vehicle registered under this section to a new owner, the new owner shall apply for a certificate of title under 61-3-201 and file an application for registration under 61-3-303. ~~(Subsection (1)(b) terminates on occurrence of contingency—sec. 24, Ch. 191, L. 2001.)~~

**Section 122.** Section 61-3-603, MCA, is amended to read:

**“61-3-603. Penalty for alteration or forgery of certificate of ownership or certificate of title — assignment.** A person who alters or forges or causes to be altered or forged any motor vehicle, *trailer, semitrailer, or pole trailer* certificate of ownership or certificate of title or any assignment of a certificate of ownership or certificate of title or who holds or uses any certificate or assignment knowing that the certificate has been altered or forged is guilty of a felony. Upon a conviction of a violation of this section, the offender is subject to a fine of not more than \$5,000, to imprisonment for a period of not more than 10 years, or both.”

**Section 123.** Section 61-3-604, MCA, is amended to read:

**“61-3-604. Penalty for altering identification number.** (1) A person who willfully removes or falsifies an identification number of a motor vehicle, *trailer, semitrailer, pole trailer,* or motor vehicle engine is punishable by a fine of not more than \$5,000 or imprisonment in the state prison for a period of not more than 10 years, or both.

(2) Any person or persons, firm, or corporation that sells or offers for sale in this state a *motor vehicle, trailer, semitrailer, or pole trailer* the original vehicle identification number of which has been destroyed, removed, altered, covered, or defaced, with the exception of *motor vehicles, trailers, semitrailers, or pole trailers* bearing a state-assigned identification number in accordance with 61-3-107, is punishable by a fine of not less than \$200 or more than \$500 and by imprisonment in the county jail for a term of not less than 30 days or more than 180 days. Upon a second or subsequent conviction under this subsection, the punishment shall be imprisonment in the state prison for a term of not less than 1 year or more than 5 years or a fine in an amount not to exceed \$50,000, or both.”

**Section 124.** Section 61-3-607, MCA, is amended to read:

**“61-3-607. Penalty for tampering with odometer or violating odometer statement requirements.** (1) It is unlawful for a person to tamper with the odometer of a motor vehicle. It is considered tampering if a person removes, turns back, or changes the reading on the odometer, except when repairing or replacing a defective odometer and setting it anew to show the true mileage, or if a person sells, offers for sale, uses, installs, or causes to be installed any device that causes the odometer to register a mileage reading other than the true mileage for the purpose of deceiving a prospective purchaser. For purposes of this section, the true mileage is that driven by the *motor* vehicle as registered by the odometer within the manufacturer's designed tolerance.

(2) A person who purposely or knowingly violates the provisions of 61-3-206 or subsection (1) of this section is punishable by a fine of not more than \$5,000 or imprisonment in the state prison for a period of not more than 10 years, or both.

If that person is a motor vehicle dealer, the department shall revoke the dealer's license. Action by the department under this subsection must conform to the contested case procedures in Title 2, chapter 4."

**Section 125.** Section 61-3-701, MCA, is amended to read:

**"61-3-701. Out-of-state motor vehicles used in gainful occupation to be registered — reciprocity.** (1) Before a motor vehicle, *trailer, semitrailer, or pole trailer* that is registered in another jurisdiction may be operated on the highways of this state for hire, compensation, or profit or before the owner or user of the *motor vehicle, trailer, semitrailer, or pole trailer* uses the *motor vehicle, trailer, semitrailer, or pole trailer* if the owner or user is engaged in gainful occupation or business enterprise in the state, including highway work, the owner of the *motor vehicle, trailer, semitrailer, or pole trailer* shall register the *motor vehicle, trailer, semitrailer, or pole trailer* at the office of a county treasurer or an authorized agent of the department. Upon satisfactory evidence of ownership submitted to the county treasurer or the department's authorized agent and the payment of fees in lieu of taxes or registration fees, if appropriate, as required by 15-8-201, 15-8-202, 15-24-301, 61-3-529, *61-3-321(2), or 61-3-537, or 61-3-560 and 61-3-561,* the treasurer or authorized agent shall enter the *motor vehicle, trailer, semitrailer, or pole trailer* for registration purposes only on the electronic registry maintained by the department under 61-3-101.

(2) Upon payment of the fees or taxes, the treasurer or the department's authorized agent shall issue to the *owner of the motor vehicle, trailer, semitrailer, or pole trailer* ~~owner~~ a registration receipt and the proper license plates or other identification markers. The license plates or identification markers must at all times be displayed upon the *motor vehicle, trailer, semitrailer, or pole trailer* when operated or driven upon roads and highways of this state during the registration period indicated on the receipt.

(3) The registration receipt does not constitute evidence of ownership but must be used only for registration purposes. A Montana certificate of title may not be issued for a *motor vehicle, trailer, semitrailer, or pole trailer* registered under this section.

(4) This section is not applicable to a *motor vehicle, trailer, semitrailer, or pole trailer* covered by a valid and existing reciprocal agreement or declaration entered into under Montana law."

**Section 126.** Section 61-3-702, MCA, is amended to read:

**"61-3-702. Foreign vehicles to display number plates.** All foreign registered and licensed motor vehicles, *trailers, semitrailers, or pole trailers* shall also carry in plain sight ~~thereon~~ *on the motor vehicle, trailer, semitrailer, or pole trailer* the license plates or device from ~~such~~ *the* other state or foreign country."

**Section 127.** Section 61-3-703, MCA, is amended to read:

**"61-3-703. Purpose.** Sections 61-3-701 and 61-3-702 ~~shall be~~ *are* solely for the purpose of taxation, registration, and identification of *motor vehicles, trailers, semitrailers, or pole trailers* operated in this state that have paid a license fee in another state or foreign country, and ~~otherwise~~ *other* than as ~~herein~~ *specifically set forth* ~~shall in 61-3-701 and 61-3-702~~ *may not be construed as a repeal of any laws or parts of laws having to do with the registration or licensing of automobiles* *motor vehicles, trailers, semitrailers, or pole trailers* within the state."

**Section 128.** Section 61-3-704, MCA, is amended to read:

**“61-3-704. Penalty.** Any person operating a *motor vehicle, trailer, semitrailer, or pole trailer* in violation of the intent and purpose of 61-3-701 or 61-3-702 ~~shall be~~ *is* guilty of a misdemeanor and upon conviction ~~thereof~~ shall be punished by a fine of not less than \$10 or more than \$50, ~~or~~ confined in the county jail for not more than 30 days, or both ~~such fine and imprisonment.~~”

**Section 129.** Section 61-3-707, MCA, is amended to read:

**“61-3-707. Foreign vehicles used for transportation in connection with employment.** (1) (a) Before a motor vehicle, *trailer, semitrailer, or pole trailer* that has been assessed a fee pursuant to 15-24-301(4) may be operated in Montana for a calendar quarter, the person responsible for payment of fees shall apply for and obtain a ~~window~~ decal provided by the department.

(b) Decals must be color-coded to distinguish the four quarterly registration periods of the year.

(c) An applicant may purchase a decal for more than one registration quarter at a time by paying the appropriate amount.

(d) There is a \$2 fee for each decal, and money collected from this fee must be deposited to the state general fund. The \$2 fee is in addition to the registration fee.

(e) A current ~~window~~ decal must be displayed on the lower right-hand corner of the windshield *of a motor vehicle and in a conspicuous location on a trailer, semitrailer, or pole trailer.*

(2) (a) Before a motor vehicle exempted pursuant to 15-6-217 may be operated in Montana, the person responsible for the motor vehicle shall apply for and obtain a window decal from the county treasurer. The department shall supply the decals to the county treasurers.

(b) An application approved by the department must include a verification from the employer that the person is employed by a Montana health care facility that is located in an area that has been:

(i) designated by the secretary of the federal department of health and human services as a health professional shortage area, as provided in 42 U.S.C. 254(e); or

(ii) determined to have a critical shortage of nurses, as provided in 42 U.S.C. 297n(a)(3).

(c) Decals expire each year on December 31 of the year in which issued, and application for reregistration must be filed with the county treasurer no later than February 15 of each year. Decals must be color-coded to distinguish the year.

(d) A current window decal must be displayed on the lower right-hand corner of the windshield.”

**Section 130.** Section 61-3-708, MCA, is amended to read:

**“61-3-708. Cooperative or reciprocal registration — filing of insurance — fee.** (1) The department may enter into written agreements with agencies of other states to allow for the cooperative or reciprocal state registration of interstate or international motor carriers and authorize the agency of a participating state to:

(a) issue interstate motor carrier registrations, stamps, and permits;

(b) accept filings of insurance, financial responsibility, and orders;

(c) collect and disburse fees;

(d) share and exchange information for audit, reporting, and enforcement purposes; and

(e) perform any other function that the department determines is justified to facilitate the cooperative or reciprocal registration.

(2) (a) The department may impose a fee set by rule on an interstate or international motor carrier for the administration of this section. The fee must be paid on each motor vehicle, *trailer, semitrailer, or pole trailer* operated by the motor carrier on the public highways of this state. At the time of initial registration and *in* each succeeding year, at a time set by the department, the motor carrier shall pay the fee to the department.

(b) The department shall remit the fee to the state treasurer for deposit in the general fund.”

**Section 131.** Section 61-3-709, MCA, is amended to read:

**“61-3-709. Identification of ownership of certain large motor vehicles.** (1) (a) A person may not operate a motor vehicle, *trailer, semitrailer, or pole trailer* or combination of *motor vehicles, trailers, semitrailers, or pole trailers*, except farm *motor vehicles*, having a gross weight of more than 10,000 pounds upon the highways of the state unless there is displayed on both sides of each *motor vehicle, trailer, semitrailer, or pole trailer* operated under its own power, either alone or in combination:

(i) the name or trade name and city and state of the person or corporation under whose jurisdiction the *motor vehicle, trailer, semitrailer, or pole trailer* is being operated; or

(ii) the trade name and department of transportation number of the person or corporation under whose jurisdiction the *motor vehicle, trailer, semitrailer, or pole trailer* is being operated.

(b) The display of name must be in letters in sharp contrast to the background and in size, shape, and color readily legible in daylight from a distance of 50 feet while the *motor vehicle, trailer, semitrailer, or pole trailer* is not in motion. The display must be kept and maintained to remain legible. The display may be accomplished either by painting the information on the *motor vehicle, trailer, semitrailer, or pole trailer* or through the use of a decal or a removable device that is prepared so that it meets the identification and legibility requirements of this section.

(2) This section does not apply to motor vehicles, *trailers, semitrailers, or pole trailers* being:

(a) transported to dealers from point of manufacture;

(b) transported from one dealer to another;

(c) demonstrated to a prospective buyer; or

(d) delivered to a buyer from a dealer or a manufacturer.”

**Section 132.** Section 61-3-711, MCA, is amended to read:

**“61-3-711. Declaration of policy.** It is the policy of this state to promote and encourage the fullest possible use of its highway system by authorizing the making and execution of ~~motor vehicle~~ reciprocal or proportional registration agreements, arrangements, and declarations with other states, provinces, territories, and countries with respect to *motor vehicles, trailers, semitrailers,*

or pole trailers registered in this and ~~such~~ other states, provinces, territories, and countries thus contributing to the economic and social development and growth of this state.”

**Section 133.** Section 61-3-712, MCA, is amended to read:

**“61-3-712. Definitions.** As used in 61-3-711 through 61-3-733 the following definitions apply:

(1) “Apportionable *motor vehicle*” means a *motor vehicle, trailer, semitrailer, or pole trailer* ~~which~~ *that* is used or intended for use in more than one jurisdiction and *that is* used for the transportation of persons for hire, compensation, or profit; or designed or used primarily for the transportation of property.

(2) “Fleet” means one or more apportionable *motor vehicles*.

(3) “Jurisdiction” means and includes a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a foreign country, and a state or province of a foreign country.

(4) “Legal residence” means a jurisdiction where the person lives or conducts ~~his~~ business. This residence need not be coupled with the intent to live or conduct the business there on a permanent basis. The use of the word “residence” in 61-3-711 through 61-3-733 ~~shall~~ *must* be confined to the definition given; and ~~shall~~ *may* not be confused with the word “domicile”. This definition of “residence” further recognizes that a person may have several residences, but only one domicile.

(5) “Preceding year” means a period of 12 consecutive months fixed by the department of transportation, which period ~~shall~~ *must* be within 18 months immediately preceding the commencement of the registration or license year for which proportional registration is sought. The department in fixing the period shall ~~make it~~ conform *the period* to the terms, conditions, and requirements of any applicable agreement or arrangements for the proportional registration of *motor vehicles, trailers, semitrailers, or pole trailers*.

(6) (a) “Properly registered”, as applied to place of registration, means:

(i) the jurisdiction where the person registering the *motor vehicle, trailer, semitrailer, or pole trailer* has ~~his~~ *the person’s* legal residence;

(ii) in the case of an apportionable *motor vehicle*, the jurisdiction in which it is registered if the enterprise in which the *motor vehicle, trailer, semitrailer, or pole trailer* is used has a place of business ~~therein~~ *in the jurisdiction* and if the *motor vehicle, trailer, semitrailer, or pole trailer* is most frequently dispatched, garaged, serviced, maintained, operated, or otherwise controlled in or from the place of business and the *motor vehicle, trailer, semitrailer, or pole trailer* has been assigned to the place of business; or

(iii) in the case of an apportionable *motor vehicle*, the jurisdiction where because of an agreement or arrangement between two or more jurisdictions or pursuant to a declaration the *motor vehicle, trailer, semitrailer, or pole trailer* has been registered as required by that jurisdiction.

(b) In case of doubt or dispute as to the proper place of registration of a *motor vehicle, trailer, semitrailer, or pole trailer*, the transportation commission shall make the final determination, but in making the determination, the commission may confer with departments of the other jurisdictions affected.”

**Section 134.** Section 61-3-714, MCA, is amended to read:

**“61-3-714. Authority for reciprocity agreements, provisions, reciprocity standards.** The department of transportation may enter into an agreement or arrangement with the duly authorized representatives of other jurisdictions, granting to *motor vehicles, trailers, semitrailers, or pole trailers* or to owners of *motor vehicles, trailers, semitrailers, or pole trailers* ~~which that~~ are properly registered or licensed in those jurisdictions; and for which evidence of compliance is supplied, benefits, privileges, and exemptions from payment, wholly or partially, of any taxes, fees, or other charges imposed upon those *motor vehicles, trailers, semitrailers, or pole trailers* or owners with respect to the operation or ownership of the *motor vehicles, trailers, semitrailers, or pole trailers* under the laws of this state. The agreement or arrangement ~~shall must~~ provide that vehicles properly registered or licensed in this state, when operated upon highways of those other jurisdictions, ~~shall must~~ receive exemptions, benefits, and privileges of a similar kind or to a similar degree as are extended to *motor vehicles, trailers, semitrailers, or pole trailers* properly registered or licensed in the jurisdiction when operated in this state. The agreement or arrangement ~~shall must~~, in the judgment of the department, be in the best interests and fair and equitable to this state and its citizens determined on the basis and recognition of the benefits ~~which that~~ accrue to the economy of this state from the uninterrupted flow of commerce.”

**Section 135.** Section 61-3-715, MCA, is amended to read:

**“61-3-715. Base state registration reciprocity.** An agreement or arrangement entered into or a declaration issued under the authority of 61-3-711 through 61-3-733 may contain provisions authorizing the registration or licensing in another jurisdiction of *motor vehicles, trailers, semitrailers, or pole trailers* located in or operated from a base in ~~such the~~ other jurisdiction; ~~which for~~ *motor vehicles, trailers, semitrailers, or pole trailers* otherwise that would be required to be registered or licensed in this state; ~~and in such event the~~ The exemptions, benefits, and privileges extended by ~~such the~~ agreement, arrangement, or declaration ~~shall~~ apply to ~~such~~ *motor vehicles, trailers, semitrailers, or pole trailers* when properly licensed or registered in ~~such the~~ base jurisdiction.”

**Section 136.** Section 61-3-716, MCA, is amended to read:

**“61-3-716. Proportional registration of fleet *motor vehicles*.** (1) If a jurisdiction permits or requires the licensing of fleets of *motor vehicles, trailers, semitrailer, or pole trailers* in interstate or combined interstate and intrastate commerce and payment of registration fees, license fees, taxes, or other fixed fees on those *motor vehicles, trailers, semitrailers, or pole trailers* on an apportionment basis commensurate with and determined by the miles traveled on and the use made of the jurisdiction’s highways; as compared with the miles traveled on and the use made of other jurisdiction’s highways or any other equitable basis of apportionment; and ~~if the jurisdiction~~ exempts *motor vehicles, trailers, semitrailers, or pole trailers* registered in any other jurisdiction under this apportionment basis from the requirements of full payment of its own registration, license fees, taxes, or other fixed fees, then the department may, by agreement, adopt exemptions with respect to *motor vehicles, trailers, semitrailers, or pole trailers* of these fleets, whether owned by residents or nonresidents of this state and regardless of where ~~they are~~ based. An agreement, under the terms, conditions, or restrictions that the department considers proper, may provide that owners of *motor vehicles, trailers, semitrailers, or pole trailers* operated in interstate or combined interstate and intrastate commerce in this state be permitted to pay registration, license fees, taxes, or other fixed

fees on an apportionment basis, commensurate with and determined by the miles traveled on and the use made of the highways of this state as compared with the use made of the highways of other jurisdictions or any other equitable basis of apportionment. This agreement may not authorize or be construed to authorize a *motor vehicle, trailer, semitrailer, or pole trailer* so registered to be operated in intrastate commerce in this state unless the owner of the *motor vehicle, trailer, semitrailer, or pole trailer* has been granted intrastate authority or rights by the public service commission if a grant is otherwise required by law.

(2) The department of transportation may adopt rules that it considers necessary to carry out and administer this section, and the registration of fleet *motor vehicles, trailers, semitrailers, or pole trailers* under 61-3-711 through 61-3-733 is subject to the rights, terms, and conditions granted by or contained in any applicable agreement, arrangement, or declaration made by the department. The department of transportation shall adopt rules providing for a change of registration period for a fleet in a case in which the owner of the fleet requests that the registration period be changed to coincide with the registration period of one or more other fleets in the same ownership.”

**Section 137.** Section 61-3-717, MCA, is amended to read:

**“61-3-717. Declarations of extent of reciprocity.** In the absence of an agreement or arrangement with another jurisdiction, the department may examine the laws and requirements of the jurisdiction and declare the extent and nature of exemptions, benefits, and privileges to be extended to *motor vehicles, trailers, semitrailers, or pole trailers* properly registered or licensed in the other jurisdiction, or to the owners of the *motor vehicles, trailers, semitrailers, or pole trailers* which ~~that~~ are in the judgment of the department in the best interests and fair and equitable to this state and its citizens determined on the basis and recognition of the benefits ~~which that~~ accrue to the economy of this state from the uninterrupted flow of commerce.”

**Section 138.** Section 61-3-718, MCA, is amended to read:

**“61-3-718. Extension of reciprocal privileges to lessees authorized.** An agreement or arrangement entered into or a declaration issued under the authority of 61-3-711 through 61-3-733 may contain provisions under which a leased *motor vehicle, trailer, semitrailer, or pole trailer* properly registered by the lessor ~~thereof~~ may be entitled, subject to terms and conditions stated ~~therein~~ *in the agreement, arrangement, or declaration*, to the exemptions, benefits, and privileges extended by ~~such the~~ agreement, arrangement, or declaration.”

**Section 139.** Section 61-3-719, MCA, is amended to read:

**“61-3-719. Automatic reciprocity.** ~~On and after March 7, 1963, if no~~ *If an* agreement, arrangement, or declaration is *not* in effect with respect to another jurisdiction as authorized by 61-3-711 through 61-3-733, any *motor vehicle, trailer, semitrailer, or pole trailer* properly registered or licensed in ~~such other~~ *another* jurisdiction, and for which evidence of compliance is supplied, ~~shall~~ *must* receive, when operated in this state, the same exemptions, benefits, and privileges granted by ~~such the~~ other jurisdictions to *motor vehicles, trailers, semitrailers, or pole trailers* properly registered in this state. Reciprocity extended under this ~~subsection shall apply~~ *section applies* to commercial *motor vehicles, trailers, semitrailers, or pole trailers* only when engaged exclusively in interstate commerce.”

**Section 140.** Section 61-3-720, MCA, is amended to read:

**“61-3-720. Proportional registration not exclusive.** ~~Nothing contained in Sections 61-3-711 through 61-3-733 relating to proportional registration of fleet motor vehicles, trailers, semitrailers, or pole trailers shall~~ may not be construed as requiring any motor vehicle, trailer, semitrailer, or pole trailer to be proportionally registered if it is otherwise registered in this state for the operation in which it is engaged, including but not by way of limitation limited to regular registration, temporary registration, or trip permit or registration.”

**Section 141.** Section 61-3-721, MCA, is amended to read:

**“61-3-721. Proportional registration of fleet motor vehicles, registration periods, application, fee formula, and payment — transfer of ownership — transfer of license plates.** (1) An owner of one or more fleets may register and license each fleet for operation in this state by filing an application with the department of transportation. The application must contain the information pertinent to motor vehicle, trailer, semitrailer, or pole trailer registration that is required by the department of transportation.

(2) ~~Each~~ Except as provided in 61-3-318(1) and subsection (6) of this section, each fleet subject to the provisions of 61-3-711 through 61-3-733 must, ~~except as provided in 61-3-318(1) and subsection (6) of this section,~~ be registered for an annual registration period based upon the date that the fleet is first registered in this state.

(3) There are four annual registration periods, each of which begins on the first day of a calendar quarter. As used in this subsection, “calendar quarter” means the period of 3 consecutive months ending March 31, June 30, September 30, or December 31. The periods are:

- (a) January 1 through March 31.....1st period
- (b) April 1 through June 30 .....2nd period
- (c) July 1 through September 30 .....3rd period
- (d) October 1 through December 31 .....4th period

(4) Registration of a fleet of apportionable motor vehicles under subsection (2) must be renewed on or before the last day of the month for the designated annual registration period unless a different registration period has been authorized pursuant to 61-3-716(2). The department shall provide for simultaneous registration of multiple fleets of apportionable motor vehicles in common ownership.

(5) Except as provided in subsection (6), the application for each fleet may be accompanied by a fee payment computed by:

(a) dividing in-state miles by total fleet miles as defined in the applicable agreement, arrangement, or declaration entered into pursuant to 61-3-711 through 61-3-733;

(b) determining the total amount necessary to register each motor vehicle, trailer, semitrailer, or pole trailer in the fleet for which registration is requested, based on the regular annual registration fees prescribed by 61-3-321 and chapter 10, part 2, and the property taxes that are due on the fleet;

(c) multiplying the sum obtained under subsection (5)(b) by the fraction obtained under subsection (5)(a).

(6) (a) Each trailer, and semitrailer, and pole trailer fleet must be registered for a 5-year period based upon the date that the fleet is first registered in this state.

(b) Each trailer, ~~and~~ ~~semitrailer~~, *and pole trailer* in the fleet for which registration is requested must be assessed a registration fee ~~equal to five times the amount prescribed by 61-3-321 of \$82.50.~~

(c) Each trailer, ~~or~~ ~~semitrailer~~, *or pole trailer* must be issued a license plate, a distinctive sticker, or other suitable identification device valid for 5 years from the date of the original application or renewal application.

(d) Registration of a trailer, ~~or~~ ~~semitrailer~~, *or pole trailer* must be renewed on or before the last day of the month for the designated 5-year registration period.

(7) Upon the transfer of ownership of a trailer, ~~or~~ ~~semitrailer~~, *or pole trailer*, the registration of the trailer, ~~or~~ ~~semitrailer~~, *or pole trailer* expires and it is the duty of the transferor to immediately remove the license plates from the trailer or semitrailer.

(8) (a) If the transferor applies for the registration of another trailer, ~~or~~ ~~semitrailer~~, *or pole trailer* at any time during the remainder of the current registration period as shown on the original registration, the transferor may file an application with the department of transportation, accompanied by the original certificate of registration, for the transfer of the license plates. The application for transfer of the license plates must be made by the person or motor carrier in whose name the original license plates to the trailer, ~~or~~ ~~semitrailer~~, *or pole trailer* were issued. The use of the license plates is not legal until the proper transfer of license plates has been made.

(b) License plates may be transferred pursuant to this section without transferring ownership of the trailer, ~~or~~ ~~semitrailer~~, *or pole trailer* for which the license plates were originally issued.

(c) Upon transfer of the license plates, the registration of the trailer, ~~or~~ ~~semitrailer~~, *or pole trailer* from which the license plates were transferred expires. The registration for the trailer, ~~or~~ ~~semitrailer~~, *or pole trailer* must be surrendered to the department of transportation with the application for transfer.

(d) License plates issued for a trailer, ~~or~~ ~~semitrailer~~, *or pole trailer* under this section may be transferred only to a replacement trailer, ~~or~~ ~~semitrailer~~, *or pole trailer*. A license plate fee may not be assessed upon transfer of a license plate.

(9) Applications submitted with fees may be recomputed by the department of transportation. The department of transportation shall furnish a statement showing the overpayment or balance due.

(10) Applications submitted without fees must be computed by the department of transportation. The department of transportation shall furnish a statement showing the amount of fees due.”

**Section 142.** Section 61-3-722, MCA, is amended to read:

**“61-3-722. Registration and identification of proportionally registered motor vehicles — fees — effect of registration.** (1) The department shall register each proportionally registered *motor vehicle, trailer, semitrailer, or pole trailer* and issue a license plate or plates, a distinctive ~~sticker~~ *decal*, or other suitable identification device for each *motor vehicle, trailer, semitrailer, or pole trailer* described in the application upon payment of the appropriate fees and property taxes, as provided by law, for the application and for the license plates, ~~stickers~~ *decals*, or devices issued. A fee of \$2 must be paid

for each license plate, each ~~sticker~~ *decal*, and each device issued for each proportionally registered *motor vehicle, trailer, semitrailer, or pole trailer*. A fee of \$5 must be paid for each *motor vehicle, trailer, semitrailer, or pole trailer* receiving temporary registration as authorized by section 704 of the international registration plan of the American association of motor vehicle administrators, adopted in April 1988. A registration card must be issued for each proportionally registered *motor vehicle, trailer, semitrailer, or pole trailer*. The registration card must, in addition to other information required by chapter 3, show the number of the license, ~~sticker~~ *decal*, or other device issued for the proportionally registered *motor vehicle, trailer, semitrailer, or pole trailer* and must be carried in the *motor vehicle, trailer, semitrailer, or pole trailer* at all times.

(2) Fleet *motor vehicles, trailers, semitrailers, or pole trailers* registered and identified as fleet *motor vehicles* are considered fully licensed and registered in this state for any type of movement or operation, except that, in those instances in which a grant of authority is required for intrastate movement or operation, the *motor vehicle, trailer, semitrailer, or pole trailer* may not be operated in intrastate commerce in this state unless the owner has been granted intrastate authority by the public service commission and unless the *motor vehicle, trailer, semitrailer, or pole trailer* is being operated in conformity with that authority.”

**Section 143.** Section 61-3-723, MCA, is amended to read:

**“61-3-723. Proportional registration not applicable in a single jurisdiction.** The right to the privilege and benefits of proportional registration of fleet *motor vehicles, trailers, semitrailers, or pole trailers* extended by 61-3-711 through 61-3-733; or by any contract, agreement, arrangement, or declaration made under the authority ~~thereof of 61-3-711 through 61-3-733,~~ shall be is subject to the condition that each fleet *motor vehicle, trailer, semitrailer, or pole trailer* proportionally registered under the authority of 61-3-711 through 61-3-733 ~~shall~~ must also be proportionally or otherwise properly registered in at least one other jurisdiction during the period for which it is proportionally registered in this state.”

**Section 144.** Section 61-3-724, MCA, is amended to read:

**“61-3-724. Registration of additional fleet motor vehicles.** ~~Vehicles~~ *Motor vehicles, trailers, semitrailers, or pole trailers* acquired by the owner after the commencement of the registration period and subsequently added to a proportionally registered fleet must be proportionally registered by applying the mileage percentage used in the original application for the fleet for the registration period to the regular registration fees due with respect to the *motor vehicle, trailer, semitrailer, or pole trailer* for the remainder of the registration period.”

**Section 145.** Section 61-3-725, MCA, is amended to read:

**“61-3-725. Withdrawal of fleet motor vehicles — procedure, credits, and accounting.** (1) If a *motor vehicle, trailer, semitrailer, or pole trailer* is withdrawn from a proportionally registered fleet during the period for which it is registered, the owner of the fleet shall notify the department of transportation of that fact on forms prescribed by the department. The department may require the owner to surrender proportional registration cards and other identification devices that have been issued with respect to that *motor vehicle, trailer, semitrailer, or pole trailer*. If a *motor vehicle, trailer, semitrailer, or pole trailer* is permanently withdrawn from a proportionally registered fleet because it has been destroyed, sold, or otherwise completely removed from the service of the

registrant, the unused portion of the gross vehicle weight fees paid with respect to that *motor vehicle, trailer, semitrailer, or pole trailer* must be credited to the proportional registration account of the owner. This unused portion equals the amount paid with respect to the *motor vehicle, trailer, semitrailer, or pole trailer* when it was first proportionally registered in the registration period, reduced by one-twelfth of the total annual gross vehicle weight fee of the *motor vehicle, trailer, semitrailer, or pole trailer* for each calendar month and fraction of a month elapsing between the first day of the month of the current period in which the *motor vehicle, trailer, semitrailer, or pole trailer* was registered and the date the notice of withdrawal is received by the department. This credit must be applied against liability for additional fees due during the registration period or for additional fees due upon audit under 61-3-728. If a credit is less than \$5, it may not be made or entered. ~~In no event~~ *A credit may the amount may not be credited taken* against fees other than those for the registration period, ~~nor may any amount be~~ *and is not* subject to refund.

(2) If the owner replaces a *motor vehicle, trailer, semitrailer, or pole trailer* withdrawn from the fleet at the same time as the withdrawal and the replacement *motor vehicle, trailer, semitrailer, or pole trailer* is of the same or of a lesser weight category than the one withdrawn, the gross vehicle weight fees are transferable to the replacement *motor vehicle, trailer, semitrailer, or pole trailer*. If the transfer is to a smaller *motor vehicle, trailer, semitrailer, or pole trailer*, a credit may not be given or entered.”

**Section 146.** Section 61-3-727, MCA, is amended to read:

**“61-3-727. Fleet registration — denial when no reciprocity.** The department may refuse to accept proportional registration applications for the registration of *motor vehicles, trailers, semitrailers, or pole trailers* based in *another jurisdiction* or owned by residents of *another jurisdiction* if the department finds that the other jurisdiction does not grant similar registration privileges to fleet *motor vehicles, trailers, semitrailers, or pole trailers* based in or owned by residents of this state.”

**Section 147.** Section 61-3-728, MCA, is amended to read:

**“61-3-728. Preservation of proportional registration records.** An owner whose application for proportional registration has been accepted shall preserve the records on which the application is based for a period of 4 years following the year or period upon which the application is based. Upon request of the department, the owner shall make these records available to the department for audit as to accuracy of computations and payments or pay the reasonable costs of an audit at the owner’s home office by an appointed representative of the department. The department may make arrangements with agencies of other jurisdictions administering *motor vehicle, trailer, semitrailer, or pole trailer* registration laws for joint audits of the owner.”

**Section 148.** Section 61-3-729, MCA, is amended to read:

**“61-3-729. Relation to other state laws.** The provisions of 61-3-711 through 61-3-733 ~~shall constitute complete~~ *are* authority for the registration of fleet *motor vehicles, trailers, semitrailers, or pole trailers* upon a proportional registration basis without reference to or application of any other statutes of this state ~~except as in this section expressly provided.~~”

**Section 149.** Section 61-3-730, MCA, is amended to read:

**“61-3-730. Suspension of reciprocity benefits.** The department may suspend or cancel the exemptions, benefits, or privileges granted under

61-3-711 through 61-3-733 to a person who violates any of the conditions or terms of the agreements, arrangements, or declarations, or violates the laws of this state relating to motor vehicles, *trailers, semitrailers, or pole trailers*; or rules lawfully adopted thereunder *under those laws.*”

**Section 150.** Section 61-3-732, MCA, is amended to read:

**“61-3-732. Continued validity of existing reciprocity agreements.** All reciprocity and proportional registration agreements, arrangements, and declarations relating to *motor vehicles, trailers, semitrailers, or pole trailers* in force and effect as of March 7, 1963, shall continue in force and effect until specifically amended or revoked as provided by law or by ~~such~~ *the agreements, or arrangements, or declarations.*”

**Section 151.** Section 61-3-733, MCA, is amended to read:

**“61-3-733. Law Laws supplemental to motor vehicle, trailer, semitrailer, or pole trailer registration law laws.** Sections 61-3-711 through 61-3-732 are supplemental to the motor vehicle, *trailer, semitrailer, or pole trailer registration law laws* of this state.”

**Section 152.** Section 61-3-736, MCA, is amended to read:

**“61-3-736. Assessment of proportionally registered interstate motor vehicle fleets — payment of fees required for registration.** (1) (a) The department of transportation shall determine the fee for the purpose of imposing the fee in lieu of tax as provided in ~~61-3-528 and~~ 61-3-529 on buses, trucks having a manufacturer’s rated capacity of more than 1 ton, and truck tractors and the light vehicle registration fee under ~~61-3-560 and 61-3-561~~ 61-3-321(2) on light vehicles in interstate motor vehicle fleets that are proportionally registered under the provisions of 61-3-711 through 61-3-733. The fee must be apportioned on the ratio of total miles traveled to in-state miles traveled as prescribed by 61-3-721. The fee in lieu of tax or registration fee on interstate motor vehicle, *trailer, semitrailer, or pole trailer* fleets is imposed upon application for proportional registration and must be paid by the persons who own or claim the fleet or in whose possession or control the fleet is at the time of the application.

(b) With respect to an original application for a fleet that has a situs in Montana for the purpose of the fee in lieu of tax or registration fee under this part or any other provision of the laws of Montana, the fee in lieu of tax or registration fee on fleet *motor vehicles, trailers, semitrailers, or pole trailers* must be prorated according to the ratio that the remaining number of months in the year bears to the total number of months in the year.

(c) ~~Vehicles~~ *Motor vehicles* subject to the light vehicle registration fee as part of a fleet under this subsection (1) are not subject to the local option *motor* vehicle tax or flat fee imposed under 61-3-537 or 61-3-570.

(2) With respect to a renewal application for a fleet, the fee in lieu of tax and the light vehicle registration fee are imposed for a full year. The department of transportation shall prorate the new fee in lieu of tax in 61-3-529 for motor vehicles, *trailers, semitrailers, or pole trailers* that are proportionally registered, as provided in 61-3-721, and whose annual registration period does not coincide with the calendar year.

(3) ~~Vehicles~~ *Motor vehicles, trailers, semitrailers, or pole trailers* contained in a fleet for which current fees have been assessed and paid may not be assessed or charged fees under this section upon presentation to the department of proof of payment of fees for the current registration year. The payment of fleet *motor*

vehicle, *trailer, semitrailer, or pole trailer* fees in lieu of tax, light vehicle registration fees, and license fees is a condition precedent to proportional registration or reregistration of an interstate motor vehicle, *trailer, semitrailer, or pole trailer* fleet.

(4) All fees collected on motor vehicle, *trailer, semitrailer, or pole trailer* fleets under this chapter must be deposited and distributed as provided in 61-3-738.”

**Section 153.** Section 61-3-737, MCA, is amended to read:

**“61-3-737. Situs in state of proportionally registered fleets — collection of fees.** (1) For the purposes of this part, any *motor* vehicle previously registered or that has had application for registration made under the provisions of 61-3-711 through 61-3-733 has a situs in Montana for the purposes of the light vehicle registration fee or the fee in lieu of tax.

(2) The department of transportation shall collect the fleet *motor* vehicle, *trailer, semitrailer, or pole trailer* registration fees, fees in lieu of tax, and license fees prescribed in this part.”

**Section 154.** Section 61-4-101, MCA, is amended to read:

**“61-4-101. Dealer’s license — types of licenses and terms — plates — bonds — zoning.** (1) Except as provided in 61-4-125, a person may not engage in the business of buying, selling, exchanging, accepting on consignment, or acting as a broker of a new motor vehicle or used motor vehicle, new or used recreational vehicle, *motor home*, trailer (except a trailer having an unloaded weight of less than 500 pounds), *travel trailer, semitrailer, pole trailer*, motorcycle, quadricycle, or special mobile equipment that is not registered in the person’s name; unless the person is the holder of a dealer’s license issued by the department under this part.

(2) (a) The department is authorized to issue a dealer’s license for one or more specified vehicle types to any person it determines is qualified to hold a license under the provisions of this section. A dealer’s license may be issued for; and restricted to; one or more of the following vehicle types:

- (i) new motor vehicle;
- (ii) used motor vehicle;
- (iii) new recreational vehicle, *motor home, or travel trailer*;
- (iv) used recreational vehicle, *motor home, or travel trailer*;
- (v) trailer, *semitrailer, pole trailer*, or special mobile equipment; or
- (vi) motorcycle or quadricycle.

(b) The department shall design and issue dealer and demonstrator plates as provided in 61-4-102 and 61-4-129.

(c) With the exception of a licensed new motor vehicle dealer, a dealer licensed for a particular type of vehicle may sell, trade, or accept on consignment only vehicles of the type for which the license is authorized; unless the dealer’s license specifically refers to more than one vehicle type, such as a motorcycle or quadricycle license. A new motor vehicle dealer is authorized to sell, trade, or accept on consignment new motor vehicles or used motor vehicles.

(d) Subject to the provisions of 61-4-124, a dealer’s license issued by the department is valid until:

- (i) voluntarily returned to the department for surrender and cancellation upon the cessation of the dealer’s business operations; or

(ii) suspended or revoked for a violation of this chapter or any other laws relating to the sale of motor vehicles.

(3) (a) An applicant for a dealer's license shall submit a written application for a dealer's license to the department, specifying the type or types of dealer's license sought. The application must be signed by the applicant and contain a verification by the applicant, under penalty of law, that the information contained in the application is true and correct. Any information provided in the license application process is subject to independent verification by the department or an authorized representative of the department.

(b) After examining a license application and conducting an investigation necessary to verify the information contained in the application and if the department is satisfied that the applicant qualifies for the issuance of a license under the provisions of this chapter, the department may issue the license. The department may refuse, after examination and investigation, to issue a license to an applicant who is not qualified for licensure or whose prior financial or other activities or criminal record, as determined by the department:

(i) poses a threat to the effective regulation of dealers, wholesalers, or auto auctions;

(ii) poses a threat to the public interest of the state; or

(iii) creates a danger of illegal or deceptive practices being used in the conduct of the proposed dealership, wholesaler, or auto auction.

(4) To be qualified for licensure as a dealer, an applicant shall provide to the department the following:

(a) the name under which the applicant intends to conduct business and the name, address, date of birth, and social security number of any person who possesses or will possess an ownership interest in the business for which the license is sought. If the applicant is a corporation, the personal information required in this subsection (4)(a) must be provided for each corporate officer and the person designated by the corporation to manage or oversee the dealership.

(b) for each person subject to the provisions of subsection (4)(a), information concerning whether the person has:

(i) an ownership interest in a vehicle dealership or a wholesaler business in Montana or another jurisdiction and, if so, the name and address of each dealership or wholesaler; and

(ii) been found guilty of, or pleaded guilty to, a felony in this or any other jurisdiction and, if so, shall provide a summary of the conduct resulting in the felony charge, including the dates of the conduct and any court proceedings pertaining to the conduct and the name and address of any court in which the matter was heard;

(c) the name, address, and telephone number of the insurance carrier from whom the applicant has acquired general liability insurance, naming the department as a certificate holder of the policy, and the name, address, and telephone number of the local insurance agent for the carrier and the applicant's policy number. The insurance must cover any vehicle bearing dealer or demonstrator license plates that is offered for demonstration or loan to, a customer or otherwise operated by, a customer in the regular course of the applicant's business and must be for a minimum of 1 year;

(d) the geographic location of the physical lot or lots upon which vehicles will be displayed for sale and of a permanent nonresidential building that will be

maintained to store the actual physical or electronic records resulting from the purchase, sale, trade, or consignment of vehicles for which licensure is sought. An applicant may use more than one location to display vehicles for sale if the maximum distance between each display lot does not exceed 200 feet and if the distance between a display lot and the building in which vehicle sales records are stored does not exceed 1,000 feet.

(e) for each geographic location specified in the application, evidence of the applicant's compliance with applicable local land use planning, zoning, and business permitting requirements, if any. Evidence of compliance may be documented by means of a written verification of compliance signed by the authorized representative of the local land use planning or zoning board or the local ~~business-permitting~~ *business-permitting* agency.

(f) a diagram or plat showing the geographic location, lot dimensions, and building and sign placement for the applicant's proposed established place of business, along with two or more photographs of the geographic location, building premises, and sign, as prescribed by the department;

(g) a certification by the applicant that the applicant is a bona fide dealer in new motor vehicles, used motor vehicles, used recreational vehicles, *motor homes, travel trailers, trailers, semitrailers, pole trailers*, motorcycles, quadricycles, or special mobile equipment;

(h) if the applicant is seeking a new motor vehicle dealer's license:

(i) the name and address of the manufacturer, importer, or distributor with whom the applicant has a written new motor vehicle franchise or sales agreement and the name and make of all motor vehicles to be handled by the applicant;

(ii) the geographic location or locations, specified in writing, upon which the applicant will provide and maintain a permanent building to display and sell new motor vehicles and offer and maintain a bona fide service department for the repair, service, and maintenance of the motor vehicles; and

(iii) verification that the applicant otherwise meets the requirements of part 2 of this chapter; and

(i) if the applicant is applying for a new recreational vehicle dealer's license, *new travel trailer dealer's license, or new motor home dealer's license*, certification that the person is recognized by a manufacturer, importer, or distributor as a dealer in new recreational vehicles, *new motor homes, or new travel trailers*.

(5) If an applicant for a new motor vehicle or used motor vehicle, new or used recreational vehicle, *new or used motor home, new or used travel trailer*, or trailer dealer's license wants to maintain more than one established place of business, the applicant shall file a separate license application for each proposed place of business and otherwise qualify for licensure at each place separately.

(6) Each application under this section must be accompanied by an application fee of \$5 and one or more of the following license fees based on the type of dealer's license being sought:

(a) \$25 for a new motor vehicle dealer's license;

(b) \$25 for a used motor vehicle dealer's license;

(c) \$25 for a new or used recreational vehicle, *motor home, or travel trailer* dealer's license; or

(d) \$25 for a motorcycle or trailer, *semitrailer*, or *pole trailer* dealer's license.

(7) The applicant for a dealer's license shall also file with the application a bond of \$50,000 for a license as a new motor vehicle dealer, a used motor vehicle dealer, a new or used recreational vehicle, *motor home*, or *travel trailer* dealer, or a trailer dealer. Applicants for a motorcycle dealer's license shall file a bond in the sum of \$15,000. All bonds must be conditioned that the applicant shall conduct the business in accordance with the requirements of the law. The bond may extend to any other type of dealer license issued to the applicant at the same geographic location if all types of licenses are indicated on the face of the bond. All bonds must be approved by the department, must be filed in its office, and must be renewed annually."

**Section 155.** Section 61-4-102, MCA, is amended to read:

**"61-4-102. Dealer's license numbers — assignment, numbering, and limitation of dealer plates — restriction of use — fees.** (1) Upon the licensing of a dealer, the department shall assign to the dealer a distinctive serial license number as a dealer and furnish the dealer with one or more sets of numbered dealer plates in accordance with the provisions of this section.

(2) (a) Dealer plates designed by the department must be similar to the numbered plates furnished to owners of motor vehicles under 61-3-332, but they must bear:

(i) the license number assigned to the dealer;

(ii) an abbreviation for the vehicle type of the dealer's license issued, as follows:

(A) the letter "D" for a new motor vehicle dealer;

(B) the letters "UD" for a used motor vehicle dealer; or

(C) the letters "RV" for a new or used recreational vehicle, *motor home*, or *travel trailer* dealer; and

(iii) the actual number of sets of dealer plates issued to the dealer.

(b) Dealer plates may not be issued to a motorcycle or trailer dealer or a wholesaler.

(3) Dealer plates must contain the prefix of the county in which the dealer's established place of business is located, followed by the dealer's license type abbreviation, the dealer's license number, and the number of sets of dealer plates issued to that dealer. For example, new motor vehicle dealer number 4 in Lewis and Clark County would be numbered 5D-4, and if the dealer were issued three sets of dealer plates, they would be numbered consecutively as follows, 5D-4-1, 5D-4-2, and 5D-4-3.

(4) (a) In addition to the fees required under the provisions of 61-4-101 and 61-4-124, an applicant for a dealer's license shall pay an annual fee of \$25 for each set of numbered dealer plates requested and issued.

(b) The number of dealer plates that may be issued to a dealer must be determined as follows:

(i) a dealer is entitled to one set of dealer plates upon the issuance of an original license or a renewed license;

(ii) an applicant qualified for a license renewal is entitled to additional sets of numbered plates based on the following formula:

(A) 5% of the first 100 *motor* vehicle sales for the previous year; plus

(B) 3% of the next 100 *motor* vehicle sales for the previous year; plus

(C) 2% of *motor* vehicle sales in excess of 200 for the previous year; and

(iii) a dealer is entitled to additional sets of dealer plates during a license term as the dealer's sales incrementally meet or exceed the requirements of the formula established in subsection (4)(b)(ii). However, the aggregate number of sets of dealer plates issued to a dealer under this subsection (4)(b)(iii) may not exceed the combined number allowed under subsections (4)(b)(i) and (4)(b)(ii).

(5) (a) A dealer is authorized to use and display dealer plates on a motor vehicle held for bona fide sale by the dealer and that is operated by or under the control of the dealer, the dealer's spouse, officers, or employees.

(b) For purposes of this subsection (5):

(i) the term "officers" includes only the persons listed on the manufacturer's franchise agreement or the importer's distribution agreement and the term "employees" means persons upon whom the dealer has paid social security taxes as a full-time employee; and

(ii) the display of a Monroney label or a buyer's guide label, as required by 61-4-123(2), on a *motor* vehicle bearing dealer plates is prima facie evidence that the *motor* vehicle is offered for bona fide sale by the dealer.

(6) Dealer plates may not be used or displayed on *motor* vehicles used for hire, lease, or rental.

(7) (a) A dealer is accountable for each set of numbered dealer plates issued and, except as provided in subsection (7)(b), shall file an annual report with the department certifying the disposition of each set of dealer plates assigned to the dealer and specifying the name, address, and occupation of the person primarily using each set of plates.

(b) Upon reassignment of one or more sets of dealer plates to another person, within 15 days of the reassignment, the dealer shall notify the department, in a manner prescribed by the department, of the name, address, and occupation of the person to whom the plates were assigned.

(8) (a) All numbered dealer plates expire on December 31 of the year of issue and must be renewed annually.

(b) A dealer who files the annual report required under 61-4-124 on or before December 31 of the calendar year may display or use dealer plates assigned and registered for the prior calendar year through the last day of February of the following year, as provided in 61-4-124(5)."

**Section 156.** Section 61-4-104, MCA, is amended to read:

**"61-4-104. Record of purchase or sale.** (1) (a) A dealer or wholesaler licensed under 61-4-101 shall keep a book or record of the purchases, sales or exchanges, or receipts for the purpose of sale of used vehicles and a description of the vehicles, together with the date of purchase, sale, or consignment and the name and address of:

(i) the person from whom the dealer or wholesaler acquired the vehicle's ownership or, if consigned, possessory interest in the vehicle;

(ii) the person to whom the dealer or wholesaler assigned the vehicle; and

(iii) a secured party with a perfected security interest in the vehicle to which the dealer or wholesaler's interest is subordinate, if any.

(b) The vehicle description must also include the vehicle identification number and engine number, if any, and must include a statement that a number has been obliterated, defaced, or changed if that has occurred. In the case of a trailer, semitrailer, *pole trailer*, or special mobile equipment, the record must include the manufacturer's number and other numbers or identification marks that appear on the trailer, semitrailer, *pole trailer*, or special mobile equipment.

(2) The dealer or wholesaler must also have an assigned certificate of ownership or certificate of title from the owner of the motor vehicle to the dealer or wholesaler from the time the motor vehicle is delivered to the dealer or wholesaler until it has been disposed of by the dealer or wholesaler. It is a violation of this part for a dealer or wholesaler to fail to take assignment of all certificates of ownership, certificates of title, or manufacturer's certificates of origin for *motor* vehicles acquired by the licensee or to fail to assign the certificate of ownership, certificate of title, or manufacturer's certificate of origin for *motor* vehicles sold.

(3) All records required to be kept in accordance with this section, in addition to the required retention of odometer disclosure information under 61-3-206(4), must be physically located and maintained within the building referred to in 61-4-101. An authorized representative of the department, upon presentation of the representative's credentials, may inspect and have access to and copy any records required under this chapter."

**Section 157.** Section 61-4-109, MCA, is amended to read:

**"61-4-109. Privileges incident to license — withdrawal upon certain conditions.** (1) The privileges of a dealer licensed under the provisions of this part to use and display a set of dealer plates or a demonstrator plate on a motor vehicle held for sale by the dealer and to issue a 20-day permit, under the authority of 61-4-111 or 61-4-112, upon the sale of a *motor* vehicle by the dealer are specifically conditioned on the dealer's satisfaction of the bond requirements of 61-4-101(7) and the general liability insurance coverage requirements of 61-4-123, without interruption or lapse.

(2) If the department is notified or determines that a dealer's bond or general liability insurance has lapsed or been canceled, all dealer plates, demonstrator plates, and 20-day permits assigned or issued to the dealer are subject to immediate withdrawal and confiscation, upon demand, by the department or by a compliance specialist on behalf of the department and may not be returned to the dealer until the bond and general liability insurance requirements have been satisfied.

(3) A dealer whose privileges are withdrawn under this section may otherwise engage in the dealer's business operations during the period of withdrawal.

(4) If the lapse of bond or general liability insurance is not corrected with 30 days, the department may initiate administrative action to suspend or revoke the dealer's license under 61-4-105(2)."

**Section 158.** Section 61-4-110, MCA, is amended to read:

**"61-4-110. Obligation of dealer to pay off liens on motor vehicles accepted in trade or consignment — duties of dealer and secured party.** (1) (a) If a dealer accepts a *motor* vehicle in trade from a retail customer as part of the sale of another *motor* vehicle and there is an outstanding loan balance owing on the traded *motor* vehicle, the dealer shall remit payment to the secured party to whom the balance on the traded *motor* vehicle is owed in an amount sufficient

to satisfy the perfected security interest on the traded *motor* vehicle by the earlier of the following dates:

- (i) 21 days from the date of acceptance of the *motor* vehicle in trade; or
- (ii) 15 days from the date of the receipt by the dealer of payment in full from the sale of the traded *motor* vehicle.

(b) If a dealer accepts a *motor* vehicle from an owner for sale upon consignment and there is an outstanding loan balance owing on the consigned *motor* vehicle, the dealer shall remit payment to the secured party to whom the balance on the consigned *motor* vehicle is owed in an amount sufficient to satisfy the perfected security interest on the consigned *motor* vehicle within 15 days from the date of the receipt by the dealer of payment in full for sale of the consigned *motor* vehicle.

(2) A secured party who has been paid in full by a dealer in accordance with the terms of this section shall forward to the department a properly executed release within:

(a) 15 business days after the business day on which the funds are received when the funds are in cash, cashier's check, certified check, teller's check, or other certified source of funds;

(b) 18 business days after the business day on which the funds are received when the funds are in the form of a check drawn on a local originating depository institution; or

(c) 21 business days after the business day on which the funds are received when the funds are in the form of a check drawn on a nonlocal originating depository institution.

(3) For purposes of this section, "business day" means a weekday, excluding any weekday upon which a legal holiday falls."

**Section 159.** Section 61-4-111, MCA, is amended to read:

**"61-4-111. Used motor vehicles — transfer to and from dealers.** (1) Except as provided in 61-4-124(6), a licensed dealer, broker, or wholesaler who intends to resell a used motor vehicle *or trailer* and who operates the *motor* vehicle *or trailer* only for demonstration purposes:

(a) is exempt from registration under 61-3-201(2) when applying for a certificate of title; and

(b) may transfer or receive ownership of a motor vehicle *or trailer* by use of a dealer reassignment section on a certificate of title. However, when the allotted number of dealer reassignment sections on a certificate of title has been completed, ownership of the *motor* vehicle *or trailer* may not be transferred until an application for a certificate of title has been submitted by the dealer to the department and a new certificate of title has been issued.

(2) Upon the transfer of a used motor vehicle *or trailer* to a person other than a licensed dealer, broker, or wholesaler, the following acts are required of the dealer on or before the times set forth in this subsection:

(a) Prior to delivery of the *motor* vehicle *or trailer* to the purchaser, the dealer shall issue a temporary registration permit for the *motor* vehicle *or trailer* and affix the temporary registration permit to the *motor* vehicle *or trailer* in a manner prescribed by the department. The temporary registration permit issued by the dealer is valid for 20 days from the date of issuance. There must be imprinted on the temporary registration permit in bold letters the following

statement: "IT IS UNLAWFUL TO PLACE LICENSE PLATES UPON THIS *MOTOR VEHICLE (OR TRAILER)* UNTIL REGISTERED AT THE OFFICE OF THE COUNTY TREASURER". Unless a durable license plate style placard is issued, one copy of the temporary registration permit must be delivered by the dealer to the county treasurer in the manner prescribed in subsection (2)(b); and a copy must be retained by the dealer for the dealer's file. If a durable placard is issued, the dealer shall create and retain the relevant records as prescribed by the department. It is unlawful for the dealer to issue more than one 20-day temporary registration permit for each *motor vehicle or trailer* sale.

(b) Within 4 working days following the date of delivery of the *motor vehicle or trailer*, the dealer shall forward to the county treasurer of the county where the purchaser resides:

(i) the assigned certificate of title or, if a certificate of title for the *motor vehicle or trailer* has not been issued in this state, a copy of the then-current registration receipt or certificate in the dealer's possession;

(ii) an application for a certificate of title executed by the new owner in accordance with the provisions of 61-3-221 and 61-3-322; and

(iii) a copy of the temporary registration permit affixed to the *motor vehicle or trailer* by the dealer.

(c) Transmission of the documents by the dealer to the county treasurer may be accomplished either by personal delivery or by first-class mail, in which event they are considered to have been delivered at the time of mailing.

(d) If the dealer is unable to forward the certificate of title or, if applicable, registration receipt within the time set forth in subsection (2)(b) because the certificate of title *or registration receipt* is lost, is in the possession of third parties, or is in the process of reissuance in this state or elsewhere, the dealer shall comply in all other respects with the provisions of subsection (2)(b) and shall forward the missing document or documents to the county treasurer, either personally or by first-class mail, within 3 days after receipt.

(3) Upon compliance by the dealer with the requirements in this section, title to the *motor vehicle or trailer* is considered to have passed to the purchaser as of the date of the delivery of the *motor vehicle or trailer* to the purchaser by the dealer; and the dealer has no further liability or responsibility with respect to the processing of registration.

(4) Upon receipt from the county treasurer of the documents required under subsection (2), the department shall:

(a) update the electronic record of the title maintained by the department under 61-3-101; or

(b) issue a certificate of title if requested under 61-3-216(2)(f); and

(c) comply with the applicable provisions of Title 61, chapter 3, parts 1 through 3.

~~(5) For purposes of this section, "motor vehicle" includes a trailer as defined in 61-1-111.~~

**Section 160.** Section 61-4-112, MCA, is amended to read:

**"61-4-112. New motor vehicles — transfers by dealers.** (1) When a motor vehicle dealer transfers a new motor vehicle to a purchaser or other recipient, the dealer shall:

(a) issue and affix a temporary registration permit, as prescribed in 61-4-111(2)(a), for transfers of used motor vehicles and retain a copy of the temporary registration permit or, if a durable license-plate style placard is issued, affix the placard and create and retain all other relevant records prescribed by the department;

(b) within 4 working days following the date of delivery of the new motor vehicle, forward to the county treasurer of the county where the purchaser or recipient resides:

(i) one copy of the temporary registration permit issued under subsection (1)(a) or a copy of the information described in the records concerning a placard;

(ii) an application for a certificate of title with a notice of security interest, if any, executed by the purchaser or recipient; and

(iii) a manufacturer's certificate of origin that shows that the *motor* vehicle has not previously been registered or owned, except as otherwise provided in this section, by any person other than a new motor vehicle dealer holding a franchise or distribution agreement from a new car manufacturer, distributor, or importer.

(2) Upon receipt from the county treasurer of the documents required under subsection (1), the department shall issue a certificate of title if requested under 61-3-216(2)(f) and otherwise comply with the provisions of Title 61, chapter 3, parts 1 through 3, as applicable."

**Section 161.** Section 61-4-113, MCA, is amended to read:

**"61-4-113. New motor vehicles towed into state to be labeled.** (1) Any firm, person, corporation, or association or any of ~~their~~ *its* employees offering for sale or carrying on the business of selling new motor vehicles in the state of Montana ~~shall be~~ *is* required to prominently label any motor vehicle ~~which that~~ has been driven under its own power, pushed, towed, or propelled by any other means to sufficiently identify it from other new *motor* vehicles that have not been driven, pushed, or towed and ~~shall be~~ *is* required to furnish the purchaser of ~~any such~~ *the* motor vehicle with a certificate, on a printed form to be furnished by the department upon request by ~~such~~ *the* dealers, showing the actual number of miles the motor vehicle has been driven under its own power and the number of miles the *motor* vehicle has been pushed, towed, or otherwise propelled upon its own wheels. Any firm, person, corporation, or association or any of ~~their~~ *its* employees who ~~fails~~ *fail* to prominently label and issue the certificate or who knowingly issue a certificate that is untrue and calculated to mislead the purchaser ~~is~~ *are* guilty of a misdemeanor.

(2) The provisions of this section do not apply to motor vehicles during the period of time that ~~such~~ *the* motor vehicles are used for bona fide demonstrating purposes."

**Section 162.** Section 61-4-120, MCA, is amended to read:

**"61-4-120. Application for auto auction license — general regulations.** (1) A person that takes possession of a motor vehicle owned by another person through consignment, bailment, or any other arrangement for the purpose of selling the motor vehicle to the highest bidder when all buyers are licensed motor vehicle dealers, wholesalers, or wrecking facilities shall file by mail or otherwise in the office of the department a verified application for licensure as an auto auction. The application must be made in the following manner:

(a) Each application and all of the information contained in it must be verified by the department or an authorized representative of the department on a form to be furnished by the department for that purpose. The application must provide the following information:

(i) the name in which the business is to be conducted and the location of premises, including street address, city, county, and state, where records are kept, sales are made, and motor vehicle stock is displayed as an established place of business that displays a sign indicating the firm name and that *motor* vehicles are offered for sale. The letters on the sign must be clearly visible and readable to the major avenue of traffic at a minimum distance of 150 feet.

(ii) the name and address of all owners or persons having an interest in the business. In the case of a corporation, the names and addresses of the president and secretary are sufficient.

(iii) a statement that the applicant is authorized to auction used motor vehicles, recreational vehicles, trailers, semitrailers, special mobile equipment, motorcycles, and quadricycles under one license. A licensed auto auction may not auction a new motor vehicle except when authorized by a new motor vehicle manufacturer, importer, distributor, or representative, for the purpose of conducting a closed-factory fleet sale to dispose of new motor vehicles by the franchisor (manufacturer, distributor, or importer) to franchisee purchasers when the purchasers are licensed new motor vehicle dealers purchasing new motor vehicle line-makes authorized by their respective franchise, sales, or distributor agreements. An auto auction licensed under the provisions of this section shall notify and update the department with current fleet sale agreements between the auto auction and franchisor. An auto auction may not conduct a factory fleet sale unless authorized or appointed by a franchisor licensed under part 2 of this chapter.

(b) Each application must be accompanied by a bond of \$50,000 and must be conditioned that the applicant shall conduct business in accordance with the requirements of the law. All bonds must run to the state of Montana, must be approved by the department and filed in its office, and must be renewed annually.

(2) An auto auction's license must be renewed and paid for annually to the department, and an application for relicensure must be filed by January 1 of each year. The fee required for each first-time applicant is \$500 and for subsequent renewal applications is \$100 each year. Upon receipt of a properly completed application, fee, and bond, the department shall issue the auto auction license and assign an auto auction license number for each applicant in a manner determined by the department. Auto auctions dealing in motor vehicles may sell only to licensed dealers and wholesalers.

(3) Auto auctions that are licensed under this section and that hold a current license number may issue temporary registration permits, which may be displayed and used by a buyer to operate an unregistered *motor* vehicle purchased from the auto auction. The temporary registration permit is valid for a period of 72 hours from the time of purchase and may be used only for the purpose of driving or transporting a *motor* vehicle from the auction premises to the purchaser's established place of business or point of destination. Temporary registration permits must be on a form prescribed by the department and must contain the name, address, and license number of the purchaser, the date of sale, the name, address, license number, and authorized signature of the auto auction, and a description of the *motor* vehicle, including its serial number. The

department shall collect a fee of \$10 from the auto auction for each temporary registration permit, and the auto auction may charge a *motor* vehicle purchaser no more than \$10 for the issuance of each temporary registration permit to offset the cost of the temporary registration permit. It is unlawful for the auto auction to issue more than one temporary registration permit for each *motor* vehicle sale.

(4) A licensed auto auction may apply for and may be authorized by the department to purchase and use license plates of a type and amount approved by the department, upon payment of a fee to the department to offset the cost of production. Licensed auto auctions may use the license plates to transport inventory *motor* vehicles to and from a point of storage or a point of delivery in this state and to and from the auto auction's place of business, for road testing authorized *motor* vehicles, or for moving *motor* vehicles for purposes of repairing, painting, upholstering, polishing, and related activities. One license plate is required to be conspicuously displayed on the rear of the *motor* vehicle. Auto auctions may appoint designated persons, service stations, or repair garages to use the license plate only when conducting work for the auto auction involving repairing, painting, upholstering, polishing, or performing similar types of work upon a *motor* vehicle. Upon application for an auto auction license, the applicant, if requesting the license plates, shall submit a sworn affidavit on a form prescribed by the department, listing each authorized person designated by the auction to use the license plates. The auto auction is responsible for reporting any changes to the affidavit within 72 hours after the amendment has occurred. An auto auction licensed under the provisions of this section is liable for the proper use of the license plates, which may not be used for private purposes. The department may revoke an auto auction's 72-hour temporary registration permit and license plate privileges if an auction issues, authorizes the use of, or uses a temporary registration permit or the license plate in violation of the provisions of this section.

(5) (a) Each auto auction shall keep a book or record, in a form and manner subject to approval by the department, of the purchases, sales, or exchanges or the receipts for the purpose of sale of any motor vehicle, a properly completed copy of a temporary registration permit issued to a *motor* vehicle purchaser, the date of title transfer, and a description of the motor vehicle, together with the name and address of the seller, the purchaser, and the alleged owner or other person from whom the motor vehicle was purchased or received or to whom it was sold or delivered. The description in the case of a motor vehicle must include:

- (i) the vehicle identification number and engine number, if any; and
- (ii) a statement that a number has been obliterated, defaced, or changed, if it has.

(b) An auto auction licensed under this section shall validate the sale of a motor vehicle through its auction by stamping its name and license number upon the certificate of title at a location on the certificate of title, at the margin in the assignment section as executed between the transferor and transferee. An auto auction's stamp must be legible and may not interfere with the information recorded on the certificate of title between the transferor and transferee. If the certificate of title lacks adequate space for the auto auction to place its stamp, the auction may provide the transferee a copy of the auction invoice bearing the:

- (i) name and license number of the auction, along with an indication of the *motor* vehicle year, make, model, and identification number;

- (ii) name, address, and signature of the transferor;
- (iii) name, license number, and signature of the transferee; and
- (iv) date the *motor* vehicle was sold through the auction.

(c) The invoice must be attached to the certificate of title and must be presented to the department with any application for title.

(d) An auto auction shall retain, for 5 years, odometer disclosure information, including the name of the owner on the date the auto auction took possession of the motor vehicle, the name of the buyer, the vehicle identification number, and the odometer reading on the date the auto auction took possession of the motor vehicle. The odometer information may be retained in any way that is systematically retrievable and is not required to be maintained on any special disclosure form. The information may be part of the auction receipt or invoice or be maintained as a portion of a computer database or manual file. An auto auction that executes a transfer of ownership as an agent on behalf of a seller or buyer is liable for providing an odometer disclosure statement for the seller or an odometer disclosure acknowledgment for the buyer under the provisions of 61-3-206.”

**Section 163.** Section 61-4-121, MCA, is amended to read:

**“61-4-121. Twenty-day temporary registration permit — limitation on issuance and transfer — violation — penalty.** (1) (a) A dealer may not issue more than one 20-day temporary registration permit under 61-4-111 or 61-4-112 for each *motor* vehicle sale.

(b) A dealer may not transfer 20-day temporary registration permits to another dealer unless the dealer:

- (i) notifies the department within 3 days of the transfer;
- (ii) identifies to the department the dealer to whom any temporary registration permits have been transferred;
- (iii) informs the department of the date of the transfer and the quantity and serial numbers of the transferred temporary registration permits.

(2) A dealer who violates the provisions of subsection (1) is subject to revocation of the privilege to issue 20-day temporary registration permits for a period of time determined by the department.”

**Section 164.** Section 61-4-122, MCA, is amended to read:

**“61-4-122. Compliance specialists as peace officers.** (1) The department may designate and train civilian employees as compliance specialists within the motor vehicle division. Each compliance specialist is a peace officer whose jurisdiction is limited to enforcement of violations of Title 61, chapter 3, parts 1, 2, 3, 4, and 6, and chapter 4.

(2) As a peace officer, a trained compliance specialist may:

- (a) issue citations and make arrests;
- (b) issue summonses;
- (c) accept bail;
- (d) serve warrants of arrest;
- (e) make reasonable inspections of a dealer’s established place of business and *motor* vehicle inventory; and

(f) require production of documents relating to the sale, purchase, exchange, or consignment of any *motor* vehicle currently or previously in a dealer's inventory or displayed for sale by the dealer or relating to any obligation imposed on a dealer under this title.

(3) For purposes of this section, the term "dealer" includes a dealer of any *motor* vehicle type, a wholesaler, or an auto auction, *any of which is* subject to licensure by the department under this chapter."

**Section 165.** Section 61-4-123, MCA, is amended to read:

**"61-4-123. Dealer requirements and restrictions.** (1) A dealer may not offer for sale, trade, or consignment any *motor* vehicle type not authorized by the license issued to the dealer by the department or use a dealer or demonstrator plate on a *motor* vehicle of a type for which the dealer is not licensed.

(2) A dealer may not display at the dealer's established place of business or any approved off-premises sale location a *motor* vehicle offered for sale, trade, or consignment unless the Monroney label required for new *motor* vehicles pursuant to 15 U.S.C. 1232 or the buyer's guide label required for used *motor* vehicles pursuant to 16 CFR, part 455, is affixed to the side window of the *motor* vehicle or is conspicuously displayed within the *motor* vehicle in a fashion that is readily readable by a customer.

(3) Except as provided in subsection (4), a dealer may not sell or display a *motor* vehicle offered for sale at any geographic location other than that of the dealer's established place of business as listed on the dealer's license.

(4) (a) A dealer may conduct an off-premises display and sale at a geographic location other than that of the dealer's established place of business as listed on the dealer's license if the dealer notifies the department 10 days in advance, on a form prescribed by the department, of the opening date and location of an off-premises display and sale and obtains a permit from the department. The department may require proof from the dealer that the location proposed for the off-premises display and sale is in compliance with local zoning ordinances. Except for recreational vehicle, *motor home*, or *travel trailer* dealers, an off-premises display and sale must be conducted within the county of the dealer's licensed location. The display and sale may not exceed 10 consecutive days, and a licensed dealer may not conduct more than 10 off-premises displays and sales during any 1 calendar year.

(b) A dealer may display one or more *motor* vehicles inside an airport terminal or shopping mall without obtaining an off-premises display and sale permit if no actual sales are made, or could be made, at the terminal or mall.

(c) Upon prior written notice to the department, a dealer may display one *motor* vehicle at a geographic location other than that of the dealer's established place of business as listed on the dealer's license if no actual sales are made, or could be made, at the display location and the display:

(i) conspicuously promotes or supports an event or a program sponsored by a nonprofit corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes and the *motor* vehicle is displayed at a location where the event is being held or the program is being promoted; or

(ii) conspicuously promotes a joint commercial endeavor between the dealer and another clearly identified business entity and the *motor* vehicle is displayed on premises owned or leased by the other business entity and where the other

entity regularly conducts its business. A display under this subsection (4)(c)(ii) may not exceed 90 days.

(5) If more than one dealer displays *motor* vehicles and maintains an established place of business at the same geographic location, each dealer shall ensure that all *motor* vehicle records, office facilities, and inventory, if applicable, are physically segregated from those of the other dealer and clearly identified and attributed to the appropriate dealer.

(6) A dealer shall install and maintain telephone service at the dealer's established place of business. The telephone service must be listed in the directory assistance that applies to the area in which the business is located.

(7) A dealer shall conspicuously post at the dealer's established place of business written notice indicating the regular and customary office hours maintained by the dealer.

(8) (a) A dealer shall carry and continuously maintain a general liability insurance policy that covers any *motor* vehicle bearing a set of dealer plates or a demonstrator plate that is offered for demonstration or loan to; a customer or that otherwise may be operated by; a customer in the regular course of the dealer's business operations.

(b) A dealer ~~must~~ shall ensure that the department is named as a certificate holder on any general liability insurance policy held by the dealer, that the minimum term of the policy is 1 year, and that a lapse of insurance does not occur as a result of cancellation or termination of a previously certified policy.

(c) This subsection (8) does not relieve a dealer of the mandatory *motor* vehicle liability insurance obligation imposed under chapter 6 of this title.

(9) A dealer shall display at the dealer's established place of business at least one sign stating the name of the business and indicating that *motor* vehicles are offered for sale, trade, or consignment. The letters of the sign must be at least 6 inches in height and clearly visible and readable to the major avenue of traffic at a minimum distance of 150 feet."

**Section 166.** Section 61-4-125, MCA, is amended to read:

**"61-4-125. Wholesaler's license.** (1) (a) The department is authorized to issue a wholesaler's license to any person it determines is qualified to hold a license under the provisions of this section.

(b) A wholesaler is authorized to sell used motor vehicles, used recreational vehicles, *used motor homes, used travel trailers*, trailers, motorcycles, quadricycles, or special mobile equipment. However, a wholesaler may sell a *motor* vehicle, *recreational vehicle, trailer, motorcycle, quadricycle, or special mobile equipment* only to a dealer, an auto auction, or another wholesaler. Retail sale of *motor* vehicles, *recreational vehicles, motor homes, travel trailers, trailers, motorcycles, quadricycles, or special mobile equipment* by a wholesaler is not allowed.

(c) A wholesaler's license issued by the department has a term of 1 calendar year, commencing on or after January 1 in the year of issue and expiring on December 31 of the same year.

(d) The department shall design and issue wholesaler demonstrator plates of a similar sequence to demonstrator plates issued to dealers but that conspicuously display the term "wholesaler" or the abbreviation "W".

(2) To qualify for a wholesaler's license, an applicant shall submit a completed application, in a form prescribed by the department, that provides the following:

(a) the name under which the applicant intends to conduct business and the name, address, date of birth, and social security number of any person who possesses or will possess an ownership interest in the business for which the license is sought. If the applicant is a corporation, the personal information required in this subsection (2)(a) must be provided for each corporate officer and the person designated by the corporation to manage or oversee the dealership.

(b) for each person subject to the provisions of subsection (2)(a), information concerning whether the person has:

(i) an ownership interest in a *motor* vehicle dealership or wholesaler business in Montana or another jurisdiction and, if so, the name and address of each dealership or wholesaler; and

(ii) been found guilty of; or pleaded guilty to; a felony in this or any other jurisdiction and, if so, the applicant shall provide a summary of the conduct resulting in the felony charge, including the dates of the conduct and any judicial proceeding pertaining to the conduct and the name and address of any court in which the matter was heard;

(c) the name, address, and telephone number of the insurance carrier from whom the applicant has acquired general liability insurance, naming the department as a certificate holder under the policy, and the name, address, and telephone number of the local insurance agent for the carrier and the applicant's policy number. The insurance must cover any *motor* vehicle bearing a wholesaler demonstrator plate that is offered for demonstration or loan to, or otherwise operated by, a customer in the regular course of the applicant's business and must be for a minimum of 1 year.

(d) the street address of the permanent nonresidential building or office where business records will be kept and will be made available for inspection by the department; and

(e) a bond of \$50,000 filed with the department on behalf of the applicant. The bond must be conditioned that the applicant shall conduct business in accordance with the requirements of the law. The bond must be approved by the department and subject to annual renewal.

(3) The application fee for a wholesaler's license is \$5, and the license fee is \$25. Both fees must accompany an original or renewal wholesaler's license application.

(4) Wholesalers may not be issued or use dealer plates, as provided in 61-4-102. However, a wholesaler may be issued and is authorized to display and use a wholesaler demonstrator plate on any type of *motor* vehicle that a wholesaler is authorized to sell. The fee for a wholesaler demonstrator plate is \$5. To the extent not inconsistent with this section, use of wholesaler demonstrator plates is otherwise governed by 61-4-129.

(5) (a) A wholesaler's license must be renewed annually, and application for renewal must be filed on or before December 31 of the expiring license term.

(b) To qualify for renewal of a wholesaler's license, a wholesaler shall submit a completed application, in a form prescribed by the department, updating prior submitted information, as originally supplied under subsection (2).

(c) Additionally, the wholesaler shall certify, under penalty of law, that 12 or more *motor* vehicles of the type authorized under the license were sold by the wholesaler to a dealer, auto auction, or another wholesaler during the expiring license term. A wholesaler who was licensed for less than a full calendar year in the expiring term shall certify, under penalty of law, to the sale of an average of at least one *motor* vehicle a calendar month, or portion of a calendar month, during which the expiring license was in effect.

(d) A wholesaler who cannot, under penalty of law, certify the number of *motor* vehicle sales required under subsection (5)(c) shall pay a fee of \$25 in addition to the fees required in subsection (3).

(6) A wholesaler whose completed renewal application has been received by the department on or before December 31 of the expiring license term may, if necessary, operate the business and display wholesaler demonstrator plates under the expired license through the last day of February of the following year.”

**Section 167.** Section 61-4-129, MCA, is amended to read:

**“61-4-129. Assignment of demonstrator plates.** (1) A dealer or wholesaler may purchase demonstrator plates at a fee of \$5 a plate. Demonstrator plates must be issued for each *motor* vehicle type for which a dealer’s license is required under 61-4-102. Demonstrator plates must be designed by the department in a manner that distinguishes demonstrator plates from dealer plates.

(2) (a) New and used motor vehicle, ~~or~~ recreational vehicle, *motor home*, or *travel trailer* demonstrator plates may be used on a vehicle displaying a Monroey label or a buyer’s guide label, as required by 61-4-123(2), that is:

(i) being demonstrated and offered for sale, for not more than 72 hours when operated by an individual holding a valid operator’s license;

(ii) owned by the dealership when operated by an officer or bona fide full-time employee of the dealer or wholesaler and used to transport the dealer’s or wholesaler’s own tools, parts, and equipment;

(iii) being tested for repair;

(iv) being moved to or from a dealer’s place of business for sale;

(v) being moved to or from service and repair facilities before sale; and

(vi) being moved to or from exhibitions within the state, provided the exhibition does not exceed a period of 20 days.

(b) Mobile home and trailer demonstrator plates may be used:

(i) on units being hauled to or from the place of business of the manufacturer and the place of business of the dealer or to and from places of business of the dealer;

(ii) on mobile homes being hauled to a customer’s location for setup after sale;

(iii) on travel trailers held for sale to demonstrate the towing capability of the *motor* vehicle, provided that a dated demonstration permit, valid for not more than 72 hours, is carried with the *motor* vehicle at all times;

(iv) on any motor vehicle owned by the dealer that is used only to move ~~vehicles~~ *mobile homes and travel trailers* legally bearing mobile home and travel trailer dealer’s license plates of the dealer owning the motor vehicle; and

(v) on units being moved to or from exhibitions within the state, provided the exhibition does not exceed a period of 20 days.

(c) A *motor* vehicle being operated in accordance with this subsection (2) need only display one demonstrator plate conspicuously on the rear of the *motor* vehicle.

(3) A dealer who files the annual report required under 61-4-124 on or before December 31 of the calendar year may display or use demonstrator plates assigned and registered for the calendar year through the last day of February of the following year, as provided in 61-4-124(5)."

**Section 168.** Section 61-4-131, MCA, is amended to read:

**"61-4-131. Definitions.** As used in ~~61-4-131 through 61-4-137, 61-4-141, and 61-4-150~~ *this part*, the following definitions apply:

(1) "*Broker*" means a person engaged in the business of offering to procure or procuring motor vehicles or who represents to the public through solicitation, advertisement, or otherwise that the person is one who offers to procure or procures motor vehicles by negotiating purchases, contracts, sales, or exchanges and who does not store, display, or take ownership of any vehicles for the purpose of selling vehicles.

~~(1)~~(2) "Dealer" includes a new motor vehicle dealer as defined in 61-4-201.

~~(2)~~(3) (a) "Designated family member" means the spouse, child, grandchild, parent, brother, or sister of a dealer who:

(i) in the case of a deceased dealer:

(A) is entitled to inherit the dealer's ownership interest in the dealership under the terms of the dealer's will or under the laws of intestate succession of this state; or

(B) has otherwise been designated in writing by a deceased dealer to succeed the deceased in the motor vehicle dealership; or

(ii) in the case of an incapacitated dealer, has been appointed by a court as the legal representative of the dealer's property.

(b) The term includes the appointed and qualified personal representative and the testamentary trustee of a deceased dealer.

(4) (a) "*Established place of business*" means the geographic location upon which a permanent building is located that is actually occupied either continuously or at regular periods by a dealer. A building is actually occupied by a dealer if the dealer's books and records are kept in the building and, except for approved off-premises sales, the dealer's business is transacted within the building.

(b) A dealer's established place of business may also include the geographic location of one or more physical lots upon which vehicles are displayed for sale, as long as the requirements of 61-4-101(4)(d) regulating the distance between display lots and the record keeping building are met.

(c) The geographic location of the permanent building actually occupied by the dealer or the geographic location of the physical lots upon which vehicles are displayed for sale may be identified by street address, legal description, or other reasonably identifiable description, as prescribed by the department.

~~(3)~~ "Motor vehicle" has the same meaning as provided in 61-4-201.

~~(4)~~ "New motor vehicle" has the same meaning as provided in 61-4-201.

(5) "Parking", when prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

(6) "Trailer dealer" means any person, firm, or corporation engaged in whole or in part in the business of buying or selling trailers or semitrailers, with facilities for displaying one or more trailers or semitrailers."

**Section 169.** Section 61-4-141, MCA, is amended to read:

**"61-4-141. Manufacturer's right of first refusal.** (1) Regardless of the terms of any franchise agreement, in the event of a proposed sale or transfer of a dealership, the manufacturer or distributor may exercise a right of first refusal to acquire the new *motor* vehicle dealer's assets or ownership. This may occur if the sale or transfer is conditioned upon either the manufacturer or dealer entering into a dealer agreement with the proposed new owner or transferee if all the following requirements are met:

(a) the manufacturer or distributor notifies the dealer in writing of the manufacturer's or dealer's intent to exercise the right of first refusal within 60 days of receipt of the dealer's written proposal for sale or transfer;

(b) the dealer and the dealer's owner receive the same or greater consideration as they have contracted to receive in connection with the proposed change of ownership or transfer;

(c) the proposed sale or transfer of the dealership's assets does not involve the transfer or sale to a member or members of the family of one or more dealer owners or to a qualified manager, partnership, or corporation controlled by a member of the family of a dealer owner; and

(d) the manufacturer or distributor agrees to pay reasonable costs and attorney fees relative to the proposed changes in ownership or transfer of dealership assets. In order for costs and fees to be payable, the dealer shall submit an accounting of the expenses within 20 days of the dealer's receipt of the manufacturer's or distributor's written request for the accounting. The manufacturer or distributor may request the accounting before exercising the manufacturer's or distributor's right of first refusal.

(2) This section does not affect any contractual right of a manufacturer or distributor to charge back to the dealer's account any amount previously credited or paid as a discount incident to the dealer's purchase of the *motor* vehicles."

**Section 170.** Section 61-4-143, MCA, is amended to read:

**"61-4-143. Unlawful curbstoning of vehicle for sale.** (1) Except as provided in 61-4-123, a person may not display or park a motor vehicle offered or posted for sale on real property in which the person does not have a legal interest if the primary purpose of displaying or parking the vehicle on the property is to promote or effect the sale of the vehicle.

(2) This section does not prohibit the display or parking of a *motor* vehicle offered or posted for sale when:

(a) the display or parking of the *motor* vehicle is incidental to actual operation and immediate use of the *motor* vehicle by the *motor* vehicle owner;

(b) the *motor* vehicle owner obtains the written consent of the real property owner, lessee, or agent of the owner or lessee on whose property the motor vehicle is displayed and posts the written consent or a copy of the written consent in the front or rear window of the motor vehicle; or

(c) unless otherwise prohibited by local ordinance, the motor vehicle is displayed on a public street that is adjacent to real property in which the person offering the *motor* vehicle for sale has a legal interest.

(3) A person who violates subsection (1):

(a) is subject to a written warning for the first violation; and

(b) for a second or subsequent violation, is guilty of a misdemeanor and upon conviction may be fined an amount not less than \$250 and not more than \$500.

(4) Each violation of subsection (1) is considered a separate offense.”

**Section 171.** Section 61-4-202, MCA, is amended to read:

**“61-4-202. License requirements — fee exemption.** (1) A new motor vehicle dealer, manufacturer, distributor, factory branch, distributor branch, importer, or franchiser may not engage in business in Montana except in accordance with the requirements of this part. The provisions of this part do not apply to a public officer engaged in the discharge of official duties or to a trustee, receiver, or other officer acting under the jurisdiction of a court, to financial institutions disposing of repossessed vehicles, or to a person disposing of a personal *motor* vehicle. The provisions of this part regulating and licensing new motor vehicle dealers, manufacturers, distributors, factory branches, distributor branches, importers, and franchisors apply only to those new motor vehicle dealers, manufacturers, distributors, factory branches, distributor branches, importers, and franchisors of motor vehicles as defined by this part.

(2) (a) A manufacturer, distributor, factory branch, distributor branch, importer, or franchisor transacting business within Montana by offering, selling, trading, consigning, or otherwise transferring a new motor vehicle to a new motor vehicle dealer must be licensed by the state of Montana. The department shall issue licenses to qualified applicants upon receipt of a license fee in the amount of \$15 accompanied by the information required in this section.

(b) A manufacturer, distributor, factory branch, distributor branch, importer, or franchisor of a personal watercraft ~~as defined in 23-2-502~~, a snowmobile ~~as defined in 23-2-601~~, or an off-highway vehicle ~~as defined in 23-2-801~~ is not required to pay the \$15 fee required in subsection (2)(a).

(3) The following information, if applicable, must be submitted by an applicant upon forms supplied by the department:

(a) the name and address of the applicant;

(b) the make and model of each new motor vehicle to be franchised;

(c) the name and address of each of the applicant’s franchisees within the state; and

(d) the name and address of each factory branch, distributor branch, agent, or representative within the state.

(4) (a) Except as provided in subsection (4)(b), a license may be renewed each year if the applicant is in compliance with the provisions of this part, remits a renewal fee in the amount of \$15, and notifies the department of any changes in the information previously supplied.

(b) A manufacturer, distributor, factory branch, distributor branch, importer, or franchisor of a personal watercraft ~~as defined in 23-2-502~~, a snowmobile ~~as defined in 23-2-601~~, or an off-highway vehicle ~~as defined in 23-2-801~~ is not required to pay the \$15 fee required in subsection (4)(a) but is

required to annually apply to renew its license on a form provided by the department.

(5) (a) A new motor vehicle may not be sold in this state unless either the manufacturer on direct dealership of domestic *motor* vehicles, the importer of foreign manufactured *motor* vehicles on direct dealership, or the distributor on indirect dealerships of either domestic or foreign *motor* vehicles is licensed as provided in this part.

(b) Notwithstanding any other licensing provision contained in Montana law, every new motor vehicle dealer shall obtain a license under part 1 of this chapter.

(c) The obtaining of a license under this part or Title 61, chapter 4, part 1 conclusively establishes that a new motor vehicle dealer, manufacturer, distributor, or importer is subject to the laws of this state regulating new motor vehicle dealers, manufacturers, importers, and distributors.

(d) The provisions of subsection (5)(b) do not apply to dealers of personal watercraft, snowmobiles, or off-highway vehicles licensed under the provisions of Title 23.”

**Section 172.** Section 61-4-204, MCA, is amended to read:

**“61-4-204. Filing agreement — product liability.** (1) A franchisee shall, at the time of application for a new motor vehicle dealer license under the provisions of Title 23 or 61-4-101, file with the department a certified copy of the franchisee’s written agreement with a manufacturer and a certificate of appointment as dealer or distributor. The certificate of appointment must be signed by an authorized agent of the manufacturer of domestic *motor* vehicles whenever there is a direct manufacturer dealer agreement or by an authorized agent of the distributor whenever the manufacturer is wholesaling through an appointed distributorship. The certificate must be signed by an authorized agent of the importer of foreign-made vehicles whenever there is a direct importer-dealer agreement or by an authorized agent of the distributor whenever there is an indirect distributor-dealer agreement. The distributor’s certificate of appointment must be signed by an authorized agent of the manufacturer of domestically manufactured *motor* vehicles or by an authorized agent of the manufacturer or importer of foreign-made *motor* vehicles.

(2) A franchisee need not file a written agreement or certificate of appointment if the manufacturer on direct dealerships or distributor on indirect dealerships or importer on direct dealerships uses the identical basic agreement for all its franchised dealers or distributors in this state and certifies in the certificate of appointment that the blanket agreement is on file and the written agreement with the particular dealer or distributor, respectively, is identical with the filed blanket agreement and that the franchisee has filed with the department one agreement together with a list of franchised dealers or distributors.

(3) A manufacturer, distributor, or importer shall notify the department within 30 days of any revision of or addition to the basic agreement on file or of any franchise supplement to the agreement. Annual renewal of a certificate filed as provided in this section is not required.

(4) A manufacturer shall file with the department a copy of the delivery and preparation obligations required to be performed by a dealer prior to the delivery of a new motor vehicle to a buyer. These delivery and preparation obligations constitute the dealer’s only responsibility for product liability as

between the dealer and the manufacturer. Any mechanical, body, or parts defects arising from an express or implied warranty of the manufacturer constitute the manufacturer's product or warranty liability only. However, this section may not affect the obligations of new motor vehicle dealers to perform warranty repair and maintenance that may be required by law or contract. Except with regard to household appliances, including but not limited to ranges, refrigerators, and water heaters, in a recreational vehicle, ~~as defined in 61-1-132,~~ and except with regard to a truck rated at more than 10,000 pounds gross vehicle weight, the manufacturer shall compensate an authorized dealer for labor, parts, and other expenses incurred by a dealer who performs work to rectify the manufacturer's product or warranty defect or for delivery and preparation obligations at the same rate and time the dealer charges to its retail customers for nonwarranty work of a like kind, based upon a published, nationally recognized, retail flat rate labor time guide manual if the dealer uses the manual as the basis for computing charges for both warranty and retail work.

(5) (a) All claims made by the dealer pursuant to this section for compensation for delivery, preparation, warranty, and recall service, including labor, parts, and other expenses, must be paid by the manufacturer within 30 days of receipt of the claim from the dealer, except that a manufacturer of a motor home, ~~as defined in 61-1-130,~~ shall pay any claim within 60 days of receipt from the dealer.

(b) If a claim is disapproved, the dealer must be notified in writing of the grounds for disapproval. A claim that has not been disapproved in writing within 30 days of having been received must be considered approved, and payment is due to the claimant immediately. However, the manufacturer retains the right to audit a claim for a period of 12 months following the payment of the claim.

(c) A claim that has been approved and paid may not be charged back to the dealer unless the manufacturer proves that:

- (i) the claim was false or fraudulent;
- (ii) the repairs were not properly made; or
- (iii) the repairs were not necessary to correct the defective condition.

(d) A manufacturer may not deny a claim or reduce the amount to be reimbursed to the dealer if the dealer has provided reasonably sufficient documentation demonstrating that the dealer performed the services in compliance with the written policies and procedures of the manufacturer.

(e) A franchisor may reasonably and periodically audit a motor vehicle dealer to determine the validity of paid claims or chargebacks for customer or dealer incentives. An audit of incentive payments may apply only to the 18-month period immediately preceding the date on which the dealer was notified of an impending audit.

(6) The dealer shall furnish the purchaser of a new *motor* vehicle with a signed copy of the manufacturer's delivery and preparation requirements indicating that each of those requirements has been performed."

**Section 173.** Section 61-4-208, MCA, is amended to read:

**"61-4-208. Prohibited acts.** (1) A manufacturer of new motor vehicles, a factory branch, a distributor, a distributor branch, an importer, a field representative, an officer, an agent, or any representative of the persons or entities listed may not:

(a) coerce, attempt to coerce, or require a new motor vehicle dealer to:

(i) accept delivery of a new motor vehicle, a part, or an accessory for a new motor vehicle or any other commodity that has not been ordered by the dealer;

(ii) participate in or contribute to any local, regional, or national advertising fund or to participate in or to contribute to contests, giveaways, or other sales devices;

(iii) change location of the dealership or to make substantial alterations to the use or number of franchises or the dealership premises or facilities when to do so would be unreasonable, or without written assurance of a sufficient supply of new motor vehicles that would justify an expansion;

(iv) either establish or maintain exclusive facilities, personnel, or display space or to abandon an existing franchise relationship with another manufacturer that was established before April 8, 1997, when those requirements are not justified by reasonable business considerations;

(v) refrain from participation in the management of, investment in, or acquisition of any other line of new motor vehicle or related products if the new motor vehicle dealer maintains a reasonable line of credit for each make or line of new motor vehicles and remains in compliance with any reasonable capital standards and facility requirements of the manufacturer; or

(vi) enter into an agreement with a manufacturer, factory branch, distributor, distributor branch, or representative of the listed persons or entities or do any other act unfair to the dealer by:

(A) threatening to cancel or not renew a franchise existing between the manufacturer, factory branch, distributor, distributor branch, or representative of the listed persons or entities and the dealer; or

(B) threatening to withhold, delay, or disrupt the receipt of new motor vehicles or any motor vehicle parts or supplies ordered by the dealer from the manufacturer, factory branch, distributor, distributor branch, importer, or representative or agent of the listed entities;

(b) delay, refuse, or fail to deliver new *motor* vehicles in a reasonable time in a reasonable quantity relative to the new *motor* vehicle dealer's facilities and sales potential after accepting an order from a new *motor* vehicle dealer if the new *motor* vehicles are publicly advertised as being available for immediate delivery; or

(c) impose unreasonable restrictions on the assertion of legal or equitable rights on the new motor vehicle dealer or franchise regarding transfer; sale; right to renew; termination; discipline; noncompetition covenants; site control, whether by sublease, collateral pledge of lease, or otherwise; or compliance with subjective standards.

(2) There is no violation of subsection (1)(a)(iii) or (1)(b) if a failure on the part of the manufacturer, factory branch, distributor, or distributor branch is beyond the control of the listed persons or entities.

(3) (a) Except as provided in subsection (3)(b) or (3)(c), a manufacturer of new motor vehicles, a factory branch, a distributor, a distributor branch, an importer, a field representative, an officer, an agent, or any representative of any of these persons or entities may not own or operate, directly or indirectly, a motor vehicle dealership in Montana that is for sale or has been for sale under a franchise agreement with a new motor vehicle dealer in Montana.

(b) If there is no independent person available to own and operate a motor vehicle dealership in a manner that is consistent with the public interest, a manufacturer of new motor vehicles, a factory branch, a distributor, a distributor branch, an importer, a field representative, an officer, an agent, or any representative of any of these persons or entities may own and operate a motor vehicle dealership for a temporary period, not to exceed 1 year, during the transition from one owner of the dealership to another. Approval of the sale may not be unreasonably withheld by the manufacturer.

(c) A manufacturer of new motor vehicles, a factory branch, a distributor, a distributor branch, an importer, a field representative, an officer, an agent, or any representative of any of these persons or entities may own an interest in a motor vehicle dealership but may not operate the dealership unless a manufacturer of new motor vehicles, a factory branch, a distributor, a distributor branch, an importer, a field representative, an officer, an agent, or any representative of any of these persons or entities has a bona fide business relationship with an independent person who is not a franchisor or a franchisor's agent or affiliate, who has made an investment that is subject to loss in the dealership, and who reasonably expects to acquire full ownership of the dealership on reasonable terms and conditions."

**Section 174.** Section 61-4-301, MCA, is amended to read:

**"61-4-301. Permit and transit plates for new *motor* vehicles being transported by driveaway or towaway methods — used mobile homes.**

(1) (a) A person, firm, partnership, or corporation, regularly and lawfully engaged in the transportation of new *motor* vehicles over the highways of this state from manufacturing or assembly points to agents of manufacturers and dealers in this state or in other states, territories, or foreign countries or provinces by the driveaway or towaway methods, ~~where~~ *when* the *motor* vehicles being driven, towed, or transported by the saddle-mount, towbar, or full-mount methods, or a lawful combination of these methods, will be transported over the highways of the state ~~but~~ *only* once, may annually apply to the department of justice for a permit to use the highways of this state and shall pay, upon filing the application, a fee of \$100. Upon processing of the application, that department shall issue an annual permit to the applicant.

(b) A person moving used mobile homes from a point outside the state to a point inside the state may apply to the department for the permit authorized pursuant to subsection (1)(a).

(2) (a) The permitholder may also apply to the department of justice for five sets of transit plates showing the permit number for identification of the *motor* vehicles being transported by the permitholder, and the plates or devices may be used on a *motor* vehicle being driven, towed, or transported by and under the control of the permitholder. The department shall collect the additional sum of \$10 for each set of transit plates or devices applied for and issued.

(b) A permitholder may apply for and receive more than five sets of transit plates in a calendar year if the permitholder can demonstrate, to the satisfaction of the department, that additional sets of plates are needed based on the number of trip fees reported in Montana in the previous calendar year. The department shall collect \$10 for each additional set of transit plates issued.

(3) The department of justice shall retain the permit and plate fees to defray costs of administering 61-4-301 through 61-4-308.

(4) The permit and transit plates or devices expire on December 31 of each year."

**Section 175.** Section 61-4-302, MCA, is amended to read:

**“61-4-302. One-trip fee in addition to permit and plate fees payable quarterly — exception.** (1) In addition to the permit and plate fees, a permitholder shall pay to the department of justice a one-trip fee of \$5 per for each driven motor vehicle. The fee shall must be paid within 15 days after the end of the calendar quarter upon forms recommended or supplied by that department.

(2) A person moving new or used mobile homes is not subject to the one-trip fee required by subsection (1).”

**Section 176.** Section 61-4-306, MCA, is amended to read:

**“61-4-306. Exemptions from fees.** The fees provided for driveaway or towaway transporters shall do not apply to:

(1) motor vehicles regularly used in the hauling of motor vehicles by the truckaway method or to the motor vehicles so being transported hauled;

(2) motor vehicles operated under dealers' licenses or plates;

(3) motor vehicles registerable under any other provisions of law;

(4) any person not issued a driveaway or towaway permit.”

**Section 177.** Section 61-4-307, MCA, is amended to read:

**“61-4-307. Display of plates.** A motor vehicle or combination of motor vehicles transported over the highways of the state by a permitholder shall display in a prominent position ~~thereon~~ on the motor vehicle the distinctive transit plates or devices, with the towing motor vehicle displaying such the plates or device on the front ~~thereof~~ of the motor vehicle and a towed motor vehicle displaying the plates on the rear ~~thereof~~ of the motor vehicle.”

**Section 178.** Section 61-4-310, MCA, is amended to read:

**“61-4-310. Single movement permit — fee — limitation — county treasurer to issue.** (1) (a) A motor vehicle, subject to license under this title; or a mobile home may be moved unladen upon the highways of this state from a point within the state to a point of destination. The county treasurer at the point of the origin of the movement shall issue a special permit for the motor vehicle in lieu of fees required under 61-3-321 and part 2 of chapter 10 of this title upon application presented to the county treasurer in a form provided by the department, upon exhibiting to the county treasurer proof of ownership and evidence that the personal property taxes on the motor vehicle, if any are due, have been paid, and upon payment of a fee of \$5. The fee must be forwarded to the department of revenue for deposit in the state general fund. The permit is not in lieu of fees and permits required under 61-4-301 and 61-4-302.

(b) For purposes of this section, a mobile home is considered unladen when all items are removed except the equipment originally installed by the manufacturer and the personal effects of the owners.

(2) The permit is for the transit of the motor vehicle or mobile home only, and the motor vehicle or mobile home may not at the time of the transit be used for the transportation of any persons, except the driver, or any property for compensation or otherwise and is for one transit only between the points of origin and destination as set forth in the application and shown on the permit.

(3) A junk vehicle being driven or towed to a motor vehicle wrecking facility or a motor vehicle graveyard for disposal is exempt from the provisions of this section. The definitions in 75-10-501 apply to this subsection.”

**Section 179.** Section 61-4-404, MCA, is amended to read:

**“61-4-404. Threats prima facie evidence.** Any threat, expressed or implied, made directly or indirectly to any dealer by any manufacturer, or by any person who is engaged in the business of financing the purchase or sale of motor vehicles and is affiliated with or controlled by any manufacturer, that ~~such the~~ manufacturer will cease to sell or will terminate or refuse to enter into a contract to sell motor vehicles to ~~such the~~ dealer unless ~~such the~~ dealer finances the purchase or sale of any ~~such~~ motor vehicle or vehicles only with or through a designated person, ~~shall be~~ is presumed to be made at the direction of and with the authority of ~~such the~~ manufacturer. ~~and shall be~~ *The threat is prima facie evidence of the fact that ~~such the~~ manufacturer has sold or intends to sell ~~such the~~ motor vehicle or vehicles on the condition or under the agreement prohibited by the provisions of this part.”*

**Section 180.** Section 61-4-501, MCA, is amended to read:

**“61-4-501. Definitions.** For purposes of this part, the following definitions apply:

(1) “Collateral charge” means all governmental charges, including but not limited to sales tax, property tax, license and registration fees, and fees in lieu of tax.

(2) “Consumer” means the purchaser, other than for purposes of resale, of a motor vehicle that has not been brought into nonconformity as the result of abuse, neglect, or unauthorized modifications or alterations by the purchaser, any person to whom the motor vehicle is transferred during the duration of an express warranty applicable to the motor vehicle, or any other person entitled by the terms of the warranty to the benefits of its provisions.

(3) “Incidental damage” means incidental and consequential damage as defined in 30-2-715.

(4) “Manufacturer” has the meaning applied to that word in 61-4-201.

(5) (a) “Motor vehicle” means a vehicle, including the nonresidential portion of a motor home as defined in 61-1-130, propelled by its own power, designed primarily to transport persons or property upon the public highways, and sold or registered in this state.

(b) The term does not include:

(i) a truck with 10,000 pounds or more gross vehicle weight rating; or

(ii) ~~Motor vehicle does not include~~ components, systems, fixtures, appliances, furnishings, accessories, and features that are designed, used, and maintained primarily for residential purposes.

(6) “Reasonable allowance for use” is an amount directly attributable to use of the motor vehicle by the consumer and any previous consumers prior to the first written notice of the nonconformity to the manufacturer or its agent and during any subsequent period when the *motor* vehicle is not out of service because of nonconformity. The reasonable allowance for use must be computed by multiplying the total contract price of the *motor* vehicle by a fraction having as its denominator 100,000 and having as its numerator the number of miles that the *motor* vehicle traveled prior to the manufacturer’s acceptance of its return.

(7) “Warranty period” means the period ending 2 years after the date of the original delivery to the consumer of a new motor vehicle or during the first 18,000 miles of operation, whichever is earlier.”

**Section 181.** Section 61-4-503, MCA, is amended to read:

**“61-4-503. Replacement for nonconformity to warranty.** (1) If after a reasonable number of attempts the manufacturer or its agent or authorized dealer is unable, during the warranty period, to conform the new motor vehicle to any applicable express warranty by repairing or correcting any defect or condition that substantially impairs the use and market value or safety of the motor vehicle to the consumer, the manufacturer shall replace it with a new motor vehicle of the same model and style and of equal value, unless for reasons of lack of availability ~~such~~ replacement is impossible, in which case the manufacturer shall replace it with a *motor* vehicle of comparable market value.

(2) As an alternative to replacement, the manufacturer may accept return of the new motor vehicle from the consumer upon refund to ~~him~~ *the consumer* of the full purchase price, plus reasonable collateral charges and incidental damages, less a reasonable allowance for the consumer’s use of the motor vehicle. The refund ~~shall~~ *must* be paid to the consumer and to a lienholder, if any, in proportion to their interests.”

**Section 182.** Section 61-4-504, MCA, is amended to read:

**“61-4-504. Reasonable number of attempts — presumption.** A reasonable number of attempts to conform a new motor vehicle to the applicable express warranties is presumed to have been made for purposes of 61-4-503(1) if:

(1) the same nonconformity has been subject to repair four or more times by the manufacturer or its agent or authorized dealer during the warranty period but the nonconformity continues to exist; or

(2) the *motor* vehicle is out of service because of nonconformity for a cumulative total of 30 or more business days during the warranty period after notification of the manufacturer, agent, or dealer.”

**Section 183.** Section 61-4-505, MCA, is amended to read:

**“61-4-505. Dealer exemption — liability to manufacturer.** (1) ~~Nothing in this~~ *This part imposes does not impose* any liability on a dealer or ~~creates~~ *create* a cause of action by a consumer against a dealer under 61-4-503.

(2) A dealer is not liable to a manufacturer for any refunds or *motor* vehicle replacements in the absence of evidence indicating that repairs made by the dealer were carried out in a manner inconsistent with the manufacturer’s instructions.”

**Section 184.** Section 61-4-506, MCA, is amended to read:

**“61-4-506. Provisions nonexclusive — applicability of U.C.C. — defenses.** (1) The provisions of this part do not limit the rights or remedies available to a consumer under any other law.

(2) All express warranties arising from the sale of a new motor vehicle are subject to the provisions of Title 30, chapter 2, part 3.

(3) It is an affirmative defense to a claim brought under this part that an alleged nonconformity does not substantially impair the use, market value, or safety of the *motor* vehicle or that the nonconformity is the result of abuse, neglect, or unauthorized modification or alteration of a motor vehicle by the consumer.”

**Section 185.** Section 61-4-511, MCA, is amended to read:

**“61-4-511. Manufacturer’s dispute settlement procedure — certification — prohibited contents.** (1) A manufacturer who has established an informal dispute settlement procedure under the provisions of Title 16, Code of Federal Regulations, part 703 (16 CFR, part 703), as those provisions read on October 1, 1983, shall submit a copy of the procedure to the department of administration. The department of administration shall issue a certificate of approval to a manufacturer whose procedure complies in all respects with the federal regulations and subsection (2). The department of administration shall report to the department of justice all manufacturer’s procedures certified. The department of administration may issue subpoenas requiring the attendance of witnesses and the production of records, documents, or other evidence necessary to it in an investigation related to the certification of a manufacturer’s informal dispute settlement procedure.

(2) A manufacturer’s informal dispute settlement procedure must afford the consumer or the consumer’s representative an opportunity to appear and present evidence in Montana at a location reasonably convenient to the consumer and, further, may not include any practices that:

(a) delay a decision in any dispute beyond 60 days after the date on which the consumer initially resorts to the dispute settlement procedure;

(b) delay performance of remedies awarded in a settlement beyond 10 days after a decision, except that a manufacturer may have 30 days following the date of decision to replace a motor vehicle or make refund to the consumer as provided in 61-4-503;

(c) require the consumer to make the *motor* vehicle available for inspection by a manufacturer’s representative more than once;

(d) fail to consider in decisions any remedies provided by this part; or

(e) require the consumer to take any action or assume any obligation not specifically authorized under the federal regulations referred to in subsection (1).”

**Section 186.** Section 61-4-519, MCA, is amended to read:

**“61-4-519. Action by arbitrator — decision.** (1) The arbitrator shall, as expeditiously as possible, but not later than 60 days after the department of administration has accepted a complaint, render a fair decision based on the information gathered and disclose the arbitrator’s findings and reasoning to the parties.

(2) The decision must provide appropriate remedies, including but not limited to:

(a) repair of the *motor* vehicle;

(b) replacement of the *motor* vehicle with an identical *motor* vehicle or a comparable *motor* vehicle acceptable to the consumer;

(c) refund as provided in 61-4-503(2);

(d) any other remedies available under the applicable warranties or 15 U.S.C. 2301 through 2312, as in effect on October 1, 1983; or

(e) reimbursement of expenses and costs to the prevailing party.

(3) The decision must specify a date for performance and completion of all awarded remedies. The department of administration shall contact the prevailing party within 10 working days after the date for performance to determine whether performance has occurred. The parties shall act in good faith

in abiding by any decision. In addition, if the decision is not accepted, the parties shall follow the provisions of Title 27, chapter 5. If it is determined by the court that the appellant has acted without good cause in bringing an appeal of an award, the court, in its discretion, may grant to the respondent costs and reasonable attorney fees.”

**Section 187.** Section 61-4-525, MCA, is amended to read:

**“61-4-525. Notice on resale of replaced *motor* vehicle.** A motor vehicle ~~which that~~ is returned to the manufacturer and ~~which that~~ requires replacement or refund may not be sold in the state without a clear and conspicuous written disclosure of the fact that the *motor* vehicle was returned. The department of justice may prescribe by rule the form and content of the disclosure statement and a procedure by which the disclosure may be removed upon a determination that the *motor* vehicle is no longer defective.”

**Section 188.** 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 ~~locomotive or~~ train within Montana.

(f) a person who temporarily drives, operates, or moves an off-highway vehicle, ~~as defined in 23-2-801~~, 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 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 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.

(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 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. During the 30-day period, the license is valid only when the license and the licensee's discharge, separation, leave, or furlough papers are in the licensee's immediate possession."

**Section 189.** Section 61-5-112, MCA, is amended to read:

**"61-5-112. Types and classes of commercial driver's licenses — classification — rulemaking — reciprocity agreements.** (1) The department shall adopt rules that it considers necessary for the safety and welfare of the traveling public governing the classification of commercial driver's licenses and related endorsements and the examination of commercial driver's license applicants and renewal applicants. The rules must:

(a) subject to the exceptions provided in this section, comport with the requirements of 49 CFR, part 383, and the medical qualifications of 49 CFR, part 391;

(b) allow for the issuance of a type 2 (intrastate only) commercial driver's license in accordance with medical qualification and visual acuity standards prescribed by the department;

(c) allow for the issuance of a type 2 commercial driver's license to a person who is 18 years of age or older or an operationally restricted type 2 commercial driver's license to a person who is 16 years of age or older;

(d) allow for issuance of a seasonal commercial driver's license based on standards established by the department for the waiver of the knowledge and skills test for a qualified person employed in farm-related service industries who has a good driving record and sufficient prior driving experience;

(e) prescribe the operational and seasonal restrictions for a seasonal commercial driver's license;

(f) prescribe the requirements for the medical statement that must be submitted in order for a person to be qualified for a type 2 commercial driver's license; and

(g) prescribe the minimum standards for certification of a third-party commercial driver testing program and any test waiver under 61-5-118.

(2) The department is authorized to enter into reciprocal agreements with adjacent states that would allow certain drivers of vehicles transporting farm

products, farm machinery, or farm supplies within 150 miles of a farm to operate without a commercial driver's license *because the vehicles are not considered commercial motor vehicles* as provided in ~~61-1-134(2)~~ 61-1-101(5)(b)(ii)."

**Section 190.** Section 61-5-119, MCA, is amended to read:

**"61-5-119. Definitions.** (1) For the purposes of 61-5-120, "driver rehabilitation specialist" means a person who:

(a) possesses current certification from the association of driver educators for the disabled as a driver rehabilitation specialist; or

(b) (i) provides comprehensive services in the clinical evaluation of the abilities of a person with a disability to safely operate a motor vehicle, utilizing, among other things, wheelchair and seating assessment, *motor* vehicle modification prescription, and driver education;

(ii) (A) possesses a bachelor's degree in rehabilitation, education, or health and safety, in physical, occupational, or recreational therapy, or in a related profession; or

(B) has an equivalent of 8 years of experience in driver rehabilitation and education; and

(iii) has at least 1 year of experience in the area of driver evaluation and training for individuals with disabilities.

(2) For the purposes of this chapter, *unless the context requires otherwise:*

(a) "cancellation" means that a driver's license is annulled and terminated because of some error or defect or because the licensee is no longer entitled to the license, but the cancellation of a license is without prejudice and application for a new license may be made at any time after cancellation; and

(b) "jurisdiction" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico or a province or territory of Canada."

**Section 191.** Section 61-5-121, MCA, is amended to read:

**"61-5-121. Disposition of fees.** (1) The disposition of the fees from driver's licenses, motorcycle endorsements, commercial driver's licenses, and duplicate driver's licenses provided for in 61-5-114 is as follows:

(a) The amount of 22.3% of each driver's license fee and 25% of each duplicate driver's license fee must be deposited into an account in the state special revenue fund. ~~The~~ Upon receiving an appropriation, the department shall transfer the funds from this account to the Montana highway patrol officers' retirement pension trust fund as provided in 19-6-404. The department shall report the amount deposited and transferred under this subsection (1)(a) to the legislative finance committee by October 31 of the year preceding each regular session of the legislature.

(b) (i) If the fees are collected by a county treasurer or other agent of the department, the amount of 2.5% of each driver's license fee and 3.75% of each duplicate driver's license fee must be deposited into the county general fund.

(ii) If the fees are collected by the department, the amount provided for in subsection (1)(b)(i) must be deposited into the state general fund.

(c) (i) If the fee is collected by a county treasurer or other agent of the department, the amount of 3.34% of each motorcycle endorsement must be deposited into the county general fund.

(ii) If the fee is collected by the department, the amount provided for in subsection (1)(c)(i) must be deposited into the state general fund.

(d) The amount of 20.7% of each driver's license fee and 8.75% of each duplicate driver's license fee must be deposited into the state traffic education account.

(e) In addition to the amounts deposited pursuant to subsections (1)(b)(ii) and (1)(c)(ii), the amount of 54.5% of each driver's license fee and 62.5% of each duplicate driver's license fee must be deposited into the state general fund.

(f) If the fee is collected by the county treasurer or other agent of the department, the amount of 2.5% of each commercial driver's license fee must be deposited into the county general fund, otherwise all of the fee must be deposited into the state general fund.

(g) The amount of 63.46% of each motorcycle endorsement fee must be deposited into the state motorcycle safety account in the state special revenue fund, and the amount of 33.2% of each motorcycle endorsement fee must be deposited into the state general fund.

(2) (a) If fees from driver's licenses, commercial driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected by a county treasurer or other agent of the department, the county treasurer or agent shall deposit the amounts provided for in subsections (1)(b)(i) and (1)(c)(i) into the county general fund. The county treasurer or agent shall then remit to the department of revenue all remaining fees, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund, as provided in subsection (1)(a), and the state general fund. The department of revenue, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a) and (1)(d) through (1)(g).

(b) If fees from driver's licenses, commercial driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected by the department, it shall ~~remit all fees to the department of revenue, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund as provided in subsection (1)(a), the state special revenue fund, and the state general fund. The department of revenue, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a), (1)(b)(ii), (1)(c)(ii), and (1)(d) through (1)(g).~~

**Section 192.** Section 61-5-208, MCA, is amended to read:

**"61-5-208. Period of suspension or revocation — probationary license — ignition interlock device allowed on first offense.** (1) The department may not suspend or revoke a driver's license or privilege to drive a motor vehicle on the public highways, except as permitted by law.

(2) (a) Except as provided in 61-2-302, a person whose license or privilege to drive a motor vehicle on the public highways has been suspended or revoked may not have the license, endorsement, or privilege renewed or restored until the revocation or suspension period has been completed.

(b) When a person is convicted or forfeits bail or collateral not vacated for a first offense of operating or being in actual physical control of a motor vehicle while under the influence of alcohol or any drug or a combination of alcohol or drugs or for a first offense of operation of a motor vehicle by a person with alcohol concentration of 0.08 or more, the department shall, upon receiving a report of conviction or forfeiture of bail or collateral not vacated, suspend the driver's license or driving privilege of the person for a period of 6 months. Upon receiving

a report of a conviction or forfeiture of bail or collateral for a second, third, or subsequent offense within 5 years of the first offense, the department shall suspend the license or driving privilege of the person for a period of 1 year and may not issue a probationary license during the period of suspension. If the 1-year suspension period passes and the person has not completed a chemical dependency education course, treatment, or both, as ordered by the sentencing court, the license suspension remains in effect until the course, treatment, or both, are completed.

(c) For the purposes of subsection (2)(b), a person is considered to have committed a second, third, or subsequent offense if fewer than 5 years have passed between the date of an offense that resulted in a prior conviction and the date of the offense that resulted in the most recent conviction.

(3) (a) If the person pays the reinstatement fee required in 61-2-107 and provides the department proof of compliance with an ignition interlock restriction imposed under 61-8-442, the department shall stay the license suspension of a person who has been convicted of a first violation of 61-8-401 or 61-8-406 and return the person's driver's license. The stay must remain in effect until the period of suspension has expired and any required chemical dependency education course, treatment, or both, have been completed.

(b) If the department receives notice from a court, peace officer, or ignition interlock vendor that the person has violated the court-imposed ignition interlock restriction by, including but not limited to operating a motor vehicle not equipped with the *ignition interlock* device, as defined in 61-8-102, tampering with the device, or removing the device before the period of restriction has expired, the department shall lift the stay and reinstate the license suspension for the remainder of the time period. The department may not issue a probationary driver's license to a person whose license suspension has been reinstated because of violation of an ignition interlock restriction.

(4) (a) Except as provided in subsection (4)(b), the period of suspension or revocation for a person convicted of any offense that makes mandatory the suspension or revocation of the person's driver's license commences from the date of conviction or forfeiture of bail.

(b) A suspension commences from the last day of the prior suspension or revocation period if the suspension is for a conviction of driving with a suspended or revoked license.

(5) If a person is convicted of a violation of 61-8-401 or 61-8-406 while operating a commercial motor vehicle, the department shall suspend the person's driver's license as provided in 61-8-802."

**Section 193.** Section 61-6-102, MCA, is amended to read:

**"61-6-102. Definitions.** ~~The following words and phrases, when used in this part, have the meanings respectively ascribed to them in this section except in those instances where~~ unless the context clearly indicates a different meaning, *the following definitions apply:*

(1) "Judgment" means any judgment that has become final by expiration without appeal of the time within which an appeal might have been perfected or by final affirmation on appeal rendered by a court of competent jurisdiction of any state or of the United States upon a cause of action arising out of the ownership, maintenance, or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person or for damages because of injury to or destruction of property, including

the loss of use ~~thereof~~ *of property*, or upon a cause of action on an agreement of settlement for such damages.

(2) "License" means any license, temporary instruction permit, or temporary license issued under the laws of this state pertaining to the licensing of persons to operate motor vehicles.

(3) "Nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by ~~him~~ *the nonresident* of a motor vehicle or the use of a motor vehicle owned by ~~him~~ *the nonresident* in this state.

(4) "*Person*" means every natural person, firm, partnership, association, or corporation.

~~(4)~~(5) "Proof of financial responsibility" means proof of ability to respond in damages for liability on account of accidents occurring subsequent to the effective date of ~~said~~ *the proof of financial responsibility*, arising out of the ownership, maintenance, or use of a motor vehicle.

~~(5)~~(6) "State" means any state, territory, or possession of the United States, the District of Columbia, or any province of the Dominion of Canada.

~~(6)~~ "*Ways of this state open to the public*" means any highway, road, alley, lane, parking area, or other public or private place adapted and fitted for public travel and in common use by the public."

**Section 194.** Section 61-6-301, MCA, is amended to read:

**"61-6-301. Required motor vehicle insurance — family member exclusion.** (1) (a) Except as provided in subsection (1)(b), an owner of a motor vehicle that is registered and operated in Montana by the owner or with the owner's permission shall continuously provide insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person caused by maintenance or use of a motor vehicle, ~~as defined in 61-1-102~~, in an amount not less than that required by 61-6-103, or a certificate of self-insurance issued in accordance with 61-6-143.

(b) Notwithstanding the mandatory motor vehicle liability insurance protection provided for in subsection (1)(a), nothing in this part may be construed to prohibit the exclusion from insurance coverage of a named family member in a motor vehicle liability insurance policy.

(2) A motor vehicle owner who prefers to post an indemnity bond with the department in lieu of obtaining a policy of liability insurance may do so. The bond must guarantee that any loss resulting from liability imposed by law for bodily injury, death, or damage to property suffered by any person caused by accident and arising out of the operation, maintenance, and use of the motor vehicle sought to be registered must be paid within 30 days after final judgment is entered establishing the liability. The indemnity bond must guarantee payment in the amount provided for insurance under subsection (1).

(3) Any bond given in connection with this section is a continuing instrument and must cover the period for which the motor vehicle is to be registered and operated. The bond must be on a form approved by the commissioner of insurance and must be with a surety company authorized to do business in the state.

(4) It is unlawful for a person to operate a motor vehicle upon ways of this state open to the public *as defined in 61-8-101* without a valid policy of liability insurance in effect in an amount not less than that required by 61-6-103 unless

the person has been issued a certificate of self-insurance under 61-6-143, has posted an indemnity bond with the department as provided in this section, or is operating a vehicle exempt under 61-6-303.”

**Section 195.** Section 61-8-102, MCA, is amended to read:

**“61-8-102. Uniformity of interpretation — definitions. (1)** Interpretation of this chapter in this state must be as consistent as possible with the interpretation of similar laws in other states.

(2) *As used in this chapter, unless the context requires otherwise, the following definitions apply:*

(a) *“authorized emergency vehicle” means a vehicle of the fire department or fire patrol, an ambulance, and an emergency vehicle designated or authorized by the department;*

(b) *“bicycle” means:*

(i) *a vehicle propelled solely by human power upon which any person may ride and that has two tandem wheels and a seat height of more than 25 inches from the ground when the seat is raised to its highest position, except scooters and similar devices; or*

(ii) *a vehicle equipped with two or three wheels, foot pedals to permit muscular propulsion, and an independent power source providing a maximum of 2 brake horsepower. If a combustion engine is used, the maximum piston or rotor displacement may not exceed 3.05 cubic inches (50 centimeters) regardless of the number of chambers in the power source. The power source may not be capable of propelling the device, unassisted, at a speed exceeding 30 miles an hour (48.28 kilometers an hour) on a level surface. The device must be equipped with a power drive system that functions directly or automatically only and does not require clutching or shifting by the operator after the drive system is engaged.*

(c) *“business district” means the territory contiguous to and including a highway when within any 600 feet along a highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, office buildings, railroad stations, and public buildings that occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway;*

(d) *“controlled-access highway” means a highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the highway, street, or roadway except at the points and in the manner as determined by the public authority having jurisdiction over the highway, street, or roadway;*

(e) *“crosswalk” means:*

(i) *that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway;*

(ii) *any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrians crossing by lines or other markings on the surface;*

(f) *“flag person” means a person who directs, controls, or alters the normal flow of vehicular traffic upon a street or highway as a result of a vehicular traffic hazard then present on that street or highway. This person, except a uniformed traffic enforcement officer exercising the officer’s duty as a result of a planned vehicular traffic hazard, must be equipped as required by the rules of the Montana department of transportation.*

(g) "highway" has the meaning provided in 61-1-101, but includes ways that have been or are later dedicated to public use;

(h) "ignition interlock device" means ignition equipment that:

(i) analyzes the breath to determine blood alcohol concentration;

(ii) is approved by the department pursuant to 61-8-441; and

(iii) is designed to prevent a motor vehicle from being operated by a person who has consumed a specific amount of an alcoholic beverage;

(i) (i) "intersection" means the area embraced within the prolongation or connection of the lateral curb lines or if there are no curb lines then the lateral boundary lines of the roadways of two highways that join one another at or approximately at right angles or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(ii) When a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of the divided highway by an intersecting highway must be regarded as a separate intersection. If the intersecting highway also include two roadways 30 feet or more apart, then every crossing of two roadways of the highways must be regarded as a separate intersection.

(j) "local authorities" means every county, municipal, and other local board or body having authority to enact laws relating to traffic under the constitution and laws of this state.

(k) "noncommercial motor vehicle" or "noncommercial vehicle" means any motor vehicle or combination of motor vehicles that is not included in the definition of commercial motor vehicle in 61-1-101 and includes but is not limited to the vehicles listed in 61-1-101(5)(b);

(l) "official traffic control devices" means all signs, signals, markings, and devices not inconsistent with this title that are placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic;

(m) "pedestrian" means any person on foot;

(n) "police vehicle" means a vehicle used in the service of any law enforcement agency;

(o) "private road" or "driveway" means a way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons;

(p) "residence district" means the territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of 300 feet or more is primarily improved with residences or residences and buildings in use for business;

(q) "right-of-way" means the privilege of the immediate use of the roadway;

(r) "school bus" has the meaning provided in 20-10-101;

(s) "sidewalk" means that portion of a street that is between the curb lines or the lateral lines of a roadway and the adjacent property lines and that is intended for use of pedestrians;

(t) "traffic control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed; and

(u) “urban district” means the territory contiguous to and including any street that is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than 100 feet for a distance of one-fourth mile or more.”

**Section 196.** Section 61-8-201, MCA, is amended to read:

**“61-8-201. Obedience to traffic control devices — exception for certain vehicles and funeral processions.** (1) Unless otherwise directed by a peace officer, flag person, crossing guard, or public safety worker, the driver of a vehicle shall obey the instructions of an official traffic control device applicable to the driver’s vehicle and placed in accordance with the provisions of this chapter. The driver of an authorized emergency vehicle, a police vehicle, or a highway patrol vehicle and the driver of a motor vehicle in a funeral procession are exempt from obedience to official traffic control devices *and flag persons* as provided in this chapter.

(2) A provision of this chapter for which traffic control devices *or flag persons* are required may not be enforced against an alleged violator if at the time and place of the alleged violation an official traffic control device *or flag person* is not in proper position and sufficiently legible *or visible* to be seen by an ordinarily observant person. Whenever a particular section of this chapter does not state that official traffic control devices *or flag persons* are required, the section is effective even though traffic control devices are not erected or in place.

(3) Official traffic control devices *or flag persons* that are placed or held in position substantially conforming to the requirements of this chapter and the requirements of the uniform system adopted by the department of transportation pursuant to 61-8-202 are presumed to have been placed by an official act or at the discretion of a lawful authority.”

**Section 197.** Section 61-8-210, MCA, is amended to read:

**“61-8-210. Display of unauthorized signs, signals, or markings.** (1) A person may not place, maintain, or display upon or in view of a highway any unauthorized sign, signal, marking, or device that purports to be or is an imitation of or resembles an official traffic control device, that attempts to direct the movement of traffic, or that hides from view or interferes with the effectiveness of any official traffic control device *or flag person*.

(2) A person may not place or maintain and a public authority may not permit commercial advertising on an official traffic control device on a highway, except for business signs included as a part of official motorist service panels or roadside area information panels approved by the department of transportation.

(3) This section does not prohibit the erection of signs upon private property adjacent to highways that give useful directional information and that are of a type that cannot be mistaken for official signs.”

**Section 198.** Section 61-8-310, MCA, is amended to read:

**“61-8-310. When local authorities may and shall alter limits.** (1) If a local authority in its jurisdiction determines on the basis of an engineering and traffic investigation that the speed permitted under 61-8-303 and 61-8-309 through 61-8-313 is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the local authority may set a reasonable and safe limit that:

(a) decreases the limit at an intersection;

(b) increases the limit within an urban district, but not to more than 65 miles an hour during the nighttime;

(c) decreases the limit outside an urban district, but not to less than 35 miles an hour; or

(d) decreases the limit in an area near a school, a senior citizen center, as defined in 23-5-112, or a designated crosswalk, ~~as crosswalk is defined in 61-1-209~~, that is close to a school or a senior citizen center to not less than 80%, rounded down to the nearest whole number evenly divisible by 5, of the limit that would be set on the basis of an engineering and traffic investigation, but not less than 15 miles an hour. If warranted by an engineering and traffic investigation, a local authority may adopt variable speed limits to adapt to traffic conditions by time of day, provided that the variable limits comply with the provisions of 61-8-206.

(2) A board of county commissioners may set limits, as provided in subsection (1)(c), without an engineering and traffic investigation on a county road, ~~as defined in 60-1-103~~.

(3) A local authority in its jurisdiction may determine the proper speed for all arterial streets and shall set a reasonable and safe limit on arterial streets that may be greater or less than the speed permitted under 61-8-303 for an urban district.

(4) An altered limit established as authorized under this section is effective at all times or at other times determined by the authority when appropriate signs giving notice of the altered limit are erected upon the highway.

(5) Except as provided in subsection (1)(d), the commission has exclusive jurisdiction to set special speed limits on all federal-aid highways or extensions of federal-aid highways in all municipalities or urban areas. The commission shall set these limits in accordance with 61-8-309.”

**Section 199.** Section 61-8-336, MCA, is amended to read:

**“61-8-336. Turning movements and required signals.** (1) A person may not turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required by 61-8-333 or turn a vehicle to enter a private road or driveway or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless the movement can be made with reasonable safety and until an appropriate signal has been given. A person may not turn a vehicle without giving an appropriate signal in the manner provided in this section.

(2) A signal of intention to turn right or left, other than when passing, must be given continuously during not less than the last 100 feet traveled by the vehicle before turning in any business *district*, residence *district*, or urban district ~~as defined in 61-1-408 through 61-1-410~~.

(3) A signal of intention to turn right or left, other than when passing, must be given continuously during not less than the last 300 feet traveled by the vehicle before turning in areas other than those set forth in subsection (2).

(4) A person may not stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal to the operator of a vehicle immediately to the rear when there is opportunity to give the signal.”

**Section 200.** Section 61-8-341, MCA, is amended to read:

**“61-8-341. Vehicle entering through highway — definition.** (1) The operator of a vehicle shall stop as required by 61-8-344 at the entrance to a

through highway and shall yield the right-of-way to other vehicles that are approaching close enough on the through highway to constitute an immediate hazard. Once the operator has yielded, the operator may proceed and the operators of all other vehicles approaching the intersection on the through highway shall yield the right-of-way to the vehicle proceeding into or across the through highway.

(2) *As used in this section, "through highway" means a highway or portion of a highway at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing and when stop signs are erected as provided in this chapter.*

**Section 201.** Section 61-8-354, MCA, is amended to read:

**"61-8-354. Stopping, standing, or parking prohibited in specified places — exceptions — definition.** (1) A person may not stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer, highway patrol officer, or official traffic control device, in any of the following places:

- (a) on a sidewalk;
- (b) in front of a public or private driveway;
- (c) within an intersection;
- (d) within 15 feet of a fire hydrant;
- (e) on a crosswalk;
- (f) within 20 feet of a crosswalk at an intersection;
- (g) within 30 feet upon the approach to any flashing beacon, stop sign, or official traffic control device located at the side of a roadway;
- (h) between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless the local authorities indicate a different length by signs or markings;
  - (i) within 50 feet of the nearest rail of a railroad crossing;
  - (j) within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance when properly signposted;
  - (k) alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;
  - (l) on the roadway side of any vehicle stopped or parked at the edge or curb of a street;
  - (m) upon any bridge or other elevated structure upon a highway or within a highway tunnel;
  - (n) at any place where official traffic control devices prohibit stopping.

(2) A public bus stop may not be established in the areas described in subsections (1)(a) through (1)(c) and (1)(e). Otherwise, this section does not prohibit the establishment of public bus stops and the regulation of their use by the authority having jurisdiction. A bus stop may only be established pursuant to a traffic and engineering study.

(3) A person may not move a vehicle not lawfully under the person's control into a prohibited area or an unlawful distance away from a curb.

(4) *As used in this section, "safety zone" means the area or space that is officially set apart within a roadway for the exclusive use of pedestrians and that is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.*

**Section 202.** Section 61-8-371, MCA, is amended to read:

**"61-8-371. Operation of motor vehicle or off-highway vehicle below high-water mark on certain state or federal lands prohibited — exceptions.** (1) Except as provided in subsections (2) and (3), a person may not operate a motor vehicle, ~~as defined in 61-1-102,~~ or an off-highway vehicle, ~~as defined in 23-2-801,~~ below the ordinary high-water mark, as defined in 23-2-301, of class I or class II waters, as defined in 23-2-301, that occurs on state or federal lands or below the ordinary high-water mark of class I waters flowing through private lands, within that portion of the streambed that is covered with water.

(2) A motor vehicle or an off-highway vehicle may be operated below the ordinary high-water mark on state or federal lands on an established road or trail that enters or crosses a stream, but the stream crossing must be by the shortest practical or designated route to the road or trail on the opposite bank.

(3) The prohibition in subsection (1) does not apply to:

(a) off-highway or motor vehicle use that occurs on state or federal land that is designated for off-highway or motor vehicle use below the ordinary high-water mark if the use is in accordance with the requirements of the authorization;

(b) off-highway or motor vehicle use conducted on state or federal land pursuant to and in accordance with a specific written authorization from the appropriate land management agency for that use below the ordinary high-water mark; and

(c) operation of an off-highway vehicle by a nonambulatory person who is using the vehicle for recreational use, as defined in 23-2-301, as long as operation of the vehicle is prudent and minimizes destruction.

(4) The state may authorize the use of a motor vehicle or off-highway vehicle on state property below the ordinary high-water mark only when the state has determined that the use will have a minimal impact on the streambed and on the fish and wildlife ecology of the stream or river. Federal land management agencies are requested to apply the same criteria when authorizing use of federal land."

**Section 203. Definitions.** As used in 61-8-380 through 61-8-384, the following definitions apply:

(1) "Funeral escort vehicle" means a motor vehicle properly equipped pursuant to 61-8-381.

(2) "Funeral lead vehicle" means a motor vehicle, including a funeral hearse that is properly equipped pursuant to 61-8-381, leading and facilitating the movement of a funeral procession.

(3) "Funeral procession" means two or more motor vehicles, one of which is carrying the remains of a deceased person, in the daylight hours, including a funeral lead vehicle and a funeral escort vehicle.

**Section 204.** Section 61-8-380, MCA, is amended to read:

**“61-8-380. Funeral procession right-of-way — funeral lead vehicle and funeral escort vehicle in funeral procession.** (1) Except as provided in subsection (4), pedestrians and operators of motor vehicles shall yield the right-of-way to a motor vehicle that is part of a funeral procession being led by a funeral lead vehicle or a funeral escort vehicle.

(2) After a funeral lead vehicle enters an intersection, the other vehicles in the funeral procession may continue to follow the funeral lead vehicle through the intersection despite any official traffic control device, right-of-way provisions of this chapter, or local ordinance if the operator exercises reasonable care toward any other vehicle or pedestrian. When the funeral lead vehicle arrives at an intersection, it must comply with the requirements of any official traffic control device, right-of-way provision of this chapter, and local ordinance.

(3) Except as provided in subsection (4), a driver of a funeral escort vehicle may direct the drivers of other vehicles in a funeral procession to proceed through an intersection or to make turns or other movements despite any official traffic control device. The driver of a funeral escort vehicle may direct and control the drivers of vehicles not in a funeral procession, including those in or approaching an intersection, to stop, proceed, or make turns or other movements without regard to an official traffic control device. Persons directing traffic shall comply with the provisions of ~~61-1-411~~ *requirements for a flag person as defined in 61-8-102*. However, use of a funeral escort vehicle is not required.

(4) A vehicle in a funeral procession has the right-of-way at intersections regardless of official traffic control devices provided the driver of that vehicle and the drivers of all vehicles in the funeral procession meet all the requirements of ~~61-1-413 through 61-1-415~~ *[section 203]* and 61-8-380 through 61-8-384, except that an operator of a vehicle in a funeral procession shall yield the right-of-way to an approaching authorized emergency vehicle giving an audible or visual signal or when directed to do so by a highway patrol officer or police officer. This section does not relieve the driver of a vehicle in a funeral procession from the duty to drive with due regard for the safety of all persons using the highway.”

**Section 205.** Section 61-8-383, MCA, is amended to read:

**“61-8-383. Vehicles not in funeral procession.** The driver of a vehicle that is not part of a funeral procession may not:

(1) drive between the vehicles forming a funeral procession while they are in motion except when:

(a) authorized to do so by a police officer; or

(b) driving an authorized emergency vehicle emitting an audible or visible signal;

(2) join a funeral procession to secure the right-of-way granted by 61-8-380;

(3) pass a funeral procession on a multiple-lane highway on the funeral procession’s right side unless the funeral procession is in the farthest left lane;

(4) enter an intersection, even if the driver is facing a green traffic control signal, when a funeral procession being conducted in compliance with ~~61-1-413 through 61-1-415~~ *[section 203]* and 61-8-380 through 61-8-384 is proceeding through a red traffic control signal at that intersection as permitted by 61-8-380 unless the driver can do so without crossing the path of the funeral procession. If the red signal changes to green while the funeral procession is within the

intersection, the driver of a vehicle facing a green signal may proceed subject to the right-of-way of a vehicle participating in a funeral procession.”

**Section 206.** Section 61-8-384, MCA, is amended to read:

**“61-8-384. Liability.** The operator of a vehicle in a funeral procession, including a *funeral* lead vehicle or ~~an~~ *funeral* escort vehicle, is not negligent if ~~he~~ *the person* operates the vehicle in accordance with the requirements of ~~61-1-413 through 61-1-415 [section 203]~~ and 61-8-380 through 61-8-384. When no negligence exists on the part of the operator of a vehicle in a funeral procession, none may be imputed to the funeral director or mortician organizing the procession, to the agent of the funeral director or mortician, or to a member of a local law enforcement agency acting as the agent, with or without compensation, of the funeral director or mortician.”

**Section 207.** Section 61-8-401, MCA, is amended to read:

**“61-8-401. Driving under influence of alcohol or drugs — definitions.**

(1) It is unlawful and punishable, as provided in 61-8-442, 61-8-714, and 61-8-731 through 61-8-734, for a person who is under the influence of:

(a) alcohol to drive or be in actual physical control of a vehicle upon the ways of this state open to the public;

(b) a dangerous drug to drive or be in actual physical control of a vehicle within this state;

(c) any other drug to drive or be in actual physical control of a vehicle within this state; or

(d) alcohol and any dangerous or other drug to drive or be in actual physical control of a vehicle within this state.

(2) The fact that any person charged with a violation of subsection (1) is or has been entitled to use alcohol or a drug under the laws of this state does not constitute a defense against any charge of violating subsection (1).

(3) (a) “Under the influence” means that as a result of taking into the body alcohol, drugs, or any combination of alcohol and drugs, a person’s ability to safely operate a vehicle has been diminished.

(b) *Subject to 61-8-440, as used in this part, “vehicle” has the meaning provided in 61-1-101, except that the term does not include a bicycle.*

(4) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person driving or in actual physical control of a vehicle while under the influence of alcohol, the concentration of alcohol in the person at the time of a test, as shown by analysis of a sample of the person’s blood or breath drawn or taken within a reasonable time after the alleged act, gives rise to the following inferences:

(a) If there was at that time an alcohol concentration of 0.04 or less, it may be inferred that the person was not under the influence of alcohol.

(b) If there was at that time an alcohol concentration in excess of 0.04 but less than 0.08, that fact may not give rise to any inference that the person was or was not under the influence of alcohol, but the fact may be considered with other competent evidence in determining the guilt or innocence of the person.

(c) If there was at that time an alcohol concentration of 0.08 or more, it may be inferred that the person was under the influence of alcohol. The inference is rebuttable.

(5) The provisions of subsection (4) do not limit the introduction of any other competent evidence bearing upon the issue of whether the person was under the influence of alcohol, drugs, or a combination of alcohol and drugs.

(6) Each municipality in this state is given authority to enact 61-8-406, 61-8-408, 61-8-410, 61-8-714, 61-8-722, 61-8-731 through 61-8-734, and subsections (1) through (5) of this section, with the word "state" in 61-8-406 and subsection (1) of this section changed to read "municipality", as an ordinance and is given jurisdiction of the enforcement of the ordinance and of the imposition of the fines and penalties provided in the ordinance.

(7) Absolute liability as provided in 45-2-104 will be imposed for a violation of this section."

**Section 208.** Section 61-8-605, MCA, is amended to read:

**"61-8-605. Riding on roadways.** (1) As used in this section:

(a) "*laned roadway*" means a roadway that is divided into two or more clearly marked lanes for vehicular traffic; and

(b) "roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, including the paved shoulder.

(2) A person operating a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as near to the right side of the roadway as practicable except when:

(a) overtaking and passing another vehicle proceeding in the same direction;

(b) preparing for a left turn at an intersection or into a private road or driveway; or

(c) necessary to avoid a condition that makes it unsafe to continue along the right side of the roadway, including but not limited to a fixed or moving object, parked or moving vehicle, pedestrian, animal, surface hazard, or a lane that is too narrow for a bicycle and another vehicle to travel safely side by side within the lane.

(3) A person operating a bicycle upon a one-way highway with two or more marked traffic lanes may ride as close to the left side of the roadway as practicable.

(4) Persons riding bicycles upon a roadway shall ride in single file except when:

(a) riding on paths or parts of roadways set aside for the exclusive use of bicycles;

(b) overtaking and passing another bicycle;

(c) riding on a paved shoulder or in a parking lane, in which case the persons may ride two abreast; or

(d) riding within a single lane on a laned roadway with at least two lanes in each direction, in which case the persons may ride two abreast if they do not impede the normal and reasonable movement of traffic more than they would otherwise impede traffic by riding single file and in accordance with the provisions of this chapter.

(5) A bicycle, as defined in ~~61-1-123(2)~~ 61-8-102(2)(b)(ii), is excluded from the provisions of subsections (2) and (3)."

**Section 209.** Section 61-8-704, MCA, is amended to read:

**“61-8-704. Erection of signs — definition.** (1) ~~No~~ The operator of a motor vehicle may *not* be arrested under 61-8-703 unless signs have been placed at or near the state line on the primary highway system, outside towns or cities having over 2,500 population, and outside county seats on the primary highways to indicate the legal rate of speed.

(2) Any municipality ~~which that~~ uses radio microwaves or ~~other another~~ electrical device for law enforcement purposes shall erect and maintain appropriate signs giving notice of ~~such that~~ use at a conspicuous place at or near the corporate limits of the municipality, upon each state highway and arterial street or highway entering the municipality, and at ~~such~~ other places ~~as may be deemed~~ *deemed* necessary by the municipal authorities for the information of the traveling public.

(3) Signs giving notice that the speed of vehicles may be measured by radio microwaves or other electrical device ~~shall must~~ be placed as required for speed signs in subsection (1) ~~above~~. However, the absence of ~~such~~ signs ~~shall may~~ not in itself invalidate an otherwise proper arrest.

(4) *As used in this section, “arterial street” means any federal or state numbered route, controlled-access highway, or other major radial or circumferential street or highway designated by local authorities within their respective jurisdictions as part of a major arterial system or highway.*

**Section 210.** Section 61-8-713, MCA, is amended to read:

**“61-8-713. Injury to or removal of sign or marker a as misdemeanor — penalty.** (1) ~~Every~~ A person who maliciously injures, defaces, damages, or removes any sign, signal, or marker, either temporarily or permanently erected on the right-of-way of any secondary, state, or interstate highway for warning, instruction, or information of the public, is guilty of a misdemeanor and upon conviction ~~thereof~~ shall be punished by a fine of \$250, ~~or~~ by imprisonment in the county jail for a period not exceeding 60 days, or ~~by both such fine and imprisonment in the discretion of the court.~~ This section applies to secondary, state, or interstate highways ~~which that~~ are completed and to secondary, state, or interstate highways ~~which that~~ are under construction or repair.

(2) ~~No~~ A person ~~shall may not~~, without lawful authority, attempt to or in fact alter, deface, injure, knock down, or remove any official traffic control device or any railroad sign or signal or any inscription, shield, or insignia ~~thereon on~~ or ~~any part thereof~~ of the sign or device.

(3) *As used in this section, “railroad sign or signal” means any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.*

**Section 211.** Section 61-8-801, MCA, is amended to read:

**“61-8-801. Purpose — definition.** (1) The purpose of this part is to reduce the number of commercial motor vehicle accidents in Montana, to provide greater safety to the motoring public and others by establishing stringent criteria governing the operation of commercial motor vehicles, and to deny the privilege of operating commercial motor vehicles upon the public streets and highways to those commercial motor vehicle operators who are not qualified.

(2) To fulfill this purpose, the legislature intends that this part:

(a) establish criteria and procedures for the operation of commercial motor vehicles that require safety practices commensurate with the danger inherent to their operation;

(b) provide for increased administrative punishment for commercial motor vehicle operators who use alcohol while operating commercial motor vehicles;

(c) provide greater control of commercial motor vehicle operators using the streets and highways; and

(d) conform Montana's laws on commercial driver licensing with federal regulations based on the Commercial Motor Vehicle Safety Act of 1986, Public Law 99-570, as amended.

(3) *As used in this part, "hazardous material" means a substance or material, defined or listed as a hazardous material in Title 49, Code of Federal Regulations, in a quantity and form that may pose an unreasonable risk to health and safety or property when transported.*

**Section 212.** Section 61-9-102, MCA, is amended to read:

**"61-9-102. Uniformity of interpretation — definitions.** (1) This chapter ~~shall~~ *must* be ~~so~~ interpreted and construed ~~as in order~~ to effectuate its general purpose to make uniform the law of those states which enact it.

(2) *As used in this chapter, unless the context requires otherwise, the following definitions apply:*

(a) *"authorized emergency vehicle" has the meaning provided in 61-8-102;*

(b) *"emergency service vehicle" means an emergency service vehicle of a state, county, or municipal department or a public service vehicle, commercial tow truck, or commercial road service truck, which by the nature of its operation causes a vehicular traffic hazard;*

(c) *"explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases so that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb;*

(d) *"farm tractor" means a motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry;*

(e) *"police vehicle" has the meaning as provided in 61-8-102; and*

(f) *"right-of-way" has the meaning provided in 61-8-102."*

**Section 213.** Section 61-9-103, MCA, is amended to read:

**"61-9-103. Provisions uniform throughout state — power of local authorities.** (1) The provisions of this chapter ~~shall~~ *must* be applicable and uniform throughout this state and in all political subdivisions and municipalities ~~therein in this state~~, and ~~no~~ a local authority ~~shall~~ *may not* enact or enforce any ordinance, rule, or regulation in conflict with the provisions of this chapter unless expressly authorized ~~herein in this chapter~~. Local authorities may, ~~however~~, adopt additional traffic regulations ~~which that~~ are not in conflict with the provisions of this chapter.

(2) *As used in this section "local authorities" has the meaning provided in 61-8-102."*

**Section 214.** Section 61-9-226, MCA, is amended to read:

**“61-9-226. Special restrictions on lamps — definition.** (1) A lighted lamp or illuminating device upon a motor vehicle other than headlamps, spot lamps, auxiliary lamps, or flashing turn signals, emergency vehicle warning lamps, and school bus warning lamps that projects a beam of light of an intensity greater than 300 candlepower must be so directed that the high intensity portion of the beam may not strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.

(2) A person may not drive or move a vehicle or equipment upon a highway with a lamp or device displaying a red light visible from in front of the center of the vehicle. This section does not apply to a vehicle upon which a red light visible from the front is expressly authorized or required by this code.

(3) Flashing, blinking, sequential, rotating, or pulsating lights are prohibited except on vehicles that are authorized by this chapter to contain the lights or on a vehicle as a means for indicating a right or left turn or the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking, or passing.

(4) License plate decorative lighting that is not original manufacturer's equipment or undercarriage decorative lighting that rotates, flashes, or oscillates or that displays a color authorized by this chapter for use by police vehicles and authorized emergency vehicles may not be illuminated on a vehicle that is operated upon a highway or street.

(5) *As used in this section “school bus” has the meaning provided in 20-10-101.”*

**Section 215.** Section 61-9-302, MCA, is amended to read:

**“61-9-302. Service brakes — adequacy.** Every ~~such~~ motor vehicle, trailer, semitrailer, and pole trailer and combination of these vehicles, except special mobile equipment as defined in 61-1-104, shall *must* be equipped with service brakes complying with the performance requirements of 61-9-312 and adequate to control the movement of and to stop and hold ~~such~~ the vehicle under all conditions of loading and on any grade incident to its operation.”

**Section 216.** Section 61-9-304, MCA, is amended to read:

**“61-9-304. Brakes required on all wheels — exceptions.** Every vehicle must be equipped with brakes acting on all wheels except:

(1) trailers, semitrailers, pole trailers of a gross weight not exceeding 3,000 pounds, provided that:

(a) the total weight on and including the wheels of the trailer or trailers may not exceed 40% of the gross weight of the towing vehicle when connected to the trailer or trailers; and

(b) the combination of vehicles consisting of the towing vehicle and its total towed load is capable of complying with the performance requirements of 61-9-312;

(2) any vehicle being towed in driveaway or towaway operations, provided the combination of vehicles is capable of complying with the performance requirements of 61-9-312;

(3) trucks and truck tractors having three or more axles need not have brakes on the front wheels, if the vehicle was manufactured before July 25, 1980. However, the trucks and truck tractors must be capable of complying with the performance requirements of 61-9-312.

(4) special mobile equipment ~~as defined in 61-1-104;~~

(5) the wheel of a sidecar attached to a motorcycle or to a motor-driven cycle, or the front wheel of a motor-driven cycle need not be equipped with brakes. However, a quadricycle, motorcycle, or motor-driven cycle must be capable of complying with the performance requirements of 61-9-312.”

**Section 217.** Section 61-9-321, MCA, is amended to read:

**“61-9-321. Engine compression brake device — use.** (1) A commercial motor vehicle, ~~as defined in 61-1-134,~~ equipped with an engine compression brake device must be equipped with a muffler in good working condition to prevent excessive noise.

(2) An operator of a commercial motor vehicle that has an engine compression brake device with a factory-installed muffler or an equivalent after-market muffler may not be prohibited from using the engine compression brake device.”

**Section 218.** Section 61-9-402, MCA, is amended to read:

**“61-9-402. Audible and visual signals on police, emergency vehicles, and on-scene command vehicles — immunity.** (1) A police vehicle must be equipped with a siren capable of giving an audible signal and may be equipped with alternately flashing or rotating red or blue lights as specified in this section.

(2) An authorized emergency vehicle must be equipped:

(a) with a siren and an alternately flashing or rotating red light as specified in this section; and

(b) with signal lamps mounted as high and as widely spaced laterally as practicable that are capable of displaying to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level. These lights must have sufficient intensity to be visible at 500 feet in normal sunlight.

(3) A bus used for the transportation of school children must be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, displaying to the front two red and two amber alternating flashing lights and to the rear two red and two amber alternating flashing lights. These lights must have sufficient intensity to be visible at 500 feet in normal sunlight. The warning lights must be as prescribed by the board of public education and approved by the department.

(4) A police vehicle and an authorized emergency vehicle may, and an emergency service vehicle must, be equipped with alternately flashing or rotating amber lights as specified in this section.

(5) The use of signal equipment as described in this section imposes upon the operators of other vehicles the obligation to yield right-of-way or to stop and to proceed past the signal or light only with caution and at a speed that is no greater than is reasonable and proper under the conditions existing at the point of operation subject to the provisions of 61-8-209 and 61-8-303.

(6) An employee, agent, or representative of the state or a political subdivision of the state or of a fire department who is operating a police vehicle, an authorized emergency vehicle, or an emergency service vehicle and using signal equipment in rendering assistance at a highway crash scene or in response to any other hazard on the roadway that presents an immediate

hazard or an emergency or life-threatening situation is not liable, except for willful misconduct, bad faith, or gross negligence, for injuries, costs, damages, expenses, or other liabilities resulting from a motorist operating a vehicle in violation of subsection (5).

(7) Blue, red, and amber lights required in this section must be mounted as high as and as widely spaced laterally as practicable and capable of displaying to the front two alternately flashing lights of the specified color located at the same level and to the rear two alternately flashing lights of the specified color located at the same level or one rotating light of the specified color, mounted as high as is practicable and visible from both the front and the rear. These lights must have sufficient intensity to be visible at 500 feet in normal sunlight. Except as provided in 61-9-204(6), only police vehicles as defined in ~~61-1-118~~ 61-8-102 may display blue lights, lenses, or globes.

(8) A police ~~car~~ vehicle and authorized emergency vehicle may be equipped with a flashing signal lamp that is green in color, visible from 360 degrees, and attached to the exterior roof of the vehicle for purposes of designation as the on-scene command and control vehicle in an emergency or disaster. The green light must have sufficient intensity to be visible at 500 feet in normal sunlight. Only the on-scene command and control vehicle may display green lights, lenses, or globes.

(9) Only a police vehicle or an authorized emergency vehicle may be equipped with the means to flash or alternate its headlamps or its backup lights.

(10) A violation of subsection (5) is considered reckless endangerment of a highway worker, as provided in 61-8-301(4), and is punishable as provided in 61-8-715.”

**Section 219.** Section 61-9-405, MCA, is amended to read:

**“61-9-405. Windshields required, exception — unobstructed and equipped with wipers — window tinting and sunscreening — restrictions — exemptions.** (1) A motor vehicle, except a motorcycle, quadricycle, motor-driven cycle, or farm tractor, must be equipped with a front windshield meeting the requirements of 61-9-408, unless the driver wears safety glasses, goggles, or face shields at all times during the operation of the motor vehicle.

(2) A person may not drive a motor vehicle with:

(a) a sign, poster, substance, or other nontransparent material upon the front windshield, side wings, or side or rear windows of the vehicle that materially obstructs, obscures, or impairs the driver’s clear view of the highway or an intersecting highway; or

(b) a windshield that is shattered or in such a defective condition that it materially impairs or obstructs the driver’s clear view.

(3) The windshield on a motor vehicle must be equipped with a device for clearing rain, snow, or other moisture from the windshield. The device must be maintained in good working order.

(4) A person may not operate a motor vehicle that is required to be registered in this state upon a highway if:

(a) the windshield has suncreening material that is not clear and transparent below the AS-1 line or if it has a sunscreening material that is red, yellow, or amber in color above the AS-1 line;

(b) the front side windows have sunscreening or other transparent material that has a luminous reflectance of more than 35% or has light transmission of less than 24%;

(c) the rear window or side windows behind the front seat have suncreening or other transparent material that has a luminous reflectance of more than 35% or has light transmission of less than 14%, except for the rear window or side windows behind the front seat on a multipurpose vehicle, van, or bus; or

(d) the windows of a camper, motor home, pickup cover, slide-in camper, or other motor vehicle do not meet the standards for safety glazing material specified by federal law in 49 CFR 571.205.

(5) As used in 61-9-428, 61-9-429, and this section, the following definitions apply:

~~(a) "Camper" means a structure designed to be mounted in the cargo area of a truck or attached to an incomplete vehicle for the purpose of providing shelter for persons.~~

~~(b)(a)~~ "Glass-plastic glazing material" means a laminate of one or more layers of glass and one or more layers of plastic in which a plastic surface of the glazing faces inward when the glazing is installed in a vehicle.

~~(b)(b)~~ "Light transmission" means the ratio of the amount of total light, expressed in percentages, that is allowed to pass through the suncreening or transparent material to the amount of total light falling on the motor vehicle window.

~~(b)(c)~~ "Luminous reflectance" means the ratio of the amount of total light, expressed in percentages, that is reflected outward by the suncreening or transparent material to the amount of total light falling on the motor vehicle window.

~~(c) "Motor home" means a multipurpose passenger vehicle that provides living accommodations.~~

~~(d)~~ "Multipurpose vehicle" means a motor vehicle designed to carry 10 or fewer passengers that is constructed on a truck chassis or with special features for occasional off-road use.

~~(e)~~ "Pickup cover" means a camper having a roof and sides but without a floor designed to be mounted on and removable from the cargo area of a pickup truck by the user.

~~(f)~~ "Slide-in camper" means a camper having a roof, floor, and sides designed to be mounted on and removable from the cargo area of a truck by the user.

~~(g)~~ "Sunscreening material" means a film, material, tint, or device applied to motor vehicle windows for the purpose of reducing the effects of the sun.

(6) Except as provided in subsection (7), subsection (4) applies to all vehicles that are equipped with tinted windows, including windows with less than 100% light transmission to which additional suncreening material has been applied.

(7) Subsection (4) does not apply to a multipurpose vehicle that is equipped with tinted windows that were installed by the manufacturer of the vehicle or to a hearse, ambulance, government vehicle, or any other vehicle to which a currently valid certificate of waiver is affixed as specified under 61-9-428. A certificate of waiver must be issued by the department for a vehicle that was registered in this state on October 1, 1991, and was equipped with a

sunscreening device or other material prohibited under subsection (4) on October 1, 1991.”

**Section 220.** Section 61-9-406, MCA, is amended to read:

**“61-9-406. Restrictions as to tire equipment — particular tires, chains, or traction equipment — definitions.** (1) A solid rubber tire on a vehicle must have rubber on its entire traction surface at least 1 inch thick above the edge of the flange of the entire periphery.

(2) A person may not operate or move on a highway a motor vehicle, trailer, or semitrailer having a metal tire in contact with the roadway.

(3) A tire on a vehicle moved on a highway may not have on its periphery a block, stud, flange, cleat, or spike, or other protuberance of a material other than rubber that projects beyond the tread of the traction surface of the tire, except that it is permissible to use farm machinery with tires having protuberances that will not injure the highway. It is also permissible to use tire chains of reasonable proportions or pneumatic tires, the traction surfaces of which have been embedded with material, such as wood, wire, plastic or metal, that may not protrude more than one-sixteenth of an inch beyond the tire tread or that are clearly marked by the manufacturer on the sidewall “all season m&s” (or “all season mud and snow”), upon a vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid. The use of pneumatic tires embedded as provided in this section is permitted only between October 1 and May 31 of each year, except that one of those tires may be used for a spare in case of tire failure. School buses equipped with such embedded pneumatic tires may operate from August 15 through the following June 15.

(4) The department of transportation and local authorities, *as defined in 61-8-102*, in their respective jurisdictions may in their discretion issue special permits authorizing the operation upon a highway of farm tractors or other farm machinery or of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of the movable tracks, the operation of which upon the highway would otherwise be prohibited under this section.

(5) If the department of transportation determines at any time that dangerous or unsafe conditions on a highway require particular tires, tire chains, or traction equipment for vehicles in addition to or beyond the ordinary pneumatic rubber tires, the department may establish the following recommendations or requirements with respect to the use of the equipment for all vehicles using the highway:

(a) chains or other approved traction devices recommended for driver wheels;

(b) chains or other approved traction devices required for driver wheels; or

(c) chains required for driver wheels.

(6) Equipment required by subsection (5)(b) or (5)(c) must conform to rules established by the department of justice.

(7) The department of transportation shall place and maintain signs and other traffic control devices on a highway designated under subsection (5) that indicate the tire, tire chain, or traction equipment recommendation or requirement determined for vehicles. The signs or traffic control devices may not prohibit the use of pneumatic tires embedded as provided in subsection (3) between October 1 and May 31 of each year, but when the department of transportation determines that chains are required and that no other traction

equipment will suffice, the requirement is applicable to tires on driver wheels of one axle, *as defined in 61-10-104*, of a vehicle, including embedded tires. The signs or traffic control devices may differentiate in recommendations or requirements for four-wheel-drive vehicles in gear.

(8) *As used in this section:*

(a) *“metal tire” means a tire the surface of which in contact with the highway is wholly or partly metal or other hard nonresilient material; and*

(b) *“pneumatic tire” means a tire in which compressed air or nitrogen is designed to support the load.”*

**Section 221.** Section 61-9-412, MCA, is amended to read:

**“61-9-412. Display of warning devices when vehicle disabled.** (1) Whenever ~~any~~ a motor truck, passenger bus, truck, tractor, trailer, semitrailer, or pole trailer is disabled upon the traveled portion of any highway or the shoulder ~~thereof of a highway~~ outside of any municipality at any time when lighted lamps are required on vehicles, the driver of ~~such that~~ vehicle shall display the following warning devices upon the highway during the time the vehicle is ~~so~~ disabled on the highway except as provided in subsection (2):

(a) A lighted fusee, a lighted red electric lantern, or a portable red emergency reflector ~~shall~~ *must* be immediately placed at the traffic side of the vehicle in the direction of the nearest approaching traffic.

(b) As soon ~~thereafter~~ as possible *after complying with subsection (1)(a)*, but ~~in any event~~ within the burning period of the fusee (15 minutes), the driver shall place three liquid burning flares (pot torches), ~~or~~ three lighted red electric lanterns, or three portable red emergency reflectors on the traveled portion of the highway in the following order:

(i) one approximately 100 feet from the disabled vehicle in the center of the lane occupied by ~~such the~~ vehicle and toward traffic approaching in that lane;

(ii) one approximately 100 feet in the opposite direction from the disabled vehicle and in the center of the traffic lane occupied by ~~such the~~ vehicle;

(iii) one at the traffic side of the disabled vehicle not less than 10 feet rearward or forward ~~thereof of the vehicle~~ in the direction of the nearest approaching traffic. If a lighted red electric lantern or a red portable emergency reflector has been placed at the traffic side of the vehicle in accordance with subsection (1)(b)(i) ~~of this section~~, it may be used for this purpose.

(2) Whenever any vehicle referred to in this section is disabled within 500 feet of a curve, hillcrest, or other obstruction to view, the warning signal in that direction ~~shall~~ *must* be ~~so~~ placed ~~as in order~~ to afford ample warning to other users of the highway but in no case less than 500 feet from the disabled vehicle.

(3) Whenever any vehicle of a type referred to in this section is disabled upon any roadway of a divided highway during the time that lights are required, the appropriate warning devices prescribed in subsections (1) and (5) ~~shall~~ *must* be placed as follows:

(a) one at a distance of approximately 200 feet from the vehicle, in the center of the lane occupied by the stopped vehicle and in the direction of traffic approaching in that lane;

(b) one at a distance of approximately 100 feet from the vehicle, in the center of the lane occupied by the vehicle and in the direction of traffic approaching in that lane;

(c) one at the traffic side of the vehicle and approximately 10 feet from the vehicle in the direction of the nearest approaching traffic.

(4) Whenever any vehicle of a type referred to in this section is disabled upon the traveled portion of a highway or the shoulder ~~thereof~~ *of a highway* outside of any municipality at any time when the display of fusees, flares, red electric lanterns, or portable red emergency reflectors is not required, the driver of the vehicle shall display two red flags upon the roadway in the lane of traffic occupied by the disabled vehicle, or at a distance of approximately 100 feet in advance of the vehicle, and one at a distance of approximately 100 feet to the rear of the vehicle.

(5) (a) Whenever ~~any~~ *a* motor vehicle used in the transportation of explosives, ~~or any~~ *a* cargo tank truck used for the transportation of any flammable liquid or compressed flammable gas, or ~~any~~ *a* motor vehicle using compressed gas as a fuel; is disabled upon any highway of this state at any time or place mentioned in subsection (1) ~~of this section~~, the driver of ~~such~~ *the* vehicle shall immediately display ~~the following warning devices:~~

~~(a)~~ one red electric lantern or portable red emergency reflector placed on the roadway at the traffic side of the vehicle and two red electric lanterns or portable red reflectors, one placed approximately 100 feet to the front and one placed approximately 100 feet to the rear of the disabled vehicle in the center of the traffic lane occupied by ~~such~~ *the* vehicle;

(b) ~~flares~~ *Flares*, fusees, or signals produced by flame ~~shall~~ *may* not be used as warning devices for disabled vehicles of the type mentioned in this subsection (5).

(6) The flares, fusees, red electric lanterns, portable red emergency reflectors and flags to be displayed as required in this section ~~shall~~ *must* conform with the *applicable* requirements of 61-9-411 ~~applicable thereto~~.

(7) *As used in this section, "flammable liquid" means any liquid that has a flash point of 70 degrees Fahrenheit or less as determined by a Tagliabue or equivalent closed cup test device.*

**Section 222.** Section 61-9-415, MCA, is amended to read:

**"61-9-415. Slow-moving vehicles.** (1) It is unlawful for a person to operate on a state highway, a farm, rural, or county road, or a city street of this state a slow-moving vehicle or equipment, an animal-drawn vehicle, or any other machinery, including all road construction or maintenance machinery, except when engaged in actual construction or maintenance work either guarded by a flag person, *as defined in 61-8-102*, or clearly visible warning signs, that normally travels or is normally used at a speed of less than 25 miles an hour, unless there is displayed on the rear of the vehicle an emblem as provided in subsection (2). The requirement of the emblem is in addition to any lighting devices required by law.

(2) The emblem required by subsection (1) must be of substantial construction and must be a based-down equilateral triangle of fluorescent yellow-orange film or equivalent quality paint with a base of 14 inches and a height of 12 inches. The triangle must be bordered with reflective red strips having a minimum width of 1 3/4 inches, with the vertices of the overall triangle truncated so that the remaining height is a minimum of 14 inches. The emblem must be mounted on the rear of the vehicle near the horizontal geometric center of the vehicle at a height of 3 to 5 feet above the roadway and must be maintained in a clean, reflective condition.

(3) In addition to the requirements in subsection (2), on a highway that has only two lanes for traffic moving in opposite directions, when an overtaking vehicle being operated in conformity with 61-8-303 does not have a clear lane for passing as required by 61-8-325, the driver of a slower-moving, overtaken vehicle shall, at the first opportunity and when a safe turnout exists, move the overtaken vehicle off the main-traveled portion of the highway until the overtaking vehicle is safely clear of the overtaken vehicle.

(4) On an interstate highway or on any other four-lane highway, a slow-moving vehicle, subject to the requirements of this section, must be driven in the right lane as far to the right as possible, including the shoulder of the highway.”

**Section 223.** Section 61-9-426, MCA, is amended to read:

**“61-9-426. Air-conditioning equipment — use of flammable refrigerant prohibited.** (1) Air-conditioning equipment must be maintained with due regard for the safety of the occupants of the vehicle, service technicians, and the public.

(2) Air-conditioning equipment may contain only refrigerant that has been included in the list published by the United States environmental protection agency as a safe alternative motor vehicle air-conditioning substitute for chlorofluorocarbon-12 pursuant to 42 U.S.C. 7671k(c).

(3) A person may not equip or maintain a motor vehicle or special mobile equipment with air-conditioning equipment or refrigerants that do not comply with the requirements of this section.

(4) As used in 61-9-427 and this section, “air-conditioning equipment” means mechanical, belt-driven, vapor compression refrigerant equipment that is used to cool the driver’s compartment or passenger compartment of a motor vehicle, ~~as defined in 61-1-102~~, or special mobile equipment, ~~as defined in 61-1-104~~.”

**Section 224.** Section 61-10-102, MCA, is amended to read:

**“61-10-102. Width — definition.** (1) Except as provided in subsection (2), a vehicle, including a bus, unloaded or with load, may not have a total outside width in excess of 102 inches. This width for buses is allowed only on paved highways 20 feet or more in width.

(2) (a) Subsection (1) does not apply to an implement of husbandry or a vehicle used for hauling hay that is moved or propelled upon the highway during daylight hours for a distance of not more than 100 miles if the movement is incidental to the farming operations of the owner of the implement of husbandry or the vehicle used for hauling hay. If the implement or vehicle is more than 12 1/2 feet wide, it must be preceded by flag vehicle escorts to warn other highway users. This restriction does not apply to dual-wheel tractors under 15 feet overall width that are used in farming operations or to movement on a county road within 100 miles of the farming operation of the owner of an implement of husbandry or a vehicle used for hauling hay. Lights that meet the requirements of 61-9-219(4) must be displayed on the rear of the implement of husbandry or vehicle used for hauling hay. However, if the highway passes through a hazardous area, the implements or vehicles must be preceded and followed by flag vehicle escorts unless the movement of the implements or vehicles is restricted to a county road within 100 miles of the farming operation of the owner.

(b) An implement of husbandry or a vehicle used for hauling hay that exceeds 16 1/2 feet in width and that is traveling on an interstate or a four-lane highway must be followed by a flag vehicle escort.

(c) A commercial vehicle that is hauling hay but does not qualify under subsection (2)(a) may be granted a permit subject to the provisions of 61-10-121 through 61-10-127 and the following requirements:

(i) travel during daylight hours only for an oversize shipment of large round bales of hay, whether the vehicle is loaded or with an empty hay rack, up to 144 inches; when empty, a square red or orange flag measuring 12 inches on each side must be attached to each corner of the hay rack; and

(ii) travel day or night for any other shipment of baled hay, whether the vehicle is loaded or with an empty hay rack, up to 114 inches.

(d) Subsection (1) does not apply to a commercial hay grinder moved or propelled upon the highway during daylight hours for a distance of not more than 100 miles if the movement is incidental to operations of the commercial hay grinder. A commercial hay grinder exceeding 102 inches in width must have a permit issued under 61-10-124. If the commercial hay grinder is more than 12 1/2 feet wide, it must be preceded by flag vehicle escorts to warn other highway users. Lights that meet the requirements of 61-9-219(4) must be displayed on the rear of the commercial hay grinder. Movement of a commercial hay grinder that does not exceed 138 inches in width may occur on any day of the week, including holidays, and is restricted to movement during daylight hours. Movement of a commercial hay grinder may not exceed the posted speed limit, including the speed limit on an interstate highway.

(3) A safety device that the department determines by rule adopted pursuant to 61-9-504 to be necessary for safe and efficient operation of motor vehicles is not included in the calculation of width provided in subsection (1).

(4) For the purposes of this section, ~~“county road” has the same meaning as the term is defined in 60-1-103~~ *“flag vehicle” means a vehicle equipped as required by law or by department of transportation rule to warn or guide vehicular traffic. When not being operated as a flag vehicle, signs must be removed.*

**Section 225.** Section 61-10-104, MCA, is amended to read:

**“61-10-104. Length — definitions.** (1) A single truck, bus, or self-propelled vehicle, unladen or with load, may not have an overall length, inclusive of front and rear bumpers, in excess of 55 feet.

(2) (a) When used in a truck tractor-semitrailer combination, the semitrailer may not exceed 53 feet in length, excluding those portions not designed to carry a load, except as provided by 61-10-124. When used in a truck tractor-semitrailer-trailer or a truck tractor-semitrailer-semitrailer combination, the semitrailer and trailer or the two semitrailers may not exceed 28 1/2 feet each in length or 61 feet in combined trailer length, excluding those portions not designed to carry a load, except as provided by 61-10-124. Truck tractor-semitrailer, truck tractor-semitrailer-trailer, and truck tractor-semitrailer-semitrailer combinations are not subject to a combination length limit.

(b) A stinger-steered automobile or boat transporter may not exceed 75 feet in length plus a maximum 3 feet of front overhang and 4 feet of rear overhang, except as provided by 61-10-124. “Stinger-steered automobile or boat transporter” means a truck tractor-semitrailer combination that has a fifth

wheel on a drop frame located behind and below the rear axle of the truck tractor and that is designed and used for the transportation of vehicles or assembled boats or boat hulls.

(c) All other combinations of vehicles may not have a combination length in excess of 75 feet, except as provided by 61-10-124. If the combination consists of more than two units, the rear units of the combination must be equipped with breakaway brakes.

(3) A motor vehicle may not tow more than one motor vehicle, and a motor vehicle may not draw more than three motor vehicles attached to it by the triple saddle-mount method (that is, by mounting the front wheels of one vehicle on the bed of another, leaving only the rear wheels of the vehicle in contact with the roadway), and this combination may not have a combination length in excess of 75 feet.

(4) A passenger vehicle or truck of less than 2,000 pounds "manufacturer's rated capacity" may not tow more than one trailer or semitrailer, and this combination may not have a length in excess of 65 feet.

(5) (a) The length of a vehicle combination consisting of a truck or truck-tractor and one pole trailer or semitrailer hauling raw logs may not exceed 75 feet in overall length. As used in this subsection (5)(a), the term "length" means the total length of the vehicle combination beginning at the front of the front bumper of the truck or truck-tractor and extending to the most distant end of the logs being hauled. A term permit for an overlength vehicle combination, as provided in 61-10-124(2), does not apply to the vehicle combination described in this subsection (5)(a). A vehicle combination exceeding 75 feet must have a trip permit.

(b) The maximum overhang of any log may not exceed 15 feet, except by special, single-trip permit. Overhang is measured from the center of the rear-most axle to the most distant end of the logs being hauled.

(c) The provisions in subsections (5)(a) and (5)(b) do not apply to a vehicle combination hauling utility poles.

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

(a) "Axle" means a transverse beam that is the common axis of rotation of one or more wheels and that, to receive credit for allowable total gross loading, must be capable of continuously transmitting a proportionate share of the total gross load to the roadway when the axle is in operation.

~~(a)~~(b) "Combination length" means the total length of a combination of vehicles, such as a truck tractor-semitrailer-trailer combination, measured from the front bumper of the motor vehicle to the back bumper or rear extremity of the last trailer, including the connection tongues.

~~(b)~~(c) "Combined trailer length" means the total length of a combination of trailers measured from the front of the first trailer to the back of the last trailer, including the connection tongues and loads.

~~(c)~~(d) "Length", except as provided in subsection (5)(a), means the total longitudinal dimension of a single vehicle, a trailer, or a semitrailer. The length of a trailer or semitrailer is measured from the front of the cargo-carrying unit to its rear, exclusive of safety or energy efficiency devices, air-conditioning units, air compressors, flexible fender extensions, splash and spray suppressant devices, bolsters, mechanical fastening devices, and hydraulic lift gates.

~~(d)~~(e) "Rocky Mountain double" means a combination of vehicles that includes a truck tractor pulling a long semitrailer and a shorter trailer."

**Section 226.** Section 61-10-123, MCA, is amended to read:

**"61-10-123. Haystack movers.** (1) A self-propelled vehicle used only for the purpose of moving haystacks on a commercial basis is subject to 61-10-121 through 61-10-127, except as follows: ~~provided in subsections (2) through (8).~~

~~(1)~~(2) The vehicle, loaded or unloaded, may not exceed 55 feet in length or 20 feet in width.

~~(2)~~(3) A single load may not be moved on the vehicle a distance greater than 75 miles from the point of origin on public roads.

~~(3)~~(4) When the vehicle is hauling a load, it ~~shall~~ *must* be accompanied by two pilot cars. Each car ~~shall~~ *must* be equipped with a flashing warning light, a red flag, and a sign with the words "wide load" written on it. One car ~~shall~~ *must* precede the vehicle by not less than 100 yards or more than one-fourth mile, and one ~~shall~~ *car must* follow the vehicle at a distance not less than 100 yards or more than one-fourth mile. The following pilot car ~~shall~~ *must* be in radio contact with the vehicle at all times.

~~(4)~~(5) The speed of the vehicle ~~shall~~ *must* be reasonable and proper but not in excess of 35 miles per hour.

~~(5)~~(6) The vehicle ~~shall~~ *may* be operated only between the hours of sunrise and sunset.

~~(6)~~(7) The vehicle may not be operated on an interstate or *a* controlled-access highway *as defined in 61-8-102.*

~~(7)~~(8) A term or blanket permit may be issued for the vehicle."

**Section 227.** Section 61-10-141, MCA, is amended to read:

**"61-10-141. Officers authorized to weigh vehicles and require removal of excessive loads — enforcement of motor carrier safety standards — duty to obtain bills of lading for agricultural seeds — authority to inspect diesel-powered vehicles.** (1) A peace officer, officer of the highway patrol, or employee of the department of transportation may weigh any vehicle regulated by 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110, except recreational vehicles ~~as defined in 61-1-132,~~ *travel trailers, or motor homes,* by means of either portable or stationary scales and may require that the vehicle be driven to the nearest scales if those scales are within 2 miles. That person may then require the driver to unload at a designated facility that portion of the load necessary to decrease the weight of the vehicle to conform to the maximum allowable weights specified in 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110. If the excess weight does not exceed 10,000 pounds, an excess weight permit may be issued in accordance with 61-10-121. The permit authorizes the driver of the excess weight load to proceed to a designated facility where the load can be safely reduced to legal limits.

(2) Commodities and material unloaded as required by this section must be cared for by the owner or operator of the vehicle at the risk of that owner or operator. Commodities or material unloaded as required by this section may not be left on the highway right-of-way.

(3) The department of transportation may establish, maintain, and operate weigh stations, either intermittently or on a continuous schedule, and may require vehicles, except passenger cars and pickup trucks under 14,000 pounds

GVW and recreational vehicles ~~as defined in 61-1-132~~ (that are not new or used recreational vehicles traveling into or through Montana for delivery to a distributor or a dealer), to enter for the purpose of weighing and inspection for compliance with all laws pertaining to their operation and safety requirements. The department may require vehicles over 10,000 pounds to be inspected and weighed by portable scale crews.

(4) The department of transportation shall work with the highway patrol in the enforcement of safety standards adopted pursuant to 44-1-1005. For the purposes of the joint enforcement, the highway patrol is designated as the lead agency. The highway patrol and the department of transportation shall cooperate to ensure minimum duplication and maximum coordination of enforcement effort.

(5) In order to enforce compliance with safety standards adopted pursuant to 44-1-1005, the department of transportation shall designate employees as peace officers. The designated employees must be employed in the administration of the motor carrier services functions of the department of transportation. Each employee designated as a peace officer may:

(a) issue citations and make arrests in connection with violations of safety standards adopted under 44-1-1005;

(b) issue summons;

(c) accept bail;

(d) serve warrants for arrest;

(e) make reasonable inspections of cargo carried by commercial motor vehicles;

(f) make reasonable safety inspections of commercial motor vehicles used by motor carriers; and

(g) require production of documents relating to the cargo, driver, routing, or ownership of the commercial motor vehicles.

(6) In addition to other enforcement duties assigned under this section, an employee of the department of transportation who is appointed pursuant to 61-12-201 has:

(a) the same authority to enforce provisions of the motor carriers law as that granted the public service commission under 69-12-203;

(b) the duty to secure or make copies, or both, of all bills of lading or other evidence of delivery for shipment of agricultural seeds as defined in 80-5-120 that have been sold or are intended for sale in Montana and to forward the copies to the department of agriculture within 24 hours of the date the bill of lading was obtained; and

(c) the authority, if probable cause exists, to stop and inspect a supply tank connected to the engine of any diesel-powered motor vehicle operating on the public highways of this state in order to determine compliance with Title 15, chapter 70, part 3.

(7) The department of transportation shall report to the revenue and transportation interim committee at least once each year on its enforcement, pursuant to the authority provided in subsection (6)(c), of the provisions of Title 15, chapter 70, part 3, and on any impacts that enforcement has had on the state special revenue fund.”

**Section 228.** Section 61-10-148, MCA, is amended to read:

**“61-10-148. Disposition of fines and forfeited bonds.** (1) Except as provided in 61-12-701 and subsection (2) of this section, all the money collected as fines and forfeited bonds for violations of Title 61, chapter 10, must be remitted monthly by the county treasurer to the ~~department of revenue~~ *state*, as provided in 15-1-504, for deposit in the state general fund. This subsection does not apply to fines and forfeited bonds paid to justices’ courts.

(2) If the apprehension or arrest was for a violation of Title 61, chapter 10, and if the offense occurred on a road or highway not included under the provisions of 60-2-128 and 60-2-203, all money collected as fines and forfeited bonds must be deposited in the state general fund.”

**Section 229.** Section 61-10-206, MCA, is amended to read:

**“61-10-206. Special fees — certain farm vehicles.** (1) Except for motortrucks owned and operated by cooperative associations or cooperative marketing associations, there must be paid and collected annually a fee equal to 35% of the fees provided in 61-10-201 on:

(a) motortrucks owned and operated by ranchers or farmers in:

(i) the transportation of their own ranch, farm, orchard, or dairy products from point of production to market;

(ii) the transportation of timber harvested on their own ranch, farm, orchard, or dairy from point of harvest to market;

(iii) the transportation of supplies, commodities, or equipment to be used on the ranch, farm, orchard, or dairy;

(iv) the infrequent or seasonal transportation by one farmer for another for any purpose other than commercial hire of products of the farm, orchard, or dairy; or

(v) the transportation of supplies or commodities to be used on the farm, orchard, or dairy; and

(b) one truck tractor and lowboy trailer used by contractors engaged exclusively in soil conservation work and land leveling activities that result in direct benefit to agriculture.

(2) The minimum fee is \$6.

(3) *A motor vehicle or trailer designed and used to apply fertilizer to agricultural land must be treated as special mobile equipment.”*

**Section 230.** Section 61-10-225, MCA, is amended to read:

**“61-10-225. Disposition of fees collected by county treasurer.** The county treasurer shall transmit the fees provided for in 61-10-222 to the ~~department of revenue~~ *state*, as provided in 15-1-504, for deposit to the credit of the department of transportation in the highway revenue account. The remittance must be made on forms furnished to the county treasurer by the department of transportation.”

**Section 231.** Section 61-11-203, MCA, is amended to read:

**“61-11-203. Definitions.** As used in this part, the following definitions apply:

(1) “Conviction” means a finding of guilt by duly constituted judicial authority, a plea of guilty or nolo contendere, or a forfeiture of bail, bond, or other security deposited to secure appearance by a person charged with having

committed any offense relating to the use or operation of a motor vehicle that is prohibited by law, ordinance, or administrative order.

(2) "Habitual traffic offender" means any person who within a 3-year period accumulates 30 or more conviction points according to the schedule specified in this subsection:

(a) deliberate homicide resulting from the operation of a motor vehicle, 15 points;

(b) mitigated deliberate homicide, negligent homicide resulting from operation of a motor vehicle, or negligent vehicular assault, 12 points;

(c) any offense punishable as a felony under the motor vehicle laws of Montana or any felony in the commission of which a motor vehicle is used, 12 points;

(d) driving while under the influence of intoxicating liquor or narcotics or drugs of any kind or operation of a motor vehicle by a person with alcohol concentration of 0.08 or more, 10 points;

(e) operating a motor vehicle while the license to do so has been suspended or revoked, 6 points;

(f) failure of the driver of a motor vehicle involved in an accident resulting in death or injury to any person to stop at the scene of the accident and give the required information and assistance, as defined *described* in 61-7-105, 8 points;

(g) willful failure of the driver involved in an accident resulting in property damage of \$250 to stop at the scene of the accident and give the required information or failure to otherwise report an accident in violation of the law, 4 points;

(h) reckless driving, 5 points;

(i) illegal drag racing or engaging in a speed contest in violation of the law, 5 points;

(j) any of the mandatory motor vehicle liability protection offenses under 61-6-301 and 61-6-302, 5 points;

(k) operating a motor vehicle without a license to do so, 2 points; *however* (this subsection (k) does not apply to operating a motor vehicle within a period of 180 days from the date the license expired);

(l) speeding, except as provided in 61-8-725(2), 3 points;

(m) all other moving violations, 2 points.

(3) There may not be multiple application of cumulative points when two or more charges are filed involving a single occurrence. If there are two or more convictions involving a single occurrence, only the number of points for the specific conviction carrying the highest points is chargeable against that defendant.

(4) "License" means any type of license or permit to operate a motor vehicle.

(5) "Moving violation" means a violation of a traffic regulation of this state or another jurisdiction by a person while operating a motor vehicle or in actual physical control of a motor vehicle upon a highway, ~~as the term is defined in 61-1-201.~~

(6) A traffic regulation includes any provision governing motor vehicle operation, equipment, safety, size, weight, and load restrictions or driver

licensing. A traffic regulation does not include provisions governing vehicle registration or local parking.”

**Section 232.** Section 61-12-101, MCA, is amended to read:

**“61-12-101. Powers of local authorities to regulate traffic.** The provisions of ~~chapter~~ *chapters* 8 and ~~chapter~~ *chapter* 9 ~~shall~~ *may* not be ~~deemed~~ *considered* to prevent local authorities with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power from:

- (1) regulating the standing or parking of vehicles;
- (2) regulating the traffic by means of police officers or traffic control devices;
- (3) regulating or prohibiting processions or assemblages on the highways;
- (4) designating particular highways as one-way highways and requiring that all vehicles ~~thereon be moved~~ *on those highways to move* in one specific direction;
- (5) regulating the speed of vehicles in public parks;
- (6) designating any highway as a through highway, *as defined in 61-8-341*, and requiring that all the vehicles stop before entering or crossing the ~~same~~ *highway*, designating any intersection, *as defined in 61-8-102*, as a stop intersection, and requiring all vehicles to stop at one or more entrances to ~~such~~ *those* intersections;
- (7) restricting the use of highways as authorized in 61-10-128(2);
- (8) regulating the operation of bicycles, *as defined in 61-8-102*, and requiring the registration and licensing of ~~same~~ *bicycles*, including the requirement of a registration fee;
- (9) regulating or prohibiting the turning of vehicles or specified types of vehicles at intersections;
- (10) altering the speed limits as authorized ~~herein in this part~~;
- (11) regulating the driving of vehicles by ~~any~~ *a* person who is ~~an~~ *a* habitual user of or under the influence of any narcotic drug or who is under the influence of any other drug to a degree ~~which~~ *that* renders ~~him~~ *the person* incapable of safely driving a vehicle within the incorporated limits of ~~any~~ *a* city or town;
- (12) regulating or prohibiting ~~any~~ *a* person who is under the influence of intoxicating liquor from driving or being in actual physical control of any vehicle within the incorporated limits of ~~any~~ *a* city or town;
- (13) regulating or prohibiting the driving of vehicles by ~~any~~ *a* person in a willful or wanton disregard for the safety of persons or property within the incorporated limits of ~~any~~ *a* city or town;
- (14) enacting as ordinances any ~~and all provisions~~ *provision* of chapter 8 or ~~chapter~~ *chapter* 9 and any ~~and all other laws~~ *law* regulating traffic, pedestrians, vehicles, and operators ~~thereof of vehicles~~; *that are* not in conflict with state law or federal regulations and ~~to enforce~~ *enforcing* the ~~same~~ *ordinances* within their jurisdiction.”

**Section 233.** Section 61-12-102, MCA, is amended to read:

**“61-12-102. Private parking services — parking citations.** (1) As used in this section, the following definitions apply:

(a) "Local government" means a municipality, if the private parking service operates parking services within a municipality, or a county, if ~~such~~ *the* services are not operated within a municipality.

(b) "Private parking service" means the service of providing areas for parking motor vehicles, ~~as defined in 61-1-102~~, by the general public for compensation and includes ~~such~~ *those* services conducted:

(i) on private property; or

(ii) on public property under contract or agreement with the local government.

(2) A local government may by ordinance allow a private parking service to impound a motor vehicle. A motor vehicle may not be impounded by attaching a device that makes the motor vehicle immobile.

(3) A private parking service may enter into an agreement with the local government to authorize employees of the private parking service to issue citations for parking violations as defined by state, municipal, or county laws, ~~which~~ *that* occur within the boundaries of the private parking service's parking areas. All ~~such~~ citations must be considered within the jurisdiction of the local government and must be handled in the same manner as citations issued by peace officers ~~thereof of the local government.~~

**Section 234.** Section 61-13-103, MCA, is amended to read:

**"61-13-103. Seatbelt use required — exceptions.** (1) A driver may not operate a motor vehicle upon a highway of the state of Montana unless each occupant of a designated seating position is wearing a properly adjusted and fastened seatbelt or, if 61-9-420 applies, is properly restrained in a child safety restraint.

(2) The provisions of this section do not apply to:

(a) an occupant of a motor vehicle who possesses a written statement from a licensed physician that the occupant is unable to wear a seatbelt for medical reasons;

(b) an occupant of a motor vehicle in which all seatbelts are being used by other occupants;

(c) an operator of a motorcycle ~~as defined in 61-1-105~~ or a motor-driven cycle ~~as defined in 61-1-106~~;

(d) an occupant of a vehicle licensed as special mobile equipment ~~as defined in 61-1-104~~; or

(e) an occupant who makes frequent stops with a motor vehicle during official job duties and who may be exempted by the department.

(3) The department may adopt rules to implement subsection (2)(e).

(4) The department or its agent may not require a driver who may be in violation of this section to stop except upon reasonable cause to believe that the driver has violated another traffic regulation or that the driver's vehicle is unsafe or not equipped as required by law."

**Section 235.** Section 75-10-532, MCA, is amended to read:

**"75-10-532. Disposition of money collected.** All money received from the sale of junk vehicles or from recycling of the material and all motor vehicle wrecking facility license fees must be remitted to the ~~department of revenue~~ *state*, as provided in 15-1-504. The money must be used for the control,

collection, recycling, and disposal of junk vehicles and component parts and for the removal of abandoned vehicles.”

**Section 236.** Section 76-2-202, MCA, is amended to read:

**“76-2-202. Establishment of zoning districts — regulations.** (1) (a) Within the unincorporated portions of a jurisdictional area that has been established under provisions of 76-1-501 through 76-1-503 or 76-1-504 through 76-1-507, the board of county commissioners may by resolution establish zoning districts and zoning regulations for all or part of the jurisdictional area.

(b) An action challenging the creation of a zoning district must be commenced within 5 years after the date of the order by the board of county commissioners creating the district.

(2) Within some zoning districts, it is lawful and within others it is unlawful to erect, construct, alter, or maintain certain buildings or to carry on certain trades, industries, or callings.

(3) In a proceeding for a permit or variance to place manufactured housing within a residential zoning district, there is a rebuttable presumption that placement of a manufactured home will not adversely affect property values of conventional housing.

(4) Within each district the height and bulk of future buildings and the area of the yards, courts, and other open spaces and the future uses of the land or buildings must be limited and future building setback lines must be established.

(5) All regulations must be uniform for each class or kind of buildings throughout a district, but the regulations in one district may differ from those in other districts.

(6) As used in this section, “manufactured housing” means a single-family dwelling, built offsite in a factory on or after January 1, 1990, that is placed on a permanent foundation, is at least 1,000 square feet in size, has a pitched roof and siding and roofing materials that are customarily, as defined by local regulations, used on site-built homes, and is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of its production. A manufactured home does not include a mobile home or housetrailer, as defined in ~~61-1-501~~ 61-1-101.

(7) Nothing contained in this section may be construed to limit conditions imposed in historic districts, local design review standards, existing covenants, or the ability to enter into covenants pursuant to Title 70, chapter 17, part 2.”

**Section 237.** Section 76-2-302, MCA, is amended to read:

**“76-2-302. Zoning districts.** (1) For the purposes of 76-2-301, the local city or town council or other legislative body may divide the municipality into districts of the number, shape, and area as are considered best suited to carry out the purposes of this part. Within the districts, it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land.

(2) All regulations must be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

(3) In a proceeding for a permit or variance to place manufactured housing within a residential zoning district, there is a rebuttable presumption that placement of a manufactured home will not adversely affect property values of conventional housing.

(4) As used in this section, "manufactured housing" means a single-family dwelling, built offsite in a factory on or after January 1, 1990, that is placed on a permanent foundation, is at least 1,000 square feet in size, has a pitched roof and siding and roofing materials that are customarily, as defined by local regulations, used on site-built homes, and is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of its production. A manufactured home does not include a mobile home or housetrailer, as defined in ~~61-1-501~~ 61-1-101.

(5) This section may not be construed to limit conditions imposed in historic districts, local design review standards, existing covenants, or the ability to enter into covenants pursuant to Title 70, chapter 17, part 2."

**Section 238.** Section 87-2-803, MCA, is amended to read:

**"87-2-803. Persons with disabilities — definitions.** (1) Persons with disabilities are entitled to fish and to hunt game birds, not including turkeys, with only a conservation license if they are residents of Montana not residing in an institution and are certified as disabled as prescribed by departmental rule. A person who has purchased a conservation license and a resident fishing license or game bird license for a particular license year and who is subsequently certified as disabled is entitled to a refund for the fishing license or game bird license previously purchased for that license year. A person who is certified as disabled pursuant to subsection (3) and who was issued a permit to hunt from a vehicle for license year 2000 or a subsequent license year is automatically entitled to a permit to hunt from a vehicle for subsequent license years if the criteria for obtaining a permit does not change.

(2) A resident of Montana who is certified as disabled by the department and who is not residing in an institution may purchase regular resident deer and elk licenses at one-half the fee paid by a resident who is 15 years of age or older and who is under 62 years of age. A person who has purchased a conservation license and a resident deer license or resident elk license for a particular license year and who is subsequently certified as disabled is entitled to a refund for the deer license or elk license previously purchased and reissuance of the license for that license year at the rate established in this subsection.

(3) A person may be certified as disabled by the department and issued a permit to hunt from a vehicle, on a form prescribed by the department, if the person establishes one or more of the disabilities pursuant to subsection (8). The department shall adopt rules to establish a voluntary board or boards of review to resolve any disputes over whether a person meets the criteria established in subsection (8). Each board must have at least one Montana-licensed physician as a member.

(4) A person with a disability carrying a permit to hunt from a vehicle, referred to in this subsection as a permitholder, may hunt by shooting a firearm from the shoulder, berm, or barrow pit right-of-way of a public highway, as defined in ~~61-1-202~~ 61-1-101, except a state or federal highway, or may hunt by shooting a firearm from within a self-propelled or drawn vehicle that is parked on a shoulder, berm, or barrow pit right-of-way in a manner that will not impede traffic or endanger motorists or that is parked in an area, not a public highway, where hunting is permitted. This subsection does not allow a permitholder to shoot across the roadway of any public highway or to hunt on private property without permission of the landowner. A permitholder must have a companion to assist in immediately dressing any killed game animal. The companion may also assist the permitholder by hunting a game animal that has been wounded by the

permitholder when the permitholder is unable to pursue and kill the wounded game animal. Any vehicle from which a permitholder is hunting must be conspicuously marked with an orange-colored international symbol of persons with disabilities on the front, rear, and each side of the vehicle, or as prescribed by the department.

(5) (a) A resident of Montana who is certified by the department as experiencing blindness, as defined in 53-7-301, may be issued a lifetime fishing license for the blind upon payment of a one-time fee of \$10. The license is valid for the lifetime of the blind individual and allows the licensee to fish as authorized by department rule. An applicant for a license under this subsection need not obtain a wildlife conservation license as a prerequisite to licensure.

(b) A person who is certified by the department as experiencing blindness, as defined in 53-7-301, may be issued regular resident deer and elk licenses in the manner provided in subsection (2), and must be accompanied by a companion, as provided in subsection (4).

(6) The department shall adopt rules to establish the qualifications that a person must meet to be a companion and may adopt rules to establish when a companion can be a designated shooter for a disabled person.

(7) As used in this section, "disabled person", "person with a disability", or "disabled" means or refers to a person experiencing a condition medically determined to be permanent and substantial and resulting in significant impairment of the person's functional ability.

(8) A person is entitled to a permit to hunt from a vehicle if the person:

(a) is certified by a licensed physician to be dependent on an oxygen device or dependent on a wheelchair, crutch, or cane for mobility;

(b) is an amputee above the wrist or ankle; or

(c) is certified by a licensed physician to be unable to walk, unassisted, 600 yards over rough and broken ground while carrying 15 pounds within 1 hour and to be unable to handle and maneuver up to 25 pounds.

(9) Certification by a licensed physician under subsection (8) must be on a form provided by the department.

(10) A person who disagrees with a determination of eligibility for a permit to hunt from a vehicle may request a review by a voluntary board of review pursuant to subsection (3)."

**Section 239.** Section 87-3-101, MCA, is amended to read:

**"87-3-101. General restrictions.** Except as provided in 87-2-803(4), it is unlawful for anyone to hunt or attempt to hunt any game animal or game bird:

(1) from any self-propelled or drawn vehicle;

(2) on, from, or across any public highway or the shoulder, berm, or barrow pit right-of-way of any public highway, as defined in ~~61-1-202~~ 61-1-101, in the state of Montana; or

(3) by the aid or with the use of any set gun, jacklight, spotlight or other artificial light, trap, snare (except as allowed in 87-3-127 and 87-3-128), salt lick, or bait."

**Section 240. Repealer.** Sections 23-2-516, 23-2-517, 23-2-518, 23-2-626, 23-2-803, 23-2-817, 61-1-102, 61-1-103, 61-1-104, 61-1-105, 61-1-106, 61-1-107, 61-1-108, 61-1-109, 61-1-110, 61-1-111, 61-1-112, 61-1-113, 61-1-114, 61-1-115,

61-1-116, 61-1-117, 61-1-118, 61-1-119, 61-1-120, 61-1-121, 61-1-123, 61-1-124, 61-1-125, 61-1-126, 61-1-127, 61-1-128, 61-1-129, 61-1-130, 61-1-131, 61-1-132, 61-1-133, 61-1-134, 61-1-135, 61-1-136, 61-1-137, 61-1-138, 61-1-139, 61-1-140, 61-1-141, 61-1-142, 61-1-201, 61-1-202, 61-1-203, 61-1-204, 61-1-205, 61-1-206, 61-1-207, 61-1-208, 61-1-209, 61-1-210, 61-1-211, 61-1-212, 61-1-301, 61-1-302, 61-1-303, 61-1-304, 61-1-305, 61-1-306, 61-1-307, 61-1-308, 61-1-309, 61-1-310, 61-1-311, 61-1-313, 61-1-314, 61-1-315, 61-1-316, 61-1-317, 61-1-318, 61-1-319, 61-1-320, 61-1-321, 61-1-401, 61-1-402, 61-1-403, 61-1-404, 61-1-405, 61-1-406, 61-1-407, 61-1-408, 61-1-409, 61-1-410, 61-1-411, 61-1-412, 61-1-413, 61-1-414, 61-1-415, 61-1-501, 61-1-502, 61-1-503, 61-1-504, 61-1-505, 61-1-506, 61-1-507, 61-1-508, 61-1-509, 61-1-510, 61-1-511, 61-1-512, 61-1-513, 61-1-514, 61-1-515, 61-1-601, 61-1-602, 61-1-603, 61-1-604, 61-3-521, 61-3-522, 61-3-523, 61-3-527, 61-3-528, 61-3-530, 61-3-560, and 61-3-561, MCA, are repealed.

**Section 241. Codification instruction.** [Section 203] is intended to be codified as an integral part of Title 61, chapter 8, part 3, and the provisions of Title 61, chapter 8, part 3, apply to [section 203].

**Section 242. Coordination instruction.** If both House Bill No. 752 and [this act] are passed and approved, section 61-3-204 must read as follows:

**“61-3-204. Replacement certificate of title — application.** (1) If a certificate of title is lost, stolen, destroyed, mutilated, or becomes illegible or if the owner wants to update personal information on the electronic record of title or have a replacement certificate of title issued with updated information, the owner, as shown on the electronic record of title, may apply for and request the department to issue a replacement certificate of title. The application must include satisfactory evidence of the facts requiring the replacement certificate of title and be accompanied by a fee of ~~\$10~~ *\$11*. Of the ~~\$10~~ *\$11* fee, \$5 must be deposited in the state general fund in accordance with 15-1-504, ~~and the remaining \$5 must be forwarded to the department for deposit~~ *deposited* in the motor vehicle information technology system account provided for in 61-3-550, ~~and the remaining \$1 must be deposited in the court information technology improvement program account provided for in [section 5 of House Bill No. 752].~~

(2) Each replacement certificate of title issued by the department must contain the following statement: “This replacement voids any previously issued title.””

**Section 243. Coordination instruction.** If both House Bill No. 275 and [this act] are passed and approved, then the code commissioner shall change all references to vehicle in subsection (2)(b)(iii) of 61-3-208 in House Bill No. 275 to references to motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat 12 feet in length or longer, or snowmobile.

**Section 244. Coordination instruction.** If both Senate Bill No. 79 and [this act] are passed and approved, then the code commissioner shall change all references to vehicle in subsection (1) of 61-3-460 in Senate Bill No. 79 to references to motor vehicle.

**Section 245. Coordination instruction.** If both Senate Bill No. 68 and [this act] are passed and approved, then [section 4] of Senate Bill No. 68 must read as follows:

**“NEW SECTION. Section 4. Property subject to registration fee.** The following property that is subject to a registration fee is exempt from property taxation:

- (1) truck canopy covers or toppers and campers;

- (2) motor homes;
- (3) all watercraft;
- (4) all trailers, semitrailers, pole trailers, and travel trailers as those terms are defined in 61-1-101;
- (5) all vehicles registered under 61-3-456;
- (6) (a) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors, including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and  
(b) personal property that is attached to a bus, truck, or truck tractor that is exempt under subsection (6)(a);
- (7) motorcycles and quadricycles; and
- (8) light vehicles as defined in 61-1-101."

**Section 246. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective January 1, 2006.

(2) [Section 4 and this section ] are effective July 1, 2005.

Approved April 28, 2005

## CHAPTER NO. 543

[SB 296]

AN ACT PROVIDING AN ALTERNATIVE METHOD FOR THE OWNER OF A PARCEL OF LAND OF 20 ACRES OR MORE BUT LESS THAN 160 ACRES TO HAVE THE PARCEL VALUED, ASSESSED, AND TAXED AS AGRICULTURAL LAND UNDER CERTAIN CONDITIONS; AMENDING SECTION 15-7-202, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 15-7-202, MCA, is amended to read:

**“15-7-202. Eligibility of land for valuation as agricultural.** (1) (a) Contiguous parcels of land totaling 160 acres or more under one ownership are eligible for valuation, assessment, and taxation as agricultural land each year that none of the parcels is devoted to a residential, commercial, or industrial use.

(b) (i) Contiguous parcels of land of 20 acres or more but less than 160 acres under one ownership are eligible for valuation, assessment, and taxation as agricultural land if the land is used primarily for raising and marketing, as defined in subsection (1)(c), products that meet the definition of agricultural in 15-1-101. A parcel of land is presumed to be used primarily for raising agricultural products if the owner or the owner's immediate family members, agent, employee, or lessee markets not less than \$1,500 in annual gross income from the raising of agricultural products produced by the land. The owner of land that is not presumed to be agricultural land shall verify to the department that the land is used primarily for raising and marketing agricultural products.

(ii) Noncontiguous parcels of land that meet the income requirement of subsection (1)(b)(i) are eligible for valuation, assessment, and taxation as agricultural land under subsection (1)(b)(i) if:

(A) the land is an integral part of a bona fide agricultural operation undertaken by the persons set forth in subsection (1)(b)(i) as defined in this section; and

(B) the land is not devoted to a residential, commercial, or industrial use.

*(iii) Parcels of land of 20 acres or more but less than 160 acres that do not meet the income requirement of subsection (1)(b)(i) may also be valued, assessed, and taxed as agricultural land if the owner:*

*(A) applies to the department requesting classification of the parcel as agricultural;*

*(B) verifies that the parcel of land is greater than 20 acres but less than 160 acres and that the parcel is located within 15 air miles of the family-operated farming entity referred to in subsection (1)(b)(iii)(C); and*

*(C) verifies that:*

*(I) the owner of the parcel is involved in agricultural production by submitting proof that 51% or more of the owner's Montana annual gross income is derived from agricultural production; and*

*(II) property taxes on the property are paid by a family corporation, family partnership, sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of the entity's Montana annual gross income is derived from agricultural production; or*

*(III) the owner is a shareholder, partner, owner, or member of the family corporation, family partnership, sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of the person's or entity's Montana annual gross income is derived from agricultural production.*

(c) For the purposes of this subsection (1):

(i) "marketing" means the selling of agricultural products produced by the land and includes but is not limited to:

(A) rental or lease of the land as long as the land is actively used for grazing livestock or for other agricultural purposes; and

(B) rental payments made under the federal conservation reserve program or a successor to that program;

(ii) land that is devoted to residential use or that is used for agricultural buildings and is included in or is contiguous to land under the same ownership that is classified as agricultural land, other than land described in 15-6-133(1)(c), must be classified as agricultural land, and the land must be valued as provided in 15-7-206.

(2) Contiguous or noncontiguous parcels of land totaling less than 20 acres under one ownership that are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural each year that the parcels meet any of the following qualifications:

(a) the parcels produce and the owner or the owner's agent, employee, or lessee markets not less than \$1,500 in annual gross income from the raising of agricultural products as defined in 15-1-101; or

(b) the parcels would have met the qualification set out in subsection (2)(a) were it not for independent, intervening causes of production failure beyond the control of the producer or marketing delay for economic advantage, in which case proof of qualification in a prior year will suffice.

(3) Parcels that do not meet the qualifications set out in subsections (1) and (2) may not be classified or valued as agricultural if they are part of a platted subdivision that is filed with the county clerk and recorder in compliance with the Montana Subdivision and Platting Act.

(4) Land may not be classified or valued as agricultural if it is subdivided land with stated restrictions effectively prohibiting its use for agricultural purposes. For the purposes of this subsection only, "subdivided land" includes parcels of land larger than 20 acres that have been subdivided for commercial or residential purposes.

(5) The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona fide agricultural enterprise is not considered a bona fide agricultural operation.

(6) The department may not classify land less than 160 acres as agricultural unless the owner has applied to have land classified as agricultural land. Land of 20 acres or more but less than 160 acres for which no application for agricultural classification has been made is taxed as provided in 15-6-133(1)(c). If land has been valued, assessed, and taxed as agricultural land in any year, it must continue to be valued, assessed, and taxed as agricultural until the department reclassifies the property. A reclassification does not mean revaluation pursuant to 15-7-111.

(7) For the purposes of this part, growing timber is not an agricultural use."

**Section 2. Effective date — applicability.** [This act] is effective January 1, 2006, and applies to tax years beginning after December 31, 2005.

Approved April 28, 2005

## CHAPTER NO. 544

[SB 326]

AN ACT REVISING THE LAW ON EXCAVATION NEAR UNDERGROUND FACILITIES; PROVIDING FOR SPECIFIC DAMAGE FEES; SETTING A DEADLINE FOR PAYMENT OF FEES; ALLOWING FOR JUDICIAL REVIEW OF FEES LEVIED; DESIGNATING THE USE OF FEES COLLECTED; PROVIDING FOR THE MAINTENANCE OF DAMAGE INCIDENT HISTORIES; AND AMENDING SECTIONS 69-4-501 AND 69-4-505, MCA.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 69-4-501, MCA, is amended to read:

**"69-4-501. Definitions.** The following definitions apply to this part:

(1) "Business day" means any day other than Saturday, Sunday, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

(2) "Emergency excavation" means an excavation in response to an emergency locate that is necessary to:

(a) alleviate a condition that constitutes a clear and present danger to life or property; or

(b) repair a customer outage involving a previously installed utility-owned facility.

(3) "Emergency locate" means a locate and mark that is requested for:

(a) a condition that constitutes a clear and present danger to life or property;  
or

(b) a customer outage for which repairs on a previously installed utility-owned facility are required.

(4) (a) "Excavation" means an operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means or use of any tools, equipment, or explosives. The term includes but is not limited to grading, trenching, digging, ditching, drilling, augering, tunneling, scraping, and cable or pipe plowing and driving.

(b) Excavation does not include surface road grading maintenance or road or ditch maintenance that does not change the original road or ditch grade or flow line.

(5) "Excavator" means a person conducting the excavation activities defined in subsection (4).

(6) "Identified but unlocatable underground facility" means an underground facility that has been identified but cannot be located with reasonable accuracy.

(7) *"Incident" means a violation of the provisions of 69-4-503(1) by an excavator that, at a single location on a single day, results in damage to an underground facility or the property of a third party or in bodily injury or death to any person other than the excavator.*

(8) *"Incident history" means the total number of incidents experienced by an excavator in the 5 years preceding the most recent incident. The incident history must be used to determine damage fees for violation of 69-4-503(1).*

~~(7)~~(9) "Locatable underground facility" means an underground facility that can be field-located and field-marked with reasonable accuracy.

~~(8)~~(10) "Locate" means to use specialized equipment to identify the location of underground facilities or the actual location of underground facilities identified by the use of specialized equipment.

~~(9)~~(11) "Mark" means the use of stakes, paint, or other clearly identifiable material to show the field location or absence of underground facilities, in accordance with the current color code standard of the American public works association. Marking must include identification letters indicating the specific type of underground facility and the width of the facility if it is greater than 6 inches.

~~(10)~~(12) "One-call notification center" means a service through which a person may request a locating and marking of underground facilities.

~~(11)~~(13) "Person" means an individual, partnership, firm, joint venture, corporation, association, municipality, governmental unit, department, or agency and includes a trustee, receiver, assignee, or personal representative of the listed entities.

~~(12)~~(14) "Reasonably accurate" means location within 18 inches of the outside lateral dimensions of both sides of an underground facility.

~~(13)~~(15) (a) "Underground facility" means a facility buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic or telegraphic communications, cablevision, fiber optics, electrical energy, oil, gas, or other substances. The term includes but is not

limited to pipes, sewers, conduits, cables, valves, lines, wires, manholes, and attachments to the listed items.

*(b) The term does not include shallow underground water systems designed to irrigate lawns, gardens, or other landscaping.”*

**Section 2.** Section 69-4-505, MCA, is amended to read:

**“69-4-505. Liability for damages to underground facilities.** (1) *(a) If any underground facility is damaged by ~~any person~~ an excavator who has failed to obtain information as to its location as provided in 69-4-503, then ~~such the person excavator shall be~~ is liable to the owner of the underground facility for the entire cost of the repair of ~~such the~~ facility. The excavator is also liable to the underground facility owner that is a member of a one-call notification center pursuant to 69-4-502(2)(a) for a damage fee. Damage fees must be assessed as follows:*

*(i) 25% of the total cost of repairing the underground facility not to exceed \$125 for the first incident;*

*(ii) 50% of the total cost of repairing the underground facility not to exceed \$500 for the second incident; and*

*(iii) \$1,000 for the third and each subsequent incident.*

*(b) An underground facility owner may levy only one fee for each incident.*

*(c) If there is more than one underground facility affected by an incident, then each underground facility owner that is a member of a one-call notification center pursuant to 69-4-502(2)(a) may levy one damage fee for that incident.*

*(2) Payment of costs and fees described in this section is due within 30 days of billing by the owner of the underground facility. The underground facility owner may enforce collection in a court of competent jurisdiction.*

~~(2)(3)~~ *If information requested pursuant to 69-4-503 is not provided within the time specified ~~therein in that section~~, ~~any person~~ excavators damaging or injuring underground facilities ~~shall are~~ not be liable for ~~such that~~ damage or injury, unless caused by ~~his~~ their negligence, and are not liable for the damage fees assessed under subsection (1).*

~~(3)(4)~~ *The act of obtaining information as required by this part ~~shall~~ does not excuse ~~any person~~ an excavator making any excavation from doing so in a careful and prudent manner, nor ~~shall does~~ it excuse ~~such the person~~ excavator from liability for any damage or injury resulting from ~~his~~ the excavator’s negligence.”*

**Section 3. Judicial review.** An excavator subject to repair charges and damage fees described in 69-4-505 may have these costs reviewed by a court of competent jurisdiction.

**Section 4. Disposition of damage fees collected.** (1) Except as provided in subsection (2), damage fees collected by owners of underground facilities must be distributed to the appropriate one-call notification center. The damage fee must be used to fund training and educational programs and materials for excavators and the general public regarding the one-call notification system.

(2) The underground facility owner is not liable for the distribution of damage fees to the one-call notification center in the event that those fees are not collected from the excavator.

**Section 5. Incident histories.** Owners of underground facilities shall report incidents to the appropriate one-call notification center that is

responsible for maintaining incident histories of violators. These incident histories must be available for public inquiry.

**Section 6. Codification instruction.** [Sections 3 through 5] are intended to be codified as an integral part of Title 69, chapter 4, part 5, and the provisions of Title 69, chapter 4, part 5, apply to [sections 3 through 5].

Approved April 28, 2005

## CHAPTER NO. 545

[SB 345]

AN ACT REVISING THE LAW RELATING TO THE URBAN RENEWAL AND TAX INCREMENT FINANCING; ALLOWING THE GOVERNING BODY OF A MUNICIPALITY TO RETAIN CERTAIN LOAN FUNDS RELATED TO A TERMINATED TAX INCREMENT FINANCING PROVISION FOR THE PURPOSES OF THE URBAN RENEWAL PLAN; PROVIDING FOR AGREEMENTS ESTABLISHING A MINIMUM VALUE FOR CERTAIN PROPERTY IN AN URBAN RENEWAL AREA; ALLOWING FOR AN ADJUSTMENT TO BASE TAXABLE VALUE; ESTABLISHING A TAX DEFICIENCY LIEN; AMENDING SECTIONS 7-15-4292, 7-15-4293, AND 15-10-420, MCA; AND PROVIDING AN EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 7-15-4292, MCA, is amended to read:

**“7-15-4292. Termination of tax increment financing — exception.** (1) The tax increment provision terminates upon the later of:

(a) the 15th year following its adoption ~~or, if the tax increment provision was adopted prior to January 1, 1980, upon the 17th year following adoption;~~ or

(b) the payment or provision for payment in full or discharge of all bonds for which the tax increment has been pledged and the interest on the bonds.

(2) ~~(a)~~ *Except as provided in subsection (2)(b), any amounts remaining in the special fund or any reserve fund after termination of the tax increment provision must be distributed among the various taxing bodies in proportion to their property tax revenue from the district.*

*(b) Upon termination of the tax increment provision, a municipality may retain and use in accordance with the provisions of the urban renewal plan:*

*(i) funds remaining in the special fund or a reserve fund related to a binding loan commitment, construction contract, or development agreement for an approved urban renewal project that a municipality entered into before the termination of a tax increment provision;*

*(ii) loan repayments received after the date of termination of the tax increment provision from loans made pursuant to a binding loan commitment;*  
*or*

*(iii) funds from loans previously made pursuant to a loan program established under an urban renewal plan.*

(3) After termination of the tax increment provision, all taxes must be levied upon the actual taxable value of the taxable property in the urban renewal area or the industrial district and must be paid into the funds of the respective taxing bodies.

(4) Bonds secured in whole or in part by a tax increment provision may not be issued after the 15th anniversary of tax increment provisions adopted after January 1, 1980, and the 17th anniversary of tax increment provisions adopted prior to January 1, 1980. However, if bonds secured by a tax increment provision are outstanding on the applicable anniversary, additional bonds secured by the tax increment provision may be issued if the final maturity date of the bonds is not later than the final maturity date of any bonds then outstanding and secured by the tax increment provision.”

**Section 2.** Section 7-15-4293, MCA, is amended to read:

**“7-15-4293. Adjustment of base taxable value following change of law.** (1) If the base taxable value of an urban renewal area or an industrial district is affected after its original determination by a statutory, administrative, or judicial change in the method of appraising property, the tax rate applied to it, the tax exemption status of property, or the taxable valuation of property if the change in taxable valuation is based on conditions existing at the time the base year was established, the governing body of the municipality may request the department of revenue ~~or its agents~~ to estimate the base taxable value so that the tax increment resulting from the increased incremental value is sufficient to pay all principal and interest on the bonds as those payments become due.

(2) *If a tax increment financing district created after January 1, 2002, has not issued bonds, the governing body of a municipality may request the department of revenue to adjust the base taxable value to account for a loss of taxable revenue resulting from the state granting property in the district tax-exempt status within the first year of creation of the tax increment financing district. The municipality shall give notice of and hold a public hearing on the proposed change.”*

**Section 3.** Section 15-10-420, MCA, is amended to read:

**“15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the current year’s value of newly taxable property, plus one-half of the average rate of inflation for the prior 3 years.

(b) A governmental entity that does not impose the maximum number of mills authorized under subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority carried forward may be imposed in a subsequent tax year.

(c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional levies authorized by the voters, as provided

in 15-10-425, to all property in the governmental unit, including newly taxable property.

(3) (a) For purposes of this section, newly taxable property includes:

~~(a)~~(i) annexation of real property and improvements into a taxing unit;

~~(b)~~(ii) construction, expansion, or remodeling of improvements;

~~(c)~~(iii) transfer of property into a taxing unit;

~~(d)~~(iv) subdivision of real property; and

~~(e)~~(v) transfer of property from tax-exempt to taxable status.

(b) *Newly taxable property does not include an increase in value that arises because of an increase in the incremental value within a tax increment financing district.*

(4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the release of taxable value from the incremental taxable value of a tax increment financing district because of:

(i) a change in the boundary of a tax increment financing district;

(ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or

(iii) the termination of a tax increment financing district.

(b) *If a tax increment financing district terminates prior to the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment financing district terminates. If a tax increment financing district terminates after the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.*

~~(c)~~(c) For the purpose of subsection ~~(3)(d)~~ (3)(a)(iv), the subdivision of real property includes the first sale of real property that results in the property being taxable as class four property or as nonagricultural land as described in 15-6-133(1)(c).

~~(e) For the purposes of this section, newly taxable property does not include an increase in appraised value of land that was previously valued at 75% of the value of improvements on the land, as provided in 15-7-111(4) and (5), as those subsections applied on December 31, 2001.~~

(5) Subject to subsection (8), subsection (1)(a) does not apply to:

(a) school district levies established in Title 20; or

(b) the portion of a governmental entity's property tax levy for premium contributions for group benefits excluded under 2-9-212 or 2-18-703.

(6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received under 15-6-131 and 15-6-132.

(7) In determining the maximum number of mills in subsection (1)(a), the governmental entity may increase the number of mills to account for a decrease in reimbursements.

(8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-107, 20-9-331, 20-9-333, 20-9-360, 20-25-423, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in whole mills. If the mill levy

calculation does not result in a whole number of mills, then the calculation must be rounded up to the nearest whole mill.

(9) (a) The provisions of subsection (1) do not prevent or restrict:

(i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

(ii) a levy to repay taxes paid under protest as provided in 15-1-402; or

(iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326.

(b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes actually assessed in a subsequent year.

(10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating funds by a county or municipality during that time.

(11) The department may adopt rules to implement this section. The rules may include a method for calculating the percentage of change in valuation for purposes of determining the elimination of property, new improvements, or newly taxable property in a governmental unit.”

**Section 4. Assessment agreements.** (1) A municipality may enter into a written agreement with any private person:

(a) establishing a minimum market value of land, existing improvements, or improvements or equipment to be constructed or acquired; and

(b) requiring the individual to pay an annual tax deficiency fee whenever the property that is the subject of the agreement is valued by the department of revenue for property tax purposes at a market value that is less than the value established by the agreement. The amount of the deficiency fee may not exceed the difference between the property taxes that would have been imposed on the property based on the minimum value of the property expressed in the agreement and the property taxes that are imposed on the property based on the market value established by the department of revenue.

(2) The property that is the subject of the agreement must be located or installed in an urban renewal area, industrial district, aerospace transportation and technology district, or any other area or district that is subject to a tax increment financing provision.

(3) The minimum value established by the agreement may be fixed or may increase or decrease in later years from the initial minimum value as provided in the agreement.

(4) The agreement creates a lien on the property pursuant to [section 5] and must be filed and recorded in the office of the county clerk and recorder in each county in which the property or any part of the property is located. Recording an agreement constitutes notice of the agreement to anyone who acquires any interest in the property that is the subject of the agreement, and the agreement is binding upon the person acquiring the interest.

(5) An agreement made pursuant to subsection (1) may be modified or terminated by mutual consent of the current parties to the agreement. Modification or termination of an agreement must be approved by the governing body of the municipality. A document modifying or terminating an agreement must be filed in the office of the county clerk and recorder in each county in which the property or any part of the property is located.

(6) An agreement entered into pursuant to subsection (1) or modified pursuant to subsection (5) terminates on the earliest of:

(a) the date on which conditions in the agreement for termination are satisfied;

(b) the termination date specified in the agreement; or

(c) the date when the tax increment is no longer paid to the municipality under 7-15-4292.

(7) Nothing in this section limits a municipality's authority to enter into contracts other than tax deficiency agreements as described in this section.

**Section 5. Tax deficiency lien.** A municipality has a lien for tax deficiency payments as described in a properly filed agreement for tax deficiency payment pursuant to [section 4]. The lien has the same priority as a lien for general property taxes. Lien proceeds must be disbursed pursuant to 7-15-4286(2).

**Section 6. Codification instruction.** (1) [Section 4] is intended to be codified as an integral part of Title 7, chapter 15, part 42, and the provisions of Title 7, chapter 15, part 42, apply to [section 4].

(2) [Section 5] is intended to be codified as an integral part of Title 71, chapter 3, part 15, and the provisions of Title 71, chapter 3, part 15, apply to [section 5].

**Section 7. Effective date.** [This act] is effective July 1, 2005.

Approved April 28, 2005

## CHAPTER NO. 546

[SB 407]

AN ACT REVISING THE MINOR IN POSSESSION LAW; AND AMENDING SECTION 45-5-624, MCA.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 45-5-624, MCA, is amended to read:

**“45-5-624. Unlawful attempt to purchase or possession of intoxicating substance — interference with sentence or court order.** (1) A person under 21 years of age commits the offense of possession of an intoxicating substance if the person knowingly consumes or has in the person's possession an intoxicating substance. A person does not commit the offense if the person consumes or gains possession of the beverage because it was lawfully supplied to the person under 16-6-305 or when in the course of employment it is necessary to possess alcoholic beverages.

(2) (a) In addition to any disposition by the youth court under 41-5-1512, a person under 18 years of age who is convicted under this section:

(i) for the first offense, shall be fined an amount not less than \$100 and not to exceed \$300 and:

(A) shall be ordered to perform 20 hours of community service;

(B) shall be ordered, and the person's parent or parents or guardian shall be ordered, to complete and pay all costs of participation in a community-based substance abuse information course that meets the requirements of subsection (9), if one is available; and

(C) if the person has a driver's license, must have the license confiscated by the court for 30 days, except as provided in subsection (2)(b);

(ii) for a second offense, shall be fined an amount not less than \$200 and not to exceed \$600 and:

(A) shall be ordered to perform 40 hours of community service;

(B) shall be ordered, and the person's parent or parents or guardian shall be ordered, to complete and pay all costs of participation in a community-based substance abuse information course that meets the requirements of subsection (9), if one is available;

(C) if the person has a driver's license, must have the license confiscated by the court for 6 months, except as provided in subsection (2)(b); and

(D) shall be required to complete a chemical dependency assessment and treatment, if recommended, as provided in subsection (8);

(iii) for a third or subsequent offense, shall be fined an amount not less than \$300 or more than \$900, shall be ordered to perform 60 hours of community service, shall be ordered, and the person's parent or parents or guardian shall be ordered, to complete and pay all costs of participation in a community-based substance abuse information course that meets the requirements of subsection (9), if one is available, and shall be required to complete a chemical dependency assessment and treatment, if recommended, as provided in subsection (8). If the person has a driver's license, the court shall confiscate the license for 6 months, except as provided in subsection (2)(b).

(b) If the convicted person fails to complete the community-based substance abuse course and has a driver's license, the court shall order the license suspended for 3 months for a first offense, 9 months for a second offense, and 12 months for a third or subsequent offense.

(c) The court shall retain jurisdiction for up to 1 year to order suspension of a license under subsection (2)(b).

(3) A person 18 years of age or older who is convicted of the offense of possession of an intoxicating substance:

~~(a)~~(a) for a first offense,:

(i) shall be fined an amount ~~not to exceed \$200, and may not less than \$100 or more than \$300;~~

(ii) shall be ordered to perform 20 hours of community service; and

(iii) shall be ordered to complete and pay all costs of participation in a community-based substance abuse information course that meets the requirements of subsection (9);

~~(b)~~(b) for a second offense,:

(i) shall be fined an amount ~~not to exceed \$200 and may not less than \$200 or more than \$600;~~

(ii) shall be ordered to perform 40 hours of community service; and

(iii) shall be ordered to complete and pay for an alcohol information course at an alcohol treatment program that meets the requirements of subsection (9), which may, in the court's discretion and upon recommendation of a licensed addiction counselor, include alcohol or drug treatment, or both;

~~(c)~~(c) for a third or subsequent offense,:

(i) shall be fined an amount ~~not to exceed \$500 and~~; *not less than \$300 or more than \$900*;

~~(i)~~(ii) ~~may~~ shall be ordered to perform 60 hours of community service;

~~(ii)~~(iii) shall be ordered to complete *and pay for* an alcohol information course at an alcohol treatment program that meets the requirements of subsection (9), which may, in the sentencing court's discretion and upon recommendation of a licensed addiction counselor, include alcohol or drug treatment, or both; ~~and~~ *and*

~~(iii)~~(iv) in the discretion of the court, shall be imprisoned in the county jail for a term not to exceed 6 months.

(4) A person under 21 years of age commits the offense of attempt to purchase an intoxicating substance if the person knowingly attempts to purchase an alcoholic beverage. A person convicted of attempt to purchase an intoxicating substance shall be fined an amount not to exceed \$150 if the person was under 21 years of age at the time that the offense was committed and may be ordered to perform community service.

(5) A defendant who fails to comply with a sentence and is under 21 years of age and was under 18 years of age when the defendant failed to comply must be transferred to the youth court. If proceedings for failure to comply with a sentence are held in the youth court, the offender must be treated as an alleged youth in need of intervention as defined in 41-5-103. The youth court may enter its judgment under 41-5-1512.

(6) A person commits the offense of interference with a sentence or court order if the person purposely or knowingly causes a child or ward to fail to comply with a sentence imposed under this section or a youth court disposition order for a youth found to have violated this section and upon conviction shall be fined \$100 or imprisoned in the county jail for 10 days, or both.

(7) A conviction or youth court adjudication under this section must be reported by the court to the department of public health and human services if treatment is ordered under subsection (8).

(8) (a) A person convicted of a second or subsequent offense of possession of an intoxicating substance shall be ordered to complete a chemical dependency assessment.

(b) The assessment must be completed at a treatment program that meets the requirements of subsection (9) and must be conducted by a licensed addiction counselor. The person may attend a program of the person's choice as long as a licensed addiction counselor provides the services. If able, the person shall pay the cost of the assessment and any resulting treatment.

(c) The assessment must describe the person's level of abuse or dependency, if any, and contain a recommendation as to the appropriate level of treatment if treatment is indicated. A person who disagrees with the initial assessment may, at the person's expense, obtain a second assessment provided by a licensed addiction counselor or program that meets the requirements of subsection (9).

(d) The treatment provided must be at a level appropriate to the person's alcohol or drug problem, or both, if any, as determined by a licensed addiction counselor pursuant to diagnosis and patient placement rules adopted by the department of public health and human services. Upon the determination, the court shall order the appropriate level of treatment, if any. If more than one

counselor makes a determination, the court shall order an appropriate level of treatment based upon the determination of one of the counselors.

(e) Each counselor providing treatment shall, at the commencement of the course of treatment, notify the court that the person has been enrolled in a chemical dependency treatment program. If the person fails to attend the treatment program, the counselor shall notify the court of the failure.

(f) The court shall report to the department of public health and human services the name of any person who is convicted under this section. The department of public health and human services shall maintain a list of those persons who have been convicted under this section. This list must be made available upon request to peace officers and to any court.

(9) (a) A community-based substance abuse information course required under subsection (2)(a)(i)(B), (2)(a)(ii)(B), ~~or (2)(a)(iii)~~, or (3)(a)(iii) must be:

(i) approved by the department of public health and human services under 53-24-208 or by a court or provided under a contract with the department of corrections; or

(ii) provided by a hospital licensed under Title 50, chapter 5, part 2, that provides chemical dependency services and that is accredited by the joint commission on accreditation of healthcare organizations to provide chemical dependency services.

(b) An alcohol information course required under subsection ~~(3)(e)(ii)~~ (3)(b)(iii) or (3)(c)(iii) must be provided at an alcohol treatment program:

(i) approved by the department of public health and human services under 53-24-208 or by a court or provided under a contract with the department of corrections; or

(ii) provided by a hospital licensed under Title 50, chapter 5, part 2, that provides chemical dependency services and that is accredited by the joint commission on accreditation of healthcare organizations to provide chemical dependency services.

(c) A chemical dependency assessment required under subsection (8) must be completed at a treatment program:

(i) approved by the department of public health and human services under 53-24-208 or by a court or provided under a contract with the department of corrections; or

(ii) provided by a hospital licensed under Title 50, chapter 5, part 2, that provides chemical dependency services and that is accredited by the joint commission on accreditation of healthcare organizations to provide chemical dependency services. (See compiler's comments for contingent termination of certain text.)"

Approved April 28, 2005

## CHAPTER NO. 547

[SB 423]

AN ACT REVISING ALCOHOL IGNITION INTERLOCK DEVICE LAWS AND LAWS GOVERNING ISSUANCE OF CERTAIN DRIVER'S LICENSES AFTER REVOCATION; REQUIRING CERTAIN DRIVER'S LICENSES TO CONVEY THE TERM OF PROBATION RESTRICTIONS IMPOSED ON THE

LICENSEE FOR OPERATION OF A MOTOR VEHICLE; REQUIRING AN ALCOHOL IGNITION INTERLOCK DEVICE PROVIDER TO INCLUDE IN A LEASE AGREEMENT A WARNING REGARDING TAMPERING WITH OR MISUSE OF THE DEVICE; REMOVING CERTAIN CONDITIONS UNDER WHICH A COURT MAY RESTRICT A PERSON TO DRIVING ONLY A MOTOR VEHICLE WITH AN IGNITION INTERLOCK DEVICE; AND AMENDING SECTIONS 61-5-208, 61-8-441, AND 61-8-442, MCA.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 61-5-208, MCA, is amended to read:

**“61-5-208. Period of suspension or revocation — probationary license — ignition interlock device ~~allowed on first offense~~ restrictions — notation on driver’s license.** (1) The department may not suspend or revoke a driver’s license or privilege to drive a motor vehicle on the public highways, except as permitted by law.

(2) (a) Except as provided in 61-2-302, a person whose license or privilege to drive a motor vehicle on the public highways has been suspended or revoked may not have the license, endorsement, or privilege renewed or restored until the revocation or suspension period has been completed.

(b) When a person is convicted or forfeits bail or collateral not vacated for a first offense of operating or being in actual physical control of a motor vehicle while under the influence of alcohol or any drug or a combination of alcohol or drugs or for a first offense of operation of a motor vehicle by a person with alcohol concentration of 0.08 or more, the department shall, upon receiving a report of conviction or forfeiture of bail or collateral not vacated, suspend the driver’s license or driving privilege of the person for a period of 6 months. Upon receiving a report of a conviction or forfeiture of bail or collateral for a second, third, or subsequent offense within 5 years of the first offense, the department shall suspend the license or driving privilege of the person for a period of 1 year and may not issue a probationary license during the period of suspension. If the 1-year suspension period passes and the person has not completed a chemical dependency education course, treatment, or both, as ordered by the sentencing court, the license suspension remains in effect until the course, treatment, or both, are completed.

(c) For the purposes of subsection (2)(b), a person is considered to have committed a second, third, or subsequent offense if fewer than 5 years have passed between the date of an offense that resulted in a prior conviction and the date of the offense that resulted in the most recent conviction.

(3) (a) If the person pays the reinstatement fee required in 61-2-107 and provides the department proof of compliance with an ignition interlock restriction imposed under 61-8-442, the department shall stay the license suspension of a person who has been convicted of a first violation of 61-8-401 or 61-8-406 and return the person’s driver’s license. The stay must remain in effect until the period of suspension has expired and any required chemical dependency education course, treatment, or both, have been completed.

(b) If the department receives notice from a court, peace officer, or ignition interlock vendor that the person has violated the court-imposed ignition interlock restriction by, including but not limited to operating a motor vehicle not equipped with the device, tampering with the device, or removing the device before the period of restriction has expired, the department shall lift the stay and reinstate the license suspension for the remainder of the time period. The

department may not issue a probationary driver's license to a person whose license suspension has been reinstated because of violation of an ignition interlock restriction.

(4) (a) Except as provided in subsection (4)(b), the period of suspension or revocation for a person convicted of any offense that makes mandatory the suspension or revocation of the person's driver's license commences from the date of conviction or forfeiture of bail.

(b) A suspension commences from the last day of the prior suspension or revocation period if the suspension is for a conviction of driving with a suspended or revoked license.

(5) If a person is convicted of a violation of 61-8-401 or 61-8-406 while operating a commercial motor vehicle, the department shall suspend the person's driver's license as provided in 61-8-802.

(6) (a) *A driver's license that is issued after a license revocation to a person described in subsection (6)(b) must be clearly marked with a notation that conveys the term of the person's probation restrictions.*

(b) *The provisions of subsection (6)(a) apply to a license issued to a person for whom a court has reported a felony conviction under 61-8-731, the judgment for which has as a condition of probation that the person may not operate a motor vehicle unless:*

*(i) operation is authorized by the person's probation officer; or*

*(ii) a motor vehicle operated by the person is equipped with an ignition interlock device."*

**Section 2.** Section 61-8-441, MCA, is amended to read:

**"61-8-441. Department rules regarding ignition interlock devices — ignition interlock device provider requirements.** (1) The department shall adopt rules providing for the approval of ignition interlock devices and the installation, calibration, repair, and removal of approved devices.

(2) The department's rules must be based upon federal standards issued for similar devices.

(3) An ignition interlock device that is approved by the department must also:

(a) be designed so it does not impede safe operation of the vehicle;

(b) correlate well with the level established for alcohol impairment;

(c) work accurately and reliably in an unsupervised environment and under extreme weather conditions;

(d) require a deep lung breath sample or use an equally accurate measure of blood alcohol concentration equivalence;

(e) resist tampering and show evidence of tampering if it is attempted;

(f) be difficult to circumvent;

(g) minimize inconvenience of a sober user;

(h) operate reliably over the range of automobile environments and in connection with various manufacturing standards; *and*

(i) be manufactured by a person who is adequately insured for product liability; ~~and~~

(j) ~~have a label affixed in a prominent location~~

(4) *An ignition interlock device provider shall include in any lease agreement for an ignition interlock device a warning that a person who knowingly tampers with, circumvents, or otherwise misuses the device is subject to criminal prosecution.*

**Section 3.** Section 61-8-442, MCA, is amended to read:

**“61-8-442. Driving under influence of alcohol or drugs — driving with excessive alcohol concentration — ignition interlock device.** (1) In addition to the punishments provided in 61-8-714 and 61-8-722, regardless of disposition, the court may, for a person convicted of a first offense under 61-8-401 or 61-8-406 and granted a probationary license, restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device during the period that the person is granted a probationary license and require the person to pay the reasonable cost of leasing, installing, and maintaining the device if:

(a) ~~the court determines that approved ignition interlock devices are reasonably available; and~~

(b) ~~the person’s blood alcohol concentration at the time of the arrest was 0.16 or greater.~~

(2) If a person is convicted of a second or subsequent violation of 61-8-401 or 61-8-406, in addition to the punishments provided in 61-8-714 and 61-8-722, regardless of disposition, the court shall order that each motor vehicle owned by the person at the time of the offense be either:

(a) seized and subjected to the forfeiture procedure provided under 61-8-421; or

(b) during the 12-month period beginning with the end of the period of driver’s license revocation, equipped with a functioning ignition interlock device and require the person to pay the reasonable cost of leasing, installing, and maintaining the device ~~if the court determines that approved ignition interlock devices are reasonably available.~~

(3) Any restriction imposed under this section must be included in a report of the conviction made by the court to the department in accordance with 61-11-101 and placed upon the person’s driving record maintained by the department in accordance with 61-11-102.

(4) The duration of a restriction imposed under this section must be monitored by the department.”

Approved April 28, 2005

## CHAPTER NO. 548

[SB 428]

AN ACT PROVIDING FOR A STATEWIDE 2-1-1 TELEPHONE NUMBER FOR ACCESS AND REFERRAL TO COMMUNITY DISASTER, EMERGENCY, SAFETY, HEALTH, AND HUMAN SERVICES INFORMATION; PROVIDING FOR A MONTANA 2-1-1 COMMUNITY COALITION TO SERVE IN AN ADVISORY CAPACITY; PROVIDING THAT ANY AGENCY THAT SEEKS A NEW PUBLIC INFORMATION TELEPHONE LINE OR HOTLINE SHALL CONSULT WITH THE DEPARTMENT FOR USE OF THE 2-1-1 SYSTEM; PROVIDING FOR SERVICE PROVIDERS AND

SCOPE OF SERVICE; PROVIDING FOR A STATE SPECIAL REVENUE ACCOUNT; PROVIDING FOR ELIGIBLE ACTIVITIES; REQUIRING BIENNIAL REPORTS TO THE LEGISLATURE; AND PROVIDING AN EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Findings — purpose.** (1) The legislature finds that the implementation of a system using a single, easy-to-use telephone number, 2-1-1, for public access to information and referral for safety, health, or human services and for information about access to services after a disaster or emergency will benefit the citizens of the state of Montana by providing easier access to available services, by efficiently connecting people with the desired service providers, and by reducing duplication of efforts.

(2) The legislature finds that a statewide 2-1-1 system will facilitate public access to information and referral for safety, health, and human services and for disaster or emergency prevention or response information and will make our state's communities safer, stronger, and better-prepared to respond to threats of domestic and international terrorism and domestic emergency situations of all natures.

(3) The purposes of [sections 1 through 10] are to:

(a) establish an implementation plan for a statewide 2-1-1 system to provide public access to information and referral for disaster, emergency, safety, health, and human services;

(b) ensure that the system is free from undue political interference and conflicts of interest;

(c) provide that 2-1-1 services are delivered by qualified and competent agencies in a manner that is fair and consistent throughout the state;

(d) establish a system that utilizes state employees, contracted services, or other methods of providing services in a manner that is responsive to and respectful of regional and community needs and interests as funding allows; and

(e) ensure that funding of the statewide 2-1-1 system is provided and managed in a fiscally responsible manner.

**Section 2. Statewide 2-1-1 system.** The dialing code of 2-1-1 is created as the official state dialing code for public access to information and referral for safety, health, and human services and information about access to services in the event of a disaster or emergency.

**Section 3. Definitions.** As used in [sections 1 through 10], the following definitions apply:

(1) "Approved 2-1-1 service provider" means a public or nonprofit agency or organization designated by the department to provide 2-1-1 services.

(2) "Coalition" means the Montana 2-1-1 community coalition provided for in [section 4].

(3) "Department" means the department of public health and human services.

(4) "2-1-1" means the abbreviated dialing code assigned by the federal communications commission on July 21, 2000, for consumer access to community information and referral services.

(5) "2-1-1 service area" means an area of the state of Montana identified by the department as an area in which an approved 2-1-1 service provider will provide 2-1-1 services.

**Section 4. Montana 2-1-1 community coalition — advisory capacity.**

(1) There is a Montana 2-1-1 community coalition that will serve in an advisory capacity, as defined in 2-15-102, to the department. The coalition shall assist the department in the development of a strategic plan for implementation, operation, supervision, and evaluation of 2-1-1 calling statewide.

(2) The coalition is composed of up to 20 members appointed by the governor, including:

- (a) one representative from county government;
  - (b) one representative from local or county law enforcement;
  - (c) one representative from the Montana public service commission;
  - (d) representatives from each approved call center;
  - (e) one representative from a united way agency;
  - (f) one representative from the department;
  - (g) one representative from the department of military affairs, disaster and emergency services division;
  - (h) one representative from an organization or agency working with Indian health services;
  - (i) one representative from an organization or agency working with domestic violence and sexual assault;
  - (j) one representative from an organization or agency on aging;
  - (k) one representative from an organization or agency working in the mental health field;
  - (l) one representative from an organization or agency working with persons with disabilities;
  - (m) one representative from an organization that coordinates disaster relief delivery; and
  - (n) other representatives suggested by the department.
- (3) A vacancy on the commission must be filled in the same manner as the original appointment and in a timely manner.
- (4) Members shall serve staggered 3-year terms.

**Section 5. New public information services — state agencies.** Before a state agency that provides disaster, emergency, safety, health, or human services starts a new public information telephone line or hotline, the state agency shall consult with the department about using the statewide 2-1-1 system to provide public access to the information. If it is determined that the statewide 2-1-1 system can provide the public information at a lower cost than the establishment of a new telephone line or hotline and that the service fits within the scope of 2-1-1 service, the state agency shall provide funding to the statewide 2-1-1 system to provide the public information service. The funds must be deposited in the state special revenue account established in [section 8]. The funding amount must be determined based on the funds available, the nature of the information, and the expected call volume.

**Section 6. Approved 2-1-1 service providers.** (1) Only an approved service provider may provide 2-1-1 telephone services after July 1, 2006. The department, in consultation with the coalition, shall approve 2-1-1 service providers after considering the following:

(a) the ability of the proposed 2-1-1 service provider to meet the national 2-1-1 standards recommended by the alliance of information and referral systems and adopted by the national 2-1-1 collaborative in October 2002;

(b) the financial stability of the proposed 2-1-1 service provider;

(c) the community support for the proposed 2-1-1 service provider;

(d) the proposed 2-1-1 service provider's relationships with other information and referral services;

(e) the proposed 2-1-1 service provider's record of providing existing 2-1-1 services; and

(f) the proposed 2-1-1 service area.

(2) An existing 2-1-1 service provider may apply for the geographical area in which the service provider is currently approved to offer 2-1-1 telephone services.

**Section 7. Scope of 2-1-1 service.** (1) The statewide 2-1-1 system shall ensure provision of services in all counties of the state.

(2) The statewide 2-1-1 system must be administered by the department in consultation with the coalition. The department, in consultation with the coalition, shall approve a strategic plan for service delivery and divide the state into no more than 8 regions.

(3) The statewide 2-1-1 system shall ensure that all approved 2-1-1 service providers provide the following scope of service:

(a) provide information and referral services to each inquirer for the inquirer's designated geographic area through well-trained staff or volunteers who are knowledgeable about local resources;

(b) create and maintain a database of community resources and referrals for the service provider's designated geographic area;

(c) provide appropriate services to crisis callers, which includes stabilization or safety assessment and connection to further resources such as crisis lines, domestic violence shelters, and rape victim advocates;

(d) provide information to the department regarding 2-1-1 service usage including data on callers, service needs, and resource gaps;

(e) provide support to community and disaster and emergency services providers in the case of a disaster or emergency; and

(f) participate in any publicity plan for the statewide 2-1-1 system in Montana.

**Section 8. State special revenue fund 2-1-1 account.** There is a 2-1-1 account in the state special revenue fund. Money in the account may be spent only after appropriation. The 2-1-1 account must include any funding for the statewide 2-1-1 system as appropriated by the legislature or received through private contributions and other sources. Expenditures from the 2-1-1 account may be used only for the implementation and support of the statewide 2-1-1 system. Monetary savings realized by the department when converting existing resource and referral lines to the statewide 2-1-1 system must be deposited in the special revenue account.

**Section 9. Eligible activities.** (1) The department shall provide for the study, design, implementation, and support of a statewide 2-1-1 system. The department may contract with one or more private organizations for any or all of the study, design, implementation, or support of a statewide 2-1-1 system.

(2) The department may provide for the following activities that are eligible for assistance from the 2-1-1 account provided for in [section 8]:

(a) creating a structure for a statewide 2-1-1 resources database that will meet the standards of the alliance for information and referral systems for information and referral systems databases and that will be integrated with local resources databases maintained by approved 2-1-1 service providers;

(b) developing a statewide resources database for the statewide 2-1-1 system;

(c) maintaining public information available from state agencies and programs that provide disaster, emergency, safety, health, or human services for access by approved 2-1-1 service providers;

(d) providing grants to approved 2-1-1 service providers for the design, development, and implementation of 2-1-1 services for its 2-1-1 service area; and

(e) providing grants to approved 2-1-1 service providers to provide 2-1-1 services on a 24-hour-a-day, 7-day-a-week basis and on an on-going basis.

**Section 10. Reporting.** The department shall provide a biennial report to the legislative children, families, health, and human services interim committee and to the legislature as provided in 5-11-210.

**Section 11. Performance of required functions.** It is the intent of the legislature that the functions required in [this act] be conducted with existing employees and within existing levels of funding.

**Section 12. Codification instruction.** [Sections 1 through 10] are intended to be codified as an integral part of Title 53, and the provisions of Title 53 apply to [sections 1 through 10].

**Section 13. 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 14. Effective date.** [This act] is effective July 1, 2005.

Approved May 2, 2005

## CHAPTER NO. 549

[SB 432]

AN ACT AMENDING THE FAMILY EDUCATION SAVINGS ACT TO COMPLY WITH CERTAIN FEDERAL SECURITIES REQUIREMENTS; ESTABLISHING A FAMILY EDUCATION SAVINGS TRUST WITH PARTICIPATING TRUST ACCOUNTS GOVERNING ACCOUNTS; ESTABLISHING THE ROLE OF THE BOARD OF REGENTS AND FINANCIAL INSTITUTIONS; ESTABLISHING A TRANSITION TO THE ADMINISTRATION UNDER THE TRUST; PROVIDING FOR INDIVIDUAL TRUST ACCOUNTS WITH A FINANCIAL INSTITUTION IF THE BOARD DETERMINES THAT CERTIFICATES OF DEPOSITS AND SAVINGS ACCOUNTS ARE NOT SEPARATELY INSURED BY THE FEDERAL

DEPOSIT INSURANCE CORPORATION UNDER THE FAMILY EDUCATION TRUST; AMENDING SECTIONS 15-62-103, 15-62-201, 15-62-203, AND 20-25-902, MCA.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Family education savings trust.** (1) There is a family education savings trust that is an instrumentality of the state and that is created for a public purpose. The trust consists of participating trusts with each participating trust corresponding to an account. The assets of one participating trust may not be commingled with the assets of any other participating trust. The assets and earnings of any participating trust may not be used to satisfy the obligations of any other participating trust. Each participating trust account represents a trust interest in the trust and includes amounts received by the program from account owners pursuant to the participating trust agreement and interest and investment income earned by the trust account.

(2) The assets of the trust consist of investments and earnings on investments of funds received by the program as deposits to accounts and amounts transferred to the trust from accounts established prior to [the effective date of this act] pursuant to subsection (3).

(3) In accordance with the instructions of the account owner, the trustee shall invest funds deposited in each participating trust in permitted investment products as provided in this chapter. The trustee or a financial institution acting as an agent of the trustee shall pay or apply funds from each participating trust for qualified withdrawals, nonqualified withdrawals, penalties, and withholdings.

(4) (a) After [the effective date of this act] and before the mandatory transfer date specified in subsection (4)(b), each account owner must be provided with notice of the creation of the family education savings trust, the participating trust agreement, and documents describing the options and actions available to the account owner. An account owner may execute a participating trust agreement and have funds that are held by financial institutions in accounts established prior to [the effective date of this act] transferred to the trust and to a participating trust corresponding to the transferor's account. Until a voluntary transfer occurs pursuant to this subsection (4)(a) or a mandatory transfer occurs pursuant to subsection (4)(b), accounts established prior to [the effective date of this act] remain valid and are governed by this chapter as it read prior to [the effective date of this act].

(b) On December 31, 2005, or at a later date set by the board to protect account owners from possible adverse consequences, all remaining funds or investment products that are not transferred pursuant to subsection (4)(a) and that are held by financial institutions in accounts established pursuant to this chapter prior to [the effective date of this act] must be transferred to the trust. The funds or investment products must be placed in a participating trust corresponding to the account and each account owner whose account is transferred is considered to have consented to and be bound by a participating trust agreement and to the transfer of funds or investment products held in the account to a new participating trust.

**Section 2. Temporary savings account program.** (1) If the board offers an investment product of certificates of deposit or bank savings accounts insured by the federal deposit insurance corporation, the board may provide for the holding of those investment products by a financial institution as trust

accounts for the account owner without being part of the participating trust arrangement for the trust.

(2) Certificates of deposit and bank savings accounts not held as part of the trust are to be held as trust accounts under conditions set by the board based on, as applicable, conditions required for participating trust accounts under this chapter. The provisions of this chapter that apply to reporting, holding, management, and other administrative and tax consequences of a participating trust account of the family savings trust apply to trust accounts under this section.

(3) If trust accounts have been established under subsection (2) and the board determines that it would be in the best interest of the program for those accounts to become part of the family education savings trust, the board may merge the trust accounts established under subsection (2) into the trust. The board shall establish a transfer date. The board shall give at least 90 days' notice to owners of trust accounts established under subsection (2) of the intent to merge and a description of the options available to an account owner upon merger. Each owner of a trust account established under subsection (2) may execute a participating trust agreement and have the title to the owner's trust account that is held by a financial institution transferred to the trust and to a participating trust corresponding to an account for the account owner. On the transfer date, all accounts not transferred by account owners must be transferred by the board to the trust and placed in participating trusts corresponding to accounts and each owner whose account has been transferred is considered to have consented to and be bound by the participating trust agreement and to the transfer of the account.

**Section 3.** Section 15-62-103, MCA, is amended to read:

**"15-62-103. Definitions.** As used in this chapter, the following definitions apply:

(1) "Account" means an individual *participating* trust account ~~or savings account~~ established under this chapter.

(2) "Account owner" means the person *who enters into a participating trust agreement and who is* designated at the time that an account is opened as having the right to withdraw money from the account before the account is disbursed to or for the benefit of the designated beneficiary.

(3) "Board" means the board of regents of higher education established by Article X, section 9, subsection (2), of the Montana constitution and 2-15-1505.

(4) "Committee" means the family education savings program oversight committee established in 20-25-901.

(5) "Designated beneficiary" means, with respect to an account, the person designated at the time that the account is opened as the person whose higher education expenses are expected to be paid from the account or if this person is replaced in accordance with 15-62-202, the individual replacing the former designated beneficiary.

(6) "Financial institution" means any bank, commercial bank, national bank, savings bank, savings and loan association, credit union, insurance company, trust company, investment adviser, or other similar entity that is authorized to do business in this state.

(7) "Higher education institution" means an eligible educational institution as defined in section 529(e)(5) of the Internal Revenue Code, 26 U.S.C. 529(e)(5).

(8) "Investment products" means, without limitation, certificates of deposit, savings accounts paying fixed or variable interest, financial instruments, one or more mutual funds, and a mix of mutual funds.

(9) "Member of the family" means, with respect to a designated beneficiary, a member of the family of the designated beneficiary as defined in section 529(e)(2) of the Internal Revenue Code, 26 U.S.C. 529(e)(2).

(10) "Nonqualified withdrawal" means a withdrawal from an account that is not:

(a) a qualified withdrawal;

(b) a withdrawal made as the result of the death or disability of the designated beneficiary of an account;

(c) a withdrawal that is made on the account of a scholarship or the allowance or payment described in section 135(d)(1)(B) or (d)(1)(C) of the Internal Revenue Code, 26 U.S.C. 135(d)(1)(B) or (d)(1)(C), and that is received by the designated beneficiary; or

(d) a rollover or change of designated beneficiary described in 15-62-202.

(11) "*Participating trust agreement*" means an agreement between the board, as trustee and as administrator of the program, and the account owner that creates a trust interest in the trust and provides for participation in the program.

~~(11)~~(12) "Program" means the family education savings program established pursuant to 15-62-201. The program must be structured to permit the long-term accumulation of savings that can be used to finance all or a share of the costs of higher education.

~~(12)~~(13) "Qualified higher education expenses" means qualified higher education expenses as defined in section 529(e)(3) of the Internal Revenue Code, 26 U.S.C. 529(e)(3).

~~(13)~~(14) "Qualified withdrawal" means a withdrawal from an account to pay the qualified higher education expenses of the designated beneficiary of the account.

(15) "*Trust*" means the family education savings trust established by [section 1].

(16) "*Trustee*" means the board in its capacity as trustee of the trust.

(17) "*Trust interest*" means an account owner's interest in the trust created by a participating trust agreement and held for the benefit of a designated beneficiary."

**Section 4.** Section 15-62-201, MCA, is amended to read:

**"15-62-201. Program requirements — application — establishment of account — qualified and nonqualified withdrawal — penalties.** (1) *The program must be operated through use of accounts in the trust established by account owners. Payments to the trust for participation in the program must be made by account owners pursuant to participating trust agreements. A person who wishes to deposit money into participate in the program and open an account into which funds will be deposited to pay the qualified higher education expenses of a designated beneficiary shall:*

(a) *enter into a participating trust agreement pursuant to which an account will be established as a participating trust of the trust;*

~~(a)~~(b) *complete an application on the form prescribed by the board that includes:*

(i) the name, address, and social security number or employer identification number of the contributor;

(ii) the name, address, and social security number of the account owner if the account owner is not the contributor;

(iii) the name, address, and social security number of the designated beneficiary;

(iv) the certification relating to no excess contributions adopted by the board pursuant to 20-25-902;

(v) *the designation of the financial institution with which the funds in the participating trust will be invested;* and

~~(vi)~~(vi) any other information required by the board;

~~(b)~~(c) pay the one-time application fee established by the board;

~~(e)~~(d) make the minimum contribution required by the board or by opening an account; and

~~(d)~~(e) designate the type of account to be opened if more than one type of account is offered.

(2) A person shall make contributions to an opened account in cash.

(3) An account owner may withdraw all or part of the balance from an account under rules prescribed by the board. The rules must be used to help the board or program manager to determine if a withdrawal is a nonqualified withdrawal or a qualified withdrawal to the extent that the board concludes that it is necessary for the board or program manager to make that determination. The rules may require that:

(a) account owners seeking to make a qualified withdrawal or other withdrawal that is not a nonqualified withdrawal shall provide certifications, copies of bills for qualified higher education expenses, or other supporting material;

(b) qualified withdrawals from an account be made only by a check payable jointly to the designated beneficiary and a higher education institution; and

(c) withdrawals not meeting certain requirements be treated as nonqualified withdrawals by the program manager, and if these withdrawals are not nonqualified withdrawals, the account owner shall seek refunds of penalties directly from the board.

(4) If the board determines that it is required to impose a penalty on nonqualified withdrawals for the program to qualify as a qualified state tuition program or a qualified tuition program under section 529 of the Internal Revenue Code, 26 U.S.C. 529, the board may impose a penalty in an amount equal to 10% of the portion of the proposed withdrawal that would constitute income as determined in accordance with section 529 of the Internal Revenue Code, 26 U.S.C. 529. The penalty must be withheld and paid to the board for use in operating and marketing the program and for state student financial aid.

(5) The board, by rule, shall increase the percentage of the penalty prescribed in subsection (4) or change the basis of this penalty if the board determines that the amount of the penalty must be increased to constitute a minimum penalty for purposes of qualifying the program as a qualified state tuition program or a qualified tuition program under section 529 of the Internal Revenue Code, 26 U.S.C. 529.

(6) The board may decrease the percentage of the penalty prescribed in subsection (4) if:

(a) the penalty is greater than is required to constitute a minimum penalty for purposes of qualifying the program as a qualified state tuition program or qualified tuition program under section 529 of the Internal Revenue Code, 26 U.S.C. 529; or

(b) the penalty, when combined with other revenue generated under this chapter, is producing more revenue than is required to cover the costs of operating and marketing the program and to recover any costs not previously recovered.

(7) If an account owner makes a nonqualified withdrawal and a penalty imposed under subsection (4) is not withheld pursuant to subsection (4) or the amount withheld was less than the amount required to be withheld under that subsection for nonqualified withdrawals, the account owner shall pay:

(a) the unpaid portion of the penalty to the board at the same time that the account owner files a federal and state income tax return for the taxable year of the withdrawal; or

(b) if the account owner does not file a return, the unpaid portion of the penalty on the due date for federal and state income tax returns, including any authorized extensions.

(8) Each account must be maintained separately from each other account under the program.

(9) Separate records and accounting must be maintained for each account for each designated beneficiary.

(10) A contributor to, account owner of, or designated beneficiary of an account may not direct the investment of any contributions to any account or the earnings generated by the account *in violation of section 529 of the Internal Revenue Code, 26 U.S.C. 529*, and may not pledge the interest of an account or use an interest in an account as security for a loan.

~~(11) If, pursuant to 15-62-203(10), the board terminates the authority of a financial institution to serve as program manager and accounts held by or through the program manager must be moved from that financial institution to another financial institution, the board shall select the financial institution to which the accounts are to be moved. If as a result of the change, the investment products in which the accounts are invested must be changed, the board shall select new investment products for the accounts unless the account owner is permitted under the applicable rules of the internal revenue service to select new investments for the account without violating rules prohibiting investment direction.~~

~~(12)~~(11) If there is any distribution from an account to any person or for the benefit of any person during a calendar year, the distribution must be reported to the internal revenue service and the account owner or the designated beneficiary to the extent required by federal law.

~~(13)~~(12) The financial institution shall provide statements to each account owner *whose participating trusts are invested with the institution* at least once each year within 31 days after the 12-month period to which they relate. The statement must identify the contributions made during a preceding 12-month period, the total contributions made through the end of the period, the value of

the account as of the end of this period, distributions made during this period, and any other matters that the board requires be reported to the account owner.

~~(14)~~(13) Statements and information returns relating to accounts must be prepared and filed to the extent required by federal or state tax law or by administrative rule.

~~(15)~~(14) A state or local government or organizations described in section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), may, without designating a designated beneficiary, open and become the account owner of an account to fund scholarships for persons whose identity will be determined after an account is opened.”

**Section 5.** Section 15-62-203, MCA, is amended to read:

**“15-62-203. Selection of financial institution as program manager — contract — termination.** (1) The board shall implement the *operation of the program* through the use of one or more financial institutions to act as the program manager. Under the program, a person may *submit applications for enrollment in the program and participating trust agreements to a program manager* and establish accounts *in the trust* at the location of or through the program manager. *An account owner may deposit money in an account in the trust by paying the money to a program manager who shall accept the money as an agent for the trust.* Accounts may be invested in one or more investment products approved by the board.

(2) The committee shall solicit proposals from financial institutions to act as managers of the program. Financial institutions that submit proposals shall describe the investment products that they propose to offer through the program.

(3) On the recommendation of the committee, the board shall select as program managers the financial institution or institutions from among bidding financial institutions that demonstrate the most advantageous combination, both to potential program participants and to this state, of:

- (a) financial stability and integrity;
- (b) the safety of the investment products being offered, taking into account any insurance provided with respect to these products;
- (c) the ability of the investment products to track estimated costs of higher education as calculated by the board and provided by the financial institution to the account holder;
- (d) the ability of the financial institutions, directly or through a subcontract, to satisfy recordkeeping and reporting requirements;
- (e) the financial institution’s plan for promoting the program and the investment that it is willing to make to promote the program;
- (f) the fees, if any, proposed to be charged to persons for maintaining accounts;
- (g) the minimum initial deposit and minimum contributions that the financial institution will require and the willingness of the financial institution or its subcontractors to accept contributions through payroll deduction plans and other deposit plans; and
- (h) any other benefits to this state or its residents contained in the proposal, including an account opening fee payable to the board by the account owner to

cover expenses of operation of the program and any additional fee offered by the financial institution for statewide program marketing by the board.

(4) The board shall enter into a contract with a financial institution or, except as provided in subsection (5), into contracts with financial institutions to serve as program managers. *The contracts must provide the terms and conditions by which financial institutions, as agents of the trust, may assist in selling interests in the trust and the manner in which funds of a participating trust that are designated for investment with or through the financial institution will be invested.*

(5) The board may select more than one financial institution to serve as program manager. The board may select more than one kind of investment product to be offered through the program. Any decision on the use of multiple financial institutions or multiple investment products must take into account:

(a) the requirements for qualifying as a qualified state tuition program or qualified tuition program under section 529 of the Internal Revenue Code, 26 U.S.C. 529;

(b) differing needs of contributors regarding risk and potential return of investment instruments; and

(c) administrative costs and burdens that may be imposed as the result of the decision.

(6) A program manager or its subcontractor shall:

(a) take action required to keep the program in compliance with its contract or the requirements of this chapter to manage the program so that it is treated as a qualified state tuition program or qualified tuition program under section 529 of the Internal Revenue Code, 26 U.S.C. 529;

(b) keep adequate records of each account, keep each account segregated from each other account, and provide the board with the information necessary to prepare statements required by 15-62-201~~(12)~~(11) through ~~(14)~~ (13) or file these statements on behalf of the board;

(c) compile and total information contained in statements required to be prepared under 15-62-201~~(12)~~(11) through ~~(14)~~ (13) and provide these compilations to the board;

(d) if there is more than one program manager, provide the board with the information to assist the board in determining compliance with rules adopted by the board pursuant to 20-25-902 and to comply with any state or federal tax reporting requirements;

(e) provide representatives of the board, including other contractors or other state agencies, access to the books and records of the program manager to the extent needed to determine compliance with the contract. At least once during the term of any contract, the board, its contractor, or the state agency responsible for examination oversight of the program manager shall conduct an examination to the extent needed to determine compliance with the contract.

(f) hold ~~all accounts in trust for the benefit of this state~~ *participating trusts invested by or through the financial institution in the name of and for the benefit of the trust* and the account owner;

(g) *assist the trustee with respect to any federal or tax filing requirements relating to the program and with respect to any other obligations of the trustee.*

(7) A person may not circulate any description of the program, whether in writing or through the use of any media, unless the board or its designee first approves the description.

(8) A contract executed between the board and a financial institution pursuant to this section must be for a term of at least 3 years and not more than 7 years.

(9) *If the board determines not to renew the appointment of a financial institution as program manager, the board may take action consistent with the interest of the program and the accounts and in accordance with its duties as trustee of the trust. ~~If~~ Except as provided in subsection (10), if a contract executed between the board and a financial institution pursuant to this section is not renewed, at the end of the term of the nonrenewed contract:*

(a) *accounts previously established through the efforts of the financial institution may not be terminated by the trustee or board and;*

~~(b) additional contributions may be made to the those accounts in existence at the time of nonrenewal of a contract;~~

~~(c) the funds in new accounts may not be placed with that established after the termination may not be invested by or through the financial institution unless a new contract is executed; and~~

~~(d) except as provided in subsection (10), accounts under the supervision of participating trusts invested by or through the program manager financial institution must continue to be invested in the financial products in which they were invested prior to the nonrenewal unless the account owner selects a different investment product without violating 15-62-201(10); and~~

~~(d) the continuing role of the financial institution must be governed by rules or policies established by the board or a special contract and all services provided by the financial institution to accounts continue to be subject to the control of the board as trustee of the trust with responsibility for all accounts in the program.~~

(10) (a) *The board may terminate a contract with a financial institution or prohibit the continued investment of funds by or through a financial institution under subsection (9) at any time for good cause on the recommendation of the committee. If a contract is terminated or investment is prohibited pursuant to this subsection, the board trustee shall take custody of accounts account funds or assets held at that financial institution and shall seek to promptly transfer the accounts to reinvest the funds or assets by or through another financial institution that is selected as a program manager by the board and into the same investment products or investment products selected by the board that are as similar as possible to the original investments.*

*(b) Prior to taking the actions described in subsection (10)(a), the board shall give account owners notice of the termination and a reasonable period of time, not to exceed 30 days, to voluntarily terminate the account invested by or through the financial institution or, to the extent not prohibited by 15-62-201(10), to direct that the account be invested with or through another program manager.*

*(c) If the termination of a program manager causes an emergency that might lead to a loss of funds to any account owner, the board or trustee may take whatever emergency action is necessary or appropriate to prevent the loss of funds invested pursuant to this chapter. After taking emergency action, the board shall provide notice and opportunity for action to account owners as provided in subsection (10)(b)."*

**Section 6.** Section 20-25-902, MCA, is amended to read:

**“20-25-902. Board — powers and duties.** (1) The board shall:

(a) retain professional services, if necessary, including services of accountants, auditors, consultants, and other experts;

(b) seek rulings and other guidance relating to the program from the United States department of the treasury and the internal revenue service;

(c) make changes to the program as required for the participants in the program to obtain the federal income tax benefits or treatment provided by section 529 of the Internal Revenue Code, 26 U.S.C. 529, as amended;

(d) charge, impose, and collect administrative fees and service charges pursuant to any agreement, contract, or transaction relating to the program;

(e) select the financial institution or institutions to act as the *program manager of the program* pursuant to 15-62-203;

(f) on the recommendation of the committee, adopt rules to prevent contributions on behalf of a designated beneficiary in excess of those necessary to pay the qualified higher education expenses of the designated beneficiaries. The rules must address the following:

(i) procedures for aggregating the total balances of multiple accounts established for a designated beneficiary;

(ii) the establishment of a maximum total balance that may be held in accounts for a designated beneficiary;

(iii) requirements that persons who contribute to an account certify that to the best of their knowledge, the balance in all qualified state tuition programs, as defined in section 529 of the Internal Revenue Code, 26 U.S.C. 529, for the designated beneficiary does not exceed the lesser of:

(A) a maximum college savings amount established by the board; or

(B) the cost in current dollars of qualified higher education expenses that the contributor reasonably anticipates the designated beneficiary will incur;

(iv) requirements that any excess balances with respect to a designated beneficiary be promptly withdrawn in a nonqualified withdrawal or rolled over to another account in accordance with this section; ~~and~~

(g) adopt procedures as necessary to implement Title 15, chapter 62;

(h) *serve as trustee of the family education savings trust established in [section 1];*

(i) *enter into participating trust agreements with account owners; and*

(j) *maintain the program on behalf of the state as required by section 529 of the Internal Revenue Code, 26 U.S.C. 529.*

(2) The definitions in 15-62-103 apply to this section.”

**Section 7. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 15, chapter 62, and the provisions of Title 15, chapter 62, apply to [sections 1 and 2].

Approved April 28, 2005

**CHAPTER NO. 550**

[SB 442]

AN ACT REMOVING THE DEPARTMENT OF REVENUE'S AUTHORITY TO ESTABLISH A FEE TO RECOVER COSTS ASSOCIATED WITH THE POINTS REPLACEMENT SYSTEM; PROVIDING A VOIDNESS PROVISION CONTINGENT ON REPAYMENT OF THE LOAN THROUGH STATE GENERAL FUND MONEY; AMENDING SECTIONS 15-1-501 AND 17-5-2001, MCA; REPEALING SECTION 15-1-141, MCA; AND PROVIDING AN EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 15-1-501, MCA, is amended to read:

**"15-1-501. Disposition of money from certain designated license and other taxes.** (1) ~~Except as provided in subsection (5), the~~ *The* state treasurer shall deposit to the credit of the state general fund in accordance with the provisions of subsection (3) all money received from the collection of:

- (a) income taxes, interest, and penalties collected under chapter 30;
- (b) except as provided in 15-31-121, all taxes, interest, and penalties collected under chapter 31;
- (c) oil and natural gas production taxes distributed to the general fund under 15-36-331;
- (d) electrical energy producer's license taxes under chapter 51;
- (e) the retail telecommunications excise tax collected under Title 15, chapter 53, part 1;
- (f) liquor license taxes under Title 16;
- (g) fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as provided in 61-5-121;
- (h) estate taxes under Title 72, chapter 16; and
- (i) fees based on the value of currency on deposit and tangible personal property held for safekeeping by a foreign capital depository as provided in 15-31-803.

(2) The department shall also deposit to the credit of the state general fund all money received from the collection of license taxes and all net revenue and receipts from all sources, other than certain fees, under Title 16, chapters 1 through 4 and 6.

(3) Notwithstanding any other provision of law, the distribution of tax revenue must be made according to the provisions of the law governing allocation of the tax that were in effect for the period in which the tax revenue was recorded for accounting purposes. Tax revenue must be recorded as prescribed by the department of administration, pursuant to 17-1-102(2) and (4), in accordance with generally accepted accounting principles.

(4) All refunds of taxes must be attributed to the funds in which the taxes are currently being recorded. All refunds of interest and penalties must be attributed to the funds in which the interest and penalties are currently being recorded.

~~(5) The administrative assessment provided for in 15-1-141 must be deposited in an account in the state special revenue fund to the credit of the department."~~

**Section 2.** Section 17-5-2001, MCA, is amended to read:

**“17-5-2001. (Temporary) Loans to state agencies.** (1) An agency responsible for the procurement and provision of vehicles, automated systems, and equipment using an enterprise fund or an internal service fund, as described in 17-2-102, is authorized to enter into contracts, loan agreements, or other forms of indebtedness payable over a term not to exceed 7 years for the purpose of financing the cost of the vehicles and equipment and to pledge to the repayment of the indebtedness the revenue of the enterprise fund or internal service fund if:

(a) the term of the indebtedness does not exceed the useful life of the items being financed; and

(b) at the time that the indebtedness is incurred, the projected revenue of the fund, based on the fees and charges approved by the legislature and other available fund revenue, will be sufficient to repay the indebtedness over the proposed term and to maintain the operation of the enterprise.

(2) (a) The department of justice is authorized to enter into contracts, loan agreements, or other forms of indebtedness with the board of investments for an amount not to exceed \$22.5 million, payable over a term not to exceed 10 years, for financing the cost of an information technology system for the production and maintenance of motor vehicle title and registration records and driver's license records.

(b) For purposes of the financing of the motor vehicle information technology system, loans are payable from the money in the motor vehicle information technology system account as provided in 61-3-550. The term of the indebtedness may not exceed the useful life of the items being financed. At the time that the loan is made, the projected revenue of the motor vehicle information technology system account, based upon the fees approved by the legislature, must be sufficient to repay the indebtedness over the proposed term.

(3) (a) The department of justice is authorized to enter into contracts, loan agreements, or other forms of indebtedness with the board of investments for an amount not to exceed \$1,120,000, payable over a term not to exceed 7 years, for the acquisition of video gambling automated accounting and reporting system data collection units.

(b) The loan is payable from the department of justice's annual appropriation from the general fund.

(c) The term of the indebtedness may not exceed the useful life of the items being financed. At the time that the loan is made, the department of justice's base budget appropriation from the general fund must be sufficient to repay the indebtedness with respect to the video gambling data collection units over the proposed term of the loan.

(d) The loan is subject to the risk of nonappropriation.

(4) (a) If bonds are not issued for the project authorized in 15-1-140, the department of revenue is authorized to enter into contracts, loan agreements, or other forms of indebtedness with the board of investments for an amount not to exceed \$17 million, payable over a term not to exceed 7 years, for the acquisition of a replacement system for the process oriented integrated system (POINTS) computer system.

(b) The loan is payable from the department of revenue's appropriation ~~from the administrative assessment provided for in 15-1-141.~~

~~(c) The term of the indebtedness may not exceed the useful life of the items being financed. At the time that the loan is made, the projected revenue from the administrative assessment provided for in 15-1-141 must be sufficient to repay the indebtedness with respect to the replacement system over the proposed term of the loan.~~

~~(c)~~(c) The loan is subject to the risk of nonappropriation. (Terminates June 30, 2011—sec. 18, Ch. 597, L. 2003.)

**17-5-2001. (Effective July 1, 2011) Loans to state agencies.** (1) An agency responsible for the procurement and provision of vehicles, automated systems, and equipment using an enterprise fund or an internal service fund, as described in 17-2-102, is authorized to enter into contracts, loan agreements, or other forms of indebtedness payable over a term not to exceed 7 years for the purpose of financing the cost of the vehicles and equipment and to pledge to the repayment of the indebtedness the revenue of the enterprise fund or internal service fund if:

(a) the term of the indebtedness does not exceed the useful life of the items being financed; and

(b) at the time that the indebtedness is incurred, the projected revenue of the fund, based on the fees and charges approved by the legislature and other available fund revenue, will be sufficient to repay the indebtedness over the proposed term and to maintain the operation of the enterprise.

(2) (a) The department of justice is authorized to enter into contracts, loan agreements, or other forms of indebtedness with the board of investments for an amount not to exceed \$22.5 million, payable over a term not to exceed 10 years, for financing the cost of an information technology system for the production and maintenance of motor vehicle title and registration records and driver's license records.

(b) For purposes of the financing of the motor vehicle information technology system, loans are payable from the money in the motor vehicle information technology system account as provided in 61-3-550. The term of the indebtedness may not exceed the useful life of the items being financed. At the time that the loan is made, the projected revenue of the motor vehicle information technology system account, based upon the fees approved by the legislature, must be sufficient to repay the indebtedness over the proposed term.

(3) (a) The department of justice is authorized to enter into contracts, loan agreements, or other forms of indebtedness with the board of investments for an amount not to exceed \$1,120,000, payable over a term not to exceed 7 years, for the acquisition of video gambling automated accounting and reporting system data collection units.

(b) The loan is payable from the department of justice's annual appropriation from the general fund.

(c) The term of the indebtedness may not exceed the useful life of the items being financed. At the time that the loan is made, the department of justice's base budget appropriation from the general fund must be sufficient to repay the indebtedness with respect to the video gambling data collection units over the proposed term of the loan.

(d) The loan is subject to the risk of nonappropriation. (Terminates June 30, 2013—sec. 15, Ch. 562, L. 2003.)

**17-5-2001. (Effective July 1, 2013) Loans to state agencies.** (1) An agency responsible for the procurement and provision of vehicles, automated systems, and equipment using an enterprise fund or an internal service fund, as described in 17-2-102, is authorized to enter into contracts, loan agreements, or other forms of indebtedness payable over a term not to exceed 7 years for the purpose of financing the cost of the vehicles and equipment and to pledge to the repayment of the indebtedness the revenue of the enterprise fund or internal service fund if:

(a) the term of the indebtedness does not exceed the useful life of the items being financed; and

(b) at the time that the indebtedness is incurred, the projected revenue of the fund, based on the fees and charges approved by the legislature and other available fund revenue, will be sufficient to repay the indebtedness over the proposed term and to maintain the operation of the enterprise.

(2) (a) The department of justice is authorized to enter into contracts, loan agreements, or other forms of indebtedness with the board of investments for an amount not to exceed \$4.5 million, payable over a term not to exceed 10 years, for financing the cost of an information technology system for the production and maintenance of motor vehicle title and registration records and driver's license records.

(b) For purposes of the financing of the motor vehicle information technology system, loans are payable from the money in the motor vehicle information technology system account as provided in 61-3-550. The term of the indebtedness may not exceed the useful life of the items being financed. At the time that the loan is made, the projected revenue of the motor vehicle information technology system account, based upon the fees approved by the legislature, must be sufficient to repay the indebtedness over the proposed term.

(3) (a) The department of justice is authorized to enter into contracts, loan agreements, or other forms of indebtedness with the board of investments for an amount not to exceed \$1,120,000, payable over a term not to exceed 7 years, for the acquisition of video gambling automated accounting and reporting system data collection units.

(b) The loan is payable from the department of justice's annual appropriation from the general fund.

(c) The term of the indebtedness may not exceed the useful life of the items being financed. At the time that the loan is made, the department of justice's base budget appropriation from the general fund must be sufficient to repay the indebtedness with respect to the video gambling data collection units over the proposed term of the loan.

(d) The loan is subject to the risk of nonappropriation."

**Section 3. Repealer.** Section 15-1-141, MCA, is repealed.

**Section 4. Contingent voidness.** Unless a bill is passed and approved containing a specific provision that provides for full repayment of the loan for the POINTS replacement system described in 15-1-140, then [this act] is void.

**Section 5. Effective date.** [This act] is effective July 1, 2005.

Approved April 28, 2005

**CHAPTER NO. 551**

[SB 477]

AN ACT REQUIRING THE DEPARTMENT OF CORRECTIONS TO ADOPT RULES ESTABLISHING A PER DIEM RATE FOR COMPENSATION THAT MUST BE PAID TO A REGIONAL CORRECTIONAL FACILITY FOR THE CONFINEMENT OF PERSONS IN THE STATE CORRECTIONAL FACILITY PORTION OF THE REGIONAL CORRECTIONAL FACILITY; AMENDING SECTION 53-30-507, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 53-30-507, MCA, is amended to read:

**“53-30-507. Rulemaking authority.** (1) The department may adopt rules to implement this part, including rules for the determination of how sites are to be chosen for regional correctional facilities. The rules must provide that in selecting a site, the department shall consider the need for a regional correctional facility in the area, the ability and willingness of a local governmental entity or a corporation to enter into a long-term contract with the department, and the availability of rehabilitative services to inmates. The rules must require that a corporation respond to a request for proposals prepared by the department for a regional correctional facility before a contract may be entered with that corporation.

(2) The department shall adopt rules that include the minimum applicable standards for the construction, operation, and physical condition of a state correctional facility portion of a regional correctional facility and for the security, safety, health, treatment, and discipline of persons confined in a state correctional facility portion of a regional correctional facility. The rules must require that a privately operated or privately owned and operated state correctional facility portion of a regional correctional facility conform to applicable American correctional association and national commission on correctional health care standards.

(3) (a) *The department shall adopt rules pursuant to Title 2, chapter 4, that specify a per diem rate that must be paid to a regional correctional facility for the confinement of persons in the state correctional facility portion of the regional correctional facility.*

(b) *The rules adopted pursuant to subsection (3)(a) must include but are not limited to:*

(i) *a definition of per diem rate;*

(ii) *a method of calculating the per diem rate; and*

(iii) *the costs to be included in the per diem rate calculation.*

(c) *At a minimum, the per diem rate must include compensation for:*

(i) *direct costs, including budget expenditures directly attributable to confining inmates;*

(ii) *indirect costs, including budget expenditures that are not directly associated with the confinement of inmates but that are incurred to provide support services for the regional correctional facility;*

(iii) *capital costs, including depreciation or a pro rata portion of capital costs incurred; and*

(iv) other costs that the department determines are necessary, including medical or transportation costs.

(d) The department shall determine by rule the costs that are not allowable as part of a per diem rate. Unallowable costs must include programs and services that do not have a direct benefit to persons confined in the regional correctional facility and depreciation for capital improvements paid for by the department and depreciation for equipment used in providing support services.

(e) A population factor must be included in the per diem rate to allow for accurate compensation based on the number of inmates confined in the regional correctional facility.

(f) The rules must provide for billing procedures and must allow for review of the per diem rate at least once each fiscal year. When reviewing the per diem rate, the department shall accept public comment that must be considered when the department is determining the accuracy of the per diem rate for the next fiscal year.”

**Section 2. Effective date.** [This act] is effective July 1, 2006.

Approved April 28, 2005

## CHAPTER NO. 552

[SB 486]

AN ACT REVISING THE LICENSE REQUIREMENTS FOR VIATICAL SETTLEMENT BROKERS; CLARIFYING THAT A LIFE INSURANCE PRODUCER MAY ACT AS A VIATICAL SETTLEMENT BROKER; CLARIFYING REQUIREMENTS FOR ENTERING INTO A VIATICAL SETTLEMENT CONTRACT; CLARIFYING THE COMMISSIONER OF INSURANCE'S RULEMAKING AUTHORITY WITH RESPECT TO A VIATICAL SETTLEMENT PROVIDER'S PAYMENTS TO AN INSURED THAT IS NOT TERMINALLY OR CHRONICALLY ILL; AND AMENDING SECTIONS 33-2-708, 33-20-1303, 33-20-1313, AND 33-20-1315, MCA.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 33-2-708, MCA, is amended to read:

**“33-2-708. Fees and licenses.** (1) (a) Except as provided in 33-17-212(2), the commissioner shall collect a fee of \$1,900 from each insurer applying for or annually renewing a certificate of authority to conduct the business of insurance in Montana.

(b) The commissioner shall collect certain additional fees as follows:

(i) nonresident insurance producer's license:

(A) application for original license, including issuance of license, if issued, \$100;

(B) biennial renewal of license, \$50;

(C) lapsed license reinstatement fee, \$100;

(ii) resident insurance producer's license lapsed license reinstatement fee, \$100;

(iii) surplus lines insurance producer's license:

(A) application for original license and for issuance of license, if issued, \$50;

- (B) biennial renewal of license, \$100;
  - (C) lapsed license reinstatement fee, \$200;
  - (iv) insurance adjuster's license:
    - (A) application for original license, including issuance of license, if issued, \$50;
    - (B) biennial renewal of license, \$100;
    - (C) lapsed license reinstatement fee, \$200;
    - (v) insurance consultant's license:
      - (A) application for original license, including issuance of license, if issued, \$50;
      - (B) biennial renewal of license, \$100;
      - (C) lapsed license reinstatement fee, \$200;
      - (vi) *viatical settlement broker's license*:
        - (A) *application for original license, including issuance of license, if issued, \$50;*
        - (B) *biennial renewal of license, \$100;*
        - (C) *lapsed license reinstatement fee, \$200;*
        - ~~(vi)~~(vii) resident and nonresident rental car entity producer's license:
          - (A) application for original license, including issuance of license, if issued, \$100;
          - (B) quarterly filing fee, \$25;
          - (viii) *an original notification fee for a life insurance producer acting as a viatical settlement broker, in accordance with 33-20-1303(2)(b), \$50;*
          - ~~(vii)~~(ix) 50 cents for each page for copies of documents on file in the commissioner's office.
- (c) The commissioner may adopt rules to determine the date by which a nonresident insurance producer, a surplus lines insurance producer, an insurance adjuster, or an insurance consultant is required to pay the fee for the biennial renewal of a license.
  - (2) (a) The commissioner shall charge a fee of \$75 for each course or program submitted for review as required by 33-17-1204 and 33-17-1205, but may not charge more than \$1,500 to a sponsoring organization submitting courses or programs for review in any biennium.
  - (b) Insurers and associations composed of members of the insurance industry are exempt from the charge in subsection (2)(a).
  - (3) The commissioner shall promptly deposit with the state treasurer to the credit of the general fund all fines and penalties and those amounts received pursuant to 33-2-311, 33-2-705, 33-28-201, and 50-3-109. All other fees collected by the commissioner pursuant to Title 33 and the rules adopted under Title 33 must be deposited in the state special revenue fund to the credit of the state auditor's office.
  - (4) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of \$10 will be refunded."

**Section 2.** Section 33-20-1303, MCA, is amended to read:

**“33-20-1303. License application requirements.** (1) A person may not act as or purport to be a viatical settlement provider ~~or viatical settlement broker~~ unless licensed as a viatical settlement provider ~~or viatical settlement broker~~ under this part.

(2) (a) *Except as provided in subsection (2)(b) and (2)(c), a person may not broker, solicit, or negotiate viatical settlement contracts between a viator and one or more viatical settlement providers or otherwise act on behalf of a viator without first having obtained a license as a viatical settlement broker from the commissioner. An applicant for a viatical settlement broker’s license shall:*

(i) *attend required viatical settlement broker training and pass a viatical settlement broker examination designated by the commissioner by rule; and*

(ii) *pay a fee for an original viatical settlement broker’s license pursuant to 33-2-708. The fees for license renewal and lapsed license reinstatement for a viatical settlement broker’s license are as provided in 33-2-708.*

(b) *A resident or nonresident insurance producer must be considered to meet the licensing requirements of a viatical settlement broker and must be permitted to operate as a viatical settlement broker if the insurance producer is licensed as an insurance producer with a life insurance line of authority in this state or in the insurance producer’s home state and has been licensed for at least 1 year. In addition:*

(i) *not later than 30 days from the first day of operating as a viatical settlement broker, the insurance producer shall notify the commissioner, on a form or in a manner prescribed by the commissioner, that the insurance producer is acting as a viatical settlement broker and shall pay a fee pursuant to 33-2-708(1)(b)(viii). The notification must include an acknowledgment by the insurance producer that the insurance producer will operate as a viatical settlement broker in accordance with this part.*

(ii) *regardless of the manner in which the insurance producer is compensated, the insurance producer must be considered to represent only the viator and owes a fiduciary duty to the viator to act according to the viator’s instructions and in the best interests of the viator.*

(c) *If requested by the commissioner, a life insurance producer acting as a viatical settlement broker under this subsection (2) who has previously complied with subsection (2)(b)(i) shall report to the commissioner when renewing a resident or nonresident life insurance producer’s license regarding the life insurance producer’s intent to continue to act as a viatical settlement broker. The statement regarding an intent to continue acting as a viatical settlement broker must be made on the life insurance producer’s license renewal form. A person who makes a statement pursuant to this subsection (2)(c) may not be charged an additional fee.*

(d) *The provisions of subsections (2)(a) and (2)(b) do not prohibit a person licensed as an attorney, certified public accountant, or certified financial planner who is accredited by a nationally recognized accreditation agency, who is retained to represent the viator, and whose compensation is not paid directly or indirectly by the viatical settlement provider from negotiating viatical settlement contracts without having to obtain a license as a viatical settlement broker.*

(3) *Regardless of the manner in which a viatical settlement broker or insurance producer is compensated, the viatical settlement broker or insurance producer must be considered to represent only the viator and the viatical settlement broker or insurance producer owes a fiduciary duty to the viator to act according to the viator’s instructions and in the best interests of the viator.*

~~(2)~~(4) (a) In order to obtain a license to transact business as a viatical settlement provider or as a viatical settlement broker, *if required to obtain a viatical settlement broker's license under the provisions of subsection (2)(a)*, an applicant shall apply for the license ~~on forms prescribed in a form approved by the commissioner and shall pay the fee required for the application.~~

~~(3)~~(b) The commissioner may request biographical, organizational, locational, financial, employment, and other information on the application form that the commissioner determines to be relevant to the evaluation of applications and to the granting of the license. The commissioner may require a statement of the business plan or plan of operation of the applicant. The commissioner shall require an applicant for a viatical settlement provider license to file with the application for the commissioner's approval a copy of the viatical settlement contract that the applicant intends to use in business under the license.

~~(4)~~(c) If an applicant is a corporation, the corporation must be:

~~(a)~~(i) incorporated or organized under the laws of this state; or

~~(b)~~(ii) a foreign corporation authorized to transact business in this state.

~~(5)~~(d) If the applicant is a partnership, the partnership must be organized under the laws of this state.

(5) (a) *An individual licensed as a viatical settlement broker must meet the continuing education requirements in 33-17-1203.*

(b) *The hours of continuing education required under subsection (4)(a) must be in the subjects of life insurance, viaticals, or ethics.*

(c) *For an individual licensed as a viatical settlement broker, the 24-month period for meeting the continuing education requirements must correlate with the broker's license renewal period.*

(d) *The viatical settlement broker's license of an individual who fails to comply with this continuing education requirement and who has not been granted an extension of time to comply in accordance with 33-17-1203(3) must be terminated and promptly surrendered to the commissioner."*

**Section 3.** Section 33-20-1313, MCA, is amended to read:

**"33-20-1313. Prohibitions Requirements for entering into viatical settlement contract — prohibitions on finder's fee — solicitations — discrimination — false or misleading advertising or solicitation — misuse of confidential information.** (1) *A person may not enter into a viatical settlement contract within a 2-year period from the date of issuance of an insurance policy or certificate unless the person certifies to the viatical settlement provider that one or more of the following conditions have been met within the 2-year period:*

(a) (i) *the policy or certificate was issued upon the person's exercise of conversion rights arising out of a group or individual policy or certificate and the total of the time covered under the conversion policy or certificate plus the time covered by the policy or certificate prior to the conversion equal at least 24 months; and*

(ii) *the time covered under a group policy or certificate was calculated without regard to any change in insurance carriers if the coverage was continuous and under the same group sponsorship; or*

(b) *the person submits independent evidence to the viatical settlement provider that one or more of the following conditions have been met within the 2-year period:*

(i) *the person is terminally ill or chronically ill; or*

(ii) *the person has disposed of the person's ownership interest in a closely held corporation pursuant to the terms of a buyout agreement or similar agreement that was in effect at the time that the insurance policy or certificate was issued.*

(2) *Copies of the certification and independent evidence required under subsection (1) must be submitted by the viatical settlement provider to the insurer when the viatical settlement provider submits a request to the insurer for verification of coverage. The copies must be accompanied by a letter of attestation from the viatical settlement provider that the copies are true and correct copies of the documents received by the viatical settlement provider.*

~~(1)~~(3) A licensee may not pay or offer to pay a finder's fee, commission, or other compensation to a person described in this subsection ~~(1)~~ (3) in connection with a policy insuring the life of an individual with a terminal illness or condition. The prohibition under this subsection ~~(1)~~ (3) applies with respect to payments or offers of payment to:

(a) the physician, attorney, or accountant of the policyholder, the certificate holder, or the insured individual;

(b) any person other than a physician, attorney, or accountant described in subsection ~~(1)~~(a) (3)(a) who provides medical, legal, or financial planning services to the policyholder, to the certificate holder, or to the insured individual when the individual is other than the policyholder or certificate holder; or

(c) any person other than one described in subsection ~~(1)~~(a) (3)(a) or ~~(1)~~(b) (3)(b) who acts as an agent of the policyholder, certificate holder, or insured individual.

~~(2)~~(4) A licensee may not solicit an investor who could influence the treatment of the illness or condition of the individual whose life would be the subject of a viatical settlement contract.

~~(3)~~(5) All information solicited or obtained from a policyholder or certificate holder by a licensee is subject to the confidentiality requirements set forth in Title 33, chapter 19. For purposes of this subsection, a licensee must be considered an insurance-support organization as defined in 33-19-104.

~~(4)~~(6) A licensee may not discriminate in the making of a viatical settlement contract on the basis of race, age, sex, national origin, creed, religion, occupation, marital or family status, or sexual orientation and may not discriminate between persons who have dependents and persons who do not have dependents.

~~(5)~~(7) A person licensed pursuant to 33-20-1304 may not engage in any false or misleading advertising, solicitation, or practice as described in 33-18-203.

~~(6)~~(8) A person licensed pursuant to 33-20-1304 may not sell another product of insurance to the contract holder unless approval is obtained from the commissioner."

**Section 4.** Section 33-20-1315, MCA, is amended to read:

**"33-20-1315. Rules — standards — bond.** The commissioner may, in accordance with the provisions of 33-1-313, adopt rules for the purpose of carrying out this part. In addition, the commissioner:

(1) may establish standards for evaluating reasonableness of payments under viatical settlement contracts for insured persons who are terminally ill or chronically ill. The authority includes but is not limited to regulation of discount rates used to determine the amount paid in exchange for assignment, transfer, sale, devise, or bequest of a benefit under a life insurance policy. For the purpose of the standards, the commissioner shall consider payments made in regional and national viatical settlement markets to the extent that this information is available, as well as model standards developed by the national association of insurance commissioners. *When the insured is not terminally ill or chronically ill, the commissioner may not establish standards for evaluating the reasonableness of payments, except that a viatical settlement provider shall pay an amount greater than the greater of the cash surrender value or the accelerated death benefit then available.*

(2) shall require a bond or other mechanism for financial accountability of viatical settlement providers and viatical settlement brokers; *and*

(3) shall adopt rules to establish:

(a) trade practice standards for the purpose of regulating advertising and solicitation of viatical settlement contracts; ~~and~~

(b) fees that are commensurate with fees charged pursuant to 33-2-708; ~~and~~; *and*

(c) *the continuing education program provided for in 33-20-1303(4).*

~~(4) shall require viatical settlement providers or viatical settlement brokers to pay an amount greater than the cash surrender value or accelerated death benefit if the insured is not terminally ill or chronically ill."~~

Approved April 28, 2005

## CHAPTER NO. 553

[SB 499]

AN ACT REVISING LAWS PERTAINING TO THE PUBLIC MENTAL HEALTH SYSTEM; AMENDING SERVICE AREA AUTHORITY DEFINITIONS AND DUTIES; AND AMENDING SECTIONS 53-21-1001, 53-21-1002, 53-21-1006, AND 53-21-1007, MCA.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Purpose.** The purpose of this part is to:

(1) create service area authorities that collaborate with the department and local advisory councils to plan, implement, and evaluate regional public mental health care within the budget constraints for each service region;

(2) promote consumer and family leadership within the public mental health system through service area authorities; and

(3) foster a consumer-driven and family-driven system of public mental health care that advances:

(a) access to a continuum of mental health services; and

(b) individual choice of services and providers.

**Section 2.** Section 53-21-1001, MCA, is amended to read:

**“53-21-1001. (Temporary) Definitions.** As used in this part, the following definitions apply:

(1) “Department” means the department of public health and human services as provided for in 2-15-2201.

(2) “Service area authority” means an entity, as provided for in 53-21-1006, that has incorporated to contract with the department for the planning, oversight, and administration of mental health services within a service area as defined by the department by rule. (Terminates June 30, 2005—sec. 20, Ch. 602, L. 2003.)

**53-21-1001. (Effective July 1, 2005) Definitions.** As used in this part, the following definitions apply:

(1) “Community mental health center” means a licensed mental health center that provides comprehensive public mental health services in a multicounty region under contract with the department, counties, or one or more service area authorities.

(2) “Department” means the department of public health and human services as provided for in 2-15-2201.

(3) “Licensed mental health center” means an entity licensed by the department of public health and human services to provide mental health services and has the same meaning as mental health center as defined in 50-5-101.

(4) “Service area” means a region of the state as defined by the department by rule within which mental health services are administered.

(5) “Service area authority” means an entity, as provided for in 53-21-1006, that has incorporated to ~~contract~~ *collaborate* with the department for the planning, oversight, and administration of mental health services within a service area.”

**Section 3.** Section 53-21-1002, MCA, is amended to read:

**“53-21-1002. Duties of department.** The department:

(1) shall take cognizance of matters affecting the mental health of the citizens of the state;

(2) shall initiate mental health care and treatment, prevention, and research as can best be accomplished by community-centered services. The department shall initiate and operate services in cooperation with local agencies, service area authorities, mental health professionals, and other entities providing services to persons with mental illness.

(3) shall specifically address:

(a) provider contracting;

(b) service planning;

(c) preadmission screening and discharge planning;

(d) quality management;

(e) utilization management and review;

(f) consumer and family education; and

(g) rights protection;

(4) shall collect and disseminate information relating to mental health;

(5) shall prepare and maintain a comprehensive plan to develop public mental health services in the state and to establish service areas;

(6) must receive from agencies of the United States and other state agencies, persons or groups of persons, associations, firms, or corporations grants of money, receipts from fees, gifts, supplies, materials, and contributions for the development of mental health services within the state;

(7) shall establish qualified provider certification standards by rule, which may include requirements for national accreditation for mental health programs that receive funds from the department;

(8) shall perform an annual review and evaluation of mental health needs and services within the state by region and evaluate the performance of programs that receive funds from the department for compliance with federal and state standards;

(9) shall coordinate state and community resources to ensure comprehensive delivery of services to children with emotional disturbances, *as provided in Title 52, chapter 2, part 3*, and submit at least a biennial report to the governor and the legislature concerning the activities and recommendations of the department and service providers; and

(10) shall coordinate the establishment of service area authorities, as provided in 53-21-1006, to ~~assist~~ *collaborate with* the department in the ~~coordination and delivery planning and oversight~~ of mental health services *in a service area.*"

**Section 4.** Section 53-21-1006, MCA, is amended to read:

**"53-21-1006. Service area authorities — leadership committees — boards — plans.** (1) In the development of a service area authority, public meetings must be held in communities throughout a service area as defined by the department by rule. The purpose of the meetings is to assist the department to establish a stakeholder leadership committee. The meetings must be designed to solicit input from consumers of services for persons with mental illness, advocates, family members of persons with mental illness, mental health professionals, county commissioners, and other interested community members.

(2) The leadership committee within each service area must include but is not limited to a significant portion of consumers of services for persons with mental illness, family members of persons with mental illness, and a mental health services provider. The department shall provide assistance for the development of a leadership committee. The department shall approve a leadership committee within each service area.

(3) The leadership committee within each service area shall establish a service area authority board and create bylaws that describe the board's functions and method of appointment. The bylaws must be submitted to the department for review. *The majority of the members of the board must be consumers of mental health services and family members of consumers.*

(4) The service area authority board must be established under Title 35, chapter 2. ~~Upon incorporation, the board may enter into contracts with the department to carry out the comprehensive plan for mental health for that service area.~~ Nonprofit corporations incorporated for the purposes of this part may not be considered agencies of the department or the state of Montana.

(5) A service area authority board:

(a) shall ~~define the operation and management~~ *collaborate with the department for purposes of planning and oversight of mental health services of the service area mental health system*, including:

- (i) provider contracting;
- (ii) quality and outcome management;
- (iii) service planning;
- (iv) utilization management and review;
- (v) preadmission screening and discharge planning;
- (vi) consumer advocacy and family education and rights protection;
- (vii) infrastructure;
- (viii) information ~~system~~ requirements; and
- (ix) procurement processes;

(b) shall *review and monitor crisis intervention programs established pursuant to 53-21-139;*

~~(b)(c)~~ shall submit a biennial review and evaluation of mental health service needs and services within the service area;

~~(e)(d)~~ shall keep all records of the board and make reports required by the department;

~~(d)~~ shall ~~prepare and submit a plan and budget proposal to support mental health services for children and adults within the service area, including proposals within existing allocations and specifically outlining any new funding proposals, to the department and to each county in the service area;~~

*(e) may enter into contracts with the department for purposes of planning and oversight of the service area if the department certifies that the service area authority is capable of assuming the duty;*

~~(e)(f)~~ may receive and shall administer funding available for the provision of mental health services, including grants from the United States government and other agencies, receipts for established fees rendered, taxes, gifts, donations, and other types of support or income. All funds received by the board must be used to carry out the purposes of this part.

~~(f)(g)~~ shall ~~may~~ reimburse board members for actual and necessary expenses incurred in attending meetings and in the discharge of board duties as assigned by the board; and

~~(g)(h)~~ shall either include a county commissioner or work closely with county commissioners in the service area.

~~(6) The department shall review the plan and budget proposal provided for in subsection (5)(d) and assess the readiness of the service area authority to assume each duty provided in subsection (5)(a). The department shall certify that the service area authority is capable of assuming the duty before contracting with the service area authority for that duty and may provide for a gradual assumption of the duties by a service area authority within the department's 4 year transition plan, subject to approval of the federal waivers as provided for in section 15, Chapter 602, Laws of 2003.~~

~~(7)(6)~~ A service area authority may not directly provide mental health services.”

**Section 5.** Section 53-21-1007, MCA, is amended to read:

**“53-21-1007. Mental health services contracts.** (1) The department shall provide for public mental health services for the purposes of the prevention, diagnosis, and treatment of mental illness to the extent funded by the legislature.

(2) The department may administer the provision of services for prevention, diagnosis, and treatment of mental illness directly or indirectly:

~~(a) through contract with other agencies of government, private or public agencies, private professional persons, hospitals, or licensed mental health centers; or~~

~~(b) through contract with service area authorities who may contract with or develop cooperative arrangements with other agencies of government, private or public agencies, private professional persons, hospitals, or licensed mental health centers for the provision of services.~~

(3) The department is directed to encourage and create incentives for the use of funding generated by local governments to provide mental health services to participate in federal cost-sharing programs.

(4) The department shall ~~make efforts to~~ promote the rights of persons with mental illness who are eligible for services to have a choice among qualified providers of mental health services or support services that are administered or funded by the department ~~or contracted with a service area authority by the department.~~

(5) The department ~~or a service area authority~~ shall develop contracts to be bid competitively under the Montana Procurement Act for any service administered or funded by the department that will limit a client’s choice of a provider of that service in order to ensure accountability and that necessary services are delivered in all areas of the state. ~~Except for the department’s ability to contract solely with service area authorities, the~~ *The* exception for human services as provided in 18-4-123(18) does not apply.”

**Section 6. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 53, chapter 21, part 10, and the provisions of Title 53, chapter 21, part 10, apply to [section 1].

Approved April 28, 2005

## CHAPTER NO. 554

[SB 524]

AN ACT DELAYING BY 1 YEAR THE REVALUATION OF ALL TAXABLE PROPERTY WITHIN CLASSES THREE, FOUR, AND TEN; AND AMENDING SECTION 15-7-111, MCA.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 15-7-111, MCA, is amended to read:

**“15-7-111. Periodic revaluation of certain taxable property.** (1) The department shall administer and supervise a program for the revaluation of all taxable property within classes three, four, and ten. All other property must be revalued annually.

(2) The department shall value and phase in the value of newly constructed, remodeled, or reclassified property in a manner consistent with the valuation

within the same class and the values established pursuant to subsection (1). The department shall adopt rules for determining the assessed valuation and phased-in value of new, remodeled, or reclassified property within the same class.

(3) The department of revenue shall administer and supervise a program for the revaluation of all taxable property within classes three, four, and ten. A comprehensive written reappraisal plan must be promulgated by the department. The reappraisal plan adopted must provide that all class three, four, and ten property in each county is revalued by January 1, ~~2008~~ 2009, effective for January 1, ~~2009~~ 2009, and each succeeding 6 years. The resulting valuation changes must be phased in for each year until the next reappraisal. If a percentage of change for each year is not established, then the percentage of phase in for each year is 16.66%.”

Approved April 28, 2005

## CHAPTER NO. 555

[HB 218]

AN ACT REVISING THE LAWS RELATING TO MOSQUITO CONTROL DISTRICTS; ALLOWING A BOARD OF COUNTY COMMISSIONERS TO CREATE A MOSQUITO CONTROL DISTRICT BY ADOPTING A RESOLUTION OF INTENT; REDUCING THE PERCENTAGE OF ELECTORS OR PROPERTY OWNERS REQUIRED TO SUBMIT A PETITION FOR THE CREATION OF A MOSQUITO CONTROL DISTRICT; GIVING A BOARD OF COUNTY COMMISSIONERS DISCRETION TO CREATE A MOSQUITO CONTROL DISTRICT; AMENDING SECTIONS 7-22-2403, 7-22-2408, 7-22-2409, AND 7-22-2442, MCA; REPEALING SECTIONS 7-22-2404, 7-22-2406, AND 7-22-2407, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 7-22-2403, MCA, is amended to read:

**“7-22-2403. ~~Petition to create~~ Creation of mosquito control district — hearing required — notice provisions.** (1) ~~When~~ Proceedings for the creation of a mosquito control district may be initiated by:

(a) a resolution of intent adopted by the county commissioners; or

(b) a petition, signed by at least ~~25%~~ 10% of the qualified electors of the proposed district or ~~25%~~ 10% of the owners of any property within the boundaries whose names appear as property owners on the last-completed assessment roll of the county in which the proposed district is situated, ~~is presented to the board of commissioners of the county asking for the creation of a mosquito control district, the commissioners shall set a day for a hearing on the petition and order notice of the hearing to be given to all persons interested.~~

(2) *The resolution or petition must contain the boundaries of the proposed district and, in the case of a petition, must be accompanied by sufficient funds to defray the cost of mailing, publication, and posting of the notice required in subsection (4).*

~~(2)~~(3) The commissioners by resolution shall ~~fix~~ set a time for a hearing ~~on the petition~~ at not less than 2 or more than 4 weeks from the time of the adoption

of the resolution or the presentation of the petition unless additional time is needed to prepare a survey and study as authorized by this subsection. Before setting a time for a hearing, the commissioners may ~~cause~~ *authorize* a survey and study of the area ~~sought~~ to be included in the district ~~to be made~~ by competent personnel and may submit a report of the study to the department of public health and human services for its review and recommendations.

(4) (a) *The commissioners shall mail a notice of the hearing provided for in this section, in the manner provided for in 7-1-2122, to each nonresident property owner and purchaser under contract for deed of taxable real and personal property within the proposed district.*

(b) *The commissioners shall publish the notice of the hearing, as provided in 7-1-2121, in each county in which the territory of the proposed district lies.*

(c) *The notice must state that any qualified elector or owner of property lying within the boundaries of the proposed district may appear before the commissioners at the time of the hearing and show cause why the district should not be created or may file a written objection to the creation of the district at any time before the date of the hearing."*

**Section 2.** Section 7-22-2408, MCA, is amended to read:

**"7-22-2408. Hearing on petition to create district.** (1) At the time ~~fixed~~ *set* for the hearing, the commissioners shall determine whether or not the petition complies with the requirements set forth in this part and whether or not the notice has been published or posted as required.

(2) At the hearing, the board shall hear all competent and relevant testimony offered in support of or in opposition to the ~~petition and~~ creation of the district and shall also consider the written objections to the creation of the district.

(3) Except as provided in 7-22-2409, if the commissioners, ~~upon~~ *after* the hearing, determine there has been compliance with all of the requirements, they ~~shall~~ *may*, by an order made and entered on their minutes, declare the district created, ~~setting and set~~ *set* forth the name and boundaries of the district and the description of land contained within the district."

**Section 3.** Section 7-22-2409, MCA, is amended to read:

**"7-22-2409. Adjournment of hearing.** (1) The hearing may be adjourned for determination of facts, but an adjournment may not exceed a total of 2 weeks from the date originally noticed and published for the hearing.

(2) (a) If at the time of the hearing the commissioners find that a geographical area desires exclusion from the area contained within the boundaries of the proposed district, the hearing may be adjourned to permit the commissioners to consult the department of public health and human services to determine if it would be advisable to exclude the geographical area from the district.

(b) ~~Upon reconvening~~ *If the commissioners create the district, the commissioners shall define and establish the boundaries that are advisable upon reconvening the hearing."*

**Section 4.** Section 7-22-2442, MCA, is amended to read:

**"7-22-2442. Hearing on petition for annexation — notice.** ~~If any such a~~ *If any such a* petition for enlargement of an existing district is presented, the board of county commissioners shall set a time for ~~a hearing thereon~~ *a hearing* and shall ~~cause~~ *give* notice

~~thereof to be given in the manner provided by 7-22-2406 and 7-22-2407 7-22-2403.”~~

**Section 5. Repealer.** Sections 7-22-2404, 7-22-2406, and 7-22-2407, MCA, are repealed.

**Section 6. Effective date.** [This act] is effective on passage and approval.

Approved May 2, 2005

## CHAPTER NO. 556

[HB 272]

AN ACT PROVIDING 50 HALF-PRICED DEER AND ANTELOPE LICENSES TO CERTAIN DISABLED COMBAT VETERANS; EXCEPTING CLASS A-3, A-4, B-7, AND B-8 AND SPECIAL ANTELOPE LICENSES ISSUED TO CERTAIN DISABLED COMBAT VETERANS FROM NUMERICAL LICENSE LIMITS; AND AMENDING SECTIONS 87-2-506, 87-2-706, AND 87-2-803, MCA.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 87-2-506, MCA, is amended to read:

**“87-2-506. Restrictions on hunting licenses.** (1) The department may prescribe by rule the number of hunting licenses to be issued. Any license sold may be restricted to a specific administrative region, hunting district, or other designated area and may specify the species, age, and sex to be taken and the time period for which the license is valid.

(2) When the number of valid resident applications for big game licenses or permits of a single class or type exceeds the number of licenses or permits the department desires to issue in an administrative region, hunting district, or other designated area, then the number of big game licenses or permits issued to nonresident license or permit holders in the region, district, or area may not exceed 10% of the total issued.

(3) *Disabled veterans who meet the qualifying criteria provided in 87-2-803(5) must be provided a total of 50 Class A-3 deer A tags, 50 Class A-4 deer B tags, 50 Class B-7 deer A tags, 50 Class B-8 deer B tags, and 50 special antelope licenses annually, which may be used within the administrative region, hunting district, or other designated area of the disabled veteran’s choice, except in a region, district, or area where the number of licenses are less than the number of applicants, in which case qualifying disabled veterans are eligible for no more than 10% of the total licenses for that region, district, or area.”*

**Section 2.** Section 87-2-706, MCA, is amended to read:

**“87-2-706. Drawing for special antelope licenses.** (1) In the event that the number of valid applications for special antelope licenses for a hunting district exceeds the quota set by the department for the district, the licenses must be awarded by a drawing. The department shall provide for those persons making valid application for special antelope licenses a method of selecting first, second, and third choice hunting districts for any drawing held pursuant to this section.

(2) The department shall reserve for applicants who are nonambulatory and have a permanent physical disability, as determined by the department, up to 25 of the total special antelope licenses authorized for sale in the state, *excepting*

*those licenses issued pursuant to 87-2-803(5)*, for use in the district designated by the commission. If the number of valid disabled applicants exceeds the number of licenses available, the department may hold a drawing in which all applicants have an equal chance of being selected.

(3) The department may promulgate rules that are necessary to implement this section.”

**Section 3.** Section 87-2-803, MCA, is amended to read:

**“87-2-803. Persons with disabilities — definitions.** (1) Persons with disabilities are entitled to fish and to hunt game birds, not including turkeys, with only a conservation license if they are residents of Montana not residing in an institution and are certified as disabled as prescribed by departmental rule. A person who has purchased a conservation license and a resident fishing license or game bird license for a particular license year and who is subsequently certified as disabled is entitled to a refund for the fishing license or game bird license previously purchased for that license year. A person who is certified as disabled pursuant to subsection (3) and who was issued a permit to hunt from a vehicle for license year 2000 or a subsequent license year is automatically entitled to a permit to hunt from a vehicle for subsequent license years if the criteria for obtaining a permit does not change.

(2) A resident of Montana who is certified as disabled by the department and who is not residing in an institution may purchase regular resident deer and elk licenses at one-half the fee paid by a resident who is 15 years of age or older and who is under 62 years of age. A person who has purchased a conservation license and a resident deer license or resident elk license for a particular license year and who is subsequently certified as disabled is entitled to a refund for the deer license or elk license previously purchased and reissuance of the license for that license year at the rate established in this subsection.

(3) A person may be certified as disabled by the department and issued a permit to hunt from a vehicle, on a form prescribed by the department, if the person establishes one or more of the disabilities pursuant to subsection ~~(8)~~ (9). The department shall adopt rules to establish a voluntary board or boards of review to resolve any disputes over whether a person meets the criteria established in subsection ~~(8)~~ (9). Each board must have at least one Montana-licensed physician as a member.

(4) A person with a disability carrying a permit to hunt from a vehicle, referred to in this subsection as a permitholder, may hunt by shooting a firearm from the shoulder, berm, or barrow pit right-of-way of a public highway, as defined in 61-1-202, except a state or federal highway, or may hunt by shooting a firearm from within a self-propelled or drawn vehicle that is parked on a shoulder, berm, or barrow pit right-of-way in a manner that will not impede traffic or endanger motorists or that is parked in an area, not a public highway, where hunting is permitted. This subsection does not allow a permitholder to shoot across the roadway of any public highway or to hunt on private property without permission of the landowner. A permitholder must have a companion to assist in immediately dressing any killed game animal. The companion may also assist the permitholder by hunting a game animal that has been wounded by the permitholder when the permitholder is unable to pursue and kill the wounded game animal. Any vehicle from which a permitholder is hunting must be conspicuously marked with an orange-colored international symbol of persons with disabilities on the front, rear, and each side of the vehicle, or as prescribed by the department.

*(5) A veteran who meets the qualifications in subsection (9) as a result of a combat-connected injury may apply at a fish, wildlife, and parks office for a regular Class A-3 deer A tag, a Class A-4 deer B tag, a Class B-7 deer A tag, a Class B-8 deer B tag, and a special antelope license at one-half the license fee. Fifty licenses of each license type must be made available annually. Licenses issued to veterans under this part do not count against the number of special antelope licenses reserved for people with permanent disabilities, as provided in 87-2-706.*

~~(5)~~(6) (a) A resident of Montana who is certified by the department as experiencing blindness, as defined in 53-7-301, may be issued a lifetime fishing license for the blind upon payment of a one-time fee of \$10. The license is valid for the lifetime of the blind individual and allows the licensee to fish as authorized by department rule. An applicant for a license under this subsection need not obtain a wildlife conservation license as a prerequisite to licensure.

(b) A person who is certified by the department as experiencing blindness, as defined in 53-7-301, may be issued regular resident deer and elk licenses, in the manner provided in subsection (2), and must be accompanied by a companion, as provided in subsection (4).

~~(6)~~(7) The department shall adopt rules to establish the qualifications that a person must meet to be a companion and may adopt rules to establish when a companion can be a designated shooter for a disabled person.

~~(7)~~(8) As used in this section, "disabled person", "person with a disability", or "disabled" means or refers to a person experiencing a condition medically determined to be permanent and substantial and resulting in significant impairment of the person's functional ability.

~~(8)~~(9) A person is entitled to a permit to hunt from a vehicle if the person:

(a) is certified by a licensed physician to be dependent on an oxygen device or dependent on a wheelchair, crutch, or cane for mobility;

(b) is an amputee above the wrist or ankle; or

(c) is certified by a licensed physician to be unable to walk, unassisted, 600 yards over rough and broken ground while carrying 15 pounds within 1 hour and to be unable to handle and maneuver up to 25 pounds.

~~(9)~~(10) Certification by a licensed physician under subsection ~~(8)~~ (9) must be on a form provided by the department.

~~(10)~~(11) A person who disagrees with a determination of eligibility for a permit to hunt from a vehicle may request a review by a voluntary board of review pursuant to subsection (3)."

Approved May 2, 2005

## CHAPTER NO. 557

[HB 367]

AN ACT GENERALLY REVISING LAWS GOVERNING COURTS; REVISING REFERENCES TO JUSTICES' COURTS ESTABLISHED AS COURTS OF RECORD; ELIMINATING SPECIAL TRAINING REQUIREMENTS FOR JUSTICES OF JUSTICES' COURTS OF RECORD; CLARIFYING THE AUTHORITY OF A JUDGE OR JUSTICE TO ORDER A DEFENDANT TO APPEAR BEFORE THE COURT IN AN OMNIBUS

HEARING; REQUIRING TIMELY FILING OF A NOTICE OF APPEAL FROM A COURT OF LIMITED JURISDICTION; AMENDING SECTIONS 3-1-102, 3-5-114, 3-6-204, 3-10-101, 3-10-115, 3-10-116, 3-10-203, 3-10-207, 25-33-301, 46-13-110, AND 46-17-311, MCA; REPEALING SECTION 3-10-117, MCA; AND PROVIDING AN EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 3-1-102, MCA, is amended to read:

**“3-1-102. Courts of record.** The court of impeachment, the supreme court, the district courts, ~~and~~ the municipal courts, *and the justices’ courts of record* are courts of record.”

**Section 2.** Section 3-5-114, MCA, is amended to read:

**“3-5-114. Qualifications.** Any of the following individuals may act as a judge pro tempore:

- (1) a member of the bar of the state who meets the qualifications for judge of the district court as provided in 3-5-202;
- (2) a retired judge of the district court;
- (3) a justice of the peace for a justice’s ~~court established as a~~ court of record, provided for in 3-10-101;
- (4) a municipal court judge; or
- (5) a retired justice of the supreme court.”

**Section 3.** Section 3-6-204, MCA, is amended to read:

**“3-6-204. Disqualification — judge pro tempore.** When a judge of a municipal court has been disqualified or is sick or unable to act, the judge shall call in a justice of the peace for a justice’s ~~court established as a~~ court of record provided for in 3-10-101, another municipal court judge, a retired justice of the peace for a justice’s ~~court established as a~~ court of record, a retired municipal court judge, or an attorney of the county in which the court is located to act as a judge pro tempore. The judge pro tempore has the same power and authority as the municipal court judge.”

**Section 4.** Section 3-10-101, MCA, is amended to read:

**“3-10-101. Number and location of justices’ courts — authorization to combine with city court — justice’s ~~court established as~~ court of record.** (1) There must be at least one justice’s court in each county of the state, which must be located at the county seat. The board of county commissioners shall designate the number of justices in each justice’s court.

(2) The board of county commissioners of each county of the state may establish:

- (a) one additional justice’s court located anywhere in the county; and
- (b) one additional justice’s court located in each city having a population of over 5,000, as provided in subsection (3).

(3) A city having a population of over 5,000 may, by resolution, request the board of county commissioners to constitute a justice’s court in the city. A justice’s court must be established in the city if the board of county commissioners approves the request by resolution.

(4) A justice of the peace of a court established pursuant to subsection (3) may act as the city judge upon passage of a city ordinance authorizing the action

and upon approval of the ordinance by resolution of the board of county commissioners. If the ordinance and resolution are passed, the city and the county shall enter into an agreement for proportionate payment of the justice's salary, as established under 3-10-207 and 3-11-202, and for proportionate reimbursement for the use of facilities.

(5) A county may establish the justice's court as a court of record. If the justice's court is established as a court of record, it must be known as a "*justice's court established as a court of record record*" and, in addition to the provisions of this chapter, is also subject to the provisions of 3-10-115 through 3-10-117 and 3-10-116. The court's proceedings must be recorded by electronic recording or stenographic transcription and all papers filed in a proceeding must be included in the record. A justice's ~~court established as a~~ court of record may be established by a resolution of the county commissioners or pursuant to 7-5-131 through 7-5-137."

**Section 5. Powers and duties of justice's court of record.** (1) Except as otherwise provided by Title 25, chapter 30, and this chapter, the justice of the peace in a justice's court of record has, in matters within its jurisdiction, all the powers and duties of district judges in like cases. The justice of the peace may make and alter rules for the conduct of its business and prescribe forms of process conformable to law.

(2) The justice's court of record shall establish rules for appeal to district court. The rules are subject to the supreme court's rulemaking and supervisory authority.

**Section 6.** Section 3-10-115, MCA, is amended to read:

**"3-10-115. Appeal to district court from justice's ~~court established as court of record~~ — record on appeal.** (1) A party may appeal to district court a judgment or order from a justice's ~~court established as a~~ court of record. The appeal is confined to review of the record and questions of law, subject to the supreme court's rulemaking and supervisory authority.

(2) The record on appeal to district court consists of an electronic recording or stenographic transcription of a case tried, together with all papers filed in the action.

(3) The district court may affirm, reverse, or amend any appealed order or judgment and may direct the proper order or judgment to be entered or direct that a new trial or further proceeding be had in the court from which the appeal was taken.

(4) Unless the supreme court establishes rules for appeal from a justice's ~~court established as a~~ court of record to the district court, the Montana Uniform Municipal Court Rules of Appeal to District Court, codified in Title 25, chapter 30, apply to appeals to district court from the justice's ~~court established as a~~ court of record."

**Section 7.** Section 3-10-116, MCA, is amended to read:

**"3-10-116. Disqualification of justice of peace for justice's ~~court established as court of record~~ — judge pro tempore.** When a justice of the peace for a justice's ~~court established as a~~ court of record has been disqualified or is sick or unable to act, the justice shall call in another justice of the peace for a justice's ~~court established as a~~ court of record, a municipal court judge, a retired justice of the peace for a justice's ~~court established as a~~ court of record, a retired municipal court judge, or an attorney of the county in which the court is located to act as a judge pro tempore. The judge pro tempore has the same power and

authority as the justice of the peace for the justice's court established as a court of record."

**Section 8.** Section 3-10-203, MCA, is amended to read:

**"3-10-203. Orientation course — annual training.** (1) Under the supervision of the supreme court, a course of study must be presented as soon as is practical following each general election. Actual and necessary travel expenses, as defined and provided in 2-18-501 through 2-18-503, and the costs of registration and books and other materials must be paid to the elected or appointed justice of the peace for attending the course by the county in which the justice of the peace holds or will hold court and must be charged against that county.

(2) ~~Subject to subsection (4), there~~ *There* must be two mandatory annual training sessions supervised by the supreme court for all elected and appointed justices of the peace. One of the training sessions may be held in conjunction with the Montana magistrates' association convention. Actual and necessary travel expenses, as defined and provided in 2-18-501 through 2-18-503, and the costs of registration and books and other materials must be paid to the elected or appointed justice of the peace for attending the sessions by the county in which the justice of the peace holds or will hold court and must be charged against that county.

(3) ~~Except as provided in subsection (4), each~~ *Each* justice of the peace shall attend the training sessions provided for in subsection (2). Failure to attend disqualifies the justice of the peace from office and creates a vacancy in the office. However, the supreme court may excuse a justice of the peace from attendance because of illness, a death in the family, or any other good cause.

(4) ~~A justice of the peace for a justice's court established as a court of record, provided for in 3-10-101, must meet the requirements provided for in 3-10-117."~~

**Section 9.** Section 3-10-207, MCA, is amended to read:

**"3-10-207. Salaries.** (1) Subject to subsections (2) through (4), the board of county commissioners shall set salaries for justices of the peace by resolution and in conjunction with setting salaries for other officers as provided in 7-4-2504.

(2) The salary of the justice of the peace may not be less than the salary for the district clerk of the court in that county.

(3) If the justice's court is not open for business full time, the justice's salary must be commensurate to the workload and office hours of the court. The salary of a justice of the peace may not be reduced during the justice's term of office.

(4) The salary of the justice of the peace for a justice's court established as a court of record may not exceed 90% of the salary of a district court judge determined as provided in 3-5-211."

**Section 10.** Section 25-33-301, MCA, is amended to read:

**"25-33-301. Trial de novo — pleadings — conduct of trial.** (1) Except as provided in subsection (3), all appeals from justices' or city courts must be tried anew in the district court on the papers filed in the justice's or city court unless the court, for good cause shown and on terms that are just, allows other or amended pleadings to be filed in the action. The court may order new or amended pleadings to be filed. Each party has the benefit of all legal objections made in the justice's or city court.

(2) When the action is tried anew on appeal, the trial must be conducted in all respects as other trials in the district court. The provisions of this code as to trials in the district courts are applicable to trials on appeal in the district court.

(3) The appeal from a justice's ~~court established as a~~ court of record pursuant to 3-10-101 is on the record as provided in 3-10-115."

**Section 11.** Section 46-13-110, MCA, is amended to read:

**"46-13-110. Omnibus hearing.** (1) Within a reasonable time following the entry of a not guilty plea but not less than 30 days before trial, the court shall hold an omnibus hearing.

(2) The purpose of the hearing is to expedite the procedures leading up to the trial of the defendant.

(3) The presence of the defendant is not required, *unless ordered by the court*. The prosecutor and the defendant's counsel shall attend the hearing and must be prepared to discuss any pretrial matter appropriate to the case, including but not limited to:

(a) joinder and severance of offenses or defendants, 46-11-404, 46-13-210, and 46-13-211;

(b) double jeopardy, 46-11-410, 46-11-503, and 46-11-504;

(c) the need for exclusion of the public and for sealing records of any pretrial proceedings, 46-11-701;

(d) notification of the existence of a plea agreement, 46-12-211;

(e) disclosure and discovery motions, Title 46, chapter 15, part 3;

(f) notice of reliance on certain defenses, 46-15-323;

(g) notice of seeking persistent felony offender status, 46-13-108;

(h) notice of other crimes, wrongs, or acts, 46-13-109;

(i) motion to suppress, 46-13-301 and 46-13-302;

(j) motion to dismiss, 46-13-401 and 46-13-402;

(k) motion for change of place of trial, 46-13-203 through 46-13-205;

(l) reasonableness of bail, Title 46, chapter 9; and

(m) stipulations.

(4) At the conclusion of the hearing, a court-approved memorandum of the matters settled must be signed by the court and counsel and filed with the court.

(5) Any motions made pursuant to subsections (1) through (3) may be ruled on by the court at the time of the hearing, where appropriate, or may be scheduled for briefing and further hearing as the court considers necessary."

**Section 12.** Section 46-17-311, MCA, is amended to read:

**"46-17-311. Appeal from justices', municipal, and city courts.** (1) Except as provided in 46-17-203(2)(b) or subsection (4) of this section and except for cases in which legal issues are preserved for appeal pursuant to 46-12-204, all cases on appeal from a justice's or city court must be tried anew in the district court and may be tried before a jury of six selected in the same manner as for other criminal cases. An appeal from a municipal court to the district court is governed by 3-6-110, and an appeal from a justice's ~~court established as a~~ court of record is governed by 3-10-115.

(2) The defendant may appeal to the district court by filing written notice of intention to appeal within 10 days after a judgment is rendered following trial or the denial of the motion to withdraw a plea as provided in 46-17-203(2)(b). In the case of an appeal by the prosecution, the notice must be filed within 10 days of the date that the order complained of is given. The prosecution may appeal only in the cases provided for in 46-20-103.

(3) Within 30 days of *timely* filing the notice of appeal, the court shall transfer the entire record of the court of limited jurisdiction to the district court. *The court of limited jurisdiction has no duty to transmit the record if the notice of appeal is not timely filed. The defendant may petition the district court to order the record transmitted upon a showing of good cause for failure to timely file the notice of appeal.*

(4) A defendant may appeal a justice's court, other than a justice's ~~court~~ established as a court of record, or city court revocation of a suspended sentence to the district court. The district court judge shall determine whether the suspended sentence will be revoked. A jury trial is not available in a sentence revocation procedure.

(5) If, on appeal to the district court, the defendant fails to appear for a scheduled court date or meet a court deadline, the court may, except for good cause shown, dismiss the appeal on the court's own initiative or on motion by the prosecution and the right to a jury trial is considered waived by the defendant. Upon dismissal, the appealed judgment is reinstated and becomes the operative judgment."

**Section 13. Repealer.** Section 3-10-117, MCA, is repealed.

**Section 14. Codification instruction.** [Section 5] is intended to be codified as an integral part of Title 3, chapter 10, and the provisions of Title 3, chapter 10, apply to [section 5].

**Section 15. Effective date.** [This act] is effective July 1, 2005.

Approved May 2, 2005

## CHAPTER NO. 558

[HB 529]

AN ACT PROVIDING FOR A CHILD SUPPORT PASS-THROUGH PAYMENT AND INCOME DISREGARD FOR THOSE ON TEMPORARY ASSISTANCE FOR NEEDY FAMILIES; AND PROVIDING AN EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Child support payment pass-through and income disregard.** (1) For those families receiving monthly grants of temporary assistance for needy families, an amount equal to the amount of current child support collected on behalf of the family for the current month, not including arrearages, up to \$100 for each family, must be disregarded in determining the income and eligibility calculations for the grant, and that amount must be passed through to the family.

(2) The department shall use temporary assistance for needy families block grant funds received as federal special revenue for the purposes of subsection (1).

**Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 53, chapter 4, part 2, and the provisions of Title 53, chapter 4, part 2, apply to [section 1].

**Section 3. Effective date.** [This act] is effective July 1, 2005.

Approved May 2, 2005

## CHAPTER NO. 559

[SB 276]

AN ACT REVISING THE TAXATION OF BENTONITE; EXEMPTING BENTONITE FROM NET PROCEEDS PROPERTY TAXATION BEGINNING WITH TAX YEAR 2004; IMPOSING A BENTONITE PRODUCTION TAX ON THE TONS OF BENTONITE PRODUCED BEGINNING WITH TAX YEAR 2005; EXEMPTING FROM TAXATION THE FIRST 20,000 TONS OF BENTONITE PRODUCED IN A YEAR; PROVIDING FOR A DECLINING SCHEDULE OF TAXATION OF BENTONITE DEPENDING ON THE NUMBER OF TONS PRODUCED; REQUIRING THE SEMIANNUAL PAYMENT OF THE TAX; PROVIDING FOR AN INFLATION ADJUSTMENT TO THE TAX SCHEDULE BEGINNING WITH TAX YEAR 2010; IMPOSING A 15% TAX RATE ON THE GROSS VALUE OF ROYALTIES; PROVIDING FOR THE DISTRIBUTION OF BENTONITE PRODUCTION TAXES; PROVIDING FOR A VALUE TO BE USED FOR COUNTY CLASSIFICATION PURPOSES AND FOR LOCAL GOVERNMENT DEBT LIMITS AND OTHER BONDING PROVISIONS; PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THE TAX; AMENDING SECTIONS 15-6-131, 15-6-208, 15-23-101, 15-23-501, AND 15-23-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Production tax rates imposed on bentonite production.**

(1) The production of bentonite is taxed as provided in this section. The tax is distributed as provided in [section 10].

(2) (a) Except as provided in subsection (3), the tax on bentonite is on the gross yield of bentonite produced, measured in tons before crushing and drying, by the owner or operator within the exterior boundaries of an elementary school district. The tax is computed according to the following annual production schedule:

(i) on the first 80,000 tons produced in excess of the amount exempted in subsection (3), \$1.56 a ton;

(ii) on the next 150,000 tons produced, \$1.50 a ton;

(iii) on the next 250,000 tons produced, \$1.40 a ton;

(iv) on the next 500,000 tons produced, \$1.25 a ton;

(v) on production in excess of 1 million tons, \$1 a ton.

(b) For tax years beginning after December 31, 2009, the dollar amounts referred to in the schedule in subsections (2)(a)(i) through (2)(a)(v) must be adjusted by the department by multiplying each dollar amount by the quotient of the PCE for the first quarter of the year previous to the tax year for which the

tax is being calculated, divided by the PCE for the first quarter of the 2009 tax year.

(c) For the purposes of this section:

(i) "PCE" has the meaning provided in 15-23-515; and

(ii) "ton" means 2,000 pounds.

(3) The first 20,000 tons produced in a calendar year are exempt from taxation.

**Section 2. Semiannual payment of tax — statement — authority of department.** (1) (a) The bentonite production tax imposed under [section 1] and the tax on royalties under [section 3] must be paid in semiannual installments for the semiannual periods ending, respectively, June 30 and December 31 of each year, and the amount of the tax for each semiannual period must be paid to the department within 45 days after the end of each semiannual period. The owner or operator of the bentonite mine shall pay the production tax and the tax on royalty interests.

(b) Unless otherwise provided in a contract or lease, the pro rata share of any royalty owner must be deducted from any settlements under the lease or leases or division of proceeds orders or contracts.

(2) The owner or operator shall complete on forms prescribed by the department a statement showing:

(a) the name and address of the owner or lessee or operator of the mine, together with the names and addresses of any persons owning or claiming any royalty interest in the mineral product of the mine or the proceeds derived from the sale of products, and the amount or amounts paid or yielded as royalty to each of the persons during the period covered by the statement;

(b) the description and location of the mine or mines;

(c) the number of tons of bentonite extracted, produced, and treated or sold from the mine during the period covered by the statement;

(d) the amount and character of the bentonite and the yield of the bentonite from the mine before crushing and drying, measured in tons, yielded to the person engaged in mining and to each royalty holder, if any, during the period covered by the statement; and

(e) the gross yield of value in dollars and cents.

(3) The statement must be signed by the individual or the president, vice president, treasurer, assistant treasurer, or authorized agent of the association, corporation, joint-stock company, or syndicate making the statement.

(4) The statement must be accompanied by the tax due.

(5) The tax collected under this section must be deposited in the state special revenue fund for distribution as provided in [section 10].

(6) For the purpose of determining compliance with the provisions of [sections 1 through 11], the department is authorized to examine or cause to be examined any books, papers, records, or memoranda relevant to making a determination of the amount of tax due, whether the books, papers, records, or memoranda are the property of or in the possession of the person filing the return or another person. In determining compliance, the department may use statistical sampling and other sampling techniques consistent with generally accepted auditing standards. The department may also:

(a) require the attendance of a person having knowledge or information relevant to a statement;

(b) compel the production of books, papers, records, or memoranda by the person required to attend;

(c) implement the provisions of 15-1-703 if the department determines that the collection of the tax is or may be jeopardized because of delay;

(d) take testimony on matters material to the determination; and

(e) administer oaths or affirmations.

**Section 3. Taxation of royalties.** All royalty amounts paid or apportioned in kind to royalty owners for which the statement is made under [section 2] are taxed at 15% of the amount paid or apportioned in kind to the royalty owner and are paid as provided in [section 2].

**Section 4. Examination of statement — adjustments — delivery of notices and demands.** (1) If the department determines that the amount of tax due is different from the amount reported, the amount of tax computed on the basis of the examination conducted pursuant to [section 2] constitutes the tax to be paid.

(2) If the tax due exceeds the amount of tax reported as due on the taxpayer's statement, the excess must be paid to the department within 30 days after notice of the amount and demand for payment are mailed or delivered to the person making the statement unless the taxpayer files a timely objection as provided in 15-1-211. If the amount of the tax found due by the department is less than that reported as due on the statement and has been paid, the excess must be credited or, if no tax liability exists or is likely to exist, refunded to the person making the statement.

(3) The notice and demand provided for in this section must contain a statement of the computation of the tax and interest and must be:

(a) sent by mail to the taxpayer at the address given in the taxpayer's statement, if any, or to the taxpayer's last-known address; or

(b) served personally upon the taxpayer.

(4) A taxpayer filing an objection to the demand for payment is subject to and governed by the uniform tax review procedure provided in 15-1-211.

**Section 5. Penalties and interest for violation.** (1) (a) A person who fails to file a statement as required by [section 2] must be assessed a penalty as provided in 15-1-216. The department may waive the penalty as provided in 15-1-206.

(b) A person who fails to file the statement required by [section 2] and to pay the tax before the due date must be assessed a penalty and interest as provided in 15-1-216. The department may waive any penalty pursuant to 15-1-206.

(2) A person who purposely fails to pay the tax when due must be assessed an additional penalty as provided in 15-1-216(1)(d).

**Section 6. Authority to collect delinquent taxes.** (1) (a) The department shall collect taxes that are delinquent as determined under [sections 1 through 11].

(b) If a tax imposed by [sections 1 through 11] or any portion of the tax is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

(2) In addition to any other remedy, in order to collect delinquent taxes after the time for appeal has expired, the department may direct the offset of tax refunds or other funds that are due to the taxpayer from the state, except wages subject to the provisions of 25-13-614 and retirement benefits.

(3) As provided in 15-1-705, the taxpayer has the right to a review on the tax liability prior to any offset by the department.

(4) The department may file a claim for state funds on behalf of the taxpayer if a claim is required before funds are available for offset.

**Section 7. Interest on deficiency — penalty.** (1) Interest accrues on unpaid or delinquent taxes as provided in 15-1-216. The interest must be computed from the date on which the statement and tax were originally due.

(2) If the payment of a tax deficiency is not made within 60 days after it is due and payable and if the deficiency is due to negligence on the part of the taxpayer but without fraud, the penalty imposed by 15-1-216(1)(c) must be added to the amount of the deficiency.

**Section 8. Limitations.** (1) Except in the case of a person who purposely or knowingly, as those terms are defined in 45-2-101, files a false or fraudulent statement violating the provisions of [sections 1 through 11], a deficiency may not be assessed or collected with respect to a tax period for which a statement is filed unless the notice of additional tax proposed to be assessed is mailed to or personally served upon the taxpayer within 5 years from the date on which the statement was filed. For purposes of this section, a statement filed before the last day prescribed for filing is considered to be filed on the last day.

(2) If, before the expiration of the 5-year period prescribed in subsection (1) for assessment of the tax, the taxpayer consents in writing to an assessment after expiration of the 5-year period, a deficiency may be assessed at any time prior to the expiration of the period consented to.

**Section 9. Credit or refund for overpayment — refund from county — interest on overpayment.** (1) If the department determines that the amount of tax, penalty, or interest due for any semiannual period is less than the amount paid, the amount of the overpayment must be credited against any tax, penalty, or interest then due from the taxpayer and the balance refunded to the taxpayer or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) (a) The amount of an overpayment credited against any tax, penalty, or interest due for any tax period or any refund or portion of a refund, which has not been distributed pursuant to [section 10], must be withheld from the current distribution made pursuant to [section 10].

(b) If the amount of the refund reduces the amount of tax previously distributed pursuant to [section 10] and if the current distribution, if any, is insufficient to offset the refund, then the department shall demand the amount of the refund from the county to which the tax was originally distributed. The county treasurer shall remit the amount demanded within 30 days of the receipt of notice from the department.

(3) Except as provided in subsection (4), interest must be allowed on overpayments at the same rate as is charged on unpaid taxes provided in 15-1-216 beginning from the due date of the statement or from the date of overpayment, whichever date is later, to the date on which the department approves refunding or crediting of the overpayment.

(4) (a) Interest may not accrue during any period in which the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is refunded within 6 months from the date on which the statement is due or from the date on which the statement is filed, whichever is later; or

(ii) if the amount of interest is less than \$1.

**Section 10. Distribution of taxes.** (1) (a) For each semiannual period, the department shall determine the amount of tax, late payment interest, and penalties collected under [sections 1 through 11] from bentonite mines that produced bentonite before January 1, 2005. The tax is distributed as provided in subsections (2) through (12).

(b) For each semiannual period, the department shall determine the amount of tax, late payment interest, and penalties collected under [sections 1 through 11] from bentonite mines that first began producing bentonite after December 31, 2004. The tax is distributed as provided in subsection (13).

(2) For the production of bentonite occurring after December 31, 2004, and before January 1, 2006, the tax determined under subsection (1)(a) is allocated according to the following schedule:

(a) 2.33% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 20-25-423;

(b) 18.14% to the state general fund to be appropriated for the purposes of the tax levies as provided in 20-9-331, 20-9-333, and 20-9-360;

(c) 3.35% to Carbon County to be distributed in proportion to current fiscal year mill levies in the taxing jurisdictions in which production occurs, except a distribution may not be made for county and state levies under 20-9-331, 20-9-333, 20-9-360, and 20-25-423; and

(d) 76.18% to Carter County to be distributed in proportion to current fiscal year mill levies in the taxing jurisdictions in which production occurs, except a distribution may not be made for county and state levies under 20-9-331, 20-9-333, 20-9-360, and 20-25-423.

(3) For the production of bentonite occurring after December 31, 2005, and before January 1, 2007, 90% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 10% must be distributed as provided in subsection (13).

(4) For the production of bentonite occurring after December 31, 2006, and before January 1, 2008, 80% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 20% must be distributed as provided in subsection (13).

(5) For the production of bentonite occurring after December 31, 2007, and before January 1, 2009, 70% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 30% must be distributed as provided in subsection (13).

(6) For the production of bentonite occurring after December 31, 2008, and before January 1, 2010, 60% of the tax determined under subsection (1)(a) must

be distributed as provided in subsection (2) and 40% must be distributed as provided in subsection (13).

(7) For the production of bentonite occurring after December 31, 2009, and before January 1, 2011, 50% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 50% must be distributed as provided in subsection (13).

(8) For the production of bentonite occurring after December 31, 2010, and before January 1, 2012, 40% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 60% must be distributed as provided in subsection (13).

(9) For the production of bentonite occurring after December 31, 2011, and before January 1, 2013, 30% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 70% must be distributed as provided in subsection (13).

(10) For the production of bentonite occurring after December 31, 2012, and before January 1, 2014, 20% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 80% must be distributed as provided in subsection (13).

(11) For the production of bentonite occurring after December 31, 2013, and before January 1, 2015, 10% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 90% must be distributed as provided in subsection (13).

(12) For the production of bentonite occurring in tax years beginning after December 31, 2014, 100% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (13).

(13) For the production of bentonite, 100% of the tax determined under subsection (1)(b) and the distribution percentages determined under subsections (3) through (12) are allocated according to the following schedule:

(a) 1.30% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 20-25-423;

(b) 20.75% to the state general fund to be appropriated for the purposes of the tax levies as provided in 20-9-331, 20-9-333, and 20-9-360;

(c) 77.95% to the county in which production occurred to be distributed in proportion to current fiscal year mill levies in the taxing jurisdictions in which production occurs, except a distribution may not be made for county and state levies under 15-10-107, 20-9-331, 20-9-333, 20-9-360, and 20-25-423.

(14) The department shall remit the amounts to be distributed in this section to the county treasurer by the following dates:

(a) On or before October 1 of each year, the department shall remit the county's share of bentonite production tax payments received for the semiannual period ending June 30 of the current year to the county treasurer.

(b) On or before April 1 of each year, the department shall remit the county's share of bentonite production tax payments received to the county treasurer for the semiannual period ending December 31 of the previous year.

(15) (a) The department shall also provide to each county the amount of gross yield of value from bentonite, including royalties, for the previous calendar year. Thirty-three and one-third percent of the gross yield of value must be treated as

taxable value for county classification purposes under 7-1-2111 and for determining school district debt limits under 20-9-406.

(b) The percentage amount of the gross yield of value determined under subsection (15)(a) must be treated as assessed value under 15-8-111 for the purposes of local government debt limits and other bonding provisions as provided by law.

**Section 11. Administration — rules.** The department shall:

- (1) administer and enforce the provisions of [sections 1 through 11];
- (2) cause to be prepared and distributed forms and information that may be necessary to administer the provisions of [sections 1 through 11]; and
- (3) adopt rules that may be necessary or appropriate to administer and enforce the provisions of [sections 1 through 11].

**Section 12.** Section 15-6-131, MCA, is amended to read:

**“15-6-131. Class one property — description — taxable percentage.**

(1) Class one property includes the annual net proceeds of all mines and mining claims except *bentonite*, coal, and metal mines.

(2) Class one property is taxed at 100% of its annual net proceeds after deducting the expenses specified and allowed by 15-23-503 or, for talc, as provided in 15-23-515 or, for vermiculite, as provided in 15-23-516 or, for limestone, as provided in 15-23-517 or, for industrial garnets and associated byproducts, as provided in 15-23-518.”

**Section 13.** Section 15-6-208, MCA, is amended to read:

**“15-6-208. Mineral exemptions.** (1) One-half of the contract sales price of coal sold by a coal producer who extracts less than 50,000 tons of coal in a calendar year is exempt from taxation.

(2) Metal mines producing less than 20,000 tons of ore in a taxable year are exempt from property taxation on one-half of the merchantable value.

(3) The first 1,000 tons of travertine and building stone extracted from a mine in a tax year are exempt from property taxation.

(4) *Bentonite extracted from a mine is exempt from property taxation.”*

**Section 14.** Section 15-23-101, MCA, is amended to read:

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

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

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

(3) all property of scheduled airlines;

- (4) the net proceeds of mines, *except bentonite mines*;
- (5) the gross proceeds of coal mines; and
- (6) property described in subsections (1) and (2) that is subject to the provisions of Title 15, chapter 24, part 12.”

**Section 15.** Section 15-23-501, MCA, is amended to read:

**“15-23-501. Taxation of mines.** (1) All mines and mining claims, both placer and rock in place, containing or bearing gold, silver, copper, lead, coal, or other valuable mineral deposits, after purchase thereof of the mines and mining claims from the United States, shall be are taxed as all other land is taxed. All machinery, equipment, and other personal property used in mining and all property and surface improvements upon or appurtenant to mines and mining claims which that have a value separate and independent of such the mines or mining claims and, except as provided in subsection (2), the annual net proceeds of all mines and mining claims shall be are taxed as other personal property. Surface improvements upon or appurtenant to mines and mining claims that have a value separate and independent of the mines or mining claims are taxed as other improvements.

(2) Bentonite produced from mines and mining claims is not subject to net proceeds taxation and is taxed as provided in [sections 1 through 11].”

**Section 16.** Section 15-23-502, MCA, is amended to read:

**“15-23-502. Net proceeds tax — statement of yield.** Every person engaged in mining, extracting, or producing from any quartz vein or lode, placer claim, dump or tailings, or other place or source whatever precious stones or gems, vermiculite, bentonite, or other valuable mineral, except bentonite, coal, and metals, must on or before March 31 each year make out a statement of the gross yield and value of the above-named metals or minerals from each mine owned or worked by the person during the year preceding January 1 of the year in which the statement is made. The statement must be in the form prescribed by the department of revenue and must be verified by the oath of the person completing the statement or the manager, superintendent, agent, president, or vice-president, if a corporation, association, or partnership, and must be delivered to the department on or before March 31. Except as provided in 15-23-515 through 15-23-518, the statement must show the following:

- (1) the name and address of the owner or lessee or operator of the mine, together with the names and addresses of any and all persons owning or claiming any royalty interest in the mineral product of the mine or the proceeds derived from the sale of products, and the amount or amounts paid or yielded as royalty to each of the persons during the period covered by the statement;
- (2) the description and location of the mine;
- (3) the number of tons of ore or other mineral products or deposits extracted, produced, and treated or sold from the mine during the period covered by the statement;
- (4) the amount and character of the ores, mineral products, or deposits and the yield of the ores, mineral products, or deposits from the mine in constituents of commercial value; that is, commercially valuable constituents of the ores, mineral products, or deposits, measured by standard units of measurement, yielded to the person engaged in mining and to each royalty holder, if any, during the period covered by the statement;
- (5) the gross yield or value in dollars and cents;

- (6) cost of extracting from the mine;
- (7) cost of transporting to place of reduction or sale;
- (8) cost of reduction or sale;
- (9) cost of marketing the product and conversion of the product into money;
- (10) cost of construction, repairs, and betterments of mines and cost of repairs and replacements of reduction works;
- (11) the assessed valuation of reduction works for the calendar year for which the return is made;
- (12) cost of fire insurance, workers' compensation insurance, boiler and machinery insurance, and public liability insurance paid for the mine, reduction works, or beneficiation process;
- (13) cost of welfare and retirement fund payments provided for in wage contracts;
- (14) cost of testing extracted minerals for the purpose of satisfying federal or state health and safety laws or regulations, the cost of plant security in Montana, the cost of assaying and sampling the extracted minerals, and the costs incurred in Montana for engineering and geological services for existing mining operations but not including any services beyond the stage of reduction and beneficiation of the minerals; and
- (15) cost of mine reclamation."

**Section 17. Transition.** (1) For property tax purposes, mill levies imposed in 2004 on bentonite production occurring in tax year 2003 for fiscal year 2005 are generally payable in November 2004 and May 2005.

(2) Notwithstanding any other provision of [this act], an owner or operator of a bentonite mine shall file the statement required by 15-23-502 at the time specified in 15-23-103 for tax year 2004.

**Section 18. Codification instruction.** [Sections 1 through 11] are intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 11].

**Section 19. 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 20. Effective date.** [This act] is effective on passage and approval.

**Section 21. Retroactive applicability.** (1) [ Sections 1 through 11] apply retroactively, within the meaning of 1-2-109, to the production of bentonite beginning after December 31, 2004.

(2) [Sections 12 through 16] apply retroactively, within the meaning of 1-2-109, to bentonite production occurring after December 31, 2003.

Approved April 28, 2005

## CHAPTER NO. 560

[HB 5]

AN ACT APPROPRIATING MONEY FOR CAPITAL PROJECTS FOR THE BIENNIUM ENDING JUNE 30, 2007; PROVIDING FOR OTHER MATTERS RELATING TO THE APPROPRIATIONS; PROVIDING FOR A TRANSFER

OF ONE-TIME FUNDS FROM THE GENERAL FUND TO THE LONG-RANGE BUILDING PROGRAM ACCOUNT; PROVIDING FOR THE FACILITATION OF PRIVATE EFFORTS TO CONSTRUCT A CHAPEL AT THE MONTANA STATE HOSPITAL AND ALLOWING THE DEPARTMENT OF ADMINISTRATION TO WAIVE REQUIREMENTS PERTAINING TO BIDDING AND BONDING FOR STATE BUILDING PROJECTS IN TITLE 18, MCA, LABOR REQUIREMENTS IN TITLE 18, MCA, AND CONTRACTOR REGISTRATION IN TITLE 39, MCA; ALLOWING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO WAIVE REQUIREMENTS PERTAINING TO PUBLIC BIDS AND THE DEPOSIT OF STATE LAND SALE PROCEEDS FOR THE SALE OF THE JOCKO FISH HATCHERY; REMOVING THE AUTHORITY FOR THE CONSTRUCTION OF THE LIFE SCIENCES BUILDING AT THE UNIVERSITY OF MONTANA; REMOVING REVERSION REQUIREMENTS RELATED TO THE JOURNALISM BUILDING AT THE UNIVERSITY OF MONTANA; REMOVING RESTRICTIONS RELATING TO THE LAW BUILDING AT THE UNIVERSITY OF MONTANA; REMOVING CERTAIN RESTRICTIONS RELATING TO THE JOURNALISM BUILDING AT THE UNIVERSITY OF MONTANA; AMENDING SECTIONS 87-1-209 AND 87-1-601, MCA, SECTION 2, CHAPTER 557, LAWS OF 1999, AND SECTION 2, CHAPTER 573, LAWS OF 2001; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Definitions.** For the purposes of [sections 1 through 13], unless otherwise stated, the following definitions apply:

(1) "Capital project" means the acquisition of land or improvements or the planning, capital construction, renovation, furnishing, or major repair projects authorized in [sections 1 through 13].

(2) "LRBP" means the long-range building program account in the capital projects fund type.

(3) "Other funding sources" means money other than LRBP money, including special revenue fund money, that accrues to an agency under the provisions of law.

**Section 2. Capital projects appropriations and authorizations.** (1) Subject to [section 9(2)], the following money is appropriated for the indicated capital projects from the indicated sources to the department of administration. Funds not requiring legislative appropriation are included for the purpose of authorization. The department of administration is authorized to transfer either or both the appropriations and authority among the necessary fund types for these projects:

Agency/Project	LRBP	Other Funding Sources
MONTANA SCHOOL FOR THE DEAF AND BLIND		
Facility Improvements, Montana School for the Deaf and Blind	\$398,000	
DEPARTMENT OF ADMINISTRATION		
Roof Repair and Replacement, Statewide	3,076,242	\$206,500 Federal Special Revenue
Repair/Preserve Building Exteriors, Statewide	497,500	
Window Repairs and Replacement, Statewide	1,268,625	
Deferred Maintenance, Montana Law Enforcement Academy	761,175	
Hazardous Materials Abatement, Statewide	497,500	

Code/Deferred Maintenance Projects, Statewide	1,255,989	90,000	Federal Special Revenue
Repair Deteriorated Campus Infrastructure, Statewide	547,250		
Major Maintenance and Repairs to State Capitol	497,500		
Upgrade Fire Alarm Systems, Statewide	398,000		
Repair Elevators, Capitol Complex	796,000		
Upgrade 1100 North Last Chance Gulch	1,201,960		
DPHHS Commodity Warehouse Expansion, Helena		2,000,000	Federal Special Revenue
Public Restrooms, Virginia City and Nevada City	99,450		
Public Safety Learning Center, Montana Law Enforcement Academy		3,450,000	Federal Special Revenue
Long-range Building Program Funding Interim Project	8,000		
Capitol Annex or Alternatives Feasibility Study		500,000	Capitol Land Grant Funds
MONTANA HISTORICAL SOCIETY			
Montana Historical Society Building, Helena		30,000,000	Donations and Grants
Authority is granted to the department of administration in the indicated amount for the construction of a new historical society building.			
DEPARTMENT OF CORRECTIONS			
Improve Water System, Montana State Prison	124,375		
Improve High-Side Kitchen Ventilation, Montana State Prison	116,714		
Improve Perimeter Security, Montana State Prison	1,393,000		
DEPARTMENT OF FISH, WILDLIFE, AND PARKS			
Hatchery Maintenance, Statewide		575,000	State Special Revenue
		575,000	Federal Special Revenue
Rose Creek Hatchery		1,700,000	State Special Revenue
Fort Peck Storage/Office Space		50,000	State Special Revenue
		150,000	Federal Special Revenue
Administrative Facilities Repair, Maintenance and Improvements		800,000	State Special Revenue
DEPARTMENT OF MILITARY AFFAIRS			
Federal Spending Authority		2,100,000	Federal Special Revenue
Western Montana Veterans' Cemetery, Missoula		3,200,000	Federal Special Revenue
Montana State Veterans' Cemetery Columbarium, Fort Harrison		500,000	Federal Special Revenue
MONTANA UNIVERSITIES AND COLLEGES			
ADA/Code/Deferred Maintenance Projects, Montana University System	1,393,000		
Upgrade Steam Distribution System, UM-Missoula	5,905,325	3,060,000	Auxiliary Funds
Upgrade HVAC Systems, Pershing and Brockman Halls, MSU-Northern	521,380		
Heating System Improvements, Academic Center and McMullen Halls, MSU-Billings	243,775		
Mining and Geology Building Mechanical System Renovation, UM-Butte	915,400		
Upgrade Health Sciences HVAC System, Phase 2, UM-Missoula	965,150		

Renovate Domestic Water Distribution System, UM-Dillon	182,185		
Classroom/Laboratory Upgrades, Montana University System	995,000		
Facility Repairs and Improvements, MSU-Billings	542,275		
Heating Plant Phase 3, MSU-Bozeman	945,250		
Renovate HVAC Systems, Science Complex 3rd and 4th Floors, UM-Missoula	606,950		
Water/Sewer System Repairs and Maintenance, MSU-Bozeman	248,750	250,000	Auxiliary Funds
Upgrade Primary Electrical Distribution, MSU-Bozeman	746,250	750,000	Auxiliary Funds
Facility Repairs and Improvements, MSU-Agricultural Experiment Stations	477,600		
MSU-Agricultural Experiment Station Projects	646,750		
Campus Improvements, MSU-Northern	636,800	300,000	Auxiliary Funds
New Construction, Consolidate Campus, UM-Missoula College of Technology		24,500,000	Federal Special Revenue, Donations, Grants, and Higher Education Funds

Authority is granted to the department of administration in the indicated amount for the purpose of constructing a new university of Montana-Missoula college of technology.

Native American Study Center, UM-Missoula	2,500,000	Federal Special Revenue, Donations, Grants, and Higher Education Funds
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Authority is granted to the department of administration in the indicated amount for the purpose of constructing the Native American center. This authority augments \$3,500,000 of existing authority for this capital improvement.

New Gallery Space, UM-Missoula	6,000,000	Federal Special Revenue, Donations, Grants, and Higher Education Funds
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Authority is granted to the department of administration in the indicated amount for the purpose of constructing new gallery space.

New Forestry Complex, UM-Missoula	20,000,000	Federal Special Revenue, Donations, Grants, and Higher Education Funds
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Authority is granted to the department of administration in the indicated amount for the purpose of constructing the new forestry complex.

MBMG/Petroleum Building, UM-Tech, Butte	5,400,000	Federal Special Revenue, Donations, Grants, and Higher Education Funds
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Authority is granted to the department of administration in the indicated amount for the purpose of constructing the MBBMG/petroleum building.

Research Lab Facility, UM-Missoula	3,000,000	Federal Special Revenue, Donations, Grants, and Higher Education Funds
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Authority is granted to the department of administration in the indicated amount for the purpose of constructing the research lab facility. Any increase in costs for the operations and maintenance of the research lab facility must be paid by the university of Montana with nonstate revenue.

Law Building ADA Improvements/ Renovation/Expansion, UM-Missoula	500,000
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This state money augments \$5,000,000 of existing authority for this project.

School of Journalism Building, UM-Missoula	500,000
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This state money augments \$12,000,000 of existing authority for this project.

VisComm Black Box Theater, MSU-Bozeman	2,750,000	Federal Special Revenue, Donations, Grants, and Higher Education Funds
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Authority is granted to the department of administration in the indicated amount for the purpose of constructing the new viscomm black box theater.

Animal Bioscience Building, MSU-Bozeman	7,500,000	Federal Special Revenue, Donations, Grants, and Higher Education Funds
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Authority is granted to the department of administration in the indicated amount for the purpose of constructing the new animal bioscience building. This authority augments \$5,000,000 of existing authority for this capital improvement.

Museum of the Rockies, MSU-Bozeman	12,000,000	Federal Special Revenue, Donations, Grants, and Higher Education Funds
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Authority is granted to the department of administration in the indicated amount for the purpose of constructing improvements to the museum of the rockies.

Native American Student Center, MSU-Bozeman	8,000,000	Federal Special Revenue, Donations, Grants, and Higher Education Funds
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Authority is granted to the department of administration in the indicated amount for the purpose of constructing the new Native American student center.

#### DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

Facility Improvements, Montana State Hospital, Warm Springs	592,523	
Facility Improvements, Montana Developmental Center, Boulder	218,044	
Demolish Abandoned Buildings, Public Health and Human Services	1,741,250	
Stabilize Old Administration Building, Montana Developmental Center, Boulder	179,100	
Housing for High-Risk Behaviors	2,529,290	
Special Care Unit Renovations, Eastern Montana Veterans' Home, Glendive	475,000	State Special Revenue
Facility Renovation and Improvements, Montana Veterans' Home, Columbia Falls	465,000	State Special Revenue
Construct Chapel, Montana State Hospital, Warm Springs	350,000	Donations and Grants

Authority is granted to the department of administration in the indicated amount for the purpose of constructing the chapel at the Montana state hospital in Warm Springs.

#### DEPARTMENT OF TRANSPORTATION

Equipment Storage Buildings, Statewide	635,000	State Special Revenue
Chiller/Cooling Towers Replacement, Helena Headquarters	350,000	State Special Revenue
Office Addition, Billings	500,000	State Special Revenue

#### DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

Replace Clearwater Unit Fire Cache	248,750	
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#### OFFICE OF THE GOVERNOR

Historic and Cultural Properties Interim Study	20,000	
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(2) (a) For the purpose of constructing a privately funded chapel at the Montana state hospital in Warm Springs, the department of administration may waive, in whole or in part, the requirements pertaining to:

- (i) bidding and bonding for state building projects in Title 18;
- (ii) labor requirements in Title 18; and
- (iii) contractor registration in Title 39.

(b) The waiver pursuant to subsection (2)(a) may be exercised in the following circumstances:

(i) to obtain the volunteer services and donated materials from members of the public, civic organizations, and other entities;

(ii) to obtain the compensated services of contractors who are donating significant amounts of labor, time, and materials; and

(iii) to meet the terms and conditions for receipt of major sums of money from private or public funding sources, including individual donations.

(3) (a) For the purpose of selling the Jocko fish hatchery to the Confederated Salish and Kootenai tribes and in exchange for constructing and improving the fish hatchery at the Rose Creek hatchery, the department of fish, wildlife, and parks may waive, in whole or in part, the requirements pertaining to:

(i) public bids for land disposal in 87-1-209(3); and

(ii) the real property trust fund in 87-1-601.

(b) The waiver pursuant to subsection (3)(a) may be exercised only under the circumstances described in subsection (3)(a). The waiver does not affect the department's requirement to obtain full market value pursuant to Article X, section 11, of the Montana constitution.

**Section 3. Fund transfer.** There is transferred from the general fund \$10.7 million in fiscal year 2006 and \$19.4 million in fiscal year 2007 to the long-range building program account in the capital projects fund type for the projects enumerated in [section 2].

**Section 4. Capital improvements.** (1) Subject to [section 18], the following money is appropriated to the department of fish, wildlife, and parks in the indicated amounts for the purpose of making capital improvements to statewide facilities. Funds not requiring legislative appropriation are included for the purpose of authorization.

Agency/Project	LRBP	Other Funding Sources
Big Springs PCB Cleanup	\$1,696,974	State Special Revenue
	2,375,000	Federal Special Revenue
Future Fisheries	1,190,000	State Special Revenue
Fishing Access Site Maintenance	350,000	State Special Revenue
Fishing Access Site Protection	800,000	State Special Revenue
Community Fishing Ponds	50,000	Federal Special Revenue
Boat Washing Stations	25,000	State Special Revenue
	75,000	Federal Special Revenue
Fish Cleaning Stations	112,500	Federal Special Revenue
	37,500	Donations and Grants
Upland Game Bird Program	1,220,000	State Special Revenue
Wildlife Habitat Maintenance	750,000	State Special Revenue
Migratory Bird Stamp Program	625,000	State Special Revenue
Motorboat Recreation Site Improvements	2,305,000	State Special Revenue
Cultural and Historic Parks Improvements	2,000,000	Donations
	2,245,000	State Special Revenue
	300,000	Donations and Grants
Grant Programs/Federal Projects	330,000	State Special Revenue
	5,000,000	Federal Special Revenue

(2) (a) Authority is granted to the university of Montana in the indicated amount for the purpose of making capital improvements to campus facilities:

Agency/Project	LRBP	Other Funding Sources
General Spending Authority, UM-All Campuses		\$4,000,000 Federal Special Revenue, Higher Education Funds, Donations, and Grants

(b) All costs for the operations and maintenance of any new improvements constructed under this authorization must be paid by the university of Montana with nonstate revenue.

(3) (a) Authority is granted to Montana state university in the indicated amount for the purpose of making capital improvements to campus facilities:

Agency/Project	LRBP	Other Funding Sources
General Spending Authority, MSU-All Campuses		\$7,000,000 Federal Special Revenue, Higher Education Funds, Donations, and Grants

(b) All costs for the operations and maintenance of any new improvements constructed under this authorization must be paid by Montana state university with nonstate revenue.

(4) The following money is appropriated to the department of transportation in the indicated amount for the purpose of making capital improvements as indicated:

Agency/Project	LRBP	Other Funding Sources
Facility Maintenance, Repair, and Small Projects, Statewide		\$3,515,000 State Special Revenue
U.S. Highway 93 Construction Projects, Evaro to Polson		133,772,453 State Special Revenue

**Section 5. Land acquisition appropriations.** Subject to [section 18], the following money is appropriated to the department of fish, wildlife, and parks in the indicated amounts for purposes of land acquisition, land leasing, easement purchase, or development agreement:

Agency/Project	LRBP	Other Funding Sources
Fishing Access Site Acquisition, Statewide		\$650,000 State Special Revenue 100,000 Federal Special Revenue
Habitat Montana		5,430,000 State Special Revenue

**Section 6. Dams.** (1) The following money is appropriated to the department of fish, wildlife, and parks in the indicated amount for department dams:

Agency/Project	LRBP	Other Funding Sources
FWP Dams Repair		\$264,000 State Special Revenue

(2) In accordance with 85-1-101, the department of natural resources and conservation shall coordinate and manage the projects.

**Section 7. Transfer of funds.** The department of fish, wildlife, and parks and the department of transportation are authorized to transfer either or both the appropriations and authority in [sections 4 through 6] among the necessary fund types for these projects.

**Section 8. Capitol land grant revenue.** The appropriation of up to \$500,000 in capitol land grant revenue to the department of administration for

the capitol annex or alternatives feasibility study is the last priority for use of these funds during the 2007 biennium and is dependent upon the availability of revenue. To the extent that capitol land grant revenue is not sufficient to fund this project, the balance of the appropriation may come from reversions in the long-range building program account made during the 2006-2007 biennium. If necessary, this project may be phased in as these funds become available.

**Section 9. Planning and design.** (1) Subject to subsection (2), the department of administration may proceed with the planning and design of capital projects prior to the receipt of money from other funding sources. The department may use interaccount loans in accordance with 17-2-107 to pay planning and design costs incurred before the receipt of money from other funding sources.

(2) The department may not expend funds appropriated for statewide roof repair in [section 2] or under subsection (1) of this section until after the department has entered into a contract for roof repair at the Pine Hills school in Miles City.

**Section 10. Capital projects — contingent funds.** If a capital project is financed, in whole or in part, with appropriations contingent upon the receipt of other funding sources, the department of administration may not let the project for bid until the agency has submitted a financial plan for approval by the director of the department of administration. A financial plan may not be approved by the director if:

(1) the level of funding provided under the financial plan deviates substantially from the funding level provided in [sections 2 through 6] for that project; or

(2) the scope of the project is substantially altered or revised from the preliminary plans presented for that project in the 2007 biennium long-range building program presented to the 59th legislature.

**Section 11. Review by department of environmental quality.** The department of environmental quality shall review capital projects authorized in [sections 2 through 6] for potential inclusion in the state building energy conservation program under Title 90, chapter 4, part 6. When a review shows that a capital project will result in energy improvements, that project must be submitted to the energy conservation program for funding consideration. Funding provided under the energy conservation program guidelines must be used to offset or add to the authorized funding for the project, and the amount will be dependent on the annual utility savings resulting from the facility improvement. Agencies must be notified of potential funding after the review.

**Section 12. University buildings — operation and maintenance.** (1) The 59th legislature finds that the operation and maintenance of portions of new building space that supports academic missions of the university system should be funded with current unrestricted university funds. The funding of current unrestricted university funds is shared between state general fund, tuition, and other minor sources.

(2) The office of budget and program planning, the architecture and engineering division of the department of administration, the legislative fiscal division, and the Montana university system are directed to come to an agreement and to recommend to the 60th legislature the portions of new building space that support academic missions of the university system and funding allocations between the general fund and tuition. If the legislative audit

division conducts a performance audit of the university system building program, then the office of budget and program planning, the architecture and engineering division of the department of administration, the legislative fiscal division, and the Montana university system shall take the results of the audit into consideration in making a recommendation.

(3) If the university system chooses to build nonacademic buildings, the operation and maintenance costs for the buildings must be funded from nonstate and nontuition sources.

**Section 13. Legislative consent.** The appropriations authorized in [sections 1 through 6] constitute legislative consent for the capital projects contained in [sections 1 through 6] within the meaning of 18-2-102.

**Section 14.** Section 87-1-209, MCA, is amended to read:

**“87-1-209. Acquisition and sale of lands or waters.** (1) The department, with the consent of the commission 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;
- (e) for state parks and outdoor recreation;
- (f) to extend and consolidate by exchange, lands or waters suitable for these purposes.

(2) The department, with the consent of the commission, may acquire by condemnation, as provided in Title 70, chapter 30, lands or structures for the preservation of historical or archaeological sites that are threatened with destruction or alteration.

(3) (a) ~~The~~ *Subject to [section 2(3)],* the department, with the consent of the commission, may dispose of lands and water rights acquired by it on those terms after public notice as required by subsection (3)(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, may convey department lands and water rights for full market value to other governmental entities without regard to the requirements of subsection (3)(b) or (3)(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 pursuant to this subsection, the department, in addition to giving notice pursuant to subsection (3)(b), shall give notice by mail to the landowners whose property adjoins the department property being conveyed.

(b) ~~Notice~~ *Subject to [section 2(3)],* 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) 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.

(5) 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.

(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."

**Section 15.** Section 87-1-601, MCA, is amended to read:

**"87-1-601. Use of fish and game money.** (1) (a) Except as provided in subsections (7) and (9), all money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from damages collected for violations of the fish and game laws of this state, or from appropriations or received by the department from any other state source must be turned over to the department of revenue and placed in the state special revenue fund to the credit of the department.

(b) Any money received from federal sources must be deposited in the federal special revenue fund to the credit of the department.

(c) All interest earned on money from the following sources must be placed in the state special revenue fund to the credit of the department:

(i) the general license account;

(ii) the license drawing account;

(iii) accounts established to administer the provisions of 87-1-246, 87-1-258, 87-1-605, 87-2-411, 87-2-722, and 87-2-724; and

(iv) money received from the sale of any other hunting and fishing license.

(2) Except as provided in 87-2-411, the money described in subsection (1) must be exclusively set apart and made available for the payment of all salaries, per diem, fees, expenses, and expenditures authorized to be made by the department under the terms of this title. The money described in subsection (1) must be spent for those purposes by the department, subject to appropriation by the legislature.

(3) Any reference to the fish and game fund in this code means fish and game money in the state special revenue fund and the federal special revenue fund.

(4) Except as provided in subsections (7) and (8), all money collected or received from fines and forfeited bonds, except money collected or received by a justice's court, that relates to violations of state fish and game laws under Title 87 must be deposited by the department of revenue and credited to the department in a state special revenue fund account for this purpose. Out of any fine imposed by a court for the violation of the fish and game laws, the costs of prosecution must be paid to the county where the trial was held in any case in which the fine is not imposed in addition to the costs of prosecution.

(5) (a) ~~Money~~ *Except as provided in [section 2(3)], money* must be deposited in an account in the permanent fund if it is received by the department from:

(i) the sale of surplus real property;

(ii) exploration or development of oil, gas, or mineral deposits from lands acquired by the department except royalties or other compensation based on production; and

(iii) leases of interests in department real property not contemplated at the time of acquisition.

(b) The interest derived from the account, but not the principal, may be used only for the purpose of operation, development, and maintenance of real property of the department and only upon appropriation by the legislature. If the use of money as set forth in this section would result in violation of applicable federal laws or state statutes specifically naming the department or money received by the department, then the use of this money must be limited in the manner, method, and amount to those uses that do not result in a violation.

(6) Money received from the collection of license drawing applications is not subject to the deposit requirements of 17-6-105. The department shall deposit license drawing application money within a reasonable time after receipt.

(7) Money collected or received from fines or forfeited bonds for the violation of 77-1-801, 77-1-806, or rules adopted under 77-1-804 must be deposited in the state general fund.

(8) The department of revenue shall deposit in the state general fund one-half of the money received from the fines pursuant to 87-1-102.

(9) (a) The department shall deposit all money received from the search and rescue surcharge in 87-2-202 in a state special revenue account to the credit of the department for search and rescue purposes as provided for in 10-3-801.

(b) Upon certification by the department of reimbursement requests submitted by the department of military affairs for search and rescue missions involving persons engaged in hunting, fishing, or trapping, the department may transfer funds from the special revenue account to the search and rescue account provided for in 10-3-801 to reimburse counties for the costs of those missions as provided in 10-3-801.

(c) Using funds in the department's search and rescue account that are not already committed to reimbursement for search and rescue missions, the department may provide matching funds to the department of military affairs to reimburse counties for search and rescue training and equipment costs up to the proportion that the number of search and rescue missions involving persons engaged in hunting, fishing, or trapping bears to the statewide total of search and rescue missions.

(d) At the end of each fiscal year, any money remaining in the special revenue account after the transfers provided for in this section must be transferred to the general license account of the department."

**Section 16.** Section 2, Chapter 557, Laws of 1999, is amended to read:

**"Section 2. Capital projects appropriations.** (1) Except as provided in subsection (4)(c), the following money is appropriated for the indicated capital projects from the indicated sources to the department of administration, which is authorized to transfer the appropriated money among the necessary fund types for these projects:

Agency/Project	LRBP	Other Funding Sources	
<b>DEPARTMENT OF ADMINISTRATION</b>			
Health and Safety Projects, Statewide	\$730,000	\$250,000	Auxiliary
Hazardous Material Remediation, Statewide	300,000		
Roof Replacements or Repairs, Statewide	521,000		
Facility Assessments, Statewide	100,000	50,000	State Special Revenue
		100,000	Federal Special Revenue
		50,000	Auxiliary
Capital Renovation		1,000,000	Capitol Land Grant Revenue
Renovate Haynes Gallery Area, Historical Society		1,000,000	Donations
<b>DEPARTMENT OF CORRECTIONS</b>			
Expand Women's Prison, MWP		6,475,000	Federal Special Revenue
Missoula Regional Correctional Facility Supplemental		526,497	Federal Special Revenue
Construct Reception Unit, MSP		5,500,000	Federal Special Revenue
		170,000	General Fund
<b>DEPARTMENT OF FISH, WILDLIFE AND PARKS</b>			
Bluewater Hatchery Renovations		200,000	State Special Revenue
Construct Fort Peck Fish Hatchery		14,640,000	Federal Special Revenue
<b>DEPARTMENT OF MILITARY AFFAIRS</b>			
Construct New Armory, Kalispell		3,900,000	Federal Special Revenue
Construct New Armory, Bozeman		4,600,000	Federal Special Revenue
<b>MONTANA UNIVERSITY SYSTEM</b>			
Sprinkle Library, UM-Missoula	657,000		
Ventilate and Update Fine Arts Building, UM-Missoula	450,000		
Boiler Upgrade and Ventilation, UM-Tech	530,000	120,000	Auxiliary
Maintain HVAC Systems, MSU-Billings and COT-Billings	500,000		
Replace Steam Distribution Piping, UM-Dillon	800,000	400,000	Auxiliary
Upgrade Boiler Controls, UM-Missoula	125,000	100,000	Auxiliary

Roof Replacements or Repairs, University System	1,591,000	
Maintain Main Hall Exterior, UM-Dillon	225,000	
Renovate Cowan Hall, MSU-Northern	511,000	
Addition to Paxson Gallery, UM-Missoula	2,500,000	Higher Education Funds, Federal, Donations, Grants, Plant Funds
Applied Technology Center Feasibility Study, MSU-Northern	50,000	
Construct Nondenominational Chapel, UM-Tech	1,500,000	Donations
Forestry/Journalism Addition, UM-Missoula	10,000,000	Federal, Donations, Grants, Plant Funds
Native American Study Center, UM-Missoula	3,500,000	Higher Education Funds, Federal, Donations, Grants, Plant Funds
<del>Life Sciences Building, UM-Missoula</del>	<del>23,000,000</del>	<del>Federal, State, Donations, Grants, Plant Funds</del>
Rural Technology Education Center, UM-Dillon	350,000	Higher Education Funds, Federal, Donations, Grants, Plant Funds
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION		
Lincoln Unit Office/Quarters and Clearwater Egress	125,000	
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES		
Sprinkle MMHNCC, Lewistown	300,000	
Construct Special Care Unit, Montana Veterans' Home	1,179,374	State Special Revenue
Improve Eastern Montana Veterans' Home	290,250	State Special Revenue
Improve Montana Veterans' Home	187,530	State Special Revenue
DEPARTMENT OF TRANSPORTATION		
Construct Equipment Storage Buildings and Roof Replacement at Helena Headquarters, Statewide	2,100,000	Highways State Special Revenue
Construct Core Drilling Building, Helena	1,000,000	Highways State Special Revenue

(2) In the event one or both of the national guard armories located in Bozeman and Whitefish, Montana, and approved in House Bill No. 14 for replacement are sold prior to construction of the new Bozeman and Kalispell armories, the proceeds of the sale that were deposited to the general fund are appropriated for replacement construction up to a maximum of \$4,000,000 and the bond authority in House Bill No. 14 is reduced by a like amount.

(3) The department of public health and human services is seeking federal funds for use in the construction of the special care unit, Montana veterans' home. If federal funds become available for this purpose, the department shall reimburse funds from the state special revenue account used to build the new unit. The total amount approved for the project from all sources is \$1,179,374.

(4) (a) The 56th legislature authorizes four department of corrections' capital construction projects in the 2001 biennium. Funding for the projects is contained in House Bill No. 14 and subsection (1) of this section. The total project cost and the authorized funding for each project are as follows:

(i) \$9,375,000 for the women's prison expansion in Billings, funded by \$2,900,000 of general obligation bond proceeds authorized in House Bill No. 14 and by \$6,475,000 of federal funds appropriated in subsection (1) of this section;

(ii) \$2,225,000 for completing the Pine Hills youth correctional facility in Miles City, funded from general obligation bond proceeds authorized in House Bill No. 14;

(iii) \$5,670,000 to construct a reception unit at Montana state prison in Deer Lodge, funded by \$170,000 of general fund money and by \$5,500,000 of federal funds appropriated in subsection (1) of this section; and

(iv) \$3,000,000 for security improvements and expanding the Wallace building at Montana state prison in Deer Lodge, funded from general obligation bond proceeds authorized in House Bill No. 14.

(b) The 56th legislature notes that approximately \$8,714,600 of federal department of justice funds are anticipated to become available for capital construction projects for the department of corrections in the 2001 biennium. It is the intent of the 56th legislature that the federal funds be used to the maximum extent possible. It is further the intent of the 56th legislature that the priority for using these federal funds is:

(i) up to \$6,475,000 for the women's prison expansion project, line-itemed in subsection (1);

(ii) up to \$526,497 for the Missoula regional correctional facility supplemental; and

(iii) up to \$5,500,000 for the construction of the reception unit at Montana state prison, line-itemed in subsection (1).

(c) (i) It is the intent of the legislature that the department of corrections may not accept federal funds for capital construction unless all conditions necessary to receive the federal dollars have been irrevocably met in advance of the expenditure of the federal funds.

(ii) It is further the intent of the legislature that federal spending authority for a capital construction project may be used only for the project identified in the law authorizing the project and may not be used for any other project.

(5) The appropriation for the Fort Peck fish hatchery in subsection (1) is contingent upon passage and approval of House Bill No. 20.

(6) The 56th legislature authorizes the construction of the rural technology education center at western Montana college of the university of Montana at a total project cost of \$4,520,000. Subsection (1) of this section contains \$350,000 in other revenue authority for this project, and House Bill No. 14 contains \$4,170,000 in general obligation bond authority for this project. In the event that other additional funds become available for this project during its construction, the general obligation bond authority in House Bill No. 14 must be reduced by a like amount and other revenue authority is increased by a like amount in subsection (1) of this section for the same purpose."

**Section 17.** Section 2, Chapter 573, Laws of 2001, is amended to read:

**"Section 2. Capital projects appropriations.** (1) The following money is appropriated for the indicated capital projects from the indicated sources to the department of administration, which is authorized to transfer the appropriated money among the necessary fund types for these projects:

Agency/Project	LRBP	Other Funding Sources	
<b>DEPARTMENT OF ADMINISTRATION</b>			
Life Safety Projects, Statewide	\$400,000	\$	
Hazardous Material Mitigation Fund	350,000		
Roof Replacements or Repairs, Statewide	499,000		
Project Litigation Fund	475,000		
Capitol Complex Land Acquisition		400,000	Capitol Land Grant Revenue
<b>DEPARTMENT OF CORRECTIONS</b>			
Construction of Central Reception Unit		1,000,000	Federal Special Revenue
<b>DEPARTMENT OF FISH, WILDLIFE, AND PARKS</b>			
Administrative Facility Repair and Maintenance		764,000	State Special Revenue
<b>DEPARTMENT OF JUSTICE</b>			
Upgrade Foundations and Boiler, MLEA	200,000		
<b>DEPARTMENT OF MILITARY AFFAIRS</b>			
Construct New Dillon Armory		3,800,000	Federal Special Revenue
Construct New Kalispell Armory		3,700,000	Federal Special Revenue
<b>MONTANA UNIVERSITIES AND COLLEGES</b>			
Replace Primary Power Distribution System, UM-Dillon	162,750	59,375	Auxiliary
Roof Replacements or Repairs, University System	426,000		
Heating Plant Steam Distribution, Phase II, UM-Tech	438,750	236,250	Auxiliary
Chemistry Building Addition, UM-Missoula		3,200,000	Federal, Donations, Grants, Nonstate Funds, Plant Funds
All operating and maintenance expenses of the chemistry building addition are to be paid by the university of Montana-Missoula. Appropriation authority in excess of funds pledged for this project as of June 30, 2003, must be reverted.			
Master Plan Campuses, University System	100,000	150,000	Higher Education Funds, Federal, Donations, Grants, Plant Funds
This project will focus on maximizing use of existing buildings on the campuses.			
Animal and Range Science Facility, MSU-Bozeman		5,000,000	Higher Education Funds, Federal, Donations, Grants, Nonstate Funds, Plant Funds
Gaines Hall Renovation/Addition Project Design, MSU-Bozeman		2,000,000	Federal, Donations, Grants, Nonstate Funds, Plant Funds
Agricultural Experiment Station, MSU-Bozeman		1,000,000	Federal, Donations, Grants, Nonstate Funds, Plant Funds
Develop Classroom/Lab Design, MSU-COT, Billings	50,000		
Multi Media Center, Yellow Bay, UM-Missoula		1,350,000	Federal, Donations, Grants, Nonstate Funds, Plant Funds
All construction, operation, and maintenance expenses of the Yellow Bay multi media center are to be paid by the center.			
Law Building Renovation/Expansion, UM-Missoula		5,000,000	Federal, Donations, Grants, Nonstate Funds, Plant Funds

~~All operating and maintenance expenses of the law building addition are to be paid by the university of Montana-Missoula.~~

School of Journalism Building, UM-Missoula	12,000,000	Federal, Donations, Grants, Nonstate Funds, Plant Funds
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~~Appropriation authority in excess of funds pledged for this project as of June 30, 2005, must be reverted. All operating and maintenance expenses of the school of journalism building are to be paid by the university of Montana-Missoula.~~

Construct Applied Technology Center, MSU-Northern	3,000,000	Federal, Donations, Grants, Nonstate Funds, Plant Funds
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Install PBS Digital Conversion, MSU-Bozeman	3,059,455	Federal, Donations, Grants, Nonstate Funds, Plant Funds
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The university system and the information services division of the department of administration will work together to develop network plans or procedures that provide for the highest degree of bandwidth and cost-sharing capability between the university system and the department that is within technical specifications agreed to by the parties and is mutually beneficial to them. This obligation to cooperate and coordinate for the purpose of seeking mutually beneficial network arrangements applies to the intercity transport services acquired by the university system or the department of administration to meet the needs of the public broadcast system, including the utilization and sharing of excess capacity bandwidth to help meet the telecommunication needs of all state agencies in a manner that is both cost-effective and compatible with the efficient operation of the public broadcast system.

Develop Design to Expand COT, UM-COT, Helena	125,000	
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#### DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

Expand Unit Office, Libby	94,000	
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#### DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

Licensure Compliance, MMHNCC	524,000	
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Montana Veterans' Home Improvements, Columbia Falls	165,875	State Special Revenue
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Eastern Montana Veterans' Home Improvements, Glendive	177,800	State Special Revenue
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The legislature consents to the construction of the good shepherd chapel at the Montana developmental center in Boulder with donated funds. The construction of the chapel is exempt from provisions of Title 18.

#### STATE BOARD OF EDUCATION

Facility Improvements, Montana School for the Deaf and Blind	315,160	
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#### DEPARTMENT OF TRANSPORTATION

Construct Equipment Storage Buildings, Statewide	2,700,000	Highways State Special Revenue
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(2) The Montana state university agricultural experiment station shall use these funds to construct and repair various experiment station buildings at the following locations: \$1,250,000 for Huntley, \$180,000 for Moccasin, \$200,000 for Havre, \$210,000 for Sidney, and \$160,000 for Kalispell. The amount of \$1 million for these projects will be funded from non-LRBP sources, and the amount of \$1 million will be funded from CPF in House Bill No. 14.

(3) For purposes of obtaining cash for the construction litigation appropriation authority in subsection (1), the architecture and engineering division of the department of administration may transfer any excess LRBP money from an agency as long as the transfer does not move funds required to complete any authorized agency project.

(4) The following projects are appropriated from the LRBP funding to the department of administration, in addition to the projects listed in subsection (1), by the decrease in bond debt service paid from the LRBP in House Bill No. 14:

Agency/Project	LRBP	Other Funding Sources
DEPARTMENT OF ADMINISTRATION		
Life Safety Projects, Statewide	\$300,000	
Hazardous Material Mitigation, Statewide	90,000	
Roof Replacements or Repairs, Statewide	150,000	
MONTANA UNIVERSITIES AND COLLEGES		
Code Compliance/Deferred		
Maintenance, All Campuses	550,000	
Develop Design to Expand COT,		
UM-COT, Helena	240,000*	

**Section 18. Coordination instruction.** If House Bill No. 79 is not passed and approved, then:

(1) the state special revenue appropriation for the wildlife habitat maintenance project in [section 4] is reduced to \$487,500; and

(2) the state special revenue appropriation for habitat Montana in [section 5] is reduced to \$2,747,500.

**Section 19. 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 20. Effective date.** [This act] is effective on passage and approval.

Approved May 2, 2005

## CHAPTER NO. 561

[SB 107]

AN ACT CLARIFYING WHEN SPECIFIC GROUND WATER MANAGEMENT PLANS MUST OR MAY BE DEVELOPED AND IMPLEMENTED; ALLOWING THE DEPARTMENT OF AGRICULTURE TO INITIATE EDUCATIONAL PROGRAMS ABOUT AGRICULTURAL MANAGEMENT IN AN EFFORT TO PRECLUDE THE NEED FOR DEVELOPING SPECIFIC GROUND WATER MANAGEMENT PLANS IN THE FUTURE; AMENDING SECTIONS 80-15-212 AND 80-15-213, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 80-15-212, MCA, is amended to read:

**“80-15-212. Specific agricultural chemical ground water management plans.** (1) Except as provided in 80-15-216, the department shall develop and implement agricultural chemical ground water management plans specific to particular agricultural chemicals and to a defined geographical area:

(a) when the level of an agricultural chemical found in ground water is at 50% or greater of the standard or interim numerical standard at a point of standards application and is scientifically validated;

(2) *The department may develop and implement an agricultural chemical ground water management plan specific to particular agricultural chemicals and may consider but is not limited to considering the following elements when determining whether or not to develop and implement agricultural chemical ground water management plans:*

~~(b) when~~ (a) a definite trend of increased presence of the agricultural chemical in ground water at a point of standards application is scientifically validated;

~~(c) when~~ (b) agricultural chemicals have been determined to have migrated in the ground water from the point of detection;

~~(d) when~~ (c) EPA proposes to suspend or cancel registration of an agricultural chemical, prohibits or restricts the chemical's sale or use in the state, or otherwise initiates action against a chemical because of ground water concerns, and ~~when~~ EPA's action, restriction, or prohibition will be implemented unless the state develops an adequate management plan; or

~~(e) when~~ (d) agricultural chemicals that possess or are suspected of possessing properties that indicate potential to migrate to ground water are being applied on areas ~~underlain~~ *underlain* by ground water that is vulnerable to impairment.

(3) *The department may initiate educational programs about agricultural chemical management to provide information and management techniques to protect ground water in an effort to preclude the need for development of specific agricultural chemical ground water management plans in the future.*

~~(2)(4) Any~~ A person using an agricultural chemical that is addressed by a specific agricultural chemical ground water management plan in the geographical region that is addressed by the plan ~~shall~~ *shall* comply with the plan. The department may specifically identify and designate persons who are under the plan and may inform any person about the plan.

~~(3)(5)~~ The department shall prioritize preparation of specific agricultural chemical ground water management plans in consideration of the specific circumstances of each area and within available resources."

**Section 2.** Section 80-15-213, MCA, is amended to read:

**"80-15-213. Beneficial use to be considered in developing management plans — water classification.** (1) (a) In developing general and specific agricultural chemical ground water management plans, the department shall consider the current and potential beneficial use of the ground water included in or affected by the plans.

(b) If the ground water has not been classified:

(i) the department shall consider it to be included in the classification representing the highest quality of ground water until the ground water is classified by the department of environmental quality; and

(ii) the department may proceed to develop an agricultural chemical ground water management plan as ~~required by~~ *provided in* 80-15-212(1) and (2).

(2) The department may request the department of environmental quality to classify certain ground water and may collect the data and information required by the department of environmental quality to classify the ground water. If adequate technical data and financial resources are available as determined by the department of environmental quality, the department of

environmental quality shall classify ground water at locations as requested by the department.”

**Section 3. Effective date.** [This act] is effective on passage and approval.

Approved May 2, 2005

## CHAPTER NO. 562

[SB 114]

AN ACT CLARIFYING LANGUAGE RELATING TO INSURANCE OFFENSES; AND AMENDING SECTIONS 33-2-101, 33-2-104, AND 33-18-401, MCA.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 33-2-101, MCA, is amended to read:

**“33-2-101. ~~Certificate of authority~~ Certificate of authority required — administrative and criminal penalties.** ~~(1) No person shall act as an insurer and no insurer shall transact insurance in this state except as authorized by a subsisting certificate of authority issued to it by the commissioner, except as to such transactions as are expressly otherwise provided for in this code. (1) Except as expressly otherwise provided in this code, a person acting as an insurer and an insurer transacting insurance in this state must have a subsisting certificate of authority issued by the commissioner.~~

~~(2) No An insurer shall have or maintain that has or maintains in Montana any office, representative, or other facilities facility for the solicitation or servicing of any kind of insurance in any other state unless it is then must be authorized to transact the same kind of insurance in this state.~~

~~(3) A person who knowingly violates this section is guilty of a felony punishable as provided in 46-18-213 and in addition is subject to the civil penalty provided in 33-1-317.”~~

**Section 2.** Section 33-2-104, MCA, is amended to read:

**“33-2-104. Representing or aiding unauthorized insurer prohibited.** ~~(1) No A person shall in this state may not directly or indirectly act as insurance producer for, or otherwise represent or aid on behalf of another, any insurer not then authorized to transact insurance in this state in the solicitation, negotiation, or effectuation of insurance or of annuity contracts, inspection of risks, fixing of rates, investigation or adjustment of losses, collection of premiums, or in any other manner in the transaction of insurance with respect to subjects of insurance resident, located, or to be performed in this state.~~

~~(2) This section shall does not apply to:~~

~~(a) acceptance of service of process by the commissioner under 33-1-613; or~~

~~(b) surplus lines insurance and other transactions as to for which a certificate of authority is not required of an insurer as stated in 33-2-102.~~

~~(3) Any person violating this section shall upon conviction thereof be guilty of a felony.~~

~~(3) A person who knowingly violates this section is guilty of a felony punishable as provided in 46-18-213.”~~

**Section 3.** Section 33-18-401, MCA, is amended to read:

**“33-18-401. False application, claim, and proof of loss — criminal penalty.** (1) An insurance producer, examining physician, applicant, or other person who knowingly ~~or willfully~~ makes a false or fraudulent statement or representation in or with reference to an application for insurance is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$250 or more than \$1,000 or by imprisonment in the county jail for not less than 3 months or more than 6 months, or both ~~such~~ fine and imprisonment at the discretion of the court.

(2) ~~An insurance producer, examining physician, applicant, or other~~ (a) A person who, for the purpose of obtaining any money or benefit, knowingly ~~or willfully~~ presents or causes to be presented a false or fraudulent claim or any proof in support of ~~such~~ a false or fraudulent claim for the payment of the loss upon a contract of insurance or prepares, makes, or subscribes a false or fraudulent account, certificate, affidavit or proof of loss, or other document or writing, with intent that the same may be presented or used in support of ~~such~~ a false or fraudulent claim, is guilty of a crime under 45-6-301, and a county attorney may initiate criminal proceedings against him ~~theft under 45-6-301. Either a county attorney or the attorney general may prosecute the person.~~

(b) As used in subsection (2)(a), “person” includes but is not limited to an insurance producer, examining physician, or applicant.”

Approved May 2, 2005

## CHAPTER NO. 563

[SB 115]

AN ACT CREATING CLASS FOURTEEN PROPERTY TO INCLUDE WIND GENERATION FACILITIES; PROVIDING A DEFINITION OF “WIND GENERATION FACILITIES”; PROVIDING THAT A FACILITY IS NOT ELIGIBLE TO BE CLASSIFIED AS CLASS FOURTEEN PROPERTY UNLESS THE FACILITY PAID THE STANDARD PREVAILING RATE OF WAGES FOR HEAVY CONSTRUCTION DURING THE CONSTRUCTION PHASE; TAXING CLASS FOURTEEN PROPERTY AT 3 PERCENT OF ITS MARKET VALUE; ALLOWING A LOCAL GOVERNMENTAL UNIT TO ASSESS AN IMPACT FEE FOR LOCAL GOVERNMENTAL UNITS AND SCHOOL DISTRICTS THAT ARE IMPACTED BY THE CONSTRUCTION OF A COMMERCIAL WIND GENERATION FACILITY; ALLOWING INTERLOCAL IMPACT AGREEMENTS; AMENDING SECTIONS 15-6-137, 15-6-141, 15-6-156, 15-6-201, 15-24-3005, 15-24-3006, AND 15-24-3007, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND RETROACTIVE APPLICABILITY DATES.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Class fourteen property — description — taxable percentage.** (1) Class fourteen property includes:

- (a) wind generation facilities of a centrally assessed electric power company;
- (b) wind generation facilities owned or operated by an exempt wholesale generator or an entity certified as an exempt wholesale generator pursuant to section 32 of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79z-5a;
- (c) noncentrally assessed wind generation facilities owned or operated by any electrical energy producer;

(d) wind generation facilities owned or operated by cooperative rural electric associations described under 15-6-137.

(2) Class fourteen property does not include wind generation facilities:

(a) at which the standard prevailing rate of wages for heavy construction, as provided in 18-2-401(13)(a), was not paid during the construction phase; or

(b) that are exempt under 15-6-225.

(3) For the purposes of this section, "wind generation facilities" means any combination of a physically connected wind turbine or turbines, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electric power from wind.

(4) Class fourteen property is taxed at 3% of its market value.

**Section 2. Wind generation facility impact fee for local governmental units and school districts.** (1) An owner or operator of a wind generation facility used for a commercial purpose is subject to an initial local governmental and local school impact fee for the first 3 years after construction of the wind generation facility begins. The impact fee may not exceed 0.50% of the total cost of constructing the wind generation facility.

(2) (a) Subject to subsection (2)(b), the impact fee is assessed and distributed as provided in 15-24-3005(2) and (3).

(b) Local governmental units may enter into an interlocal agreement as provided in 15-24-3005(4).

(3) (a) For the purposes of this section, "wind generation facility" means any combination of a physically connected wind turbine or turbines, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electric power from wind.

(b) The term does not include a wind generation facility used for noncommercial purposes or exclusively for agricultural purposes.

**Section 3. Tax abatement for wind generation facilities.** Notwithstanding the provisions of 15-24-1401, on [the effective date of Senate Bill No. 19], a new wind generation facility described in [section 1] may be granted the tax benefits under 15-24-1402 as that section applied on December 31, 2004.

**Section 4.** Section 15-6-137, MCA, is amended to read:

**"15-6-137. Class seven property — description — taxable percentage.** (1) ~~Class~~ *Except as provided in subsection (2), class seven property includes:*

(a) all property owned by cooperative rural electrical associations that serve less than 95% of the electricity consumers within the incorporated limits of a city or town, except rural electric cooperative properties described in 15-6-141(1)(a);

(b) electric transformers and meters; electric light and power substation machinery; natural gas measuring and regulating station equipment, meters, and compressor station machinery owned by noncentrally assessed public utilities; and tools used in the repair and maintenance of this property.

(2) *Class seven property does not include wind generation facilities classified under [section 1].*

~~(2)~~(3) Class seven property is taxed at 8% of its market value.”

**Section 5.** Section 15-6-141, MCA, is amended to read:

**“15-6-141. Class nine property — description — taxable percentage.**

(1) Class nine property includes:

(a) centrally assessed allocations of an electric power company or centrally assessed allocations of an electric power company that owns or operates transmission or distribution facilities or both, including, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, allocations of properties constructed, owned, or operated by a public agency created by the congress to transmit or distribute electrical energy produced at privately owned generating facilities, not including rural electric cooperatives. However, rural electric cooperatives' property, *except wind generation facilities classified under [section 1],* used for the sole purpose of serving customers representing less than 95% of the electric consumers located within the incorporated limits of a city or town of more than 3,500 persons in which a centrally assessed electric power company also owns property or serving an incorporated municipality with a population that is greater than 3,500 persons formerly served by a public utility that after January 1, 1998, received service from the facilities of an electric cooperative is included. For purposes of this subsection (1)(a), “property used for the sole purpose” does not include a headquarters, office, shop, or other similar facility.

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

(c) centrally assessed companies' allocations except:

(i) electrical generation facilities ~~included in class thirteen~~ *classified under 15-6-156 and wind generation facilities classified under [section 1];*

(ii) property owned by cooperative rural electric and cooperative rural telephone associations and ~~classified in class five under 15-6-135;~~

(iii) property owned by organizations providing telephone communications to rural areas and ~~classified in class five under 15-6-135;~~

(iv) railroad transportation property included in ~~class twelve~~ *15-6-145;*

(v) airline transportation property included in ~~class twelve~~ *15-6-145;* and

(vi) telecommunications property included in ~~class thirteen~~ *15-6-156.*

(2) Class nine property is taxed at 12% of market value.”

**Section 6.** Section 15-6-156, MCA, is amended to read:

**“15-6-156. Class thirteen property — description — taxable percentage.** (1) Except as provided in subsections (2)(a) through (2)(g), class thirteen property includes:

(a) electrical generation facilities, *except wind generation facilities classified under [section 1],* of a centrally assessed electric power company;

(b) electrical generation facilities, *except wind generation facilities classified under [section 1],* owned or operated by an exempt wholesale generator or an entity certified as an exempt wholesale generator pursuant to section 32 of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79z-5a;

(c) noncentrally assessed electrical generation facilities, *except wind generation facilities classified under [section 1],* owned or operated by any electrical energy producer; and

(d) allocations of centrally assessed telecommunications services companies.

(2) Class thirteen property does not include:

(a) property owned by cooperative rural electric cooperative associations classified under 15-6-135;

(b) property owned by cooperative rural electric cooperative associations classified under 15-6-137 or *[section 1]*;

(c) allocations of electric power company property under 15-6-141;

(d) electrical generation facilities included in another class of property;

(e) property owned by cooperative rural telephone associations and classified ~~in class five~~ under 15-6-135;

(f) property owned by organizations providing telecommunications services and classified ~~in class five~~ under 15-6-135; and

(g) generation facilities that are exempt under 15-6-225.

(3) (a) For the purposes of this section, "electrical generation facilities" means any combination of a physically connected generator or generators, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electric power. The term includes but is not limited to generating facilities that produce electricity from coal-fired steam turbines, oil or gas turbines, or turbine generators that are driven by falling water.

(b) The term does not include electrical generation facilities used for noncommercial purposes or exclusively for agricultural purposes.

(c) The term also does not include a qualifying small power production facility, as that term is defined in 16 U.S.C. 796(17), that is owned and operated by a person not primarily engaged in the generation or sale of electricity other than electric power from a small power production facility and classified under 15-6-134 and 15-6-138.

(4) Class thirteen property is taxed at 6% of its market value."

**Section 7.** Section 15-6-201, MCA, is amended to read:

**"15-6-201. Exempt categories.** (1) The following categories of property are exempt from taxation:

(a) except as provided in 15-24-1203, the property of:

(i) the United States, except:

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

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

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

(iii) irrigation districts organized under the laws of Montana and not operating for profit;

(iv) municipal corporations;

(v) public libraries; and

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

(b) buildings, with land that they occupy and furnishings in the buildings, that are owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of the buildings;

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

(d) property that is:

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

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

(iii) not maintained and operated for private or corporate profit;

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

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

(g) public museums, art galleries, zoos, and observatories that ~~are~~ are not used or held for private or corporate profit;

(h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

(i) truck canopy covers or toppers and campers;

(j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;

(k) motor homes;

(l) all watercraft;

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

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

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

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

(p) all farm buildings with a market value of less than \$500 and all agricultural implements and machinery with a market value of less than \$100;

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

(r) (i) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily hand-held and that are used to:

(A) construct, repair, and maintain improvements to real property; or

(B) repair and maintain machinery, equipment, appliances, or other personal property;

(ii) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture, launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and that are directly used for space vehicle design, manufacture, launch, repair, and maintenance;

(s) harness, saddlery, and other tack equipment;

(t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105;

(u) timber as defined in 15-44-102;

(v) all trailers as defined in 61-1-111, semitrailers as defined in 61-1-112, pole trailers as defined in 61-1-114, and travel trailers as defined in 61-1-131;

(w) all vehicles registered under 61-3-456;

(x) (i) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors, including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and

(ii) personal property that is attached to a bus, truck, or truck tractor that is exempt under subsection (1)(x)(i);

(y) motorcycles and quadricycles;

(z) the following percentage of the market value of residential property described in 15-6-134(1)(e) and (1)(f):

~~(i) 31% for tax year 2003;~~

~~(ii) 31.4% for tax year 2004;~~

~~(iii)(i) 32% for tax year 2005;~~

~~(iv)(ii) 32.6% for tax year 2006;~~

~~(v)(iii) 33.2% for tax year 2007;~~

~~(vi)(iv) 34% for tax year 2008 and succeeding tax years;~~

(aa) the following percentage of the market value of commercial property as described in 15-6-134(1)(g):

- ~~(i) 13% for tax year 2003;~~
- ~~(ii) 13.3% for tax year 2004;~~
- ~~(iii)(i) 13.8% for tax year 2005;~~
- ~~(iv)(ii) 14.2% for tax year 2006;~~
- ~~(v)(iii) 14.6% for tax year 2007;~~
- ~~(vi)(iv) 15% for tax year 2008 and succeeding tax years;~~

(bb) personal property used by an industrial dairy or an industrial milk processor and dairy livestock used by an industrial dairy;

(cc) items of personal property intended for rent or lease in the ordinary course of business if each item of personal property satisfies all of the following:

(i) the acquired cost of the personal property is less than \$15,000;

(ii) the personal property is owned by a business whose primary business income is from rental or lease of personal property to individuals and no one customer of the business accounts for more than 10% of the total rentals or leases during a calendar year; and

(iii) the lease of the personal property is generally on an hourly, daily, or weekly basis;

(dd) all manufacturing machinery, fixtures, equipment, and tools used for the production of ethanol from grain during the course of the construction of an ethanol manufacturing facility and for 10 years after completion of construction of the manufacturing facility;

(ee) light vehicles as defined in 61-1-139; and

(ff) the following property, except property included in 15-6-135, 15-6-137, 15-6-141, 15-6-145, and 15-6-156, and [section 1], if the tax rate in 15-6-138 reaches zero:

(i) all agricultural implements and equipment;

(ii) all mining machinery, fixtures, equipment, tools, and supplies;

(iii) all oil and gas production machinery, fixtures, equipment, including pumping units, oil field storage tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water flood units, gas boosters, and similar equipment that is skidable, portable, or movable, tools, and supplies;

(iv) all manufacturing machinery, fixtures, equipment, tools, and supplies;

(v) all goods and equipment that are intended for rent or lease;

(vi) special mobile equipment as defined in 61-1-104;

(vii) furniture, fixtures, and equipment;

(viii) x-ray and medical and dental equipment;

(ix) citizens' band radios and mobile telephones;

(x) radio and television broadcasting and transmitting equipment;

(xi) cable television systems;

(xii) coal and ore haulers; and

(xiii) theater projectors and sound equipment.

(2) (a) For the purposes of subsection (1)(e):

(i) the term “institutions of purely public charity” includes any organization that meets the following requirements:

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

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

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

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

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

(ii) held for future display; or

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

(3) For the purposes of subsection (1)(bb):

(a) “industrial dairy” means a large-scale dairy operation with 1,000 or more milking cows and includes the dairy livestock and integral machinery and equipment that the dairy uses to produce milk and milk products solely for export from the state, either directly by the dairy or after the milk or milk product has been further processed by an industrial milk processor. After export, any unprocessed milk must be further processed into other dairy products.

(b) “industrial milk processor” means a facility and integral machinery used solely to process milk into milk products for export from the state.

(4) The following portions of the appraised value of a capital investment in a recognized nonfossil form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

(a) \$20,000 in the case of a single-family residential dwelling;

(b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure.”

**Section 8.** Section 15-24-3005, MCA, is amended to read:

**“15-24-3005. Electrical generation facility impact fee for local governmental units and school districts — *wind generation facility impact fee.*** (1) (a) If an owner or operator of an electrical generation facility, as defined in 15-24-3001, is exempt from property taxation pursuant to 15-24-3001, the owner or operator of the facility is subject to an initial local government and local school impact fee. In the first 2 years of construction, the impact fee may not exceed 0.75% of the total cost of constructing the electrical generation facility.

(b) In the case of a generation facility powered by oil or gas turbines, the impact fee may not exceed 0.1% of the total construction cost in the remaining 3 years of the tax exemption period as provided in 15-24-3001.

(c) In the case of any other generation facility, the impact fee may not exceed 0.1% of the total construction cost in the subsequent 4 years and may not exceed 0.08% of the total construction cost in the remaining 4 years of the tax exemption period as provided in 15-24-3001.

(2) Except as provided in subsection (4), the jurisdictional area of a local governmental unit in which an electrical generation facility *or wind generation facility* is located is the local governmental unit that is authorized to assess the impact fee pursuant to *[section 2(1)] or subsection (1) of this section.*

(3) The impact fee must be distributed to the local governmental unit for local impacts and the impacted school districts.

(4) Subject to the conditions of 15-24-3006 and subsection (5) of this section, if the *electrical generation facility or wind generation facility* is located within the jurisdictional areas of multiple local governmental units of the county or contiguous counties, the local governmental units may enter into an interlocal agreement under Title 7, chapter 11, part 1, to determine how the fee should be distributed among the various local governmental units and impacted school districts pursuant to the percentage allocation required in subsection (3). The county in which the electrical generation facility *or wind generation facility* is located is authorized to assess the fee under the interlocal agreement.

(5) For purposes of *[section 2]* and this section, a “local governmental unit” means a county, city, or town. If an exempt electrical generation facility *or wind generation facility* is located within a tax increment financing district, the tax increment financing district is considered a local governmental unit and is entitled to the distribution of impact fees under this section. A tax increment financing district may not receive a distribution of impact fees if an exempt electrical generation facility *or wind generation facility* is not located within the district.

(6) Impact fees imposed under *[section 2(2)(b)] or under subsection (4) of this section* must be deposited in the county electrical energy generation impact fee reserve account established in 15-24-3006 for the county in which the electrical generation facility is located. Money in the account may not be expended until the multiple local governmental units have entered into an interlocal agreement.”

**Section 9.** Section 15-24-3006, MCA, is amended to read:

**“15-24-3006. Electrical energy generation impact fee reserve account.** (1) The governing body of a county receiving impact fees under 15-24-3005(4) or [section 2(2)(b)] shall establish an electrical energy generation impact fee reserve account to be used to hold the collections. Money held in the account may not be considered as cash balance for the purpose of reducing mill levies.

(2) Money may be expended from the account for any purpose of an interlocal agreement provided for in 15-24-3005 or [section 2]. The county treasurer shall distribute money in the account to each local governmental unit according to the terms of the interlocal agreement.

(3) Money in the account must be invested as provided by law. Interest and income from the investment of the electrical energy generation impact fee reserve account must be credited to the account.”

**Section 10.** Section 15-24-3007, MCA, is amended to read:

**“15-24-3007. Electrical generation impact fund.** (1) A local governmental unit, as defined in 15-24-3005, and a school district that receives impact fees pursuant to 15-24-3005(2), ~~or~~ 15-24-3006, or [section 2(2)(a)] shall establish an electrical generation impact fund for the deposit of the fees. A local governmental unit or school district may retain the money in the fund for any time period considered appropriate by the governing body of the local governmental unit or school district. Money retained in the fund may not be considered as fund balance for the purpose of reducing mill levies.

(2) Money may be expended from the fund for any purpose allowed by law.

(3) Money in the fund must be invested as provided by law. Interest and income earned on the investment of money in the fund must be credited to the fund.

(4) The fund must be financially administered as a nonbudgeted fund by a city, town, or county under the provisions of Title 7, chapter 6, part 40, or by a school district under the provisions of Title 20, chapter 9, part 5.”

**Section 11. Codification instruction.** (1) [Section 1] is intended to be codified as an integral part of Title 15, chapter 6, part 1, and the provisions of Title 15, chapter 6, part 1, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 24, part 30, and the provisions of Title 15, chapter 24, part 30, apply to [section 2].

(3) [Section 3] is intended to be codified as an integral part of Title 15, chapter 24, part 14, and the provisions of Title 15, chapter 24, part 14, apply to [section 3].

**Section 12. Coordination instruction.** If Senate Bill No. 19 is not passed and approved, [section 3 of this act] is void.

**Section 13. Coordination instruction.** If Senate Bill No. 48 is not passed and approved or if Senate Bill No. 48 is passed and approved but it does not contain a section that amends 15-6-138 to eliminate the provision for a phased-in reduction of the tax rate on class eight property to zero contingent on a certain increase in state wages and salaries and if Senate Bill No. 68 and [this act] are passed and approved, then [section 6] of Senate Bill No. 68 must read as follows:

**“NEW SECTION. Section 6. Personal and other property exemptions.** The following categories of property are exempt from taxation:

- (1) harness, saddlery, and other tack equipment;
- (2) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily hand-held and that are used to:
  - (a) construct, repair, and maintain improvements to real property; or
  - (b) repair and maintain machinery, equipment, appliances, or other personal property;
- (3) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;
- (4) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;
- (5) items of personal property intended for rent or lease in the ordinary course of business if each item of personal property satisfies all of the following:
  - (a) the acquired cost of the personal property is less than \$15,000;
  - (b) the personal property is owned by a business whose primary business income is from rental or lease of personal property to individuals and no one customer of the business accounts for more than 10% of the total rentals or leases during a calendar year; and
  - (c) the lease of the personal property is generally on an hourly, daily, or weekly basis;
- (6) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture, launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and that are directly used for space vehicle design, manufacture, launch, repair, and maintenance;
- (7) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105; and
- (8) the following property, except property included in 15-6-135, 15-6-137, 15-6-141, 15-6-145, 15-6-156, and [section 1 of Senate Bill No. 115] if the tax rate in 15-6-138 reaches zero:
  - (a) all agricultural implements and equipment;
  - (b) all mining machinery, fixtures, equipment, tools, and supplies;
  - (c) all oil and gas production machinery, fixtures, equipment, including pumping units, oil field storage tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water flood units, gas boosters, and similar equipment that is skidable, portable, or movable, tools, and supplies;
  - (d) all manufacturing machinery, fixtures, equipment, tools, and supplies;
  - (e) all goods and equipment that are intended for rent or lease;
  - (f) special mobile equipment as defined in 61-1-104;
  - (g) furniture, fixtures, and equipment;

- (h) x-ray and medical and dental equipment;
- (i) citizens' band radios and mobile telephones;
- (j) radio and television broadcasting and transmitting equipment;
- (k) cable television systems;
- (l) coal and ore haulers; and
- (m) theater projectors and sound equipment.”

**Section 14. Effective date.** [This act] is effective on passage and approval.

**Section 15. Retroactive applicability.** (1) Except as provided in subsection (2), [this act] applies retroactively, within the meaning of 1-2-109, to property tax years beginning after December 31, 2004.

(2) [Sections 2, 3, and 8 through 10] apply retroactively, within the meaning of 1-2-109, to wind generation facilities constructed after December 31, 2004.

Approved May 2, 2005

## CHAPTER NO. 564

[SB 139]

AN ACT ELIMINATING THE REQUIREMENT TO REGISTER A MONTANA DISTRICT COURT ORDER WITH THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES PRIOR TO COMMENCING THE ADMINISTRATIVE MODIFICATION PROCESS; CLARIFYING THE CRITERIA FOR REVIEW IN THE ABSENCE OF A SUBSTANTIAL CHANGE OF CIRCUMSTANCES; CLARIFYING THE REMEDY IF A PARTY REFUSES TO PRODUCE THE REQUESTED FINANCIAL INFORMATION; ELIMINATING A MANDATORY MEDIATION SESSION AND CERTAIN SERVICE OF PROCESS REQUIREMENTS; AMENDING SECTIONS 40-4-204, 40-5-226, 40-5-234, 40-5-248, 40-5-271, 40-5-272, 40-5-273, 40-5-277, AND 40-6-116, MCA; REPEALING SECTION 40-5-276, MCA; AND PROVIDING AN EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 40-4-204, MCA, is amended to read:

**“40-4-204. Child support — orders to address health insurance — withholding of child support.** (1) In a proceeding for dissolution of marriage, legal separation, maintenance, or child support, the court shall order either or both parents owing a duty of support to a child to pay an amount reasonable or necessary for the child's support, without regard to marital misconduct.

(2) The court shall consider all relevant factors, including:

- (a) the financial resources of the child;
- (b) the financial resources of the parents;
- (c) the standard of living that the child would have enjoyed had the marriage not been dissolved;
- (d) the physical and emotional condition of the child and the child's educational and medical needs;
- (e) the age of the child;
- (f) the cost of day care for the child;

(g) any parenting plan that is ordered or decided upon; and

(h) the needs of any person, other than the child, whom either parent is legally obligated to support.

(3) (a) Whenever a court issues or modifies an order concerning child support, the court shall determine the child support obligation by applying the standards in this section and the uniform child support guidelines adopted by the department of public health and human services pursuant to 40-5-209. The guidelines must be used in all cases, including cases in which the order is entered upon the default of a party and those in which the parties have entered into an agreement regarding the support amount. A verified representation of the defaulting parent's income, based on the best information available, may be used when a parent fails to provide financial information for use in applying the guidelines. The amount determined under the guidelines is presumed to be an adequate and reasonable support award, unless the court finds by clear and convincing evidence that the application of the standards and guidelines is unjust to the child or to any of the parties or that it is inappropriate in that particular case.

(b) If the court finds that the guideline amount is unjust or inappropriate in a particular case, it shall state its reasons for that finding. Similar reasons must also be stated in a case in which the parties have agreed to a support amount that varies from the guideline amount. Findings that rebut and vary the guideline amount must include a statement of the amount of support that would have ordinarily been ordered under the guidelines.

(c) If the court does not order a parent owing a duty of support to a child to pay any amount for the child's support, the court shall state its reasons for not ordering child support.

(d) Child support obligations established under this section are subject to the registration and processing provisions of *Title 40*, chapter 5, part 9.

(4) Each temporary or final district court judgment, decree, or order establishing a child support obligation under this title and each modification of a final order for child support must include a medical support order as provided for in *Title 40*, chapter 5, part 8.

(5) (a) Unless the court makes a written exception under 40-5-315 or 40-5-411 and the exception is included in the support order, a support obligation established by judgment, decree, or order under this section, whether temporary or final, and each modification of an existing support obligation under 40-4-208 must be enforced by immediate or delinquency income withholding, or both, under *Title 40*, chapter 5, part 3 or 4. A support order that omits the written exceptions provided in 40-5-315 or 40-5-411 or that provides for a payment arrangement inconsistent with this section is nevertheless subject to withholding for the payment of support without need for an amendment to the support order or for any further action by the court.

(b) If an obligor is exempt from immediate income withholding, the district court judgment or order must include a warning statement that if the obligor is delinquent in the payment of support, the obligor's income may be subject to income withholding procedures under *Title 40*, chapter 5, part 3 or 4. Failure to include a warning statement in a judgment or order does not preclude the use of withholding procedures.

(c) If a support order subject to income withholding is expressed in terms of a monthly obligation, the order may be annualized and withheld on a weekly or

biweekly basis, corresponding to the obligor's regular pay period. When an order is annualized and withheld on a weekly or biweekly basis under this section, the support withheld from the obligor may be retained by the obligee when it exceeds the obligor's monthly support obligation if the excess support is a result of annualized withholding.

(d) If an obligor is exempted from paying support through income withholding, the support order must include a requirement that whenever the case is receiving services under Title IV-D of the Social Security Act, support payments must be paid through the department of public health and human services as provided in 40-5-909.

(6) (a) Each district court judgment, decree, or order that establishes paternity or establishes or modifies a child support obligation must include a provision requiring the parties to promptly file with the court and to update, as necessary, information on:

(i) the party's identity, residential and mailing addresses, telephone number, [social security number,] and driver's license number;

(ii) the name, address, and telephone number of the party's employer; and

(iii) if the child is covered by a health or medical insurance plan, the name of the insurance carrier or health benefit plan, the policy identification number, the names of the persons covered, and any other pertinent information regarding coverage or, if the child is not covered, information as to the availability of coverage for the child through the party's employer.

(b) The court shall keep the information provided under subsection (6)(a) confidential except that the information may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.

(c) The order must also require that in any subsequent child support enforcement action, upon sufficient showing that diligent effort has been made to ascertain the location of the party, the district court or the department of public health and human services, if the department is providing services under Title IV-D of the Social Security Act, may consider due process requirements for notice and service of process met with respect to the party upon delivery of written notice by regular mail to the most recent address of the party or the party's employer's address reported to the court.

(7) A judgment, decree, or order establishing a child support obligation under this part may be modified or adjusted as provided in 40-4-208 or, if the department of public health and human services is providing services under Title IV-D of the Social Security Act, may be modified or adjusted by the department as provided for in 40-5-271 through 40-5-273, ~~and 40-5-276 through 40-5-277, and 40-5-278.~~

(8) (a) A district court judgment, decree, or order that establishes or modifies a child support obligation must include a provision requiring the child support obligation to be paid, without need for further court order:

(i) to the person with whom the child resides by legal order;

(ii) if the person with whom the child legally resides voluntarily or involuntarily relinquishes physical care and control of the child to another person, organization, or agency, to the person, organization, or agency to whom physical custody has been relinquished;

(iii) if any other person, organization, or agency is entitled by law, assignment, or similar reason to receive or collect the child support obligation, to the person, organization, or agency having the right to receive or collect the payment; or

(iv) to the court for the benefit of the minor child.

(b) When the department of public health and human services is providing services under Title IV-D of the Social Security Act, payment of support must be made through the department for distribution to the person, organization, or agency entitled to the payment.

(c) A judgment, decree, or order that omits the provision required by subsection (8)(a) is subject to the requirements of subsection (8)(a) without need for an amendment to the judgment, decree, or order or for any further action by the court.

(9) A judgment, decree, or order that establishes or modifies a child support obligation must include a provision that if a parent or guardian is the obligee under a child support order and is obligated to pay a contribution for the same child under 41-3-438, 41-5-1304, or 41-5-1512, the parent or guardian assigns and transfers to the department of public health and human services all rights that the parent or guardian may have to child support that are not otherwise assigned under 53-2-613. (Bracketed language terminates on occurrence of contingency—sec. 1, Ch. 27, L. 1999.)”

**Section 2.** Section 40-5-226, MCA, is amended to read:

**“40-5-226. Administrative hearing — nature — place — time — determinations — failure to appear — entry of final decision and order.**

(1) The administrative hearing is defined as a “contested case”.

(2) If a hearing is requested, it must initially be conducted by teleconference methods and is subject to the Montana Administrative Procedure Act. At the request of a party or upon a showing that the party’s case was substantially prejudiced by the lack of an in-person hearing, the hearings officer shall grant a de novo in-person hearing.

(3) The hearings officer shall determine the liability and responsibility, if any, of the parent or parents under the notice and shall enter a final decision and order in accordance with the determination. The order may award support from the date of:

(a) the child’s birth if paternity was established under 40-5-231 through 40-5-238 or under Title 40, chapter 6, part 1, subject to the limitation in 40-6-108(3)(b);

(b) the parties’ separation if support is initially established under 40-5-225; or

(c) notice to the parties of a support modification request under 40-5-273.

(4) (a) Except as provided in subsection (4)(b), if the parent or parents fail to appear at the hearing or to timely file a request for a hearing, the hearings officer, upon a showing of valid service, shall enter a default decision and order declaring the amount stated in the notice to be final.

(b) In a multiple party proceeding under 40-5-225, if one party files a timely request for hearing, the matter must be set for hearing. Notice of the hearing must be served on the parties. If a party refuses to appear for the hearing or participate in the proceedings, the hearings officer shall determine child

support and medical support orders based on the notice, information available to the department, and evidence provided at the hearing by the appearing parties. A party's refusal to appear is a consent to entry of child and medical support orders consistent with the hearings officer's determination. However, the default order may not be for more than the support requested in the notice unless the hearings officer finds that the evidence requires a larger amount.

(5) In a hearing to determine financial responsibility, whether temporary or final, and in any proceeding to modify support under 40-5-272, 40-5-273, ~~and 40-5-276 through 40-5-277~~, and 40-5-278, the monthly support responsibility must be determined in accordance with the evidence presented and with reference to the uniform child support guidelines adopted by the department under 40-5-209. The hearings officer is not limited to the amounts stated in the notice. The guidelines must be used in all cases, including cases in which the order is entered upon the default of a party and those in which the order is entered upon the parties' consent. A verified representation of a defaulting parent's income, based on the best information available, may be used when a parent fails to provide financial information for use in applying the guidelines. The amount determined under the guidelines is presumed to be an adequate and reasonable support award, unless the hearings officer finds by clear and convincing evidence that the application of the guidelines is unjust to the child or to any of the parties or is inappropriate in a particular case. If the hearings officer finds that the guideline amount is unjust or inappropriate in a particular case, the hearings officer shall state the reasons for finding that the application of the guidelines is unjust to the child or a party or is inappropriate in that particular case. Similar findings must also be made in a case in which the parties have agreed to a support amount that varies from the guideline amount. The hearings officer may vary the application of the guidelines to limit the obligor's liability for past support to the proportion of expenses already incurred that the hearings officer considers just. Findings that rebut and vary the guideline amount must include a statement of the amount of support that would have ordinarily been ordered under the guidelines.

(6) In a hearing to enforce a support order or to establish paternity under this chapter, the department shall send a copy of the notice of hearing to the obligee by regular mail addressed to the obligee's last-known address. The obligee may attend and observe the hearing as a nonparty. This subsection does not limit participation of an obligee who is a party to the proceedings or who is called as a witness to testify.

(7) (a) Within 60 days after the hearing has been concluded, any posthearing briefs are received, and all the evidence submitted, except for good cause, the hearings officer shall enter a final decision and order. The determination of the hearings officer constitutes a final agency decision, subject to judicial review under 40-5-253 and the provisions of the Montana Administrative Procedure Act. A copy of the final decision must be delivered or mailed to each party, each party's attorney, and the obligee if the obligee is not a party.

(b) A child support obligation established under this section is subject to the registration and processing provisions of part 9 of this chapter.

(8) A support order entered under this part must contain a statement that the order is subject to review and modification by the department upon the request of the department or a party under 40-5-272, 40-5-273, ~~and 40-5-276 through 40-5-277~~, and 40-5-278 when the department is providing services under IV-D for the enforcement of the order.

(9) A support debt determined pursuant to this section is subject to collection action without further necessity of action by the hearings officer.

(10) A child support obligation determined under this part by reason of the obligor's failure to request a hearing under this part or failure to appear at a scheduled hearing may be vacated, upon the motion of an obligor, by the hearings officer within the time provided and upon a showing of any of the grounds enumerated in the Montana Rules of Civil Procedure. When issuing a support order, the department shall consider whether any of the exceptions to immediate income withholding found in 40-5-411 apply, and, if an exception is applicable, the department shall include the exception in the support order.

(11) (a) Unless the hearings officer makes a written exception under 40-5-315 or 40-5-411 and the exception is included in the support order, each order establishing a child support obligation, whether temporary or final, and each modification of an existing child support order under this part is enforceable by immediate or delinquency income withholding, or both, under Title 40, chapter 5, part 4. A support order that omits that provision or that provides for a payment arrangement inconsistent with this section is nevertheless subject to withholding for the payment of support without need for an amendment of the support order or for any further action by the hearings officer.

(b) If an obligor is excepted from paying support through income withholding, the support order must include a requirement that whenever a party to the case is receiving IV-D services, support payments must be paid through the department as provided in 40-5-909.

(12) (a) If the department establishes paternity or establishes or modifies a child support obligation, the department's order must include a provision requiring each party other than the department to promptly file with the department and to update, as necessary, information on:

(i) identity of the party;

[(ii) social security number;]

(iii) residential and mailing addresses;

(iv) telephone number;

(v) driver's license number;

(vi) name, address, and telephone number of employer; and

(vii) if the child is covered by a health or medical insurance plan, the name of the insurance carrier or health benefit plan, the policy identification number, the name of the persons covered, and any other pertinent information regarding coverage or, if the child is not covered, information as to the availability of coverage for the child through the obligor's and obligee's employer.

(b) The order must further direct that in a subsequent child support enforcement action, upon sufficient showing that diligent effort has been made to ascertain the location of the party, the department's due process requirements for notice and service of process are met with respect to the party upon delivery of written notice by regular mail to the most recent address of the party or the party's employer's address reported to the department.

(c) The department shall keep the information provided under subsection (12)(a) confidential except as necessary for purposes of Title IV-D of the Social Security Act.

(13) The hearings officer may:

(a) compel obedience to the hearings officer's orders, judgments, and process and to subpoenas and orders issued by the department, including income-withholding orders issued pursuant to 40-5-415;

(b) compel the attendance of witnesses at administrative hearings;

(c) compel obedience of subpoenas for paternity blood tests;

(d) compel the production of accounts, books, documents, and other evidence;

(e) punish for civil contempt. Contempt authority does not prevent the department from proceeding in accordance with the provisions of 2-4-104.

(f) compel the production of information requested by the department or a IV-D agency of another state under 40-5-443.

(14) A contempt occurs whenever:

(a) a person acts in disobedience of any lawful order, judgment, or process of the hearings officer or of the department;

(b) a person compelled by subpoena to appear and testify at an administrative hearing or to appear for genetic paternity tests fails to do so;

(c) a person compelled by subpoena duces tecum to produce evidence at an administrative hearing fails to do so;

(d) an obligor or obligee subject to a discovery order issued by the hearings officer fails to comply with discovery requests;

(e) a person or entity compelled by administrative subpoena from the department or another IV-D agency to produce financial information or other information needed to establish paternity or to establish, modify, or enforce a support order fails to do so;

(f) a payor under an order to withhold issued pursuant to 40-5-415 fails to comply with the provisions of the order. In the case of a payor under an income-withholding order, a separate contempt occurs each time that income is required to be withheld and paid to the department and the payor fails to take the required action.

(g) a payor or labor union fails to provide information to the department or another IV-D agency when requested under 40-5-443[; or]

[(h) a financial institution uses information provided by the department pursuant to 40-5-924 for any other purpose without the authorization of the department].

(15) Before initiating a contempt proceeding, the department shall give the alleged contemnor notice by personal service or certified mail of the alleged infraction and a reasonable opportunity to comply with the law and to cure the alleged infraction. In order to initiate a contempt proceeding, an affidavit of the facts constituting a contempt must be submitted to the hearings officer, who shall review it to determine whether there is cause to believe that a contempt has been committed. If cause is found, the hearings officer shall issue a citation requiring the alleged contemnor to appear and show cause why the alleged contemnor should not be determined to be in contempt and required to pay a penalty of not more than \$500 for each count of contempt. The citation, along with a copy of the affidavit, must be served upon the alleged contemnor either by personal service or by certified mail. All other interested persons may be served a copy of the citation by first-class mail.

(16) At the time and date set for hearing, the hearings officer shall proceed to hear witnesses and take evidence regarding the alleged contempt and any defenses to the contempt. If the alleged contemnor fails to appear for the hearing, the hearing may proceed in the alleged contemnor's absence. If the hearings officer finds the alleged contemnor in contempt, the hearings officer may impose a penalty of not more than \$500 for each count found. The hearings officer's decision constitutes a final agency decision, subject to judicial review under 40-5-253 and subject to the provisions of Title 2, chapter 4.

(17) An amount imposed as a penalty may be collected by any remedy available to the department for the enforcement of child support obligations, including warrant for distraint pursuant to 40-5-247, income withholding pursuant to Title 40, chapter 5, part 4, and state debt offset, pursuant to Title 17, chapter 4, part 1. The department may retain any penalties collected under this section to offset the costs of administrative hearings conducted under this chapter.

(18) The penalties charged and collected under this section must be paid into the state treasury to the credit of the child support enforcement division special revenue fund and must be accompanied by a detailed statement of the amounts collected. (Bracketed language terminates on occurrence of contingency—sec. 1, Ch. 27, L. 1999.)”

**Section 3.** Section 40-5-234, MCA, is amended to read:

**“40-5-234. Paternity blood tests — use of expert’s affidavit — effect of test results — records — presumption.** (1) The department shall appoint an expert who is qualified in examining genetic markers to conduct any paternity blood test required by 40-5-233.

(2) An affidavit documenting the chain of custody of any blood specimen is admissible to establish the chain of custody.

(3) If the scientific evidence resulting from a paternity blood test:

(a) conclusively shows that the alleged father could not have been the natural father, the question of paternity must be resolved accordingly. A finding under this subsection is sufficient to overcome a presumption created by 40-6-105.

(b) shows a 95% or higher statistical probability of paternity, the alleged father is presumed to be the natural father of the child. This presumption may be rebutted in an appropriate action in district court by a preponderance of the evidence.

(c) does not exclude the alleged father and shows less than a 95% statistical probability of paternity, the test results may be weighed in conjunction with other evidence to establish paternity.

(4) The department may enter an order of nonpaternity based on a blood test exclusion and may order the department of public health and human services to prepare an amended or substitute birth certificate.

(5) The department may enter in the support order registry established in ~~40-5-271~~ 40-5-906 a written finding of any paternity presumption created by paternity blood test results.

(6) A presumption of paternity established under this section is a sufficient basis for establishing a support order.”

**Section 4.** Section 40-5-248, MCA, is amended to read:

**“40-5-248. Lien against real and personal property — effect of lien — interest — warrant for distraint.** (1) There is a support lien on the real and personal property of an obligor:

(a) when the department has entered a final decision in a contested case under this chapter that finds the obligor owes a sum certain debt either to the department or to an obligee, or both; or

(b) upon registration under ~~40-5-271~~ 40-5-906 of a support order that includes finding that the obligor owes a sum certain amount of delinquent support.

(2) A support lien is for the amount required to satisfy:

(a) the sum certain debt shown in a final decision in a contested case under this chapter or the sum certain support debt included in any support order registered under ~~40-5-271~~ 40-5-906;

(b) interest claimed under this section; and

(c) any fees that may be due under 40-5-210.

(3) A support lien has the priority of a secured creditor from the date the lien is perfected as provided by this section; however, the lien is subordinate to:

(a) any prior perfected lien or security interest;

(b) a mortgage, the proceeds of which are used by an obligor to purchase real property; or

(c) any perfected purchase money security interest, as described in 30-9A-301.

(4) Support liens remain in effect until the delinquency upon which the lien is based is satisfied or until the applicable statute of limitations expires, whichever occurs first.

(5) The lien applies to all real and personal property owned by the obligor if it can be located in the state. The lien applies to all real and personal property that the obligor can afterward acquire. Except as provided in subsections (5)(a) and (5)(b), the department may not impose a lien under this section upon a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1, or upon the assets of a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1.

(a) The department may impose a lien under this section upon a self-sufficiency trust or upon the assets of a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1, if the department is required by federal law to recover or collect from the trust or its assets as a condition of receiving federal financial participation for the child support enforcement program or for temporary assistance for needy families, as defined in 53-4-201.

(b) To the extent otherwise permitted by this section, the department is not precluded from asserting a claim or imposing a lien upon real or personal property prior to transfer of the property to the trust. If the department imposes a lien upon property prior to transfer to a self-sufficiency trust, any transfer of the property to the trust is subject to the lien.

(6) The department shall keep a record of support liens asserted under this section in the registry of support orders established by ~~40-5-271~~ 40-5-906.

(7) A support lien is perfected:

(a) as to real property, upon filing a notice of support lien with the clerk of the district court in the county or counties in which the real property is or may be located at the time of filing or at any time in the future;

(b) as to motor vehicles or other items for which a certificate of title is issued by the department of justice, upon filing a notice of support lien with the department of justice in accordance with the provisions of Titles 23 and 61;

(c) as to all other personal property, upon filing a notice of support lien in the place required to perfect a security interest under 30-9A-301. The county clerk and recorder or the secretary of state, as appropriate, shall cause the notice of support lien to be marked, held, and indexed as if the notice of support lien were a financing statement within the meaning of the Uniform Commercial Code.

(8) A buyer, in the ordinary course of business, who buys an obligor's personal property for value and who buys in good faith and without knowledge of the support lien takes the property free of the support lien.

(9) (a) The department may charge interest on the support lien at the rate of 1% per month.

(b) Interest accrues at the close of the business day on the last day of each month and is calculated by multiplying the unpaid balance of the lien, including prior accrued interest existing at the end of the day, by the applicable rate of interest.

(c) A provision of this section may not be construed to require the department to maintain interest balance due accounts. The department may waive interest if waiver would facilitate the collection of the debt.

(d) Interest under this subsection (9) is in addition to and not in substitution for any other interest accrued or accruing under any other provision of law.

(10) (a) Upon receiving payment in full of the amount of the lien plus interest and fees, if any, the department shall take all necessary steps to release the support lien.

(b) Upon receiving partial payment of the support lien or if the department determines that a release or partial release of the lien will facilitate the collection of support arrearages, the department may release or partially release the support lien. The department may release the support lien if it determines that the lien is unenforceable.

(11) A support lien under this section is in addition to any other lien created by law.

(12) A support lien under this section may not be discharged in bankruptcy.

(13) Support liens provided for by this section may be enforced or collected through the warrant for distraint provided for by 40-5-247."

**Section 5.** Section 40-5-271, MCA, is amended to read:

**"40-5-271. Registration of support orders.** (1) The department may, for the purpose of review and modification proceedings under 40-5-272 and 40-5-273, register support orders issued by ~~a district court of this state or by~~ a court or administrative agency of another state. Registration of the order under this section does not confer jurisdiction for any purpose other than for the review and modification process.

(2) When the department conducts review and modification proceedings, the department shall give the parties notice by personal service or certified mail and opportunity to contest registration of the order. *The notice may be included in*

*the notice issued under 40-5-273.* A party seeking to vacate the registered order has the burden of proving that the court or agency issuing the order:

- (a) did not have jurisdiction to enter the order;
- (b) did not have personal jurisdiction over the party; or
- (c) did not give the party reasonable notice and opportunity to be heard before the order was entered.

(3) (a) As an alternative to any other registration process or remedy available for the enforcement of a support order issued by a court or agency in another state, the department may register the support order under this subsection (3).

(b) Registration under this subsection (3) is only for the purpose of enforcement and does not confer jurisdiction for any other purpose such as visitation, custody, or paternity disputes.

(c) If an order is registered for enforcement under this subsection (3), the department shall notify the parties to the order of the registration. A copy of the registered order must be included with the notice. The notice must inform the parties:

- (i) of the amount of any alleged arrearage as of the date of the notice;
- (ii) that a party may request a hearing to vacate the registration or to assert defense to any alleged arrearage for any reason set out in subsection (3)(e);
- (iii) that a hearing to contest the validity or enforcement of the order must be requested within 20 days after service of the notice; and
- (iv) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearage and will preclude further contest of the order with respect to any matter that could have been asserted at the hearing.

(d) A party seeking to contest the validity or enforcement of a registered order shall request a hearing within 20 days after service of the notice of registration. If a party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law. If a party timely requests a hearing to contest the validity or enforcement of the order, the department shall schedule the matter for hearing.

(e) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

- (i) the court or agency issuing the order did not have subject matter jurisdiction to enter the order or lacked personal jurisdiction over the contesting party;
- (ii) the court or agency issuing the order did not give the party reasonable notice and opportunity to be heard before the order was entered;
- (iii) the order was obtained by fraud;
- (iv) the issuing court or agency has stayed enforcement of the order pending appeal;
- (v) the order has been vacated, suspended, or modified by a later order;
- (vi) there is a defense under the law of this state to the remedy sought; or
- (vii) the statute of limitations precludes enforcement of some or all of the arrearages.

(f) If the contesting party does not establish a defense under subsection (3)(e) to the validity or enforcement of the order, the department shall issue an order confirming the order. Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of the registration. A confirmed order is enforceable as of the date of confirmation in the same manner as an order issued by the department or a district court of this state.

(g) In a proceeding for arrears, the statute of limitations under the laws of this state or of the issuing state, whichever is longer, applies.

(h) Hearings under this subsection (3) are subject to the provisions of the Montana Administrative Procedure Act and must initially be conducted by teleconferencing methods. At the request of a party, the hearings officer shall, at the close of a teleconference hearing, grant a de novo in-person hearing.”

**Section 6.** Section 40-5-272, MCA, is amended to read:

**“40-5-272. Application for review of child support orders.** (1) Upon the application of the department, the obligor, or the obligee, a support order ~~filed with the support order registry~~ *issued by a district court of this state or by a court or administrative agency of another state* or a previously issued administrative support order *of this state* may be reviewed by the department to determine whether the support order should be modified in accordance with the guidelines.

(2) Jurisdiction to conduct the review and to issue a modifying order under 40-5-273, ~~and 40-5-276 through 40-5-277, and~~ 40-5-278 is authorized when:

- (a) the obligor and the obligee reside in this state; or
- (b) jurisdiction can be obtained as provided under 40-5-231.

(3) Jurisdiction to review a child support order under this section does not confer jurisdiction for any other purpose, such as custody or visitation disputes.

(4) Criteria constituting sufficient grounds for review of a child support order include:

(a) a substantial change in circumstances as defined by administrative rules;

(b) *the need to provide for the child's health care needs, regardless of the availability of health insurance coverage to the obligor's child through the obligor's employment or other group insurance; or*

(c) a lapse of 36 months from the date that:

(i) the order was entered ~~or last reviewed;~~

(ii) *an administrative hearing was granted under 40-5-277; or*

(iii) *an administrative order was issued denying a modification because of the applicant's failure to meet one of the criteria described in this subsection (4); or*

(d) *a change in custody of the child.*

(5) *A party may withdraw the party's request for modification prior to the issuance of the notice described in 40-5-273. After the issuance of the notice, if a party withdraws a request for modification, the nonrequesting party may continue the modification action by filing with the department a written request to continue.*

~~(5)~~(6) The department shall make available procedures and forms that allow the obligor or the obligee to complete the review process without legal counsel.

~~(6)~~(7) To the extent that they are consistent with this section, the provisions of 40-5-145, 40-5-149, and 40-5-150 apply to this section.”

**Section 7.** Section 40-5-273, MCA, is amended to read:

**“40-5-273. Administrative Notice of review of child support orders — order for production of information.** (1) Upon receipt of a review application setting forth facts meeting any of the criteria for review of a child support order established in 40-5-272, a notice ~~that an~~ of administrative review ~~will be conducted~~ and an order for the production of financial information, *if appropriate*, must be served either personally or by certified mail on the obligor, the obligee, and any other party entitled to notice. If service is by certified mail, the department must receive a return receipt signed by the person to whom the notice was mailed for the service to be effective. Service of the notice is considered to be effective if, in the absence of a return receipt, the person to whom the notice was mailed requests a hearing or appears at the administrative review *hearing*. The notice must include ~~the following information as an exception to 2-4-601 a statement:~~

(a) ~~a statement~~ of the purpose, objectives, and possible consequences of the review, including that a modified support order may require the obligee to pay a monthly transfer payment to another party;

(b) ~~a statement~~ of the right of the obligor and the obligee to request the department to issue subpoenas compelling the appearance of witnesses and the production of documents for a hearing; ~~and~~

(c) ~~a requirement that the obligor and the obligee provide the department with telephone numbers at which they and their witnesses may be contacted for the review of the dollar amount of the support obligation to be paid each month for the child;~~

(d) *of any change in the child’s medical support needs, including changes to the original order to bring it into compliance with part 8 of this chapter;*

(e) *of the effective date of the change in the child support or medical support obligation;*

(f) *of the right of any party to request a hearing to contest the amount of child support alleged in the notice or to contest the imposition or modification of a medical support order;*

(g) *that if a party does not timely file a request for a hearing, support, including medical support, will be ordered as declared in the notice or in accordance with the child support guidelines adopted under 40-5-209;*

(h) *that if a party requests a hearing, the other parties may refuse to participate in the proceedings and that the child support and medical support order will be determined using the information available to the department or provided at the hearing;*

(i) *that a party’s refusal to participate is a consent to entry of a child support and medical support order consistent with the department’s determination; and*

(j) *that the parties are entitled to a fair hearing under 40-5-277.*

(2) An order for the production of financial information may be incorporated into the review notice and must ~~state~~ include a statement that:

(a) the financial information must be returned no later than the 20th day after the date the order is served;

(b) if the requested information is not returned as required, the department may:

(i) proceed with the review using the information available to the department;

(ii) cease all proceedings for the review; ~~or~~

(iii) initiate contempt proceedings in accordance with 40-5-226; ~~and or~~

(iv) *apply to the district court for an order to compel compliance with the order for production of financial information in accordance with 2-4-104; and*

(c) any information required by the order must be provided to the department and other parties prior to the review ~~session~~ *hearing*.

(3) If, in the absence of a certified mail return receipt showing the date of service, a person requests a hearing ~~or appears at an administrative review~~, any financial information ordered produced pursuant to subsection (2) must be provided to the department no later than the 20th day after the person requests the hearing ~~or appears at the administrative review~~, unless the person requesting the hearing ~~or attending the administrative review~~ waives that date in writing. A person who waives that date in writing shall provide the financial information by the date provided in subsection (2) or by another date established by order of the department.

(4) *If additional discovery is requested by a party, the hearings officer may issue subpoenas ordering other parties to produce information in the party's possession about the obligor and the obligee that may be reasonably necessary for application of the guidelines."*

**Section 8.** Section 40-5-277, MCA, is amended to read:

**"40-5-277. Administrative review hearing after review — final order — court approval of order.** (1) Upon receipt of a timely request for hearing from a party ~~to a review session~~, the department shall schedule an administrative hearing. The hearing is a contested case as defined in 2-4-102 and must initially be conducted by teleconferencing methods. At the request of a party or upon a showing that the party's case was substantially prejudiced by the lack of an in-person hearing, the department shall grant a de novo in-person hearing. The hearing is subject to Title 2, chapter 4, and 40-5-253, except as otherwise provided in 40-5-272, 40-5-273, ~~and 40-5-276 through 40-5-277, and 40-5-278.~~

~~(2) The administrative hearing following a review session is limited to resolution of contested facts identified by the parties or the department during the review session.~~

~~(3) If additional discovery is requested by a party, the hearings officer may issue subpoenas ordering the department to produce unprotected information and ordering other parties to produce information in their possession about the obligor and the obligee that may be reasonably necessary for application of the guidelines.~~

~~(4)(2)~~ In addition to the powers and duties provided by other law, to ensure the equitable determination of a support obligation, during a review hearing the department shall:

(a) question witnesses in a nonadversarial manner to elicit full disclosure of all pertinent facts in dispute;

(b) hear evidence submitted by the parties and rule on its admissibility; and

(c) apply the guidelines to the facts agreed upon and to those determined at the hearing on disputed matters.

~~(5) On the basis of evidence presented on the contested facts at the administrative hearing and the agreed facts determined in the review session, the department may:~~

~~(a) adopt its own recommendation;~~

~~(b) determine a support obligation in accordance with the guidelines and issue a modifying order; or~~

~~(c) terminate the review.~~

*(3) The hearings officer shall determine the liability and responsibility, if any, of the parent or parents under the notice. The monthly support obligation must be determined with reference to the child support guidelines adopted by the department under 40-5-209. The hearings officer is not limited to the amounts stated in the notice. The guidelines must be used in all cases, including cases in which the order is entered upon the default of a party and those in which the order is entered upon the parties' consent. A verified representation of a defaulting parent's income and financial condition, based on the best information available, may be used when a parent fails to provide financial information for use in applying the guidelines. The amount determined under the guidelines is presumed to be an adequate and reasonable award unless the hearings officer finds by clear and convincing evidence that the application of the guidelines is unjust to the child or to any of the parties or is inappropriate in a particular case. If the hearings officer finds that the guideline amount is unjust or inappropriate in a particular case, the hearings officer shall state the reasons for finding that the application is unjust or inappropriate. Similar findings must also be made in a case in which the parties have agreed to a support amount that varies from the guideline amount. Findings that rebut and vary the guideline amount must include a statement of the amount of support that would have ordinarily been ordered under the guidelines.*

~~(6)(4)~~ If the department determines that the difference between the existing support order and the amount determined under the guidelines is negligible under rules issued by the department, the modified support order may not change the amount of the support obligation. Regardless of the amount of the support order, the department may determine that an order for the provision of health insurance is appropriate.

~~(7)(5)~~ The department shall consider whether or not health insurance for the child is available and make an appropriate order in accordance with part 8 of this chapter for the provision of the child's health insurance.

~~(8)(6)~~ In addition to complying with other requirements of law, the modified support order must include the following notices and warnings:

(a) that the parties keep the department informed of the name and address of the obligor's current employer and information on health insurance available to the parties through employment or other group insurance; and

(b) that the modified order is subject to future administrative review and modification by the department upon the request of the department or a party

under ~~40-5-271 through 40-5-273 and 40-5-276 through 40-5-278~~ *this part* when the department is providing services under Title IV-D of the Social Security Act.

(9)(7) Except as provided in subsection ~~(10) (8)~~, an order entered under this section:

(a) is a final agency decision and is subject to judicial review pursuant to the Montana Administrative Procedure Act; and

(b) must notify the parties that the order is subject to judicial review under Title 2, chapter 4, part 7, and 40-5-253.

~~(10)(8) (a) An administrative modified support order issued under 40-5-276 or this section that modifies a support order entered by a Montana court or a court of another jurisdiction or a court of another jurisdiction is not effective as a final order until the modified order is filed with and approved by the court that entered the order, if that order was entered by a Montana district court. If the order was entered by a court of another jurisdiction, the order must be filed with and approved by a Montana district court that is an appropriate court under the Montana laws or rules of court governing jurisdiction and venue in civil proceedings, if that order was entered by a Montana district court. If the order was entered by a court of another jurisdiction, the order must be filed with and approved by a Montana district court that is an appropriate court under the Montana laws or rules of court governing jurisdiction and venue in civil proceedings. The department shall file the proposed modified order with the appropriate court under the Montana laws or rules of court governing jurisdiction and venue in civil proceedings and shall serve the order on the parties and their counsel of record in the administrative and court proceedings personally or by certified mail, return receipt requested by mail or personal service in accordance with Rule 5 of the Montana Rules of Civil Procedure. Service is complete upon signing of the return receipt mailing to the last-known address of the parties and counsel of record.~~

(b) A party may file a written objection to an administrative modified support order proposed by the department under this section with the court within 20 days after service of a copy of the order on the party. The court shall set a date for a hearing on the objection to the proposed order. If an objection is not filed, the court may without further notice enter its order.

(c) The court may adopt an administrative modified support order proposed under ~~40-5-276~~ or this section, modify it, reject it, or remand it to the department with instructions for further hearing. Service of the court order must be in accordance with Rule 5 of the Montana Rules of Civil Procedure. If the court modifies a proposed administrative modified support order proposed under ~~40-5-276~~ or this section without a hearing, a party may file an objection to the court's modification within 10 days of service of the court's order on the party. If an objection is filed, the court shall set a date for hearing the objection and shall enter its final order after the hearing."

**Section 9.** Section 40-6-116, MCA, is amended to read:

**"40-6-116. Judgment or order.** (1) The judgment or order of the court determining the existence or nonexistence of the parent and child relationship is determinative for all purposes.

(2) If the judgment or order of the court is at variance with the child's birth certificate, the court shall order that a substitute birth certificate be issued under 40-6-123.

(3) (a) The judgment or order may contain any other provision directed against the appropriate party to the proceeding concerning the custody and guardianship of the child, visitation privileges with the child, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child.

(b) Except when the financial responsibility of a responsible parent is in the process of being determined pursuant to the administrative procedure provided in 40-5-225, the judgment or order must contain a provision concerning the duty of child support.

(c) The judgment or order may direct the father to pay the reasonable expenses of the mother's pregnancy and confinement.

(4) (a) Support judgments or orders ordinarily must be for periodic payments, which may vary in amount.

(b) In the best interest of the child, a lump-sum payment or the purchase of an annuity may be ordered in lieu of periodic payments of support.

(c) The court may limit the father's liability for past support of the child to the proportion of the expenses already incurred that the court considers just.

(5) In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, a court enforcing the obligation of support shall consider all relevant facts, including:

(a) the needs of the child, including medical needs;

(b) the standard of living and circumstances of the parents;

(c) the relative financial means of the parents;

(d) the earning ability of the parents;

(e) the need and capacity of the child for education, including higher education;

(f) the age of the child;

(g) the financial resources and the earning ability of the child;

(h) the responsibility of the parents for the support of others;

(i) the value of services contributed by the custodial parent;

(j) the cost of day care for the child; and

(k) any custody arrangement that is ordered or decided upon.

(6) (a) Whenever a court issues or modifies an order concerning child support, the court shall determine the child support obligation by applying the standards in this section and the uniform child support guidelines adopted by the department of public health and human services pursuant to 40-5-209. The guidelines must be used in all cases, including cases in which the order is entered upon the default of a party and those in which the parties have entered into an agreement regarding the support amount. A verified representation of a defaulting parent's income, based on the best information available, may be used when a parent fails to provide financial information for use in applying the guidelines. The amount determined under the guidelines is presumed to be an adequate and reasonable support award, unless the court finds by clear and convincing evidence that the application of the standards and guidelines is unjust to the child or to any of the parties or is inappropriate in that particular case.

(b) If the court finds that the guideline amount is unjust or inappropriate in a particular case, it shall state its reasons for finding that the application of the standards and guidelines is unjust to the child or a party or is inappropriate in that particular case. Similar reasons must also be stated in a case in which the parties have agreed to a support amount that varies from the guideline amount. Findings that rebut and vary the guideline amount must include a statement of the amount of support that would have ordinarily been ordered under the guidelines.

(c) If the court does not order a parent owing a duty of support to a child to pay any amount for the child's support, the court shall state its reasons for not ordering child support.

(d) Child support obligations established under this section are subject to the registration and processing provisions of *Title 40*, chapter 5, part 9.

(7) The judgment or order, whether temporary or final, concerning child support and each modification of a judgment or order for child support must include a medical support order as defined in 40-5-804.

(8) (a) Unless an exception is found under 40-5-315 or 40-5-411 and the exception is included in the support order, a support obligation established by judgment, decree, or order under this section, whether temporary or final, and each modification of an existing support obligation made under 40-6-118 must be enforced by immediate or delinquency income withholding, or both, under Title 40, chapter 5, part 3 or 4. A support order that omits the exception or that provides for a payment arrangement inconsistent with this section is nevertheless subject to withholding for the payment of support without need for an amendment to the support order or for any further action by the court.

(b) If a support order subject to income withholding is expressed in terms of a monthly obligation, the order may be annualized and withheld on a weekly or biweekly basis, corresponding to the obligor's regular pay period.

(c) If an obligor is excepted from paying support through income withholding, the support order must include as part of the order a requirement that whenever the case is receiving services under Title IV-D of the Social Security Act, support payments must be paid through the department of public health and human services as provided in 40-5-909.

(9) (a) If the district court establishes paternity or establishes or modifies a child support obligation, the judgment, decree, or order must include a provision requiring the parties to promptly file with the court and to update, as necessary, information on:

- (i) identity of the party;
- [(ii) social security number;]
- (iii) residential and mailing addresses;
- (iv) telephone number;
- (v) driver's license number;
- (vi) name, address, and telephone number of the party's employer; and
- (vii) if the child is covered by a health or medical insurance plan, the name of the insurance carrier or health benefit plan, the policy identification number, the name of the persons covered, and any other pertinent information regarding coverage or, if the child is not covered, information as to the availability of coverage for the child through the party's employer.

(b) The order must further direct that in any subsequent child support enforcement action, upon sufficient showing that diligent effort has been made to ascertain the location of the party, the district court or the department of public health and human services, if the department is providing services under Title IV-D of the Social Security Act, may consider the due process requirements for notice and service of process to be met with respect to the party upon delivery of written notice by regular mail to the most recent address of the party or the party's employer's address reported to the court.

(10) A judgment, decree, or order establishing a child support obligation under this part may be modified or adjusted as provided by 40-4-208 or, if the department of public health and human services is providing services under Title IV-D of the Social Security Act, may be modified or adjusted, by the department as provided for in 40-5-271 through 40-5-273, ~~and 40-5-276 through 40-5-277, and 40-5-278.~~

[(11) The social security number of a person subject to a paternity determination under this part must be recorded in the records relating to the matter. The recordkeeper shall keep the social security number from this source confidential, except that the number may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.] (Bracketed language terminates on occurrence of contingency—sec. 1, Ch. 27, L. 1999.)”

**Section 10. Repealer.** Section 40-5-276, MCA, is repealed.

**Section 11. Effective date.** [This act] is effective July 1, 2005.

Approved May 2, 2005

## CHAPTER NO. 565

[SB 154]

AN ACT REVISING THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM; PROVIDING FOR A LIMIT TO THE ADMINISTRATIVE COSTS AND RESERVES OF ANY ENTITY UNDER CONTRACT WITH THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO ADMINISTER THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM; CLARIFYING THAT THE DEPARTMENT MAY EITHER ADMINISTER THE PROGRAM DIRECTLY OR CONTRACT FOR ADMINISTRATION OF THE PROGRAM WITH AN INSURANCE COMPANY OR OTHER ENTITY; PROVIDING FOR THE RETURN OF EXCESS PREMIUM HELD IN RESERVE; PROVIDING FOR AN ACCOUNT IN THE STATE SPECIAL REVENUE FUND TO DEPOSIT EXCESS PREMIUM AND UNEXPENDED APPROPRIATIONS FOR THE PURPOSES OF THE PROGRAM; AMENDING SECTIONS 17-7-304 AND 53-4-1007, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 17-7-304, MCA, is amended to read:

**“17-7-304. Disposal of unexpended appropriations.** (1) All money appropriated for any specific purpose except that appropriated for the university system units listed in subsection (2) *or state money appropriated for the state children's health insurance program provided for in Title 53, chapter 4,*

*part 10*, and except as provided in subsection (4) must, after the expiration of the time for which appropriated, revert to the several funds and accounts from which originally appropriated. However, any unexpended balance in any specific appropriation may be used for the years for which the appropriation was made or may be used to fund the provisions of 2-18-1203 through 2-18-1205 and 19-2-706 in the succeeding year.

(2) Except as provided in 17-2-108 and subsection (3) of this section, all money appropriated for the university of Montana campuses at Missoula, Butte, Dillon, and Helena and the Montana state university campuses at Bozeman, Billings, Havre, and Great Falls, the agricultural experiment station with central offices at Bozeman, the forest and conservation experiment station with central offices at Missoula, the cooperative extension service with central offices at Bozeman, and the bureau of mines and geology with central offices in Butte must, after the expiration of the time for which appropriated, revert to an account held by the board of regents. The board of regents is authorized to maintain a fund balance. There is a statutory appropriation, as provided in 17-7-502, to use the funds held in this account in accordance with a long-term plan for major and deferred maintenance expenditures and equipment or fixed assets purchases prepared by the affected university system units and approved by the board of regents. The affected university system units may, with the approval of the board of regents, modify the long-term plan at any time to address changing needs and priorities. The board of regents shall communicate the plan to each legislature, to the finance committee when requested by the committee, and to the office of budget and program planning.

(3) Subsection (2) does not apply to reversions that are the result of a reduction in spending directed by the governor pursuant to 17-7-140. Any amount that is a result of a reduction in spending directed by the governor must revert to the fund or account from which it was originally appropriated.

(4) After the end of a fiscal year, 30% of the money appropriated to an agency for that year by the general appropriations act for personal services, operating expenses, and equipment, by fund type, and remaining unexpended and unencumbered at the end of the year may be reappropriated to be spent during the following 2 years for any purpose that is consistent with the goals and objectives of the agency. The dollar amount of the 30% amount that may be carried forward and spent must be determined by the office of budget and program planning.”

**Section 2.** Section 53-4-1007, MCA, is amended to read:

**“53-4-1007. (Temporary) Department may contract for services.** (1) The department of public health and human services may *administer the program directly or* contract with insurance companies or other entities to provide services for a set monthly or yearly fee based on the number of participants in the program and the types of services provided or based on a fee for service as established by the department.

(2) The department of public health and human services may contract for a health care service based on a fee for service when the department does not contract for a health care service through an insurance plan, a health maintenance organization, or a managed care plan. ~~The department shall first offer the insurer the opportunity to negotiate a contract price prior to purchasing a health care service on a fee for service basis.~~ *In operating the program and providing health services, the department may:*

(a) *pay providers on a fee-for-service basis in a self-funded program and contract with an insurance company, third-party administrator, or other entity to provide administrative services, including but not limited to processing and payment of claims with program funds;*

(b) *purchase health coverage for eligible children from an insurance company or other entity through premiums, capitated payments, or other appropriate methods;*

(c) *purchase health coverage as provided in subsection (2)(b) for some types of health services and contract directly with providers for other types of health services on a fee-for-service basis; or*

(d) *pay providers on a fee-for-service basis and directly provide administrative services in a self-funded program.*

(3) (a) *If the department of public health and human services contracts with an insurance company or other entity to administer the program as provided in subsection (2)(b) or (2)(c), not more than 12% of the contract payment may be used for administrative expenses, including:*

(i) *direct and indirect expenses as specified in 33-22-1514;*

(ii) *risk charges; and*

(iii) *any applicable assessments, fees, and taxes.*

(4) *If the department operates the program by providing administrative services under subsection (2)(a), (2)(b), or (2)(d), the department's administrative expense may not exceed the lesser of 10% or the applicable federal limitation.*

(5) (a) *An insurance company or other entity that contracts with the department for a fully insured contract as provided in subsection (2)(b) shall calculate the surplus account balance at the end of each contract year and may retain an amount equal to 50% of the risk charge allowed under the contract. The remainder of the surplus balance must be deposited in the state special revenue account provided for in [section 3].*

(b) *For the purposes of this subsection (5):*

(i) *"risk charge" means the percentage of the administrative expense allowed in the contract for assuming the risk;*

(ii) *"surplus account balance" means funds that remain after all claims and all administrative expenses have been paid for a claim period. (Terminates on occurrence of contingency—sec. 15, Ch. 571, L. 1999.)"*

**Section 3. State special revenue account.** (1) There is an account in the state special revenue fund to the credit of the state children's health insurance program administered by the department of public health and human services. Any interest or income derived from the account must be deposited in the account.

(2) Money deposited in this account must be used by the department to cover additional children, to expand eligibility within the limits provided in 53-4-1004, to reduce or maintain premiums, or to establish and maintain a reserve.

(3) The department shall transfer the unexpended balance of an appropriation into the account provided for in subsection (1) at the expiration of the appropriation to be used for the purposes stated in subsection (2).

**Section 4. Codification instruction.** [Section 3] is intended to be codified as an integral part of Title 53, chapter 4, part 10, and the provisions of Title 53, chapter 4, part 10, apply to [section 3].

**Section 5. Effective date.** [This act] is effective on passage and approval.

**Section 6. Applicability.** [This act] applies to contracts offered, issued, or renewed after [the effective date of this act].

**Section 7. Termination.** [Sections 1 through 3] terminate on the date that the director of the department of public health and human services certifies to the governor that the federal government has terminated the program or that federal funding for the program has been discontinued.

Approved May 2, 2005

## CHAPTER NO. 566

[SB 167]

AN ACT AUTHORIZING THE CREATION OF TECHNOLOGY DISTRICTS; PROVIDING THAT A DISTRICT IS CREATED TO ENCOURAGE DEVELOPMENT OF TECHNOLOGY INFRASTRUCTURE DEVELOPMENT PROJECTS; ESTABLISHING THAT TENANTS OF THE DISTRICT BE PRIMARY SECTOR COMPANIES; ESTABLISHING THAT A TECHNOLOGY DISTRICT MAY USE TAX INCREMENT FINANCING AND ISSUE BONDS FROM TAX INCREMENTS; AMENDING SECTIONS 7-15-4282, 7-15-4283, 7-15-4284, 7-15-4285, 7-15-4286, 7-15-4288, 7-15-4290, 7-15-4292, 7-15-4293, 7-15-4301, AND 7-15-4304, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Technology districts.** (1) A local governing body, by ordinance and following a public hearing, may authorize the creation of a technology district for technology infrastructure development projects. The purpose of a technology district is for the development of infrastructure to encourage the location and retention of technology development projects in the state. The tenants of a technology district must be businesses or organizations engaged in technology-based operations within Montana that through the employment of knowledge or labor adds value to a product, process, or export service that results in the creation of new wealth and for which at least 50% of the sales of the business or organization occur outside of Montana or the business or organization is a manufacturing company with at least 50% of its sales to other Montana companies that have 50% of their sales occurring outside of Montana.

(2) A technology district:

(a) shall consist of a continuous area with an accurately described boundary that is large enough to host a diversified tenant base of multiple independent tenants;

(b) must be zoned for use in accordance with the area growth policy, as defined in 76-1-103;

(c) may not comprise any property included within an existing urban renewal area district or industrial infrastructure development district created pursuant to this part;

(d) must, prior to its creation, be found to be deficient in infrastructure improvements necessary for technology development;

(e) must, prior to its creation, have in place a formally adopted comprehensive development plan that ensures the district can host a diversified tenant base of multiple independent tenants; and

(f) may not be designed to serve the needs of a single district tenant or group of nonindependent tenants.

(3) A technology district may use tax increment financing pursuant to the provisions of 7-15-4282 through 7-15-4293.

**Section 2.** Section 7-15-4282, MCA, is amended to read:

**“7-15-4282. Authorization for tax increment financing.** Any urban renewal plan, as defined in 7-15-4206, ~~or~~ industrial district ordinance, adopted pursuant to 7-15-4299, *or technology district ordinance, adopted pursuant to [section 1],* may contain a provision or be amended to contain a provision for the segregation and application of tax increments, as provided in 7-15-4282 through 7-15-4292.”

**Section 3.** Section 7-15-4283, MCA, is amended to read:

**“7-15-4283. Definitions related to tax increment financing.** For purposes of 7-15-4282 through 7-15-4292 and 7-15-4297 through 7-15-4299, the following definitions apply unless otherwise provided or indicated by the context:

(1) “Actual taxable value” means the taxable value of taxable property at any time, as calculated from the assessment roll last equalized.

(2) “Aerospace transportation and technology district” means a tax increment financing aerospace transportation and technology district created pursuant to 7-15-4296.

(3) “Aerospace transportation and technology infrastructure development project” means a project undertaken within or for an aerospace transportation and technology district that consists of any ~~or all~~ of the activities authorized by 7-15-4288.

(4) “Base taxable value” means the actual taxable value of all taxable property within an urban renewal area, industrial district, *technology district,* or aerospace transportation and technology district prior to the effective date of a tax increment financing provision. This value may be adjusted as provided in 7-15-4287 or 7-15-4293.

(5) “Incremental taxable value” means the amount, if any, by which the actual taxable value at any time exceeds the base taxable value of all property within an urban renewal area, industrial district, *technology district,* or aerospace transportation and technology district subject to taxation.

(6) “Industrial district” means a tax increment financing industrial district created pursuant to 7-15-4299.

(7) “Industrial infrastructure development project” means a project undertaken within or for an industrial district that consists of any ~~or all~~ of the activities authorized by 7-15-4288.

(8) “Municipality”, for the purpose of an industrial district created pursuant to 7-15-4297 through 7-15-4299 and operating pursuant to 7-15-4282 through 7-15-4293 and part 43 of this chapter, means any incorporated city or town, county, or city-county consolidated local government.

(9) "Tax increment" means the collections realized from extending the tax levies, expressed in mills, of all taxing bodies in which the urban renewal area, industrial district, *technology district*, aerospace transportation and technology district, or a part of an area or district is located against the incremental taxable value.

(10) "Tax increment provision" means a provision for the segregation and application of tax increments as authorized by 7-15-4282 through 7-15-4292.

(11) "Taxes" means all taxes levied by a taxing body against property on an ad valorem basis.

(12) "Taxing body" means any city, town, county, school district, or other political subdivision or governmental unit of the state, including the state, that levies taxes against property within the urban renewal area, industrial district, *technology district*, or an aerospace transportation and technology district.

(13) "*Technology district*" means a tax increment financing district created pursuant to [section 1].

(14) "*Technology infrastructure development project*" means a project undertaken within or for a technology district that consists of any of the activities authorized by 7-15-4288."

**Section 4.** Section 7-15-4284, MCA, is amended to read:

**"7-15-4284. Filing of tax increment provisions of urban renewal plan or industrial district ordinance.** (1) The clerk of the municipality shall file a certified copy of each urban renewal plan, ~~or industrial district ordinance, or technology district ordinance~~ or an amendment ~~thereto to any of them~~ containing a tax increment provision with the ~~state, county, or city officers~~ responsible for assessing and determining the taxable value of taxable property within the urban renewal area or industrial district ordinance or any part thereof ~~department of revenue~~.

(2) A certified copy of ~~the each~~ plan, ~~industrial district ordinance, or amendment~~ must also be filed with the clerk or other appropriate officer of each of the affected taxing bodies."

**Section 5.** Section 7-15-4285, MCA, is amended to read:

**"7-15-4285. Determination and report of original, actual, and incremental taxable values.** The ~~officer or officers~~ responsible for assessing and determining the taxable value of the taxable property located within the ~~urban renewal area or industrial district~~ *department of revenue* shall, immediately upon receipt of the tax increment provision and each *succeeding* year ~~thereafter~~, calculate and report to the municipality and to any other affected taxing body the base, actual, and incremental taxable values of ~~such the~~ property."

**Section 6.** Section 7-15-4286, MCA, is amended to read:

**"7-15-4286. Procedure to determine and disburse tax increment.** (1) Mill rates of taxing bodies for taxes levied after the effective date of the tax increment provision must be calculated on the basis of the sum of the taxable value, as shown by the last equalized assessment roll, of all taxable property located outside the urban renewal area, ~~or industrial district, or technology district~~ and the base taxable value of all taxable property located within the ~~urban renewal area or industrial district~~. The mill rate determined must be levied against the sum of the actual taxable value of all taxable property located within as well as outside the ~~urban renewal area or industrial district~~.

(2) (a) The tax increment, if any, received in each year from the levy of the combined mill rates of all the affected taxing bodies against the incremental taxable value within the ~~urban renewal area or industrial district~~, except for the university system mills levied and assessed against property, must be paid into a special fund held by the treasurer of the municipality and used as provided in 7-15-4282 through 7-15-4292.

(b) The balance of the taxes collected in each year must be paid to each of the taxing bodies as otherwise provided by law.”

**Section 7.** Section 7-15-4288, MCA, is amended to read:

**“7-15-4288. Costs that may be paid by tax increment financing.** The tax increments may be used by the municipality to pay the following costs of or incurred in connection with an urban renewal project, industrial infrastructure development project, technology infrastructure development project, or aerospace transportation and technology infrastructure development project:

- (1) land acquisition;
- (2) demolition and removal of structures;
- (3) relocation of occupants;
- (4) the acquisition, construction, and improvement of infrastructure, industrial infrastructure, *technology infrastructure*, or aerospace transportation and technology infrastructure that includes streets, roads, curbs, gutters, sidewalks, pedestrian malls, alleys, parking lots and offstreet parking facilities, sewers, sewer lines, sewage treatment facilities, storm sewers, waterlines, waterways, water treatment facilities, natural gas lines, electrical lines, telecommunications lines, rail lines, rail spurs, bridges, spaceports for reusable launch vehicles with associated runways and launch, recovery, fuel manufacturing, and cargo holding facilities, publicly owned buildings, and any public improvements authorized by parts 41 through 45 of chapter 12, parts 42 and 43 of chapter 13, and part 47 of chapter 14 and items of personal property to be used in connection with improvements for which the foregoing costs may be incurred;
- (5) costs incurred in connection with the redevelopment activities allowed under 7-15-4233;
- (6) acquisition of infrastructure-deficient areas or portions of areas;
- (7) administrative costs associated with the management of the *urban renewal area*, industrial district, *technology district*, or the aerospace transportation and technology district;
- (8) assemblage of land for development or redevelopment by private enterprise or public agencies, including sale, initial leasing, or retention by the municipality itself at its fair value;
- (9) the compilation and analysis of pertinent information required to adequately determine the infrastructure needs of secondary, value-adding industries in the industrial district, *the needs of a technology infrastructure development project in the technology district*, or the needs of an aerospace transportation and technology infrastructure development project in the aerospace transportation and technology district;
- (10) the connection of the *urban renewal area*, industrial district, *technology district*, or the aerospace transportation and technology district to existing

infrastructure outside the ~~industrial district or the aerospace transportation and technology district~~;

(11) the provision of direct assistance, through industrial infrastructure development projects, *technology development projects*, or aerospace transportation and technology infrastructure development projects, to secondary, value-adding industries to assist in meeting their infrastructure and land needs within the ~~industrial district or the aerospace transportation and technology district~~; and

(12) the acquisition, construction, or improvement of facilities or equipment for reducing, preventing, abating, or eliminating pollution.”

**Section 8.** Section 7-15-4290, MCA, is amended to read:

**“7-15-4290. Use of property taxes and other revenues revenue for payment of bonds.** (1) (a) The tax increment derived from an urban renewal area may be pledged for the payment of revenue bonds issued for urban renewal projects or of general obligation bonds, revenue bonds, or special assessment bonds issued to pay urban renewal costs described in 7-15-4288 and 7-15-4289.

(b) The tax increment derived from an industrial district may be pledged for the payment of revenue bonds issued for industrial infrastructure development projects or of general obligation bonds, revenue bonds, or special assessment bonds issued to pay industrial district costs described in 7-15-4288 and 7-15-4289.

(c) *The tax increment derived from a technology district may be pledged for the payment of revenue bonds issued for technology infrastructure development projects or of general obligation bonds, revenue bonds, or special assessment bonds issued to pay technology district costs described in 7-15-4288 and 7-15-4289.*

(2) ~~Any~~ A municipality issuing ~~such~~ bonds pursuant to subsection (1) may, by resolution of its governing body, enter into a covenant for the security of the bondholders, detailing the calculation and adjustment of the tax increment and the taxable value on which it is based and, after a public hearing, pledging or appropriating other ~~revenues revenue~~ of the municipality, except property taxes prohibited by subsection (2) (3), to the payment of ~~such the~~ bonds if collections of the tax increment are insufficient.

~~(2)(3) No property~~ Property taxes, except the tax increment derived from property within the ~~urban renewal area or industrial district~~ and tax collections used to pay for services provided to the municipality by ~~an urban renewal project or an industrial infrastructure development~~ a project, may *not* be applied to the payment of bonds issued pursuant to 7-15-4301 for which a tax increment has been pledged.”

**Section 9.** Section 7-15-4292, MCA, is amended to read:

**“7-15-4292. Termination of tax increment financing — exception.** (1) The tax increment provision terminates upon the later of:

(a) the 15th year following its adoption ~~or, if the tax increment provision was adopted prior to January 1, 1980, upon the 17th year following adoption~~; or

(b) the payment or provision for payment in full or discharge of all bonds for which the tax increment has been pledged and the interest on the bonds.

(2) Any amounts remaining in the special fund or any reserve fund after termination of the tax increment provision must be distributed among the

various taxing bodies in proportion to their property tax revenue from the district.

(3) After termination of the tax increment provision, all taxes must be levied upon the actual taxable value of the taxable property in the urban renewal area, ~~or~~ the industrial district, *or technology district* and must be paid into the funds of the respective taxing bodies.

(4) Bonds secured in whole or in part by a tax increment provision may not be issued after the 15th anniversary of tax increment provisions ~~adopted after~~ ~~January 1, 1980, and the 17th anniversary of tax increment provisions adopted~~ ~~prior to January 1, 1980.~~ However, if bonds secured by a tax increment provision are outstanding on the applicable anniversary, additional bonds secured by the tax increment provision may be issued if the final maturity date of the bonds is not later than the final maturity date of any bonds then outstanding and secured by the tax increment provision.”

**Section 10.** Section 7-15-4293, MCA, is amended to read:

**“7-15-4293. Adjustment of base taxable value following change of law.** If the base taxable value of an urban renewal area, ~~or~~ an industrial district, *or a technology district* is affected after its original determination by a statutory, administrative, or judicial change in the method of appraising property, the tax rate applied to it, the tax exemption status of property, or the taxable valuation of property if the change in taxable valuation is based on conditions existing at the time the base year was established, the governing body of the municipality may request the department of revenue or its agents to estimate the base taxable value so that the tax increment resulting from the increased incremental value is sufficient to pay all principal and interest on the bonds as those payments become due.”

**Section 11.** Section 7-15-4301, MCA, is amended to read:

**“7-15-4301. Authorization to issue urban renewal bonds, industrial infrastructure development bonds, aerospace transportation and technology infrastructure development bonds, *technology infrastructure development bonds*, and refunding bonds.** (1) A municipality may:

(a) issue bonds from time to time, in its discretion, to finance the undertaking of any urban renewal project, industrial infrastructure development project, ~~or~~ aerospace transportation and technology infrastructure development project, *or technology infrastructure development project* under ~~this part and~~ ~~part 42 and this part~~, including, without limiting the generality of projects, the payment of principal and interest upon any advances for surveys and plans for ~~urban renewal the projects, industrial infrastructure development projects, and aerospace transportation and technology infrastructure development projects;~~ and

(b) issue refunding bonds for the payment or retirement of bonds previously issued by it.

(2) The bonds may not pledge the general credit of the municipality and must be made payable, as to both principal and interest, solely from the income, proceeds, ~~revenues~~ *revenue*, and funds of the municipality derived from or held in connection with its undertaking and carrying out of urban renewal projects, industrial infrastructure development projects, ~~or~~ aerospace transportation and technology infrastructure development projects, *or technology infrastructure development projects* under part 42 and this part, including the

tax increment received and pledged by the municipality pursuant to 7-15-4282 through 7-15-4292, and, if the income, proceeds, ~~revenues~~ *revenue*, and funds of the municipality are insufficient for the payment, from other ~~revenues~~ *revenue* of the municipality pledged to the payment. Payment of the bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant, or contribution from the federal government or other source in aid of any urban renewal projects, industrial infrastructure development projects, ~~or~~ aerospace transportation and technology infrastructure development projects, *or technology infrastructure development projects* of the municipality under ~~this part and part 42 and this part~~ or by a mortgage on all or part of any projects.

(3) Bonds issued under this section must be authorized by resolution or ordinance of the local governing body.”

**Section 12.** Section 7-15-4304, MCA, is amended to read:

**“7-15-4304. Presumption of regularity of bond issuance.** In any a suit, action, or proceeding involving the validity or enforceability of, *or security for*, any bond issued under ~~this part and part 42 and this part~~, *or the security therefor*, any such a bond reciting in substance that it has been issued by the municipality in connection with an urban renewal project, ~~or~~ industrial infrastructure development project, *or technology infrastructure development project as herein defined shall be* is conclusively ~~deemed~~ *considered* to have been issued for ~~such that~~ purpose and ~~such the~~ project ~~shall be~~ is conclusively ~~deemed~~ *considered* to have been planned, located, and carried out in accordance with the provisions of ~~this part and part 42 and this part~~.”

**Section 13. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 7, chapter 15, part 42, and the provisions of Title 7, chapter 15, part 42, apply to [section 1].

**Section 14. Effective date.** [This act] is effective on passage and approval.

Approved May 2, 2005

## CHAPTER NO. 567

[SB 175]

AN ACT ALLOWING THE USE OF ZONING CLASSIFICATION AS ANOTHER METHOD FOR ASSESSING COSTS WITHIN A STREET MAINTENANCE DISTRICT; AND AMENDING SECTION 7-12-4422, MCA.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 7-12-4422, MCA, is amended to read:

**“7-12-4422. Assessment of costs — area, frontage, lot, and taxable valuation options.** (1) For the purposes of this section, “assessable area” means the portion of a lot or parcel of land that is benefited by the maintenance district. The assessable area may be less than but may not exceed the actual area of the lot or parcel.

(2) The city council shall assess the percentage of the cost of maintenance established in 7-12-4425 against the entire district as follows:

(a) each lot or parcel of land within ~~such the~~ district may be assessed for that part of the cost ~~which that~~ its assessable area bears to the assessable area of the entire district, exclusive of streets, avenues, alleys, and public places;

(b) each lot or parcel of land within ~~such~~ *the* district abutting upon a street upon which maintenance is done may be assessed for that part of the cost ~~which~~ *that* its street frontage bears to the street frontage of the entire district;

(c) if the city council determines that the benefits derived from the maintenance by each lot or parcel are substantially equivalent, the cost may be assessed equally to each lot or parcel located within the district without regard to the assessable area of the lot or parcel;

(d) each lot or parcel of land, including the improvements ~~thereon~~ *on the lot or parcel*, may be assessed for that part of the cost of the district ~~which~~ *that* its taxable valuation bears to the total taxable valuation of the property of the district; ~~or~~

*(e) each lot or parcel of land within the district may be assessed for that part of the cost that the reasonably estimated ~~on the basis of the~~ vehicle trips generated for a lot or parcel of its size in its zoning classification bear to the reasonably estimated vehicle trips generated for all lots in the district based on their size and zoning classification; or*

~~(e)~~(f) any combination of the assessment options provided in subsections (2)(a) through ~~(2)(d)~~ (2)(e) may be used for the district as a whole or for any lot or parcel within the district.”

Approved May 2, 2005

## CHAPTER NO. 568

[SB 212]

AN ACT CLARIFYING THE DISTINCTION BETWEEN DEDICATION AND DISTRIBUTION FOR FEDERAL MINERAL LEASING FUNDS; AMENDING SECTION 17-3-240, MCA; AND PROVIDING AN EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 17-3-240, MCA, is amended to read:

**“17-3-240. Federal mineral leasing funds.** (1) ~~All~~ *Except as provided in subsection (2),* money paid to the state pursuant to 30 U.S.C. 191 must be deposited in the state general fund ~~and must be distributed as provided in subsections (2) and (3).~~

(2) ~~At the conclusion of fiscal year 2002, the state treasurer shall distribute all money received in fiscal year 2002 in excess of \$21,756,000 pursuant to subsection (3). At the conclusion of fiscal year 2003, the state treasurer shall distribute all money received in fiscal year 2003 in excess of \$21,671,000 pursuant to subsection (3). At the conclusion of fiscal year 2004, the state treasurer shall distribute 12.5% of all money received pursuant to subsection (3). At the conclusion of~~ *In* fiscal year 2005 and each *succeeding* fiscal year thereafter, the state treasurer shall distribute 25% of all money received pursuant to subsection (3) *(1) must be deposited in the mineral impact account established in 17-3-241 and is dedicated to local governments.*

(3) On August 15 following the close of the fiscal year, the state treasurer shall distribute the ~~distributions~~ *revenue dedicated* in subsection (2) ~~to the mineral impact account established in 17-3-241.~~ The distribution to the eligible counties must be ~~allocated~~ based on the proportion that the total amount of

revenue generated by mineral extraction in an eligible county bears to the total amount of money received by the state.”

**Section 2. Effective date.** [This act] is effective July 1, 2005.

Approved May 2, 2005

## CHAPTER NO. 569

[SB 213]

AN ACT EXTENDING THE TERMINATION DATE FOR THE TAX CREDIT FOR INVESTMENT IN PROPERTY USED TO COLLECT OR PROCESS RECLAIMABLE MATERIAL; AMENDING SECTION 9, CHAPTER 712, LAWS OF 1991, SECTIONS 4 AND 5, CHAPTER 542, LAWS OF 1995, SECTION 1, CHAPTER 411, LAWS OF 1997, AND SECTIONS 4, 5, 6, AND 7, CHAPTER 398, LAWS OF 2001; AND PROVIDING AN EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 9, Chapter 712, Laws of 1991, is amended to read:

“**Section 9. Termination.** [This act] terminates December 31, ~~1995~~ 2011.”

**Section 2.** Section 4, Chapter 542, Laws of 1995, is amended to read:

“**Section 4.** Section 9, Chapter 712, Laws of 1991, is amended to read:

“**Section 9. Termination.** [This act] terminates December 31, ~~1995~~ ~~2001~~ 2011.””

**Section 3.** Section 5, Chapter 542, Laws of 1995, is amended to read:

“**Section 5. Termination —exception.** (1) [Sections 1 through 3] terminate December 31, ~~1997~~ 2011.

(2) ~~Notwithstanding subsection (1), 15-32-603(3), as numbered by [this act], which reads: “A credit under this section may be claimed by a taxpayer for a business only if the qualifying property is purchased before January 1, 1998.”, is deleted in its entirety on December 31, 1997.”~~

**Section 4.** Section 1, Chapter 411, Laws of 1997, is amended to read:

“**Section 1.** Section 5, Chapter 542, Laws of 1995, is amended to read:

“**Section 5. Termination —exception.** (1) [Sections 1 through 3] terminate December 31, ~~1997~~ ~~2001~~ 2011.

(2) ~~Notwithstanding subsection (1), 15-32-603(3), as numbered by [this act], which reads: “A credit under this section may be claimed by a taxpayer for a business only if the qualifying property is purchased before January 1, 1998 2002.”, is deleted in its entirety on December 31, 1997 2001.”~~

**Section 5.** Section 4, Chapter 398, Laws of 2001, is amended to read:

“**Section 4.** Section 9, Chapter 712, Laws of 1991, is amended to read:

“**Section 9. Termination.** [This act] terminates December 31, ~~1995~~ ~~2005~~ 2011.””

**Section 6.** Section 5, Chapter 398, Laws of 2001, is amended to read:

“**Section 5.** Section 4, Chapter 542, Laws of 1995, is amended to read:

“**Section 9. Termination.** [This act] terminates December 31, ~~1995~~ ~~2005~~ 2011.””

**Section 7.** Section 6, Chapter 398, Laws of 2001, is amended to read:

**Section 6.** Section 5, Chapter 542, Laws of 1995, is amended to read:

**Section 5. Termination —exception.** (1) [Sections 1 through 3] terminate December 31, ~~1997 2005~~ 2011.

~~(2) Notwithstanding subsection (1), 15-32-603(3), as numbered by [this act], which reads: "A credit under this section may be claimed by a taxpayer for a business only if the qualifying property is purchased before January 1, 1998 2006.", is deleted in its entirety on December 31, 1997 2005."~~

**Section 8.** Section 7, Chapter 398, Laws of 2001, is amended to read:

**Section 7.** Section 1, Chapter 411, Laws of 1997, is amended to read:

**Section 5. Termination —exception.** (1) [Sections 1 through 3] terminate December 31, ~~1997 2005~~ 2011.

~~(2) Notwithstanding subsection (1), 15-32-603(3), as numbered by [this act], which reads: "A credit under this section may be claimed by a taxpayer for a business only if the qualifying property is purchased before January 1, 1998 2006.", is deleted in its entirety on December 31, 1997 2005."~~

**Section 9. Effective date.** [This act] is effective July 1, 2005.

Approved May 2, 2005

## CHAPTER NO. 570

[SB 224]

AN ACT ALLOWING A SCHOOL DISTRICT TO PROVIDE EDUCATIONAL SERVICES AT AN OFFSITE INSTRUCTIONAL SETTING TO CHILDREN ATTENDING SCHOOL IN THE SCHOOL DISTRICT; REQUIRING THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO ADOPT RULES; REVISING THE DEFINITION OF "AVERAGE NUMBER BELONGING" TO CLARIFY THE INCLUSION OF PUPILS EDUCATED OFFSITE; DEFINING "OFFSITE INSTRUCTIONAL SETTING"; AMENDING SECTION 20-1-101, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Offsite provision of educational services by school district.** (1) A school district may provide educational services at an offsite instructional setting, including the provision of services through electronic means. A district shall comply with any rules adopted by the board of public education that specify standards for the provision of educational services at an offsite instructional setting. The provision of educational services at an offsite instructional setting by a district is limited to pupils:

(a) meeting the residency requirements for that district as provided in 1-1-215;

(b) living in the district and eligible for educational services under the Individuals with Disabilities Education Act or under 29 U.S.C. 794; or

(c) attending school in the district under a mandatory attendance agreement as provided in 20-5-321.

(2) The superintendent of public instruction shall adopt rules for the administration and enforcement of this section.

**Section 2.** Section 20-1-101, MCA, is amended to read:

**“20-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) “Agricultural experiment station” means the agricultural experiment station established at Montana state university-Bozeman.

(2) “Average number belonging” or “ANB” means the average number of regularly enrolled, full-time pupils *physically attending or receiving educational services at an offsite instructional setting* from the public schools of a district.

(3) “Board of public education” means the board created by Article X, section 9, subsection (3), of the Montana constitution and 2-15-1507.

(4) “Board of regents” means the board of regents of higher education created by Article X, section 9, subsection (2), of the Montana constitution and 2-15-1505.

(5) “Commissioner” means the commissioner of higher education created by Article X, section 9, subsection (2), of the Montana constitution and 2-15-1506.

(6) “County superintendent” means the county government official who is the school officer of the county.

(7) “District superintendent” means a person who holds a valid class 3 Montana teacher certificate with a superintendent’s endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who has been employed by a district as a district superintendent.

(8) “K-12 career and vocational/technical education” means organized educational activities that have been approved by the office of public instruction and that:

(a) offer a sequence of courses that provide a pupil with the academic and technical knowledge and skills that the pupil needs to prepare for further education and for careers in the current or emerging employment sectors; and

(b) include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills of the pupil.

(9) “*Offsite instructional setting*” means an instructional setting at a location, separate from a main school site, where a school district provides for the delivery of instruction to a student who is enrolled in the district.

~~(9)~~(10) “Principal” means a person who holds a valid class 3 Montana teacher certificate with an applicable principal’s endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who has been employed by a district as a principal. For the purposes of this title, any reference to a teacher must be construed as including a principal.

~~(10)~~(11) “Pupil” means a child who is 6 years of age or older on or before September 10 of the year in which the child is to enroll or has been enrolled by special permission of the board of trustees under 20-5-101(3) but *who* has not yet reached 19 years of age and who is enrolled in a school established and

maintained under the laws of the state at public expense. For purposes of calculating the average number belonging pursuant to 20-9-311, the definition of pupil includes a person who has not yet reached 19 years of age by September 10 of the year and is enrolled under 20-5-101(3) in a school established and maintained under the laws of the state at public expense.

~~(11)~~(12) "Pupil instruction" means the conduct of organized instruction of pupils enrolled in public schools while under the supervision of a teacher.

~~(12)~~(13) "Regents" means the board of regents of higher education.

~~(13)~~(14) "School food services" means a service of providing food for the pupils of a district on a nonprofit basis and includes any food service financially assisted through funds or commodities provided by the United States government.

~~(14)~~(15) "State board of education" means the board composed of the board of public education and the board of regents as specified in Article X, section 9, subsection (1), of the Montana constitution.

~~(15)~~(16) "State university" means Montana state university-Bozeman.

~~(16)~~(17) "Superintendent of public instruction" means that state government official designated as a member of the executive branch by the Montana constitution.

~~(17)~~(18) "System" means the Montana university system.

~~(18)~~(19) "Teacher" means a person, except a district superintendent, who holds a valid Montana teacher certificate that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who is employed by a district as a member of its instructional, supervisory, or administrative staff. This definition of a teacher includes a person for whom an emergency authorization of employment has been issued under the provisions of 20-4-111.

~~(19)~~(20) "Textbook" means a book or manual used as a principal source of study material for a given class or group of students.

~~(20)~~(21) "Textbook dealer" means a party, company, corporation, or other organization selling, offering to sell, or offering for adoption textbooks to districts in the state.

~~(21)~~(22) "Trustees" means the governing board of a district.

~~(22)~~(23) "University" means the university of Montana-Missoula.

~~(23)~~(24) "Vocational-technical education" means vocational-technical education of vocational-technical students that is conducted by a unit of the Montana university system, a community college, or a tribally controlled community college, as designated by the board of regents."

**Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 20, chapter 7, part 1, and the provisions of Title 20, chapter 7, part 1, apply to [section 1].

**Section 4. Effective date — applicability.** [This act] is effective July 1, 2005, and applies to school fiscal years beginning on or after July 1, 2005.

Approved May 2, 2005

**CHAPTER NO. 571**

[SB 260]

AN ACT PROVIDING THAT A FINAL DECISION IN A CONTESTED CASE PROCEEDING MUST BE ISSUED WITHIN 90 DAYS UNLESS GOOD CAUSE IS SHOWN; PROVIDING A PROCEDURE FOR ISSUING A FINAL WRITTEN DECISION THAT DIFFERS FROM AN ORAL PRONOUNCEMENT OF A DECISION; REQUIRING MAIL NOTICE OF A DECISION; AMENDING SECTION 2-4-623, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 2-4-623, MCA, is amended to read:

**“2-4-623. Final orders — notification — availability.** (1) (a) A final decision or order adverse to a party in a contested case ~~shall~~ *must* be in writing or stated in the record. A final decision ~~shall~~ *must* include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, ~~shall~~ *must* be accompanied by a concise and explicit statement of the underlying facts supporting the findings. *A final decision must be issued within 90 days after a contested case is considered to be submitted for a final decision unless, for good cause shown, the period is extended for an additional time not to exceed 30 days.*

(b) *If an agency intends to issue a final written decision in a contested case that grants or denies relief and the relief that is granted or denied differs materially from a final agency decision that was orally announced on the record, the agency may not issue the final written decision without first providing notice to the parties and an opportunity to be heard before the agency.*

(2) Findings of facts ~~shall~~ *must* be based exclusively on the evidence and on matters officially noticed.

(3) Each conclusion of law ~~shall~~ *must* be supported by authority or by a reasoned opinion.

(4) If, in accordance with agency rules, a party submitted proposed findings of fact, the decision ~~shall~~ *must* include a ruling upon each proposed finding.

(5) Parties ~~shall~~ *must* be notified ~~either personally or~~ by mail of any decision or order. Upon request, a copy of the decision or order ~~shall~~ *must* be delivered or mailed ~~forthwith~~ *in a timely manner* to each party and to ~~his~~ *each party's* attorney of record.

(6) Each agency shall index and make available for public inspection all final decisions and orders, including declaratory rulings under 2-4-501. ~~No such An~~ *may and it may not* be invoked by the agency for any purpose until it has been made available for public inspection as ~~herein~~ *required in this section*. This provision is not applicable in favor of any person or party who has actual knowledge ~~thereof of the decision or order~~ or when a state statute or federal statute or regulation prohibits public disclosure of the contents of a decision or order.”

**Section 2. Effective date.** [This act] is effective on passage and approval.

**Section 3. Applicability.** [This act] applies to contested case hearings commenced after [the effective date of this act].

Approved May 2, 2005

**CHAPTER NO. 572**

[SB 287]

AN ACT RELATING TO THE REGULATION OF EPHEDRINE AND PSEUDOEPHEDRINE; PROVIDING THAT PRODUCTS CONTAINING AN INGREDIENT OF EPHEDRINE OR PSEUDOEPHEDRINE MUST BE SOLD IN A LICENSED PHARMACY OR A RETAIL ESTABLISHMENT UNDER RESTRICTED CONDITIONS AND IN LIMITED QUANTITIES; PROVIDING A REBUTTABLE PRESUMPTION AND PENALTIES; PROVIDING FOR A VOLUNTARY RETAILER METHAMPHETAMINE WATCH PROGRAM; REQUIRING THE DEPARTMENT OF JUSTICE TO PROVIDE GRANTS; PROVIDING IMMUNITY FOR A PERSON REPORTING UNDER THE METHAMPHETAMINE WATCH PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Restricted possession, purchase, or other transfer of ephedrine or pseudoephedrine — exceptions — penalties.** (1) Except as provided in subsection (2), a person may not purchase, receive, or otherwise acquire more than 9 grams of any product, mixture, or preparation containing any detectable quantity of ephedrine or pseudoephedrine, any of their salts or optical isomers, or salts of optical isomers within any 30-day period.

(2) This section does not apply to any quantity of a product, mixture, or preparation dispensed pursuant to a valid prescription or as provided in [section 2].

(3) Possession of more than 9 grams of a drug product containing any detectable quantity of ephedrine, pseudoephedrine, their salts or optical isomers, or salts of optical isomers constitutes a rebuttable presumption of the intent to use the product as a precursor to methamphetamine or another controlled substance.

(4) The rebuttable presumption in subsection (3) does not apply to:

- (a) a retail distributor of drug products;
- (b) a wholesale drug distributor, or its agents, licensed by the board of pharmacy;
- (c) a manufacturer of drug products or its agents;
- (d) a pharmacist licensed by the board of pharmacy; or
- (e) a licensed health care professional possessing the drug products in the course of carrying out the profession.

(5) A person who knowingly or negligently violates any provision of this section is guilty of a misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 and by imprisonment in the county jail for not more than 1 year.

**Section 2. Restricted sale and access to ephedrine or pseudoephedrine products — exceptions — penalties.** (1) The retail sale of a product that contains any detectable quantity of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers may be sold only in a pharmacy licensed pursuant to Title 37, chapter 7, or a retail establishment that is certified by the department of justice pursuant to subsection (2).

(2) (a) If there is not a licensed community pharmacy within a county, then a retail establishment may apply to the department of justice for certification as an establishment that is allowed to sell products that contain any detectable quantity of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers.

(b) The department of justice shall adopt rules to establish criteria for the certification of retail establishments with the intent to limit the available supply of ephedrine and pseudoephedrine to prevent the manufacture of methamphetamine.

(c) The department of justice may certify a retail establishment based on the criteria adopted by rule.

(3) Except as provided in subsection (5), a licensed pharmacy or certified retail establishment provided for in subsection (1) that dispenses, sells, or distributes products containing ephedrine or pseudoephedrine shall:

(a) display the products containing ephedrine or pseudoephedrine behind the store counter in an area that is not accessible to customers or in a locked case so that a customer is required to ask an employee of the licensed pharmacy or certified retail establishment for assistance in purchasing the product;

(b) limit sales to packages containing no more than a total of 9 grams;

(c) require the person purchasing, receiving, or otherwise acquiring any product, mixture, or preparation containing ephedrine or pseudoephedrine to produce a driver's license or other form of photo identification and sign a record of sale or acquisition that includes the date of the transaction, the name of the person purchasing or acquiring the ephedrine or pseudoephedrine, and the number of grams of the product, mixture, or preparation purchased or acquired;

(d) take action as necessary to ensure that a person does not purchase or acquire more than 9 grams of ephedrine or pseudoephedrine from the licensed pharmacy or certified retail establishment provided for in subsection (1) in any 30-day period.

(4) A licensed pharmacy or certified retail establishment provided for in subsection (1) that dispenses, sells, or distributes products containing ephedrine or pseudoephedrine shall maintain all records made under subsection (3) in a secure, centralized location. Each record must be maintained by the licensed pharmacy or certified retail establishment provided for in subsection (1) for 2 years. The licensed pharmacy or certified retail establishment provided for in subsection (1) shall provide access to sales records by law enforcement officials.

(5) This section does not apply to:

(a) any quantity of a product, mixture, or preparation dispensed pursuant to a valid prescription;

(b) products containing ephedrine or pseudoephedrine that are in liquid, liquid capsule, or gel capsule form if ephedrine or pseudoephedrine is not the only active ingredient;

(c) a product that the board, upon application by a manufacturer, exempts from this section by rule because the product has been formulated in a manner as to effectively prevent the conversion of the active ingredient into methamphetamine or its salts or precursors.

(6) A person who knowingly or negligently violates any provision of this section is guilty of a misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 and by imprisonment in the county jail for not more than 1 year.

**Section 3. Definitions.** For the purposes of [sections 3 through 7], the following definitions apply:

(1) "Department" means the department of justice provided for in 2-15-2001.

(2) "Program" means the methamphetamine watch program established under [sections 3 through 7].

(3) "Retailer" means a business establishment in this state that engages in over-the-counter retail sales of any product containing ephedrine or pseudoephedrine or a precursor to methamphetamine.

**Section 4. Establishment of methamphetamine watch program.** The department shall establish a methamphetamine watch program to:

(1) inform retailers of the problems associated with the illicit manufacture and use of methamphetamine in this state;

(2) establish procedures and develop forms for retailers and other persons to use in reporting to law enforcement any incidents of theft, suspicious purchases, or other transactions involving products that may be used in the illicit manufacture of methamphetamine;

(3) increase community awareness of methamphetamine;

(4) encourage retailers, law enforcement, state and local agencies, and other persons to cooperate in efforts to reduce the diversion of legitimate products for use in the illicit manufacture of methamphetamine; and

(5) assist local communities in addressing problems created by the illicit manufacture and use of methamphetamine.

**Section 5. Retailer participation.** (1) Retailer participation in the program is voluntary.

(2) A retailer participating in the program shall make reasonable efforts to deter the theft or improper sale of products used in the illicit manufacture of methamphetamine, including products containing ephedrine and pseudoephedrine, by:

(a) implementing product management practices that deter theft or suspicious purchases of the products, including placing signs at strategic locations within the retail establishment to inform patrons of the retailer's participation in the program; and

(b) providing annual personnel training on products used in the illicit manufacture of methamphetamine and procedures to follow on observing theft or suspicious purchases of those products.

**Section 6. Grants.** (1) The department shall provide grants for public and private organizations to engage in initiatives designed to support the program. The grant recipient may use grant money only to pay for activities directly related to the purpose of the initiative to support the program.

(2) The department may accept gifts, grants, donations, and other contributions for the purpose of providing grants.

**Section 7. Reporting — immunity from liability.** A person may not be held liable for any damages arising from an act relating to the reporting of

information made in good faith and in substantial compliance with the reporting procedures established under [section 4].

**Section 8. Codification instruction.** (1) [Sections 1 and 2] are intended to be codified as an integral part of Title 50, chapter 32, and the provisions of Title 50, chapter 32, apply to [sections 1 and 2].

(2) [Sections 3 through 7] are intended to be codified as an integral part of Title 44, chapter 4, and the provisions of Title 44, chapter 4, apply to [sections 3 through 7].

**Section 9. Effective date.** [This act] is effective July 1, 2005.

Approved May 2, 2005

## CHAPTER NO. 573

[SB 339]

AN ACT PROVIDING FOR THE ISSUANCE OF A FREE RESIDENT WILDLIFE CONSERVATION LICENSE OR A REDUCED-RATE CLASS AAA RESIDENT COMBINATION SPORTS LICENSE FOR RESIDENT MONTANA NATIONAL GUARD, FEDERAL RESERVE, AND ACTIVE DUTY MILITARY PERSONNEL RETURNING FROM AN OUT-OF-STATE CONTINGENCY OPERATION IN THE YEAR OF OR YEAR FOLLOWING THE SERVICE MEMBER'S RETURN AND IN THE FOLLOWING YEAR; ALLOWING RESIDENT MONTANA NATIONAL GUARD, FEDERAL RESERVE, AND ACTIVE DUTY MILITARY PERSONNEL WHO HAVE SERVED IN AN OUT-OF-STATE CONTINGENCY OPERATION SINCE SEPTEMBER 11, 2001, AN OPPORTUNITY TO OBTAIN THE FREE OR REDUCED-RATE LICENSE FOR A 2-YEAR PERIOD TO COMMENCE IN 2006 OR 2007; AMENDING SECTIONS 87-2-202, 87-2-711, AND 87-2-803, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 87-2-202, MCA, is amended to read:

**“87-2-202. Application — fee — expiration.** (1) *Except as provided in 87-2-803(11), a wildlife conservation license must be sold upon written application. The application must contain the applicant's name, age, [social security number,] occupation, street address of permanent residence, mailing address, qualifying length of time as a resident in the state of Montana, and status as a citizen of the United States or as an alien and must be signed by the applicant. The applicant shall present a valid Montana driver's license, a Montana driver's examiner's identification card, or other identification specified by the department to substantiate the required information when applying for a wildlife conservation license. It is the applicant's burden to provide documentation establishing the applicant's identity and qualifications to purchase a wildlife conservation license or to receive a free wildlife conservation license pursuant to 87-2-803(11). It is unlawful and a misdemeanor for a license agent to sell a wildlife conservation license to an applicant who fails to produce the required identification at the time of application for licensure.*

(2) Hunting, fishing, or trapping licenses issued in a form determined by the department must be recorded according to rules that the department may prescribe.

(3) (a) Resident wildlife conservation licenses may be purchased for a fee of \$6.25, of which 25 cents is a search and rescue surcharge.

(b) Nonresident wildlife conservation licenses may be purchased for a fee of \$9.25, of which 25 cents is a search and rescue surcharge.

(c) In addition to the fee in subsection (3)(a), the first time in any license year that a resident uses the wildlife conservation license as a prerequisite to purchase a hunting license, an additional hunting access enhancement fee of \$2 is assessed. The additional fee may be used by the department only to encourage enhanced hunting access through the hunter management and hunting access enhancement programs established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked appropriately when the hunting access enhancement fee is paid. The resident hunting access enhancement fee is chargeable only once during any license year.

(d) In addition to the fee in subsection (3)(b), the first time in any license year that a nonresident uses the wildlife conservation license as a prerequisite to purchase a hunting license, except a variably priced outfitter-sponsored Class B-10 or Class B-11 license issued under 87-1-268, an additional hunting access enhancement fee of \$10 is assessed. The additional fee may be used by the department only to encourage enhanced hunting access through the hunter management and hunting access enhancement programs established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked appropriately when the hunting access enhancement fee is paid. The nonresident hunting access enhancement fee is chargeable only once during any license year.

(4) Licenses issued are void after the last day of February next succeeding their issuance.

[(5) The department shall keep the applicant's social security number confidential, except that the number may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.]

(6) The department shall delete the applicant's social security number in any electronic database [5 years after the date that application is made for the most recent license]. (Subsections (3)(c) and (3)(d) terminate March 1, 2006—sec. 9, Ch. 216, L. 2001; bracketed language terminates or is amended on occurrence of contingency—sec. 3, Ch. 321, L. 2001; the \$2 wildlife conservation license fee increases in subsections (3)(a) and (3)(b) void on occurrence of contingency—sec. 8, Ch. 596, L. 2003.)”

**Section 2.** Section 87-2-711, MCA, is amended to read:

**“87-2-711. (Temporary) Class AAA—combination sports license.** (1) A resident, as defined by 87-2-102, who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued is entitled to:

(a) ~~upon payment of the sum of \$54, plus the resident hunting access enhancement fee in 87-2-202(3)(e);~~ a combination sports license that permits a holder who is 12 years of age or older to exercise all rights granted to holders of Class A, A-1, A-3, and A-5; licenses and resident conservation licenses as prescribed in 87-2-202 *upon payment of the sum of \$54, plus the resident hunting access enhancement fee provided for in 87-2-202(3)(c), or if the resident is a service member eligible for a combination sports license pursuant to 87-2-803(11), upon payment of \$29, plus the resident hunting access enhancement fee provided for in 87-2-202(3)(c);* or

(b) ~~upon payment of the sum of \$64, plus the resident hunting access enhancement fee in 87-2-202(3)(c),~~ a combination sports license that permits a holder who is 12 years of age or older to exercise all rights granted in subsection (1)(a) and the additional rights granted to holders of a Class A-6 license *upon payment of the sum of \$64, plus the resident hunting access enhancement fee provided for in 87-2-202(3)(c).*

(2) The department may furnish each holder of a combination sports license an appropriate decal. (Terminates March 1, 2006—sec. 9, Ch. 216, L. 2001.)

**87-2-711. (Effective March 1, 2006) Class AAA—combination sports license.** (1) A resident, as defined by 87-2-102, who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued is entitled to:

(a) ~~upon payment of the sum of \$54,~~ a combination sports license that permits a holder who is 12 years of age or older to exercise all rights granted to holders of Class A, A-1, A-3, and A-5; licenses and resident conservation licenses as prescribed in 87-2-202 *upon payment of the sum of \$54, or if the resident is a service member eligible for a combination sports license pursuant to 87-2-803(11), upon payment of \$29, plus the resident hunting access enhancement fee provided for in 87-2-202(3)(c);* or

(b) ~~upon payment of the sum of \$64,~~ a combination sports license that permits a holder who is 12 years of age or older to exercise all rights granted in subsection (1)(a) and the additional rights granted to holders of a Class A-6 license *upon payment of the sum of \$64.*

(2) The department may furnish each holder of a combination sports license an appropriate decal.”

**Section 3.** Section 87-2-803, MCA, is amended to read:

**“87-2-803. Persons with disabilities — service members — definitions.** (1) Persons with disabilities are entitled to fish and to hunt game birds, not including turkeys, with only a conservation license if they are residents of Montana not residing in an institution and are certified as disabled as prescribed by departmental rule. A person who has purchased a conservation license and a resident fishing license or game bird license for a particular license year and who is subsequently certified as disabled is entitled to a refund for the fishing license or game bird license previously purchased for that license year. A person who is certified as disabled pursuant to subsection (3) and who was issued a permit to hunt from a vehicle for license year 2000 or a subsequent license year is automatically entitled to a permit to hunt from a vehicle for subsequent license years if the criteria for obtaining a permit does not change.

(2) A resident of Montana who is certified as disabled by the department and who is not residing in an institution may purchase regular resident deer and elk licenses at one-half the fee paid by a resident who is 15 years of age or older and who is under 62 years of age. A person who has purchased a conservation license and a resident deer license or resident elk license for a particular license year and who is subsequently certified as disabled is entitled to a refund for the deer license or elk license previously purchased and reissuance of the license for that license year at the rate established in this subsection.

(3) A person may be certified as disabled by the department and issued a permit to hunt from a vehicle, on a form prescribed by the department, if the person establishes one or more of the disabilities pursuant to subsection (8). The department shall adopt rules to establish a voluntary board or boards of review

to resolve any disputes over whether a person meets the criteria established in subsection (8). Each board must have at least one Montana-licensed physician as a member.

(4) A person with a disability carrying a permit to hunt from a vehicle, referred to in this subsection as a permitholder, may hunt by shooting a firearm from the shoulder, berm, or barrow pit right-of-way of a public highway, as defined in 61-1-202, except a state or federal highway, or may hunt by shooting a firearm from within a self-propelled or drawn vehicle that is parked on a shoulder, berm, or barrow pit right-of-way in a manner that will not impede traffic or endanger motorists or that is parked in an area, not a public highway, where hunting is permitted. This subsection does not allow a permitholder to shoot across the roadway of any public highway or to hunt on private property without permission of the landowner. A permitholder must have a companion to assist in immediately dressing any killed game animal. The companion may also assist the permitholder by hunting a game animal that has been wounded by the permitholder when the permitholder is unable to pursue and kill the wounded game animal. Any vehicle from which a permitholder is hunting must be conspicuously marked with an orange-colored international symbol of persons with disabilities on the front, rear, and each side of the vehicle, or as prescribed by the department.

(5) (a) A resident of Montana who is certified by the department as experiencing blindness, as defined in 53-7-301, may be issued a lifetime fishing license for the blind upon payment of a one-time fee of \$10. The license is valid for the lifetime of the blind individual and allows the licensee to fish as authorized by department rule. An applicant for a license under this subsection need not obtain a wildlife conservation license as a prerequisite to licensure.

(b) A person who is certified by the department as experiencing blindness, as defined in 53-7-301, may be issued regular resident deer and elk licenses in the manner provided in subsection (2), and must be accompanied by a companion, as provided in subsection (4).

(6) The department shall adopt rules to establish the qualifications that a person must meet to be a companion and may adopt rules to establish when a companion can be a designated shooter for a disabled person.

(7) As used in this section, "disabled person", "person with a disability", or "disabled" means or refers to a person experiencing a condition medically determined to be permanent and substantial and resulting in significant impairment of the person's functional ability.

(8) A person is entitled to a permit to hunt from a vehicle if the person:

(a) is certified by a licensed physician to be dependent on an oxygen device or dependent on a wheelchair, crutch, or cane for mobility;

(b) is an amputee above the wrist or ankle; or

(c) is certified by a licensed physician to be unable to walk, unassisted, 600 yards over rough and broken ground while carrying 15 pounds within 1 hour and to be unable to handle and maneuver up to 25 pounds.

(9) Certification by a licensed physician under subsection (8) must be on a form provided by the department.

(10) A person who disagrees with a determination of eligibility for a permit to hunt from a vehicle may request a review by a voluntary board of review pursuant to subsection (3).

(11) (a) *A Montana resident who is a member of the Montana national guard, the federal reserve as provided in 10 U.S.C. 10101, or was otherwise engaged in active duty and who participated in a contingency operation as provided in 10 U.S.C. 101(a)(13) that required the member to serve at least 6 months outside of the state, upon request and upon presentation of the documentation described in subsection (11)(b), must be issued a free resident wildlife conservation license or a Class AAA resident combination sports license, which may not include a bear license, for \$29, plus the resident hunting access enhancement fee provided for in 87-2-202(3)(c), in the license year that the member returns from military service or in the year following the member's return, based on the member's election, and in the license year after the member's election. A member who participated in a contingency operation between September 11, 2001, and February 28, 2006, that required the member to serve at least 6 months outside of the state may make an election in 2006 or 2007 and be entitled to a free resident wildlife conservation license or a \$25 Class AAA resident combination sports license in the year of election and the license year after the member's election.*

(b) *To be eligible for the free resident wildlife conservation license or reduced-rate Class AAA resident combination sports license provided for in subsection (11)(a), an applicant shall, in addition to the written application and proof of residency required in 87-2-202(1), provide to any regional department office or to the department headquarters in Helena, by mail or in person, the member's DD form 214 verifying the member's release or discharge from active duty. The applicant is responsible for providing documentation showing that the applicant participated in a contingency operation as provided in 10 U.S.C. 101(a)(13)."*

**Section 4. Effective date.** [This act] is effective on passage and approval.

Approved May 2, 2005

## CHAPTER NO. 574

[SB 342]

AN ACT CREATING AN ALTERNATIVE PROJECT DELIVERY CONTRACT PROCESS FOR CERTAIN CONSTRUCTION PROJECTS OF STATE AGENCIES AND CERTAIN LOCAL GOVERNMENTS; ESTABLISHING REQUIREMENTS THAT MUST BE MET IN ORDER TO USE AN ALTERNATIVE PROJECT DELIVERY CONTRACT; REQUIRING JUSTIFICATION FOR AN ALTERNATIVE PROJECT DELIVERY CONTRACT; REQUIRING A STATE AGENCY OR CERTAIN LOCAL GOVERNMENTS THAT USE AN ALTERNATIVE PROJECT DELIVERY CONTRACT TO STATE THE REASONS FOR SELECTING THE CONTRACTOR SELECTED; AND AMENDING SECTIONS 7-5-2301, 7-5-4302, 18-1-102, 18-2-103, 18-4-124, 20-6-606, 20-9-204, AND 67-11-201, MCA.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Definitions.** As used in [sections 1 through 3], unless the context clearly requires otherwise, the following definitions apply:

(1) "Alternative project delivery contract" means a construction management contract, a general contractor construction management contract, or a design-build contract.

(2) "Construction management contract" means a contract in which the contractor acts as the public owner's construction manager and provides leadership and administration for the project, from planning and design, in cooperation with the designers and the project owners, to project startup and construction completion. (3) "Contractor" has the meaning provided in 18-4-123.

(4) "Design-build contract" means a contract in which the designer-builder assumes the responsibility and the risk for architectural or engineering design and construction delivery under a single contract with the owner.

(5) "General contractor construction management contract" means a contract in which the general contractor, in addition to providing the preconstruction, budgeting, and scheduling services, procures necessary construction services, equipment, supplies, and materials through competitive bidding contracts with subcontractors and suppliers to construct the project.

(6) "Governing body" means the legislative authority of:

(a) a municipality, county, or consolidated city-county established pursuant to Title 7, chapter 1, 2, or 3;

(b) a school district established pursuant to Title 20; or

(c) an airport authority established pursuant to Title 67, chapter 11.

(7) "Project" means any construction or any improvement of the land, a building, or another improvement that is suitable for use as a state or local governmental facility.

(8) "Publish" means publication of notice as provided for in 7-1-2121, 7-1-4127, 18-2-301, and 20-9-204.

(9) "State agency" has the meaning provided in 2-2-102, except the department of transportation, provided for in 2-15-2501, is not considered a state agency.

**Section 2. Alternative project delivery contract — authority — criteria.** (1) Subject to the provisions of [sections 1 through 3], a state agency or a governing body may use an alternative project delivery contract. A state agency or governing body that uses an alternative project delivery contract shall:

(a) demonstrate that the state agency or the governing body has or will have knowledgeable staff or consultants who have the capacity to manage an alternative project delivery contract;

(b) clearly describe the manner in which:

(i) the alternative project delivery contract award process will be conducted; and

(ii) subcontractors and suppliers will be selected.

(2) Prior to awarding an alternative project delivery contract, the state agency or the governing body shall determine that the proposal meets at least two of the sets of criteria described in subsections (2)(a) through (2)(c) and the provisions of subsection (3). To make the determination, the state agency or the governing body shall make a detailed written finding that:

(a) the project has significant schedule ramifications and using the alternative project delivery contract is necessary to meet critical deadlines by shortening the duration of construction. Factors that the state agency or the

governing body may consider in making its findings include, but are not limited to:

(i) operational and financial data that show significant savings or increased opportunities for generating revenue as a result of early project completion;

(ii) demonstrable public benefits that result from less time for construction; or

(iii) less or a shorter duration of disruption to the public facility.

(b) by using an alternative project delivery contract, the design process will contribute to significant cost savings. Significant cost savings that may justify an alternative project delivery contract may derive from but are not limited to value engineering, building systems analysis, life cycle analysis, and construction planning.

(c) the project presents significant technical complexities that necessitate the use of an alternative delivery project contract.

(3) The state agency or the governing body shall make a detailed written finding that using an alternative project delivery contract will not:

(a) encourage favoritism or bias in awarding the contract; or

(b) substantially diminish competition for the contract.

**Section 3. Alternative project delivery contract — award criteria.**

(1) (a) Whenever a state agency or a governing body determines, pursuant to [section 2], that an alternative project delivery contract is justifiable, the state agency or the governing body shall publish a request for qualifications.

(b) After evaluating the responses to the request for qualifications, a request for proposals must be sent to each respondent that meets the qualification criteria specified in the request for qualifications. The request for proposals must clearly describe the project, the state agency's or the governing body's needs with respect to the project, the requirements for submitting a proposal, criteria that will be used to evaluate proposals, and any other factors, including any weighting, that will be used to award the alternative project delivery contract.

(2) The state agency's or the governing body's decision to award an alternative project delivery contract must be based, at a minimum, on:

(a) the applicant's:

(i) history and experience with projects similar to the project under consideration;

(ii) financial health;

(iii) staff or workforce that is proposed to be committed to the project;

(iv) approach to the project; and

(v) project costs; and

(b) any additional criteria or factors that reflect the project's characteristics, complexities, or goals.

(3) Under any contract awarded pursuant to [sections 1 through 3], architectural services must be performed by an architect, as defined in 37-65-102, and engineering services must be performed by a professional engineer, as defined in 37-67-101.

(4) At the conclusion of the selection process, the state agency or the governing body shall state and document in writing the reasons for selecting the contractor that was awarded the contract. The documentation must be provided to all applicants and to anyone else, upon request.

(5) A state agency or the governing body may compensate unsuccessful applicants for costs incurred in developing and submitting a proposal, provided that all unsuccessful applicants are treated equitably.

**Section 4.** Section 7-5-2301, MCA, is amended to read:

**“7-5-2301. Competitive, advertised bidding required for certain large purchases or construction contracts.** (1) Except as provided in 7-5-2304 and [sections 1 through 3], a contract for the purchase of any vehicle, road machinery or other machinery, apparatus, appliances, equipment, or materials or supplies or for construction, repair, or maintenance in excess of \$50,000 may not be entered into by a county governing body without first publishing a notice calling for bids.

(2) The notice must be published as provided in 7-1-2121.

(3) Subject to 7-5-2309 and *except as provided in [sections 1 through 3]*, every contract subject to bidding must be let to the lowest responsible bidder.”

**Section 5.** Section 7-5-4302, MCA, is amended to read:

**“7-5-4302. Competitive, advertised bidding required for certain purchase and construction contracts.** (1) Except as provided in 7-5-4303, ~~or~~ 7-5-4310, or [sections 1 through 3], all contracts for the purchase of any automobile, truck, other vehicle, road machinery, other machinery, apparatus, appliances, equipment, or materials or supplies of any kind in excess of \$20,000 or for construction, repair, or maintenance in excess of \$25,000 must be let to the lowest responsible bidder after advertisement for bids.

(2) The advertisement must be published as provided in 7-1-4127, and the second publication must be made not less than 5 days or more than 12 days before the consideration of bids. If the advertisement is made by posting, 15 days must elapse, including the day of posting, between the time of the posting of the advertisement and the day set for considering bids.

(3) The council may:

(a) ~~postpone action on any~~ *award* a contract until the next regular meeting after bids are received in response to the advertisement;

(b) ~~and may~~ reject any *or all* bids; and

(c) readvertise as provided in this section.”

**Section 6.** Section 18-1-102, MCA, is amended to read:

**“18-1-102. State contracts to lowest bidder — reciprocity.** (1) In order to provide for an orderly administration of the business of the state of Montana in awarding public contracts for the purchase of goods and for construction, repair, and public works of all kinds, a public agency shall, *except as provided in [sections 1 through 3]*, award:

(a) a public contract for construction, repair, or public works to the lowest responsible bidder without regard to residency. However, a resident bidder must be allowed a preference on a contract against the bid of a nonresident bidder from any state or country that enforces a preference for resident bidders. The preference given to resident bidders of this state must be equal to the preference given in the other state or country.

(b) a public contract for the purchase of goods to the lowest responsible bidder without regard to residency. However, a resident must be allowed a preference on a contract against the bid of a nonresident if the state or country of the nonresident enforces a preference for residents. The preference must be equal to the preference given in the other state or country.

(2) The preferences in this section apply:

(a) whether the law requires advertisement for bids or does not require advertisement for bids; and

(b) to contracts involving funds obtained from the federal government unless expressly prohibited by the laws of the United States or regulations adopted pursuant to federal laws.”

**Section 7.** Section 18-2-103, MCA, is amended to read:

**“18-2-103. Supervision of construction of buildings.** (1) For the construction of a building costing more than \$150,000, the department shall:

(a) review and accept all plans, specifications, and cost estimates prepared by architects or consulting engineers;

(b) approve all bond issues or other financial arrangements and supervise and approve the expenditure of all money;

(c) solicit, accept, and reject bids and, *except as provided in [sections 1 through 3]*, award all contracts to the lowest qualified bidder considering conformity with specifications and terms and reasonableness of the bid amount;

(d) review and approve all change orders; and

(e) accept the building when completed according to accepted plans and specifications.

(2) The department may delegate on a project-by-project basis any powers and duties under subsection (1) to other state agencies, including units of the Montana university system, upon terms and conditions specified by the department.

(3) Before a contract under subsection (1) is awarded, two formal bids must have been received, if reasonably available.

(4) The department need not require the provisions of Montana law relating to advertising, bidding, or supervision when proposed construction costs are \$75,000 or less. However, with respect to a project having a proposed cost of \$75,000 or less but more than \$25,000, the agency awarding the contract shall procure at least three informal bids from contractors registered in Montana, if reasonably available.

(5) For the construction of buildings owned or to be owned by a school district, the department shall, upon request, provide inspection to ensure compliance with the plans and specifications for the construction of the buildings. “Construction” includes construction, repair, alteration, equipping, and furnishing during construction, repair, or alteration. These services must be provided at a cost to be contracted for between the department and the school district, with the receipts to be deposited in the department’s construction regulation account in a state special revenue fund.

(6) It is the intent of the legislature that student housing and other facilities constructed under the authority of the regents of the university system are subject to the provisions of subsections (1) through (3).

(7) The department of military affairs may act as the contracting agency for buildings constructed under the authority of 18-2-102(2)(d). However, the department of administration may agree to act as the contracting agency on behalf of the department of military affairs. Montana law applies to any controversy involving a contract.”

**Section 8.** Section 18-4-124, MCA, is amended to read:

**“18-4-124. Local government adoption of procurement provisions — alternative project delivery contracts.** (1) A political subdivision or school district may adopt any or all parts of this chapter and the accompanying rules promulgated by the department.

(2) *A governing body, as defined in [section 1], may adopt the provisions of [sections 1 through 3] and use an alternative project delivery contract.”*

**Section 9.** Section 20-6-606, MCA, is amended to read:

**“20-6-606. Letting contracts for school facilities.** Any letting of contracts related to the construction or furnishing of a new, enlarged, remodeled, or repaired building shall *must* be conducted under the provisions of 20-9-204 or [sections 1 through 3].”

**Section 10.** Section 20-9-204, MCA, is amended to read:

**“20-9-204. Conflicts of interests, letting contracts, and calling for bids.** (1) It is unlawful for a trustee to:

(a) have any pecuniary interest, either directly or indirectly, in any contract made by the trustee while acting in that official capacity or by the board of trustees of which the trustee is a member; or

(b) be employed in any capacity by the trustee’s own school district.

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

(a) “pecuniary interest” does not include holding an interest of 10% or less in a corporation;

(b) “contract” does not include:

(i) merchandise sold to the highest bidder at public auctions;

(ii) investments or deposits in financial institutions that are in the business of loaning or receiving money when the investments or deposits are made on a rotating or ratable basis among financial institutions in the community or when there is only one financial institution in the community; or

(iii) contracts for professional services, other than salaried services, or for maintenance or repair services or supplies when the services or supplies are not reasonably available from other sources if the interest of any board member and a determination of the lack of availability are entered in the minutes of the board meeting at which the contract is considered.

(3) Except for district needs that must be met because of an unforeseen emergency, as defined in 20-3-322(5), or as provided in subsection (4) of this section, whenever the estimated cost of any building, furnishing, repairing, or other work for the benefit of the district or purchasing of supplies for the district exceeds the sum of \$25,000, the work done or the purchase made must be by contract. ~~Each~~ *Except as provided in [sections 1 through 3], each* contract must be let to the lowest responsible bidder after advertisement for bids. The advertisement must be published in the newspaper that will give notice to the largest number of people of the district as determined by the trustees. The

advertisement must be made once each week for 2 consecutive weeks, and the second publication must be made not less than 5 days or more than 12 days before consideration of bids. A contract not let pursuant to this section is void. The bidding requirements applicable to services performed for the benefit of the district under this section do not apply to:

- (a) a registered professional engineer, surveyor, real estate appraiser, or registered architect;
- (b) a physician, dentist, pharmacist, or other medical, dental, or health care provider;
- (c) an attorney;
- (d) a consulting actuary;
- (e) a private investigator licensed by any jurisdiction;
- (f) a claims adjuster; ~~or~~
- (g) an accountant licensed under Title 37, chapter 50; or

*(h) a project, as defined in [section 1], for which a governing body, as defined in [section 1], enters into an alternative project delivery contract pursuant to [sections 1 through 3].*

(4) A district may enter into a cooperative purchasing contract for the procurement of supplies or services with one or more districts. The award of a contract to a successful bidder must comply with the requirements of subsection (5). The request for bids must be advertised in a daily newspaper of general circulation in each county in which a district participating in the cooperative purchasing contract is located. The advertisement must be made once each week for 2 consecutive weeks, and the second publication must be made not less than 5 days or more than 12 days before consideration of bids.

(5) ~~Whenever~~ *Except as provided in [sections 1 through 3], whenever* bidding is required, the contract must be awarded to the lowest responsible bidder, except that *any or all* bids may be rejected.

(6) This section may not require the board of trustees to let a contract for any routine and regularly performed maintenance or repair project or service that can be accomplished by district staff whose regular employment with the school district is related to the routine performance of maintenance for the district.”

**Section 11.** Section 67-11-201, MCA, is amended to read:

**“67-11-201. General powers of authority.** An authority has all the powers necessary or convenient to carry out the purposes of this chapter, including, subject to 15-10-420, the power to certify annually to the governing bodies creating it the amount of tax to be levied by the governing bodies for airport purposes. Authority powers include but are not limited to the power to:

- (1) sue and be sued, have a seal, and have perpetual succession;
- (2) execute contracts, *including alternative project delivery contracts as provided for in [sections 1 through 3],* and other instruments and take other action that may be necessary or convenient to carry out the purposes of this chapter;
- (3) plan, establish, acquire, develop, construct, purchase, enlarge, improve, maintain, equip, operate, regulate, and protect airports and air navigation facilities, within this state and within any adjoining state, including the acquisition, construction, installation, equipment, maintenance, and operation

at the airports or buildings and other facilities for the servicing of aircraft or for comfort and accommodation of air travelers and the purchase and sale of supplies, goods, and commodities that are incident to the operation of its airport properties. For the authorized purposes, an authority may, by purchase, gift, devise, lease, eminent domain proceedings pursuant to Title 70, chapter 30, or otherwise, acquire property, real or personal, or any interest in property, including easements in airport hazards or land outside the boundaries of an airport or airport site, that is necessary to permit the removal, elimination, obstruction-marking, or obstruction-lighting of airport hazards or to prevent the establishment of airport hazards.

(4) establish comprehensive airport zoning regulations in accordance with the laws of this state;

(5) acquire, by purchase, gift, devise, lease, eminent domain proceedings, or otherwise, existing airports and air navigation facilities. However, an authority may not acquire or take over any airport or air navigation facility owned or controlled by another authority, a municipality, or a public agency of this or any other state without the consent of the authority, municipality, or public agency.

(6) establish or acquire and maintain airports in, over, and upon any public waters of this state or any submerged lands under public waters, provided that the authority has obtained the approval of the owner or agency that controls the water, and construct and maintain terminal buildings, landing floats, causeways, roadways, and bridges for approaches to or connecting with any airport and landing floats and breakwaters for the protection of the airport.”

**Section 12. Codification instruction.** [Sections 1 through 3] are intended to be codified as an integral part of Title 18, chapter 2, and the provisions of Title 18, chapter 2, apply to [sections 1 through 3].

Approved May 2, 2005

## CHAPTER NO. 575

[SB 401]

AN ACT REVISING CHAPTER 1 AND CHAPTER 7 OF THE UNIFORM COMMERCIAL CODE; REVISING CHAPTER 1 TO REFLECT THE SCOPE OF THE CHAPTER, THE APPLICABILITY OF SUPPLEMENTAL PRINCIPLES OF LAW, THE CONCEPT OF GOOD FAITH, CHOICE OF LAW, THE RELEVANCE OF COURSE OF PERFORMANCE BETWEEN THE PARTIES, AND THE EXISTENCE OF AN INDEPENDENT STATUTE OF TITLE; REVISING CHAPTER 7, CONCERNING DOCUMENTS OF TITLE, TO REFLECT THE DEVELOPMENT OF ELECTRONIC DOCUMENTS OF TITLE; REVISING OTHER PROVISIONS TO REFLECT THE REVISIONS TO CHAPTER 1 AND CHAPTER 7; AMENDING SECTIONS 30-1-101, 30-1-102, 30-1-107, 30-1-201, 30-1-204, 30-1-205, 30-1-208, 30-1-209, 30-2-104, 30-2-310, 30-2-323, 30-2-401, 30-2-503, 30-2-506, 30-2-509, 30-2-605, 30-2-705, 30-2A-103, 30-2A-514, 30-2A-518, 30-2A-519, 30-2A-526, 30-2A-527, 30-2A-528, 30-3-102, 30-4-104, 30-4A-105, 30-4A-106, 30-5-123, 30-7-102, 30-7-103, 30-7-104, 30-7-201, 30-7-202, 30-7-203, 30-7-204, 30-7-205, 30-7-206, 30-7-207, 30-7-208, 30-7-209, 30-7-210, 30-7-301, 30-7-302, 30-7-303, 30-7-304, 30-7-305, 30-7-307, 30-7-308, 30-7-309, 30-7-401, 30-7-402, 30-7-403, 30-7-404, 30-7-501, 30-7-502, 30-7-503, 30-7-504, 30-7-506, 30-7-507, 30-7-508, 30-7-509, 30-7-601, 30-7-602, 30-7-603, 30-8-113, 30-9A-102, 30-9A-203, 30-9A-207, 30-9A-208,

30-9A-301, 30-9A-310, 30-9A-312, 30-9A-313, 30-9A-314, 30-9A-317, 30-9A-338, 30-9A-601, 30-18-103, 30-18-115, 45-6-315, AND 71-3-125, MCA; REPEALING SECTIONS 30-1-105, 30-1-110, 30-1-111, 30-1-206, 30-7-105, 30-7-701, 30-7-702, 30-7-703, 30-7-704, 30-7-705, AND 30-7-706, MCA; AND PROVIDING AN APPLICABILITY DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 30-1-101, MCA, is amended to read:

**“30-1-101. Short title titles — scope of chapter.** (1) Chapters 1 through 9A of this title ~~shall be known and~~ may be cited as Uniform Commercial Code.

(2) As used in chapters 1 through 9A of this title “code” means “Uniform Commercial Code” unless the context indicates otherwise.

(3) *This chapter may be cited as the Uniform Commercial Code - General Provisions.*

(4) *This chapter applies to a transaction to the extent that it is governed by chapters 2 through 5, 7, 8, and 9A of this title.”*

**Section 2.** Section 30-1-102, MCA, is amended to read:

**“30-1-102. Purposes — rules of construction — ~~variation by agreement.~~** (1) This code ~~shall~~ *must* be liberally construed and applied to promote its underlying purposes and policies-

~~(2) Underlying purposes and policies of this code, which are:~~

(a) to simplify, clarify, and modernize the law governing commercial transactions;

(b) to permit the continued expansion of commercial practices through custom, usage, and agreement of the parties;

(c) to make uniform the law among the various jurisdictions.

~~(3) The effect of provisions of this code may be varied by agreement, except as otherwise provided in this code and except that the obligations of good faith, diligence, reasonableness and care prescribed by this code may not be disclaimed by agreement but the parties may by agreement determine the standards by which the performance of such obligations are to be measured if such standards are not manifestly unreasonable.~~

~~(4) The presence in certain provisions of this code of the words “unless otherwise agreed” or words of similar import does not imply that the effect of other provisions may not be varied by agreement under subsection (3).~~

~~(5)~~(2) In this code unless the context otherwise requires:

(a) words in the singular number include the plural, and in the plural include the singular;

(b) words of the masculine gender include the feminine and the neuter, and when the sense so indicates words of the neuter gender may refer to any gender.”

**Section 3.** Section 30-1-107, MCA, is amended to read:

**“30-1-107. Waiver or renunciation of claim or right after breach.** ~~Any~~ A claim or right arising out of an alleged breach ~~can~~ *may* be discharged in whole or in part without consideration by a written waiver or renunciation signed and ~~delivered by agreement of~~ the aggrieved party *in an authenticated record.*”

**Section 4.** Section 30-1-201, MCA, is amended to read:

**“30-1-201. General definitions.** (1) *Unless the context requires otherwise, words or phrases defined in this section, or in the additional definitions contained in other chapters of the code that apply to particular chapters or parts of chapters, have the meanings stated.*

(2) Subject to additional definitions contained in ~~the subsequent other~~ chapters of this code that ~~are applicable~~ *apply* to specific chapters or parts thereof of chapters, ~~and unless the context otherwise requires, in this code:~~

(1)(a) “Action” in the sense of a judicial proceeding includes recoupment, counterclaim, setoff, suit in equity, and any other ~~proceedings~~ *proceeding* in which rights are determined.

(2)(b) “Aggrieved party” means a party entitled to ~~resort to~~ *pursue* a remedy.

(3)(c) “Agreement” means the bargain of the parties in fact, as found in their language or ~~by implication~~ *inferred* from other circumstances, including *course of performance*, course of dealing, or usage of trade or ~~course of performance~~ as provided in this code (30-1-205 and 30-2-208). ~~Whether an agreement has legal consequences is determined by the provisions of this code, if applicable; otherwise by the law of contracts (30-1-103).~~

(d) “Authenticate” means to:

(i) *sign; or*

(ii) *execute or adopt a symbol, or encrypt a record in whole or in part, with present intent to:*

(A) *identify the authenticating party; and*

(B) *adopt, accept, or establish the authenticity of a record or term.*

(4)(e) “Bank” means any person engaged in the business of banking *and includes a savings bank, savings and loan association, credit union, and trust company.*

(5)(f) “Bearer” means ~~the~~ *a person in control of a negotiable electronic document of title or a person in possession of an a negotiable instrument, negotiable tangible* document of title, or certificated security payable to bearer or endorsed in blank.

(6)(g) (i) “Bill of lading” means a document *of title* evidencing the receipt of goods for shipment issued by a person engaged in the business of *directly or indirectly* transporting or forwarding goods, ~~and includes an airbill. “Airbill” means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.~~

(ii) *The term does not include a warehouse receipt.*

(7)(h) “Branch” includes a separately incorporated foreign branch of a bank.

(8)(i) “Burden of establishing” a fact means the burden of persuading the ~~triers~~ *trier* of fact that the existence of the fact is more probable than its nonexistence.

(9)(j) “Buyer in ordinary course of business” means a person that buys goods, in good faith, without knowledge that the sale violates the rights of another person in the goods, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind. A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with

the seller's own usual or customary practices. A person that sells oil, gas, or other ~~mineral~~ *minerals* at the wellhead or minehead is a person in the business of selling goods of that kind. A buyer in ordinary course of business may buy for cash, by exchange of other property, or on secured or unsecured credit, and may acquire goods or documents of title under a preexisting contract for sale. Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under chapter 2 may be a buyer in ordinary course of business. A person that acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt is not a buyer in ordinary course of business.

~~(10)(k)~~ "Conspicuous",—A *with reference to a term, or clause is conspicuous when it is means so written, displayed, or presented that a reasonable person against whom which it is to operate ought to have noticed it. A printed heading in capitals (as: Non-Negotiable Bill of Lading) is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any stated term is "conspicuous". Whether a term or clause is "conspicuous" or not is for decision by the court. Conspicuous terms include the following:*

(i) *a heading in capitals equal to or greater in size than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same or lesser size; and*

(ii) *language in the body of a record or display in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from surrounding text of the same size by symbols or other marks that call attention to the language.*

(l) *"Consumer" means an individual who enters into a transaction primarily for personal, family, or household purposes.*

~~(11)(m)~~ "Contract" means the total legal obligation ~~which that~~ results from the parties' agreement as affected by this code and *as supplemented by* any other applicable rules of law.

~~(12)(n)~~ "Creditor" includes a general creditor, a secured creditor, a lien creditor, and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor's or assignor's estate.

~~(13)(o)~~ "Defendant" includes a person in the position of defendant in a ~~cross-action or counterclaim or third party claim.~~

~~(14)(p)~~ "Delivery" with respect to *an electronic document of title means voluntary transfer of control and with respect to instruments, tangible documents of title, or chattel paper, or certificated securities means voluntary transfer of possession.*

~~(15)(q)~~ (i) "Document of title" ~~includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which means a record:~~

(A) *that in the regular course of business or financing is treated as adequately evidencing that the person in possession or control of it the record is entitled to receive, control, hold, and dispose of the document record and the goods it the record covers; and*

(B) *that purports to be issued by or addressed to a bailee and to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass. To be a document of title a document must purport to be issued*

~~by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.~~

*(ii) The term includes a bill of lading, transport document, dock warrant, dock receipt, warehouse receipt, and order for delivery of goods. An electronic document of title is evidenced by a record consisting of information stored in an electronic medium. A tangible document of title is evidenced by a record consisting of information that is inscribed on a tangible medium.*

~~(16)(r) "Fault" means wrongful act, omission, or breach, or default.~~

~~(17)(s) "Fungible" with respect to "Fungible goods" or securities means:~~

~~(i) goods or securities of which any unit is, by nature or usage of trade, is the equivalent of any other like unit; or Goods which are not fungible shall be deemed fungible for the purposes of this code to the extent that under a particular~~

~~(ii) goods which by agreement or document unlike units are treated as equivalents equivalent.~~

~~(18)(t) "Genuine" means free of forgery or counterfeiting.~~

~~(19)(u) "Good faith", except as otherwise provided in chapter 5, means honesty in fact in the conduct or transaction concerned and the observance of reasonable commercial standards of fair dealing.~~

~~(20)(v) "Holder", with respect to a means:~~

~~(a)(i) negotiable instrument, means the person in possession if the of a negotiable instrument that is payable either to bearer or to an identified person that is the person in possession;~~

~~(b) certified security, means the person in possession is the registered owner, the security has been indorsed to the person in possession by the registered owner, or the security is in bearer form; or~~

~~(e)(ii) a person in possession of a negotiable tangible document of title, means the person in possession if the goods are deliverable either to bearer or to the order of the person in possession; or~~

~~(iii) a person in control of a negotiable electronic document of title.~~

~~(21) To "honor" is to pay or to accept and pay, or where a credit so engages to purchase or discount a draft complying with the terms of the credit.~~

~~(22)(w) "Insolvency proceedings" includes any an assignment for the benefit of creditors or other proceedings proceeding intended to liquidate or rehabilitate the estate of the person involved.~~

~~(23)(x) "Insolvent" means:~~

~~(i) A person is "insolvent" who either has having generally ceased to pay his debts in the ordinary course of business other than as a result of bona fide dispute;~~

~~(ii) or cannot unable to pay his debts as they become due; or~~

~~(iii) is insolvent within the meaning of the federal bankruptcy law.~~

~~(24)(y) "Money" means a medium of exchange currently authorized or adopted by a domestic or foreign government. The term includes a monetary unit of account established by an or intergovernmental organization or by agreement between two or more countries.~~

~~(25) A person has "notice" of a fact when:~~

~~(a) he has actual knowledge of it; or~~

~~(b) he has received a notice or notification of it; or~~

~~(c) from all the facts and circumstances known to him at the time in question he has reason to know that it exists. A person "knows" or has "knowledge" of a fact when he has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this code.~~

~~(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person "receives" a notice or notification when:~~

~~(a) it comes to his attention; or~~

~~(b) it is duly delivered at the place of business through which the contract was made or at any other place held out by him as the place for receipt of such communications.~~

~~(27) Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event from the time when it would have been brought to his attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by the information.~~

~~(28)(z) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity means a person other than an individual.~~

~~(29)(aa) "Party", as distinct from "third party", means a person who that has engaged in a transaction or made an agreement within subject to this code.~~

~~(30)(bb) "Person" includes means an individual, or an organization corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.~~

~~(31)(cc) "Presumption" or "presumed" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.~~

~~(32)(dd) "Purchase" includes means taking by sale, lease, discount, negotiation, mortgage, pledge, lien, security interest, issue or reissue, gift, or any other voluntary transaction creating an interest in property.~~

~~(33)(ee) "Purchaser" means a person who that takes by purchase.~~

~~(ff) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.~~

~~(34)(gg) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.~~

~~(35)(hh)~~ “Representative” ~~includes an agent, an officer of a corporation or association, and a trustee, executor or administrator of an estate, or means any other person empowered to act for another, including an agent, an officer of a corporation or association, and a trustee, executor, or administrator of an estate.~~

~~(36)(ii)~~ “Rights” “Right” ~~includes remedies a remedy.~~

~~(37)(jj)~~ ~~(a)~~ “Security interest” means an interest in personal property or fixtures ~~that~~ *which* secures payment or performance of an obligation. The term also includes any interest of a consignor and a buyer of accounts, chattel paper, a payment intangible, or a promissory note in a transaction that is subject to chapter 9A. The special property interest of a buyer of goods on identification of those goods to a contract for sale under 30-2-401 is not a “security interest”, but a buyer may also acquire a “security interest” by complying with chapter 9A. Except as otherwise provided in 30-2-505, the right of a seller or lessor of goods under chapter 2 or 2A to retain or acquire possession of the goods is not a “security interest”, but a seller or lessor may also acquire a “security interest” by complying with chapter 9A. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (30-2-401) is limited in effect to a reservation of a “security interest”. Whether a transaction ~~creates in the form of a lease or security interest is determined by the facts of each case;~~ however, a transaction creates a “security interest” if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee and:

~~(i) the original term of the lease is equal to or greater than the remaining economic life of the goods;~~

~~(ii) the lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods;~~

~~(iii) the lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement; or~~

~~(iv) the lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement is determined pursuant to [section 10].~~

~~(b) A transaction does not create a security interest merely because it provides that:~~

~~(i) the present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into;~~

~~(ii) the lessee assumes risk of loss of the goods or agrees to pay taxes, insurance, filing, recording, or registration fees or service or maintenance costs with respect to the goods;~~

~~(iii) the lessee has an option to renew the lease or to become the owner of the goods;~~

~~(iv) the lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market value for the use of the goods for the term of the renewal at the time the option is to be performed; or~~

~~(v) the lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.~~

~~(c) For purposes of this subsection (37):~~

~~(i) additional consideration is not nominal if:~~

~~(A) when the option to renew the lease is granted to the lessee, the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed; or~~

~~(B) when the option to become the owner of the goods is granted to the lessee, the price is stated to be the fair market value of the goods determined at the time the option is to be performed;~~

~~(ii) additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised;~~

~~(iii) "reasonably predictable" and "remaining economic life of the goods" are to be determined with reference to the facts and circumstances at the time the transaction is entered into; and~~

~~(iv) "present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.~~

~~(38)(kk) "Send" in connection with any a writing, record, or notice means:~~

~~(i) to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed, and in the case of an instrument, to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances; or. The receipt of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending~~

~~(ii) in any other way to cause to be received any record or notice within the time it would have arrived if properly sent.~~

~~(39)(ll) "Signed" includes any symbol executed or adopted by a party with present intention to authenticate adopt or accept a writing.~~

~~(40)(mm) "Surety" includes a guarantor or other secondary obligor.~~

~~(41) "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.~~

~~(42)(nn) "Term" means that a portion of an agreement which that relates to a particular matter.~~

~~(43)(oo) "Unauthorized" signature means one a signature made without actual, implied, or apparent authority. and The term includes a forgery.~~

~~(44) "Value". Except as otherwise provided with respect to negotiable instruments and bank collections (30-3-303, 30-4-208, and 30-4-209), a person gives "value" for rights if he acquires them:~~

~~(a) in return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection; or~~

~~(b) as security for or in total or partial satisfaction of a preexisting claim; or~~

~~(c) by accepting delivery pursuant to a preexisting contract for purchase; or~~

~~(d) generally, in return for any consideration sufficient to support a simple contract.~~

~~(45)(pp)~~ “Warehouse receipt” means a receipt document of title issued by a person engaged in the business of storing goods for hire.

~~(46)(qq)~~ “Written” or “writing” “Writing” includes printing, typewriting, or any other intentional reduction to tangible form. “Written” has a corresponding meaning.”

**Section 5.** Section 30-1-204, MCA, is amended to read:

**“30-1-204. Time — reasonable Reasonable time — “seasonably” seasonableness.** (1) ~~Whenever~~ *Whether a time for taking an action required by this code requires any action to be taken within a reasonable time, any time which is not manifestly unreasonable may be fixed by agreement.*

~~(2) What is a reasonable time for taking any action depends on the nature, purpose, and circumstances of such the action.~~

~~(3)(2)~~ An action is taken “seasonably” ~~when if~~ it is taken at or within the time agreed or, if no time is agreed, at or within a reasonable time.”

**Section 6.** Section 30-1-205, MCA, is amended to read:

**“30-1-205. Course of performance, course of dealing, and usage of trade.** (1) *A “course of performance” is a sequence of conduct between the parties to a particular transaction that exists if:*

*(a) the agreement of the parties with respect to the transaction involves repeated occasions for performance by a party; and*

*(b) the other party, with knowledge of the nature of the performance and opportunity for objection to it, accepts the performance or acquiesces in it without objection.*

~~(1)(2)~~ A “course of dealing” is a sequence of ~~previous~~ *conduct concerning previous transactions* between the parties to a particular transaction ~~which that~~ is fairly to be regarded as establishing a common basis of understanding for interpreting their expressions and other conduct.

~~(2)(3)~~ A “usage of trade” is any practice or method of dealing having such regularity of observance in a place, vocation, or trade as to justify an expectation that it will be observed with respect to the transaction in question. The existence and scope of such a usage are to be proved as facts. If it is established that such a usage is embodied in a ~~written~~ trade code or similar ~~writing~~ record, the interpretation of the ~~writing~~ record is ~~for the court~~ a question of law.

~~(3)(4)~~ A *course of performance or course of dealing between the parties and any or usage of trade in the vocation or trade in which they are engaged or of which they are or should be aware give particular is relevant in ascertaining the meaning to and supplement or qualify terms of an of the parties’ agreement and may supplement or qualify the terms of the agreement. A usage of trade applicable in the place in which part of the performance under the agreement is to occur may be so utilized as to that part of the performance.*

~~(4)(5)~~ ~~The~~ *Except as otherwise provided in subsection (6), the express terms of an agreement and an any applicable course of performance, course of dealing, or usage of trade shall must be construed wherever reasonable as consistent with each other; but when If such a construction is unreasonable:*

*(a) express terms control both prevail over course of performance, course of dealing, and usage of trade;*

(b) *course of performance prevails over course of dealing and usage of trade;*  
and

(c) *course of dealing ~~controls~~ prevails over usage of trade.*

~~(5)(6) An applicable usage of trade in the place where any part of performance is to occur shall be used in interpreting the agreement as to that part. Subject to 30-2-209, a course of performance is relevant to show a waiver or modification of any term inconsistent with the course of the performance.~~

~~(6)(7) Evidence of a relevant usage of trade offered by one party is not admissible unless and until he that party has given the other party such notice as that the court finds sufficient to prevent unfair surprise to the latter other party."~~

**Section 7.** Section 30-1-208, MCA, is amended to read:

**"30-1-208. Option to accelerate at will.** A term providing that one party or ~~his that party's~~ successor in interest may accelerate payment or performance or require collateral or additional collateral "at will" or "when ~~he the party~~ "deems ~~himself itself~~ insecure" or in words of similar import, ~~shall be construed to mean that he shall have~~ means that the party has power to do so only if ~~he that~~ party in good faith believes that the prospect of payment or performance is impaired. The burden of establishing lack of good faith is on the party against ~~whom~~ *which* the power has been exercised."

**Section 8.** Section 30-1-209, MCA, is amended to read:

**"30-1-209. Subordinated obligations.** An obligation may be issued as subordinated to ~~payment performance~~ of another obligation of the person obligated, or a creditor may subordinate ~~his its~~ right to ~~payment performance~~ of an obligation by agreement with either the person obligated or another creditor of the person obligated. ~~Such a subordination~~ *Subordination* does not create a security interest as against either the common debtor or a subordinated creditor. ~~This section shall be construed as declaring the law as it existed prior to the enactment of this section and not as modifying it."~~

**Section 9. Notice — knowledge.** (1) Subject to subsection (6), a person has "notice" of a fact if the person:

(a) has actual knowledge of it;

(b) has received a notice or notification of it; or

(c) from all the facts and circumstances known to the person at the time in question, has reason to know that it exists.

(2) "Knowledge" means actual knowledge.

(3) "Discover", "learn", or words of similar import refer to knowledge rather than to notice.

(4) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course, whether or not the other person actually comes to know of it.

(5) Subject to subsection (6), a person "receives" a notice or notification when:

(a) it comes to that person's attention; or

(b) it is duly delivered in a form reasonable under the circumstances at the place of business through which the contract was made or at another location held out by that person as the place for receipt of such communications.

(6) Notice, knowledge, or a notice or notification received by an organization is effective for a particular transaction from the time it is brought to the attention of the individual conducting that transaction and, in any event, from the time it would have been brought to the individual's attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless the communication is part of the individual's regular duties or the individual has reason to know of the transaction and that the transaction would be materially affected by the information.

**Section 10. Lease distinguished from security interest.** (1) Whether a transaction in the form of a lease creates a lease or security interest is determined by the facts of each case.

(2) A transaction in the form of a lease creates a security interest if the consideration that the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease and is not subject to termination by the lessee and:

(a) the original term of the lease is equal to or greater than the remaining economic life of the goods;

(b) the lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods;

(c) the lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or for nominal additional consideration upon compliance with the lease agreement; or

(d) the lessee has an option to become the owner of the goods for no additional consideration or for nominal additional consideration upon compliance with the lease agreement.

(3) A transaction in the form of a lease does not create a security interest merely because:

(a) the present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into;

(b) the lessee assumes risk of loss of the goods;

(c) the lessee agrees to pay taxes, insurance, filing, recording, or registration fees, or service or maintenance costs with respect to the goods;

(d) the lessee has an option to renew the lease or to become the owner of the goods;

(e) the lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed; or

(f) the lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

(4) Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised. Additional consideration is not nominal if:

(a) when the option to renew the lease is granted to the lessee, the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed; or

(b) when the option to become the owner of the goods is granted to the lessee, the price is stated to be the fair market value of the goods determined at the time the option is to be performed.

(c) The “remaining economic life of the goods” and “reasonably predictable” fair market rent, fair market value, or cost of performing under the lease agreement must be determined with reference to the facts and circumstances at the time the transaction is entered into.

**Section 11. Value.** Except as otherwise provided in chapters 3 through 5, a person gives value for rights if the person acquires them:

(1) in return for a binding commitment to extend credit or for the extension of immediately available credit, whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection;

(2) as security for, or in total or partial satisfaction of, a preexisting claim;

(3) by accepting delivery under a preexisting contract for purchase; or

(4) in return for any consideration sufficient to support a simple contract.

**Section 12. Territorial applicability — parties power to choose applicable law.** (1) Except as otherwise provided in this section, when a transaction bears a reasonable relation to this state and also to another state or nation, the parties may agree that the law either of this state or of the other state or nation shall govern their rights and duties.

(2) In the absence of an agreement effective under subsection (1) and except as provided in subsection (3), this code applies to transactions bearing an appropriate relation to this state.

(3) If one of the following provisions of this code specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law so specified:

(a) Section 30-2-402;

(b) Sections 30-2A-105 and 30-2A-106;

(c) Section 30-4-102;

(d) Section 30-4A-507;

(e) Section 30-5-136;

(f) Section 30-8-120;

(g) Sections 30-9A-301 through 30-9A-307.

**Section 13. Variation by agreement.** (1) Except as otherwise provided in subsection (2) or elsewhere in this code, the effect of provisions of this code may be varied by agreement.

(2) The obligations of good faith, diligence, reasonableness, and care prescribed by this code may not be disclaimed by agreement. The parties, by agreement, may determine the standards by which the performance of those obligations is to be measured if those standards are not manifestly unreasonable. Whenever this code requires any action to be taken within a reasonable time, any time which is not manifestly unreasonable may be fixed by agreement.

(3) The presence in certain provisions of this code of the phrase “unless otherwise agreed”, or words of similar import, does not imply that the effect of other provisions may not be varied by agreement under this section.

**Section 14.** Section 30-2-104, MCA, is amended to read:

**“30-2-104. Definitions — “merchant” — “between merchants” — “financing agency”.** (1) “Merchant” means a person ~~who~~ *that* deals in goods of the kind or otherwise ~~by his occupation holds himself out~~ *is held out by occupation* as having knowledge or skill peculiar to the practices or goods involved in the transaction or to ~~whom such~~ *which the* knowledge or skill may be attributed by ~~his~~ *the person’s* employment of an agent or broker or other intermediary ~~who by his occupation holds himself~~ *that is held out by occupation* as having ~~such~~ *the* knowledge or skill.

(2) “Financing agency” means a bank, finance company or other person ~~who~~ *that* in the ordinary course of business makes advances against goods or documents of title or ~~who that~~ by arrangement with either the seller or the buyer intervenes in ordinary course to make or collect payment due or claimed under the contract for sale, as by purchasing or paying the seller’s draft or making advances against it or by merely taking it for collection whether or not documents of title accompany *or are associated with* the draft. “Financing agency” includes also a bank or other person ~~who that~~ similarly intervenes between persons ~~who that~~ are in the position of seller and buyer in respect to the goods (30-2-707).

(3) “Between merchants” means in any transaction with respect to which both parties are chargeable with the knowledge or skill of merchants.”

**Section 15.** Section 30-2-310, MCA, is amended to read:

**“30-2-310. Open time for payment or running of credit — authority to ship under reservation.** Unless otherwise agreed:

(a) payment is due at the time and place at which the buyer is to receive the goods even though the place of shipment is the place of delivery; and

(b) if the seller is authorized to send the goods ~~he~~ *the seller* may ship them under reservation, and may tender the documents of title, but the buyer may inspect the goods after their arrival before payment is due unless such inspection is inconsistent with the terms of the contract (30-2-513); and

(c) if delivery is authorized and made by way of documents of title otherwise than by subsection (b) then payment is due *regardless of where the goods are to be received*:

(i) at the time and place at which the buyer is to receive *delivery of the tangible* documents ~~regardless of where the goods are to be received~~;

(ii) *at the time the buyer is to receive delivery of the electronic documents and at the seller’s place of business or, if none, the seller’s residence*; and

(d) where the seller is required or authorized to ship the goods on credit the credit period runs from the time of shipment but postdating the invoice or delaying its dispatch will correspondingly delay the starting of the credit period.”

**Section 16.** Section 30-2-323, MCA, is amended to read:

**“30-2-323. Form of bill of lading required in overseas shipment — “overseas”.** (1) Where the contract contemplates overseas shipment and contains a term C.I.F. or C.&F. or F.O.B. vessel, the seller unless otherwise

agreed must obtain a negotiable bill of lading stating that the goods have been loaded on board or, in the case of a term C.I.F. or C.&F., received for shipment.

(2) Where in a case within subsection (1) a *tangible* bill of lading has been issued in a set of parts, unless otherwise agreed if the documents are not to be sent from abroad the buyer may demand tender of the full set; otherwise only one part of the bill of lading need be tendered. Even if the agreement expressly requires a full set:

(a) due tender of a single part is acceptable within the provisions of this chapter on cure of improper delivery (subsection (1) of 30-2-508); and

(b) even though the full set is demanded, if the documents are sent from abroad the person tendering an incomplete set may nevertheless require payment upon furnishing an indemnity which the buyer in good faith deems adequate.

(3) A shipment by water or by air or a contract contemplating such shipment is "overseas" insofar as by usage of trade or agreement it is subject to the commercial, financing or shipping practices characteristic of international deep water commerce."

**Section 17.** Section 30-2-401, MCA, is amended to read:

**"30-2-401. Passing of title — reservation for security — limited application of this section.** Each provision of this chapter with regard to the rights, obligations and remedies of the seller, the buyer, purchasers or other third parties applies irrespective of title to the goods except where the provision refers to such title. Insofar as situations are not covered by the other provisions of this chapter and matters concerning title become material the following rules apply:

(1) Title to goods cannot pass under a contract for sale prior to their identification to the contract (30-2-501), and unless otherwise explicitly agreed the buyer acquires by their identification a special property as limited by this code. Any retention or reservation by the seller of the title (property) in goods shipped or delivered to the buyer is limited in effect to a reservation of a security interest. Subject to these provisions and to the provisions of the Chapter on Secured Transactions (Chapter 9A), title to goods passes from the seller to the buyer in any manner and on any conditions explicitly agreed on by the parties.

(2) Unless otherwise explicitly agreed title passes to the buyer at the time and place at which the seller completes ~~his~~ performance with reference to the ~~physical~~ delivery of the goods, despite any reservation of a security interest and even though a document of title is to be delivered at a different time or place; and in particular and despite any reservation of a security interest by the bill of lading:

(a) if the contract requires or authorizes the seller to send the goods to the buyer but does not require ~~him~~ *the seller* to deliver them at destination, title passes to the buyer at the time and place of shipment; but

(b) if the contract requires delivery at destination, title passes on tender there.

(3) Unless otherwise explicitly agreed where delivery is to be made without moving the goods,

(a) if the seller is to deliver a *tangible* document of title, title passes at the time when and the place where ~~he~~ *the seller* delivers such documents *and if the seller is to deliver an electronic document of title, title passes when the seller delivers the document;* or

(b) if the goods are at the time of contracting already identified and no documents of *title* are to be delivered, title passes at the time and place of contracting.

(4) For transactions involving interstate shipment of cattle or cattle being released from auction yards for interstate shipment the seller may issue a regular title or bill of sale, or give a conditional transfer of title or bill of sale. The conditional transfer of title or bill of sale is fully validated and the title passes when the following conditions are met:

(a) the bank on which the buyer's warrant, check, or draft was drawn notifies the seller, or his designated bank, that the instrument of payment has cleared the bank for payment; and

(b) a copy of the notification from the buyer's bank is attached to the conditional transfer of title or bill of sale.

(5) A rejection or other refusal by the buyer to receive or retain the goods, whether or not justified, or a justified revocation of acceptance ~~revests~~ *retests* title to the goods in the seller. Such ~~revesting~~ *retesting* occurs by operation of law and is not a "sale".

**Section 18.** Section 30-2-503, MCA, is amended to read:

**"30-2-503. Manner of seller's tender of delivery.** (1) Tender of delivery requires that the seller put and hold conforming goods at the buyer's disposition and give the buyer any notification reasonably necessary to enable ~~him~~ *the buyer* to take delivery. The manner, time and place for tender are determined by the agreement and this chapter, and in particular:

(a) tender must be at a reasonable hour, and if it is of goods they must be kept available for the period reasonably necessary to enable the buyer to take possession; but

(b) unless otherwise agreed the buyer must furnish facilities reasonably suited to the receipt of the goods.

(2) Where the case is within the next section respecting shipment tender requires that the seller comply with its provisions.

(3) Where the seller is required to deliver at a particular destination tender requires that ~~he~~ *the seller* comply with subsection (1) and also in any appropriate case tender documents as described in subsections (4) and (5) of this section.

(4) Where goods are in the possession of a bailee and are to be delivered without being moved:

(a) tender requires that the seller either tender a negotiable document of title covering such goods or procure acknowledgment by the bailee of the buyer's right to possession of the goods; but

(b) tender to the buyer of a nonnegotiable document of title or of a ~~written direction to record directing~~ the bailee to deliver is sufficient tender unless the buyer seasonably objects, and *except as otherwise provided in chapter 9A* receipt by the bailee of notification of the buyer's rights fixes those rights as against the bailee and all third persons; but risk of loss of the goods and of any failure by the bailee to honor the nonnegotiable document of title or to obey the direction remains on the seller until the buyer has had a reasonable time to present the document or direction, and a refusal by the bailee to honor the document or to obey the direction defeats the tender.

(5) Where the contract requires the seller to deliver documents:

(a) ~~he the seller~~ must tender all such documents in correct form, ~~except as provided in this chapter with respect to bills of lading in a set (subsection (2) of 30-2-323)~~; and

(b) tender through customary banking channels is sufficient and dishonor of a draft accompanying the documents constitutes nonacceptance or rejection.”

**Section 19.** Section 30-2-506, MCA, is amended to read:

**“30-2-506. Rights of financing agency.** (1) A financing agency by paying or purchasing for value a draft which relates to a shipment of goods acquires to the extent of the payment or purchase and in addition to its own rights under the draft and any document of title securing it any rights of the shipper in the goods including the right to stop delivery and the shipper’s right to have the draft honored by the buyer.

(2) The right to reimbursement of a financing agency which has in good faith honored or purchased the draft under commitment to or authority from the buyer is not impaired by subsequent discovery of defects with reference to any relevant document which was apparently regular ~~on its face.~~”

**Section 20.** Section 30-2-509, MCA, is amended to read:

**“30-2-509. Risk of loss in the absence of breach.** (1) Where the contract requires or authorizes the seller to ship the goods by carrier:

(a) if it does not require ~~him the seller~~ to deliver them at a particular destination, the risk of loss passes to the buyer when the goods are ~~duly~~ delivered to the carrier even though the shipment is under reservation (30-2-505); but

(b) if it does require ~~him the seller~~ to deliver them at a particular destination and the goods are there ~~duly~~ tendered while in the possession of the carrier, the risk of loss passes to the buyer when the goods are there ~~duly~~ so tendered as to enable the buyer to take delivery.

(2) Where the goods are held by a bailee to be delivered without being moved, the risk of loss passes to the buyer:

(a) on ~~his the buyer’s~~ receipt of *possession or control* of a negotiable document of title covering the goods; or

(b) on acknowledgment by the bailee of the buyer’s right to possession of the goods; or

(c) after his receipt of *possession or control* of a nonnegotiable document of title or other ~~written~~ direction to deliver *in a record*, as provided in subsection (4)(b) of 30-2-503.

(3) In any case not within subsection (1) or (2), the risk of loss passes to the buyer on ~~his the buyer’s~~ receipt of the goods if the seller is a merchant; otherwise the risk passes to the buyer on tender of delivery.

(4) The provisions of this section are subject to contrary agreement of the parties and to the provisions of this chapter on sale on approval (30-2-327) and on effect of breach on risk of loss (30-2-510).”

**Section 21.** Section 30-2-605, MCA, is amended to read:

**“30-2-605. Waiver of buyer’s objections by failure to particularize.** (1) The buyer’s failure to state in connection with rejection a particular defect which is ascertainable by reasonable inspection precludes ~~him the buyer~~ from relying on the unstated defect to justify rejection or to establish breach:

- (a) where the seller could have cured it if stated seasonably; or
  - (b) between merchants when the seller has after rejection made a request in writing for a full and final written statement of all defects on which the buyer proposes to rely.
- (2) Payment against documents made without reservation of rights precludes recovery of the payment for defects apparent ~~on the face of~~ *in* the documents.”

**Section 22.** Section 30-2-705, MCA, is amended to read:

**“30-2-705. Seller’s stoppage of delivery in transit or otherwise.** (1) The seller may stop delivery of goods in the possession of a carrier or other bailee when ~~he~~ *the seller* discovers the buyer to be insolvent (30-2-702) and may stop delivery of carload, truckload, planeload or larger shipments of express or freight when the buyer repudiates or fails to make a payment due before delivery or if for any other reason the seller has a right to withhold or reclaim the goods.

- (2) As against such buyer the seller may stop delivery until:
- (a) receipt of the goods by the buyer; or
  - (b) acknowledgment to the buyer by any bailee of the goods except a carrier that the bailee holds the goods for the buyer; or
  - (c) such acknowledgment to the buyer by a carrier by reshipment or as ~~warehouseman~~ *a warehouse*; or
  - (d) negotiation to the buyer of any negotiable document of title covering the goods.
- (3) (a) To stop delivery the seller must so notify as to enable the bailee by reasonable diligence to prevent delivery of the goods.
- (b) After such notification the bailee must hold and deliver the goods according to the directions of the seller but the seller is liable to the bailee for any ensuing charges or damages.
- (c) If a negotiable document of title has been issued for goods the bailee is not obliged to obey a notification to stop until surrender of *possession or control* of the document.
- (d) A carrier ~~who~~ *that* has issued a nonnegotiable bill of lading is not obliged to obey a notification to stop received from a person other than the consignor.”

**Section 23.** Section 30-2A-103, MCA, is amended to read:

**“30-2A-103. Definitions and index of definitions.** (1) In this chapter, unless the context otherwise requires, the following definitions apply:

- (a) “Buyer in ordinary course of business” means a person, who in good faith and without knowledge that the sale to the buyer is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods of that kind, but the term does not include a pawnbroker. “Buying” may be for cash or by exchange of other property or on secured or unsecured credit and includes ~~receiving~~ *acquiring* goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.
- (b) “Cancellation” occurs when either party puts an end to the lease contract for default by the other party.

(c) "Commercial unit" means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine; a set of articles, as a suite of furniture or a line of machinery; a quantity, as a gross or carload; or any other unit treated in use or in the relevant market as a single whole.

(d) "Conforming" goods or performance under a lease contract means goods or performance that is in accordance with the obligations under the lease contract.

(e) "Consumer lease" means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual and who takes under the lease primarily for a personal, family, or household purpose if the total payments to be made under the lease contract, excluding payments for options to renew or buy, do not exceed \$25,000.

(f) "Fault" means wrongful act, omission, breach, or default.

(g) "Finance lease" means a lease with respect to which:

(i) the lessor does not select, manufacture, or supply the goods;

(ii) the lessor acquires the goods or the right to possession and use of the goods in connection with the lease; and

(iii) one of the following occurs:

(A) the lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the lease contract;

(B) the lessee's approval of the contract by which the lessor acquired the goods or the right to possession and use of the goods is a condition to effectiveness of the lease contract;

(C) the lessee, before signing the lease contract, receives an accurate and complete statement designating the promises and warranties, and any disclaimers of warranties, limitations or modifications of remedies, or liquidated damages, including those of a third party, such as the manufacturer of the goods, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods; or

(D) if the lease is not a consumer lease, the lessor, before the lessee signs the lease contract, informs the lessee in writing:

(I) of the identity of the person supplying the goods to the lessor, unless the lessee has selected that person and directed the lessor to acquire the goods or the right to possession and use of the goods from that person;

(II) that the lessee is entitled under this chapter to the promises and warranties, including those of any third party, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods; and

(III) that the lessee may communicate with the person supplying the goods to the lessor and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations of them or of remedies.

(h) "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures (30-2A-309), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles,

or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.

(i) "Installment lease contract" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause "each delivery is a separate lease" or its equivalent.

(j) "Lease" means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

(k) "Lease agreement" means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances, including course of dealing or usage of trade or course of performance as provided in this chapter. Unless the context clearly indicates otherwise, the term includes a sublease agreement.

(l) "Lease contract" means the total legal obligation that results from the lease agreement as affected by this chapter and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.

(m) "Leasehold interest" means the interest of the lessor or the lessee under a lease contract.

(n) "Lessee" means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a ~~sublessee~~ *sublease*.

(o) "Lessee in ordinary course of business" means a person, who in good faith and without knowledge that the lease to him is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, leases in ordinary course from a person in the business of selling or leasing goods of that kind, but the term does not include a pawnbroker. "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes ~~receiving~~ *acquiring* goods or documents of title under a preexisting lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(p) "Lessor" means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

(q) "Lessor's residual interest" means the lessor's interest in the goods after expiration, termination, or cancellation of the lease contract.

(r) "Lien" means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.

(s) "Lot" means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.

(t) "Merchant lessee" means a lessee that is a merchant with respect to goods of the kind subject to the lease.

(u) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is

determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other voluntary transaction creating an interest in goods.

(w) "Sublease" means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.

(x) "Supplier" means a person from whom a lessor buys or leases goods to be leased under a finance lease.

(y) "Supply contract" means a contract under which a lessor buys or leases goods to be leased.

(z) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.

(2) Other definitions applying to this chapter and the sections in which they appear are:

(a) "Accessions". 30-2A-310(1).

(b) "Construction mortgage". 30-2A-309(1)(d).

(c) "Encumbrance". 30-2A-309(1)(e).

(d) "Fixtures". 30-2A-309(1)(a).

(e) "Fixture filing". 30-2A-309(1)(b).

(f) "Purchase money lease". 30-2A-309(1)(c).

(3) The following definitions in other chapters apply to this chapter:

(a) "Account". 30-9A-102(1)(b).

(b) "Between merchants". 30-2-104(3).

(c) "Buyer". 30-2-103(1)(a).

(d) "Chattel paper". 30-9A-102(1)(k).

(e) "Consumer goods". 30-9A-102(1)(w).

(f) "Document". 30-9A-102(1)(dd).

(g) "Entrusting". 30-2-403(3).

(h) "General intangible". 30-9A-102(1)(pp).

(i) "Good faith". 30-2-103(1)(b).

(j) "Instrument". 30-9A-102(1)(uu).

(k) "Merchant". 30-2-104(1).

(l) "Mortgage". 30-9A-102(1)(ccc).

(m) "Pursuant to commitment". 30-9A-102(1)(ppp).

(n) "Receipt". 30-2-103(1)(c).

(o) "Sale". 30-2-106(1).

(p) "Sale on approval". 30-2-326.

(q) "Sale or return". 30-2-326.

(r) "Seller". 30-2-103(1)(d).

(4) In addition, Title 30, chapter 1, contains general definitions and principles of construction and interpretation applicable throughout this chapter.”

**Section 24.** Section 30-2A-514, MCA, is amended to read:

**“30-2A-514. Waiver of lessee’s objections.** (1) In rejecting goods, a lessee’s failure to state a particular defect that is ascertainable by reasonable inspection precludes the lessee from relying on the defect to justify rejection or to establish default:

(a) if, stated seasonably, the lessor or the supplier could have cured it (30-2A-513); or

(b) between merchants if the lessor or the supplier after rejection has made a request in writing for a full and final written statement of all defects on which the lessee proposes to rely.

(2) A lessee’s failure to reserve rights when paying rent or other consideration against documents precludes recovery of the payment for defects apparent ~~on the face of~~ *in* the documents.”

**Section 25.** Section 30-2A-518, MCA, is amended to read:

**“30-2A-518. Cover — substitute goods.** (1) After a default by a lessor under the lease contract of the type described in 30-2A-508(1) or, if agreed, after other default by the lessor, the lessee may cover by making any purchase or lease of or contract to purchase or lease goods in substitution for those due from the lessor.

(2) Except as otherwise provided with respect to damages liquidated in the lease agreement (30-2A-504) or otherwise determined pursuant to agreement of the parties (~~30-1-102(3) and~~ 30-2A-503), if a lessee’s cover is by a lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessee may recover from the lessor as damages:

(a) the present value, as of the date of the commencement of the term of the new lease agreement, of the rent under the new lease agreement applicable to that period of the new lease term that is comparable to the then remaining term of the original lease agreement minus the present value as of the same date of the total rent for the then remaining lease term of the original lease agreement; and

(b) any incidental or consequential damages less expenses saved in consequence of the lessor’s default.

(3) If a lessee’s cover is by lease agreement that for any reason does not qualify for treatment under subsection (2) or is by purchase or otherwise, the lessee may recover from the lessor as if the lessee had elected not to cover and 30-2A-519 governs.”

**Section 26.** Section 30-2A-519, MCA, is amended to read:

**“30-2A-519. Lessee’s damages for nondelivery, repudiation, default, and breach of warranty in regard to accepted goods.** (1) Except as otherwise provided with respect to damages liquidated in the lease agreement (30-2A-504) or otherwise determined pursuant to agreement of the parties (~~30-1-102(3) and~~ 30-2A-503), if a lessee elects not to cover or a lessee elects to cover and the cover is by lease agreement that for any reason does not qualify for treatment under 30-2A-518(2) or is by purchase or otherwise, the measure of

damages for nondelivery or repudiation by the lessor or for rejection or revocation of acceptance by the lessee is the present value, as of the date of the default, of the then market rent minus the present value as of the same date of the original rent, computed for the remaining lease term of the original lease agreement, together with incidental and consequential damages, less expenses saved in consequence of the lessor's default.

(2) Market rent is to be determined as of the place for tender or, in cases of rejection after arrival or revocation of acceptance, as of the place of arrival.

(3) Except as otherwise agreed, if the lessee has accepted goods and given notification (30-2A-516(3)), the measure of damages for nonconforming tender or delivery or other default by a lessor is the loss resulting in the ordinary course of events from the lessor's default as determined in any manner that is reasonable, together with incidental and consequential damages, less expenses saved in consequence of the lessor's default.

(4) Except as otherwise agreed, the measure of damages for breach of warranty is the present value at the time and place of acceptance of the difference between the value of the use of the goods accepted and the value if they had been as warranted for the lease term, unless special circumstances show proximate damages of a different amount, together with incidental and consequential damages, less expenses saved in consequence of the lessor's default or breach of warranty."

**Section 27.** Section 30-2A-526, MCA, is amended to read:

**"30-2A-526. Lessor's stoppage of delivery in transit or otherwise.** (1)

A lessor may stop delivery of goods in the possession of a carrier or other bailee if the lessor discovers the lessee to be insolvent and may stop delivery of carload, truckload, planeload, or larger shipments of express or freight if the lessee repudiates or fails to make a payment due before delivery, whether for rent, security, or otherwise under the lease contract or for any other reason the lessor has a right to withhold or take possession of the goods.

(2) In pursuing its remedies under subsection (1), the lessor may stop delivery until:

(a) receipt of the goods by the lessee;

(b) acknowledgment to the lessee by any bailee of the goods, except a carrier, that the bailee holds the goods for the lessee; or

(c) such an acknowledgment to the lessee by a carrier via reshipment or as ~~warehouseman~~ *a warehouse*.

(3) (a) To stop delivery, a lessor shall so notify as to enable the bailee by reasonable diligence to prevent delivery of the goods.

(b) After notification, the bailee shall hold and deliver the goods according to the directions of the lessor, but the lessor is liable to the bailee for any ensuing charges or damages.

(c) A carrier who has issued a nonnegotiable bill of lading is not obliged to obey a notification to stop received from a person other than the consignor."

**Section 28.** Section 30-2A-527, MCA, is amended to read:

**"30-2A-527. Lessor's rights to dispose of goods.** (1) After a default by a lessee under the lease contract described in 30-2A-523(1) or (3)(a) or after the lessor refuses to deliver or takes possession of goods (30-2A-525 or 30-2A-526)

or, if agreed, after other default by a lessee, the lessor may dispose of the goods concerned or the undelivered balance thereof by lease, sale, or otherwise.

(2) Except as otherwise provided with respect to damages liquidated in the lease agreement (30-2A-504) or otherwise determined pursuant to agreement of the parties (~~30-1-102(3)~~ and 30-2A-503), if the disposition is by lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessor may recover from the lessee as damages:

(a) accrued and unpaid rent as of the date of the commencement of the term of the new lease agreement;

(b) the present value, as of the same date, of the total rent for the then remaining lease term of the original lease agreement minus the present value, as of the same date, of the rent under the new lease agreement applicable to that period of the new lease term that is comparable to the then remaining term of the original lease agreement; and

(c) any incidental damages allowed under 30-2A-530 less expenses saved in consequence of the lessee's default.

(3) If the lessor's disposition is by lease agreement that for any reason does not qualify for treatment under subsection (2) or is by sale or otherwise, the lessor may recover from the lessee as if the lessor had elected not to dispose of the goods and 30-2A-528 governs.

(4) A subsequent buyer or lessee who buys or leases from the lessor in good faith for value as a result of a disposition under this section takes the goods free of the original lease contract and any rights of the original lessee even though the lessor fails to comply with one or more of the requirements of this chapter.

(5) The lessor is not accountable to the lessee for any profit made on any disposition. A lessee who has rightfully rejected or justifiably revoked acceptance shall account to the lessor for any excess over the amount of the lessee's security interest (30-2A-508(5))."

**Section 29.** Section 30-2A-528, MCA, is amended to read:

**"30-2A-528. Lessor's damages for nonacceptance, failure to pay, repudiation, or other default.** (1) Except as otherwise provided with respect to damages liquidated in the lease agreement (30-2A-504) or otherwise determined pursuant to agreement of the parties (~~30-1-102(3)~~ and 30-2A-503), if a lessor elects to retain the goods or a lessor elects to dispose of the goods and the disposition is by lease agreement that for any reason does not qualify for treatment under 30-2A-527(2) or is by sale or otherwise, the lessor may recover from the lessee as damages for a default of the type described in 30-2A-523(1) or (3)(a) or, if agreed, for other default of the lessee:

(a) accrued and unpaid rent as of the date of default if the lessee has never taken possession of the goods or, if the lessee has taken possession of the goods, as of the date the lessor repossesses the goods or an earlier date on which the lessee makes a tender of the goods to the lessor;

(b) the present value as of the date determined under subsection (1)(a) of the total rent for the then remaining lease term of the original lease agreement minus the present value as of the same date of the market rent at the place where the goods are located, computed for the same lease term; and

(c) any incidental damages allowed under 30-2A-530 less expenses saved in consequence of the lessee's default.

(2) If the measure of damages provided in subsection (1) is inadequate to put a lessor in as good a position as performance would have, the measure of damages is the present value of the profit, including reasonable overhead, that the lessor would have made from full performance by the lessee, together with any incidental damages allowed under 30-2A-530, allowance due for costs reasonably incurred, and credit due for payments or proceeds of disposition.”

**Section 30.** Section 30-3-102, MCA, is amended to read:

**“30-3-102. Definitions.** (1) In this chapter, unless the context otherwise requires, the following definitions apply:

- (a) “Acceptor” means a drawee that has accepted a draft.
- (b) “Drawee” means a person ordered in a draft to make payment.
- (c) “Drawer” means a person that signs a draft as a person ordering payment.
- (d) “Good faith” means honesty in fact and the observance of reasonable commercial standards of fair dealing.
- (e) “Maker” means a person that signs a note as promisor of payment.
- (f) “Order” means a written instruction to pay money signed by the person giving the instruction. The instruction may be addressed to any person, including the person giving the instruction, or to one or more persons jointly or in the alternative but not in succession. An authorization to pay is not an order unless the person authorized to pay is also instructed to pay.
- (g) “Ordinary care” in the case of a person engaged in business means observance of reasonable commercial standards, prevailing in the area in which that person is located, with respect to the business in which that person is engaged. In the case of a bank that takes an instrument for processing for collection or payment by automated means, reasonable commercial standards do not require the bank to examine the instrument if the failure to examine does not violate the bank’s prescribed procedures and the bank’s procedures do not vary unreasonably from general banking usage not disapproved by this chapter or chapter 4.
- (h) “Party” means party to an instrument.
- (i) “Promise” means a written undertaking to pay money signed by the person undertaking to pay. An acknowledgment of an obligation by the obligor is not a promise unless the obligor also undertakes to pay the obligation.
- (j) “Prove” with respect to a fact means to meet the burden of establishing the fact ~~(30-1-201(8))~~ 30-1-201(2)(i).

(k) “Remitter” means a person that purchases an instrument from its issuer if the instrument is payable to an identified person other than the purchaser.

(2) Other definitions applying to this chapter and the sections in which they appear are:

- “Acceptance”. 30-3-410.
- “Accommodated party”. 30-3-415.
- “Accommodation party”. 30-3-415.
- “Alteration”. 30-3-407.
- “Anomalous indorsement”. 30-3-204.
- “Blank indorsement”. 30-3-204.

- “Cashier’s check”. 30-3-104.
  - “Certificate of deposit”. 30-3-104.
  - “Certified check”. 30-3-410.
  - “Check”. 30-3-104.
  - “Consideration”. 30-3-303.
  - “Draft”. 30-3-104.
  - “Fiduciary”. 30-3-308.
  - “Holder in due course”. 30-3-302.
  - “Incomplete instrument”. 30-3-115.
  - “Indorsement”. 30-3-203.
  - “Indorser”. 30-3-203.
  - “Instrument”. 30-3-104.
  - “Issue”. 30-3-125.
  - “Issuer”. 30-3-125.
  - “Negotiable instrument”. 30-3-104.
  - “Negotiation”. 30-3-202.
  - “Note”. 30-3-104.
  - “Payable at a definite time”. 30-3-109.
  - “Payable on demand”. 30-3-108.
  - “Payable to bearer”. 30-3-111.
  - “Payable to order”. 30-3-111.
  - “Payment”. 30-3-603.
  - “Person entitled to enforce”. 30-3-301.
  - “Presentment”. 30-3-504.
  - “Reacquisition”. 30-3-208.
  - “Represented person”. 30-3-308.
  - “Special indorsement”. 30-3-204.
  - “Teller’s check”. 30-3-104.
  - “Transfer of instrument”. 30-3-210.
  - “Traveler’s check”. 30-3-104.
  - “Value”. 30-3-303.
- (3) The following definitions in other chapters apply to this chapter:
- “Bank”. 30-4-105.
  - “Banking day”. 30-4-104.
  - “Clearinghouse”. 30-4-104.
  - “Collecting bank”. 30-4-105.
  - “Customer”. 30-4-104.
  - “Depositary bank”. 30-4-105.
  - “Documentary draft”. 30-4-104.

“Intermediary bank”. 30-4-105.

“Item”. 30-4-104.

“Payor bank”. 30-4-105.

“Suspends payments”. 30-4-104.

(4) In addition, chapter 1 contains general definitions and principles of construction and interpretation applicable throughout this chapter.”

**Section 31.** Section 30-4-104, MCA, is amended to read:

**“30-4-104. Definitions and index of definitions.** (1) In this chapter, unless the context otherwise requires:

(a) “account” means any deposit or credit account with a bank and includes a demand, time, savings, passbook, share draft, or like account, other than an account evidenced by a certificate of deposit;

(b) “afternoon” means the period of a day between noon and midnight;

(c) “banking day” means the part of a day on which a bank is open to the public for carrying on substantially all of its banking functions;

(d) “clearinghouse” means an association of banks or other payors regularly clearing items;

(e) “customer” means a person having an account with a bank or for whom a bank has agreed to collect items and includes a bank maintaining an account at another bank;

(f) “documentary draft” means a draft to be presented for acceptance or payment if specified documents, certificated securities (30-8-112) or instructions for uncertificated securities (30-8-112), or other certificates, statements, or the like are to be received by the drawee or other payor before acceptance or payment of the draft;

(g) “draft” means a draft as defined in 30-3-104 or an item, other than an instrument, that is an order;

(h) “item” means an instrument or a promise or an order to pay money handled by a bank for collection or payment. The term does not include a payment order governed by chapter 4A or a credit or debit card slip.

(i) “midnight deadline” with respect to a bank is midnight on its next banking day following the banking day on which it receives the relevant item or notice or from which the time for taking action commences to run, whichever is later;

(j) “settle” means to pay in cash, by clearinghouse settlement, in a charge or credit or by remittance, or otherwise as agreed. A settlement may be either provisional or final.

(k) “suspends payments” with respect to a bank means that it has been closed by order of the supervisory authorities, that a public officer has been appointed to take it over or that it ceases or refuses to make payments in the ordinary course of business.

(2) Other definitions applying to this chapter and the sections in which they appear are:

“Bank”. 30-4-105.

“Collecting bank”. 30-4-105.

“Depository bank”. 30-4-105.

“Intermediary bank”. 30-4-105.

“Payor bank”. 30-4-105.

“Presenting bank”. 30-4-105.

“Presentment notice”. 30-4-111.

(3) The following definitions in other chapters apply to this chapter:

“Acceptance”. 30-3-410.

“Alteration”. 30-3-407.

“Cashier’s check”. 30-3-104.

“Certificate of deposit”. 30-3-104.

“Certified check”. 30-3-410.

“Check”. 30-3-104.

“Control”. [section 39].

“Drawee”. 30-3-102.

“Good faith”. 30-3-102.

“Holder in due course”. 30-3-302.

“Instrument”. 30-3-104.

“Notice of dishonor”. 30-3-508.

“Order”. 30-3-102.

“Ordinary care”. 30-3-102.

“Person entitled to enforce”. 30-3-301.

“Presentment”. 30-3-504.

“Promise”. 30-3-102.

“Prove”. 30-3-102.

“Teller’s check”. 30-3-104.

“Unauthorized signature”. 30-3-404.

(4) In addition, chapter 1 contains general definitions and principles of construction and interpretation applicable throughout this chapter.”

**Section 32.** Section 30-4A-105, MCA, is amended to read:

**“30-4A-105. Other definitions.** (1) In this chapter, the following definitions apply:

(a) “Authorized account” means a deposit account of a customer in a bank designated by the customer as a source of payment of payment orders issued by the customer to the bank. If a customer does not so designate an account, any account of the customer is an authorized account if payment of a payment order from that account is not inconsistent with a restriction on the use of that account.

(b) “Bank” means a person engaged in the business of banking and includes a savings bank, savings and loan association, credit union, and trust company. A branch or separate office of a bank is a separate bank for purposes of this chapter.

(c) “Customer” means a person, including a bank, having an account with a bank or from whom a bank has agreed to receive payment orders.

(d) "Funds-transfer business day" of a receiving bank means the part of a day during which the receiving bank is open for the receipt, processing, and transmittal of payment orders and cancellations and amendments of payment orders.

(e) "Funds-transfer system" means a wire transfer network, automated clearinghouse, or other communication system of a clearinghouse or other association of banks through which a payment order by a bank may be transmitted to the bank to which the order is addressed.

(f) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(g) "Prove", with respect to a fact, means to meet the burden of establishing the fact (~~30-1-201(8)~~ 30-1-201(2)(i)).

(2) Other definitions applying to this chapter and the sections in which they appear are:

"Acceptance". 30-4A-209.

"Beneficiary". 30-4A-103.

"Beneficiary's bank". 30-4A-103.

"Executed". 30-4A-301.

"Execution date". 30-4A-301.

"Funds transfer". 30-4A-104.

"Funds-transfer system rule". 30-4A-501.

"Intermediary bank". 30-4A-104.

"Originator". 30-4A-104.

"Originator's bank". 30-4A-104.

"Payment by beneficiary's bank to beneficiary". 30-4A-405.

"Payment by originator to beneficiary". 30-4A-406.

"Payment by sender to receiving bank". 30-4A-403.

"Payment date". 30-4A-401.

"Payment order". 30-4A-103.

"Receiving bank". 30-4A-103.

"Security procedure". 30-4A-201.

"Sender". 30-4A-103.

(3) The following definitions in chapter 4 apply to this chapter:

"Clearinghouse". 30-4-104.

"Item". 30-4-104.

"Suspends payments". 30-4-104.

(4) In addition, chapter 1 contains general definitions and principles of construction and interpretation applicable throughout this chapter."

**Section 33.** Section 30-4A-106, MCA, is amended to read:

**"30-4A-106. Time payment order is received.** (1) The time of receipt of a payment order or communication canceling or amending a payment order is determined by the rules applicable to receipt of a notice stated in ~~30-1-201(27)~~ [section 9]. A receiving bank may fix a cutoff time or times on a funds-transfer

business day for the receipt and processing of payment orders and communications canceling or amending payment orders. Different cutoff times may apply to payment orders, cancellations, or amendments or to different categories of payment orders, cancellations, or amendments. A cutoff time may apply to senders generally or different cutoff times may apply to different senders or categories of payment orders. If a payment order or communication canceling or amending a payment order is received after the close of a funds-transfer business day or after the appropriate cutoff time on a funds-transfer business day, the receiving bank may treat the payment order or communication as received at the opening of the next funds-transfer business day.

(2) If this chapter refers to an execution date or payment date or state a day on which a receiving bank is required to take action and the date or day does not fall on a funds-transfer business day, the next day that is a funds-transfer business day is treated as the date or day stated, unless the contrary is stated in this chapter."

**Section 34.** Section 30-5-123, MCA, is amended to read:

**"30-5-123. Scope.** (1) This chapter applies to letters of credit and to certain rights and obligations arising out of transactions involving letters of credit.

(2) The statement of a rule in this chapter does not by itself require, imply, or negate application of the same or a different rule to a situation not provided for, or to a person not specified, in this chapter.

(3) With the exception of this subsection, subsections (1) and (4), 30-5-122(1)(i) and (1)(j), 30-5-126(4), and 30-5-134(4), and except to the extent prohibited in ~~30-1-102(3)~~ and 30-5-137(4), the effect of this chapter may be varied by agreement or by a provision stated or incorporated by reference in an undertaking. A term in an agreement or undertaking generally excusing liability or generally limiting remedies for failure to perform obligations is not sufficient to vary obligations prescribed by this chapter.

(4) Rights and obligations of an issuer to a beneficiary or a nominated person under a letter of credit are independent of the existence, performance, or nonperformance of a contract or arrangement out of which the letter of credit arises or which underlies it, including contracts or arrangements between the issuer and the applicant and between the applicant and the beneficiary."

**Section 35.** Section 30-7-102, MCA, is amended to read:

**"30-7-102. Definitions and index of definitions.** (1) In this chapter, unless the context otherwise requires:

(a) "Bailee" means ~~the~~ a person ~~who~~ that by a warehouse receipt, bill of lading, or other document of title acknowledges possession of goods and contracts to deliver them.

(b) "Carrier" means a person that issues a bill of lading.

~~(b)~~(c) "Consignee" means the person named in a bill of lading to ~~whom~~ which or to whose order the bill promises delivery.

~~(e)~~(d) "Consignor" means the person named in a bill of lading as the person from ~~whom~~ which the goods have been received for shipment.

~~(d)~~(e) "Delivery order" means a ~~written order~~ record that contains an order to deliver goods directed to a ~~warehouseman~~ warehouse, carrier, or other person ~~who~~ that in the ordinary course of business issues warehouse receipts or bills of lading.

~~(e)~~ “Document” means document of title as defined in 30-1-201(15).

(f) “Good faith” means honesty in fact and the observance of reasonable commercial standards of fair dealing.

~~(f)~~(g) “Goods” means all things which ~~that~~ are treated as movable for the purposes of a contract ~~of~~ for storage or transportation.

~~(g)~~(h) “Issuer” means a bailee ~~who~~ that issues a document of title or, ~~except that in relation to the case of an unaccepted delivery order, it means the person who~~ that orders the possessor of goods to deliver. Issuer The term includes any a person for whom which an agent or employee purports to act in issuing a document if the agent or employee has real or apparent authority to issue documents, notwithstanding that even if the issuer ~~received no~~ did not receive any goods, or that the goods were misdescribed, or that in any other respect the agent or employee violated ~~his~~ the issuer’s instructions.

(i) “Person entitled under a document” means the holder, in the case of a negotiable document of title, or the person to which delivery of the goods is to be made by the terms of, or pursuant to instructions in a record under, a nonnegotiable document of title.

(j) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(k) “Shipper” means a person that enters into a contract of transportation with a carrier.

(l) “Sign” means, with present intent to authenticate or adopt a record:

(i) to execute or adopt a tangible symbol; or

(ii) to attach to or logically associate with the record an electronic sound, symbol, or process.

~~(h)~~(m) ~~“Warehouseman” is~~ “Warehouse” means a person engaged in the business of storing goods for hire.

~~(2) Other definitions applying to this chapter or to specified parts thereof, and the sections in which they appear are:~~

~~“Duly negotiate”. 30-7-501.~~

~~“Person entitled under the document”. 30-7-403(4).~~

~~(3)~~(2) Definitions in other chapters applying to this chapter and the sections in which they appear are:

(a) “Contract for sale”. 30-2-106.

(b) “Lessee in ordinary course”. 30-2A-103.

~~“Overseas”. 30-2-323.~~

(c) “Receipt” of goods. 30-2-103.

~~(4)~~(3) In addition Chapter 1 contains general definitions and principles of construction and interpretation applicable throughout this chapter.”

**Section 36.** Section 30-7-103, MCA, is amended to read:

**“30-7-103. Relation of chapter to treaty, or statute, tariff, classification or regulation.** (1) This chapter is subject to any treaty or statute of the United States or a regulatory statute of this state to the extent the treaty, statute, or regulatory statute is applicable.

(2) *This chapter does not repeal or modify any law prescribing the form or contents of a document of title or the services or facilities to be afforded by a bailee, or otherwise regulating a bailee's businesses in respects not specifically treated in this chapter. However, violation of these laws does not affect the status of a document of title that otherwise complies with the definition of a document of title.*

(3) *This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001, et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. 7003(b).*

(4) *To the extent that any treaty or statute of the United States, regulatory statute of this state or tariff, classification or regulation filed or issued pursuant thereto is applicable there is a conflict between the Uniform Electronic Transactions Act, Title 30, chapter 18, part 1, and this chapter, the provisions of this chapter are subject thereto governs."*

**Section 37.** Section 30-7-104, MCA, is amended to read:

**~~"30-7-104. Negotiable and nonnegotiable warehouse receipt, bill of lading or other document of title.~~** (1) ~~A warehouse receipt, bill of lading or other document of title is negotiable:~~

~~(a) if by its terms the goods are to be delivered to bearer or to the order of a named person; or~~

~~(b) where recognized in overseas trade, if it runs to a named person or assigns.~~

(2) ~~Any other~~ *A document of title other than one described in subsection (1) is nonnegotiable. A bill of lading in which it is stated that states that the goods are consigned to a named person is not made negotiable by a provision that the goods are to be delivered only against a written order signed by the same or another named person.*

(3) *A document of title is nonnegotiable if, at the time it is issued, the document has a conspicuous legend, however expressed, that it is nonnegotiable."*

**Section 38. Reissuance in alternative medium.** (1) Upon request of a person entitled under an electronic document of title, the issuer of the electronic document may issue a tangible document of title as a substitute for the electronic document if:

(a) the person entitled under the electronic document surrenders control of the document to the issuer; and

(b) the tangible document when issued contains a statement that it is issued in substitution for the electronic document.

(2) Upon issuance of a tangible document of title in substitution for an electronic document of title in accordance with subsection (1):

(a) the electronic document ceases to have any effect or validity; and

(b) the person that procured issuance of the tangible document warrants to all subsequent persons entitled under the tangible document that the warrantor was a person entitled under the electronic document when the warrantor surrendered control of the electronic document to the issuer.

(3) Upon request of a person entitled under a tangible document of title, the issuer of the tangible document may issue an electronic document of title as a substitute for the tangible document if:

(a) the person entitled under the tangible document surrenders possession of the document to the issuer; and

(b) the electronic document when issued contains a statement that it is issued in substitution for the tangible document.

(4) Upon issuance of the electronic document of title in substitution for a tangible document of title in accordance with subsection (3):

(a) the tangible document ceases to have any effect or validity; and

(b) the person that procured issuance of the electronic document warrants to all subsequent persons entitled under the electronic document that the warrantor was a person entitled under the tangible document when the warrantor surrendered possession of the tangible document to the issuer.

**Section 39. Control of electronic document of title.** (1) A person has control of an electronic document of title if a system employed for evidencing the transfer of interests in the electronic document reliably establishes that person as the person to which the electronic document is issued or transferred.

(2) A system satisfies subsection (1), and a person is considered to have control of an electronic document of title, if the document is created, stored, and assigned in such a manner that:

(a) a single authoritative copy of the document exists which is unique, identifiable, and, except as otherwise provided in subsections (2)(d), (2)(e), and (2)(f), unalterable;

(b) the authoritative copy identifies the person asserting control as:

(i) the person to which the document was issued; or

(ii) if the authoritative copy indicates that the document has been transferred, the person to which the document was most recently transferred;

(c) the authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(d) copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(e) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(f) any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

**Section 40.** Section 30-7-201, MCA, is amended to read:

**“30-7-201. Who Person that may issue a warehouse receipt — storage under government bond.** (1) A warehouse receipt may be issued by any ~~warehouseman~~ *warehouse*.

(2) ~~Where~~ *If* goods, including distilled spirits and agricultural commodities, are stored under a statute requiring a bond against withdrawal or a license for the issuance of receipts in the nature of warehouse receipts, a receipt issued for the goods ~~has like effect as is considered to be~~ *is considered to be* a warehouse receipt even ~~though if~~ *if* issued by a person ~~who that~~ *that* is the owner of the goods and is not a ~~warehouseman~~ *warehouse*.”

**Section 41.** Section 30-7-202, MCA, is amended to read:

**“30-7-202. Form of warehouse receipt — essential terms — optional terms.** (1) A warehouse receipt need not be in any particular form.

(2) Unless a warehouse receipt embodies within its written or printed terms *provides for* each of the following, the ~~warehouseman~~ *warehouse* is liable for damages caused ~~by the omission~~ to a person injured ~~thereby~~ *by its omission*:

- (a) the location of the warehouse *facility* where the goods are stored;
- (b) the date of issue of the receipt;
- (c) the ~~consecutive number~~ *unique identification code* of the receipt;

(d) a statement whether the goods received will be delivered to the bearer, to a ~~specified~~ *named* person, or to a ~~specified~~ *named* person or ~~his~~ *its* order;

(e) the rate of storage and handling charges, ~~except that where~~ *but if* goods are stored under a field warehousing arrangement, a statement of that fact is sufficient on a nonnegotiable receipt;

(f) a description of the goods or of the packages containing them;

(g) the signature of the ~~warehouseman~~, ~~which may be made by his~~ *authorized warehouse or its agent*;

(h) if the receipt is issued for goods of which the ~~warehouseman is owner~~ *that the warehouse owns*, either solely, or jointly, or in common with others, the fact of ~~such~~ *that* ownership; and

(i) a statement of the amount of advances made and of liabilities incurred for which the ~~warehouseman~~ *warehouse* claims a lien or security interest, ~~(30-7-209). If~~ *but if* the precise amount of ~~such~~ *such* advances made or of ~~such~~ *such* liabilities incurred is, at the time of the issue of the receipt, unknown to the ~~warehouseman~~ *warehouse* or to ~~his~~ *its* agent ~~who issues that issued it the receipt~~, a statement of the fact that advances have been made or liabilities incurred and the purpose ~~thereof of the advances or liabilities~~ is sufficient.

(3) A ~~warehouseman~~ *warehouse* may insert in ~~his~~ *its* receipt any ~~other~~ terms ~~which that~~ are not contrary to the provisions of this code and do not impair ~~his~~ *its* obligation of delivery ~~(under 30-7-403)~~ or ~~his~~ *its* duty of care ~~(under 30-7-204)~~. Any contrary provisions ~~shall be~~ *are* ineffective.”

**Section 42.** Section 30-7-203, MCA, is amended to read:

**“30-7-203. Liability for nonreceipt or misdescription.** A party to or purchaser for value in good faith of a document of title, other than a bill of lading, ~~relying in either case that relies~~ upon the description ~~therein~~ of the goods *in the document* may recover from the issuer damages caused by the nonreceipt or misdescription of the goods, except to the extent that:

(1) the document conspicuously indicates that the issuer does not know whether ~~any all or part or all~~ of the goods in fact were received or conform to the description, ~~as where such as a case in which~~ the description is in terms of marks or labels or kind, quantity, or condition, or the receipt or description is qualified by “contents, condition, and quality unknown”, “said to contain”, or ~~the like~~ *words of similar import*, if ~~such~~ *the* indication ~~be~~ *is* true; or

(2) the party or purchaser ~~otherwise~~ has notice of the nonreceipt or misdescription.”

**Section 43.** Section 30-7-204, MCA, is amended to read:

**“30-7-204. Duty of care — contractual limitation of warehouseman’s warehouse’s liability.** (1) A ~~warehouseman~~ *warehouse* is liable for damages for loss of or injury to the goods caused by ~~his~~ *its* failure to exercise ~~such~~ care ~~in~~ *with* regard to ~~them as the goods that~~ a reasonably careful ~~man~~ *person* would exercise under ~~like~~ *similar* circumstances. ~~but~~ *However*, unless otherwise agreed, ~~he~~ *the warehouse* is not liable for damages ~~which~~ *that* could not have been avoided by the exercise of ~~such~~ *that* care.

(2) Damages may be limited by a term in the warehouse receipt or storage agreement limiting the amount of liability in case of loss or damage, ~~and setting forth a specific liability per article or item, or value per unit of weight, beyond which the warehouseman shall not be~~ *warehouse is not liable*. ~~Such a limitation is not effective with respect to the warehouse’s liability for conversion to its own use. provided, however, that such~~ *The warehouse’s liability, may on written request of the bailor in a record at the time of signing such storage agreement or within a reasonable time after receipt of the warehouse receipt, may be increased on part or all of the goods thereunder, in which covered by the storage agreement or the warehouse receipt. In this event, increased rates may be charged based on such an increased valuation, but that no such increase shall be permitted contrary to a lawful limitation of liability contained in the warehouseman’s tariff, if any of the goods. No such limitation is effective with respect to the warehouseman’s liability for conversion to his own use.*

(3) Reasonable provisions as to the time and manner of presenting claims and instituting actions based on the bailment may be included in the warehouse receipt or ~~tariff~~ *storage agreement.*”

**Section 44.** Section 30-7-205, MCA, is amended to read:

**“30-7-205. Title under warehouse receipt defeated in certain cases.** A buyer in the ordinary course of business of fungible goods sold and delivered by a ~~warehouseman who~~ *warehouse that* is also in the business of buying and selling such goods takes free of any claim under a warehouse receipt even ~~though it~~ *if the receipt is negotiable and* has been duly negotiated.”

**Section 45.** Section 30-7-206, MCA, is amended to read:

**“30-7-206. Termination of storage at warehouseman’s warehouse’s option.** (1) A ~~warehouseman~~ *warehouse*, ~~by giving notice to the person on whose account the goods are held and any other person known to claim an interest in the goods, may require payment of any charges and removal of the goods from the warehouse at the termination of the period of storage fixed by the document of title, or, if no a period is not fixed, within a stated period not less than 30 days after the notification warehouse gives notice.~~ If the goods are not removed before the date specified in the ~~notification notice~~, the ~~warehouseman warehouse~~ *warehouse* may sell them ~~in accordance with the provisions of the section on enforcement of a warehouseman’s lien (pursuant to 30-7-210).~~

(2) If a ~~warehouseman~~ *warehouse* in good faith believes that the goods are about to deteriorate or decline in value to less than the amount of ~~his~~ *its* lien within the time prescribed in subsection (1) ~~and 30-7-210, for notification, advertisement and sale, the warehouseman warehouse may specify in the notification notice given under subsection (1) any reasonable shorter time for removal of the goods and, in case if the goods are not removed, may sell them at public sale held not less than 1 week after a single advertisement or posting.~~

(3) If, as a result of a quality or condition of the goods of which the ~~warehouseman had no~~ *warehouse did not have* notice at the time of deposit, the

goods are a hazard to other property, ~~or to the warehouse facilities, or to other persons, the warehouseman warehouse~~ may sell the goods at public or private sale without advertisement *or posting* on reasonable notification to all persons known to claim an interest in the goods. If the ~~warehouseman warehouse~~, after a reasonable effort, is unable to sell the goods, ~~he it~~ may dispose of them in any lawful manner and ~~shall does not~~ incur ~~no~~ liability by reason of ~~such that~~ disposition.

(4) ~~The warehouseman must~~ *A warehouse shall* deliver the goods to any person entitled to them under this chapter upon due demand made at any time prior to sale or other disposition under this section.

(5) ~~The warehouseman~~ *A warehouse* may satisfy ~~his its~~ lien from the proceeds of any sale or disposition under this section but ~~must shall~~ hold the balance for delivery on the demand of any person to ~~whom he~~ *which the warehouse* would have been bound to deliver the goods.”

**Section 46.** Section 30-7-207, MCA, is amended to read:

**“30-7-207. Goods must be kept separate — fungible goods.** (1) Unless the warehouse receipt otherwise provides, a ~~warehouseman must~~ *warehouse shall* keep separate the goods covered by each receipt so as to permit at all times identification and delivery of those goods. ~~except that~~ *However,* different lots of fungible goods may be commingled.

(2) ~~Fungible~~ *If different lots of fungible goods so are* commingled, ~~are the goods~~ owned in common by the persons entitled thereto and the ~~warehouseman warehouse~~ is severally liable to each owner for that owner’s share. ~~Where~~ *If,* because of overissue, a mass of fungible goods is insufficient to meet all the receipts ~~which the warehouseman warehouse~~ has issued against it, the persons entitled include all holders to ~~whom~~ *which* overissued receipts have been duly negotiated.”

**Section 47.** Section 30-7-208, MCA, is amended to read:

**“30-7-208. Altered warehouse receipts.** ~~Where~~ *If* a blank in a negotiable *tangible* warehouse receipt has been filled in without authority, a *good faith* purchaser for value and without notice of the ~~want~~ *lack* of authority may treat the insertion as authorized. Any other unauthorized alteration leaves any *tangible or electronic warehouse* receipt enforceable against the issuer according to its original tenor.”

**Section 48.** Section 30-7-209, MCA, is amended to read:

**“30-7-209. Lien of ~~warehouseman warehouse.~~** (1) ~~A warehouseman warehouse~~ has a lien against the bailor on the goods covered by a warehouse receipt *or storage agreement* or on the proceeds thereof in ~~his its~~ possession for charges for storage or transportation, (including demurrage and terminal charges), insurance, labor, or *other* charges, present or future, in relation to the goods, and for expenses necessary for preservation of the goods or reasonably incurred in their sale pursuant to law. If the person on whose account the goods are held is liable for ~~like~~ *similar* charges or expenses in relation to other goods whenever deposited and it is stated in the receipt *or storage agreement* that a lien is claimed for charges and expenses in relation to other goods, the ~~warehouseman warehouse~~ also has a lien against ~~him~~ *for such the goods covered by the warehouse receipt or storage agreement or on the proceeds thereof in its possession for those charges and expenses,* whether or not the other goods have been delivered by the ~~warehouseman warehouse.~~ ~~But~~ *However,* as against a person to ~~whom~~ *which* a negotiable warehouse receipt is duly negotiated, a

~~warehouseman's warehouse's~~ lien is limited to charges in an amount or at a rate specified ~~on~~ in the *warehouse* receipt or, if no charges are so specified, ~~then~~ to a reasonable charge for storage of the *specific* goods covered by the receipt subsequent to the date of the receipt.

(2) The ~~warehouseman warehouse~~ may also reserve a security interest *under chapter 9A* against the bailor for ~~a~~ the maximum amount specified on the receipt for charges other than those specified in subsection (1), such as for money advanced and interest. ~~Such a~~ A security interest is governed by ~~the Chapter on Secured Transactions (Chapter chapter~~ *chapter 9A*).

(3) A ~~warehouseman's warehouse's~~ lien for charges and expenses under subsection (1) or a security interest under subsection (2) is also effective against any person ~~who~~ *that* so entrusted the bailor with possession of the goods that a pledge of them by ~~him~~ *the bailor* to a good faith purchaser for value would have been valid. ~~but~~ *However, the lien or security interest* is not effective against a person ~~as to whom the document confers no right in the goods covered by it under 30-7-503 that before issuance of a document of title had a legal interest or a perfected security interest in the goods and that did not:~~

(a) *deliver or entrust the goods or any document covering the goods to the bailor or the bailor's nominee with actual or apparent authority to ship, store, or sell; or with power to obtain delivery under 30-7-403; or with power of disposition under 30-2-403, 30-2A-304(2), 30-2A-305(2), or 30-9A-320 or other statute or rule of law; or*

(b) *acquiesce in the procurement by the bailor or its nominee of any document.*

(4) *A warehouse's lien on household goods for charges and expenses in relation to the goods under subsection (1) is also effective against all persons if the depositor was the legal possessor of the goods at the time of deposit. In this subsection, "household goods" means furniture, furnishings, or personal effects used by the depositor in a dwelling.*

~~(4)(5) A warehouseman warehouse loses his its lien on any goods which he that it voluntarily delivers or which he unjustifiably refuses to deliver."~~

**Section 49.** Section 30-7-210, MCA, is amended to read:

**"30-7-210. Enforcement of warehouseman's warehouse's lien.** (1) Except as provided in subsection (2), a ~~warehouseman's warehouse's~~ lien may be enforced by public or private sale of the goods, in block or in ~~parcels~~ *packages*, at any time or place and on any terms ~~which~~ *that* are commercially reasonable, after notifying all persons known to claim an interest in the goods. The notification must include a statement of the amount due, the nature of the proposed sale, and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the ~~warehouseman warehouse~~ is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. ~~If the warehouseman either~~ *The warehouse has sold in a commercially reasonable manner if the warehouse* sells the goods in the usual manner in any recognized market therefor, ~~or if he~~ *or if he* sells at the price current in ~~such~~ *that* market at the time of ~~his~~ *the* sale, or ~~if he~~ *if he* has otherwise sold in conformity with commercially reasonable practices among dealers in the type of goods sold, ~~he has sold in a commercially reasonable manner.~~ A sale of more goods than apparently necessary to be offered to ~~insure~~ *ensure* satisfaction of the obligation is not commercially reasonable, except in cases covered by the preceding sentence.

(2) A ~~warehouseman's~~ *warehouse's* lien on goods, other than goods stored by a merchant in the course of ~~his~~ *its* business, may be enforced only ~~as follows if the following requirements are satisfied:~~

(a) All persons known to claim an interest in the goods must be notified.

~~(b) The notification must be delivered in person or sent by registered or certified letter to the last known address of any person to be notified.~~

~~(b)~~ The notification must include an itemized statement of the claim, a description of the goods subject to the lien, a demand for payment within a specified time not less than 10 days after receipt of the notification, and a conspicuous statement that unless the claim is paid within that time the goods will be advertised for sale and sold by auction at a specified time and place.

~~(c)~~ The sale must conform to the terms of the notification.

~~(d)~~ The sale must be held at the nearest suitable place to ~~that~~ where the goods are held or stored.

~~(e)~~ After the expiration of the time given in the notification, an advertisement of the sale must be published once a week for 2 weeks consecutively in a newspaper of general circulation where the sale is to be held. The advertisement must include a description of the goods, the name of the person on whose account they are being held, and the time and place of the sale. The sale must take place at least 15 days after the first publication. If there is no newspaper of general circulation where the sale is to be held, the advertisement must be posted at least 10 days before the sale in not less than six conspicuous places in the neighborhood of the proposed sale.

(3) Before any sale pursuant to this section, any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred ~~under~~ *in complying with* this section. In that event, the goods ~~must~~ *may* not be sold, but must be retained by the ~~warehouseman~~ *warehouse* subject to the terms of the receipt and this chapter.

(4) ~~The warehouseman~~ *A warehouse* may buy at any public sale pursuant to this section.

(5) A purchaser in good faith of goods sold to enforce a ~~warehouseman's~~ *warehouse's* lien takes the goods free of any rights of persons against whom the lien was valid, despite ~~noncompliance by the warehouseman~~ *warehouse's noncompliance* with the requirements of this section.

(6) ~~The warehouseman~~ *A warehouse* may satisfy ~~his~~ *its* lien from the proceeds of any sale pursuant to this section but ~~must~~ *shall* hold the balance, if any, for delivery on demand to any person to ~~whom he~~ *which the warehouse* would have been bound to deliver the goods.

(7) The rights provided by this section ~~shall be~~ *are* in addition to all other rights allowed by law to a creditor against ~~his~~ *a* debtor.

(8) ~~Where~~ *If* a lien is on goods stored by a merchant in the course of ~~his~~ *its* business, the lien may be enforced in accordance with either subsection (1) or (2).

(9) ~~The warehouseman~~ *A warehouse* is liable for damages caused by failure to comply with the requirements for sale under this section and, in case of willful violation, is liable for conversion."

**Section 50.** Section 30-7-301, MCA, is amended to read:

**"30-7-301. Liability for nonreceipt or misdescription — "said to contain" — "shipper's load and count" — improper handling.** (1) A

consignee of a nonnegotiable bill ~~who~~ *which* has given value in good faith, or a holder to ~~whom~~ *which* a negotiable bill has been duly negotiated, relying ~~in~~ *either* upon the description ~~therein~~ of the goods *in the bill*; or upon the date ~~therein~~ shown *in the bill*, may recover from the issuer damages caused by the misdating of the bill or the nonreceipt or misdescription of the goods, except to the extent that the document *of title* indicates that the issuer does not know whether any part or all of the goods in fact were received or conform to the description, *such as where in a case in which* the description is in terms of marks or labels or kind, quantity, or condition or the receipt or description is qualified by "contents or condition of contents of packages unknown", "said to contain", "shipper's weight, load and count", or ~~the like words of similar import~~, if ~~such~~ *that* indication ~~be~~ *is* true.

(2) ~~When~~ *If* goods are loaded by ~~an~~ *the* issuer ~~who is a common carrier of the bill of lading~~, the issuer ~~must~~ *shall* count the packages of goods if ~~package freight shipped in packages~~ and ascertain the kind and quantity if ~~shipped in bulk freight~~. ~~In and words such as~~ "shipper's weight, load and count" or ~~other~~ *words of similar import* indicating that the description was made by the shipper are ineffective except as to ~~freight~~ *goods* concealed by packages.

(3) ~~When~~ *If* bulk ~~freight is~~ *goods are* loaded by a shipper ~~who that~~ makes available to the issuer *of the bill of lading* adequate facilities for weighing ~~such freight those goods~~, ~~an~~ *the* issuer ~~who is a common carrier must~~ *shall* ascertain the kind and quantity within a reasonable time after receiving the ~~written shipper's request of the shipper in a record~~ to do so. In ~~such cases that case~~, "shipper's weight" or other words of ~~like purport similar import~~ are ineffective.

(4) The issuer, ~~may by inserting~~ *including* in the bill of lading the words "shipper's weight, load and count", or other words of ~~like purport similar import~~, *may* indicate that the goods were loaded by the shipper; and if ~~such that~~ statement ~~be is~~ true, the issuer ~~shall is~~ not be liable for damages caused by the improper loading. ~~But their~~ *However*, omission of *such words* does not imply liability for ~~such~~ *damages caused by improper loading*.

(5) ~~The~~ *A* shipper ~~shall be deemed to have guaranteed~~ *guarantees* to the issuer the accuracy at the time of shipment of the description, marks, labels, number, kind, quantity, condition, and weight, as furnished by ~~him; the shipper~~, and the shipper shall indemnify the issuer against damage caused by inaccuracies in ~~such those~~ particulars. ~~The~~ *This* right of the issuer to ~~such that~~ indemnity ~~shall in no way does not limit his its~~ responsibility ~~and~~ or liability under the contract of carriage to any person other than the shipper."

**Section 51.** Section 30-7-302, MCA, is amended to read:

**"30-7-302. Through bills of lading and similar documents of title.** (1) The issuer of a through bill of lading or other document *of title* embodying an undertaking to be performed in part by persons acting as its agents or by ~~connecting carriers~~ *a performing carrier* is liable to ~~anyone~~ *any person* entitled to recover on the document for any breach by ~~such the other persons person or by a connecting the performing~~ carrier of its obligation under the document. ~~but~~ *However*, to the extent that the bill covers an undertaking to be performed overseas or in territory not contiguous to the continental United States or an undertaking including matters other than transportation, this liability *for breach by the other person or the performing carrier* may be varied by agreement of the parties.

(2) Where goods covered by a through bill of lading or other document embodying an undertaking to be performed in part by persons other than the

issuer are received by any such person, he is subject with respect to his own performance while the goods are in his possession to the obligation of the issuer. His obligation is discharged by delivery of the goods to another such person pursuant to the document, and does not include liability for breach by any other such persons or by the issuer.

(3) The issuer of ~~such a~~ through bill of lading or other document ~~shall be of title described in subsection (1) is~~ entitled to recover from the ~~connecting performing~~ carrier, or ~~such~~ other person in possession of the goods when the breach of the obligation under the document occurred;

(a) the amount it may be required to pay to ~~anyone~~ *any person* entitled to recover on the document ~~therefor for the breach,~~ as may be evidenced by any receipt, judgment, or transcript ~~thereof,~~ of judgment; and

(b) the amount of any expense reasonably incurred by ~~the issuer~~ in defending any action ~~brought~~ *commenced* by ~~anyone~~ *any person* entitled to recover on the document ~~therefor for the breach.~~"

**Section 52.** Section 30-7-303, MCA, is amended to read:

**"30-7-303. Diversion — reconsignment — change of instructions.** (1) Unless the bill of lading otherwise provides, ~~the~~ a carrier may deliver the goods to a person or destination other than that stated in the bill or may otherwise dispose of the goods, *without liability for misdelivery,* on instructions from:

(a) the holder of a negotiable bill; or

(b) the consignor on a nonnegotiable bill ~~notwithstanding even if the consignee has given~~ contrary instructions ~~from the consignee;~~ or

(c) the consignee on a nonnegotiable bill in the absence of contrary instructions from the consignor, if the goods have arrived at the billed destination or if the consignee is in possession of the bill; or

(d) ~~the~~ *the consignee on a nonnegotiable bill in the absence of contrary instructions from the consignor, if the goods have arrived at the billed destination or if the consignee is in possession of the tangible bill or in control of the electronic bill;* or

(~~d~~)e) the consignee on a nonnegotiable bill, if ~~he~~ *the consignee* is entitled as against the consignor to dispose of ~~them~~ *the goods.*

(2) Unless ~~such~~ instructions *described in subsection (1) are noted on* included in a negotiable bill of lading, a person to ~~whom~~ *which* the bill is duly negotiated ~~can~~ *may* hold the bailee according to the original terms."

**Section 53.** Section 30-7-304, MCA, is amended to read:

**"30-7-304. Bills Tangible bills of lading in a set.** (1) Except ~~where~~ *as* customary in ~~overseas~~ *international* transportation, a bill of lading ~~must~~ *may* not be issued in a set of parts. The issuer is liable for damages caused by violation of this subsection.

(2) ~~Where~~ *If a tangible bill of lading is lawfully drawn issued* in a set of parts, each of which ~~is numbered~~ *contains an identification code* and *is* expressed to be valid only if the goods have not been delivered against any other part, the whole of the parts constitute one bill.

(3) ~~Where~~ *If a tangible negotiable bill of lading is lawfully issued* in a set of parts and different parts are negotiated to different persons, the title of the holder to ~~whom~~ *which* the first due negotiation is made prevails as to both the document of title and the goods even ~~though~~ *if* any later holder may have

received the goods from the carrier in good faith and discharged the carrier's obligation by ~~surrender of his~~ *surrendering its* part.

(4) ~~Any~~ A person ~~who~~ *that* negotiates or transfers a single part of a *tangible* bill of lading ~~drawn~~ *issued* in a set is liable to holders of that part as if it were the whole set.

(5) The bailee is obliged to deliver in accordance with ~~Part~~ *part* 4 of this chapter against the first presented part of a *tangible* bill of lading lawfully ~~drawn~~ *issued* in a set. ~~Such delivery~~ *Delivery in this manner* discharges the bailee's obligation on the whole bill."

**Section 54.** Section 30-7-305, MCA, is amended to read:

**"30-7-305. Destination bills.** (1) Instead of issuing a bill of lading to the consignor at the place of shipment, a carrier, ~~may~~ at the request of the consignor, *may* procure the bill to be issued at destination or at any other place designated in the request.

(2) Upon request of ~~anyone~~ *any person* entitled as against ~~the~~ *a* carrier to control the goods while in transit and on surrender of *possession or control* of any outstanding bill of lading or other receipt covering ~~such~~ *the* goods, the issuer, *subject to [section 38]*, may procure a substitute bill to be issued at any place designated in the request."

**Section 55.** Section 30-7-307, MCA, is amended to read:

**"30-7-307. Lien of carrier.** (1) A carrier has a lien on the goods covered by a bill of lading *or on the proceeds thereof in its possession* for charges ~~subsequent to~~ *after* the date of ~~its~~ *the carrier's* receipt of the goods for storage or transportation (including demurrage and terminal charges), and for expenses necessary for preservation of the goods incident to their transportation or reasonably incurred in their sale pursuant to law. ~~But~~ *However*, against a purchaser for value of a negotiable bill of lading, a carrier's lien is limited to charges stated in the bill or the applicable tariffs, or if no charges are stated, ~~then~~ *to a reasonable charge*.

(2) A lien for charges and expenses under subsection (1) on goods ~~which~~ *that* the carrier was required by law to receive for transportation is effective against the consignor or any person entitled to the goods unless the carrier had notice that the consignor lacked authority to subject the goods to ~~such~~ *those* charges and expenses. Any other lien under subsection (1) is effective against the consignor and any person ~~who~~ *that* permitted the bailor to have control or possession of the goods unless the carrier had notice that the bailor lacked ~~such~~ authority.

(3) A carrier loses ~~his~~ *its* lien on any goods ~~which~~ *he* ~~that~~ *it* voluntarily delivers or ~~which~~ *he* unjustifiably refuses to deliver."

**Section 56.** Section 30-7-308, MCA, is amended to read:

**"30-7-308. Enforcement of carrier's lien.** (1) A carrier's lien *on goods* may be enforced by public or private sale of the goods, in ~~bulk~~ *bulk* or in ~~parcels~~ *packages*, at any time or place and on any terms ~~which~~ *that* are commercially reasonable, after notifying all persons known to claim an interest in the goods. ~~Such~~ *The* notification must include a statement of the amount due, the nature of the proposed sale, and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the carrier is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. ~~If~~ *The* carrier ~~either~~ *has sold* goods in a commercially reasonable

*manner if the carrier sells the goods in the usual manner in any recognized market therefor, or if he sells at the price current in such that market at the time of his sale, or if he has otherwise sold in conformity with commercially reasonable practices among dealers in the type of goods sold he has sold in a commercially reasonable manner.* A sale of more goods than apparently necessary to be offered to ensure satisfaction of the obligation is not commercially reasonable except in cases covered by the preceding sentence.

(2) Before any sale pursuant to this section, any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred ~~under~~ *in complying with* this section. In that event, the goods ~~must~~ *may* not be sold, but must be retained by the carrier, subject to the terms of the bill of lading and this chapter.

(3) ~~The~~ A carrier may buy at any public sale pursuant to this section.

(4) A purchaser in good faith of goods sold to enforce a carrier's lien takes the goods free of any rights of persons against ~~whom~~ *which* the lien was valid, despite *the carrier's* noncompliance ~~by the carrier~~ with the requirements of this section.

(5) ~~The~~ A carrier may satisfy ~~his~~ *its* lien from the proceeds of any sale pursuant to this section but ~~must~~ *shall* hold the balance, if any, for delivery on demand to any person to ~~whom~~ *which* the carrier would have been bound to deliver the goods.

(6) The rights provided by this section ~~shall be~~ *are* in addition to all other rights allowed by law to a creditor against ~~his~~ *a* debtor.

(7) A carrier's lien may be enforced ~~in accordance with~~ *pursuant to* either subsection (1) or the procedure set forth in ~~subsection (2) of 30-7-210~~ *30-7-210(2)*.

(8) ~~The~~ A carrier is liable for damages caused by failure to comply with the requirements for sale under this section and, in case of willful violation, is liable for conversion."

**Section 57.** Section 30-7-309, MCA, is amended to read:

**"30-7-309. Duty of care — contractual limitation of carrier's liability.** (1) A carrier ~~who~~ *that* issues a bill of lading, whether negotiable or nonnegotiable, ~~must~~ *shall* exercise the degree of care in relation to the goods which a reasonably careful ~~man~~ *person* would exercise under ~~like~~ *similar* circumstances. This subsection does not ~~repeal or change~~ *affect* any ~~law~~ *statute, regulation, or rule of law* which ~~that~~ imposes liability upon a common carrier for damages not caused by its negligence.

(2) Damages may be limited by a ~~provision~~ *term in the bill of lading or in a transportation agreement* that the carrier's liability ~~shall~~ *may* not exceed a value stated in the ~~document~~ *bill or transportation agreement* if the carrier's rates are dependent upon value and the consignor ~~by the carrier's tariff~~ is afforded an opportunity to declare a higher value ~~or a value as lawfully provided in the tariff, or where no tariff is filed he is otherwise~~ *and the consignor is advised of such the opportunity; but no* *However, such a limitation is not effective with respect to the carrier's liability for conversion to its own use.*

(3) Reasonable provisions as to the time and manner of presenting claims and ~~instituting~~ *commencing* actions based on the shipment may be included in a bill of lading or ~~tariff~~ *transportation agreement."*

**Section 58.** Section 30-7-401, MCA, is amended to read:

**“30-7-401. Irregularities in issue of receipt or bill or conduct of issuer.** The obligations imposed by this chapter on an issuer apply to a document of title regardless of the fact that *even if*:

(a) the document ~~may~~ *does not* comply with the requirements of this chapter or of any other ~~law~~ *statute, rule, or regulation* regarding its issue, form or content; ~~or~~

(b) the issuer ~~may have~~ violated laws regulating the conduct of ~~his~~ *its* business; ~~or~~

(c) the goods covered by the document were owned by the bailee ~~at the time when~~ the document was issued; or

(d) the person issuing the document ~~does not come within the definition of warehouseman if it is not a warehouse but the document~~ purports to be a warehouse receipt.”

**Section 59.** Section 30-7-402, MCA, is amended to read:

**“30-7-402. Duplicate receipt or bill — overissue.** ~~Neither a~~ A duplicate ~~nor~~ or any other document of title purporting to cover goods already represented by an outstanding document of the same issuer ~~confers~~ *does not confer* any right in the goods, except as provided in the case of *tangible bills of lading* in a set of *parts*, overissue of documents for fungible goods, ~~and~~ substitutes for lost, stolen, or destroyed documents, *or substitute documents issued pursuant to [section 38].* ~~But the~~ *The* issuer is liable for damages caused by ~~his~~ *its* overissue or failure to identify a duplicate document ~~as such~~ by a conspicuous notation ~~on its face.~~”

**Section 60.** Section 30-7-403, MCA, is amended to read:

**“30-7-403. Obligation of warehouseman warehouse or carrier to deliver — excuse.** (1) ~~The~~ A bailee ~~must~~ *shall* deliver the goods to a person entitled under ~~the~~ a document of title ~~who~~ *if the person* complies with subsections (2) and (3), unless and to the extent that the bailee establishes any of the following:

(a) delivery of the goods to a person whose receipt was rightful as against the claimant;

(b) damage to or delay, loss, or destruction of the goods for which the bailee is not liable;

(c) previous sale or other disposition of the goods in lawful enforcement of a lien or on ~~warehouseman's~~ *a warehouse's* lawful termination of storage;

(d) the exercise by a seller of ~~his~~ *its* right to stop delivery pursuant to ~~the provisions of the Chapter on Sales (30-2-705) or by a lessor of its right to stop delivery pursuant to 30-2A-526;~~

(e) a diversion, reassignment, or other disposition pursuant to ~~the provisions of this chapter (30-7-303) or tariff regulating such right;~~

(f) release, satisfaction, or any other fact affording a personal defense against the claimant; *or*

(g) any other lawful excuse.

(2) A person claiming goods covered by a document of title ~~must~~ *shall* satisfy the bailee's lien ~~where~~ *if* the bailee so requests or ~~where~~ the bailee is prohibited by law from delivering the goods until the charges are paid.

(3) Unless ~~the~~ a person claiming *the goods* is one against ~~whom~~ *which* the document ~~confers~~ *no* of title *does not confer* a right under 30-7-503(1);:

(a) ~~he must~~ *the person claiming under a document shall surrender for cancellation or notation of partial deliveries possession or control of any outstanding negotiable document covering the goods; for cancellation or indication of partial deliveries; and*

(b) the bailee ~~must~~ *shall* cancel the document or conspicuously ~~note~~ *indicate* in the document the partial delivery ~~thereon~~ or be liable to any person to ~~whom~~ *which* the document is duly negotiated.

(4) ~~“Person entitled under the document” means holder in the case of a negotiable document, or the person to whom delivery is to be made by the terms of or pursuant to written instructions under a nonnegotiable document.”~~

**Section 61.** Section 30-7-404, MCA, is amended to read:

**“30-7-404. No liability for good faith delivery pursuant to receipt or bill document of title.** A bailee ~~who that~~ in good faith including observance of reasonable commercial standards has received goods and delivered or otherwise disposed of ~~them~~ *the goods* according to the terms of the document of title or pursuant to this chapter is not liable ~~therefor~~. ~~This rule applies for the goods even though if:~~

(1) the person from whom ~~he~~ *the bailee* received the goods ~~had no~~ *did not* have authority to procure the document or to dispose of the goods; ~~and or~~

(2) ~~even though~~ the person to ~~whom he~~ *which the bailee* delivered the goods ~~had no~~ *did not have* authority to receive ~~them~~ *the goods.*”

**Section 62.** Section 30-7-501, MCA, is amended to read:

**“30-7-501. Form of negotiation and requirements of “due negotiation”.** (1) ~~A~~ *The following rules apply to a tangible negotiable document of title:*

(a) ~~If the document’s original terms running~~ *run* to the order of a named person, the document is negotiated by ~~his~~ *the named person’s* endorsement and delivery. After ~~his~~ *the named person’s* endorsement in blank or to bearer, any person ~~can~~ *may* negotiate ~~it~~ *the document* by delivery alone.

(2)(b) ~~(a) A negotiable document of title is also negotiated by delivery alone when by its original terms it runs~~ *run* to bearer, *it is negotiated by delivery alone;*

(b)(c) ~~when a document running~~ *If the document’s original terms run* to the order of a named person *and it is delivered to him* ~~him~~ *the named person*, the effect is the same as if the document had been negotiated.

(3)(d) Negotiation of ~~a negotiable~~ *the document of title* after it has been endorsed to a ~~specified~~ *named* person requires endorsement by the ~~special~~ *endorsee named person* as well as delivery.

(4)(e) A negotiable document of title is “duly negotiated” ~~when if~~ *if* it is negotiated in the manner stated in this section ~~subsection (1)(e)~~ *subsection (1)(e)* to a holder ~~who~~ *that* purchases it in good faith, without notice of any defense against or claim to it on the part of any person, and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves receiving the document in settlement or payment of a money obligation.

(2) *The following rules apply to a negotiable electronic document of title:*

(a) *If the document’s original terms run to the order of a named person or to bearer, the document is negotiated by delivery of the document to another person. Endorsement by the named person is not required to negotiate the document.*

(b) *If the document's original terms run to the order of a named person and the named person has control of the document, the effect is the same as if the document had been negotiated.*

(c) *A document is duly negotiated if it is negotiated in the manner stated in this subsection (2) to a holder that purchases it in good faith, without notice of any defense against or claim to it on the part of any person, and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves taking delivery of the document in settlement or payment of a monetary obligation.*

~~(5)~~(d) Endorsement of a nonnegotiable document of title neither makes it negotiable nor adds to the transferee's rights.

~~(6)~~(e) The naming in a negotiable bill of lading of a person to be notified of the arrival of the goods does not limit the negotiability of the bill ~~nor~~ or constitute notice to a purchaser ~~thereof of the bill~~ of any interest of ~~such that~~ person in the goods."

**Section 63.** Section 30-7-502, MCA, is amended to read:

**"30-7-502. Rights acquired by due negotiation.** (1) Subject to ~~the following section and to the provisions of 30-7-205 and 30-7-503,~~ on fungible goods, a holder to ~~whom~~ *which* a negotiable document of title has been duly negotiated acquires thereby:

(a) title to the document;

(b) title to the goods;

(c) all rights accruing under the law of agency or estoppel, including rights to goods delivered to the bailee after the document was issued; and

(d) the direct obligation of the issuer to hold or deliver the goods according to the terms of the document free of any defense or claim by ~~him~~ *the issuer* except those arising under the terms of the document or under this chapter. In the case of a delivery order, the bailee's obligation accrues only upon *the bailee's acceptance of the delivery order* and the obligation acquired by the holder is that the issuer and any endorser will procure the acceptance of the bailee.

(2) Subject to ~~the following section 30-7-503,~~ title and rights ~~so~~ acquired by *due negotiation* are not defeated by any stoppage of the goods represented by the document of title or by surrender of ~~such the~~ goods by the bailee; and are not impaired even ~~though~~ *if*:

(a) the *due* negotiation or any prior *due* negotiation constituted a breach of duty;

(b) ~~or even though~~ any person has been deprived of possession of ~~the a~~ *a negotiable tangible document or control of a negotiable electronic document* by misrepresentation, fraud, accident, mistake, duress, loss, theft or conversion; or

(c) ~~even though~~ a previous sale or other transfer of the goods or document has been made to a third person."

**Section 64.** Section 30-7-503, MCA, is amended to read:

**"30-7-503. Document of title to goods defeated in certain cases.** (1) A document of title confers no right in goods against a person ~~who~~ *that* before issuance of the document had a legal interest or a perfected security interest in ~~them the goods and who neither~~ *that did not*:

(a) ~~delivered or entrusted them~~ *deliver or entrust the goods* or any document of title covering ~~them~~ *the goods* to the bailor or the bailor's nominee with actual or apparent authority to ship, store or sell; ~~or~~ with power to obtain delivery under ~~this chapter (30-7-403);~~ or with power of disposition under ~~this code (30-2-403, 30-2A-304(2), 30-2A-305(2), and or 30-9A-320)~~ or other statute or rule of law; ~~nor or~~

(b) ~~acquiesced~~ *acquiesce* in the procurement by the bailor or the bailor's nominee of any document of title.

(2) Title to goods based upon an unaccepted delivery order is subject to the rights of ~~anyone~~ *any person* to ~~whom~~ *which* a negotiable warehouse receipt or bill of lading covering the goods has been duly negotiated. ~~Such a~~ *That* title may be defeated under ~~the next section 30-7-504~~ to the same extent as the rights of the issuer or a transferee from the issuer.

(3) Title to goods based upon a bill of lading issued to a freight forwarder is subject to the rights of ~~anyone~~ *any person* to ~~whom~~ *which* a bill issued by the freight forwarder is duly negotiated; ~~but~~ *However*, delivery by the carrier in accordance with part 4 of this chapter pursuant to its own bill of lading discharges the carrier's obligation to deliver."

**Section 65.** Section 30-7-504, MCA, is amended to read:

**"30-7-504. Rights acquired in the absence of due negotiation — effect of diversion — seller's stoppage of delivery.** (1) A transferee of a document of title, whether negotiable or nonnegotiable, to ~~whom~~ *which* the document has been delivered but not duly negotiated, acquires the title and rights ~~which~~ *his* ~~that~~ *its* transferor had or had actual authority to convey.

(2) In the case of a nonnegotiable document of title, until but not after the bailee receives notification of the transfer, the rights of the transferee may be defeated:

(a) by those creditors of the transferor who could treat the sale as void under 30-2-402 or 30-2A-308; or

(b) by a buyer from the transferor in ordinary course of business if the bailee has delivered the goods to the buyer or received notification of ~~his~~ *the buyer's* rights; or

(c) as against the bailee, by good faith dealings of the bailee with the transferor.

(3) A diversion or other change of shipping instructions by the consignor in a nonnegotiable bill of lading which causes the bailee not to deliver to the consignee defeats the consignee's title to the goods if ~~they~~ *the goods* have been delivered to a buyer in ordinary course of business or a lessee in ordinary course of business and in any event defeats the consignee's rights against the bailee.

(4) Delivery of goods pursuant to a nonnegotiable document may be stopped by a seller under 30-2-705 or a lessor under 30-2A-526, ~~and~~ subject to the ~~requirement~~ *requirements* of due notification ~~there provided in those sections.~~ A bailee honoring the seller's instructions is entitled to be indemnified by the seller against any resulting loss or expense."

**Section 66.** Section 30-7-506, MCA, is amended to read:

**"30-7-506. Delivery without endorsement — right to compel endorsement.** The transferee of a negotiable document of title has a specifically enforceable right to have ~~his~~ *its* transferor supply any necessary

endorsement, but the transfer becomes a negotiation only as of the time the endorsement is supplied.”

**Section 67.** Section 30-7-507, MCA, is amended to read:

**“30-7-507. Warranties on negotiation or transfer of receipt or bill delivery of document of title.** ~~Where~~ If a person negotiates or transfers ~~delivers~~ a document of title for value, otherwise than as a mere intermediary under ~~the next following section 30-7-508, then~~ unless otherwise agreed, ~~he the~~ transferor warrants to ~~his~~ its immediate purchaser only in addition to any warranty made in selling or leasing the goods *that*:

- (a) ~~that~~ the document is genuine; and
- (b) ~~that he has no the transferor does not have~~ knowledge of any fact ~~which~~ *that* would impair ~~its the document's~~ validity or worth; and
- (c) ~~that his the~~ negotiation or ~~transfer~~ *delivery* is rightful and fully effective with respect to the title to the document and the goods it represents.”

**Section 68.** Section 30-7-508, MCA, is amended to read:

**“30-7-508. Warranties of collecting bank as to documents of title.** A collecting bank or other intermediary known to be entrusted with documents of *title* on behalf of another or with collection of a draft or other claim against delivery of documents warrants by ~~such the~~ delivery of the documents only its own good faith and authority. ~~This rule applies even though the if the collecting bank or other intermediary has purchased or made advances against the claim or draft to be collected.~~

**Section 69.** Section 30-7-509, MCA, is amended to read:

**“30-7-509. Receipt or bill — when adequate Adequate compliance with commercial contract.** ~~The question whether~~ *Whether* a document is adequate to fulfill the obligations of a contract for sale, *a contract for lease*, or the conditions of a credit is governed by the Chapters on Sales (Chapter *chapter 2*), 2A, and on Letters of Credit (Chapter *or 5*).”

**Section 70.** Section 30-7-601, MCA, is amended to read:

**“30-7-601. Lost and missing documents.** (1) If a document has been lost, stolen, or destroyed, a court may order delivery of the goods or issuance of a substitute document and the bailee may without liability to any person comply with ~~such the~~ order. If the document was negotiable, *a court may not order delivery of the goods or issuance of a substitute document without the claimant must post claimant's posting security approved by the court to indemnify unless it finds that* any person ~~who that~~ may suffer loss as a result of nonsurrender of possession or control of the document *is adequately protected against the loss*. If the document was not negotiable *nonnegotiable*, ~~such the~~ court may require security ~~may be required at the discretion of the court~~. The court may also in its ~~discretion~~ order payment of the bailee's reasonable costs and ~~counsel attorney's~~ fees *in any action under this subsection*.

(2) A bailee ~~who that~~ without court order delivers goods to a person claiming under a missing negotiable document of *title* is liable to any person injured thereby, ~~and if~~ *If* the delivery is not in good faith, *the bailee is becomes* liable for conversion. Delivery in good faith is not conversion ~~if made in accordance with a filed classification or tariff or, where no classification or tariff is filed, if the claimant posts security with the bailee in an amount at least double the value of the goods at the time of posting to indemnify any person injured by the delivery who which files a notice of claim within 1 year after the delivery.~~”

**Section 71.** Section 30-7-602, MCA, is amended to read:

**“30-7-602. Attachment of goods covered by a negotiable document of title.** ~~Except where the~~ *Unless a document of title* was originally issued upon delivery of the goods by a person ~~who had no~~ *that did not have* power to dispose of them, ~~no a lien attaches does not attach~~ by virtue of any judicial process to goods in the possession of a bailee for which a negotiable document of title is outstanding unless *possession or control of the document be* is first surrendered to the bailee or ~~its~~ *the document’s* negotiation is enjoined; ~~and the~~ *The* bailee ~~shall~~ *may* not be compelled to deliver the goods pursuant to process until *possession or control of the document is surrendered to him* ~~the bailee or impounded by~~ to the court. ~~One who purchases~~ *A purchaser of the document for value without notice of the process or injunction takes free of the lien imposed by judicial process.”*

**Section 72.** Section 30-7-603, MCA, is amended to read:

**“30-7-603. Conflicting claims — interpleader.** If more than one person claims title ~~to~~ or possession of the goods, the bailee is excused from delivery until ~~he the bailee has had~~ a reasonable time to ascertain the validity of the adverse claims or to ~~bring commence an action to compel all claimants to interplead and may compel such~~ for interpleader; *The bailee may assert an interpleader* either in defending an action for nondelivery of the goods, or by original action; ~~whichever is appropriate.”~~

**Section 73.** Section 30-8-113, MCA, is amended to read:

**“30-8-113. Rules for determining whether certain obligations and interests are securities or financial assets.** (1) A share or similar equity interest issued by a corporation, business trust, joint-stock company, or similar entity is a security.

(2) An “investment company security” is a security. “Investment company security” means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered, or a face-amount certificate issued by a face-amount certificate company that is so registered. Investment company security does not include an insurance policy or endowment policy or annuity contract issued by an insurance company.

(3) An interest in a partnership or limited liability company is not a security unless it is dealt in or traded on securities exchanges or in securities markets, its terms expressly provide that it is a security governed by this chapter, or it is an investment company security. However, an interest in a partnership or limited liability company is a financial asset if it is held in a securities account.

(4) A writing that is a security certificate is governed by this chapter and not by chapter 3, even though it also meets the requirements of that chapter. However, a negotiable instrument governed by chapter 3 is a financial asset if it is held in a securities account.

(5) An option or similar obligation issued by a clearing corporation to its participants is not a security, but is a financial asset.

(6) A commodity contract, as defined in 30-9A-102, is not a security or a financial asset.

*(7) A document of title, as defined in 30-1-201(2)(q), is not a financial asset unless 30-8-112(1)(i)(C) applies.”*

**Section 74.** Section 30-9A-102, MCA, is amended to read:

**“30-9A-102. Definitions and index of definitions.** (1) As used in this chapter, the following definitions apply:

(a) “Accession” means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(b) (i) “Account”, except as used in “account for”, means a right to payment of a monetary obligation, whether or not earned by performance:

(A) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of;

(B) for services rendered or to be rendered;

(C) for a policy of insurance issued or to be issued;

(D) for a secondary obligation incurred or to be incurred;

(E) for energy provided or to be provided;

(F) for the use or hire of a vessel under a charter or other contract;

(G) arising out of the use of a credit or charge card or information contained on or for use with the card; or

(H) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state.

(ii) The term includes a health-care-insurance receivable.

(iii) The term does not include:

(A) a right to payment evidenced by chattel paper or an instrument;

(B) a commercial tort claim;

(C) a deposit account;

(D) investment property;

(E) a letter-of-credit right; or

(F) a right to payment for money or funds advanced or sold, other than a right arising out of the use of a credit or charge card or information contained on or for use with the card.

(c) “Account debtor” means a person obligated on an account, chattel paper, or general intangible. The term does not include a person obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

(d) “Accounting”, except as used in “accounting for”, means a record:

(i) authenticated by a secured party;

(ii) indicating the aggregate unpaid secured obligations as of a date not more than 35 days earlier or 35 days later than the date of the record; and

(iii) identifying the components of the obligations in reasonable detail.

(e) “Agricultural lien” means an interest, other than a security interest, in farm products:

(i) that secures payment or performance of an obligation for:

(A) goods or services furnished in connection with a debtor’s farming operation; or

(B) rent on real property leased by a debtor in connection with its farming operation;

(ii) that is created by statute in favor of a person that:

(A) in the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation; or

(B) leased real property to a debtor in connection with the debtor's farming operation; and

(iii) whose effectiveness does not depend on the person's possession of the personal property.

(f) "As-extracted collateral" means:

(i) oil, gas, or other minerals that are subject to a security interest that:

(A) is created by a debtor having an interest in the minerals before extraction; and

(B) attaches to the minerals as extracted; or

(ii) accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

(g) "Authenticate" means to:

(i) sign; or

(ii) execute or adopt a symbol, or encrypt a record in whole or in part, with present intent to:

(A) identify the authenticating party; and

(B) adopt, accept, or establish the authenticity of a record or term.

(h) "Bank" means an organization that is engaged in the business of banking. The term includes a savings bank, savings and loan association, credit union, and trust company.

(i) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.

(j) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

(k) (i) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this subsection (1)(k)(i), "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods.

(ii) (A) The term does not include:

(I) charters or other contracts involving the use or hire of a vessel; or

(II) records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

(B) If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.

(l) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:

(i) proceeds to which a security interest attaches under 30-9A-315;

(ii) accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and

(iii) goods that are the subject of a consignment.

(m) "Commercial tort claim" means a claim arising in tort if:

(i) the claimant is an organization; or

(ii) the claimant is an individual and the claim:

(A) arose in the course of the claimant's business or profession; and

(B) does not include damages arising out of personal injury to or the death of an individual.

(n) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(o) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

(i) traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

(ii) traded on a foreign commodity board of trade, exchange, or market and is carried on the books of a commodity intermediary for a commodity customer.

(p) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books.

(q) "Commodity intermediary" means a person that:

(i) is registered as a futures commission merchant under federal commodities law; or

(ii) in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

(r) "Communicate" means:

(i) to send a written or other tangible record;

(ii) to transmit a record by any means agreed upon by the persons sending and receiving the record; or

(iii) in the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule.

(s) "Consignee" means a merchant to which goods are delivered in a consignment.

(t) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

(i) the merchant:

(A) deals in goods of that kind under a name other than the name of the person making delivery;

(B) is not an auctioneer; and

(C) is not generally known by its creditors to be substantially engaged in selling the goods of others;

(ii) with respect to each delivery, the aggregate value of the goods is \$1,000 or more at the time of delivery;

(iii) the goods are not consumer goods immediately before delivery; and

(iv) the transaction does not create a security interest that secures an obligation.

(u) "Consignor" means a person that delivers goods to a consignee in a consignment.

(v) "Consumer debtor" means a debtor in a consumer transaction.

(w) "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes.

(x) "Consumer-goods transaction" means a transaction to the extent that:

(i) an individual incurs an obligation primarily for personal, family, or household purposes; and

(ii) a security interest in consumer goods or in consumer goods and software that is used, licensed, or bought for use primarily for personal, family, or household purposes secures the obligation.

(y) "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes.

(z) "Consumer transaction" means a transaction to the extent that:

(i) an individual incurs an obligation primarily for personal, family, or household purposes;

(ii) a security interest secures the obligation; and

(iii) the collateral is held or acquired primarily for personal, family, or household purposes. The term includes a consumer-goods transaction.

(aa) "Continuation statement" means an amendment of a financing statement that:

(i) identifies, by its file number, the initial financing statement to which it relates; and

(ii) indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

(bb) "Debtor" means:

(i) a person having a property interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

(ii) a seller of accounts, chattel paper, payment intangibles, or promissory notes; or

(iii) a consignee.

(cc) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or an account evidenced by an instrument.

(dd) "Document" means a document of title or a receipt of the type described in 30-7-201(2).

(ee) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.

(ff) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes a mortgage and other lien on real property.

(gg) "Equipment" means goods other than inventory, farm products, or consumer goods.

(hh) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and that are:

(i) crops grown, growing, or to be grown, including:

(A) crops produced on trees, vines, and bushes; and

(B) aquatic goods produced in aquacultural operations;

(ii) livestock, born or unborn, including aquatic goods produced in aquacultural operations;

(iii) supplies used or produced in a farming operation; or

(iv) products of crops or livestock in their unmanufactured states.

(ii) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.

(jj) "File number" means the number assigned to an initial financing statement pursuant to 30-9A-519(1).

(kk) "Filing office" means an office designated in 30-9A-501 as the place to file a financing statement.

(ll) "Filing-office rule" means a rule adopted pursuant to 30-9A-526.

(mm) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.

(nn) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying the requirements of 30-9A-502(1) and (2). The term includes the filing of a financing statement covering goods of a transmitting utility that are or are to become fixtures.

(oo) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law.

(pp) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes a payment intangible and software.

(qq) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(rr) (i) "Goods" means all things that are movable when a security interest attaches. The term includes:

(A) fixtures;

(B) standing timber that is to be cut and removed under a conveyance or contract for sale;

(C) the unborn young of animals;

(D) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes; and

(E) manufactured homes.

(ii) The term also includes a computer program structurally integrated with goods, any informational content included in the program, and any supporting information provided in connection with a transaction relating to the program or informational content if:

(A) the program is associated with the goods in such a manner that it customarily is considered part of the goods; or

(B) by becoming the owner of the goods, a person would acquire a right to use the program in connection with the goods.

(iii) The term does not include a program integrated with goods that consist solely of the medium with which the program is integrated. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

(ss) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization with a separate corporate existence only if the organization is eligible to issue debt obligations on which interest is exempt from income taxation under the laws of the United States.

(tt) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance that is a right to payment of a monetary obligation for health care goods or services provided.

(uu) (i) "Instrument" means:

(A) a negotiable instrument; or

(B) any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in the ordinary course of business is transferred by delivery with any necessary indorsement or assignment.

(ii) The term does not include:

(A) investment property;

(B) a letter of credit; or

(C) a writing that evidences a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

(vv) "Inventory" means goods, other than farm products, that:

(i) are leased by a person as lessor;

(ii) are held by a person for sale or lease or to be furnished under contracts of service;

(iii) are furnished by a person under a contract of service; or

(iv) consist of raw materials, work in process, or materials used or consumed in a business.

(ww) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.

(xx) "Jurisdiction of organization", with respect to a registered organization, means the jurisdiction under whose law the organization is organized.

(yy) (i) "Letter-of-credit right" means a right to payment and performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance.

(ii) The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(zz) "Lien creditor" means:

(i) a creditor that has acquired a lien on the property involved by attachment, levy, or the like;

(ii) an assignee for benefit of creditors from the time of assignment;

(iii) a trustee in bankruptcy from the date of the filing of the petition; and

(iv) a receiver in equity from the time of appointment.

(aaa) "Manufactured home" means a structure, transportable in one or more sections, that in the traveling mode is 8 body feet or more in width or 40 body feet or more in length or that when erected on site is 320 or more square feet and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States secretary of housing and urban development and complies with the standards established under Title 42 of the United States Code.

(bbb) "Manufactured-home transaction" means a secured transaction:

(i) that creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

(ii) in which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.

(ccc) "Mortgage" means a consensual interest in real property, including fixtures, that is created by a mortgage, trust deed, or similar transaction.

(ddd) "New debtor" means a person that becomes bound as debtor under 30-9A-203(4) by a security agreement previously entered into by another person.

(eee) (i) "New value" means:

(A) money;

(B) money's worth in property, services, or new credit; or

(C) release by a transferee of an interest in property previously transferred to the transferee.

(ii) The term does not include an obligation substituted for another obligation.

(fff) "Noncash proceeds" means proceeds other than cash proceeds.

(ggg) (i) "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral:

(A) owes payment or other performance of the obligation;

(B) has provided property other than the collateral to secure payment or other performance of the obligation; or

(C) is otherwise accountable in whole or in part for payment or other performance of the obligation.

(ii) The term does not include an issuer or a nominated person under a letter of credit.

(hhh) "Original debtor", except as used in 30-9A-310(3), means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under 30-9A-203(4).

(iii) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation.

(jjj) "Person related to", with respect to an individual, means:

(i) the spouse of the individual;

(ii) a brother, brother-in-law, sister, or sister-in-law of the individual;

(iii) an ancestor or lineal descendant of the individual or the individual's spouse; and

(iv) any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

(kkk) "Person related to", with respect to an organization, means:

(i) a person directly or indirectly controlling, controlled by, or under common control with the organization;

(ii) an officer or director of, or a person performing similar functions with respect to, the organization;

(iii) an officer or director of, or a person performing similar functions with respect to, a person described in subsection (1)(kkk)(i);

(iv) the spouse of an individual described in subsection (1)(kkk)(i), (1)(kkk)(ii), or (1)(kkk)(iii); or

(v) an individual who is related by blood or marriage to an individual described in subsections (1)(kkk)(i), (1)(kkk)(ii), (1)(kkk)(iii), or (1)(kkk)(iv) and shares the same home with the individual.

(lll) "Proceeds", except as used in 30-9A-609(2), means the following property:

(i) whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;

(ii) whatever is collected on, or distributed on account of, collateral;

(iii) rights arising out of collateral;

(iv) to the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to the collateral; and

(v) to the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects in, or damage to the collateral.

(mmm) "Promissory note" means an instrument that:

- (i) evidences a promise to pay a monetary obligation;
- (ii) does not evidence an order to pay; and

(iii) does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(nnn) "Proposal" means a record authenticated by a secured party and including the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to 30-9A-620 through 30-9A-622.

(ooo) "Public-finance transaction" means a secured transaction in connection with which:

(i) bonds, debentures, certificates of participation, or similar debt securities are issued;

(ii) all or a portion of the securities issued have an initial stated maturity of at least 20 years; and

(iii) the debtor, the obligor, the secured party, the account debtor or other person obligated on collateral, the assignor or assignee of a secured obligation, or the assignor or assignee of a security interest is a state or a governmental unit of a state.

(ppp) "Pursuant to commitment", with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation.

(qqq) "Record", except as used in "for record", "of record", "record or legal title", and "record owner", means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(rrr) "Registered organization" means an organization organized solely under the law of one state or the United States and as to which the state or the United States is required to maintain a public record showing the organization to have been organized.

(sss) "Secondary obligor" means an obligor to the extent that:

(i) the obligor's obligation is secondary; or

(ii) the obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

(ttt) "Secured party" means:

(i) a person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

(ii) a person that holds an agricultural lien;

(iii) a consignor;

(iv) a person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;

(v) a trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(vi) a person that holds a security interest arising under 30-2-401, 30-2-505, 30-2-711(3), 30-2A-508(5), 30-4-208, or 30-5-118.

(uuu) "Security agreement" means an agreement that creates or provides for a security interest.

(vvv) "Send", in connection with a record or notification, means to:

(i) deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

(ii) cause the record or notification to be received within the time that it would have been received if properly sent under subsection (1)(vvv)(i).

(www) (i) "Software" means a computer program, any informational content included in the program, and any supporting information provided in connection with a transaction relating to the computer program or informational content.

(ii) The term does not include a computer program that is contained in goods unless the goods are a computer or computer peripheral.

(xxx) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(yyy) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, document, general intangible, instrument, or investment property.

(zzz) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

(aaaa) "Termination statement" means an amendment of a financing statement that:

(i) identifies, by its file number, the initial financing statement to which it relates; and

(ii) indicates either that it is a termination statement or that the identified financing statement is no longer effective.

(bbbb) "Transmitting utility" means a person primarily engaged in the business of:

(i) operating a railroad, subway, street railway, or trolley bus;

(ii) transmitting electric or electronic communications;

(iii) transmitting goods by pipeline or sewer; or

(iv) transmitting or producing and transmitting electricity, steam, gas, or water.

(2) The following definitions in other chapters apply to this chapter:

"Applicant" 30-5-122.

"Beneficiary" 30-5-122.

"Broker" 30-8-112.

"Certificated security" 30-8-112.

- “Check” 30-3-104.
- “Clearing corporation” 30-8-112.
- “Contract for sale” 30-2-106.
- “Control” (with respect to a document of title) [section 39].
- “Customer” 30-4-104.
- “Entitlement holder” 30-8-112.
- “Financial asset” 30-8-112.
- “Holder in due course” 30-3-302.
- “Issuer” (with respect to a letter of credit or letter-of-credit right) 30-5-122.
- “Issuer” (with respect to a security) 30-8-211.
- “Lease” 30-2A-103.
- “Lease agreement” 30-2A-103.
- “Lease contract” 30-2A-103.
- “Leasehold interest” 30-2A-103.
- “Lessee” 30-2A-103.
- “Lessee in ordinary course of business” 30-2A-103.
- “Lessor” 30-2A-103.
- “Lessor’s residual interest” 30-2A-103.
- “Letter of credit” 30-5-122.
- “Merchant” 30-2-104.
- “Negotiable instrument” 30-3-104.
- “Nominated person” 30-5-122.
- “Note” 30-3-104.
- “Proceeds of a letter of credit” 30-5-134.
- “Prove” 30-3-102.
- “Sale” 30-2-106.
- “Securities account” 30-8-501.
- “Securities intermediary” 30-8-112.
- “Security” 30-8-112.
- “Security certificate” 30-8-112.
- “Security entitlement” 30-8-112.
- “Uncertificated security” 30-8-112.

(3) Chapter 1 contains general definitions and principles of construction and interpretation applicable throughout this chapter.”

**Section 75.** Section 30-9A-203, MCA, is amended to read:

**“30-9A-203. Attachment and enforcement of security interest — proceeds — supporting obligations — formal requisites.** (1) A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.

(2) Except as otherwise provided in subsections (3) through (9), a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

(a) value has been given;

(b) the debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and

(c) one of the following conditions is met:

(i) the debtor has authenticated a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;

(ii) the collateral is not a certificated security and is in the possession of the secured party under 30-9A-313 pursuant to the debtor's security agreement;

(iii) the collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under 30-8-331 pursuant to the debtor's security agreement; or

(iv) the collateral is a deposit account, electronic chattel paper, investment property, ~~or~~ a letter-of-credit right, *or electronic document* and the secured party has control under 30-9A-104, 30-9A-105, 30-9A-106, ~~or~~ 30-9A-107, *or [section 39]* pursuant to the debtor's security agreement.

(3) Subsection (2) is subject to 30-4-208 on the security interest of a collecting bank, 30-5-118 on the security interest of a letter-of-credit issuer or nominated person, 30-9A-110 on a security interest arising under chapter 2 or 2A, and 30-9A-206 on security interests in investment property.

(4) A person becomes bound as debtor by a security agreement entered into by another person if, by operation of law other than this chapter or by contract:

(a) the security agreement becomes effective to create a security interest in the person's property; or

(b) the person becomes generally obligated for the obligations of the other person, including the obligation secured under the security agreement, and acquires or succeeds to all or substantially all of the assets of the other person.

(5) If a new debtor becomes bound as debtor by a security agreement entered into by another person:

(a) the agreement satisfies the requirements of subsection (2)(c) with respect to existing or after-acquired property of the new debtor to the extent the property is described in the agreement; and

(b) another agreement is not necessary to make a security interest in the property enforceable.

(6) The attachment of a security interest in collateral gives the secured party the rights to proceeds provided by 30-9A-315 and is also attachment of a security interest in a supporting obligation for the collateral.

(7) The attachment of a security interest in a right to payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage, or other lien.

(8) The attachment of a security interest in a securities account is also attachment of a security interest in the security entitlements carried in the securities account.

(9) The attachment of a security interest in a commodity account is also attachment of a security interest in the commodity contracts carried in the commodity account.”

**Section 76.** Section 30-9A-207, MCA, is amended to read:

**“30-9A-207. Rights and duties of secured party having possession or control of collateral.** (1) Except as otherwise provided in subsection (4), a secured party shall use reasonable care in the custody and preservation of collateral in the secured party’s possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(2) Except as otherwise provided in subsection (4), if a secured party has possession of collateral:

(a) reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use, or operation of the collateral are chargeable to the debtor and are secured by the collateral;

(b) the risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage;

(c) the secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and

(d) the secured party may use or operate the collateral:

(i) for the purpose of preserving the collateral or its value;

(ii) as permitted by an order of a court having competent jurisdiction; or

(iii) except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(3) Except as otherwise provided in subsection (4), a secured party having possession of collateral or control of collateral under 30-9A-104, 30-9A-105, 30-9A-106, ~~or~~ 30-9A-107, *or [section 39]*:

(a) may hold as additional security any proceeds, except money or funds, received from the collateral;

(b) shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(c) may create a security interest in the collateral.

(4) If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor:

(a) subsection (1) does not apply unless the secured party is entitled by agreement:

(i) to charge back uncollected collateral; or

(ii) otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(b) subsections (2) and (3) do not apply.”

**Section 77.** Section 30-9A-208, MCA, is amended to read:

**“30-9A-208. Additional duties of secured party having control of collateral.** (1) This section applies if:

(a) there is no outstanding secured obligation; and

(b) the secured party is not committed to make advances, incur obligations, or otherwise give value.

(2) Within 10 days after receiving an authenticated demand by the debtor:

(a) a secured party having control of a deposit account under 30-9A-104(1)(b) shall send to the bank with which the deposit account is maintained an authenticated statement that releases the bank from any further obligation to comply with instructions originated by the secured party;

(b) a secured party having control of a deposit account under 30-9A-104(1)(c) shall:

(i) pay the debtor the balance on deposit in the deposit account; or

(ii) transfer the balance on deposit into a deposit account in the debtor's name;

(c) a secured party, other than a buyer, having control of electronic chattel paper under 30-9A-105 shall:

(i) communicate the authoritative copy of the electronic chattel paper to the debtor or its designated custodian;

(ii) if the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and

(iii) take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy that add or change an identified assignee of the authoritative copy without the consent of the secured party;

(d) a secured party having control of investment property under 30-8-116(4)(b) or 30-9A-106(2) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party; ~~and~~

(e) a secured party having control of a letter-of-credit right under 30-9A-107 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party; *and*

*(f) a secured party having control of an electronic document shall:*

*(i) give control of the electronic document to the debtor or its designated custodian;*

*(ii) if the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic document is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and*

*(iii) take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an*

*identified assignee of the authoritative copy without the consent of the secured party.”*

**Section 78.** Section 30-9A-301, MCA, is amended to read:

**“30-9A-301. Law governing perfection and priority of security interests.** Except as otherwise provided in 30-9A-303 through 30-9A-306, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

(1) Except as otherwise provided in this section, while a debtor is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral.

(2) While collateral is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a possessory security interest in that collateral.

(3) Except as otherwise provided in subsection (4), while *tangible* negotiable documents, goods, instruments, money, or tangible chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

(a) perfection of a security interest in the goods by filing a fixture filing;

(b) perfection of a security interest in timber to be cut; and

(c) the effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral.

(4) The local law of the jurisdiction in which the wellhead or minehead is located governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in as-extracted collateral.”

**Section 79.** Section 30-9A-310, MCA, is amended to read:

**“30-9A-310. When filing required to perfect security interest or agricultural lien — security interests and agricultural liens to which filing provisions do not apply.** (1) Except as otherwise provided in 30-9A-312(2) or subsection (2) of this section, a financing statement must be filed to perfect all security interests and agricultural liens.

(2) The filing of a financing statement is not necessary to perfect a security interest:

(a) that is perfected under 30-9A-308(4), (5), (6), or (7);

(b) that is perfected under 30-9A-309 when it attaches;

(c) in property subject to a statute, regulation, or treaty described in 30-9A-311(1);

(d) in goods in possession of a bailee that is perfected under 30-9A-312(4)(a) or (4)(b);

(e) in certificated securities, documents, goods, or instruments that is perfected without filing or possession under 30-9A-312(5), (6), or (7);

(f) in collateral in the secured party’s possession under 30-9A-313;

(g) in a certificated security that is perfected by delivery of the security certificate to the secured party under 30-9A-313;

(h) in a deposit account, electronic chattel paper, *electronic document*, investment property, or letter-of-credit right that is perfected by control under 30-9A-314;

(i) in proceeds which is perfected under 30-9A-315; or

(j) that is perfected under 30-9A-316.

(3) If a secured party assigns a perfected security interest or agricultural lien, a filing under this chapter is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.”

**Section 80.** Section 30-9A-312, MCA, is amended to read:

**“30-9A-312. Perfection of security interests in chattel paper, deposit accounts, documents, goods covered by documents, instruments, investment property, letter-of-credit rights, and money — perfection by permissive filing — temporary perfection without filing or transfer of possession.** (1) A security interest in chattel paper, negotiable documents, instruments, or investment property may be perfected by filing.

(2) Except as otherwise provided in 30-9A-315(3) and (4) for proceeds:

(a) a security interest in a deposit account may be perfected only by control under 30-9A-314;

(b) a security interest in a letter-of-credit right may be perfected only by control under 30-9A-314, except as otherwise provided in 30-9A-308(4); and

(c) a security interest in money may be perfected only by the secured party’s taking possession under 30-9A-313.

(3) While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

(a) a security interest in the goods may be perfected by perfecting a security interest in the document; and

(b) a security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

(4) While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by:

(a) issuance of a document in the name of the secured party;

(b) the bailee’s receipt of notification of the secured party’s interest; or

(c) filing as to the goods.

(5) A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession for a period of 20 days from the time it attaches to the extent that it arises for new value given under an authenticated security agreement.

(6) A perfected security interest in a negotiable document or goods in possession *or control* of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for 20 days without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of:

(a) ultimate sale or exchange; or

(b) loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise dealing with them in a manner preliminary to their sale or exchange.

(7) A perfected security interest in a certificated security or instrument remains perfected for 20 days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

- (a) ultimate sale or exchange; or
- (b) presentation, collection, enforcement, renewal, or registration of transfer.

(8) After the 20-day period specified in subsection (5), (6), or (7) expires, perfection depends upon compliance with this chapter.”

**Section 81.** Section 30-9A-313, MCA, is amended to read:

**“30-9A-313. When possession by or delivery to secured party perfects security interest without filing.** (1) Except as otherwise provided in subsection (2), a secured party may perfect a security interest in *tangible* negotiable documents, goods, instruments, money, or tangible chattel paper by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under 30-8-331.

(2) With respect to goods covered by a certificate of title issued by this state, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in 30-9A-316(4).

(3) With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party, or a lessee of the collateral from the debtor in the ordinary course of the debtor’s business when:

(a) the person in possession authenticates a record acknowledging that it holds possession of the collateral for the secured party’s benefit; or

(b) the person takes possession of the collateral after having authenticated a record acknowledging that it will hold possession of collateral for the secured party’s benefit.

(4) If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs no earlier than the time the secured party takes possession and continues only while the secured party retains possession.

(5) A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under 30-8-331 and remains perfected by delivery until the debtor obtains possession of the security certificate.

(6) A person in possession of collateral is not required to acknowledge that it holds possession for a secured party’s benefit.

(7) If a person acknowledges that it holds possession for the secured party’s benefit:

(a) the acknowledgment is effective under 30-8-331(1) or subsection (3) of this section, even if the acknowledgment violates the rights of a debtor; and

(b) unless the person otherwise agrees or law other than this chapter otherwise provides, the person does not owe any duty to the secured party and is not required to confirm the acknowledgment to another person.

(8) A secured party having possession of collateral does not relinquish possession by delivering the collateral to a person other than the debtor or a

lessee of the collateral from the debtor in the ordinary course of the debtor's business if the person was instructed before the delivery or is instructed contemporaneously with the delivery:

- (a) to hold possession of the collateral for the secured party's benefit; or
- (b) to redeliver the collateral to the secured party.

(9) A secured party does not relinquish possession even if a delivery under subsection (8) violates the rights of a debtor. A person to which collateral is delivered under subsection (8) does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than this chapter otherwise provides."

**Section 82.** Section 30-9A-314, MCA, is amended to read:

**"30-9A-314. Perfection by control.** (1) A security interest in investment property, a deposit account, a letter-of-credit right, or electronic chattel paper may be perfected by control of the collateral under 30-9A-104, 30-9A-105, 30-9A-106, ~~or~~ 30-9A-107, *or [section 39]*.

(2) A security interest in a deposit account, electronic chattel paper, ~~or~~ a letter-of-credit right, *or electronic document* is perfected by control under 30-9A-104, 30-9A-105, ~~or~~ 30-9A-107, *or [section 39]* when the secured party obtains control and remains perfected by control only while the secured party retains control.

(3) A security interest in investment property is perfected by control under 30-9A-106 from the time the secured party obtains control and remains perfected by control until:

- (a) the secured party does not have control; and
- (b) one of the following occurs:
  - (i) if the collateral is a certificated security, the debtor has or acquires possession of the security certificate;
  - (ii) if the collateral is an uncertificated security, the issuer has registered or registers the debtor as the registered owner; or
  - (iii) if the collateral is a security entitlement, the debtor is or becomes the entitlement holder."

**Section 83.** Section 30-9A-317, MCA, is amended to read:

**"30-9A-317. Interests that take priority over or take free of security interest or agricultural lien.** (1) A security interest or agricultural lien is subordinate to the rights of:

- (a) a person entitled to priority under 30-9A-322; and
- (b) except as otherwise provided in subsection (5), a person that becomes a lien creditor before the earlier of the time:
  - (i) the security interest or agricultural lien is perfected; or
  - (ii) one of the conditions specified in 30-9A-203(2)(c) is met and a financing statement covering the collateral is filed.

(2) Except as otherwise provided in subsection (5), a buyer, other than a secured party, of chattel paper, *tangible* documents, goods, instruments, or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(3) Except as otherwise provided in subsection (5), a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(4) A licensee of a general intangible or a buyer, other than a secured party, of accounts, *electronic documents*, general intangibles, or investment property other than a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(5) Except as otherwise provided in 30-9A-320 and 30-9A-321, if a person files a financing statement with respect to a purchase-money security interest before or within 20 days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor that arise between the time the security interest attaches and the time of filing.”

**Section 84.** Section 30-9A-338, MCA, is amended to read:

**“30-9A-338. Priority of security interest or agricultural lien perfected by filed financing statement providing certain incorrect information.** If a security interest or agricultural lien is perfected by a filed financing statement providing information described in 30-9A-516(2)(e) that is incorrect at the time the financing statement is filed:

(1) the security interest or agricultural lien is subordinate to a conflicting perfected security interest in the collateral to the extent that the holder of the conflicting security interest gives value in reasonable reliance upon the incorrect information; and

(2) a purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information, the purchaser gives value and, in the case of *tangible* chattel paper, *tangible* documents, goods, instruments, or a security certificate, receives delivery of the collateral.”

**Section 85.** Section 30-9A-601, MCA, is amended to read:

**“30-9A-601. Rights after default — judicial enforcement — consignor or buyer of accounts, chattel paper, payment intangibles, or promissory notes.** (1) After default, a secured party has the rights provided in this part and, except as otherwise provided in 30-9A-602, those provided by agreement of the parties. A secured party:

(a) may reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure; and

(b) if the collateral is documents, may proceed either as to the documents or as to the goods they cover.

(2) A secured party in possession of collateral or control of collateral under 30-9A-104, 30-9A-105, 30-9A-106, ~~or~~ 30-9A-107, or *[section 39]* has the rights and duties provided in 30-9A-207.

(3) The rights under subsections (1) and (2) are cumulative and may be exercised simultaneously.

(4) Except as otherwise provided in 30-9A-605 and subsection (7) of this section, after default, a debtor and an obligor have the rights provided in this part and by agreement of the parties.

(5) If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

(a) the date of perfection of the security interest or agricultural lien in the collateral;

(b) the date of filing a financing statement covering the collateral; or

(c) any date specified in a statute under which the agricultural lien was created.

(6) A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this chapter.

(7) Except as otherwise provided in 30-9A-607(3), this part imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.”

**Section 86.** Section 30-18-103, MCA, is amended to read:

**“30-18-103. Scope.** (1) Except as otherwise provided in subsection (2), this part applies to electronic records and electronic signatures relating to a transaction.

(2) This part does not apply to a transaction to the extent it is governed by:

(a) a law governing the creation and execution of wills, codicils, or testamentary trusts; and

(b) Title 30, chapter 1, other than 30-1-107 ~~and 30-1-206~~, and chapters 3 through 9A.

(3) This part applies to an electronic record or electronic signature otherwise excluded from the application of this part under subsection (2) to the extent it is governed by a law other than those specified in subsection (2).

(4) A transaction subject to this part is also subject to other applicable substantive law.”

**Section 87.** Section 30-18-115, MCA, is amended to read:

**“30-18-115. Transferable records.** (1) In this section, “transferable record” means an electronic record that:

(a) would be a note under Title 30, chapter 3, or a document under Title 30, chapter 7, if the electronic record were in writing; and

(b) the issuer of the electronic record expressly has agreed is a transferable record.

(2) A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.

(3) A system satisfies subsection (2), and a person is considered to have control of a transferable record, if the transferable record is created, stored, and assigned in a manner that:

(a) a single authoritative copy of the transferable record exists that is unique, identifiable, and, except as otherwise provided in subsections (3)(d) through (3)(f), unalterable;

(b) the authoritative copy identifies the person asserting control as:

(i) the person to which the transferable record was issued; or

(ii) if the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred;

(c) the authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(d) copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(e) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(f) any revision of the authoritative copy is readily identifiable as authorized or unauthorized.

(4) Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in ~~30-1-201(20)~~ *30-1-201(2)(v)*, of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under Title 30, chapters 1 through 9A, including, if the applicable statutory requirements under 30-3-302(1), 30-7-501, or 30-9A-330 are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively. Delivery, possession, and indorsement are not required to obtain or exercise any of the rights under this subsection.

(5) Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under Title 30, chapters 1 through 9A.

(6) If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.”

**Section 88.** Section 45-6-315, MCA, is amended to read:

**“45-6-315. Defrauding creditors.** (1) A person commits the offense of defrauding secured creditors if he destroys, conceals, encumbers, transfers, removes from the state, or otherwise deals with property subject to a security interest with the purpose to hinder enforcement of that interest.

(2) “Security interest” means an interest in personal property or fixtures as defined in the Uniform Commercial Code (~~30-1-201(37)~~ *30-1-201(2)(jj)*).

(3) A person convicted of the offense of defrauding secured creditors shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(4) A person who destroys, conceals, encumbers, transfers, removes from the state, or otherwise deals with property subject to a security interest with the purpose of depriving the owner of the property or of the proceeds and value therefrom may be prosecuted under 45-6-301.”

**Section 89.** Section 71-3-125, MCA, is amended to read:

**“71-3-125. Filing of agricultural lien statements.** (1) Unless a statement of an agricultural lien has been filed in the office of the secretary of state as provided in this chapter, a buyer who, in ordinary course of business as defined in ~~30-1-201(9)~~ *30-1-201(2)(j)*, buys a farm product takes it free of any lien created by this chapter even though the lien is otherwise perfected.

(2) A statement of an agricultural lien is sufficient if it:

(a) gives the names and addresses of the debtor and lienor;

(b) describes the type of lien and its statutory authority;

(c) describes the collateral;

(d) contains the notation by the secretary of state of the date of filing and filing number;

(e) is signed by the lienor;

(f) describes the service or product furnished. If the collateral is farm products, the statement must state the county in which the farm products are located, designated by type of farm product.

(g) states the price or wage agreed upon or, if the price or wage was not agreed upon, the reasonable value of the service or product furnished;

(h) states the amount remaining unpaid;

(i) states the terms and period of employment if it is a farm laborer's lien filed pursuant to part 4 of this chapter;

(j) describes the land upon which seed or grain was or will be sown, planted, or used if it is a lien for seed or grain filed pursuant to part 7 of this chapter;

(k) describes the land upon which the grain or crops were grown and the place the grain or crops are presently stored if it is a thresher's lien filed pursuant to part 8 of this chapter;

(l) describes the land upon which the service was performed if it is a lien for spraying or dusting filed pursuant to part 9 of this chapter; and

(m) states the starting date of insurance coverage if it is a lien filed pursuant to part 7 of this chapter.

(3) The agricultural lien statement must be in the form prescribed by the secretary of state.

(4) The secretary of state shall:

(a) record the agricultural lien statement on the centralized computer system as set forth in ~~30-9A-502~~ *30-9A-501*; and

(b) establish fees for such recordings as set forth in 30-9A-525.

(5) For the purposes of this section, an agricultural lien means a lien under part 4, 7, 8, or 9 of this chapter.

(6) A statement of an agricultural lien or continuation statement that has been filed at the office of the county clerk and recorder lapses on March 31, 1990, unless prior to that date there is filed in the office of the secretary of state a certified copy of the statement and all related documents on file with the county clerk and recorder.”

**Section 90. Repealer.** Sections 30-1-105, 30-1-110, 30-1-111, 30-1-206, 30-7-105, 30-7-701, 30-7-702, 30-7-703, 30-7-704, 30-7-705, and 30-7-706, MCA, are repealed.

**Section 91. Codification instructions.** (1) [Sections 9 through 13] are intended to be codified as an integral part of Title 30, chapter 1, and the provisions of Title 30, chapter 1, apply to [sections 9 through 13].

(2) [Sections 38 and 39] are intended to be codified as an integral part of Title 30, chapter 7, and the provisions of Title 30, chapter 7, apply to [sections 38 and 39].

**Section 92. 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 93. Applicability.** [This act] applies to a document of title that is issued or a bailment that arises on or after [the effective date of this act]. [This act] does not apply to a document of title that is issued or a bailment that arises before [the effective date of this act] even if the document of title or bailment would be subject to [this act] if the document of title had been issued or bailment had arisen after [the effective date of this act]. [This act] does not apply to a right of action that has accrued before [the effective date of this act].

Approved May 2, 2005

## CHAPTER NO. 576

[SB 443]

AN ACT REQUIRING MOTOR VEHICLE INSURANCE PREMIUM REDUCTIONS FOR MONTANA NATIONAL GUARD MEMBERS TRAINED IN DEFENSIVE DRIVING; EXPANDING THE DEFINITION OF "HIGHWAY TRAFFIC SAFETY PROGRAM" TO INCLUDE CERTAIN DEFENSIVE DRIVING TRAINING PROGRAMS; AND AMENDING SECTIONS 33-16-203 AND 61-2-102, MCA.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Rate reduction for military defensive drivers — effective period — exclusions.** (1) (a) Any rates, rating schedules, or rating manuals for liability, bodily injury, or collision coverages of a motor vehicle insurance policy filed with the insurance department must provide for an appropriate premium reduction as determined by the insurer for a member of the Montana national guard who is an insured operator of a covered nonmilitary vehicle and who has successfully completed a defensive driving course referred to in 61-2-102(2).

(b) Any discount used by the insurer is presumed appropriate unless credible data demonstrates otherwise.

(2) The premium reduction required under subsection (1)(a) is effective for an insured for 2 years after successful completion of the approved course. Each person shall successfully complete a defensive driving course referred to in 61-2-102(2) every 2 years to remain eligible for the reduction provided in subsection (1)(a).

(3) Subsection (1)(a) does not apply if the approved course is taken as punishment specified by a court or other governmental entity for a moving traffic violation.

(4) An insurer may deny the discount under subsection (1)(a) if within 3 years prior to the insured's application for the rate reduction or during the period for which the rate reduction is provided:

- (a) the insured was convicted of or plead guilty or nolo contendere to a moving traffic violation;
- (b) the insured has forfeited bail or collateral for a moving traffic violation; or
- (c) the insured was convicted by a court or found at fault in a motor vehicle accident.

**Section 2.** Section 33-16-203, MCA, is amended to read:

**“33-16-203. Rates filed.** (1) Every insurer, rating organization, or advisory organization shall file with the commissioner all rates intended for use within this state, together with supporting data sufficient to substantiate ~~such the~~ filing. The filing required by this subsection may be made by rating organizations on behalf of their members and subscribers, ~~but~~. *However*, this provision does not prohibit a member or subscriber from filing ~~any such~~ rates on its own behalf. Any deviations from a rating organization’s rates by a member or subscriber must be filed with the commissioner and must be accompanied by supporting data.

(2) ~~In accordance with 33-16-222, rates~~ Rates filed must provide for a premium reduction to:

- (a) qualified insured operators 55 years of age or older *in accordance with 33-16-222; or*
- (b) *qualified members of the Montana national guard in accordance with [section 1].”*

**Section 3.** Section 61-2-102, MCA, is amended to read:

**“61-2-102. Definitions.** Unless the context requires otherwise, in this part, the following definitions apply:

- (1) “Department” means the department of transportation.
- (2) “Highway traffic safety program” means a program designed to reduce traffic accidents, deaths, injuries to persons, and damage to property. The program must be in accordance with uniform ~~standards established by the secretary of commerce of the United States under~~ *guidelines established pursuant to Title 23, U.S.C. 402, as amended, and may include defensive driving programs administered by the entity designated by the governor in 61-2-103.* Nothing in this part restricts or prohibits the establishment of standards that enlarge or implement the federal standards.
- (3) “Political subdivisions” means each county, incorporated city or town, and school district within the boundaries of the state.”

**Section 4. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 33, chapter 16, part 2, and the provisions of Title 33, chapter 16, part 2, apply to [section 1].

Approved May 2, 2005

## CHAPTER NO. 577

[SB 445]

AN ACT AUTHORIZING THE BOARD OF REGENTS OF THE MONTANA UNIVERSITY SYSTEM TO WAIVE TUITION REGARDLESS OF THE AVAILABILITY OF OTHER WAIVERS FOR A QUALIFIED MEMBER OF

THE MONTANA NATIONAL GUARD; AMENDING SECTION 20-25-421, MCA; REPEALING SECTION 10-1-121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 20-25-421, MCA, is amended to read:

**“20-25-421. Charges for tuition — waivers.** (1) The regents may prescribe tuition rates, matriculation charges, and incidental fees for students in institutions under their jurisdiction.

(2) The regents may:

(a) waive nonresident tuition for selected and approved nonresident students, not to exceed at any unit 2% of the full-time equivalent enrollment at that unit during the preceding year; however, when necessary, tuition may be waived in excess of 2% of unit enrollment for nonresident students who enroll under provisions of any WICHE-sponsored state reciprocal agreements that provide for the payment, when required, of the student support fee by the reciprocal state;

(b) waive resident tuition for students at least 62 years of age;

(c) waive tuition and fees for:

~~(i)~~(i) persons of one-fourth Indian blood or more who have been bona fide residents of Montana for at least 1 year prior to enrollment in the Montana university system;

~~(ii)~~(ii) persons designated by the department of corrections pursuant to 52-5-112 or 53-1-214;

~~(iii)~~(iii) residents of Montana who served with the armed forces of the United States in any of its wars and who were honorably discharged from military service;

~~(iv)~~(iv) children of residents of Montana who served with the armed forces of the United States in any of its wars and who were killed in action or died as a result of injury, disease, or other disability incurred while in the service of the armed forces of the United States;

~~(v)~~(v) the spouses or children of residents of Montana who have been declared to be prisoners of war or missing in action; or

~~(vi)~~(vi) the spouse or children of a Montana national guard member who was killed or died as a result of injury, disease, or other disability incurred in the line of duty while serving on state active duty;

(d) waive tuition charges for qualified survivors of Montana firefighters or peace officers killed in the course and scope of employment. For purposes of this subsection, a qualified survivor is a person who meets the entrance requirements at the state university or college of the person's choice and is the surviving spouse or child of any of the following who were killed in the course and scope of employment:

(i) a paid or volunteer member of a municipal or rural fire department;

(ii) a law enforcement officer as defined in 7-32-201; or

(iii) a full-time highway patrol officer.

(e) waive tuition for up to 5,000 credits each academic year in accordance with the Montana national guard education benefit program established by the department of military affairs;

(f) the waivers provided for in subsection (2)(e) are intended to be available for up to 5 years after the person qualifies.

~~(3) If funds are available after the waivers provided for in subsection (2), the regents may waive tuition for up to 5,000 credits each academic year in accordance with the national guard education benefit program provided for in 10-1-121."~~

**Section 2. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the termination date of this act].

**Section 3. Repealer.** Section 10-1-121, MCA, is repealed.

**Section 4. Effective date — applicability.** [This act] is effective on passage and approval and applies to waivers granted on or after [the effective date of this act].

**Section 5. Termination.** [This act] terminates June 30, 2009.

Approved May 2, 2005

## CHAPTER NO. 578

[SB 461]

AN ACT REQUIRING THE ATTACHMENT OF A RADIO-TRACKING COLLAR TO AT LEAST ONE WOLF IN A PACK THAT IS ACTIVE NEAR LIVESTOCK OR NEAR A POPULATION CENTER.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Use of radio-tracking collars for monitoring wolf packs.**

(1) As part of a wolf management plan approved by the department, a radio-tracking collar must be attached to at least one wolf in each wolf pack that is active near livestock or near a population center in areas where depredations are chronic or likely.

(2) The department shall expend only the federal funds for wolf management purposes to fulfill the requirements of this section.

(3) The department may collaborate and cooperate with other state and federal agencies to fulfill the requirements of this section.

**Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 87, chapter 5, part 1, and the provisions of Title 87, chapter 5, part 1, apply to [section 1].

Approved May 2, 2005

## CHAPTER NO. 579

[HB 9]

AN ACT ESTABLISHING PRIORITIES FOR CULTURAL AND AESTHETIC PROJECTS GRANT AWARDS; APPROPRIATING MONEY FOR CULTURAL AND AESTHETIC GRANTS; PROVIDING FOR A TRANSFER OF FUNDS

FROM THE STATE GENERAL FUND TO THE CULTURAL AND AESTHETIC TRUST FUND; AND PROVIDING AN EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Appropriation of cultural and aesthetic grant funds — priority of disbursement.** (1) The Montana arts council shall award grants for projects authorized by and limited to the amounts appropriated by [section 3] and this section. Money must be disbursed in priority order, first to projects covered under subsection (3) and second to projects listed in [section 3].

(2) The Montana arts council shall disburse money to projects authorized by [section 3] through grant contracts between the Montana arts council and the grant recipient. The award contract must bind the parties to conditions, if any, listed with the appropriation in [section 3].

(3) There is appropriated from the cultural and aesthetic projects account in the state special revenue fund to the Montana historical society \$30,000 for the biennium ending July 1, 2007, for care and conservation of capitol complex artwork.

**Section 2. Fund transfer.** At the beginning of fiscal year 2006, the amount of \$3,412,500 is transferred from the state general fund to the cultural and aesthetic projects trust fund established in 15-35-108 for the purpose of protection of the works of art in the capitol and for other cultural and aesthetic projects.

**Section 3. Appropriation of cultural and aesthetic grant funds.** The following projects are approved and \$792,925 is appropriated to the Montana arts council for the biennium ending June 30, 2007, from the cultural and aesthetic projects account:

Grant #	Grantee	Grant Amount
A. Special Project \$4,500 or Less		
1105	Miles City Speakers Bureau	\$4,500
1108	Preservation Cascade, Inc.	\$3,000
1102	Council for the Arts, Lincoln	\$2,500
1107	Montana Storytelling Roundup	\$4,500
1101	Butte Citizens for Preservation and Revitalization	\$4,500
1109	Signatures From Big Sky	\$4,500
1103	Fort William H. Harrison Museum Foundation	\$3,000
1104	Metropolitan Opera National Council	\$1,000
1106	Montana Mandolin Society	\$2,000
1110	Wibaux County Visioning Committee	\$3,550
B. Special Projects		
1126	Montana Committee for the Humanities	\$31,798
1129	Montana Preservation Alliance	\$17,600
1117	Emerson Cultural Center	\$10,600
1133	Prairie County Museum/Montana Historical Society	\$16,700
1123	Missoula Art Museum	\$14,100
1132	Pondera Arts Council	\$13,400

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1112	Bozeman Symphony Society	\$9,900
1134	Rimrock Opera Company	\$7,100
1124	Missoula Symphony Association	\$4,500
1135	Southwest Montana Arts Council	\$6,300
1127	Montana Historical Society	\$14,100
1137	VIAs, Inc.	\$12,000
1120	International Choral Festival	\$3,500
1121	KUFM-TV, Montana PBS	\$10,600
1138	World Museum of Mining	\$1,447
1122	Mission Valley Friends of the Arts	\$4,000
1111	Artisan Dance Theatre	\$14,100
1136	St. Vincent Health Care Foundation	\$4,500
1125	Montana Alliance for Arts Education	\$4,500
1128	Montana Museum of Art and Culture	\$3,500
1115	Children's Museum of Montana	\$6,200
1114	Chantilly Players	\$5,600
1130	National Museum of Forest Service History	\$2,500
1113	Browning Community Development Corporation	\$9,000
C. Operational Support		
1164	Montana Art Gallery Director's Association	\$14,100
1170	Montana Performing Arts Consortium	\$17,600
1167	Montana Association of Symphony Orchestras	\$6,300
1166	Montana Arts	\$10,600
1169	Montana Dance Arts Association	\$4,500
1177	Shakespeare in the Parks	\$17,600
1150	Custer County Art Center	\$22,600
1163	Montana Agricultural Center and Museum	\$17,000
1162	Missoula Children's Theatre, Inc.	\$30,000
1149	Carbon County Historical Society	\$15,500
1183	Writer's Voice (Billings YMCA)	\$17,600
1155	Great Falls Symphony Association	\$14,100
1142	Art Mobile of Montana	\$10,600
1159	Holter Museum of Art	\$21,200
1145	Billings Symphony Society	\$13,400
1140	Alberta Bair Theater	\$17,600
1176	Schoolhouse History and Art Center	\$10,600
1181	Western Heritage Center	\$14,100
1143	Big Horn Arts and Crafts Association	\$10,600
1182	Whitefish Theatre Company	\$10,600

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1157	Helena Symphony Orchestra and Chorale	\$14,100
1141	Archie Bray Foundation	\$14,100
1146	Butte Center for the Performing Arts	\$17,600
1154	Grandstreet Theatre	\$10,600
1173	Myrna Loy Center	\$14,100
1184	Yellowstone Art Museum	\$18,300
1171	Montana Repertory Theatre	\$10,600
1168	Montana Ballet Company	\$8,500
1158	Hockaday Museum of Art	\$8,500
1165	Montana Artists Refuge	\$4,500
1172	Museum of the Rockies	\$7,100
1175	Rocky Mountain Ballet Theater	\$7,100
1180	VSA Arts of Montana	\$7,100
1185	Young Audiences of Western Montana	\$5,600
1179	Vigilante Theatre Company	\$6,300
1147	Butte Symphony Association	\$7,100
1160	Intermountain Opera	\$8,500
1151	District 7 HRDC Growth Thru Art	\$10,600
1156	Hamilton Players, Inc.	\$7,100
1148	Carbon County Arts Guild and Depot	\$6,400
1174	Northwest Montana Historical Society	\$4,500
1161	Miles City Preservation Commission	\$3,000
1178	Sunburst Community Foundation	\$5,300
1144	Billings Cultural Partners	\$2,000
D. Capital Expenditure		
1188	Liberty Village Arts Center and Gallery	\$12,300
1189	Meagher County Historical Association	\$4,500
1190	St. Labre Indian School and Museum	\$3,730
1186	Friends of the Madison Valley Library	\$4,500
1187	Lewistown Art Center	\$2,500

**Section 4. Reversion of grant money.** On July 1, 2007, the unencumbered balance of the 2007 biennium grants revert to the cultural and aesthetic projects account provided for in 15-35-108.

**Section 5. Reduction of grants on pro rata basis.** Except as provided in [section 1(3)], if money in the cultural and aesthetic projects account is insufficient to fund projects at the appropriation levels contained in [section 3], reductions to projects with funding greater than \$4,500 will be made on a pro rata basis.

**Section 6. Effective date.** [This act] is effective July 1, 2005.

Approved May 6, 2005

**CHAPTER NO. 580**

[HB 11]

AN ACT REVISING THE LAWS GOVERNING THE TREASURE STATE ENDOWMENT PROGRAM; REVISING THE USES OF THE TREASURE STATE ENDOWMENT STATE SPECIAL REVENUE ACCOUNT AND THE TREASURE STATE ENDOWMENT REGIONAL WATER SYSTEM SPECIAL REVENUE ACCOUNT; AUTHORIZING EMERGENCY GRANTS AND MATCHING GRANTS FOR PRELIMINARY ENGINEERING STUDIES; ELIMINATING ANNUAL DEBT SERVICE SUBSIDIES ON LOCAL INFRASTRUCTURE PROJECTS, LOANS FROM THE PROCEEDS OF COAL SEVERANCE TAX BONDS AT A SUBSIDIZED INTEREST RATE, AND DEFERRED LOANS FOR PRELIMINARY ENGINEERING STUDY COSTS; REQUIRING REPORTS TO THE GOVERNOR AND THE LEGISLATURE; APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR FINANCIAL ASSISTANCE TO LOCAL GOVERNMENT INFRASTRUCTURE PROJECTS THROUGH THE TREASURE STATE ENDOWMENT PROGRAM; APPROPRIATING MONEY FROM THE TREASURE STATE ENDOWMENT REGIONAL WATER SYSTEM STATE SPECIAL REVENUE ACCOUNT TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR FINANCIAL ASSISTANCE TO REGIONAL WATER AUTHORITIES FOR REGIONAL WATER PROJECTS; AUTHORIZING GRANTS FROM THE TREASURE STATE ENDOWMENT STATE SPECIAL REVENUE ACCOUNT; PLACING CONDITIONS UPON GRANTS AND FUNDS; APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR EMERGENCY GRANTS; APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR PRELIMINARY ENGINEERING GRANTS; TERMINATING A PRIOR TREASURE STATE ENDOWMENT GRANT; AMENDING SECTIONS 90-6-703, 90-6-710, AND 90-6-715, MCA, AND SECTION 1, CHAPTER 435, LAWS OF 2001; AND PROVIDING AN EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Appropriations from treasure state endowment state special revenue account.** (1) There is appropriated to the department of commerce \$16.2 million of the interest earnings from the treasure state endowment special revenue account to finance grants authorized by this section.

(2) The funds appropriated in this section must be used by the department to make grants to the governmental entities listed in subsection (3) for the described purposes and in amounts not to exceed the amounts set out in subsection (3). The appropriations are subject to the conditions set forth in [sections 1 through 3] and described in the treasure state endowment program 2007 biennium report to the 59th legislature. The legislature, pursuant to 90-6-710, authorizes the grants for the projects listed in subsection (3). The department shall commit funds to projects listed in subsection (3), up to the amounts authorized, based on the manner of disbursement set forth in [section 3] until interest earnings deposited into the treasure state endowment special revenue account during the 2007 biennium are expended.

(3) The following applicants and projects are authorized for grants in the order of their priority:

Applicant/Project	Grant Amount
1. St. Ignatius, Town of (wastewater)	\$500,000
2. Rudyard-Hill County Water and Sewer District (wastewater)	524,503
3. Carter-Chouteau County Water and Sewer District (water)	500,000
4. Cascade, Town of (water)	500,000
5. Madison County (bridge)	179,911
6. Lewis and Clark County (wastewater)	288,757
7. Stillwater County (bridge)	399,853
8. Seeley Lake Sewer District (wastewater)	500,000
9. Dodson, Town of (wastewater)	427,500
10. Conrad, City of (wastewater)	500,000
11. Sweet Grass County (bridge)	144,989
12. Havre, City of (water)	500,000
13. Powell County (bridge)	158,348
14. Mineral County (bridge)	80,090
15. Glacier County (bridge)	500,000
16. Malta, City of (wastewater)	500,000
17. Crow Tribe (wastewater)	500,000
18. Libby, City of (wastewater)	500,000
19. Big Horn County (bridge)	142,500
20. Custer Area-Yellowstone County Water/Sewer District (wastewater)	500,000
21. Hill County (bridge)	450,750
22. Glasgow, City of (wastewater)	500,000
23. Valier, Town of (wastewater)	500,000
24. Sheridan, Town of (water)	500,000
25. Beaverhead County (bridge)	84,886
26. Whitefish, City of (water)	457,500
27. Richland County (bridge)	453,841
28. Upper and Lower River Road Water and Sewer District (water/wastewater)	500,000
29. Laurel, City of (wastewater)	500,000
30. Ennis, Town of (wastewater)	204,894
31. Choteau, City of (water)	500,000
32. Missoula County (bridge)	275,172
33. Miles City, City of (water)	500,000
34. Yellowstone County (bridge)	187,800
35. Ranch County Water and Sewer District (water)	500,000
36. Hysham, Town of (water)	462,359
37. Carbon County (bridge)	97,100

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38.	Spring Meadows-Missoula County Water District (water)	487,500
39.	Woods Bay Homesites-Lake County Water and Sewer District (water)	500,000
40.	Bigfork County Water/Sewer District (wastewater)	460,000
41.	Circle, Town of (wastewater)	500,000
42.	Fairfield, Town of (wastewater)	126,000
43.	Sun Prairie Village-Cascade County Water and Sewer District (water)	500,000

(4) This section constitutes a valid obligation of funds to the grant recipients listed in subsection (3) for purposes of encumbering the treasure state endowment special revenue account funds during the 2007 biennium pursuant to 17-7-302. However, a grant recipient's entitlement to receive funds is dependent on the grant recipient's compliance with the conditions described in [section 3(1)] and on the availability of funds.

(5) If funds deposited into the treasure state endowment special revenue account during the biennium ending June 30, 2007, are insufficient to fully fund projects numbered 1 through 40 in subsection (3) that have satisfied the conditions described in [section 3(1)] by June 30, 2007, the 61st legislature is encouraged to give priority to funding these projects before funding any new projects. However, any of the projects numbered 1 through 40 listed in subsection (3) that have not satisfied the conditions described in [section 3(1)] by June 30, 2007, lose any guarantee of receiving funds deposited into the treasure state endowment special revenue account during the 2007 biennium. Funding for these projects will be provided only as long as there are sufficient funds available from the amount that was deposited into the treasure state endowment special revenue account during the 2007 biennium. Funding for these projects will be made available in the order that the grant recipients satisfy the conditions described in [section 3(1)].

(6) Projects numbered 41 through 43 listed in subsection (3) that have satisfied the conditions described in [section 3(1)] may receive grant funds only if one or more of the projects numbered 1 through 40 terminate their right to the awarded funds in writing prior to the end of the 2007 biennium.

(7) In the event that any remaining funds deposited into the treasure state endowment special revenue account during the 2007 biennium are insufficient to fully fund one of the grant recipients listed in subsection (3), the department may make the remaining funds available to the first grant recipient that has satisfied the conditions described in [section 3(1)] and that is able to firmly commit the balance of the amount necessary to fund the project in its entirety.

**Section 2. Approval of grants — completion of biennial appropriation.** (1) The legislature, pursuant to 90-6-701, authorizes grants for the projects identified in [section 1(3)].

(2) The authorization of these grants completes a biennial appropriation from the treasure state endowment special revenue account provided for in 17-5-703(4)(c).

**Section 3. Conditions and manner of disbursement of grant funds.** (1) The disbursement of grant funds under [sections 1 through 3] for the projects specified in [section 1(3)] is subject to completion of the following conditions:

(a) The grant recipient shall execute a grant agreement with the department of commerce.

(b) The scope of work and budget for the project as approved by the department in the grant agreement must be consistent with the intent and circumstances under which the application was originally ranked by the department and approved by the legislature. The department may not approve amendments to the scope of work or budget affecting activities or improvements that would materially alter the intent and circumstances under which the application was originally ranked by the department and approved by the legislature.

(c) The grant recipient must have a project management plan and a long-term operations and maintenance plan that is approved by the department.

(d) The grant recipient shall document that other matching funds required for completion of the project are firmly committed.

(e) The grant recipient must be in compliance with the auditing and reporting requirements provided for in 2-7-503 and have established a financial accounting system that the department can reasonably ensure conforms to generally accepted accounting principles. Tribal governments shall comply with auditing and reporting requirements provided for in OMB Circular A-133.

(f) The grant recipient shall satisfactorily comply with any conditions described in the application (project) summaries section of the treasure state endowment program 2007 biennium report to the 59th legislature.

(g) The grant recipient shall satisfy other specific requirements considered necessary by the department to accomplish the purpose of the project as evidenced by the application to the department.

(2) The department shall commit grant funds to projects authorized in the order of priority listed in [section 1(3)] to grant recipients that have met the conditions in subsection (1) as treasure state endowment special revenue account interest income becomes available during the 2007 biennium.

(3) If a grant recipient authorized in [section 1(3)] has not met the conditions in subsection (1) of this section, the department shall move down the list of projects in the order of priority listed in [section 1(3)] to the next project that has met the conditions in subsection (1) of this section.

(4) The department shall disburse grant funds on a reimbursement basis as grant recipients incur eligible project expenses.

(5) In the event that actual project expenses are lower than the projected expense of the project, the department may, at its discretion, reduce the amount of treasure state endowment program grant funds to be provided to grant recipients in proportion to all other project funding sources. In the alternative, the department may authorize the use of the remaining authorized treasure state endowment program grant amount for the construction of additional, directly related components that will further enhance the overall system.

(6) In the event that actual project expenses are lower than the projected expense of a project as presented in the grant recipient's treasure state endowment program application, the department may, at its discretion, reduce the amount of treasure state endowment program grant funds to be provided so that the grant recipient's projected average residential user rates do not become lower than their target rate as determined by the department.

(7) With the exception of bridges, all projects must adhere to the design standards required by the department of environmental quality. Recipients of

treasure state endowment program funds that are not subject to the department of environmental quality design standards must adhere to generally accepted industry standards, such as Recommended Standards for Wastewater Facilities or Recommended Standards for Water Works, published by the Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, latest edition.

(8) Recipients of treasure state endowment program funds are subject to the requirements of the department of commerce as described in the treasure state endowment program project administration manual, adopted by the department through the administrative rulemaking process.

**Section 4. Appropriations from treasure state endowment state special revenue account for emergency grants.** There is appropriated to the department of commerce \$100,000 for the biennium beginning July 1, 2005, from the interest earnings of the treasure state endowment special revenue account for the purpose of providing local governments, as defined in 90-6-701, with emergency grants for infrastructure projects, as defined in 90-6-701.

**Section 5. Appropriations from treasure state endowment special revenue account for preliminary engineering grants.** There is appropriated to the department of commerce \$600,000 for the biennium beginning July 1, 2005, from the interest earnings of the treasure state endowment special revenue account for the purpose of providing local governments, as defined in 90-6-701, with preliminary engineering grants for infrastructure projects, as defined in 90-6-701.

**Section 6.** Section 1, Chapter 435, Laws of 2001, is amended to read:

**“Section 1. Appropriations from treasure state endowment special revenue account.** (1) There is appropriated to the department of commerce the interest earnings of the treasure state endowment special revenue account to finance grants authorized by this section.

(2) The funds appropriated in this section must be used by the department to make grants to the governmental entities listed in subsection (3) for the described purposes and in amounts not to exceed the amounts set out in subsection (3). The appropriations are subject to the conditions set forth in [sections 1 through 3] and described in the treasure state endowment program 2003 biennium report to the 57th legislature. The legislature, pursuant to 90-6-710, authorizes the grants for the projects listed in subsection (3). The department shall commit funds to projects listed in subsection (3), up to the amounts authorized, based on the manner of disbursement set forth in [section 3] until interest earnings deposited into the treasure state endowment special revenue account during the 2003 biennium are expended.

(3) The following applicants and projects are authorized for grants in the order of their priority:

Applicant/Project	Grant
1. Lewis and Clark County (bridge)	\$500,000
2. Alder Water and Sewer District, Madison County (wastewater)	500,000
3. Hot Springs, Town of (water)	500,000
4. Whitewater Water and Sewer District, Phillips County (wastewater)	500,000

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5. Virginia City, Town of (wastewater)		500,000
6. Froid, Town of (wastewater)		390,600
7. Nashua, Town of (wastewater)		500,000
8. Richland County (bridge)		296,500
9. Lavina, Town of (wastewater)		483,000
10. Gardiner-Park County Water District, Park County (water)		398,500
11. Park City/County Water and Sewer District, Stillwater County (wastewater)		500,000
12. Stanford, Town of (wastewater)		500,000
<del>13. Florence County Water and Sewer District, Ravalli County (wastewater)</del>		<del>500,000</del>
14. Ashland County Water and Sewer District, Rosebud County (wastewater)		500,000
15. Geraldine, Town of (water)		167,460
16. Manhattan, Town of (wastewater)		500,000
17. Lambert County Water and Sewer District, Richland County (water)		403,000
18. Browning, Town of (water)		500,000
19. Kevin, Town of (wastewater)		385,000
20. Power-Teton Co. Water and Sewer District, Teton County (water)		425,000
21. Blackfeet Tribe (water)		500,000
22. Whitefish, City of (wastewater)		500,000
23. Choteau, City of (wastewater)		500,000
24. Lockwood Water and Sewer District, Yellowstone County (wastewater)		500,000
25. Eureka, Town of (water)		369,000
26. Shelby, City of (water)		500,000
27. Charlo Sewer District, Lake County (wastewater)		500,000
<del>28. Essex Water and Sewer District, Flathead County (water)</del>		<del>225,000</del>
<i>28. Essex Water and Sewer District, Flathead County (water)</i>		<i>100,000</i>
29. Yellowstone County (bridge)		300,000
30. Hinsdale Water and Sewer District, Valley County (wastewater)		329,000
31. Havre, City of (water)		500,000
32. Helena, City of (storm drain)		500,000
33. Fairfield, Town of (wastewater)		500,000
34. Jordan, Town of (water/wastewater)		500,000

(4) If sufficient funds are available, this section constitutes a valid obligation of funds to the grant recipients listed in subsection (3) for purposes of encumbering the treasure state endowment special revenue account funds received during the 2003 biennium under 17-7-302. However, a grant recipient's entitlement to receive funds is dependent on the grant recipient's compliance with the conditions described in [section 3(1)] and on the availability of funds.

(5) If funds deposited into the treasure state endowment special revenue account during the biennium ending June 30, 2003, are insufficient to fully fund the projects numbered 1 through 31 in subsection (3) that have satisfied the conditions described in [section 3(1)] by June 30, 2003, these projects will be funded from deposits into the treasure state endowment special revenue account made during the 2005 biennium, before projects authorized by the 58th legislature receive funding from the account. However, any of the projects numbered 1 through 31 listed in subsection (3) that have not completed the conditions described in [section 3(1)] by January 1, 2003, must be reviewed by the next regular session of the legislature to determine if the authorized grant should be withdrawn.

(6) Projects numbered 32 through 34 listed in subsection (3) that have satisfied the conditions described in [section 3(1)] may not receive grant funds unless sufficient funds have been deposited into the treasure state endowment special revenue account to fully fund the projects numbered 1 through 31 in subsection (3). However, if a subsequent legislature withdraws funding for any of the projects numbered 1 through 31 listed in subsection (3), those funds could be made available to projects numbered 32 through 34 listed in subsection (3) that have completed the conditions described in [section 3(1)].

(7) In the event that any remaining funds deposited into the treasure state endowment special revenue account are insufficient to fully fund one of the grant recipients listed in subsection (3), the department may make the remaining funds from the treasure state endowment special revenue account available to the grant recipient on condition that the grant recipient is able to firmly commit the balance of the amount necessary to fund the project in its entirety.”

**Section 7.** Section 90-6-703, MCA, is amended to read:

**“90-6-703. Types of financial assistance available.** (1) The legislature shall provide for and make available to local governments the following types of financial assistance under this part:

- (a) matching grants for local infrastructure projects;
- (b) ~~annual debt service subsidies on local infrastructure projects matching grants for preliminary engineering studies;~~ and
- (c) ~~loans from the proceeds of coal severance tax bonds at a subsidized interest rate emergency grants for local infrastructure projects.~~

~~(2) The department of natural resources and conservation and the department of commerce:~~

- ~~(a) may adopt rules to commit to interest rate subsidies for local infrastructure projects and may allow the subsidies to be paid over the life of the loan or bonding period; and~~
- ~~(b) may make deferred loans to local governments for preliminary engineering study costs. The applicant shall repay the loans whether or not the applicant succeeds in obtaining financing for the full project. Repayment may be postponed until the overall construction financing is arranged.~~

~~(2) The department of commerce may provide local governments with emergency grants for infrastructure projects only if necessary to remedy conditions that, if allowed to continue until legislative approval could be obtained, will endanger the public health or safety and expose the applicant to substantial financial risk. The department shall report to the governor and the~~

*legislative finance committee regarding emergency grants that are awarded during each biennium.*

*(3) The department of commerce may provide local governments with matching grants for preliminary engineering studies for infrastructure projects. The department shall report to the governor and the legislature regarding preliminary engineering grants that are awarded during each biennium.”*

**Section 8.** Section 90-6-710, MCA, is amended to read:

**“90-6-710. (Temporary) Priorities for projects — procedure — rulemaking.** (1) The amount of \$425,000 is statutorily appropriated, as provided in 17-7-502, to the department of commerce for each biennium for the period beginning July 1, 2001, and ending June 30, 2005, from the treasure state endowment special revenue account for the purpose of providing communities with grants for engineering work for projects provided for in subsection (3).

(2) The department of commerce must receive proposals for projects from local governments as defined in 90-6-701(3)(b). The department shall work with a local government in preparing cost estimates for a project. In reviewing project proposals, the department may consult with other state agencies with expertise pertinent to the proposal. The department shall prepare and submit a list containing the recommended projects and the recommended form and amount of financial assistance for each project to the governor, prioritized pursuant to subsection (3). The governor shall review the projects recommended by the department and shall submit a list of recommended projects and the recommended financial assistance to the legislature.

(3) In preparing recommendations under subsection (2), preference must be given to infrastructure projects based on the following order of priority:

(a) projects that solve urgent and serious public health or safety problems or that enable local governments to meet state or federal health or safety standards;

(b) projects that reflect greater need for financial assistance than other projects;

(c) projects that incorporate appropriate, cost-effective technical design and that provide thorough, long-term solutions to community public facility needs;

(d) projects that reflect substantial past efforts to ensure sound, effective, long-term planning and management of public facilities and that attempt to resolve the infrastructure problem with local resources;

(e) projects that enable local governments to obtain funds from sources other than the funds provided under this part;

(f) projects that provide long-term, full-time job opportunities for Montanans, that provide public facilities necessary for the expansion of a business that has a high potential for financial success, or that maintain the tax base or that encourage expansion of the tax base; and

(g) projects that are high local priorities and have strong community support.

(4) After the review required by subsection (2), the projects must be approved by the legislature.

(5) The department shall adopt rules necessary to implement the treasure state endowment program. (Terminates June 30, 2005—sec. 10(2), Ch. 10, Sp. L. May 2000.)

**90-6-710. (Effective July 1, 2005) Priorities for projects — procedure — rulemaking.** (1) The department of commerce must receive proposals for *infrastructure* projects from local governments ~~as defined in 90-6-701(3)(b)~~. The department shall work with a local government in preparing cost estimates for a project. In reviewing project proposals, the department may consult with other state agencies with expertise pertinent to the proposal. ~~The~~ *For the projects under 90-6-703(1)(a), the* department shall prepare and submit a list containing the recommended projects and the recommended form and amount of financial assistance for each project to the governor, prioritized pursuant to subsection (2). The governor shall review the projects recommended by the department and shall submit a list of recommended projects and the recommended financial assistance to the legislature.

(2) In preparing recommendations under subsection (1), preference must be given to infrastructure projects based on the following order of priority:

(a) projects that solve urgent and serious public health or safety problems or that enable local governments to meet state or federal health or safety standards;

(b) projects that reflect greater need for financial assistance than other projects;

(c) projects that incorporate appropriate, cost-effective technical design and that provide thorough, long-term solutions to community public facility needs;

(d) projects that reflect substantial past efforts to ensure sound, effective, long-term planning and management of public facilities and that attempt to resolve the infrastructure problem with local resources;

(e) projects that enable local governments to obtain funds from sources other than the funds provided under this part;

(f) projects that provide long-term, full-time job opportunities for Montanans, that provide public facilities necessary for the expansion of a business that has a high potential for financial success, or that maintain the tax base or that encourage expansion of the tax base; and

(g) projects that are high local priorities and have strong community support.

(3) After the review required by subsection (1), the projects must be approved by the legislature.

(4) The department shall adopt rules necessary to implement the treasure state endowment program.

(5) *The department shall report to each regular session of the legislature the status of all projects that have not been completed in order for the legislature to review each project's status and determine whether the authorized grant should be withdrawn.*

**Section 9.** Section 90-6-715, MCA, is amended to read:

**“90-6-715. (Temporary) Special revenue account — use.** (1) (a) The treasure state endowment regional water system special revenue account may be used to:

(i) provide matching funds to plan and construct regional drinking water systems in Montana;

(ii) *pay the debt service for regional water system bond issues; and*

(iii) ~~to~~ provide funding of administrative expenses for state and local entities associated with regional drinking water systems.

(b) Except for the *debt service* administrative expenses provided for in ~~this~~ subsection (1)(a), each state dollar must be matched equally by local funds. Federal and state grants may not be used as a local match.

(2) Up to 25% of the local matching funds required under subsection (1) for the treasure state endowment regional water system may be in the form of debt that was incurred by local government entities included in the regional water system to construct individual drinking water systems before the individual systems were connected to the regional system. However, the amount of an individual entity's debt that may be used for matching funds is limited to the amount necessary to allow the entity to maintain its water service charges below the hardship standard established by the department through administrative rules adopted under 90-6-710.

(3) The funds in the account are further restricted to be used to finance regional drinking water systems that supply water to large geographical areas and serve multiple local governments, such as projects in north central Montana, from the waters of the Tiber reservoir, that will provide water for domestic use, industrial use, and stockwater for communities and rural residences that lie south of the Canadian border, west of Havre, north of Dutton, and east of Cut Bank and in northeastern Montana, from the waters of the Missouri River, that will provide water for domestic use, industrial use, and stockwater for communities and rural residences that lie south of the Canadian border, west of the North Dakota border, north of the Missouri River, and east of range 39.

(4) The funds must be administered by the department of natural resources and conservation for eligible projects. (Terminates June 30, 2016—sec. 1, Ch. 70, L. 2001.)”

**Section 10. Appropriation from treasure state endowment regional water system special revenue account.** (1) There is appropriated to the department of natural resources and conservation the interest earnings of the treasure state endowment regional water system special revenue account to finance the state's share of regional water system projects authorized by this section and as set forth in 90-6-715.

(2) The dry prairie rural water authority and the north central Montana regional water authority are authorized to receive funds.

(3) Up to \$5,300,000 is appropriated for the 2007 biennium to provide the state's share for regional water system projects.

(4) A regional water authority's receipt of funds is dependent on the authority's compliance with the conditions described in [section 12(1)].

(5) This section constitutes a valid obligation of funds to the regional water authorities listed in subsection (2) for purposes of encumbering the treasure state endowment regional water system special revenue account funds received during the 2007 biennium under 17-7-302.

**Section 11. Approval of funds — completion of appropriation.** (1) The legislature, pursuant to 90-6-715, authorizes funds for the regional water authorities identified in [section 10(2)].

(2) The authorization of these funds completes an appropriation from the treasure state endowment regional water system special revenue account provided for in 17-5-703(4)(d).

**Section 12. Conditions — manner of disbursement of funds.** (1) The disbursement of funds under [sections 10 through 12] is subject to completion of the following conditions:

(a) The regional water authority shall execute an agreement with the department of natural resources and conservation.

(b) The regional water authority must have a project management plan that is approved by the department.

(c) The regional water authority shall establish a financial accounting system that the department can reasonably ensure conforms to generally accepted accounting principles.

(d) The regional water authority shall provide the department with a detailed preliminary engineering report.

(2) The department shall disburse funds on a reimbursement basis as the regional water authority incurs eligible project expenses.

**Section 13. Coordination instruction.** If House Bill No. 748 is passed and approved, then [sections 10 through 12 of this act] are void.

**Section 14. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa.

**Section 15. Effective date.** [This act] is effective July 1, 2005.

Approved May 6, 2005

## CHAPTER NO. 581

[HB 28]

AN ACT ESTABLISHING A LEGISLATIVE BRANCH RESERVE ACCOUNT; PROVIDING FOR THE USE AND FUNDING OF THE ACCOUNT; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-304 AND 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Legislative branch reserve account.** (1) There is a legislative branch reserve account in the state special revenue fund. Money may be deposited in the account through an allocation of money to the account or as provided in 17-7-304.

(2) (a) The money in the account is statutorily appropriated, as provided in 17-7-502, to the legislative services division to be used only for major legislative branch information technology projects, including the purchase of hardware, software, and consulting services for new initiatives and replacement and upgrading of existing systems.

(b) The money in the account may be expended only with the approval of the legislative council. The legislative branch computer system planning council may make recommendations to the legislative council for the use of the money in the account.

(3) The money in the account must be invested pursuant to Title 17, chapter 6. The income and earnings on the account must be deposited in the account.

**Section 2.** Section 17-7-304, MCA, is amended to read:

**“17-7-304. Disposal of unexpended appropriations.** (1) All money appropriated for any specific purpose except that appropriated for the university system units listed in subsection (2) and except as provided in subsection (4) must, after the expiration of the time for which appropriated, revert to the several funds and accounts from which originally appropriated. However, any unexpended balance in any specific appropriation may be used for the years for which the appropriation was made or may be used to fund the provisions of 2-18-1203 through 2-18-1205 and 19-2-706 in the succeeding year.

(2) Except as provided in 17-2-108 and subsection (3) of this section, all money appropriated for the university of Montana campuses at Missoula, Butte, Dillon, and Helena and the Montana state university campuses at Bozeman, Billings, Havre, and Great Falls, the agricultural experiment station with central offices at Bozeman, the forest and conservation experiment station with central offices at Missoula, the cooperative extension service with central offices at Bozeman, and the bureau of mines and geology with central offices in Butte must, after the expiration of the time for which appropriated, revert to an account held by the board of regents. The board of regents is authorized to maintain a fund balance. There is a statutory appropriation, as provided in 17-7-502, to use the funds held in this account in accordance with a long-term plan for major and deferred maintenance expenditures and equipment or fixed assets purchases prepared by the affected university system units and approved by the board of regents. The affected university system units may, with the approval of the board of regents, modify the long-term plan at any time to address changing needs and priorities. The board of regents shall communicate the plan to each legislature, to the finance committee when requested by the committee, and to the office of budget and program planning.

(3) Subsection (2) does not apply to reversions that are the result of a reduction in spending directed by the governor pursuant to 17-7-140. Any amount that is a result of a reduction in spending directed by the governor must revert to the fund or account from which it was originally appropriated.

(4) (a) ~~After~~ *Subject to subsection (4)(b), after* the end of a fiscal year, 30% of the money appropriated to an agency for that year by the general appropriations act for personal services, operating expenses, and equipment, by fund type, and remaining unexpended and unencumbered at the end of the year may be reappropriated to be spent during the following 2 years for any purpose that is consistent with the goals and objectives of the agency. The dollar amount of the 30% amount that may be carried forward and spent must be determined by the office of budget and program planning.

(b) (i) *Any portion of the 30% of the unexpended and unencumbered money referred to in subsection (4)(a) that was appropriated to a legislative branch entity may be deposited in the account established in [section 1].*

(ii) *After the end of a biennium, any portion of the unexpended and unencumbered money appropriated for the operation of the preceding legislature in a separate appropriation act may be deposited in the account established in [section 1]. The approving authority shall determine the portion of the unexpended and unencumbered money that is deposited in the account.”*

**Section 3.** 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: 2-15-151; 2-17-105; [section 1]; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-11-404; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; 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 Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 2 and 5, Ch. 481, L. 2003, the inclusion of 90-6-710 terminates June 30, 2005; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; and pursuant to sec. 135, Ch. 114, L. 2003, the inclusion of 2-15-151 terminates June 30, 2005.)"

**Section 4. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 5, chapter 11, part 4, and the provisions of Title 5, chapter 11, part 4, apply to [section 1].

**Section 5. Effective date.** [This act] is effective July 1, 2005.

**Section 6. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to appropriations made after January 1, 2003.

Approved May 6, 2005

**CHAPTER NO. 582**

[HB 45]

AN ACT REVISING THE LAWS GOVERNING SICK LEAVE; REVISING THE DEFINITION OF SICK LEAVE TO INCLUDE SITUATIONS ALLOWED BY CURRENT CUSTOM AND USAGE; MAKING THE ADOPTION OF RULES PERMISSIVE RATHER THAN MANDATORY; AMENDING SECTIONS 2-18-601 AND 2-18-604, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 2-18-601, MCA, is amended to read:

**“2-18-601. Definitions.** For the purpose of this part, except 2-18-620, the following definitions apply:

(1) (a) “Agency” means any legally constituted department, board, or commission of state, county, or city government or any political subdivision of the state.

(b) The term does not mean the state compensation insurance fund.

(2) “Break in service” means a period of time in excess of 5 working days when the person is not employed and that severs continuous employment.

(3) “Continuous employment” means working within the same jurisdiction without a break in service of more than 5 working days or without a continuous absence without pay of more than 15 working days.

(4) “Employee” means any person employed by an agency except elected state, county, and city officials, schoolteachers, and persons contracted as independent contractors or hired under personal services contracts.

(5) “Full-time employee” means an employee who normally works 40 hours a week.

(6) “Holiday” means a scheduled day off with pay to observe a legal holiday, as specified in 1-1-216 or 20-1-305, except Sundays.

(7) “Part-time employee” means an employee who normally works less than 40 hours a week.

(8) “Permanent employee” means a permanent employee as defined in 2-18-101.

(9) “Seasonal employee” means a seasonal employee as defined in 2-18-101.

(10) “Short-term worker” means a short-term worker as defined in 2-18-101.

(11) “Sick leave” means a leave of absence with pay for:

(a) a sickness suffered by an employee or a member of the employee’s immediate family; or ~~for a permanent state employee who is eligible for parental leave under the provisions of 2-18-606~~

(b) *the time that an employee is unable to perform job duties because of:*

(i) *a physical or mental illness, injury, or disability;*

(ii) *maternity or pregnancy-related disability or treatment, including prenatal care, birth, or medical care for the employee or the employee’s child;*

(iii) *parental leave for a permanent employee as provided in 2-18-606;*

(iv) *quarantine resulting from exposure to a contagious disease;*

(v) examination or treatment by a licensed health care provider;

(vi) short-term attendance, in an agency's discretion, to care for a relative or household member not covered by subsection (11)(a) until other care can reasonably be obtained;

(vii) necessary care for a spouse, child, or parent with a serious health condition, as defined in the Family and Medical Leave Act of 1993; or

(viii) death or funeral attendance of an immediate family member or, at an agency's discretion, another person.

(12) "Temporary employee" means a temporary employee as defined in 2-18-101.

(13) "Transfer" means a change of employment from one agency to another agency in the same jurisdiction without a break in service.

(14) "Vacation leave" means a leave of absence with pay for the purpose of rest, relaxation, or personal business at the request of the employee and with the concurrence of the employer."

**Section 2.** Section 2-18-604, MCA, is amended to read:

**"2-18-604. Administration of rules.** The department of administration or the administrative officer of any county, city, or political subdivision is responsible for the proper administration of the employee annual, sick, or military leave provisions and the jury duty provisions found in this part and ~~shall~~ *may, when necessary*, promulgate rules necessary to achieve the uniform administration of these provisions and to prevent the abuse ~~thereof of these provisions~~. When promulgated, the rules are effective as to all employees of the state or any county, city, or political subdivision ~~thereof of the state~~."

**Section 3. Effective date.** [This act] is effective on passage and approval.

Approved May 6, 2005

## CHAPTER NO. 583

[HB 99]

AN ACT INCREASING THE PENALTIES FOR DRIVING WHILE THE PERSON'S LICENSE IS SUSPENDED OR REVOKED IF THE REASON FOR THE SUSPENSION OR REVOCATION WAS THAT THE PERSON WAS CONVICTED OF DRIVING UNDER THE INFLUENCE OR WITH AN EXCESSIVE ALCOHOL CONTENT OR THE SUSPENSION WAS FOR REFUSAL TO TAKE A TEST FOR ALCOHOL OR DRUGS REQUESTED BY A PEACE OFFICER WHO BELIEVED THAT THE PERSON MIGHT BE DRIVING UNDER THE INFLUENCE; AND AMENDING SECTIONS 61-5-212 AND 61-8-733, MCA.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 61-5-212, MCA, is amended to read:

**"61-5-212. Driving while license suspended or revoked — penalty — seizure of vehicle or rendering vehicle inoperable.** (1) (a) A person commits the offense of driving a motor vehicle during a suspension or revocation period if the person drives:

(i) a motor vehicle on any public highway of this state at a time when the person's privilege to do so is suspended or revoked in this state or any other state; or

(ii) a commercial motor vehicle while the person's commercial driver's license is revoked, suspended, or canceled in this state or any other state or the person is disqualified from operating a commercial motor vehicle under federal regulations.

(b) A person convicted of the offense of driving a motor vehicle during a suspension or revocation period shall be punished by imprisonment for not less than 2 days or more than 6 months and may be fined not more than \$500, *except that if the reason for the suspension or revocation was that the person was convicted of a violation of 61-8-401 or 61-8-406 or a similar offense under the laws of any other state or the suspension was under 61-8-402 or 61-8-409 or a similar law of any other state for refusal to take a test for alcohol or drugs requested by a peace officer who believed that the person might be driving under the influence, the person shall be punished by imprisonment for a term of not less than 2 days or more than 6 months or a fine not to exceed \$2,000, or both, and in addition, the court may order the person to perform up to 40 hours of community service.*

(2) (a) The department upon receiving a record of the conviction of any person under this section upon a charge of driving a noncommercial vehicle while the person's driver's license or privilege to drive was suspended or revoked shall extend the period of suspension or revocation for an additional 1-year period.

(b) Upon receiving a record of the conviction of any person under this section upon a charge of driving a commercial motor vehicle while the person's commercial driver's license was revoked, suspended, or canceled or the person was disqualified from operating a commercial motor vehicle under federal regulations, the department shall suspend the person's commercial driver's license in accordance with 61-8-802.

(3) The vehicle owned and operated at the time of an offense under this section by a person whose driver's license is suspended for violating the provisions of 61-8-401, 61-8-402, 61-8-406, 61-8-409, or 61-8-410 must, upon a person's first conviction, be seized or rendered inoperable by the county sheriff of the convicted person's county of residence for a period of 30 days.

(4) The sentencing court shall order the action provided for under subsection (3) and shall specify the date on which the vehicle is to be returned or again rendered operable. The vehicle must be seized or rendered inoperable by the sheriff within 10 days after the conviction.

(5) A convicted person is responsible for all costs associated with actions taken under subsection (3). Joint ownership of the vehicle with another person does not prohibit the actions required by subsection (3) unless the sentencing court determines that those actions would constitute an extreme hardship on a joint owner who is determined to be without fault.

(6) A court may not suspend or defer imposition of penalties provided by this section."

**Section 2.** Section 61-8-733, MCA, is amended to read:

**"61-8-733. Driving under influence of alcohol or drugs — driving with excessive alcohol concentration — forfeiture of vehicle.** (1) On the second or subsequent conviction of a violation of 61-8-401 or 61-8-406 or a second or subsequent conviction under 61-5-212 when the reason for the suspension or revocation was that the person was convicted of a violation of 61-8-401 or 61-8-406 or a similar offense under the laws of any other state or the suspension

*was under 61-8-402 or 61-8-409 or a similar law of any other state for refusal to take a test for alcohol or drugs requested by a peace officer who believed that the person might be driving under the influence, the court, in addition to the punishments provided in 61-5-212, 61-8-714, and 61-8-722 and any other penalty imposed by law, shall order that each motor vehicle owned by the person at the time of the offense be either seized and subjected to the procedure provided under 61-8-421 or equipped with an ignition interlock device as provided under 61-8-442.*

(2) A vehicle used by a person as a common carrier in the transaction of business as a common carrier is not subject to forfeiture unless it appears that the owner or other person in charge of the vehicle consented to or was privy to the violation. A vehicle may not be forfeited under this section for any act or omission established by the owner to have been committed or omitted by a person other than the owner while the vehicle was unlawfully in the possession of a person other than the owner in violation of the criminal laws of this state or the United States.

(3) Forfeiture of a vehicle encumbered by a security interest is subject to the secured person's interest if the person did not know and could not have reasonably known of the unlawful possession, use, or other act on which the forfeiture is sought."

Approved May 6, 2005

## CHAPTER NO. 584

[HB 115]

AN ACT AMENDING THE LAWS RELATING TO THE EXEMPTION OF PROPERTY FROM PROPERTY TAXATION; ALLOWING THE CHURCH EXEMPTION TO EXTEND TO EDUCATIONAL OR YOUTH RECREATIONAL FACILITIES OPEN TO THE PUBLIC; LIMITING THE ACREAGE OF PROPERTY THAT IS TAX-EXEMPT FOR CHURCHES AND PARSONAGES; DEFINING "CLERGY"; LIMITING THE ACREAGE EXEMPTION FOR EDUCATIONAL PROPERTY AND REQUIRING AN ATTENDANCE POLICY, CURRICULUM, AND INSTRUCTION; PROVIDING THAT UP TO 15 ACRES OF PROPERTY PURCHASED FOR CHARITABLE USE IS EXEMPT AT THE TIME OF PURCHASE; PROVIDING THAT IF EXEMPT PROPERTY IS NOT USED FOR A CHARITABLE PURPOSE WITHIN 8 YEARS OR IS SOLD, THEN LOST TAX REVENUE MUST BE REPAYED; PROVIDING THAT THE REPAYMENT AMOUNT IS A LIEN UPON THE PROPERTY; AMENDING SECTIONS 15-6-134, 15-6-138, 15-6-201, 15-7-102, 15-8-111, 15-32-405, 61-3-560, AND 61-10-214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 15-6-134, MCA, is amended to read:

**"15-6-134. Class four property — description — taxable percentage.**

(1) Class four property includes:

(a) subject to 15-6-201~~(1)(z)~~(1)(bb) and ~~(1)(aa)~~ (1)(cc) and subsections (1)(f) and (1)(g) of this section, all land, except that specifically included in another class;

(b) subject to 15-6-201~~(1)(z)~~(1)(bb) and ~~(1)(aa)~~ (1)(cc) and subsections (1)(f) and (1)(g) of this section, all improvements, including trailers, manufactured homes, or mobile homes used as a residence, except those specifically included in another class;

(c) the first \$100,000 or less of the taxable market value of any improvement on real property, including trailers, manufactured homes, or mobile homes, and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 7 months a year as the primary residential dwelling of any person whose total income from all sources, including net business income and otherwise tax-exempt income of all types but not including social security income paid directly to a nursing home, is not more than \$15,000 for a single person or \$20,000 for a married couple or a head of household, as adjusted according to subsection (2)(b)(ii). For the purposes of this subsection (1)(c), net business income is gross income less ordinary operating expenses but before deducting depreciation or depletion allowance, or both.

(d) all golf courses, including land and improvements actually and necessarily used for that purpose, that consist of at least nine holes and not less than 700 lineal yards;

(e) subject to 15-6-201~~(1)(z)~~(1)(bb), all improvements on land that is eligible for valuation, assessment, and taxation as agricultural land under 15-7-202, including 1 acre of real property beneath improvements on land described in 15-6-133(1)(c). The 1 acre must be valued at market value.

(f) (i) single-family residences, including trailers, manufactured homes, or mobile homes;

(ii) rental multifamily dwelling units;

(iii) appurtenant improvements to the residences or dwelling units, including the parcels of land upon which the residences and dwelling units are located and any leasehold improvements; and

(iv) vacant residential lots; and

(g) (i) commercial buildings and the parcels of land upon which they are situated; and

(ii) vacant commercial lots.

(2) Class four property is taxed as follows:

(a) Except as provided in 15-24-1402, 15-24-1501, and 15-24-1502, property described in subsections (1)(a), (1)(b), (1)(e), (1)(f), and (1)(g) of this section is taxed at:

(i) 3.40% of its taxable market value in tax year 2003;

(ii) 3.3% of its taxable market value in tax year 2004;

(iii) 3.22% of its taxable market value in tax year 2005;

(iv) 3.14% of its taxable market value in tax year 2006;

(v) 3.07% of its taxable market value in tax year 2007; and

(vi) 3.01% of its taxable market value in tax years after 2007.

(b) (i) Property qualifying under the property tax assistance program in subsection (1)(c) is taxed at the rate provided in subsection (2)(a) of its taxable market value multiplied by a percentage figure based on income and determined from the following table:

Income Single Person	Income Married Couple Head of Household	Percentage Multiplier
\$0 - \$ 6,000	\$0 - \$8,000	20%
\$6,001 - \$9,200	\$8,001 - \$14,000	50%
\$9,201 - \$15,000	\$14,001 - \$20,000	70%

(ii) The income levels contained in the table in subsection (2)(b)(i) must be adjusted for inflation annually by the department. The adjustment to the income levels is determined by:

(A) multiplying the appropriate dollar amount from the table in subsection (2)(b)(i) by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 1995; and

(B) rounding the product thus obtained to the nearest whole dollar amount.

(iii) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.

(c) Property described in subsection (1)(d) is taxed at one-half the taxable percentage rate established in subsection (2)(a).

(3) Within the meaning of comparable property, as defined in 15-1-101, property assessed as commercial property is comparable only to other property assessed as commercial property and property assessed as other than commercial property is comparable only to other property assessed as other than commercial property."

**Section 2.** Section 15-6-138, MCA, is amended to read:

**"15-6-138. (Temporary) Class eight property — description — taxable percentage.** (1) Class eight property includes:

(a) all agricultural implements and equipment that are not exempt under 15-6-201(1)(~~bb~~)(1)(dd);

(b) all mining machinery, fixtures, equipment, tools that are not exempt under 15-6-201(1)(~~tt~~)(1)(t), and supplies except those included in class five;

(c) all oil and gas production machinery, fixtures, equipment, including pumping units, oil field storage tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water flood units, gas boosters, and similar equipment that is skidable, portable, or movable, tools that are not exempt under 15-6-201(1)(~~tt~~)(1)(t), and supplies except those included in class five;

(d) all manufacturing machinery, fixtures, equipment, tools, except a certain value of hand-held tools and personal property related to space vehicles, ethanol manufacturing, and industrial dairies and milk processors as provided in 15-6-201, and supplies except those included in class five;

(e) all goods and equipment that are intended for rent or lease, except goods and equipment that are specifically included and taxed in another class;

(f) special mobile equipment as defined in 61-1-104;

(g) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;

- (h) x-ray and medical and dental equipment;
- (i) citizens' band radios and mobile telephones;
- (j) radio and television broadcasting and transmitting equipment;
- (k) cable television systems;
- (l) coal and ore haulers;
- (m) theater projectors and sound equipment; and

(n) all other property that is not included in any other class in this part, except that property that is subject to a fee in lieu of a property tax.

(2) As used in this section, "coal and ore haulers" means nonhighway vehicles that exceed 18,000 pounds per axle and that are primarily designed and used to transport coal, ore, or other earthen material in a mining or quarrying environment.

(3) "Commercial establishment" includes any hotel; motel; office; petroleum marketing station; or service, wholesale, retail, or food-handling business.

(4) Class eight property is taxed at 3% of its market value.

(5) (a) If, in any year beginning with tax year 2004, the percentage growth in inflation-adjusted Montana wage and salary income is at least 2.85% from the year prior to the base year, then the tax rate for class eight property will be reduced by 1% each year until the tax rate reaches zero.

(b) For each tax year, the base year is the year 3 years before the applicable tax year and the target year is the year 2 years before the applicable tax year.

(c) The department shall calculate the percentage growth in subsection (5)(a) by October 30 of each target year by using the formula  $(W/CPI) - 1$ , where:

(i) W is the Montana wage and salary income for the calendar base year divided by the Montana wage and salary income for the calendar year prior to the base year; and

(ii) CPI is the consumer price index for the calendar base year used in subsection (5)(c)(i) divided by the consumer price index for the year prior to the most current calendar year prior to the base year used in subsection (5)(c)(i).

(d) For purposes of determining the percentage growth in subsection (5)(a), the department shall use the bureau of economic analysis of the United States department of commerce Montana wage and salary disbursements, fall SA07 (state annual) for the target year wage and salary data series.

(e) Inflation must be measured by the consumer price index, U.S. city average, all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(6) The class eight property of a person or business entity that owns an aggregate of \$5,000 or less in market value of class eight property is exempt from taxation. (Repealed on occurrence of contingency—secs. 27(2), 31(4), Ch. 285, L. 1999.)"

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

**"15-6-201. Exempt categories.** (1) The following categories of property are exempt from taxation:

- (a) except as provided in 15-24-1203, the property of:
  - (i) the United States, except:

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

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

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

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

(iv) municipal corporations;

(v) public libraries; and

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

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

(c) property owned and used exclusively for agricultural and horticultural societies, ~~for educational purposes, and not operated for gain or profit;~~

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

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

(ii) *has an attendance policy; and*

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

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

~~(f)~~(f) property that is:

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

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

(iii) not maintained and *not* operated for ~~private or corporate~~ gain or profit;

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

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

~~(g)~~(i) public museums, art galleries, zoos, and observatories that are not used or held for private or corporate operated for gain or profit;

~~(h)~~(j) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

~~(i)~~(k) truck canopy covers or toppers and campers;

~~(j)~~(l) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;

~~(k)~~(m) motor homes;

~~(l)~~(n) all watercraft;

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

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

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

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

~~(p)~~(r) all farm buildings with a market value of less than \$500 and all agricultural implements and machinery with a market value of less than \$100;

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

~~(r)~~(t) (i) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily hand-held and that are used to:

(A) construct, repair, and maintain improvements to real property; or

(B) repair and maintain machinery, equipment, appliances, or other personal property;

(ii) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture, launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and launching space vehicles in the state or that are owned by a contractor or subcontractor of that

business and that are directly used for space vehicle design, manufacture, launch, repair, and maintenance;

~~(s)~~(u) harness, saddlery, and other tack equipment;

~~(t)~~(v) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105;

~~(u)~~(w) timber as defined in 15-44-102;

~~(v)~~(x) all trailers as defined in 61-1-111, semitrailers as defined in 61-1-112, pole trailers as defined in 61-1-114, and travel trailers as defined in 61-1-131;

~~(w)~~(y) all vehicles registered under 61-3-456;

~~(x)~~(z) (i) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors, including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and

(ii) personal property that is attached to a bus, truck, or truck tractor that is exempt under subsection ~~(1)(x)(i)~~ (1)(z)(i);

~~(y)~~(aa) motorcycles and quadricycles;

~~(z)~~(bb) the following percentage of the market value of residential property described in 15-6-134(1)(e) and (1)(f):

(i) 31% for tax year 2003;

(ii) 31.4% for tax year 2004;

(iii) 32% for tax year 2005;

(iv) 32.6% for tax year 2006;

(v) 33.2% for tax year 2007;

(vi) 34% for tax year 2008 and succeeding tax years;

~~(aa)~~(cc) the following percentage of the market value of commercial property as described in 15-6-134(1)(g):

(i) 13% for tax year 2003;

(ii) 13.3% for tax year 2004;

(iii) 13.8% for tax year 2005;

(iv) 14.2% for tax year 2006;

(v) 14.6% for tax year 2007;

(vi) 15% for tax year 2008 and succeeding tax years;

~~(bb)~~(dd) personal property used by an industrial dairy or an industrial milk processor and dairy livestock used by an industrial dairy;

~~(ee)~~(ee) items of personal property intended for rent or lease in the ordinary course of business if each item of personal property satisfies all of the following:

(i) the acquired cost of the personal property is less than \$15,000;

(ii) the personal property is owned by a business whose primary business income is from rental or lease of personal property to individuals and no one customer of the business accounts for more than 10% of the total rentals or leases during a calendar year; and

(iii) the lease of the personal property is generally on an hourly, daily, or weekly basis;

~~(dd)~~(ff) all manufacturing machinery, fixtures, equipment, and tools used for the production of ethanol from grain during the course of the construction of an ethanol manufacturing facility and for 10 years after completion of construction of the manufacturing facility;

~~(ee)~~(gg) light vehicles as defined in 61-1-139; and

~~(ff)~~(hh) the following property, except property included in 15-6-135, 15-6-137, 15-6-141, 15-6-145, and 15-6-156, if the tax rate in 15-6-138 reaches zero:

(i) all agricultural implements and equipment;

(ii) all mining machinery, fixtures, equipment, tools, and supplies;

(iii) all oil and gas production machinery, fixtures, equipment, including pumping units, oil field storage tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water flood units, gas boosters, and similar equipment that is skidable, portable, or movable, tools, and supplies;

(iv) all manufacturing machinery, fixtures, equipment, tools, and supplies;

(v) all goods and equipment that are intended for rent or lease;

(vi) special mobile equipment as defined in 61-1-104;

(vii) furniture, fixtures, and equipment;

(viii) x-ray and medical and dental equipment;

(ix) citizens' band radios and mobile telephones;

(x) radio and television broadcasting and transmitting equipment;

(xi) cable television systems;

(xii) coal and ore haulers; and

(xiii) theater projectors and sound equipment.

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

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

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

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

(iv) *a Christian Science practitioner.*

~~(a)~~(b) For the purposes of subsection ~~(1)~~(e) (1)(g):

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

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

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

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

*(iii) up to 15 acres of property owned by a purely public charity is exempt at the time of its purchase even if the property must be improved before it can directly be used for its intended charitable purpose. If the property is not directly used for the charitable purpose within 8 years of receiving an exemption under this section or if the property is sold or transferred before it entered direct charitable use, the exemption is revoked and the property is taxable. In addition to taxes due for the first year that the property becomes taxable, the owner of the property shall pay an amount equal to the amount of the tax due that year times the number of years that the property was tax-exempt under this section. The amount due is a lien upon the property and when collected must be distributed by the treasurer to funds and accounts in the same ratio as property tax collected on the property is distributed. At the time the exemption is granted, the department shall file a notice with the clerk and recorder in the county in which the property is located. The notice must indicate that an exemption pursuant to this section has been granted. The notice must describe the penalty for default under this section and must specify that a default under this section will create a lien on the property by operation of law. The notice must be on a form prescribed by the department.*

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

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

(ii) held for future display; or

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

~~(3)~~(4) For the purposes of subsection ~~(1)(bb)~~ (1)(dd):

(a) “industrial dairy” means a large-scale dairy operation with 1,000 or more milking cows and includes the dairy livestock and integral machinery and equipment that the dairy uses to produce milk and milk products solely for export from the state, either directly by the dairy or after the milk or milk product has been further processed by an industrial milk processor. After export, any unprocessed milk must be further processed into other dairy products.

(b) “industrial milk processor” means a facility and integral machinery used solely to process milk into milk products for export from the state.

~~(4)~~(5) The following portions of the appraised value of a capital investment in a recognized nonfossil form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

- (a) \$20,000 in the case of a single-family residential dwelling;
- (b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure.”

**Section 4.** Section 15-7-102, MCA, is amended to read:

**“15-7-102. Notice of classification and appraisal to owners — appeals.** (1) (a) Except as provided in 15-7-138, the department shall mail to each owner or purchaser under contract for deed a notice of the classification of the land owned or being purchased and the appraisal of the improvements on the land only if one or more of the following changes pertaining to the land or improvements have been made since the last notice:

- (i) change in ownership;
- (ii) change in classification;
- (iii) except as provided in subsection (1)(b), change in valuation; or
- (iv) addition or subtraction of personal property affixed to the land.

(b) After the first year, the department is not required to mail the notice provided for in subsection (1)(a)(iii) if the change in valuation is the result of an annual incremental change in valuation caused by the phasing in of a reappraisal under 15-7-111 or the application of the exemptions under 15-6-201~~(1)(z)~~(1)(bb) and ~~(1)(aa)~~(1)(cc) or caused by an incremental change in the tax rate.

(c) The notice must include the following for the taxpayer’s informational purposes:

- (i) the total amount of mills levied against the property in the prior year; and
- (ii) a statement that the notice is not a tax bill.

(d) Any misinformation provided in the information required by subsection (1)(c) does not affect the validity of the notice and may not be used as a basis for a challenge of the legality of the notice.

(2) (a) Except as provided in subsection (2)(c), the department shall assign each assessment to the correct owner or purchaser under contract for deed and mail the notice of classification and appraisal on a standardized form, adopted by the department, containing sufficient information in a comprehensible manner designed to fully inform the taxpayer as to the classification and appraisal of the property and of changes over the prior tax year.

(b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an appeal of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in 15-1-402.

(c) The department is not required to mail the notice of classification and appraisal to a new owner or purchaser under contract for deed unless the department has received the transfer certificate from the clerk and recorder as provided in 15-7-304 and has processed the certificate before the notices required by subsection (2)(a) are mailed. The department shall notify the county tax appeal board of the date of the mailing.

(3) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the market value of the property as determined by the department or with the classification of the land or improvements, the owner may request an assessment review by submitting an objection in writing to the department, on forms provided by the department for that purpose, within 30 days after receiving the notice of classification and appraisal from the department. The review must be conducted informally and is not subject to the contested case procedures of the Montana Administrative Procedure Act. As a part of the review, the department may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer in support of the taxpayer's opinion as to the market value of the property. The department shall give reasonable notice to the taxpayer of the time and place of the review. After the review, the department shall determine the correct appraisal and classification of the land or improvements and notify the taxpayer of its determination. In the notification, the department shall state its reasons for revising the classification or appraisal. When the proper appraisal and classification have been determined, the land must be classified and the improvements appraised in the manner ordered by the department.

(4) Whether a review as provided in subsection (3) is held or not, the department may not adjust an appraisal or classification upon the taxpayer's objection unless:

(a) the taxpayer has submitted an objection in writing; and

(b) the department has stated its reason in writing for making the adjustment.

(5) A taxpayer's written objection to a classification or appraisal and the department's notification to the taxpayer of its determination and the reason for that determination are public records. The department shall make the records available for inspection during regular office hours.

(6) If any property owner feels aggrieved by the classification or appraisal made by the department after the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal board and then to the state tax appeal board, whose findings are final subject to the right of review in the courts. The appeal to the county tax appeal board must be filed within 30 days after notice of the department's determination is mailed to the taxpayer. A county tax appeal board or the state tax appeal board may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the state tax appeal board determines that an adjustment should be made, the department shall adjust the base value of the property in accordance with the board's order."

**Section 5.** Section 15-8-111, MCA, is amended to read:

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

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

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

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

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

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

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

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

(c) as otherwise authorized in Titles 15 and 61.

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

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

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

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

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

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

(d) Properties in 15-6-134, under class four, are assessed at the applicable percentage of market value minus any portion of market value that is exempt from taxation under 15-6-201~~(1)(z)~~(1)(bb) and ~~(1)(aa)~~ (1)(cc).

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

(f) Railroad transportation properties in 15-6-145 are assessed based on the valuation formula described in 15-23-205.

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

- (a) ownership of the improvements is different from ownership of the land;
- (b) the taxpayer makes a written request; or
- (c) the land is outside an incorporated city or town.”

**Section 6.** Section 15-32-405, MCA, is amended to read:

**“15-32-405. Exclusion from other tax incentives.** If a credit is claimed for an investment pursuant to this part, no other state energy or investment tax credit, including but not limited to the tax credits allowed by 15-31-124 and 15-31-125, may be claimed for the investment. Property tax reduction allowed by 15-6-201~~(4)~~(5) may not be applied to a facility for which a credit is claimed pursuant to this part.”

**Section 7.** Section 61-3-560, MCA, is amended to read:

**“61-3-560. Light vehicle registration fee — exemptions — 24-month registration.** (1) Except as provided in subsections (2) and (3), there is a registration fee imposed on light vehicles. The registration fee is in addition to other annual registration fees.

(2) The following vehicles are exempt from the fee imposed in subsection (1):

(a) light vehicles that meet the description of property exempt from taxation under 15-6-201(1)(a), (1)(c) through ~~(1)(e) (1)(g), (1)(g) (1)(i), (1)(m) (1)(o), (1)(o) (1)(q), (1)(q) (1)(s), or (1)(w) (1)(y);~~ 15-6-203, ~~or 15-6-215, except as provided in 61-3-520, or 15-6-215, except as provided in 61-3-520;~~

(b) a light vehicle owned by a person eligible for a waiver of registration fees under 61-3-460;

(c) a light vehicle registered under 61-3-456.

(3) A dealer for light vehicles is not required to pay the registration fee for light vehicles that constitute inventory of the dealership and that are reported under 61-3-501.

(4) The owner of a light vehicle subject to the provisions of 61-3-313 through 61-3-316 may register the light vehicle for a period not to exceed 24 months. The application for registration or reregistration must be accompanied by the registration fee and all other fees required in this chapter for each 12-month period of the 24-month period. However, the registration fees required under 61-3-321(1)(a) or (1)(b) paid at the time of registration or reregistration apply for the entire registration period.”

**Section 8.** Section 61-10-214, MCA, is amended to read:

**“61-10-214. Exemptions.** (1) Motor vehicles operating exclusively for transportation of persons for hire within the limits of incorporated cities or towns and within 15 miles from the limits are exempt from this part.

(2) Motor vehicles brought or driven into Montana by a nonresident, migratory, bona fide agricultural worker temporarily employed in agricultural work in this state when those motor vehicles are used exclusively for transportation of agricultural workers are exempt from this part.

(3) Vehicles lawfully displaying a dealer’s or wholesaler’s plate as provided in 61-4-102 and 61-4-125 are exempt from this part for a period not to exceed 7

days when moving to or from a dealer's or wholesaler's place of business when unloaded or loaded with dealer's or wholesaler's property only or while being demonstrated in the course of the dealer's or wholesaler's business. Vehicles being demonstrated may not be leased, rented, or operated for compensation by the licensed dealer or wholesaler.

(4) Vehicles exempt from property tax under 15-6-201(1)(a), (1)(c) through ~~(1)(e)~~ (1)(g), ~~(1)(g)~~ (1)(i), ~~(1)(e)~~ (1)(q), ~~(1)(q)~~ (1)(s), and ~~(1)(x)~~ (1)(x) are exempt from this part. The department of transportation may require documentation of tax-exempt status from the department of revenue before granting this exemption."

**Section 9. Effective date.** [This act] is effective on passage and approval.

**Section 10. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to property tax exemption applications made after December 31, 2004.

Approved May 6, 2005

## CHAPTER NO. 585

[HB 172]

AN ACT REVISING CERTAIN RESIDENT AND NONRESIDENT FISHING AND HUNTING LICENSE AND DRAWING FEES; CREATING A RESIDENT SENIOR COMBINATION LICENSE; AMENDING SECTIONS 87-2-113, 87-2-202, 87-2-301, 87-2-306, 87-2-401, 87-2-403, 87-2-411, 87-2-501, 87-2-505, 87-2-508, 87-2-510, 87-2-701, 87-2-704, 87-2-708, 87-2-711, 87-2-801, 87-2-803, AND 87-2-805, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Resident senior combination license.** A resident, as defined in 87-2-102, who is 62 years of age or older or who will turn 62 years old before or during the season for which the license is issued may purchase a resident senior combination license for \$55. The resident senior combination license entitles the holder to exercise all rights granted to holders of Class A, Class A-1, and Class A-3 licenses and includes an elk tag and a resident wildlife conservation license.

**Section 2.** Section 87-2-113, MCA, is amended to read:

**"87-2-113. Drawing and application fees.** (1) When the department determines a drawing is necessary prior to issuance of hunting licenses for any game species during a hunting season, it shall collect a ~~\$3~~ \$5 per species drawing fee with each application submitted.

(2) (a) If a resident participates in a preference system adopted by the commission, the department shall collect an additional application fee of \$2 for each application form to fund the administration of the preference system.

(b) If a nonresident participates in a preference system adopted by the commission, the department shall collect an additional application fee of \$20 for each application form to fund the administration of the preference system.

(3) Drawing fees collected pursuant to this section must be deposited in the state special revenue fund to the credit of the department as set forth in 87-1-601.

(4) The payment of a drawing fee confers no hunting rights or privileges.

(5) The commission may waive the provisions of subsection (1) when a drawing is required for a special season under 87-1-304.”

**Section 3.** Section 87-2-202, MCA, is amended to read:

**“87-2-202. Application — fee — expiration.** (1) A wildlife conservation license must be sold upon written application. The application must contain the applicant’s name, age, [social security number,] occupation, street address of permanent residence, mailing address, qualifying length of time as a resident in the state of Montana, and status as a citizen of the United States or as an alien and must be signed by the applicant. The applicant shall present a valid Montana driver’s license, a Montana driver’s examiner’s identification card, or other identification specified by the department to substantiate the required information when applying for a wildlife conservation license. It is the applicant’s burden to provide documentation establishing the applicant’s identity and qualifications to purchase a wildlife conservation license. It is unlawful and a misdemeanor for a license agent to sell a wildlife conservation license to an applicant who fails to produce the required identification at the time of application for licensure.

(2) Hunting, fishing, or trapping licenses issued in a form determined by the department must be recorded according to rules that the department may prescribe.

(3) (a) Resident wildlife conservation licenses may be purchased for a fee of ~~\$6.25~~ \$8, of which 25 cents is a search and rescue surcharge.

(b) Nonresident wildlife conservation licenses may be purchased for a fee of ~~\$9.25~~ \$10, of which 25 cents is a search and rescue surcharge.

(c) In addition to the fee in subsection (3)(a), the first time in any license year that a resident uses the wildlife conservation license as a prerequisite to purchase a hunting license, an additional hunting access enhancement fee of \$2 is assessed. The additional fee may be used by the department only to encourage enhanced hunting access through the hunter management and hunting access enhancement programs established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked appropriately when the hunting access enhancement fee is paid. The resident hunting access enhancement fee is chargeable only once during any license year.

(d) In addition to the fee in subsection (3)(b), the first time in any license year that a nonresident uses the wildlife conservation license as a prerequisite to purchase a hunting license, except a variably priced outfitter-sponsored Class B-10 or Class B-11 license issued under 87-1-268, an additional hunting access enhancement fee of \$10 is assessed. The additional fee may be used by the department only to encourage enhanced hunting access through the hunter management and hunting access enhancement programs established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked appropriately when the hunting access enhancement fee is paid. The nonresident hunting access enhancement fee is chargeable only once during any license year.

(4) Licenses issued are void after the last day of February next succeeding their issuance.

[(5) The department shall keep the applicant’s social security number confidential, except that the number may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.]

(6) The department shall delete the applicant's social security number in any electronic database [5 years after the date that application is made for the most recent license]. (Subsections (3)(c) and (3)(d) terminate March 1, 2006—sec. 9, Ch. 216, L. 2001; bracketed language terminates or is amended on occurrence of contingency—sec. 3, Ch. 321, L. 2001; the \$2 wildlife conservation license fee increases in subsections (3)(a) and (3)(b) *enacted by Ch. 596, L. 2003, are void on occurrence of contingency—sec. 8, Ch. 596, L. 2003.*)”

**Section 4.** Section 87-2-301, MCA, is amended to read:

**“87-2-301. Class A—resident fishing license.** Any A resident, as defined by 87-2-102, upon payment of a fee of \$11 ~~beginning March 1, 1992, and \$13 beginning March 1, 1994~~ \$18, shall be entitled to receive a Class A license which shall entitle that authorizes the holder thereof of the license to fish with hook and line or rod as authorized by regulations prescribed by rules of the department.”

**Section 5.** Section 87-2-306, MCA, is amended to read:

**“87-2-306. Paddlefish tags.** (1) The department may issue paddlefish tags to persons listed in subsection (2) for a fee of \$5 \$6.50 for residents and \$15 for nonresidents. Each tag authorizes the holder to fish with hook and line for paddlefish as prescribed by rules of the department.

(2) The following persons may obtain paddlefish tags pursuant to this section:

(a) holders of valid Class A, Class A-8, Class B, Class B-4, and Class B-5 fishing licenses;

(b) residents under 15 years of age with a valid wildlife conservation license; and

(c) residents 62 years of age or older with a valid wildlife conservation license.”

**Section 6.** Section 87-2-401, MCA, is amended to read:

**“87-2-401. Class A-1—resident upland game bird license.** Except as otherwise provided, a resident, as defined by 87-2-102, who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of a fee of \$6 \$7.50, receive a Class A-1 license that entitles a holder who is 12 years of age or older to hunt upland game birds and possess the carcasses of upland game birds as authorized by department rules.”

**Section 7.** Section 87-2-403, MCA, is amended to read:

**“87-2-403. (Temporary) Wild turkey tags and fee.** (1) The department may issue wild turkey tags to the holder of a valid Class A-1 or nonresident wildlife conservation license or as set out in subsection (3). Each tag entitles the holder to hunt one wild turkey and possess the carcass of the turkey, during times and places that the commission authorizes an open season on wild turkey.

(2) The fee for a wild turkey tag is \$5 \$6.50 for a resident and \$115 for a nonresident. Turkey tags must be issued either by a drawing system or in unlimited number as authorized by department rules.

(3) Subject to the provisions of subsection (2), a person who is 62 years of age or older as provided in 87-2-801, certified as disabled under 87-2-803, or a resident minor as described in 87-2-805 may purchase a wild turkey tag upon presentation of that person's wildlife conservation license. (Terminates March 1, 2006—secs. 1, 2, Ch. 241, L. 1993.)

**87-2-403. (Effective March 1, 2006) Wild turkey tags and fee.** (1) The department may issue wild turkey tags to the holder of a valid Class A-1 or nonresident wildlife conservation license or as set out in subsection (3). Each tag entitles the holder to hunt one wild turkey and possess the carcass of the turkey, during times and places that the commission authorizes an open season on wild turkey.

(2) The fee for a wild turkey tag is ~~\$5~~ \$6.50 for a resident and \$105 for a nonresident. Turkey tags must be issued either by a drawing system or in unlimited number as authorized by department rules.

(3) Subject to the provisions of subsection (2), a person who is 62 years of age or older as provided in 87-2-801, certified as disabled under 87-2-803, or a resident minor as described in 87-2-805 may purchase a wild turkey tag upon presentation of that person's wildlife conservation license."

**Section 8.** Section 87-2-411, MCA, is amended to read:

**"87-2-411. License required to hunt migratory game birds — fees — disposition of proceeds.** (1) A person 16 years of age or older may not hunt migratory game birds without first having obtained a valid migratory bird license from the department. The fee for a resident to purchase the license is ~~\$5~~ \$6.50. The fee for a nonresident to purchase the license is \$50.

(2) Money received from the sale of migratory game bird licenses must be deposited in an account in the state special revenue fund for the use of the department and may be expended only for the protection, conservation, and development of wetlands in Montana."

**Section 9.** Section 87-2-501, MCA, is amended to read:

**"87-2-501. Class A-3, A-4, A-5, A-6, A-7, A-9—resident deer, elk, and bear licenses — special Class A-7 resident and nonresident license requirements and preference — fees.** (1) Except as otherwise provided in this chapter, a resident, as defined by 87-2-102, or a nonresident who wishes to purchase a Class A-7 elk license only and who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued, upon payment of the proper fee or fees, is entitled to purchase one each of the following licenses at the prescribed cost that will entitle a holder who is 12 years of age or older to hunt the game animal or animals authorized by the license held and to possess the carcasses of those game animals as authorized by department rules:

- (a) Class A-3, deer A tag, ~~\$13~~ \$16;
- (b) Class A-4, deer B tag, ~~\$8~~ \$10;
- (c) Class A-5, elk tag, \$16 \$20;
- (d) Class A-6, black bear tag, ~~\$15~~ \$19;
- (e) Class A-7, antlerless elk tag, \$16 \$20;
- (f) Class A-9, resident antlerless elk B tag, \$16 \$20.

(2) (a) The holder of a Class A-7 antlerless elk license who is 12 years of age or older is entitled to hunt antlerless elk in areas designated by the commission and at the times and upon the terms set forth by the commission.

(b) Subject to the management provisions provided in 87-1-321 through 87-1-325, a person may not take more than two elk during any license year, only one of which may be antlered. A person holding a Class A-7 antlerless elk tag may not take an elk during the same license year with a Class A-5 license or

nonresident elk tag. The use of Class A-7 antlerless elk licenses does not preclude the department's use of special elk permits.

(c) Subject to the management provisions provided in 87-1-321 through 87-1-325, a nonresident shall hold a nonresident Class B-10 license as a prerequisite to application for a Class A-7 license.

(3) Subject to the limitation of subsection (5), a person who owns or is contracting to purchase 640 acres or more of contiguous land, at least some of which is used by elk, in a hunting district where Class A-7 licenses are awarded under this section must be issued, upon application, a Class A-7 license.

(4) An applicant who receives a Class A-7 license under subsection (3) may designate that the license be issued to an immediate family member or a person employed by the landowner. A corporation owning qualifying land under subsection (3) may designate one of its shareholders to receive the license.

(5) Subject to the management provisions provided in 87-1-321 through 87-1-325, 15% of the Class A-7 licenses available each year under this section in a hunting district must be available to landowners under subsection (3)."

**Section 10.** Section 87-2-505, MCA, is amended to read:

**"87-2-505. (Temporary) Class B-10—nonresident big game combination license.** (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of the fee of ~~\$625~~ ~~\$628~~ plus the nonresident hunting access enhancement fee in 87-2-202(3)(d) or upon payment of the fee established as provided in 87-1-268 if the license is one of the licenses reserved pursuant to 87-2-511 for applicants indicating their intent to use the services of a licensed outfitter and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a B-10 nonresident big game combination license that entitles a holder who is 12 years of age or older to all the privileges of Class B, Class B-1, and Class B-7 licenses and an elk tag. This license includes the nonresident conservation license as prescribed in 87-2-202. Not more than 11,500 unreserved Class B-10 licenses may be sold in any 1 license year.

(2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission.

(3) A holder of a Class B-10 nonresident big game combination license may apply for a Class B-12 nonresident antlerless elk B tag license when authorized by the commission pursuant to 87-2-104. The fee for a Class B-12 license is ~~\$270~~ ~~\$273~~. The license entitles the holder to hunt in the hunting district or portion of a hunting district and under the terms and conditions specified by the commission. (Terminates March 1, 2006—secs. 1, 2, Ch. 241, L. 1993; sec. 6, Ch. 544, L. 1999; sec. 9, Ch. 216, L. 2001.)

**87-2-505. (Effective March 1, 2006) Class B-10—nonresident big game combination license.** (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of the fee of ~~\$550~~ ~~\$553~~ and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a B-10 nonresident big

game combination license ~~which shall entitle~~ *that entitles* a holder who is 12 years of age or older to all the privileges of Class B, Class B-1, and Class B-7 licenses, and an elk tag. This license includes the nonresident conservation license as prescribed in 87-2-202. Not more than 17,000 Class B-10 licenses may be sold in any 1 license year.

(2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission.

(3) A holder of a Class B-10 nonresident big game combination license may apply for a Class B-12 nonresident antlerless elk B tag license when authorized by the commission pursuant to 87-2-104. The fee for a Class B-12 license is ~~\$270~~ \$273. The license entitles the holder to hunt in the hunting district or portion of a hunting district and under the terms and conditions ~~determined~~ *specified* by the commission.”

**Section 11.** Section 87-2-508, MCA, is amended to read:

**“87-2-508. Class D-2—resident mountain lion license.** Except as otherwise provided in this chapter, a person who is a resident, as defined in 87-2-102, and who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued, upon payment of a fee of ~~\$15~~ \$19, may receive a Class D-2 license that entitles a holder who is 12 years of age or older to hunt mountain lion and possess the carcass of the mountain lion as authorized by department rules. If a holder of a valid mountain lion license under this section kills a mountain lion, the licensee shall purchase a trophy license for a fee of \$50 within 10 days after the date of kill. The trophy license authorizes the holder to possess and transport the trophy.”

**Section 12.** Section 87-2-510, MCA, is amended to read:

**“87-2-510. (Temporary) Class B-11—nonresident deer combination license.** (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of a fee of ~~\$325~~ \$328 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d), upon payment of the fee established as provided in 87-1-268 if the license is one of those reserved pursuant to 87-2-511 for applicants indicating their intent to use the services of a licensed outfitter or upon payment of the fee of ~~\$325~~ \$328 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d), if the license is one of those reserved pursuant to 87-2-511 for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office, Helena, Montana, to purchase a Class B-11 nonresident deer combination license that entitles a holder who is 12 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses. This license includes the nonresident wildlife conservation license as prescribed in 87-2-202.

(2) Not more than 2,300 unreserved Class B-11 licenses may be sold in any 1 license year.

(3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission. (Terminates March 1, 2006—secs. 1, 2, Ch. 241, L. 1993; sec. 6, Ch. 544, L. 1999; sec. 9, Ch. 216, L. 2001.)

**87-2-510. (Effective March 1, 2006) Class B-11—nonresident deer combination license.** (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon payment of a fee of ~~\$300~~ \$303, purchase a Class B-11 nonresident deer combination license that entitles a holder who is 12 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses. The fee for a Class B-11 license is ~~\$300~~ \$303 if the license is one of the 4,000 reserved pursuant to 87-2-511 for applicants indicating their intent either to use the services of a licensed outfitter or to hunt with a resident sponsor on land owned by that sponsor. The license is subject to the limitations prescribed by law and department regulation. A person may apply for a license to the fish, wildlife, and parks office, Helena, Montana. This license includes the nonresident wildlife conservation license as prescribed in 87-2-202.

(2) Six thousand Class B-11 licenses are authorized for sale each license year.

(3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits established by the commission.”

**Section 13.** Section 87-2-701, MCA, is amended to read:

**“87-2-701. (Temporary) Special licenses.** (1) An applicant who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and is the holder of a resident wildlife conservation license or a nonresident wildlife conservation license may apply for a special license that, in the judgment of the department, is to be issued and shall pay the following fees:

- (a) moose—resident, ~~\$75~~ \$125; nonresident, ~~\$750~~ \$750;
- (b) mountain goat—resident, ~~\$75~~ \$125; nonresident, ~~\$750~~ \$750;
- (c) mountain sheep—resident, ~~\$75~~ \$125; nonresident, ~~\$750~~ \$750;
- (d) antelope—resident, ~~\$11~~ \$14; nonresident, \$200;
- (e) grizzly bear—resident, \$50; nonresident, \$300;
- (f) black bear—nonresident, ~~\$350~~ \$350;
- (g) wild buffalo or bison—resident, ~~\$75~~ \$125; nonresident, ~~\$750~~ \$750.

(2) If a holder of a valid special grizzly bear license who is 12 years of age or older kills a grizzly bear, the person shall purchase a trophy license for a fee of \$25 within 10 days after the date of the kill. The trophy license authorizes the holder to possess and transport the trophy.

(3) Special licenses must be issued in a manner prescribed by the department. (Terminates March 1, 2006—secs. 1, 2, Ch. 241, L. 1993.)

**87-2-701. (Effective March 1, 2006) Special licenses.** (1) An applicant who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and is the holder of a resident wildlife conservation license or a nonresident wildlife conservation license may apply for a special license that, in the judgment of the department, is to be issued and shall pay the following fees:

- (a) moose—resident, ~~\$75~~ \$125; nonresident, ~~\$980~~ \$750;

- (b) mountain goat—resident, ~~\$75~~ \$125; nonresident, ~~\$980~~ \$750;
- (c) mountain sheep—resident, ~~\$75~~ \$125; nonresident, ~~\$980~~ \$750;
- (d) antelope—resident, ~~\$11~~ \$14; nonresident, ~~\$180~~ \$200;
- (e) grizzly bear—resident, \$50; nonresident, \$300;
- (f) black bear—nonresident, ~~\$330~~ \$350;
- (g) wild buffalo or bison—resident, ~~\$75~~ \$125; nonresident, ~~\$750~~ \$750.

(2) If a holder of a valid special grizzly bear license who is 12 years of age or older kills a grizzly bear, the person shall purchase a trophy license for a fee of \$25 within 10 days after the date of the kill. The trophy license authorizes the holder to possess and transport the trophy.

(3) Special licenses must be issued in a manner prescribed by the department.”

**Section 14.** Section 87-2-704, MCA, is amended to read:

**“87-2-704. Regulation of special elk permits.** (1) The department may:

(a) provide for the refund of resident elk tag license fees to persons applying for special elk permits in hunting districts where there is no general elk hunting and set time limits and describe area restrictions; and

(b) designate special elk permit areas where priority will be given to applicants who have not held special elk permits for a period of years to be determined by the department.

(2) The department shall provide that a person who is issued a special elk permit to hunt antlerless elk during the regular hunting season is:

(a) limited to the hunting and taking of only an antlerless elk in the hunting district or portion of a hunting district where the permit is valid; and

(b) entitled to the general elk hunting privileges for a holder of a Class A-5 license in all other hunting districts.

(3) The commission may establish a waiting period during which a person who has received a special elk permit that is valid for an antlered bull may not receive another special elk permit that is valid for an antlered bull. The commission may specify which special elk permits are subject to the waiting period, by hunting district or portion of a hunting district.

(4) The fee for a special elk permit is ~~\$3~~ \$4.

(5) The department may adopt rules necessary to implement this section.”

**Section 15.** Section 87-2-708, MCA, is amended to read:

**“87-2-708. Class A-2—special bow and arrow license.** A holder of a valid hunting license for which a special archery season is set by the department may receive, upon payment of an additional fee of ~~\$8~~ \$10, a Class A-2 license that authorizes the holder to hunt with bow and arrow the game animals authorized by the licenses held and to possess the carcass of the game animals during seasons and in areas designated by the department.”

**Section 16.** Section 87-2-711, MCA, is amended to read:

**“87-2-711. (Temporary) Class AAA—combination sports license.** (1) A resident, as defined by 87-2-102, who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued is entitled to:

(a) upon payment of the sum of ~~\$54~~ \$70, plus the resident hunting access enhancement fee in 87-2-202(3)(c), a combination sports license that permits a holder who is 12 years of age or older to exercise all rights granted to holders of Class A, A-1, A-3, A-5, and resident conservation licenses as prescribed in 87-2-202; or

(b) upon payment of the sum of ~~\$64~~ \$85, plus the resident hunting access enhancement fee in 87-2-202(3)(c), a combination sports license that permits a holder who is 12 years of age or older to exercise all rights granted in subsection (1)(a) and the additional rights granted to holders of a Class A-6 license.

(2) The department may furnish each holder of a combination sports license an appropriate decal. (Terminates March 1, 2006—sec. 9, Ch. 216, L. 2001.)

**87-2-711. (Effective March 1, 2006) Class AAA—combination sports license.** (1) A resident, as defined by 87-2-102, who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued is entitled to:

(a) upon payment of the sum of ~~\$54~~ \$70, a combination sports license that permits a holder who is 12 years of age or older to exercise all rights granted to holders of Class A, A-1, A-3, A-5, and resident conservation licenses as prescribed in 87-2-202; or

(b) upon payment of the sum of ~~\$64~~ \$85, a combination sports license that permits a holder who is 12 years of age or older to exercise all rights granted in subsection (1)(a) and the additional rights granted to holders of a Class A-6 license.

(2) The department may furnish each holder of a combination sports license an appropriate decal.”

**Section 17.** Section 87-2-801, MCA, is amended to read:

**“87-2-801. Residents over sixty-two years of age — resident or nonresident legion of valor members.** (1) A resident, as defined in 87-2-102, who is 62 years of age or older is entitled to fish and hunt game birds, *not including wild turkeys*, with a conservation license issued by the department. The form of the license must be prescribed by the department.

(2) A resident who is 62 years of age or older is also entitled to purchase ~~regular resident deer and elk tags at a price that is one-half of the fee paid by a resident who is 15 years old or older and who is under 62 years of age~~ a Class A-3 deer A tag for \$10 and a Class A-5 elk tag for \$12.

(3) Regardless of age, a resident, as defined in 87-2-102, or a nonresident who is a legion of valor member is entitled to fish with a conservation license issued by the department.”

**Section 18.** Section 87-2-803, MCA, is amended to read:

**“87-2-803. Persons with disabilities — definitions.** (1) Persons with disabilities are entitled to fish and to hunt game birds, not including turkeys, with only a conservation license if they are residents of Montana not residing in an institution and are certified as disabled as prescribed by departmental rule. A person who has purchased a conservation license and a resident fishing license or game bird license for a particular license year and who is subsequently certified as disabled is entitled to a refund for the fishing license or game bird license previously purchased for that license year. A person who is certified as disabled pursuant to subsection (3) and who was issued a permit to hunt from a vehicle for license year 2000 or a subsequent license year is automatically

entitled to a permit to hunt from a vehicle for subsequent license years if the criteria for obtaining a permit does not change.

(2) A resident of Montana who is certified as disabled by the department and who is not residing in an institution may purchase ~~regular resident deer and elk licenses at one half the fee paid by a resident who is 15 years of age or older and who is under 62 years of age~~ a Class A-3 deer A tag for \$6.50 and a Class A-5 elk tag for \$8. A person who has purchased a conservation license and a resident deer license or resident elk license for a particular license year and who is subsequently certified as disabled is entitled to a refund for the deer license or elk license previously purchased and reissuance of the license for that license year at the rate established in this subsection.

(3) A person may be certified as disabled by the department and issued a permit to hunt from a vehicle, on a form prescribed by the department, if the person establishes one or more of the disabilities pursuant to subsection (8). The department shall adopt rules to establish a voluntary board or boards of review to resolve any disputes over whether a person meets the criteria established in subsection (8). Each board must have at least one Montana-licensed physician as a member.

(4) A person with a disability carrying a permit to hunt from a vehicle, referred to in this subsection as a permitholder, may hunt by shooting a firearm from the shoulder, berm, or barrow pit right-of-way of a public highway, as defined in 61-1-202, except a state or federal highway, or may hunt by shooting a firearm from within a self-propelled or drawn vehicle that is parked on a shoulder, berm, or barrow pit right-of-way in a manner that will not impede traffic or endanger motorists or that is parked in an area, not a public highway, where hunting is permitted. This subsection does not allow a permitholder to shoot across the roadway of any public highway or to hunt on private property without permission of the landowner. A permitholder must have a companion to assist in immediately dressing any killed game animal. The companion may also assist the permitholder by hunting a game animal that has been wounded by the permitholder when the permitholder is unable to pursue and kill the wounded game animal. Any vehicle from which a permitholder is hunting must be conspicuously marked with an orange-colored international symbol of persons with disabilities on the front, rear, and each side of the vehicle, or as prescribed by the department.

(5) (a) A resident of Montana who is certified by the department as experiencing blindness, as defined in 53-7-301, may be issued a lifetime fishing license for the blind upon payment of a one-time fee of \$10. The license is valid for the lifetime of the blind individual and allows the licensee to fish as authorized by department rule. An applicant for a license under this subsection need not obtain a wildlife conservation license as a prerequisite to licensure.

(b) A person who is certified by the department as experiencing blindness, as defined in 53-7-301, may be issued regular resident deer and elk licenses in the manner provided in subsection (2); and must be accompanied by a companion, as provided in subsection (4).

(6) The department shall adopt rules to establish the qualifications that a person must meet to be a companion and may adopt rules to establish when a companion can be a designated shooter for a disabled person.

(7) As used in this section, "disabled person", "person with a disability", or "disabled" means or refers to a person experiencing a condition medically

determined to be permanent and substantial and resulting in significant impairment of the person's functional ability.

(8) A person is entitled to a permit to hunt from a vehicle if the person:

(a) is certified by a licensed physician to be dependent on an oxygen device or dependent on a wheelchair, crutch, or cane for mobility;

(b) is an amputee above the wrist or ankle; or

(c) is certified by a licensed physician to be unable to walk, unassisted, 600 yards over rough and broken ground while carrying 15 pounds within 1 hour and to be unable to handle and maneuver up to 25 pounds.

(9) Certification by a licensed physician under subsection (8) must be on a form provided by the department.

(10) A person who disagrees with a determination of eligibility for a permit to hunt from a vehicle may request a review by a voluntary board of review pursuant to subsection (3)."

**Section 19.** Section 87-2-805, MCA, is amended to read:

**"87-2-805. Persons under eighteen years of age — youth combination sports license.** (1) Resident minors who are 12 years of age or older and under 15 years of age may fish and may hunt upland game and migratory game birds during the open season with only a conservation license. Resident minors who are 15 years of age may hunt migratory game birds with only a conservation license. Resident minors who are under 12 years of age may fish without a license. A nonresident person under 15 years of age may not fish in or on any Montana waters without first having obtained a Class B, B-4, or B-5 fishing license unless the nonresident person under 15 years of age is in the company of an adult in possession of a valid Montana fishing license. The limit of fishing for the nonresident person and the accompanying adult combined may not exceed the limit for one adult as established by law or by rule of the department.

(2) A resident, as defined by 87-2-102, *who is 12 years of age or older and under 15 years of age may purchase a Class A-3 deer A tag for \$6.50 and a Class A-5 elk tag for \$8 licenses at a price equal to one half the fee paid by a resident who is 15 years of age or older and under 62 years of age.*

(3) (a) A resident who is 12 years of age or older and under 18 years of age may purchase a youth combination sports license ~~at a price that, rounded to the nearest dollar, is 46% of the fee paid for the Class AAA combination sports license by a resident who is 18 years of age or older and under 62 years of age for \$25.~~ A resident who is 12 years of age or older and under 18 years of age and who applies for any hunting license for the first time is entitled to receive a youth combination sports license free of charge.

(b) The youth combination sports license includes:

(i) a conservation license;

(ii) a fishing license;

(iii) an upland game bird license;

(iv) an elk license; and

(v) a deer license.

(c) A resident who is 15 years of age or older and under 18 years of age may purchase a Class A fishing license ~~at a price that is 50% of the fee paid by a resident who is 18 years of age or older and under 62 years of age for \$8.~~

(d) A resident who is 15 years of age or older and under 18 years of age may purchase a Class A-1 upland game bird license ~~at 50% of the fee paid by a resident who is 18 years of age or older and under 62 years of age for \$3.~~

(e) A person who lawfully purchases or is granted a free youth combination sports license at 17 years of age, but who reaches 18 years of age during that license year, may legally use the license during that license year. A person who hunts or fishes using a youth combination sports license purchased or granted free after the person reaches 18 years of age is guilty of a misdemeanor and shall be subject to any of the following penalties by the sentencing court:

(i) revocation of the person's hunting and fishing privileges for at least 5 years, revocation of the person's hunting and fishing privileges for more than 5 years, or revocation of the person's hunting and fishing privileges for life; and

(ii) a monetary fine of not less than \$500 and not more than \$5,000 in addition to the fine imposed on a person under this chapter for the specific hunting or fishing violation.

(f) This section does not prohibit a resident minor from purchasing any individual licenses for which the minor may be eligible under this chapter if the minor does not purchase the youth combination sports license."

**Section 20. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 87, chapter 2, part 8, and the provisions of Title 87, chapter 2, part 8, apply to [section 1].

**Section 21. Coordination instruction.** If House Bill No.79 is not passed and approved, then 87-2-504 must be amended to read:

**"87-2-504. (Temporary) Class B-7 and B-8—nonresident deer licenses.** (1) (a) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and is a holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to the limitations prescribed by law and department regulation, be entitled to apply to the fish, wildlife, and parks office, Helena, Montana, to purchase one each of the following licenses:

(i) Class B-7, deer A tag, \$250;

(ii) Class B-8, deer B tag, \$75.

(b) The license entitles a holder who is 12 years of age or older to hunt the game animal or animals authorized by the license and to possess the carcasses of those animals as authorized by commission rules.

(2) Unless purchased as part of a Class B-10 or Class B-11 license, a Class B-7 license may be assigned for use in a specific administrative region or regions or a portion of a specific administrative region or regions or in a specific hunting district or districts or a portion of a specific hunting district or districts. If purchased as part of a Class B-10 or Class B-11 license, the Class B-7 license is valid throughout the state, except as provided in 87-2-512(1)(d). Not more than 5,000 Class B-7 licenses may be sold in any license year.

(3) The commission may prescribe the use of and set quotas for the sale of Class B-8 licenses by hunting districts, portions of a hunting district, groups of districts, or administrative regions. (Terminates March 1, 2006—secs. 1, 2, Ch. 241, L. 1993.)

**87-2-504. (Effective March 1, 2006) Class B-7 and B-8—nonresident deer licenses.** (1) (a) Except as otherwise provided in this chapter, a person

who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued and is a holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to the limitations prescribed by law and department regulation, be entitled to apply to the fish, wildlife, and parks office, Helena, Montana, to purchase one each of the following licenses:

- (i) Class B-7, deer A tag, \$250;
- (ii) Class B-8, deer B tag, \$75.

(b) The license entitles a holder who is 12 years of age or older to hunt the game animal or animals authorized by the license and to possess the carcasses of those animals as authorized by commission rules.

(2) Unless purchased as part of a Class B-10 or Class B-11 license, a Class B-7 license may be assigned for use in a specific administrative region or regions or a portion of a specific administrative region or regions or in a specific hunting district or districts or a portion of a specific hunting district or districts. If purchased as part of a Class B-10 or Class B-11 license, the Class B-7 license is valid throughout the state, except as provided in 87-2-512(1)(d). *Not more than 5,000 Class B-7 licenses may be sold in any license year.*

(3) The commission may prescribe the use of and set quotas for the sale of Class B-8 licenses by hunting districts, portions of a hunting district, groups of districts, or administrative regions.”

**Section 22. Effective date.** [This act] is effective March 1, 2006.

Approved May 6, 2005

## CHAPTER NO. 586

[HB 177]

AN ACT GENERALLY REVISING ELECTION LAWS; CLARIFYING HOW RETENTION AND DESTRUCTION SCHEDULES ARE SET FOR ELECTION MATERIALS; CLARIFYING NOTICE PROCEDURES FOR THE CLOSE OF REGISTRATION; CLARIFYING PROVISIONS GOVERNING CANCELLATION OF AN ELECTOR'S REGISTRATION; CHANGING THE TIMEFRAME FOR REQUIRING NEW REGISTRATION AFTER A CHANGE OF RESIDENCE BEFORE AN ELECTION; CLARIFYING THAT A CANDIDATE MAY NOT FILE FOR MORE THAN ONE PUBLIC OFFICE; CLARIFYING HOW WRITE-IN VOTES ARE COUNTED; CLARIFYING WHEN A PRIMARY BALLOT DOES NOT NEED TO BE PREPARED; PROVIDING THAT A DECLARATION OF INTENT NEED NOT BE FILED FOR A WRITE-IN VOTE TO COUNT UNDER CERTAIN CIRCUMSTANCES; REVISING CHALLENGES OF AN ELECTOR'S RIGHT TO VOTE; CLARIFYING PROCEDURES FOR COUNTING VOTES WHENEVER A VOTING SYSTEM ERROR IS SUSPECTED DURING A VOTE COUNT; CLARIFYING COUNT AND RECOUNT PROCEDURES FOR PAPER AND NONPAPER BALLOTS; REVISING WHEN FEDERAL ABSENTEE BALLOTS MAY BE RECEIVED AND COUNTED; CLARIFYING THE TIMEFRAME FOR THE REQUISITION OF THE PRINTING AND DISTRIBUTION OF THE VOTER INFORMATION PAMPHLET; AND AMENDING SECTIONS 13-1-303, 13-2-301, 13-2-402, 13-2-514, 13-10-201, 13-10-204, 13-10-209, 13-10-211, 13-10-302, 13-13-212, 13-13-301, 13-14-112,

13-14-113, 13-15-107, 13-15-111, 13-15-206, 13-16-412, 13-16-414, 13-17-211, 13-21-206, AND 13-27-410, MCA.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Handling voting system error during count.** (1) During a count of paper or nonpaper ballots in which votes are being automatically tabulated by a voting system, if the election administrator or counting board has reason to believe that the voting system is not operating correctly, the count must be halted and the system must be tested in accordance with rules adopted by the secretary of state pursuant to 13-17-211.

(2) If the test does not show any errors, the count must proceed using the voting system.

(3) If the test shows errors and the errors cannot be corrected or if a majority of the counting board agrees that the system may not be functioning correctly:

(a) votes cast on paper ballots must be counted manually in accordance with 13-15-206(2);

(b) votes cast on a nonpaper ballot must be counted as provided in rules adopted under 13-17-211.

**Section 2.** Section 13-1-303, MCA, is amended to read:

**“13-1-303. Disposition of ballots and other election materials.** (1) The voted ballots, detached stubs, unvoted ballots, and unused ballots from an election must be kept in the unopened packages received from the election judges for a period of 12 months. The packages may be opened only when an order for opening is given by the proper official for a recount procedure. After 12 months, if there is no contest begun, recount pending, or appeal of a decision relating to a contest or recount, an election administrator may dispose of the ballots ~~according to a plan approved by the secretary of state as provided in subsection (2).~~

~~(2) The secretary of state, in consultation with the state records committee, shall prepare a suggested plan for retention and destruction of all other election records. Each election administrator shall prepare a plan for retention and destruction of election records in the county and shall submit it to the secretary of state for approval. After approval of a plan, records may be disposed of as provided in the plan according to the retention schedules established by the local government records committee provided for in 2-6-402.”~~

**Section 3.** Section 13-2-301, MCA, is amended to read:

**“13-2-301. Close of registration — procedure.** (1) The election administrator shall:

(a) close registrations for 30 days before any election; and

(b) publish a notice specifying the day registrations will close on radio or television as provided in 2-3-105 through 2-3-107 or in a newspaper of general circulation in the county at least ~~once a week for 3~~ *three times in the 4 weeks before preceding* the close of registration. *The provisions of this subsection (1)(b) are fulfilled upon the third publication.*

(2) Information to be included in the notice must be prescribed by the secretary of state.

(3) An individual who submits a completed registration form to the election administrator before the deadline provided in subsection (1)(a) is allowed to

correct a mistake on the completed registration form until 5 p.m. on the 10th day following the close of registration, and the qualified elector is then eligible to vote in the next election.”

**Section 4.** Section 13-2-402, MCA, is amended to read:

**“13-2-402. Reasons for cancellation.** The election administrator shall cancel the registration of an elector *if*:

(1) ~~at the elector submits a written request of the registered elector for cancellation;~~

(2) ~~if a certificate of the death of the elector is filed or if the elector is reported to the election administrator as deceased by the department of public health and human services in the department’s reports submitted to the county under 50-15-409 or through a newspaper obituary;~~

(3) ~~if the elector is of unsound mind as established by a court;~~

(4) ~~if the incarceration of the elector in a penal institution for a felony conviction is legally established;~~

(5) ~~if a certified copy of a court order directing the cancellation is filed with the election administrator;~~

~~(6) if the elector is successfully challenged and not allowed to vote at an election upon determination of an election judge;~~

~~(7)(6) if a notice is received from the secretary of state or from another county or state that the elector has registered in another county or state; or~~

~~(8)(7) if the elector fails to respond to certain confirmation mailings and fails to vote in two consecutive federal general elections; or~~

~~(8) the elector fails to meet any voter qualification that is listed in 13-1-111.”~~

**Section 5.** Section 13-2-514, MCA, is amended to read:

**“13-2-514. Change of residence to another county.** (1) An elector who changes residence to a different county within this state shall register in the new county of residence in order to vote in any election unless the change occurs less than ~~45~~ 30 days before the election.

(2) An elector who changes residence to a different county ~~45~~ 30 days or less before an election may vote in person or by absentee ballot in the precinct and county where previously registered.

(3) The registration information of an elector who votes under the provisions of subsection (2) must be updated in the statewide voter registration list after the election pursuant to rules adopted under 13-2-108.”

**Section 6.** Section 13-10-201, MCA, is amended to read:

**“13-10-201. Declaration for nomination.** (1) Each candidate in the primary election, except nonpartisan candidates filing under the provisions of chapter 14, shall file a declaration for nomination with the secretary of state or election administrator. A candidate may not file for more than one *public* office. Each candidate for governor shall file a joint declaration for nomination with a candidate for lieutenant governor.

(2) A declaration for nomination must be filed in the office of:

(a) the secretary of state for placement of a name on the ballot for the presidential preference primary, a congressional office, a state or district office

to be voted for in more than one county, a member of the legislature, or a judge of the district court;

(b) the election administrator for a county, municipal, precinct, or district office (other than a member of the legislature or judge of the district court) to be voted for in only one county.

(3) Each candidate shall sign the declaration and send with it the required filing fee or, in the case of an indigent candidate, send with it the documents required by 13-10-203. The declaration for nomination must be acknowledged by an officer empowered to acknowledge signatures or by the officer of the office at which the filing is made.

(4) The declaration, when filed, is conclusive evidence that the elector is a candidate for nomination by the elector's party. For a partisan election, an elector may not file a declaration for more than one party's nomination.

(5) (a) The declaration for nomination must be in the form and contain the information prescribed by the secretary of state.

(b) A person seeking nomination to the legislature shall provide the secretary of state with a street address, legal description, or road designation to indicate the person's place of residence. If a candidate for the legislature changes residence, the candidate shall, within 15 days after the change, notify the secretary of state on a form prescribed by the secretary of state.

(c) The secretary of state and election administrator shall furnish declaration for nomination forms to individuals requesting them.

(6) Declarations for nomination must be filed no sooner than 135 days before the election in which the office first appears on the ballot and no later than 5 p.m., 75 days before the date of the primary election.

(7) A declaration for nomination form may be sent by facsimile transmission; if a facsimile facility is available for use by the election administrator or by the secretary of state, delivered in person, or mailed to the election administrator or to the secretary of state."

**Section 7.** Section 13-10-204, MCA, is amended to read:

**"13-10-204. Write-in nominations.** An individual nominated by having the individual's name written in *and counted as provided in 13-15-206(5)* or otherwise placed on the primary ballot and desiring to accept the nomination may not have the individual's name appear on the general election ballot unless the individual:

(1) files with the secretary of state or election administrator, no later than 10 days after the official canvass, a written declaration indicating acceptance of the nomination;

(2) pays the required filing fee or, if indigent, complies with 13-10-203;

(3) received at least 5% of the total votes cast for the successful candidate for the same office at the last general election; and

(4) complies with the provisions of 13-37-126."

**Section 8.** Section 13-10-209, MCA, is amended to read:

**"13-10-209. Arrangement and preparing of primary ballots.** (1) (a) Ballots for a primary election must be arranged and prepared in the same manner and number as provided in chapter 12 for general election ballots, except *that* there must be separate ballots for each political party entitled to

participate. The name of the political party must appear at the top of the separate ballot for that party and need not appear opposite each candidate's name.

(b) Nonpartisan offices and ballot issues may be prepared on separate ballots or may appear on the same ballot as partisan offices if:

- (i) each section is clearly identified as separate;
- (ii) the nonpartisan offices and ballot issues appear on each party's ballot; and
- (iii) with respect to ballot issues, written approval is obtained as provided in 13-27-502.

(2) An election administrator does not need to prepare a primary ballot for a political party if:

(a) the party does not have candidates for more than half of the offices to appear on the ballot; ~~and~~ or

(b) no more than one candidate files for nomination by that party for any of the offices to appear on the ballot.

(3) If, pursuant to subsection (2), a primary ballot for a political party is not prepared, the secretary of state shall certify that a primary election is unnecessary for that party and shall instruct the election administrator to certify the names of the candidates for that party for the general election ballot only.

(4) The separate ballots for each party must have the same appearance. Each set of party ballots must bear the same number. If prepared as a separate ballot, the nonpartisan ballot must have a different appearance than the party ballots but must be numbered in the same order as the party ballots.

(5) If a ballot issue is to be voted on at a primary election, it may be placed on the nonpartisan ballot or a separate ballot. A separate ballot may have a different appearance than the other ballots in the election but must be numbered in the same order.

(6) Each elector must receive a set of ballots that includes the party, nonpartisan, and ballot issue choices."

**Section 9.** Section 13-10-211, MCA, is amended to read:

**"13-10-211. Declaration of intent for write-in candidates.** (1) *Except as provided in subsection (7), a person seeking to become a write-in candidate for an office in any election shall file a declaration of intent. The declaration of intent must be filed with the secretary of state or election administrator, depending on where a declaration of nomination for the desired office is required to be filed under 13-10-201, or with the school district clerk for a school district office. Except as provided in subsections (2) and (3), the declaration must be filed no later than 5 p.m. on the 15th day before the election and must contain:*

- (a) (i) the candidate's first and last names;
- (ii) the candidate's initials, if any, used instead of a first name, or first and middle name, and the candidate's last name;
- (iii) the candidate's nickname, if any, used instead of a first name, and the candidate's last name; and
- (iv) a derivative or diminutive name, if any, used instead of a first name, and the candidate's last name;

(b) the candidate's mailing address;

(c) a statement declaring the candidate's intention to be a write-in candidate;

(d) the title of the office sought;

(e) the date of the election;

(f) the date of the declaration; and

(g) the candidate's signature.

(2) A declaration of intent may be filed after the deadline provided for in subsection (1) but no later than 5 p.m. on the day before the election if, after the deadline prescribed in subsection (1), a candidate for the office that the write-in candidate is seeking:

(a) dies;

(b) withdraws from the election; or

(c) is charged with a felony offense.

(3) A person seeking to become a write-in candidate for a trustee position on a school board shall file a declaration of intent no later than 5 p.m. on the 26th day before the election.

(4) The secretary of state shall notify each election administrator of the names of write-in candidates who have filed a declaration of intent with the secretary of state. Each election administrator and school district clerk shall notify the election judges in the county or district of the names of write-in candidates who have filed a declaration of intent.

(5) A declaration of intent may be sent by facsimile transmission, if a facsimile facility is available for use by the election administrator or by the secretary of state, delivered in person, or mailed to the election administrator or to the secretary of state.

(6) A declaration is not valid until the filing fee required pursuant to 13-10-202 is received by the secretary of state or the election administrator.

(7) *The requirements in subsection (1) do not apply if:*

(a) *an election is held;*

(b) *a person's name is written in on the ballot;*

(c) *the person is qualified for and seeks election to the office for which the person's name was written in; and*

(d) *no other candidate has filed a declaration or petition for nomination or a declaration of intent."*

**Section 10.** Section 13-10-302, MCA, is amended to read:

**"13-10-302. Write-in votes for previously nominated candidates.** (1) Subject to subsection (2), if an elector casts a write-in vote for a candidate on a primary party ballot when the candidate's name also appears for the same office on another party's ballot, the write-in vote counts only with respect to the party on whose ballot the write-in vote was cast and the write-in votes and the votes cast for the candidate on the other party's ballots may not be added together.

(2) A write-in vote ~~may must~~ be counted ~~only if the vote identifies the individual by any of the designations filed pursuant to 13-10-211(1)(a)(i) through (1)(a)(iv) as provided in 13-15-206(5)."~~

**Section 11.** Section 13-13-212, MCA, is amended to read:

**“13-13-212. Application for absentee ballot — special provisions.** (1) An elector may apply for an absentee ballot; ~~by using only~~ a standardized form provided by rule by the secretary of state; ~~or~~ by making a written request, which must include the applicant’s birth date and must be signed by the applicant. The request must be submitted to the election administrator of the applicant’s county of residence within the time period specified in 13-13-211.

(2) (a) If an elector requests an absentee ballot because of a sudden illness or health emergency, the application for an absentee ballot may be made by written request signed by the elector at the time that the ballot is delivered in person by the special absentee election board provided for in 13-13-225.

(b) The elector may request by telephone, facsimile transmission, or other means to have a ballot and application personally delivered by the special absentee election board at the elector’s place of confinement, hospitalization, or residence within the county.

(c) A request under this subsection (2) must be received by the election administrator within the time period specified in 13-13-211(2).

(3) An elector who has made a request for an absentee ballot by one of the methods provided in this section may, in the event of the death of a candidate after the primary election but before the general election, make a request for a replacement ballot. The request for a replacement ballot may be made orally to the election administrator.”

**Section 12.** Section 13-13-301, MCA, is amended to read:

**“13-13-301. Challenges ~~on election day~~.** (1) An elector’s right to vote may be challenged ~~on election day at any time~~ by any registered elector by ~~orally~~ *the challenger filling out and signing an affidavit stating the grounds of the challenge and providing any evidence supporting the challenge to the election administrator or, on election day, to an election judge* ~~judge the grounds of the challenge~~.

(2) ~~An individual offering to vote may be orally challenged by any elector of the county upon the following~~ *A challenge may be made on the grounds that the elector:*

(a) ~~that the elector~~ is of unsound mind, as determined by a court;

(b) ~~that the elector~~ has voted before in that election; ~~or~~

(c) ~~that the elector~~ has been convicted of a felony and is serving a sentence in a penal institution;

(d) *is not registered as required by law;*

(e) *is not 18 years of age or older;*

(f) *has not been, for at least 30 days, a resident of the county in which the elector is offering to vote; or*

(g) *is a provisionally registered elector whose status has not been changed to a legally registered voter.*

~~(3) An elector challenged under this section may cast a provisional ballot, which must be handled as a provisional ballot under 13-15-107.~~

(3) *When a challenge has been made under this section:*

(a) *prior to the close of registration under 13-2-301, the election administrator shall question the challenger and the challenged elector and may*

question other persons to determine whether the challenge is sufficient or insufficient to cancel the elector's registration under 13-2-402; or

(b) after the close of registration or on election day, the election administrator or, on election day, the election judge shall allow the challenged elector to cast a provisional paper ballot, which must be handled as provided in 13-15-107.

(4) (a) In response to a challenge, the challenged elector may fill out and sign an affidavit to refute the challenge and swear that the elector is eligible to vote.

(b) If the challenge was not made in the presence of the elector being challenged, the election administrator or election judge shall notify the challenged elector as soon as possible of who made the challenge and the grounds of the challenge and explain what information the elector may provide to respond to the challenge. The election administrator or, on election day, the election judge shall also provide to the challenged elector a copy of the challenger's affidavit and any supporting evidence provided. If the challenge is made more than 5 days before an election, "as soon as possible", as used in this subsection (4)(b), means no later than 5 days after the challenge.

(5) The secretary of state shall adopt rules to implement the provisions of this section and shall provide standardized affidavit forms for challengers and challenged electors."

**Section 13.** Section 13-14-112, MCA, is amended to read:

**"13-14-112. Declarations for nomination — fee.** (1) Nonpartisan candidates shall file declarations for nomination as required by the primary election laws in a form prescribed by the secretary of state except as provided in 13-14-113. A candidate may not file for more than one *public* office.

(2) Declarations may not indicate political affiliation. The candidate may not state in the declaration any principles or measures that the candidate advocates or any slogans.

(3) Each individual filing a declaration shall pay the fee prescribed by law for the position that the individual seeks.

(4) Declarations must be filed in the office of the secretary of state or the appropriate election administrator as provided in 13-10-201. Time of filing must be the same as provided in 13-10-201."

**Section 14.** Section 13-14-113, MCA, is amended to read:

**"13-14-113. Filing for offices without salary or fees.** (1) Candidates for nonpartisan offices for which a salary or fees are not paid shall file with the appropriate official a petition for nomination containing the same information and the oath of the candidate required for a declaration of nomination in a form prescribed by the secretary of state.

(2) The petition must contain the signatures of registered electors of the election district in which the office will be on the ballot. The number of signatures must be equal to 5% of the total vote cast for the successful candidate for that office at the last general election, but may not be less than five signatures.

(3) The number of signatures necessary for a petition for nomination for an office not previously on the ballot or for which the election district boundaries have changed since the last general election must be determined by the secretary of state.

(4) Petitions for nomination must be filed at the same time provided in 13-10-201 for other candidates and offices.

(5) A candidate may not file for more than one *public* office.”

**Section 15.** Section 13-15-107, MCA, is amended to read:

**“13-15-107. Handling and counting provisional and challenged ballots.** (1) To verify eligibility to vote, an elector who casts a provisional ballot in person shall provide information to the election administrator as listed below:

(a) present in person at the office of the election administrator by 5 p.m. on the day after the election a photo identification or other identifying document as described in 13-13-114(1)(a);

(b) send by facsimile or electronic mail by 5 p.m. on the day after the election a copy or scanned document that meets the identification requirements of 13-13-114(1)(a); ~~or~~

(c) mail a copy or nonreturnable original document described in 13-13-114(1)(a) in a self-addressed return envelope provided by the election administrator. If the elector mails a document, the postmark on the envelope must be for the day of the election or the day following the election.

(d) *if applicable, the information to respond to a challenge under 13-13-301.*

(2) The election administrator shall determine prior to an election whether an absentee voter has provided sufficient identification to allow a ballot to be counted. If the information is insufficient, the election administrator shall follow procedures described in 13-13-241 to allow an absentee elector who failed to provide proper identifying information in the outer return envelope to verify eligibility to vote. An absentee elector whose ballot is determined to be provisional has until 5 p.m. on the day after the election to provide valid identification information either in person, by facsimile, by electronic mail, or by mail postmarked on the day of the election or the day after the election.

(3) A provisional ballot must be counted if the election administrator verifies the elector’s eligibility pursuant to rules adopted under 13-13-603. However, a provisional ballot may not be counted if the election administrator cannot verify the elector’s eligibility under the rules. *If the ballot is provisional because of a challenge and the challenge was made on the grounds that the elector is of unsound mind or serving a felony sentence in a penal institution, the elector’s provisional ballot must be counted unless the challenger provides documentation by 5 p.m. the day after the election that a court has established that the elector is of unsound mind or that the elector has been convicted and sentenced and is still serving a felony sentence in a penal institution.*

(4) The election administrator shall provide an elector who cast a provisional ballot but whose ballot was not counted with the reasons why the ballot was not counted.

(5) A provisional ballot cast by an elector whose voter information is verified before 5 p.m. on the day after the election must be removed from its provisional envelope, grouped with other ballots in a manner that allows for the secrecy of the ballot to the greatest extent possible, and counted as any other ballot.”

**Section 16.** Section 13-15-111, MCA, is amended to read:

**“13-15-111. Write-in elections — general election.** (1) An individual elected by having the individual’s name written in at the general election and receiving the largest number of votes *counted as provided in 13-15-206(5)* shall:

(a) file with the secretary of state or election administrator, not later than 10 days after the official canvass, a written declaration indicating the individual's acceptance of the position for which elected;

(b) comply with the provisions of 13-37-225; and

(c) pay the required filing fee or, if indigent, comply with 13-10-203.

(2) If an individual fails to comply with the requirements in subsection (1), the individual may not assume the position for which elected."

**Section 17.** Section 13-15-206, MCA, is amended to read:

**"13-15-206. Counting votes — uniformity — rulemaking — definitions.** (1) When conducting vote counts as provided by law, a counting board, absentee ballot counting board, or recount board shall count and determine the validity of each vote in a uniform manner as provided in this section.

(2) A manual count *or recount* of votes cast on a paper ballot must be conducted as follows:

(a) One election judge on the board shall read the ballot while the two other judges on the board shall each record on an official tally sheet the number of valid votes cast for each individual or ballot issue. Write-in votes must be counted in accordance with rules adopted pursuant to subsection ~~(7)~~ (7). If a vote has not been cast according to instructions, *the vote must be considered questionable and the entire ballot must be set aside and counted as provided in subsection (4) entire ballot must be set aside and votes on the ballot must be handled as provided in subsection (4).*

(b) (i) After the vote count is complete, the tally sheets of the two judges recording the votes must be compared.

(ii) If the two tallies match, the judges shall record in the pollbook:

(A) the names of all individuals who received votes;

(B) the offices for which individuals received votes;

(C) the total votes received by each individual as shown by the tally sheets; and

(D) the total votes received for or against each ballot issue, if any.

(iii) If the tallies do not match, the count must be conducted again as provided in this subsection (2) until the two tallies match.

(3) (a) ~~Except as provided in subsection (3)(b)~~ (b) *When a voting system is tabulating a vote cast on a nonpaper ballot:*

(i) if a vote ~~on a paper ballot or nonpaper ballot~~ is recognized and counted by the system, it is a valid vote;

(ii) if a vote ~~on a paper ballot or nonpaper ballot is not recognized and counted by the system~~ *is not recognized and counted by the system*, it is not a valid vote;

(iii) write-in votes must be counted in accordance with rules adopted pursuant to subsection ~~(7)~~ (7).

(b) ~~(i) If a paper ballot being counted by a voting system is rejected by the system or if the system records an overvote or undervote on a ballot, the ballot must be set aside and counted as provided in subsection (4). When a voting system is tabulating a vote cast on a paper ballot:~~

(i) *if the voting system recognizes and counts the vote, it is a valid vote;*

(ii) if the voting system cannot process the ballot because of the ballot's condition or if the voting system registers an overvote or undervote, which must be considered a questionable vote, the entire ballot must be set aside and the votes on the ballot must be counted as provided in subsection (4).

~~(ii)(c)~~ If an election administrator ~~determines~~ or counting board has reason to believe that a voting system is not functioning correctly, the election administrator shall follow the procedures prescribed in ~~13-16-414~~ [section 1].

~~(e)(d)~~ After all valid votes have been counted and totaled pursuant to ~~subsection (4) and subsection (4)~~ and this subsection (3), the judges shall record in the pollbook the information specified in subsection (2)(b)(ii).

~~(4) (a)~~ Each questionable vote on a paper ballot set aside under subsection (2)(a) or (3)(b) must be counted if the voter's intent can be clearly determined and agreed upon by a majority of the election judges on the counting board in accordance with rules adopted pursuant to subsection (7).

~~(b)~~ After each questionable vote on a ballot set aside under subsection (2)(a) or (3)(b) has been determined to be a valid vote, an invalid vote, or an intentional nonvote, the valid votes must be counted manually or automatically tabulated by the voting system. If the votes are to be counted manually, the votes must be tallied as provided in subsection (2). If the votes are to be counted using a voting system, all valid votes must be transferred to a ballot that will be accepted by the voting system and tabulated as provided in subsection (3).

~~(c)~~ Votes counted pursuant to this subsection (4) and the votes initially counted under subsections (2) and (3) must be totaled.

(4) (a) (i) Before being counted, each questionable vote on a paper ballot set aside under subsection (2)(a) or (3)(b) must be reviewed by the counting board. The counting board shall evaluate each questionable vote according to rules adopted by the secretary of state.

(ii) If a majority of the counting board members agree that under the rules the voter's intent can be clearly determined, the vote is valid and must be counted according to the voter's intent.

(iii) If a majority of the counting board members do not agree that the voter's intent can be clearly determined under the rules, the vote is not valid and may not be counted.

(b) If a ballot was set aside under subsection (3)(b) because it could not be processed by the voting system due to the ballot's condition, the counting board shall transfer all valid votes to a new ballot that can be processed by the voting system.

~~(5)(5)~~ A write-in vote may be counted ~~only~~ if:

(a) the write-in vote identifies an individual by a designation filed pursuant to 13-10-211(1)(a); or

(b) pursuant to 13-10-211(7), a declaration of nomination was not filed and the write-in vote identifies an individual who is qualified for the office.

~~(6)(6)~~ A vote is not valid and may not be counted if the elector's choice cannot be determined as provided in this section.

~~(7)(7)~~ The secretary of state shall adopt rules defining a valid vote and a valid write-in vote for each type of ballot and for each type of voting system used in the state. The rules must provide a sufficient guarantee that all votes are

treated equally among jurisdictions using similar ballot types and voting systems.

~~(8)~~(8) Local election administrators shall adopt policies to govern local processes that are consistent with the provisions of this title and that provide for:

- (a) the security of the counting process against fraud;
- (b) the place and time and public notice of each count or recount;
- (c) public observance of each count or recount, including observance by representatives authorized under 13-16-411;
- (d) the recording of objections to determinations on the validity of an individual vote or to the entire counting process; and
- (e) the keeping of a public record of count or recount proceedings.

~~(9)~~(9) For purposes of this section:

(a) "overvote" means an elector's vote that has been interpreted by the voting system as an elector casting more votes than allowable for a particular office or ballot issue; and

(b) "undervote" means an elector's vote that has been interpreted by the voting system as a nonvote."

**Section 18.** Section 13-16-412, MCA, is amended to read:

**"13-16-412. Procedure for recounting *paper* ballots.** (1) To conduct a recount of paper ballots:

~~(a)~~(1) the election administrator shall provide to the recount board, unopened, each sealed package or envelope received from the election judges of the precinct or precincts in which a recount is ordered, containing all the paper ballots voted in the precinct or precincts;

~~(b)~~(2) a member of the recount board shall open each sealed package or envelope and remove the ballots, and the board shall count the votes on each ballot *manually* in the manner provided in 13-15-206(2); and

~~(c)~~(3) the recount must be tallied on previously prepared tally sheets. The tally sheets must show the names of the respective candidates, the office or offices for which a recount is made, and the number of each election precinct.

~~(2) To prepare for a recount of ballots cast using a nonpaper-based voting system, the election administrator and election judges shall proceed as provided in rules adopted pursuant to 13-17-211 and the recount board shall conduct the recount as provided in 13-16-414."~~

**Section 19.** Section 13-16-414, MCA, is amended to read:

**"13-16-414. Recount of votes ~~using voting system on nonpaper ballot.~~** (1) ~~(a)~~ Before a voting system may be used to automatically recount votes cast on a nonpaper ballot, the ~~election administrator or~~ recount board shall test the ~~automatic tabulating voting system~~ equipment in accordance with rules adopted pursuant to 13-17-211.

~~(b)~~(2) If the test does not show any errors, the votes cast for the candidates or on the issues for which a recount is ordered must be recounted by the ~~tabulating equipment~~ voting system as provided in 13-15-206(3)(a).

~~(c)~~~~(i)~~(3) (a) If any errors are found in the test or if any questions remain as to the accuracy of the voting system, the board shall have the system checked by a

qualified individual who did not participate in the original preparation of the system.

~~(ii)(b)~~ If the errors are corrected, the recount must proceed as provided in 13-15-206(3)(a).

~~(iii)(c)~~ If the errors are not corrected, the recount must be conducted ~~as provided in subsection (3)~~ *subject to rules adopted for the system under 13-17-211.*

~~(2)~~ The board may order a recount, which must be conducted as provided in subsection (3), if the board unanimously agrees that a recount is necessary to resolve all questions relating to the election.

~~(3) (a)~~ A recount of paper ballots under this subsection (3) must be conducted manually as provided in 13-15-206(2).

~~(b)~~ A recount of ballots cast using a nonpaper based system must be conducted as provided in rules adopted under 13-17-211.”

**Section 20.** Section 13-17-211, MCA, is amended to read:

**“13-17-211. Uniform procedures for using voting systems.** (1) For each voting system approved under 13-17-101, the secretary of state shall adopt rules specifying the procedures to be uniformly applied in elections conducted with the voting system.

(2) The rules must, at a minimum, specify procedures that address the following:

(a) performance certification under 13-17-212;

(b) how electors ensure the proper disposition of a ballot pursuant to 13-13-117(2);

(c) the process to be used to prepare for a vote count under 13-10-311(3) and 13-15-201(2) for nonpaper ballots so that election judges can determine the total number of electors voting in the election compared to the total number of ballots cast;

(d) the procedures to be followed if the comparison under 13-15-206(2)(b) reveals discrepancies;

~~(e) recount procedures under 13-16-412(2);~~

~~(f) voting system tests to correct discrepancies under 13-16-414(1)(a);~~

~~(g) what contingencies must be made for recounts pursuant to 13-16-414(3)(b);~~

*(e) how to operate and test the system during counts or recounts;*

~~(h)(f)~~ the security measures necessary to secure the voting system before, during, and after an election, including security following a recount under 13-16-417; and

~~(i)(g)~~ testing and certification of voting systems pursuant to 13-17-212.”

**Section 21.** Section 13-21-206, MCA, is amended to read:

**“13-21-206. Counting of federal write-in absentee ballots.** (1) A federal write-in absentee ballot received by an election administrator may be counted only if:

(a) a valid application was received *made by the elector* pursuant to 13-21-210;

(b) the election administrator has not received a regular absentee ballot from the elector by 8 p.m. on election day; and

(c) ~~if the ballot is received~~ *sent* by 8 p.m. on election day *and is received by 3 p.m. the Monday following the election.*

(2) Federal write-in absentee ballots received before the close of the polls on election day may not be counted until the polls have closed.

~~(3) A regular absentee ballot received from a United States elector after the polls close may not be counted."~~

**Section 22.** Section 13-27-410, MCA, is amended to read:

**"13-27-410. Printing and distribution of voter information pamphlet.** (1) ~~The~~ *At least 110 days before the election, the* secretary of state shall arrange with the department of administration by requisition for the printing and delivery of a voter information pamphlet for all ballot issues ~~to be submitted to the people at least 110 days before the election at which they will be submitted.~~ The requisition must include a delivery list providing for shipment of the required number of pamphlets to each county and to the secretary of state.

(2) The secretary of state shall estimate the number of copies necessary to furnish one copy to each voter in each county, except that two or more voters with the same mailing address and the same last name may be counted as one voter. The secretary of state shall provide for an extra supply of the pamphlets in determining the number of voter pamphlets to be ordered in the requisition.

(3) The department of administration shall call for bids and contract with the lowest bidder for the printing and delivery of the voter information pamphlet. The contract must require completion of printing and shipment, as specified on the delivery list, of the voter information pamphlets by not later than 45 days before the election at which the ballot issues will be voted on by the people.

(4) The county official responsible for voter registration in each county shall mail one copy of the voter information pamphlet to each registered voter in the county who is on the active voter list, except that two or more voters with the same mailing address and the same last name may be counted as one voter. The mailing label may include an address line that addresses the voter or the current resident. The mailing must take place no later than 30 days before the election.

(5) Ten copies of the voter information pamphlet must be available at each precinct for use by any voter wishing to read the explanatory information and complete text before voting on the ballot issues."

**Section 23. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 13, chapter 15, part 2, and the provisions of Title 13, chapter 15, part 2, apply to [section 1].

Approved May 6, 2005

## CHAPTER NO. 587

[HB 227]

AN ACT REVISING THE DELAYED PAYMENT OF PROPERTY TAXES WITHOUT PENALTY OR INTEREST BY A MEMBER OF THE MILITARY WHO IS ON ACTIVE DUTY OR HOSPITALIZED FOR DUTY-RELATED

INJURIES OR ILLNESS, INCLUDING MEMBERS OF THE NATIONAL GUARD AND ARMED FORCES RESERVES; CLARIFYING THE NOTIFICATION REQUIREMENT TO THE COUNTY TREASURER; AND AMENDING SECTIONS 10-1-606, 15-16-102, AND 15-24-202, MCA.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 10-1-606, MCA, is amended to read:

**“10-1-606. Suspension of property taxes for persons in military service.** (1) All taxes, whether on real or personal property, due on property owned by ~~any citizen a resident of the state of Montana in the active military or naval service of the United States shall, as defined by section 511 of the Servicemembers Civil Relief Act, 50 App. U.S.C. 511, as amended, while serving outside of Montana must be held in abeyance suspended; no proceedings~~ *Proceedings may not be taken for the collection thereof, of the taxes and no penalties or interests shall be added thereto until the expiration of the period of 1 year from and after the cessation of hostilities or discharge from military or naval service interest may not accrue until 1 year after the cessation of hostilities or 1 year after the taxpayer is released from active duty. If the taxpayer was wounded, injured, or suffered a disease while serving in a combat zone or participating in a contingency operation as described in 10 U.S.C. 101(a)(13) that is serious enough to require hospitalization, proceedings may not be taken and penalties or interest may not accrue until 1 year after the taxpayer’s release from the hospitalization.*

(2) ~~To obtain the benefits of this section, it shall be necessary for some person, on behalf of such person in the military or naval service, to the qualified taxpayer or a co-owner of the property or agent of the taxpayer shall file with the treasurer of the proper county an affidavit to the effect stating that the person against whom such the taxes are charged imposed is in such active military or naval service, which~~ *The affidavit must be filed at on or before the time when such that taxes would become delinquent, and upon the filing thereof the The county treasurer shall make a notation upon his records to the effect record that the collection of such the taxes is suspended on account because of the military or naval service of such the taxpayer. But nothing in this This section shall may not be so construed as to prevent such the county treasurer from receiving payment of any such taxes whenever offered.”*

**Section 2.** Section 15-16-102, MCA, is amended to read:

**“15-16-102. Time for payment — penalty for delinquency.** Unless suspended or canceled under the provisions of *10-1-606* or Title 15, chapter 24, part 17, all taxes levied and assessed in the state of Montana, except assessments made for special improvements in cities and towns payable under 15-16-103, are payable as follows:

(1) One-half of the taxes are payable on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, and one-half are payable on or before 5 p.m. on May 31 of each year.

(2) Unless one-half of the taxes are paid on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, the amount payable is delinquent and draws interest at the rate of 5/6 of 1% a month from and after the delinquency until paid and 2% must be added to the delinquent taxes as a penalty.

(3) All taxes due and not paid on or before 5 p.m. on May 31 of each year are delinquent and draw interest at the rate of 5/6 of 1% a month from and after the

delinquency until paid, and 2% must be added to the delinquent taxes as a penalty.

(4) (a) If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without penalty or interest on or before 5 p.m. of the next business day in accordance with 1-1-307.

(b) If taxes on property qualifying under the low-income property tax assistance provisions of 15-6-134(1)(c) and 15-6-191 are paid within 20 calendar days of the date on which the taxes are due, the taxes may be paid without penalty or interest. If a tax payment is made later than 20 days after the taxes were due, the penalty must be paid and interest accrues from the date on which the taxes were due.

(5) (a) A taxpayer may pay current year taxes without paying delinquent taxes. The county treasurer shall accept a partial payment equal to the delinquent taxes, including penalty and interest, for one or more full tax years if taxes for both halves of the current tax year have been paid. Payment of taxes for delinquent taxes must be applied to the taxes that have been delinquent the longest. The payment of taxes for the current tax year is not a redemption of the property tax lien for any delinquent tax year.

(b) A payment by a co-owner of an undivided ownership interest that is subject to a separate assessment otherwise meeting the requirements of subsection (5)(a) is not a partial payment.

(6) The penalty and interest on delinquent assessment payments for specific parcels of land may be waived by resolution of the city council. A copy of the resolution must be certified to the county treasurer.

(7) If the department revises an assessment that results in an additional tax of \$5 or less, an additional tax is not owed and a new tax bill does not need to be prepared.

(8) The county treasurer may accept a partial payment of centrally assessed property taxes as provided in 76-3-207.”

**Section 3.** Section 15-24-202, MCA, is amended to read:

**“15-24-202. Payment of tax — interest and penalty — display of tax-paid sticker.** (1) (a) The owner of a mobile home, manufactured home, or house trailer ~~which~~ *that* is not taxed as an improvement, as improvements are defined in 15-1-101, shall pay the personal property tax in two payments, except as provided in *10-1-606* or 15-24-206.

(b) The first payment is due on or before May 31 or within 30 days from the date of the notice of taxes due, whichever is later.

(c) The second payment is due no later than November 30 of the year in which the property is assessed.

(d) If not paid on or before the date due, the tax is considered delinquent and subject to the penalty and interest provisions in 15-16-102 applicable to other delinquent property taxes. The penalty must be assessed and interest begins to accrue on the first day of delinquency.

(2) Upon request, the treasurer shall notify a lienholder if taxes on a mobile home, manufactured home, or house trailer have not been paid.

(3) Taxes assessed against a mobile home or manufactured home after the second payment date must be prorated to reflect the remaining portion of the tax year. The prorated taxes must be added to the following year’s tax roll and,

except as provided in 15-24-206, are due with and must be collected with the first payment due in that year.

(4) The department of revenue shall issue tax-paid stickers to the county treasurers. Except as provided in 15-24-206 and 15-24-209, if a mobile home, manufactured home, or housetrailer is to be moved and all taxes, interest, and penalties on the mobile home or housetrailer are paid in full, the treasurer shall issue a tax-paid sticker to the owner of the mobile home, manufactured home, or housetrailer. Prior to and while in the process of moving the mobile home, manufactured home, or housetrailer, the owner shall display the tax-paid sticker, which must be visible from the exterior of the mobile home, manufactured home, or housetrailer. A mobile home or manufactured home movement declaration of destination provided for in 15-24-206 may not be issued unless:

- (a) the taxes have been paid in full to the county treasurer; or
- (b) the exceptions in 15-24-206(3) or 15-24-209 apply.

(5) On the movement of a mobile home, manufactured home, or housetrailer in violation of this part, the county treasurer for the county where the mobile home, manufactured home, or housetrailer first comes to rest shall issue a written notice to the owner, showing the amount of delinquent taxes, special assessments, penalties, and interest due. In addition to the penalties provided in 15-16-102, 20% or \$50, whichever is greater, must be added to the delinquent taxes as penalty for violation of this part. On receipt of the delinquent taxes, special assessments, penalties, and interest, the county treasurer shall forward all delinquent taxes, special assessments, penalties, and interest collected under 15-16-102 to the county treasurer for the county of origin. The county of destination shall retain the penalty.”

Approved May 6, 2005

## CHAPTER NO. 588

[HB 249]

AN ACT CREATING THE BIG SKY ECONOMIC DEVELOPMENT FUND WITHIN THE COAL SEVERANCE TAX TRUST FUND; ALLOCATING AND TRANSFERRING COAL SEVERANCE TAX FUNDS TO THE BIG SKY ECONOMIC DEVELOPMENT FUND; ESTABLISHING A BIG SKY ECONOMIC DEVELOPMENT PROGRAM WITHIN THE DEPARTMENT OF COMMERCE; PROVIDING FOR THE USE OF THE INTEREST AND INCOME FROM THE BIG SKY ECONOMIC DEVELOPMENT FUND TO PROVIDE FINANCIAL ASSISTANCE TO LOCAL GOVERNMENTS FOR QUALIFIED ECONOMIC DEVELOPMENT PROJECTS AND TO PROVIDE FINANCIAL ASSISTANCE TO CERTIFIED REGIONAL DEVELOPMENT CORPORATIONS AND CERTAIN OTHER ECONOMIC DEVELOPMENT ORGANIZATIONS; ESTABLISHING THE PURPOSE OF THE BIG SKY ECONOMIC DEVELOPMENT PROGRAM; ENUMERATING THE TYPES OF FINANCIAL ASSISTANCE AVAILABLE THROUGH THE BIG SKY ECONOMIC DEVELOPMENT FUND; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-5-703 AND 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 17-5-703, MCA, is amended to read:

**“17-5-703. (Temporary) Coal severance tax trust funds.** (1) The trust established under Article IX, section 5, of the Montana constitution is composed of the following funds:

(a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal severance tax must be deposited;

(b) a treasure state endowment fund;

(c) a treasure state endowment regional water system fund;

(d) a coal severance tax permanent fund;

(e) a coal severance tax income fund; ~~and~~

(f) a coal severance tax school bond contingency loan fund; *and*

(g) *a big sky economic development fund.*

(2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all principal and interest payments on bonds payable from the coal severance tax bond fund during the next 12 months and retain that amount in the coal severance tax bond fund.

(b) The amount in the coal severance tax bond fund in excess of the amount required in subsection (2)(a) must be transferred from that fund as provided in subsections (3) through (5).

(3) (a) As long as any school district bonds secured by state loans under 20-9-466 are outstanding, the state treasurer shall from time to time and as provided in subsection (3)(b) transfer from the coal severance tax bond fund to the coal severance tax school bond contingency loan fund any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall transfer the amount referred to in subsection (3)(a) until and unless the balance in the coal severance tax school bond contingency loan fund is equal to the amount due as principal of and interest on the school district bonds secured by state loans under 20-9-466 during the next following 12 months.

(4) (a) Until June 30, 2016, the state treasurer shall quarterly transfer to the treasure state endowment fund 50% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of amounts that are transferred pursuant to subsection (3).

(b) Until June 30, 2016, the state treasurer shall quarterly transfer to the treasure state endowment regional water system fund 25% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of amounts that are transferred pursuant to subsection (3).

(c) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure state endowment special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-6-710. Earnings not transferred to the treasure state endowment special revenue account must be retained in the treasure state endowment fund.

(d) The state treasurer shall monthly transfer from the treasure state endowment regional water system fund to the treasure state endowment

regional water system special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account for regional water systems authorized under 90-6-715. Earnings not transferred to the treasure state endowment regional water system special revenue account must be retained in the treasure state endowment regional water system fund.

(5) (a) *From July 1, 2005, through June 30, 2025, the state treasurer shall quarterly transfer to the big sky economic development fund 25% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of amounts that are transferred pursuant to subsection (3).*

(b) *The state treasurer shall monthly transfer from the big sky economic development fund to the economic development special revenue account, provided for in [section 6], the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with [section 5]. Earnings not transferred to the economic development special revenue account must be retained in the big sky economic development fund.*

~~(5)~~(6) Any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be deposited in the coal severance tax permanent fund. (Terminates June 30, 2016—sec. 1, Ch. 70, L. 2001.)

**17-5-703. (Effective July 1, 2016) Coal severance tax trust funds.** (1) The trust established under Article IX, section 5, of the Montana constitution is composed of the following funds:

(a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal severance tax must be deposited;

(b) a treasure state endowment fund;

(c) a coal severance tax permanent fund;

(d) a coal severance tax income fund; ~~and~~

(e) a coal severance tax school bond contingency loan fund; *and*

(f) *a big sky economic development fund.*

(2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all principal and interest payments on bonds payable from the coal severance tax bond fund during the next 12 months and retain that amount in the coal severance tax bond fund.

(b) The amount in the coal severance tax bond fund in excess of the amount required in subsection (2)(a) must be transferred from that fund as provided in subsections (3) through (5).

(3) (a) As long as any school district bonds secured by state loans under 20-9-466 are outstanding, the state treasurer shall from time to time and as provided in subsection (3)(b) transfer from the coal severance tax bond fund to the coal severance tax school bond contingency loan fund any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund.

(b) The state treasurer shall transfer the amount referred to in subsection (3)(a) until and unless the balance in the coal severance tax school bond

contingency loan fund is equal to the amount due as principal of and interest on the school district bonds secured by state loans under 20-9-466 during the next following 12 months.

(4) (a) Until June 30, 2016, the state treasurer shall quarterly transfer to the treasure state endowment fund 50% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of amounts that are transferred pursuant to subsection (3).

(b) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure state endowment special revenue account the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with 90-6-710. Earnings not transferred to the treasure state endowment special revenue account must be retained in the treasure state endowment fund.

(5) (a) *From July 1, 2005, through June 30, 2025, the state treasurer shall quarterly transfer to the big sky economic development fund 25% of the amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of amounts that are transferred pursuant to subsection (3).*

*(b) The state treasurer shall monthly transfer from the big sky economic development fund to the economic development special revenue account, provided for in [section 6], the amount of earnings, excluding unrealized gains and losses, required to meet the obligations of the state that are payable from the account in accordance with [section 5]. Earnings not transferred to the economic development special revenue account must be retained in the big sky economic development fund.*

~~(5)~~(6) Any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be deposited in the coal severance tax permanent fund.”

**Section 2. Big sky economic development program — definitions.**

(1) (a) There is a big sky economic development program that consists of:

(i) the big sky economic development fund established in 17-5-703; and

(ii) the economic development special revenue account provided for in [section 6].

(b) Interest and income from the big sky economic development fund may be used to administer the big sky economic development program and to provide financial assistance for qualified economic development purposes under [sections 2 through 6].

(2) As used in [sections 2 through 6], the following definitions apply:

(a) “Certified regional development corporation” has the meaning provided in 90-1-116.

(b) “Department” means the department of commerce provided for in 2-15-1801.

(c) “Economic development organization” means:

(i) (A) a private, nonprofit corporation, as provided in Title 35, chapter 2, that is exempt from taxation under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(3) or 501(c)(6);

(B) an entity certified by the department under 90-1-116; or

(C) an entity established by a local government; or

(ii) an entity actively engaged in economic development and business assistance work in a region of the state.

(d) "Local government" means a tribal government, county, consolidated government, city, town, or district or local public entity with the authority to spend or receive public funds.

**Section 3. Purpose.** The legislature finds and declares that economic development is a public purpose. The purpose of the big sky economic development program is to assist in economic development for Montana that will:

(1) create good-paying jobs for Montana residents;

(2) promote long-term, stable economic growth in Montana;

(3) encourage local economic development organizations;

(4) create partnerships between the state, local governments, and local economic development organizations that are interested in pursuing these same economic development goals;

(5) retain or expand existing businesses; and

(6) provide a better life for future generations through greater economic growth and prosperity in Montana.

**Section 4. Types of financial assistance available.** (1) The department shall provide for and make grants and loans available to local governments for economic development projects and to certified regional development corporations from the money in the economic development special revenue account provided for in [section 6].

(2) A grant or loan may not be used for a project that would result in the transfer or relocation of jobs from one part of the state to another part of the state.

**Section 5. Priorities for funding — rulemaking.** (1) The department must receive proposals for grants and loans from local governments. A local government shall work with an economic development organization on a proposal. The department shall work with the local government and the economic development organization in preparing cost estimates for a proposed project. In reviewing proposals, the department may consult with other state agencies with expertise pertinent to the proposal.

(2) (a) The department shall adopt rules necessary to implement the big sky economic development program. In adopting rules, the department shall look to the rules adopted for the treasure state endowment program and other similar state programs. To the extent feasible, the department shall make the rules compatible with those other programs. To the extent feasible, the department shall employ an approach pertaining to the use of funds so that the needs of rural areas are balanced with the needs of the state's urban centers.

(b) The rules must provide for the types of uses of funds available under the big sky economic development program. The types of uses of funds by:

(i) local governments include but are not limited to:

(A) a reduction in the interest rate of a commercial loan for the expansion of a basic sector company;

(B) a grant or low-interest loan for relocation expenses for a basic sector company; and

(C) rental assistance or lease buy-downs for a relocation or expansion project for a basic sector company.

(ii) a certified regional development corporation includes:

(A) support for business improvement districts and central business district redevelopment;

(B) industrial development;

(C) feasibility studies;

(D) creation and maintenance of baseline community profiles; and

(E) matching funds for federal funds, including but not limited to brownfields funds and natural resource damage funds.

(c) The rules must provide for distribution methods for financial assistance available to local governments. The rules must provide for distribution based upon the number of jobs expected to be created because of the funding. Funding may not exceed \$5,000 for each expected job. The rules must require equal matching funds for a grant or loan.

(d) The rules must provide for the full or partial repayment of a grant if the new jobs or some of the new jobs for which a grant is given are not created.

(e) A grant or loan may be made only for a new job that has an average weekly wage that meets or exceeds the current average weekly wage of the county in which the employees are to be principally employed.

**Section 6. Economic development special revenue account.** (1) There is an economic development state special revenue account. The account receives earnings from the big sky economic development fund as provided in 17-5-703. The money in the account may be used only as provided in [sections 2 through 6].

(2) The money in the account is statutorily appropriated, as provided in 17-7-502, to the department. Of the money that is deposited in the account that is not used for administrative expenses:

(a) 75% must be allocated for distribution to local governments to be used for job creation efforts; and

(b) 25% must be distributed to certified regional development corporations and economic development organizations that are located in a county that is not part of a certified regional development corporation.

**Section 7.** 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: 2-15-151; 2-17-105; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-11-404; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; [section 6]; 90-3-1003; 90-6-710; 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 Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 2 and 5, Ch. 481, L. 2003, the inclusion of 90-6-710 terminates June 30, 2005; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; and pursuant to sec. 135, Ch. 114, L. 2003, the inclusion of 2-15-151 terminates June 30, 2005.)"

**Section 8. Fund transfer.** On July 1, 2005, the amount of \$20 million is transferred from the coal severance tax permanent fund to the big sky economic development fund established in 17-5-703.

**Section 9. Codification instruction.** [Sections 2 through 6] are intended to be codified as an integral part of Title 90, chapter 1, and the provisions of Title 90, chapter 1, apply to [sections 2 through 6].

**Section 10. Effective date.** [This act] is effective July 1, 2005.

Approved May 6, 2005

## CHAPTER NO. 589

[HB 482]

AN ACT INCREASING THE AMOUNT OF COAL SEVERANCE TAX ALLOCATED TO AN ACCOUNT IN THE STATE SPECIAL REVENUE FUND TO BE ALLOCATED BY THE LEGISLATURE FOR LOCAL IMPACTS, 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; AMENDING SECTION 15-35-108, MCA; AND PROVIDING AN EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** 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 15-1-501, 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) ~~For the fiscal year ending June 30, 2003, the amount of 10% and for fiscal years beginning on or after July 1, 2003, the~~ *The* amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) ~~For the fiscal year ending June 30, 2003, the amount of 6.01% and for fiscal years beginning on or after July 1, 2003, the~~ *The* amount of ~~7.75%~~ 8.36% must be credited to an account in the state special revenue fund to be allocated by the legislature for local impacts, 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) ~~For fiscal years beginning on or after July 1, 2003, the~~ *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.

(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) ~~For fiscal years beginning on or after July 1, 2003, the~~ *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, 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) (a) Subject to subsections (7)(b) and (7)(c), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.

(b) The interest income from \$140 million of the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:

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

(ii) ~~for fiscal years beginning on or after July 1, 2003,~~ \$1.25 million 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) \$600,000 to the department of administration for the purpose of reimbursing tax increment financing industrial districts as provided in 7-15-4299. Reimbursement must be made to qualified districts on a proportional basis to the loss of taxable value as a result of Chapter 285, Laws of 1999, and as documented by the department of revenue. This documentation must be provided to the budget director and to the legislative fiscal analyst. The reimbursement may not be used to pay debt service on tax increment bonds to the extent that the bonds are secured by a guaranty, a letter of credit, or a similar arrangement provided by or on behalf of an owner of property within the district.

(c) ~~Beginning July 1, 2003, there~~ *There* is transferred annually from the interest income referred to in subsection (7)(b) \$3.65 million to the research and commercialization state special revenue account created in 90-3-1002. (Terminates June 30, 2005—sec. 10(2), Ch. 10, Sp. L. May 2000; sec. 8(1), Ch. 12, Sp. L. August 2002.)

**15-35-108. (Effective July 1, 2005) Disposal of severance taxes.** Severance taxes collected under this chapter must, in accordance with the provisions of 15-1-501, 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) ~~Twelve percent~~ *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 ~~7.75%~~ *8.36%* must be credited to an account in the state special revenue fund to be allocated by the legislature for local impacts, 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.

(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) (a) Subject to subsection (7)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.

(b) The interest income from \$140 million of the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:

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

(ii) \$1.25 million for the growth through agriculture program provided for in Title 90, chapter 9;

(iii) \$3.65 million to the research and commercialization state special revenue account created in 90-3-1002;

(iv) 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. (Terminates June 30, 2010—sec. 6, Ch. 481, L. 2003.)

**15-35-108. (Effective July 1, 2010) Disposal of severance taxes.** Severance taxes collected under this chapter must, in accordance with the provisions of 15-1-501, 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) ~~Twelve percent~~ *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 ~~7.75%~~ *8.36%* must be credited to an account in the state special revenue fund to be allocated by the legislature for local impacts, 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.

(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) All other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.”

**Section 2. Effective date.** [This act] is effective July 1, 2005.

Approved May 6, 2005

## CHAPTER NO. 590

[HB 493]

AN ACT REVISING THE AEROSPACE TECHNOLOGY BOND PROGRAM; CLARIFYING CONDITIONS UNDER WHICH BONDS MAY BE ISSUED; ALLOWING THE MULTIPLIER EFFECT TO BE USED IN PROJECTING TAX IMPACTS; ELIMINATING EQUIPMENT AS AN ELIGIBLE EXPENSE FOR A PROJECT; AMENDING SECTION 17-5-820, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 17-5-820, MCA, is amended to read:

**“17-5-820. Authorization of bonds.** (1) The board of examiners is authorized to issue and sell general obligation bonds in an amount not exceeding \$20 million in accordance with the terms and in the manner required by Title 17, chapter 5, part 8, for the purpose of financing and acquiring infrastructure improvements as enumerated in 7-15-4288 ~~and equipment~~ for aerospace transportation and technology projects recommended by the department of commerce in accordance with the authority granted to the board by this section. The bonds are in addition to any other authorization to the board to issue and sell general obligation bonds and subject to the conditions set forth in this section.

(2) The department of commerce may request the board of examiners to issue the bonds for one or more specified projects in one or more series, but the total amount of bonds issued may not exceed \$20 million. Bond proceeds are appropriated to the department of commerce, and the department of commerce is authorized to acquire or construct the infrastructure improvements ~~or acquire the equipment~~, to contract with the city or county in which a project is located, *to contract with an airport authority, as defined in 67-1-101, a local port authority, as described in 7-14-1101, or a regional port authority, as described in 7-14-1102*, to contract with a certified regional development corporation, as defined in 90-1-116, or *upon a determination that it is in the best interest of the project* to contract with the developer of an approved project for the acquisition or construction of the infrastructure improvement ~~or the acquisition of equipment upon a determination that it is in the best interest of the project~~. The plans and specifications for the infrastructure ~~and equipment~~ to be financed from the proceeds of the bonds must be approved by and be acceptable to the department following a review of the plans and specifications of the infrastructure by the architecture and engineering division of the department of administration, ~~but the~~ *prepared by an engineer or architect, licensed and*

*bonded in Montana, and the state must be named as an additional insured under any contract, performance bond, or other documents for the design of any improvements to be financed by the state. The plans and specifications must be reviewed and approved by the department of commerce after consultation with the architecture and engineering division of the department of administration. The design and acquisition or construction of the infrastructure and the acquisition of equipment for approved projects are not, with the exception of Title 18, chapter 2, part 4, subject to the public procurement requirements contained in Title 18. All construction contracts entered into for the construction of improvements to be financed under this section must name the state as an additional insured if the state is not otherwise party to the contract. Infrastructure and equipment All improvements financed with bond proceeds are must be owned by the state, and the use must be governed by a development agreement between the state and the developer of the project. The agreement may provide for the lease or the use of the infrastructure and equipment at less than fair market value, taking into consideration the number of jobs to be created by the project, the salary range of the jobs, the amount of capital contributed by the developer, and the projected tax revenue to be received by the state and local governments from the project over the term of the lease or use agreement. The agreement may must require the contractor to insure for liability and workers' compensation claims during construction and must provide the project developer with the right of first refusal for the purchase of any real property secured and improvements financed by the bonds at fair market value plus reimbursement to the state for any costs incurred in the issuance of the bonds. Fair market value must be determined by a certified appraiser. For purposes of this section, state and local governments may not provide telecommunications or other services in competition with private providers unless private providers cannot provide the services.*

(3) *It is the intent of the legislature that state individual and corporate income taxes and state property taxes generated by the aerospace transportation and technology infrastructure development projects will be at least equal to the projected amount of the debt service payments to be paid by the state for the bonds authorized by this section will be covered by the totality of the taxes generated by the aerospace transportation and technology development projects to be calculated by an economic impact analysis of the projects on state tax revenue over the term of the bonds. Prior to requesting the board of examiners to issue the bonds, the department of commerce shall determine that the developer of a proposed project has the financial ability to construct and implement the project based upon the audited financial statements of the developer. When requesting the board to issue the bonds, the department of commerce shall present to the department of administration for presentation to the board the following:*

(a) *evidence satisfactory to the board that each aerospace transportation and technology infrastructure development project has committed itself to locate its project in Montana; and*

(b) *a certificate signed by the director of the office of budget and program planning that the tax revenue to be received by the state from each aerospace transportation and technology development project over the term of the bonds will be sufficient to pay the principal amount of and interest on the bonds issued to assist with the specific project a certificate signed by the director of the office of budget and program planning that the proposed project will, over the term of the bonds, generate state individual and corporate income taxes and state property*

*taxes at least equal to the total aggregate amount of principal and interest on the bonds over the term of the bonds. In preparing the analysis for the report on the projected tax revenue from the project, the multiplier effect may be taken into account, using the number of jobs, the salary levels for the jobs, and the estimated date of hire for each position that the developer will commit to create as part of the development agreement. The development agreement must provide that if the developer has not created the total number of jobs at the estimated salaries by the date specified in the development agreement and assumed for purposes of meeting the projections, the state may terminate the lease or use of the improvements upon 30 days' notice. If the department of commerce is unable to enter into a new lease or use agreement for the improvements that is advantageous to the state, the state may sell the facility to the highest and best bidder and use the proceeds of the sale to redeem the outstanding bonds.*

*(4) For the purposes of this section, "equipment" means machinery used in the design, manufacture, repair, and maintenance of aerospace transportation and technology projects. In determining whether to recommend to the board of examiners that improvements should be constructed by the state from the proceeds of the bonds for a project, the department of commerce may take into consideration only the following factors:*

*(a) whether the project is eligible for financing;*

*(b) whether there is sufficient evidence to demonstrate the developer's ability to implement the project;*

*(c) the projected tax revenue report;*

*(d) whether the project as proposed and situated can obtain the necessary zoning, building, and environmental permits required; and*

*(e) whether the project is in the public interest.*

*(5) In recommending the amount of bonds to be issued for a qualified project, the department of commerce shall independently determine that the proposed estimated cost of the project is not in excess of what is required for the project and independently verify the projected costs of designing and constructing the improvements proposed to be financed exclusive of any development fee to the developer. The authorized bond proceeds must be used for projects on a first-come, first-serve basis."*

**Section 2. Effective date.** [This act] is effective on passage and approval.

Approved May 6, 2005

## CHAPTER NO. 591

[HB 517]

AN ACT PROVIDING FOR THE ISSUANCE OF A MONTANA DISTILLERY LICENSE; PROVIDING THAT A LICENSE MAY BE ISSUED TO A PERSON AUTHORIZED BY FEDERAL LAW TO DISTILL LIQUOR; PROVIDING FOR THE FUNCTIONS THAT MAY BE PERFORMED BY A MONTANA DISTILLERY; PROVIDING FOR A REDUCED TAX RATE ON LIQUOR SOLD AND DELIVERED IN THE STATE BY A COMPANY THAT MANUFACTURED, DISTILLED, RECTIFIED, BOTTLED, OR PROCESSED AND THAT SOLD NOT MORE THAN 50,000 PROOF GALLONS OF LIQUOR NATIONWIDE; PROVIDING FOR REPORTING, TAX PAYMENTS, AND

PENALTIES; AMENDING SECTIONS 16-1-404, 16-4-401, AND 16-4-501, MCA; AND PROVIDING AN EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Definitions.** For the purpose of [sections 2 and 3], the following definitions apply:

(1) "Microdistillery" means a distillery located in Montana that produces 25,000 gallons or less of liquor annually.

(2) "Produces" means the distillation of liquor on the premises of the distillery licensee.

**Section 2. Distillery license.** (1) The department may, upon receipt of an application, issue a distillery license to a person who is authorized under the provisions of the Federal Alcohol Administration Act, 27 U.S.C. 201 through 212, to distill, rectify, bottle, and process liquor. A licensee may import, manufacture, distill, rectify, blend, denature, and store spirits of an alcoholic content greater than 17% alcohol by weight for sale to the department or as provided in [section 3] and may transport the liquor out of this state for sale outside this state. Distillery licensees must be permitted to purchase, from and through the department, alcoholic beverages for blending and manufacturing purposes upon terms and conditions that the department may provide. A licensee may not sell any alcoholic beverage within this state except to the department or as provided in [section 3].

(2) An agricultural producer or association of agricultural producers or legal agents who manufacture and convert agricultural surpluses, by-products, or wastes into denatured ethyl and industrial alcohol for purposes other than human consumption are not required to obtain a distillery license from the department.

**Section 3. Domestic distillery.** (1) A distillery located in Montana and licensed pursuant to [section 2] may:

(a) import necessary products in bulk;

(b) bottle, produce, blend, store, transport, or export liquor that it produces;

(c) perform those operations that are permitted for bonded distillery premises under applicable regulations of the United States department of the treasury.

(2) (a) A distillery that is located in Montana and licensed pursuant to [section 2] shall sell liquor to the department under this code, and the department shall include the distillery's liquor as a listed product.

(b) The distillery may use a common carrier for delivery of the liquor to the department.

(c) A distillery that produces liquor within the state under this subsection (2) shall maintain records of all sales and shipments. The distillery shall furnish monthly and other reports concerning quantities and prices of liquor that it ships to the department and other information that the department may determine to be necessary to ensure that distribution of liquor within this state conforms to the requirements of this code.

(3) A microdistillery may:

(a) provide, with or without charge, not more than 2 ounces of liquor that it produces at the microdistillery to consumers for consumption on the premises between 10 a.m. and 8 p.m. A microdistillery may not sell or give more than 2

ounces of liquor to an individual for on-premises consumption during a business day.

(b) sell liquor that it produces at retail at the distillery directly to the consumer for off-premises consumption if:

- (i) not more than 1 liter a day is sold to an individual; and
- (ii) the minimum retail price as determined by the department is charged.

**Section 4.** Section 16-1-404, MCA, is amended to read:

**“16-1-404. License tax on liquor — amount — distribution of proceeds.** (1) The department shall collect at the time of sale and delivery of any liquor under any provisions of the laws of the state of Montana a license tax of:

(a) 10% of the retail selling price on all liquor sold and delivered in the state by a company that manufactured, distilled, rectified, bottled, or processed and that sold more than 200,000 proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to this section;

(b) 8.6% of the retail selling price on all liquor sold and delivered in the state by a company that manufactured, distilled, rectified, bottled, or processed and that sold *more than 50,000 proof gallons but* not more than 200,000 proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to this section;

(c) *2% of the retail selling price on all liquor sold and delivered in the state by a company that manufactured, distilled, rectified, bottled, or processed and that sold not more than 50,000 proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to this section.*

(2) The license tax must be charged and collected on all liquor *produced in or* brought into the state and taxed by the department. The retail selling price must be computed by adding to the cost of the liquor the state markup as designated by the department. The license tax must be figured in the same manner as the state excise tax and is in addition to the state excise tax. The department shall retain in a separate account the amount of the license tax received. The department, in accordance with the provisions of 15-1-501, shall allocate the revenue as follows:

(a) Thirty-four and one-half percent is allocated to the state general fund.

(b) Sixty-five and one-half percent must be deposited in the state special revenue fund to the credit of the department of public health and human services for the treatment, rehabilitation, and prevention of alcoholism and chemical dependency.

(3) The license tax proceeds that are allocated to the department of public health and human services for the treatment, rehabilitation, and prevention of alcoholism and chemical dependency must be credited quarterly to the department of public health and human services. The legislature may appropriate a portion of the license tax proceeds to support alcohol and chemical dependency programs. The remainder must be distributed as provided in 53-24-206.”

**Section 5.** Section 16-4-401, MCA, is amended to read:

**“16-4-401. License as privilege — criteria for decision on application.** (1) A license under this code is a privilege that the state may grant to an applicant and is not a right to which applicant is entitled.

(2) Except as provided in *[section 2]* and subsection (6) of *this section*, in the case of a license that permits on-premises consumption, the department shall find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) in the case of an individual applicant:

(i) the applicant will not possess an ownership interest in more than one establishment licensed under this chapter for all-beverages sales;

(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;

(iii) the applicant or any member of the applicant's immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;

(iv) the applicant is a resident of the state and is qualified to vote in a state election;

(v) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; and

(vi) the applicant is not under 19 years of age; and

(b) in the case of a corporate applicant:

(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection (2)(a)(iv);

(ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (2)(a);

(iii) each individual who has control over the operation of the license meets the requirements for an individual applicant listed in subsection (2)(a);

(iv) each person who shares in the profits or liabilities of a license meets the requirements for an individual applicant listed in subsection (2)(a). This subsection (2)(b)(iv) does not apply to a shareholder of a corporation who owns less than 10% of the outstanding stock in that corporation.

(v) the corporation is authorized to do business in Montana; and

(vi) in the case of a corporation not listed on a national stock exchange, each owner of stock meets the requirements of subsections (2)(a)(i) and (2)(a)(ii); and

(c) in the case of any other business entity as applicant:

(i) if the applicant consists of more than one individual, all must meet the requirements of subsection (2)(a); and

(ii) if the applicant consists of more than one corporation, all must meet the requirements of subsection (2)(b).

(3) In the case of a license that permits only off-premises consumption, the department shall find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) in the case of an individual applicant:

(i) the applicant will not possess an ownership interest in more than one establishment licensed under this chapter for all-beverages sales;

(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;

(iii) the applicant or any member of the applicant's immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;

(iv) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, the applicant's rights have been restored;

(v) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; and

(vi) the applicant is not under 19 years of age; and

(b) in the case of a corporate applicant:

(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection (3)(a)(iv);

(ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual listed in subsection (3)(a); and

(iii) the corporation is authorized to do business in Montana; and

(c) in the case of any other business entity as applicant:

(i) if the applicant consists of more than one individual, all must meet the requirements of subsection (3)(a); and

(ii) if the applicant consists of more than one corporation, all must meet the requirements of subsection (3)(b).

(4) ~~In~~ *Subject to [section 2],* in the case of a license that permits the manufacture, importing, or wholesaling of an alcoholic beverage, the department shall find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) in the case of an individual applicant:

(i) the applicant has no ownership interest in any establishment licensed under this chapter for retail alcoholic beverages sales;

(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;

(iii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, rights have been restored;

(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments;

(v) the applicant is not under 19 years of age; and

(vi) an applicant for a wholesale license is neither a manufacturer of an alcoholic beverage nor is owned or controlled by a manufacturer of an alcoholic beverage; and

(b) in the case of a corporate applicant:

(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection (4)(a)(iii);

(ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual listed in subsection (4)(a);

(iii) an applicant for a wholesale license is neither a manufacturer of an alcoholic beverage nor is owned or controlled by a manufacturer of an alcoholic beverage; and

(iv) the corporation is authorized to do business in Montana; and

(c) in the case of any other business entity as applicant:

(i) if the applicant consists of more than one individual, all must meet the requirements of subsection (4)(a); and

(ii) if the applicant consists of more than one corporation, all must meet the requirements of subsection (4)(b).

(5) In the case of a corporate applicant, the requirements of subsections (2)(b), (3)(b), and (4)(b) apply separately to each class of stock.

(6) The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant to 16-4-302.”

**Section 6.** Section 16-4-501, MCA, is amended to read:

**“16-4-501. License and permit fees.** (1) Each beer licensee licensed to sell either beer or table wine only, or both beer and table wine, under the provisions of this code, shall pay a license fee. Unless otherwise specified in this section, the fee is an annual fee and is imposed as follows:

(a) (i) each brewer and each beer importer, wherever located, whose product is sold or offered for sale within the state, \$500;

(ii) for each storage depot, \$400;

(b) (i) each beer wholesaler, \$400; each domestic winery producing more than 25,000 gallons of wine, \$400; each domestic winery producing 25,000 gallons or less of wine, \$200; each table wine distributor, \$400;

(ii) for each subwarehouse, \$400;

(c) each beer retailer, \$200;

(d) (i) for a license to sell beer at retail for off-premises consumption only, the same as a retail beer license;

(ii) for a license to sell table wine at retail for off-premises consumption only, either alone or in conjunction with beer, \$200;

(e) any unit of a nationally chartered veterans' organization, \$50.

(2) The permit fee under 16-4-301(1) is computed at the following rate:

(a) \$10 a day for each day that beer and table wine are sold at events, activities, or sporting contests, other than those applied for pursuant to 16-4-301(1)(c); and

(b) \$1,000 a season for professional sporting contests or junior hockey contests held under the provisions of 16-4-301(1)(c).

(3) The permit fee under 16-4-301(2) is \$10 for the sale of beer and table wine only or \$20 for the sale of all alcoholic beverages.

(4) Passenger carrier licenses must be issued upon payment by the applicant of an annual license fee in the sum of \$300.

(5) The annual license fee for a license to sell wine on the premises, when issued as an amendment to a beer-only license pursuant to 16-4-105, is \$200.

(6) The annual renewal fee for:

(a) a brewer producing 20,000 or fewer barrels of beer, as defined in 16-1-406, is \$200; and

(b) resort retail all-beverages licenses within a given resort area is \$2,000 for each license.

(7) Each licensee licensed under the quotas of 16-4-201 shall pay an annual license fee as follows:

(a) except as provided in this section, for each license outside of incorporated cities and incorporated towns or in incorporated cities and incorporated towns with a population of less than 2,000, \$250 for a unit of a nationally chartered veterans' organization and \$400 for all other licensees;

(b) except as provided in this section, for each license in incorporated cities with a population of more than 2,000 and less than 5,000 or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city, \$350 for a unit of a nationally chartered veterans' organization and \$500 for all other licensees;

(c) except as provided in this section, for each license in incorporated cities with a population of more than 5,000 and less than 10,000 or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city, \$500 for a unit of a nationally chartered veterans' organization and \$650 for all other licensees;

(d) for each license in incorporated cities with a population of 10,000 or more or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city, \$650 for a unit of a nationally chartered veterans' organization and \$800 for all other licensees;

(e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated towns is measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city or town; and where the premises of the applicant to be licensed are situated within 5 miles of the corporate boundaries of two or more incorporated cities or incorporated towns of different populations, the license fee chargeable by the larger incorporated city or incorporated town applies and must be paid by the applicant. When the premises of the applicant to be licensed are situated within an incorporated town or incorporated city and any portion of the incorporated town or incorporated city is without a 5-mile limit, the license fee chargeable by the smaller incorporated town or incorporated city applies and must be paid by the applicant.

(f) an applicant for the issuance of an original license to be located in areas described in subsections (6) and (7)(d) shall provide an irrevocable letter of credit from a financial institution that guarantees that applicant's ability to pay a \$20,000 license fee. A successful applicant shall pay a one-time original license fee of \$20,000 for a license issued. The one-time license fee of \$20,000 may not apply to any transfer or renewal of a license issued prior to July 1, 1974. All licenses, however, are subject to the specified annual renewal fees.

(8) The fee for one all-beverages license to a public airport is \$800. This license is nontransferable.

(9) The annual fee for a special beer and table wine license for a nonprofit arts organization under 16-4-303 is \$250.

(10) *The annual fee for a distillery is \$600.*

~~(10)~~(11) The license fees provided in this section are exclusive of and in addition to other license fees chargeable in Montana for the sale of alcoholic beverages.

~~(11)~~(12) In addition to other license fees, the department of revenue may require a licensee to pay a late fee of 33 1/3% of any license fee delinquent on July 1 of the renewal year or 1 year after the licensee's anniversary date, 66 2/3% of any license fee delinquent on August 1 of the renewal year or 1 year and 1 month after the licensee's anniversary date, and 100% of any license fee delinquent on September 1 of the renewal year or 1 year and 2 months after the licensee's anniversary date.

~~(12)~~(13) All license and permit fees collected under this section must be deposited as provided in 16-2-108."

**Section 7. Reporting — tax payment — penalties.** (1) Except as provided in subsection (9), a distillery licensed to do business in this state under [section 2] shall, on or before the 15th day of each month, in the manner and form prescribed by the department, make an exact return to the department reporting the total amount of liquor samples provided with or without charge at the distillery in the previous month. The department may at any time make an examination of the distillery's books and of the premises and may otherwise check the accuracy of the return.

(2) The taxes imposed pursuant to 16-1-401 and 16-1-404 upon a distillery licensed under [section 2] are due on or before the 15th day of each month from the distiller for liquor sold during the previous month. The department shall adopt rules and provide forms for the proper allocation of taxes.

(3) If a distiller subject to the payment of the taxes provided for in 16-1-401 and 16-1-404 fails to make any return required by this code or fails to make payment of the taxes within the time provided in this part, the department shall, after the time has expired, determine and fix the amount of taxes due the state from the delinquent distiller.

(4) The department shall then proceed to collect the tax with penalties and interest. Upon request of the department, the attorney general shall prosecute in any court of competent jurisdiction an action to collect the tax.

(5) If all or part of the tax imposed upon a distillery by this part is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any other claim, lien, or demand filed or recorded after the warrant is issued.

(6) An action may not be maintained to enjoin the collection of the tax or any part of the tax.

(7) Any tax owed by a distiller under this code that is not paid within the time provided is delinquent, and penalty and interest must be added to the delinquent tax as provided in 15-1-216.

(8) Except as provided in subsection (9), a distiller who fails, neglects, or refuses to make the return to the department provided for in this section, refuses to allow the examinations as provided for in this section, or fails to make an accurate return in the manner prescribed is guilty of a misdemeanor and upon conviction shall be fined an amount not exceeding \$1,000.

(9) A distillery for which the tax is less than \$10 a month from the sale of samples is not required to file a return or pay the tax for that month under this section.

**Section 8. Codification instruction.** (1) [Sections 1 through 3] are intended to be codified as an integral part of Title 16, chapter 4, part 3, and the provisions of Title 16, chapter 4, part 3, apply to [sections 1 through 3].

(2) [Section 7] is intended to be codified as an integral part of Title 16, chapter 1, part 4, and the provisions of Title 16, chapter 1, part 4, apply to [section 7].

**Section 9. Effective date.** [This act] is effective July 1, 2005.

Approved May 6, 2005

## CHAPTER NO. 592

[HB 535]

AN ACT REVISING THE TAXATION OF OIL PRODUCTION FROM STRIPPER WELLS PRODUCING 3 BARRELS A DAY OR LESS; DEFINING "STRIPPER WELL BONUS"; PROVIDING THAT STRIPPER WELL BONUS PRODUCTION IS TAXED AT 6 PERCENT OF GROSS TAXABLE VALUE IF THE PRICE OF OIL AS REPORTED BY THE WALL STREET JOURNAL IS EQUAL TO OR GREATER THAN \$38 A BARREL; AMENDING SECTIONS 15-36-303 AND 15-36-304, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 15-36-303, MCA, is amended to read:

**"15-36-303. Definitions.** As used in this part, the following definitions apply:

(1) "Board" means the board of oil and gas conservation provided for in 2-15-3303.

(2) "Department" means the department of revenue provided for in 2-15-1301.

(3) "Enhanced recovery project" means the use of any process for the displacement of oil from the earth other than primary recovery and includes the use of an immiscible, miscible, chemical, thermal, or biological process.

(4) "Existing enhanced recovery project" means an enhanced recovery project that began development before January 1, 1994.

(5) "Expanded enhanced recovery project" or "expansion" means the addition of injection wells or production wells, the recompletion of existing wells as horizontally completed wells, the change of an injection pattern, or other operating changes to an existing enhanced recovery project that will result in the recovery of oil that would not otherwise be recovered. The project must be developed after December 31, 1993.

(6) "Gross taxable value", for the purpose of computing the oil and natural gas production tax, means the gross value of the product as determined in 15-36-305.

(7) "Horizontal drain hole" means that portion of a well bore with 70 degrees to 110 degrees deviation from the vertical and a horizontal projection within the common source of supply, as that term is defined by the board, that exceeds 100 feet.

(8) "Horizontally completed well" means:

- (a) a well with one or more horizontal drain holes; and
- (b) any other well classified by the board as a horizontally completed well.

(9) "Incremental production" means:

(a) the volume of oil produced by a new enhanced recovery project, by a well in primary recovery recompleted as a horizontally completed well, or by an expanded enhanced recovery project, which volume of production is in excess of the production decline rate established under the conditions existing before:

(i) the commencement of the recompletion of a well as a horizontally completed well;

(ii) expansion of the existing enhanced recovery project; or

(iii) commencing a new enhanced recovery project; or

(b) in the case of any project that had no taxable production prior to commencing the enhanced recovery project, all production of oil from the enhanced recovery project.

(10) "Natural gas" or "gas" means natural gas and other fluid hydrocarbons, other than oil, produced at the wellhead.

(11) "New enhanced recovery project" means an enhanced recovery project that began development after December 31, 1993.

(12) "Nonworking interest owner" means any interest owner who does not share in the exploration, development, and operation costs of the lease or unit, except for production taxes.

(13) "Oil" means crude petroleum or mineral oil and other hydrocarbons, regardless of gravity, that are produced at the wellhead in liquid form and that are not the result of condensation of gas after it leaves the wellhead.

(14) "Operator" or "producer" means a person who produces oil or natural gas within this state or who owns, controls, manages, leases, or operates within this state any well or wells from which any marketable oil or natural gas is extracted or produced.

(15) "Post-1999 well" means an oil or natural gas well drilled on or after January 1, 1999, that produces oil or natural gas or a well that has not produced oil or natural gas during the 5 years immediately preceding the first month of qualifying as a post-1999 well.

(16) "Pre-1999 well" means an oil or natural gas well that was drilled before January 1, 1999.

(17) "Primary recovery" means the displacement of oil from the earth into the well bore by means of the natural pressure of the oil reservoir and includes artificial lift.

(18) "Production decline rate" means the projected rate of future oil production, extrapolated by a method approved by the board, that must be determined for a project area prior to commencing a new or expanded enhanced recovery project or the recompletion of a well as a horizontally completed well. The approved production decline rate must be certified in writing to the department by the board. In that certification, the board shall identify the project area and shall specify the projected rate of future oil production by calendar year and by calendar quarter within each year. The certified rate of future oil production must be used to determine the volume of incremental production that qualifies for the tax rate imposed under 15-36-304(5)(e).

(19) (a) "Qualifying production" means the first 12 months of production of oil or natural gas from a well drilled after December 31, 1998, or the first 18 months of production of oil or natural gas from a horizontally completed well drilled after December 31, 1998, or from a well that has not produced oil or natural gas during the 5 years immediately preceding the first month of qualifying production.

(b) Qualifying production does not include oil production from a horizontally recompleted well.

(20) "Secondary recovery project" means an enhanced recovery project, other than a tertiary recovery project, that commenced or was expanded after December 31, 1993, and meets each of the following requirements:

(a) The project must be certified as a secondary recovery project to the department by the board. The certification may be extended only after notice and hearing in accordance with Title 2, chapter 4.

(b) The property to be affected by the project must be adequately delineated according to the specifications required by the board.

(c) The project must involve the application of secondary recovery methods that can reasonably be expected to result in an increase, determined by the board to be significant in light of all the facts and circumstances, in the amount of oil that may potentially be recovered. For purposes of this part, secondary recovery methods include but are not limited to:

(i) the injection of water into the producing formation for the purposes of maintaining pressure in that formation or for the purpose of increasing the flow of oil from the producing formation to a producing well bore; or

(ii) any other method approved by the board as a secondary recovery method.

(21) "Stripper natural gas" means the natural gas produced from any well that produces less than 60,000 cubic feet of natural gas a day during the calendar year immediately preceding the current year. Production must be determined by dividing the amount of production from a lease or unitized area for the year immediately preceding the current calendar year by the number of producing wells in the lease or unitized area and by dividing the resulting quotient by 365.

(22) (a) "Stripper oil" means the oil produced from any well that produces *more than 3 barrels but less than 15 barrels* a day for the calendar year immediately preceding the current year if the average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less than \$30 a barrel. If the price of oil is equal to or greater than \$30 a barrel in a calendar quarter, there is no stripper tax rate in that quarter. ~~There is no stripper well exemption tax rate if the average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is more than \$38 a barrel.~~

(b) The average price for a barrel is computed by dividing the sum of the daily price for west Texas intermediate crude oil as reported in the Wall Street Journal for the calendar quarter by the number of days on which the price was reported in the quarter.

(c) Production must be determined by dividing the amount of production from a lease or unitized area for the year immediately preceding the current calendar year by the number of producing wells in the lease or unitized area and by dividing the resulting quotient by 365.

(23) "Stripper well exemption" or "*stripper well bonus*" means petroleum and other mineral or crude oil produced by a stripper well that produces 3 barrels a day or less. *Production from this type of well must be determined as provided in subsection (22)(c).*

(24) "Tertiary recovery project" means an enhanced recovery project, other than a secondary recovery project, using a tertiary recovery method that meets the following requirements:

(a) The project must be certified as a tertiary recovery project to the department by the board. The certification may be extended only after notice and hearing in accordance with Title 2, chapter 4.

(b) The property to be affected by the project must be adequately delineated in the certification according to the specifications required by the board.

(c) The project must involve the application of one or more tertiary recovery methods that can reasonably be expected to result in an increase, determined by the board to be significant in light of all the facts and circumstances, in the amount of crude oil that may potentially be recovered. For purposes of this part, tertiary recovery methods include but are not limited to:

- (i) miscible fluid displacement;
- (ii) steam drive injection;
- (iii) micellar/emulsion flooding;
- (iv) in situ combustion;
- (v) polymer augmented water flooding;
- (vi) cyclic steam injection;
- (vii) alkaline or caustic flooding;
- (viii) carbon dioxide water flooding;
- (ix) immiscible carbon dioxide displacement; or
- (x) any other method approved by the board as a tertiary recovery method.

(25) "Well" or "wells" means a single well or a group of wells in one field or production unit and under the control of one operator or producer.

(26) "Working interest owner" means the owner of an interest in an oil or natural gas well or wells who bears any portion of the exploration, development, and operating costs of the well or wells."

**Section 2.** Section 15-36-304, MCA, is amended to read:

**"15-36-304. Production tax rates imposed on oil and natural gas.** (1) The production of oil and natural gas is taxed as provided in this section. The tax is distributed as provided in 15-36-331 and 15-36-332.

(2) Natural gas is taxed on the gross taxable value of production based on the type of well and type of production according to the following schedule for working interest and nonworking interest owners:

	Working Interest	Nonworking Interest
(a) (i) first 12 months of qualifying production	0.5%	14.8%
(ii) after 12 months:		
(A) pre-1999 wells	14.8%	14.8%

(B) post-1999 wells	9%	14.8%
(b) stripper natural gas pre-1999 wells	11%	14.8%
(c) horizontally completed well production:		
(i) first 18 months of qualifying production	0.5%	14.8%
(ii) after 18 months	9%	14.8%

(3) The reduced tax rates under subsection (2)(a)(i) on production for the first 12 months of natural gas production from a well begins following the last day of the calendar month immediately preceding the month in which natural gas is placed in a natural gas distribution system, provided that notification has been given to the department.

(4) The reduced tax rate under subsection (2)(c)(i) on production from a horizontally completed well for the first 18 months of production begins following the last day of the calendar month immediately preceding the month in which natural gas is placed in a natural gas distribution system, provided that notification has been given to the department.

(5) Oil is taxed on the gross taxable value of production based on the type of well and type of production according to the following schedule for working interest and nonworking interest owners:

	Working Interest	Nonworking Interest
(a) primary recovery production:		
(i) first 12 months of qualifying production	0.5%	14.8%
(ii) after 12 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%
(b) stripper oil production:		
(i) <del>first 1</del> <i>first 1</i> through 10 barrels a day production	5.5%	14.8%
(ii) more than 10 barrels a day production	9.0%	14.8%
(c) (i) stripper well exemption production	0.5%	14.8%
(ii) <i>stripper well bonus production</i>	6.0%	14.8%
(d) horizontally completed well production:		
(i) first 18 months of qualifying production	0.5%	14.8%
(ii) after 18 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%
(e) incremental production:		
(i) new or expanded secondary recovery production	8.5%	14.8%
(ii) new or expanded tertiary production	5.8%	14.8%
(f) horizontally recompleted well:		
(i) first 18 months	5.5%	14.8%
(ii) after 18 months:		

(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%

(6) (a) The reduced tax rates under subsection (5)(a)(i) for the first 12 months of oil production from a well begins following the last day of the calendar month immediately preceding the month in which oil is pumped or flows, provided that notification has been given to the department.

(b) (i) The reduced tax rates under subsection (5)(d)(i) on oil production from a horizontally completed well for the first 18 months of production begins following the last day of the calendar month immediately preceding the month in which oil is pumped or flows if the well has been certified as a horizontally completed well to the department by the board.

(ii) The reduced tax rate under subsection (5)(f)(i) on oil production from a horizontally recompleted well for the first 18 months of production begins following the last day of the calendar month immediately preceding the month in which oil is pumped or flows if the well has been certified as a horizontally recompleted well to the department by the board.

(c) Incremental production is taxed as provided in subsection (5)(e) only if the average price for each barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less than \$30 a barrel. If the price of oil is equal to or greater than \$30 a barrel in a calendar quarter as determined in subsection (6)(d), then incremental production from pre-1999 wells and from post-1999 wells is taxed at the rate imposed on primary recovery production under subsections (5)(a)(ii)(A) and (5)(a)(ii)(B), respectively, for production occurring in that quarter, other than exempt stripper well production.

(d) (i) Stripper well exemption production is taxed as provided in subsection (5)(c)(i) only if the average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less than \$38 a barrel. *If the price of oil is equal to or greater than \$38 a barrel, there is no stripper well exemption tax rate and oil produced from a well that produces 3 barrels a day or less is taxed as stripper well bonus production.*

(ii) *Stripper well bonus production is subject to taxation as provided in subsection (5)(c)(ii) only if the average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is equal to or greater than \$38 a barrel.*

~~(d)(e)~~ For the purposes of ~~subsection~~ subsections (6)(c) and (6)(d), the average price for each barrel must be computed by dividing the sum of the daily price for west Texas intermediate crude oil as reported in the Wall Street Journal for the calendar quarter by the number of days on which the price was reported in the quarter.

(7) The tax rates imposed under subsections (2) and (5) on working interest owners and nonworking interest owners must be adjusted to include the privilege and license tax adopted by the board of oil and gas conservation pursuant to 82-11-131."

**Section 3. Effective date.** [This act] is effective July 1, 2005.

**Section 4. Applicability.** [This act] applies to oil produced and sold after June 30, 2005.

Approved May 6, 2005

**CHAPTER NO. 593**

[HB 584]

AN ACT CREATING THE BIG SKY ON THE BIG SCREEN ACT; PROMOTING THE MOTION PICTURE AND TELEVISION INDUSTRIES AND RELATED MEDIA IN MONTANA BY PROVIDING TAX INCENTIVES FOR FILMING AND FOR DEVELOPING MAGAZINE ADVERTISING IN MONTANA; PROVIDING DEFINITIONS; ALLOWING A PRODUCTION COMPANY A TAX CREDIT FOR EMPLOYING MONTANA RESIDENTS; ALLOWING A PRODUCTION COMPANY A TAX CREDIT FOR QUALIFYING EXPENDITURES MADE IN MONTANA; REQUIRING A PRODUCTION COMPANY TO APPLY TO THE DEPARTMENT OF COMMERCE FOR STATE CERTIFICATION OF A PRODUCTION IN ORDER TO QUALIFY FOR THE TAX CREDITS; REQUIRING AN APPLICATION AND AN APPLICATION FEE FOR A PRODUCTION COMPANY TO CLAIM TAX CREDITS FOR A STATE-CERTIFIED PRODUCTION; REQUIRING THAT THE APPLICATION FEE BE USED FOR ADMINISTERING THE TAX CREDITS; LIMITING THE TAX CREDITS THAT MAY BE CLAIMED FOR A STATE-CERTIFIED PRODUCTION; PROVIDING FOR THE ADMINISTRATION OF THE TAX CREDITS; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, APPLICABILITY DATES, AND A TERMINATION DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Short title.** [Sections 1 through 11] may be cited as the “Big Sky on the Big Screen Act”.

**Section 2. Purpose.** (1) The purposes of [sections 1 through 11] are to enhance Montana’s economy by revitalizing and expanding the motion picture and television industries and related media in Montana and to promote the growth of small businesses. The objectives of [sections 1 through 11] are to:

- (a) renew interest in Montana as a premier location for the production of motion pictures, documentaries, television programs and commercials, and magazine advertising;
- (b) encourage the creation of jobs that pay well for Montana workers and university graduates;
- (c) enhance the growth of Montana businesses that provide goods and services for these types of productions; and
- (d) help promote the tourism industry in Montana.

(2) The objectives in subsection (1) will best be achieved by offering tax incentives to production companies for hiring Montana residents and for purchasing Montana goods and services.

**Section 3. Definitions.** As used in [sections 1 through 11], unless the context requires otherwise, the following definitions apply:

- (1) “Compensation” means salary, wages, or other compensation, including related benefits paid to a Montana resident.
- (2) (a) “Production” means a nationally or regionally distributed feature-length film, short film, documentary, television series or segment, television pilot, magazine advertising, other than advertising for tobacco products, or commercial made in Montana, in whole or in part, for theatrical, television, video, internet, or other viewing.

(b) The term does not include the production of television coverage of news and athletic events or a film, video, internet production, television series, magazine advertising, or commercial that:

(i) contains any obscene material or performance as described in 45-8-201(2); or

(ii) is produced in whole or in part with money received for tobacco product placement, advertisement, or other tobacco use in the production.

(3) (a) "Production company" means a company engaged in the business of producing nationally or regionally distributed productions.

(b) The term does not include a company owned, affiliated, or controlled by, in whole or in part, a company or person that is in default on a loan made by this state or a loan guaranteed by this state or a company or person that has filed for bankruptcy.

(4) (a) "Qualified expenditures" means expenditures in Montana made by a production company that are directly related to a state-certified production. The term includes expenditures for lodging expenses, restaurant and food expenses, location fees, lumber and construction materials, rental of production equipment and vehicles, and supplies and materials that will be used in the production.

(b) The term does not include expenditures made for goods and services obtained out of state.

(5) "Resident" or "Montana resident", for the purpose of determining eligibility for the tax credit provided under [section 7], has the meaning provided in 15-30-101.

(6) "State-certified production" means a production certified by the department of commerce as provided in [section 4] and produced by a production company that has a national or regional distribution plan, including but not limited to a major theatrical exhibition, film festival, television network, cable television programming, magazine advertising, or video or internet distribution.

**Section 4. Application for state certification — approval — revocation — eligibility for tax credits — rules.** (1) A production company may not receive the tax credits allowed under [sections 7 and 8] unless the production has been certified by the department of commerce, as provided in this section, and has applied to the department of revenue for the tax credits as provided in [section 6]. The certification by the department of commerce must occur within 30 days after submission of the application under this section.

(2) An application, on a form provided by the department of commerce, must be submitted by the production company to the department of commerce before the start of principal photography. The application must include:

(a) the production company's name, primary home address, business address, telephone and fax numbers, incorporation information, and federal tax identification number;

(b) the address and telephone and fax numbers of the production company's Montana office;

(c) the name of the line producer, unit production manager, or production accountant or the names of all three;

(d) a statement that the applicant meets the definition of a production company under [section 3];

- (e) the title of the production;
  - (f) the type of production;
  - (g) the proposed dates of production from preproduction to the start and completion of principal photography;
  - (h) a copy or synopsis of the production script;
  - (i) a list of the production locations;
  - (j) a statement that the proposed production:
    - (i) does not contain any material or performance that would be considered obscene under 45-8-201(2);
    - or
    - (ii) will not receive any money for tobacco product placement, advertisement, or other tobacco use in the production; and
    - (k) if the production is a feature-length film, a statement that the production will include a line in the production's film credits that the production was filmed in Montana.
- (3) The application must be signed by the manager, agent, president, vice president, or other person authorized to represent the production company.
- (4) (a) The department of commerce shall notify the applicant within 30 days of receipt as to whether the production qualifies as a state-certified production.
- (b) (i) Subject to subsection (4)(b)(ii), if the department of commerce approves the application, it shall provide a certification number to the applicant and notify the department of revenue of the approval and certification number.
- (ii) If the production is a feature-length film, the production company and the department of commerce, prior to the issuance of the certification number, shall enter into an agreement that the production company will comply with the provisions of subsection (2)(k). The agreement may provide for remedies if the production company violates the agreement.
- (5) If the department of commerce determines that the production company has violated the provisions of subsection (2)(d) or (2)(j), the department of commerce may revoke the state certification of the production. If the department of commerce revokes the state certification, the department of commerce shall notify the department of revenue. The production company has the right to a hearing under Title 2, chapter 4, part 6.
- (6) The department of commerce shall prescribe rules, including a procedure for review of that department's denial or revocation of state certification, necessary to carry out the provisions of this section.

**Section 5. Submission of costs.** Within 60 days of completion of principal photography, the production company shall submit a statement of all expenditures and compensation paid to Montana residents to the department.

**Section 6. Application for tax credit — fee.** (1) To receive the tax credits under [sections 7 and 8] for a state-certified production, a production company shall apply to the department on a form prescribed by the department. The form must be accompanied by an application fee. The application must be made and the fee paid at the time the production company files its tax return.

(2) The application fee is determined as follows:

- (a) if the total compensation paid to Montana residents for the production is less than or equal to \$30,000, the application fee is \$500;

(b) if the total compensation paid to Montana residents for the production is more than \$30,000, the application fee is \$75 for each resident employed by the production company; or

(c) if the production company is applying only for the qualified expenditure tax credit, the application fee is \$500.

(3) The fee must be deposited in the state special revenue account. The fee is statutorily appropriated, as provided in 17-7-502, in equal amounts to the department of revenue and the department of commerce to administer the provisions of [sections 6 through 11].

**Section 7. Employment production tax credit.** (1) Subject to [section 9], a production company that has submitted an application for a tax credit and paid the fee as required under [section 6] is allowed a tax credit against the taxes imposed by chapter 30 or 31 for the employment of residents of this state in connection with a state-certified production in the state. Except as provided in subsection (4)(b), the credit is equal to credit carryovers and the credit for the tax year.

(2) The aggregate of the credit allowed under this section for a production occurring in the production company's tax year is equal to the sum of 12% of the first \$50,000 or less of actual compensation paid to each Montana resident employed in connection with the state-certified production during the tax year.

(3) The taxpayer is required to provide to the department, on a form prescribed by the department, a list of all cast and crew participating in the production and the amount of compensation paid to each Montana resident. The form returned by the taxpayer must include the certification number provided for in [section 4].

(4) If the credit exceeds the taxpayer's tax liability, the taxpayer shall make a one-time election to claim the credit for each state-certified production allowed under this section as follows:

(a) the credit may be refunded; or

(b) the credit may be carried forward against the taxes imposed by chapter 30 or 31 for the 4 succeeding tax years. However, the credit may not be carried forward to the extent that the credit in the tax year that the credit is received exceeds the limitation under [section 9].

(5) A C. corporation, an individual, an S. corporation, or a partnership qualifies for the credit under this section. If the credit is claimed by an S. corporation or a partnership, the credit must be attributed to the shareholders, partners, or members in the same proportion used to report income or loss for state tax purposes.

(6) The credit allowed under this section may not be claimed by a taxpayer if the taxpayer has included the amount of the compensation upon which the amount of the credit was computed as a deduction under 15-30-121 or 15-31-114.

(7) If any application of this section is held invalid, this section applies to other situations or persons in a manner that is not included in the invalid application.

**Section 8. Tax credit for qualified expenditures.** (1) Subject to [section 9], a production company that has submitted an application and paid the fee as required under [section 6] is allowed a tax credit against the taxes imposed by chapter 30 or 31 for qualified expenditures in this state made in connection with a state-certified production in the state. The credit allowed under this section is

equal to 8% of the total qualified expenditures incurred in connection with the state-certified production during the tax year.

(2) The taxpayer is required to provide to the department, on a form prescribed by the department, the amount of qualified expenditures. The form returned by the taxpayer must include the certification number provided for in [section 4]. The taxpayer shall also provide other information required by the department to verify the accuracy of the qualified expenditures.

(3) The credit allowed under this section must be refunded if a taxpayer has tax liability less than the amount of the credit.

(4) A C. corporation, an individual, an S. corporation, or a partnership qualifies for the credit under this section. If the credit is claimed by an S. corporation or a partnership, the credit must be attributed to the shareholders, partners, or members in the same proportion used to report income or loss for state tax purposes.

(5) The credit allowed under this section may not be claimed by a taxpayer if the taxpayer has included the amount of the qualified expenditure upon which the amount of the credit was computed as a deduction under 15-30-121 or 15-31-114.

**Section 9. Limitation on amount of credits.** The total amount of the credits allowed under [sections 7 and 8] may not exceed \$1 million for each state-certified production.

**Section 10. Denial of claim for credit — recapture.** A taxpayer whose state-certified production has been revoked as provided in [section 4(5)] may not claim the credits allowed under [sections 7 and 8]. If the department of commerce revokes the state certification of a production company after the production company has taken a credit under [section 7 or 8], the production company shall refund the amount of any credits taken. The taxpayer is subject to the penalty and interest provisions of this chapter.

**Section 11. Rules.** (1) The department of revenue shall adopt rules that are necessary to implement and administer [sections 6 through 11]. The department shall, in consultation with the department of commerce, develop procedures for determining compensation paid to residents and qualified expenditures for the credits allowed under [sections 7 and 8] and for taxpayer compliance with the provisions of [section 4].

(2) The department and the department of commerce shall jointly adopt rules related to the definitions in [section 3].

**Section 12.** 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: 2-15-151; 2-17-105; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; *[section 6]*; 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-11-404; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; 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 Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 2 and 5, Ch. 481, L. 2003, the inclusion of 90-6-710 terminates June 30, 2005; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; and pursuant to sec. 135, Ch. 114, L. 2003, the inclusion of 2-15-151 terminates June 30, 2005.)"

**Section 13. Codification instruction.** [Sections 1 through 11] are intended to be codified as an integral part of Title 15, chapter 31, and the provisions of Title 15, chapter 31, apply to [sections 1 through 11].

**Section 14. 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 15. Effective date.** [This act] is effective on passage and approval.

**Section 16. Applicability.** (1) Except as provided in subsection (2), [this act] applies to state-certified productions approved after [the effective date of this act].

(2) [Sections 6 through 10] apply retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2004.

**Section 17. Termination — carryforward.** [This act] terminates January 1, 2010, but an unused credit under [section 7] may be carried forward for use on returns for tax years beginning before January 1, 2014, subject to use, limitations on the amount of the credit, carryforward, and recapture provisions of the credit effective on December 31, 2009.

Approved May 6, 2005

**CHAPTER NO. 594**

[HB 592]

AN ACT REVISING AND CLARIFYING THE DETERMINATION OF PENALTY AND INTEREST PROVISIONS APPLIED TO TAXES, FEES, AND OTHER ASSESSMENTS ADMINISTERED BY THE DEPARTMENT OF REVENUE; REVISING UNIFORM PENALTY PROVISIONS; REVISING UNIFORM INTEREST ASSESSMENTS BY USING THE GREATER OF 8 PERCENT OR THE FEDERAL UNDERPAYMENT RATE ASSESSED AGAINST INDIVIDUAL INCOME TAXPAYERS; IMPOSING A HIGHER INTEREST RATE ON CERTAIN TAXPAYERS UNDER CERTAIN CONDITIONS; ESTABLISHING A UNIFORM INTEREST RATE APPLIED TO THE OVERPAYMENT OF TAXES OR FEES; REVISING THE ACCRUAL OF INTEREST ON UNPAID TAXES; APPLYING THE UNIFORM PENALTY AND INTEREST PROVISIONS TO CERTAIN OTHER TAXES AND FEES; AMENDING SECTIONS 15-1-206, 15-1-216, 15-23-214, 15-30-142, 15-30-149, 15-30-209, 15-30-241, 15-30-321, 15-30-323, 15-30-1112, 15-31-111, 15-31-141, 15-31-503, 15-31-510, 15-31-531, 15-31-543, 15-35-112, 15-36-314, 15-37-102, 15-37-105, 15-37-106, 15-37-108, 15-37-114, 15-37-210, 15-38-106, 15-38-110, 15-38-111, 15-50-308, 15-51-109, 15-53-145, 15-53-146, 15-59-112, 15-60-206, 15-65-115, 15-66-206, 15-67-206, 15-68-513, AND 15-72-114, MCA; REPEALING SECTION 15-31-545, MCA; AND PROVIDING EFFECTIVE DATES AND APPLICABILITY DATES.

WHEREAS, the Fifty-Sixth Legislature enacted legislation establishing uniform provisions for the assessment of penalties for late filings of tax returns and other statements and for assessing penalty and interest for delinquent taxes and fees under Titles 15 and 16 of the Montana Code Annotated and certain other taxes and fees; and

WHEREAS, the uniform assessment provisions related to penalties and interest do not apply to every tax or fee imposed under Title 15 and administered by the Department of Revenue; and

WHEREAS, the Department of Revenue's Integrated Revenue Information System is designed to ensure that the state's tax laws are applied fairly and consistently; and

WHEREAS, it is in the best interest of the State of Montana and taxpayers to expand the application of the uniform method of assessing penalties and interest.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 15-1-206, MCA, is amended to read:

**“15-1-206. Waiver of penalties — interest.** (1) The department may, in its discretion, waive, for reasonable cause, any penalty assessed by the department.

(2) Whenever the department waives a penalty provided for in this title, it also may, in its discretion, waive interest not to exceed \$100 due upon the tax.

~~(3) Whenever the department is notified of a change in federal taxable income upon filing an amended Montana return, as provided for in 15-30-304, the department shall waive the interest on the additional tax liability from the date the department is notified until the department sends the statement of increased tax liability to the taxpayer.”~~

**Section 2.** Section 15-1-216, MCA, is amended to read:

**“15-1-216. Uniform penalty and interest assessments for violation of tax provisions — applicability — exceptions.** (1) (a) A person who fails to file a required tax return or other report with the department by the due date, including any extension of time, of the return or report must be assessed a late filing penalty of \$50 or the amount of the tax due, whichever is less.

(b) A person who purposely fails to file a required return, statement, or other report must be assessed an additional late filing penalty of \$200 or the amount of the tax due, whichever is less.

(c) A person who fails to pay a tax when due must be assessed a late payment penalty of 1.5% a month or fraction of a month on the unpaid tax. The penalty may not exceed 18% of the tax due. *The penalty accrues on the unpaid tax from the original due date of the return regardless of whether the taxpayer has received an extension of time for filing a return.*

(d) A person who purposely fails to pay a tax when due must be assessed an additional penalty equal to 25% of the tax due or \$200, whichever is less, plus interest as provided in subsection (2).

(2) Interest on taxes not paid when due must be assessed at the rate of 12% a year, ~~accrued at 1% a month or fraction of a month, on the unpaid tax.~~ Interest on delinquent taxes and on deficiency assessments is computed from the original due date of the return until the tax is paid. *Interest accrues daily on the unpaid tax from the original due date of the return regardless of whether the taxpayer has received an extension of time for filing the return.*

(3) (a) Except as provided in subsection (3)(b), this section applies to taxes, fees, and other assessments imposed under Titles 15 and 16.

(b) This section does not apply to:

(i) property taxes;

(ii) gasoline and vehicle fuel taxes collected by the department of transportation pursuant to Title 15, chapter 70; or

(iii) taxes, fees, and other assessments subject to other penalty or interest charges as provided by law.”

**Section 3.** Section 15-1-216, MCA, is amended to read:

**“15-1-216. Uniform penalty and interest assessments for violation of tax provisions — applicability — exceptions — uniform provision for interest on overpayments.** (1) ~~(a)~~ A person who fails to file a required tax return or other report with the department by the due date, including any extension of time, of the return or report must be assessed a late filing penalty of \$50 or the amount of the tax due, whichever is less.

~~(b) A person who purposely fails to file a required return, statement, or other report must be assessed an additional late filing penalty of \$200 or the amount of the tax due, whichever is less.~~

~~(2)~~ (a) *Except as provided in subsection (2)(b), a person who fails to pay a tax when due must be assessed a late payment penalty of 1.2% a month or fraction of a month on the unpaid tax. The penalty may not exceed 12% of the tax due.*

(b) A person who fails to pay a tax when due *under chapter 30, part 2, chapter 53, chapter 65, or chapter 68* must be assessed a late payment penalty of 1.5% a month or fraction of a month on the unpaid tax. The penalty may not exceed ~~18%~~ 15% of the tax due.

(c) *The penalty imposed under subsection (2)(a) or (2)(b) accrues on the unpaid tax from the original due date of the return regardless of whether the taxpayer has received an extension of time for filing a return.*

~~(d) A person who purposely fails to pay a tax when due must be assessed an additional penalty equal to 25% of the tax due or \$200, whichever is less, plus interest as provided in subsection (2).~~

(3) *A person who purposely or knowingly, as those terms are defined in 45-2-101, fails to file a return when due or fails to file a return within 60 days after receiving written notice from the department that a return must be filed is liable for an additional penalty of not less than \$1,000 or more than \$10,000. The department may bring an action in the name of the state to recover the penalty and any delinquent taxes.*

~~(2)(4) (a) Interest~~ Interest on taxes not paid when due must be assessed at the rate of 12% a year, accrued at 1% a month or fraction of a month, on the unpaid tax by the department. The department shall determine the interest rates established under subsection (4)(a)(i) for each calendar year by rule subject to the conditions of this subsection (4)(a). Interest rates on taxes not paid when due for a calendar year are as follows:

(i) *For individual income taxes not paid when due, including delinquent taxes and deficiency assessments, the interest rate is equal to the underpayment rate for individual taxpayers established by the secretary of the United States department of the treasury pursuant to section 6621 of the Internal Revenue Code, 26 U.S.C. section 6621, for the fourth quarter of the preceding year or 8%, whichever is greater.*

(ii) *For all taxes other than individual income taxes not paid when due, including delinquent taxes and deficiency assessments, the interest rate is 12%.*

(b) *Interest on delinquent taxes and on deficiency assessments is computed from the original due date of the return until the tax is paid. Interest accrues daily on the unpaid tax from the original due date of the return regardless of whether the taxpayer has received an extension of time for filing the return.*

~~(3)(5) (a)~~ Except as provided in subsection ~~(3)(b)~~ (5)(b), this section applies to taxes, fees, and other assessments imposed under Titles 15 and 16.

(b) This section does not apply to:

(i) property taxes; or

(ii) gasoline and vehicle fuel taxes collected by the department of transportation pursuant to Title 15, chapter 70; or

~~(iii) taxes, fees, and other assessments subject to other penalty or interest charges as provided by law.~~

(6) *Any changes to interest rates apply to any current outstanding tax balance, regardless of the rate in effect at the time the tax accrued.*

(7) *Penalty and interest is calculated and assessed commencing with the due date of the return.*

(8) *Deficiency assessments are due and payable 30 days from the date of the deficiency assessment.*

(9) *Interest allowed for the overpayment of taxes or fees is the same rate as is charged for unpaid or delinquent taxes. For the purposes of this subsection, interest charged for unpaid or delinquent taxes is the interest rate determined in subsection (4)(a)(i)."*

**Section 4.** Section 15-23-214, MCA, is amended to read:

**“15-23-214. Determination of tax — payment — penalty and interest.**

(1) Subject to 15-10-420 and on or before the third Monday in October, the department of revenue shall compute the tax on railroad car company property by multiplying the taxable value of the property by the average levy.

(2) After determining the tax, the department shall send to the last-known address of each railroad car company subject to taxation a written notice, postage prepaid, showing the amount of taxes due for the current year and any delinquent amount for prior years. The notice must include the taxable value of the property and the average levy used to compute the tax.

(3) The tax is due and payable to the department under the provisions of 15-16-102. A tax not received by the department within the time requirements of 15-16-102 is delinquent and subject to penalty and interest ~~under that section as provided in 15-1-216.”~~

**Section 5.** Section 15-30-142, MCA, is amended to read:

**“15-30-142. Returns and payment of tax — penalty and interest — refunds — credits.** (1) For both resident and nonresident taxpayers, each single individual and each married individual not filing a joint return with a spouse and having a gross income for the tax year of more than \$3,560, as adjusted under the provisions of subsection ~~(7)~~ (6), and married individuals not filing separate returns and having a combined gross income for the tax year of more than \$7,120, as adjusted under the provisions of subsection ~~(7)~~ (6), are liable for a return to be filed on forms and according to rules that the department may prescribe. The gross income amounts referred to in the preceding sentence must be increased by \$1,900, as adjusted under the provisions of 15-30-112(6), for each additional personal exemption allowance that the taxpayer is entitled to claim for the taxpayer and the taxpayer’s spouse under 15-30-112(3) and (4).

(2) In accordance with instructions set forth by the department, each taxpayer who is married and living with husband or wife and is required to file a return may, at the taxpayer’s option, file a joint return with husband or wife even though one of the spouses has neither gross income nor deductions. If a joint return is made, the tax must be computed on the aggregate taxable income and the liability with respect to the tax is joint and several. If a joint return has been filed for a tax year, the spouses may not file separate returns after the time for filing the return of either has expired unless the department consents.

(3) If a taxpayer is unable to make the taxpayer’s own return, the return must be made by an authorized agent or by a guardian or other person charged with the care of the person or property of the taxpayer.

(4) All taxpayers, including but not limited to those subject to the provisions of 15-30-202 and 15-30-241, shall compute the amount of income tax payable and shall, on or before the date required by this chapter for filing a return, pay to the department any balance of income tax remaining unpaid after crediting the amount withheld, as provided by 15-30-202, and any payment made by reason of an estimated tax return provided for in 15-30-241. However, the tax computed must be greater by \$1 than the amount withheld and paid by estimated return as provided in this chapter. If the amount of tax withheld and the payment of estimated tax exceed by more than \$1 the amount of income tax as computed, the taxpayer is entitled to a refund of the excess.

~~(5) As soon as practicable after the return is filed, the department shall examine and verify the tax.~~

~~(6)~~(5) If the department determines that the amount of tax as ~~verified~~ due is greater than the amount paid, the excess must be paid by the taxpayer to the department within 60 days after notice of the amount of the tax as computed, with interest added as provided in 15-1-216. In that case, there may not be a penalty because of the understatement if the deficiency is paid within 60 days after the first notice of the amount is mailed to the taxpayer of tax computed by the taxpayer on the return, the department shall mail a notice to the taxpayer as provided in 15-30-323 of the additional tax proposed to be assessed, including penalty and interest as provided in 15-1-216.

~~(7)~~(6) By November 1 of each year, the department shall multiply the minimum amount of gross income necessitating the filing of a return by the inflation factor for the tax year. These adjusted amounts are effective for that tax year, and persons who have gross incomes less than these adjusted amounts are not required to file a return.

~~(8)~~(7) Individual income tax forms distributed by the department for each tax year must contain instructions and tables based on the adjusted base year structure for that tax year.”

**Section 6.** Section 15-30-149, MCA, is amended to read:

**“15-30-149. Credits and refunds — period of limitations.** (1) If the department discovers from the examination of a return or upon a claim duly filed by a taxpayer or upon final judgment of a court that the amount of income tax collected is in excess of the amount due or that any penalty or interest was erroneously or illegally collected, the amount of the overpayment must be credited against any income tax, penalty, or interest then due from the taxpayer and the balance of the excess must be refunded to the taxpayer.

(2) (a) A credit or refund under the provisions of this section may be allowed only if, prior to the expiration of the period provided by 15-30-146 and 15-30-147, the taxpayer files a claim or the department determines there has been an overpayment.

(b) If an overpayment of tax results from a net operating loss carryback, the overpayment may be refunded or credited within the period that expires on the 15th day of the 40th month following the close of the ~~taxable~~ tax year of the net operating loss if that period expires later than 5 years from the due date of the return for the year to which the net operating loss is carried back.

(3) Within 6 months after a claim for refund is filed, the department shall examine the claim and either approve or disapprove it. If the claim is approved, the credit or refund must be made to the taxpayer within 60 days after the claim is approved. If the claim is disallowed, the department shall notify the taxpayer and a review of the determination of the department may be pursued as provided in 15-1-211.

(4) Interest is allowed on overpayments at the same rate as charged on delinquent taxes *as provided in 15-1-216*. Interest is payable from the due date of the return or from the date of the overpayment, whichever date is later, to the date the department approves refunding or crediting of the overpayment. With respect to tax paid by withholding or by estimate, the date of overpayment is the date on which the return for the ~~taxable~~ tax year was due. Interest does not accrue on an overpayment if the taxpayer elects to have it applied to the taxpayer's estimated tax for the succeeding taxable year. Interest does not accrue during any period the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information

requested by the department for the purpose of verifying the amount of the overpayment. Interest is not allowed if:

- (a) the overpayment is refunded within 45 days from the date the return is due or the date the return is filed, whichever date is later;
- (b) the overpayment results from the carryback of a net operating loss; or
- (c) the amount of interest is less than \$1.

(5) An overpayment not made incident to a bona fide and orderly discharge of an actual income tax liability or one reasonably assumed to be imposed by this law is not considered an overpayment with respect to which interest is allowable.”

**Section 7.** Section 15-30-209, MCA, is amended to read:

**“15-30-209. Violations by employer — penalties, interest, and remedies.** (1) The department shall, as provided in 15-1-216, add penalty and interest to the amount of all delinquent withholding taxes.

~~(2) The first time in any consecutive 3-year period that an employer files a report or remits a tax after the due date, the department shall issue a warning notice explaining to the employer that the employer failed to file a report on the due date as required by law and, if applicable, that the employer failed to remit the tax on the due date as required by law and the department shall notify the employer of the consequences of any further subsequent late reporting or late remittance.~~

~~(3) A late report penalty may not be assessed under 15-1-216 if an employer files the late report prior to the issuance of a notice of delinquent report.~~

~~(4)~~(2) A late payment penalty may be waived pursuant to 15-1-206 if an acceptable payment agreement is made between the department and the employer. An employer’s failure to meet the terms of the payment agreement voids the waiver and the penalty must be recomputed from the due date on the unpaid tax.

~~(5)~~(3) (a) A summons penalty of \$50 must be assessed whenever, as the result of a refusal of an employer to furnish wage information or pay taxes on time, the department issues a summons pursuant to 15-1-301.

(b) If an employer fails to honor the summons provided in subsection ~~(5)~~(a) (3)(a), an additional \$100 penalty must be added to the liability.

~~(6)~~(4) In addition to ~~any other penalty provided by law~~ *the penalties imposed by 15-1-216*, the failure of an employer to furnish a wage and tax statement as required by 15-30-207(1) subjects the employer to a penalty of \$5 for each failure with a minimum of \$50.

~~(7)~~(5) Penalties may be waived by the department upon a showing of good cause by the employer. The penalty may be collected in the same manner as are other tax debts including a tax lien.

~~(8)~~(6) If any tax imposed by this chapter or any portion of the tax is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The priority date of the tax lien created by filing the warrant for distraint is the date the tax was due as indicated on the warrant for distraint.

~~(9)~~(7) The tax lien provided for in subsection ~~(8)~~ (6) is not valid against any third party owning an interest in the real or personal property whose interest is recorded prior to the filing of the warrant for distraint if the third party receives

from the most recent grantor of the interest an affidavit stating that all taxes, assessments, penalties, and interest due from the grantor have been paid.

~~(10)(8)~~ A grantor who signs and delivers to the third party an affidavit as provided in subsection ~~(9)~~ (7) is subject to the ~~penalties~~ *penalty* imposed by ~~15-30-321(1)~~ 15-1-216(3) if any part of the affidavit is untrue. ~~The department may bring an action as provided in 15-30-321(1) in the name of the state to recover the civil penalty and any delinquent taxes.~~

~~(11)(9)~~ All of the remedies available to the state for the administration, enforcement, and collection of income taxes are available and apply to the tax required to be deducted and withheld under the provisions of 15-30-201 through 15-30-208 unless otherwise specifically addressed in this part.”

**Section 8.** Section 15-30-241, MCA, is amended to read:

**“15-30-241. Estimated tax — payment — exceptions — interest.** (1) (a) Each individual subject to tax under this chapter, except farmers or ranchers as defined in subsection (6), shall pay for the tax year, through employer withholding, as provided in 15-30-202, through payment of estimated tax in four installments, as provided in subsection (2) of this section, or through a combination of employer withholding and estimated tax payments, at least:

(i) 90% of the tax for the current tax year, less tax credits and withholding allowed the taxpayer; or

(ii) an amount equal to 100% of the individual’s tax liability for the preceding tax year, if the preceding tax year was a period of 12 months and if the individual filed a return for the tax year.

(b) Payment of estimated taxes under this section is not required if:

(i) the combined tax liability of employer withholding and estimated tax for the current year is less than \$500 after reductions for credits and withholding;

(ii) the individual did not have any tax liability for the preceding tax year, which was a tax year of 12 months, and if the individual was a citizen or resident of the United States throughout that tax year;

(iii) the underpayment was caused by reason of casualty, disaster, or other unusual circumstances that the department determines to constitute good cause; or

(iv) the individual retired in the tax year after having attained the age of 62 or if the individual became disabled in the tax year. In addition, payment of estimated taxes under this section is not required in the tax year following the tax year in which the individual retired or became disabled.

(2) Estimated taxes must be paid in four installments according to one of the following schedules:

(a) For each taxpayer whose tax year begins on January 1, estimated tax payments are due on the following dates:

Installment	Date
First	April 15
Second	June 15
Third	September 15
Fourth	January 15 of the following tax year

(b) For each taxpayer whose tax year begins on a date other than January 1, estimated tax payments are due on the following dates:

Installment	Date
First	15th day of the 4th month following the beginning of the tax year
Second	15th day of the 6th month following the beginning of the tax year
Third	15th day of the 9th month following the beginning of the tax year
Fourth	15th day of the month following the close of the tax year

(3) (a) Except as provided in subsection (4), each installment must be 25% of the required annual payment determined pursuant to subsection (1). If the taxpayer's tax situation changes, each succeeding installment must be proportionally changed so that the balance of the required annual payment is paid in equal installments over the remaining period of time.

(b) If the taxpayer's tax situation changes after the date for the first installment or any subsequent installment, as specified in subsection (2)(a) or (2)(b), so that the taxpayer is required to pay estimated taxes, the taxpayer shall pay 25% for each succeeding installment except for the first one in which a payment is required. For estimated taxes required to be paid beginning with the second installment provided for in subsection (2)(a) or (2)(b), the taxpayer shall pay 50% for that installment and 25% for the third and fourth installments, respectively. For estimated taxes required to be paid beginning with the third installment provided for in subsection (2)(a) or (2)(b), the taxpayer shall pay 75% for that installment and 25% for the fourth installment.

(4) (a) If for any required installment the taxpayer determines that the installment payment is less than the amount determined under subsection (3)(a), the lower amount may be paid as an annualized income installment.

(b) For any required installment, the annualized income installment is the applicable percentage described in subsection (4)(c) applied to the tax computed on the basis of annualized taxable income in the tax year for the months ending before the due date for the installment less the total amount of any prior required installments for the tax year.

(c) For the purposes of this subsection (4), the applicable percentage is determined according to the following schedule:

Required Installment	Applicable Percentage
First	22.5%
Second	45%
Third	67.5%
Fourth	90%

(d) A reduction in a required installment resulting from the application of an annualized income installment must be recaptured by increasing the amount of the next required installment, determined under subsection (3)(a), by the amount of the reduction. Any subsequent installment must be increased by the amount of the reduction until the amount has been recaptured.

(5) (a) If an estimated tax, an employer withholding tax, or a combination of estimated tax and employer withholding tax is underpaid, there must be added to the amount due under this chapter interest equal to 12% a year on the amount of the underpayment as provided in 15-1-216. The interest is computed on the amount of the underpayment, as determined in subsection (5)(b), for the period

from the time the payment was due to the date payment was made or to the 15th day of the 4th month of the year following the tax year in which the payment was to be made, whichever is earlier.

(b) For the purpose of determining the amount of interest due in subsection (5)(a), the amount of the underpayment is the required installment amount less the installment amount paid, if any, on or before the due date for the installment.

(c) For the purpose of determining the amount of interest due in subsection (5)(a), an estimated payment must be credited against unpaid required installments in the order in which those installments are required to be paid.

(d) For each married taxpayer filing separately on the same form, the interest provided for in subsection (5)(a) must be computed on the combined tax liability after reductions for credits and withholding, as shown on the taxpayer's return.

(e) Interest may not be charged with respect to any underpayment of the fourth installment of estimated taxes if:

(i) the taxpayer pays in full the amount computed on the return as payable; and

(ii) the taxpayer files a return on or before the last day of the month following the close of the tax year referred to in subsection (2)(a) or (2)(b).

(6) For the purposes of this section, "farmer or rancher" means a taxpayer who derives at least 66 2/3% of the taxpayer's gross income, as defined in 15-30-101, from farming or ranching operations, or both.

(7) The department shall promulgate rules governing reasonable extensions of time for paying the estimated tax. An extension may not be for more than 6 months."

**Section 9.** Section 15-30-321, MCA, is amended to read:

**"15-30-321. Penalties for violation of chapter.** ~~(1) Any individual, corporation, or partnership or any officer or employee of any corporation or member or employee of any partnership who purposely fails to file a return or files, renders, or signs a false or fraudulent return or statement or supplies false or fraudulent information is liable to a penalty of not less than \$1,000 and not more than \$5,000, to be recovered in the name of the state by action in a court of competent jurisdiction.~~

~~(1)~~ (1) An individual, corporation, or partnership or an officer or employee of a corporation or member or employer of a partnership who, with intent to evade any tax or requirement of this chapter or any lawful requirement of the department under this chapter, purposely fails to pay the tax or to file or sign any return or to supply information within the time required by this chapter or who with an intent to evade, purposely files or signs a false or fraudulent return or statement or supplies false or fraudulent information is guilty of a misdemeanor and upon conviction must be fined not more than \$1,000 or be imprisoned for not more than 1 year, or both, at the discretion of the court.

~~(2)~~ (2) With respect to the imposition of a civil penalty, evidence produced by the department to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied as required under the provisions of this chapter is prima facie evidence that the tax has not been paid, the return has not been filed, or the information has not been supplied."

**Section 10.** Section 15-30-323, MCA, is amended to read:

**“15-30-323. Penalty and Notice of additional assessment — penalty and interest for deficiency.** (1) ~~If the payment required by 15-30-142(6) is not made within 60 days or if the understatement is due to negligence on the part of the taxpayer but without fraud, the penalty imposed in 15-1-216(1)(c) must be added to the amount of the deficiency. Interest on the additional assessment must be computed as provided in 15-1-216. Except as otherwise provided in this subsection, the interest in all cases must be computed from the date the return and tax were originally due as distinguished from the due date as it may have been extended to the date of payment.~~

~~(2) If the time for filing a return is extended, the taxpayer shall pay in addition interest on the tax due, as provided in 15-1-216, from the time when the return was originally required to be filed to the time of payment.~~

*(1) If the department determines that the amount of tax due is greater than the amount disclosed by the return, it shall mail to the taxpayer a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The taxpayer may seek review of the determination pursuant to 15-1-211.*

*(2) Penalty and interest on any deficiency assessment must be calculated from the applicable date specified in 15-30-144 for payment of the tax, with penalty and interest added as provided in 15-1-216. A certificate by the department of the mailing of the notice specified in subsection (1) is prima facie evidence of the computation and levy of the deficiency in tax and of the giving of the notice.”*

**Section 11.** Section 15-30-1112, MCA, is amended to read:

**“15-30-1112. Composite returns and tax.** (1) A partnership or S. corporation may elect to file a composite return and pay a composite tax on behalf of participants. A participant is a partner, shareholder, member, or other owner who:

(a) is a nonresident individual, a foreign C. corporation, or a pass-through entity whose only Montana source income for the tax year is from the entity and other partnerships or S. corporations electing to file the composite return and pay the composite tax on behalf of that partner, shareholder, member, or other owner; and

(b) consents to be included in the filing.

(2) (a) Each participant’s composite tax liability is the product obtained by:

(i) determining the tax that would be imposed, using the rates specified in 15-30-103, on the sum obtained by subtracting the allowable standard deduction for a single individual and one exemption allowance from the participant’s share of the entity’s income from all sources as determined for federal income tax purposes; and

(ii) multiplying that amount by the ratio of the entity’s Montana source income to the entity’s income from all sources for federal income tax purposes.

(b) A participant’s share of the entity’s income is the aggregate of the participant’s share of the entity’s income, gain, loss, or deduction or item of income, gain, loss, or deduction.

(3) The composite tax is the sum of each participant’s composite tax liability.

(4) The electing entity:

(a) shall remit the composite tax to the department;

(b) must be responsible for any assessments of additional tax, penalties, and interest, which additional assessments must be based on the total liability reflected in the composite return;

(c) shall represent the participants in any appeals, claims for refund, hearing, or court proceeding in any matters relating to the filing of the composite return;

(d) shall make quarterly estimated tax payments *and be subject to the underpayment interest* as prescribed by 15-30-241(5)(a) computed ~~separately for each participant~~ *on the composite tax liability* included in the filing of a composite return; and

(e) shall retain powers of attorney executed by each participant included in the composite return, authorizing the entity to file the composite return and to act on behalf of each participant.

(5) The composite return must be made on forms the department prescribes and filed on or before the due date, including extensions, for filing the entity information return. The composite return is in lieu of an individual income tax return required under 15-30-142 and 15-30-144, a corporation license tax return required under 15-31-111, and a corporation income tax return required under 15-31-403.

(6) The composite tax is in lieu of the taxes imposed under:

(a) 15-30-103 and 15-30-105;

(b) 15-31-101 and 15-31-121; and

(c) 15-31-403.

(7) The department may adopt rules that are necessary to implement and administer this section.”

**Section 12.** Section 15-31-111, MCA, is amended to read:

**“15-31-111. Return to be filed — penalty and interest.** (1) Each corporation subject to the license tax imposed under this chapter shall for each tax period file ~~a true and an~~ accurate return of its net income for the tax period in the manner and form prescribed by the department of revenue. The return must contain all of the ~~facts, data, and~~ information that ~~are~~ *is* appropriate and in the opinion of the department necessary to determine the correctness of the net income ~~returned~~ *disclosed by the return* and to carry out the provisions of this chapter. The return must be signed by the president, the vice president, the treasurer, the assistant treasurer, or the chief accounting officer.

(2) If the corporation is reporting on a calendar year basis, the return must be filed with the department on or before May 15 following the close of the calendar year. If the corporation is reporting on a fiscal year basis, the return must be filed with the department on or before the 15th day of the 5th month following the close of its fiscal year.

(3) (a) A corporation is allowed an automatic extension of time for filing its return of up to 6 months following the date prescribed for filing of its tax return. The tax, *penalty*, and interest must be paid when the return is filed. ~~Interest~~ *Penalty and interest* must be added to the tax due as provided in 15-31-510(2).

(b) The department may grant an additional extension of time for the filing of a return whenever in its judgment good cause exists.

(4) Receivers, trustees in bankruptcy, or assignees operating the property or business of a corporation subject to the license tax imposed by this chapter shall

make the return in the same manner and form as the corporation is required to make the return. Any license tax due on the basis of the return is assessed and collected in the same manner as if assessed directly against the corporation of whose business or property the receiver, trustee, or assignee has custody and control. The receiver, trustee, or assignee shall pay the tax out of the property of the corporation, prior to the claims of creditors or stockholders.”

**Section 13.** Section 15-31-141, MCA, is amended to read:

**“15-31-141. Consolidated returns — computation and procedure — penalty and interest.** (1) Corporations that are affiliated may not file a consolidated return unless at least 80% of all classes of stock of each corporation involved is owned directly or indirectly by one or more members of the affiliated group.

(2) Corporations may not file a consolidated return unless the operation of the affiliated group constitutes a unitary business and, except for a unitary business operation described in subsection (2)(b), permission to file a consolidated return is given by the department. For purposes of this section, a “unitary business operation” means one in which:

(a) the business operations conducted by the corporations in the affiliated group are interrelated or interdependent to the extent that the net income of one corporation cannot reasonably be determined without reference to the operations conducted by the other corporations; or

(b) all of the corporations in the affiliated group operate exclusively in Montana, are not multistate corporations, and have filed a consolidated federal return for the tax year.

(3) The election to file a consolidated return is binding as long as the affiliated group continues to file a federal consolidated return.

(4) If the conditions of subsections (1) and (2) are met, the department may require corporations to file a consolidated return when the department considers a consolidated return necessary.

(5) A corporation liable to report under this chapter and owning or controlling, either directly or indirectly, at least 80% of all classes of stock of each corporation involved may be required to make a consolidated report showing the combined net income, the assets of the corporation that are required for the purposes of this chapter, and any other information that the department may require, but excluding intercorporate stockholdings and intercorporate accounts. A corporation liable to report under this chapter and owned or controlled, either directly or indirectly, by another corporation may be required to make a report consolidated with the owning company, showing the combined net income, the assets of the corporation that are required for the purposes of this chapter, and any other information that the department may require, but excluding intercorporate stockholdings and intercorporate accounts. If it appears to the department that any arrangement exists in a manner that improperly reflects the business done, the segregable assets, or the entire net income earned from business done in this state, the department may equitably adjust the tax in a manner that it may determine.

(6) (a) If an affiliated group elects to file a consolidated return under the provisions of this section, a corporation of the affiliated group shall file a separate return for any portion of its tax period in which its income is not included in the consolidated return of the group. The separate return must be filed no later than the 15th day of the 5th month following the close of the tax period for which a consolidated return of the affiliated group is filed.

(b) (i) A corporation is allowed an automatic extension of time for filing its tax return of up to 6 months following the date prescribed for filing its return. The tax, *penalty*, and interest must be paid when the return is filed. ~~Interest Penalty and interest~~ must be added to the tax due as provided in 15-31-510(2).

(ii) The department may grant an additional extension of time for filing of a tax return whenever in its judgment good cause exists.”

**Section 14.** Section 15-31-503, MCA, is amended to read:

**“15-31-503. Deficiency assessment — notice — *penalty and interest*.**

(1) If the department of ~~revenue~~ determines that the amount of tax due is greater than the amount disclosed by the return, it shall mail to the taxpayer a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The taxpayer may seek review of the determination pursuant to 15-1-211.

(2) ~~Interest Penalty and interest~~ on any deficiency assessment ~~shall bear interest is calculated~~ from the date specified in 15-31-502 for payment of the tax. *Penalty and interest is added to the deficiency as provided in 15-1-216.* A certificate by the department of the mailing of the ~~notices~~ *notice* specified in this subsection (1) ~~shall be~~ *is* prima facie evidence of the computation and levy of the deficiency in tax and of the giving of the ~~notices~~ *notice.*”

**Section 15.** Section 15-31-510, MCA, is amended to read:

**“15-31-510. Estimated payments — tax returns — *penalty and interest*.**

(1) ~~For corporations failing~~ *A corporation that fails* to make estimated payments according to the schedule provided in 15-31-502(2), ~~there is charged assessed interest in the amount of 12% a year as provided in 15-1-216~~ calculated as follows:

(a) The amount of underpayment is the amount of the required installment set forth in 15-31-502 that exceeds the amount, if any, of the installment paid on or before the last date prescribed for payment.

(b) Notwithstanding the provisions of subsection (1)(a), interest with respect to an underpayment of any installment may not be charged if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of the installment equals or exceeds the amount that would have been required to be paid on or before that date if the estimated tax were an amount equal to 80% of the tax for the ~~taxable~~ *tax* year, computed by placing on an annualized basis the taxable income:

(i) for the first 3 months of the ~~taxable~~ *tax* year in the case of the installment required to be paid in the 4th month;

(ii) for the first 3 months or for the first 5 months of the ~~taxable~~ *tax* year in the case of the installment required to be paid in the 6th month;

(iii) for the first 6 months or for the first 8 months of the ~~taxable~~ *tax* year in the case of the installment required to be paid in the 9th month; and

(iv) for the first 9 months or for the first 11 months of the ~~taxable~~ *tax* year in the case of the installment required to be paid in the 12th month of the ~~taxable~~ *tax* year.

(c) For purposes of subsection (1)(b), the taxable income must be placed on an annualized basis by:

(i) multiplying by 12 the taxable income referred to in subsection (1)(b); and

(ii) dividing the resulting amount by the number of months in the ~~taxable~~ *tax* year (3, 5, 6, 8, 9, or 11, as the case may be) referred to in subsection (1)(b).

(d) Notwithstanding the provisions of subsections (1)(a) through (1)(c), interest with respect to an underpayment of any installment may not be charged if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of the installment equals or exceeds 80% of the amount determined under subsection (1)(e).

(e) To determine the amount for any installment:

(i) take the taxable income for all months during the ~~taxable tax~~ year preceding the filing month;

(ii) divide the amount by the base period percentage for all months during the ~~taxable tax~~ year preceding the filing month;

(iii) determine the tax on the amount calculated under subsection (1)(e)(ii); and

(iv) multiply the tax computed under subsection (1)(e)(iii) by the base period percentage for the filing month and all months during the ~~taxable tax~~ year preceding the filing month.

(f) For purposes of this subsection (1):

(i) the base period percentage for any period of months is the average percentage that the taxable income for the corresponding months in each of the 3 preceding ~~taxable tax~~ years bears to the taxable income of the 3 preceding years;

(ii) the term "filing month" means the month in which the installment is required to be paid;

(iii) this subsection (1) applies only if the base period percentage for any 6 consecutive months of the ~~taxable tax~~ year equals or exceeds 70%; and

(iv) the department may by rule provide for the determination of the base period percentage in the case of reorganizations, new corporations, and other similar circumstances.

(2) ~~Except as provided~~ *In addition to the interest assessed in subsection (1), if any tax due under this chapter is not paid when due as provided in ~~15-31-545~~ 15-31-111, by reason of extension or otherwise, penalty and interest is are added to the tax due as provided in 15-1-216.*

**Section 16.** Section 15-31-531, MCA, is amended to read:

**"15-31-531. Credit for overpayment — interest on overpayment.** (1) If the department of revenue determines that the amount of tax, penalty, or interest due for any year is less than the amount paid, the amount of the overpayment ~~shall~~ *must* be credited against any tax, penalty, or interest then due from the taxpayer and the balance refunded to the taxpayer or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) Except as ~~hereinafter~~ *provided for in subsection (3), interest shall must* be allowed on overpayments at the same rate as is charged on delinquent taxes, *as provided in 15-1-216*, due from the due date of the return or from the date of overpayment, ~~(whichever date is later)~~, to the date the department approves refunding or crediting of the overpayment.

(3) (a) Interest ~~shall~~ *may* not accrue during any period the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment. ~~No interest shall be~~

(b) *Interest is not allowed:*

(a)(i) if the overpayment is refunded within 6 months from the date the return is due or from the date the return is filed, whichever is later; or

(b)(ii) if the amount of interest is less than \$1.

(3)(4) A payment not made incident to a bona fide and orderly discharge of an actual corporation license tax liability or one reasonably assumed to be imposed by this law shall ~~chapter is not be~~ considered an overpayment with respect to which interest is allowable.”

**Section 17.** Section 15-31-543, MCA, is amended to read:

**“15-31-543. Penalties Forfeiture of right to engage in business — penalties.** (1) ~~If a corporation fails to file a return at the time specified in 15-31-502 or files a false or fraudulent return, the corporation is liable to a penalty of not more than \$5,000 to be recovered by an action in a court of competent jurisdiction.~~

(2)(1) A corporation that purposely fails to file a return at the time specified in 15-31-502 or that purposely files a false or fraudulent return may be adjudged by a court of competent jurisdiction to forfeit the right to continue to engage in business in the state as a corporation until the license fee tax, together with all penalties, interest, and costs, is paid. The forfeiture may be enforced by proper proceedings in court.

(3)(2) Each officer or employee of any corporation or other person who, without fraudulent intent, fails to file, sign, or verify any return or to supply any information within the time required by the provisions of this chapter is liable for the penalty imposed by 15-1-216. The department shall assess and collect any penalty in the same manner as is provided in this chapter with regard to delinquent taxes.”

**Section 18.** Section 15-35-112, MCA, is amended to read:

**“15-35-112. Deficiency assessment — review — penalty and interest.**

(1) ~~When~~ If the department determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The taxpayer may seek review of the determination pursuant to 15-1-211.

(2) ~~Interest on~~ *Penalty and interest must be added to any deficiency assessment must bear interest as provided in 15-1-216.”*

**Section 19.** Section 15-36-314, MCA, is amended to read:

**“15-36-314. Deficiency assessment — local government severance tax deficiency assessment — review — penalty and interest.** (1) If the department determines that the amount of the tax due, ~~including the amount due for the local government severance tax,~~ is greater than the amount disclosed

by a return, it shall mail to the taxpayer a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The notice must contain a statement that if payment is not made, a warrant for distraint may be filed. The taxpayer may seek review of the determination pursuant to 15-1-211.

(2) (a) ~~The department shall collect deficiency assessments of the local government severance tax in the same manner as it collects oil and natural gas production tax deficiency assessments.~~

(b) ~~Any local government severance taxes that are collected on oil and natural gas production occurring after December 31, 1988, and before January~~

1, 1995, must be treated as current revenue for the purposes of distribution and must be distributed pursuant to 15-36-332.

(3)(2) Penalty and interest must be added to a deficiency assessment as provided in 15-1-216.”

**Section 20.** Section 15-37-102, MCA, is amended to read:

**“15-37-102. Gross value of metal mine yield — ~~computation~~— definitions.** As used in this part, the following definitions apply:

(1) “Gross value of product” means the receipts received, as defined in 15-23-801, from all merchantable metals or concentrate containing metals or precious and semiprecious gems and stones extracted or produced each reporting period from any mine or mining property in the state or recovered from the smelting, milling, reduction, or treatment in any manner of ores extracted from the mine or mining property or from tailings resulting from the smelting, reduction, or treatment of the ores; and

(2) “reporting period” means:

(a) ~~for periods beginning prior to January 1, 2003, the calendar year; and~~

(b) ~~for periods beginning on or after January 1, 2003, the 6-month period ending June 30 or December 31, as applicable.”~~

**Section 21.** Section 15-37-105, MCA, is amended to read:

**“15-37-105. Computation and payment of tax.** (1) The tax due under this part is computed according to 15-37-103. ~~For the reporting period defined in 15-37-102(2)(a), the tax is due and payable on or before March 31 of each year. For the reporting periods defined in 15-37-102(2)(b), the tax is due at the end of the reporting period, and for the reporting period ending June 30, the tax is payable by August 15, and for the reporting period ending December 31, the tax is payable by March 31. The tax is imposed on the products produced in the reporting period.~~

(2) ~~The tax due under this part becomes delinquent as of:~~

(a) ~~midnight on March 31 for the reporting period defined in 15-37-102(2)(a) or for each reporting period ending December 31 under 15-37-102(2)(b); and~~

(b) ~~midnight on August 15 for each reporting period ending June 30 under 15-37-102(2)(b).~~

(3)(2) If good cause is shown, the department may grant a reasonable extension of time for payment of the tax. During the period of any extension granted, the tax due bears interest as provided in 15-1-216.

(4)(3) If ~~any~~ a person has sold or otherwise disposed of any of the mine’s products at a price substantially below the true market price of the product at the time and place of sale or disposal, then the department shall compute the gross value of the portion of the mine’s product *that was* sold or disposed of substantially below the market price. The gross value must be based upon the quotations of the price of the mine’s product in New York City at the time the portion of the product was sold or otherwise disposed of as evidenced by ~~some~~ *an* established authority or market report, such as the Engineering and Mining Journal of New York, or ~~some~~ other standard publication, giving the market reports for the reporting period covered by the statement. If there is no quotation covering ~~any~~ a particular product, then the department shall fix the value of the gross product or portion of the gross product that was sold or

otherwise disposed of at a price substantially below the true market price at the time and place of sale or disposal in a manner as may seem to be equitable.”

**Section 22.** Section 15-37-106, MCA, is amended to read:

**“15-37-106. Procedure in case of failure to file statements.** If a person fails, ~~refuses, or neglects to make and~~ file the required statement of gross yield for a reporting period on or before the date the tax becomes delinquent under ~~15-37-105~~ 15-37-108, the department shall, immediately after the time has expired, ~~ascertain and~~ determine as nearly as may be possible from any returns or reports filed with any state or county officer or board under any law of this state and from any other information that the department may be able to obtain the total gross value of product of the person from the business during the reporting period for which the license tax is to be paid. The department shall ~~make and~~ file a statement showing the amount of the gross value of product and shall ~~ascertain, determine, compute, and~~ assess the amount of the license taxes due from ~~and to be paid by~~ the person. The department shall, as soon as possible, give notice to the person in the same manner as though the statement had been filed within time. The department shall ~~proceed to~~ collect the license tax, along with ~~the same~~ penalty and interest as provided for other delinquencies in 15-1-216.”

**Section 23.** Section 15-37-108, MCA, is amended to read:

**“15-37-108. Delinquent taxes — penalty and interest.** All license taxes assessed under the provisions of this part become delinquent if not paid on or before midnight of the date *that the tax is payable as established for the applicable reporting period* in 15-37-105~~(2)~~(1). The department shall add to the amount of delinquent metalliferous mines tax penalty and interest as provided in 15-1-216. The department may waive a late payment penalty as provided in 15-1-206.”

**Section 24.** Section 15-37-114, MCA, is amended to read:

**“15-37-114. Deficiency assessment — review — penalty and interest.**  
(1) ~~When~~ *If* the department determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The taxpayer may seek review of the determination pursuant to 15-1-211.

(2) ~~Interest on~~ *Penalty and interest must be added to* any deficiency assessment ~~must bear interest~~ as provided in 15-1-216.”

**Section 25.** Section 15-37-210, MCA, is amended to read:

**“15-37-210. Deficiency assessment — review — penalty and interest.**  
(1) ~~When~~ *If* the department determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The taxpayer may seek review of the determination pursuant to 15-1-211.

(2) ~~Interest on~~ *Penalty and interest must be added to* any deficiency assessment ~~must bear interest~~ as provided in 15-1-216.”

**Section 26.** Section 15-38-106, MCA, is amended to read:

**“15-38-106. (Temporary) Payment of tax — records — collection of taxes — refunds.** (1) The tax imposed by this chapter must be paid by each person to which the tax applies, on or before ~~March 31~~ *the due date of the annual statement established in 15-38-105*, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax must be paid to the

department at the time that the statement of yield for the preceding calendar year is filed with the department.

(2) The department shall, in accordance with the provisions of 15-1-501, deposit in the following order:

(a) annually in due course, from the proceeds of the tax to the CERCLA match debt service fund provided in 75-10-622, the amount necessary, as certified by the department of environmental quality, after crediting to the CERCLA match debt service fund amounts transferred from the CERCLA cost recovery account established under 75-10-631, to pay the principal of, premium, if any, and interest during the next fiscal year on bonds or notes issued pursuant to 75-10-623;

(b) \$366,000 of the proceeds of the resource indemnity and ground water assessment taxes in the ground water assessment account established by 85-2-905;

(c) 50% of the remaining proceeds in the reclamation and development grants account established by 90-2-1104, for the purpose of making grants to be used for mineral development reclamation projects;

(d) \$150,000 of the remaining proceeds of the resource indemnity and ground water assessment taxes in the natural resource workers' tuition scholarship account established in 39-10-106 for the first fiscal year following July 1 immediately after the date that the governor certifies that the resource indemnity trust fund balance has reached \$100 million and for succeeding fiscal years, the amount required under 39-10-106(4);

(e) all remaining proceeds in the orphan share account established in 75-10-743.

(3) Each person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.

(4) The department shall examine the statement and compute the taxes to be imposed, and the amount computed by the department is the tax imposed, assessed against, and payable by the taxpayer. If the tax found to be due is greater than the amount paid, the excess must be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax liability for subsequent years or refunded if requested by the taxpayer. (Terminates June 30, 2007—sec. 10, Ch. 586, L. 2001.)

**15-38-106. (Effective July 1, 2007) Payment of tax — records — collection of taxes — refunds.** (1) The tax imposed by this chapter must be paid by each person to which the tax applies, on or before ~~March 31~~ *the due date of the annual statement established in 15-38-105*, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax must be paid to the department at the time that the statement of yield for the preceding calendar year is filed with the department.

(2) The department shall, in accordance with the provisions of 15-1-501, deposit in the following order:

(a) annually in due course, from the proceeds of the tax to the CERCLA match debt service fund provided in 75-10-622, the amount necessary, as certified by the department of environmental quality, after crediting to the

CERCLA match debt service fund amounts transferred from the CERCLA cost recovery account established under 75-10-631, to pay the principal of, premium, if any, and interest during the next fiscal year on bonds or notes issued pursuant to 75-10-623;

(b) \$366,000 of the proceeds in the ground water assessment account established by 85-2-905;

(c) 50% of the remaining proceeds in the orphan share account established in 75-10-743; and

(d) all remaining proceeds in the reclamation and development grants account established by 90-2-1104, for the purpose of making grants to be used for mineral development reclamation projects.

(3) Each person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.

(4) The department shall examine the statement and compute the taxes to be imposed, and the amount computed by the department is the tax imposed, assessed against, and payable by the taxpayer. If the tax found to be due is greater than the amount paid, the excess must be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax liability for subsequent years or refunded if requested by the taxpayer."

**Section 27.** Section 15-38-110, MCA, is amended to read:

**"15-38-110. Deficiency assessment — review — penalty and interest.**

(1) ~~When~~ *If* the department of revenue determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The taxpayer may seek review of the determination pursuant to 15-1-211.

(2) ~~Interest on~~ *Penalty and interest must be added to* any deficiency assessment ~~shall bear interest until paid at the rate of 1% a month or fraction thereof, computed from the original due date of the return as provided in 15-1-216."~~

**Section 28.** Section 15-38-111, MCA, is amended to read:

**"15-38-111. Credit for overpayment — interest on overpayment.** (1) If the department of revenue determines that the amount of tax, penalty, or interest due for any year is less than the amount paid, the amount of the overpayment ~~shall~~ *must* be credited against any tax, penalty, or interest then due from the taxpayer and the balance refunded to the taxpayer or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) Except as provided in subsection (3), interest ~~shall~~ *must* be allowed on overpayments at the same rate as is charged on deficiency assessments provided in ~~15-38-110~~ *15-1-216* due from the due date of the return or from the date of overpayment, (whichever date is later), to the date the department approves refunding or crediting of the overpayment.

(3) (a) Interest ~~shall~~ *may* not accrue during any period *that* the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(b) ~~No interest shall be~~ *Interest is not* allowed:

(i) if the overpayment is refunded within 6 months from the date the return is due or from the date the return is filed, whichever is later; or

(ii) if the amount of interest is less than \$1.

(c) A payment not made incident to a bona fide and orderly discharge of an actual tax liability or one reasonably assumed to be imposed by this law shall ~~chapter is not be~~ considered an overpayment with respect to which interest is allowable.”

**Section 29.** Section 15-50-308, MCA, is amended to read:

**“15-50-308. Estimation of tax upon failure to file statement or pay tax — penalty and interest — notice.** (1) If a person fails, neglects, or refuses to file the statement required by 15-50-206 within the time required or fails to pay the tax required by this chapter on or before the date payment is due, the department shall ~~proceed to inform itself~~ *determine* as best it may regarding the total gross income of the person from its contracting business within this state during the quarter.

(2) The department shall compute the amount of license taxes due, *including penalty and interest as provided in 15-1-216*, from the person and shall mail to the person a letter and tax assessment statement setting forth the amount of delinquent license tax, penalty, and interest due. The letter must advise that if payment is not made, a warrant for distraint may be filed.”

**Section 30.** Section 15-51-109, MCA, is amended to read:

**“15-51-109. Deficiency assessment — review — penalty and interest.**

(1) ~~When~~ *If* the department determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The taxpayer may seek review of the determination pursuant to 15-1-211.

(2) ~~Interest on~~ *Penalty and interest must be added to* any deficiency assessment ~~must be computed~~ as provided in 15-1-216.”

**Section 31.** Section 15-53-145, MCA, is amended to read:

**“15-53-145. Deficiency assessment — review — interest — penalty.**

(1) If the department determines that the amount of tax due is greater than the amount reported, it shall mail to the taxpayer a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The taxpayer may seek a review of the determination pursuant to 15-1-211.

(2) ~~(a) Interest on any deficiency must bear interest until paid at a rate of 1% a month or fraction of a month, computed from the original due date of the return.~~

~~(b) If payment is not made within 60 days, the tax is delinquent and a penalty of 10% Penalty and interest must be added to the amount of the any deficiency assessment as provided in 15-1-216.”~~

**Section 32.** Section 15-53-146, MCA, is amended to read:

**“15-53-146. Credit for overpayment — interest on overpayment.** (1) If the department determines that the amount of tax, penalty, or interest due for any year is less than the amount paid, the amount of overpayment must be credited against any tax, penalty, or interest then due from the taxpayer, with the balance being refunded to the taxpayer or its successor through reorganization, merger, consolidation, or its shareholders upon dissolution.

(2) Except as provided in subsection (3), interest must be allowed on overpayments at the same rate as is charged on deficiency assessments under ~~15-53-145~~ 15-1-216 due from the date of the return or from the date of overpayment, whichever date is later, to the date on which the department approves crediting or refunding the payment.

(3) (a) Interest may not accrue during any period of processing a claim for a refund delayed more than 30 days by reason of failure of the taxpayer to provide information requested by the department for the purposes of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is credited or refunded within 6 months from the date on which the return is due or from the date on which the return is filed, whichever date is later; or

(ii) if the amount of interest is less than \$1.”

**Section 33.** Section 15-59-112, MCA, is amended to read:

**“15-59-112. Deficiency assessment — review — *penalty and interest*.**

(1) ~~When~~ If the department determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the taxpayer a notice, as provided in 15-1-211, of the additional tax proposed to be assessed. The taxpayer may seek review of the determination pursuant to 15-1-211.

(2) ~~Interest~~ *Penalty and interest* must be added to ~~the~~ any deficiency assessment as provided in 15-1-216.”

**Section 34.** Section 15-60-206, MCA, is amended to read:

**“15-60-206. (Temporary) Deficiency assessment — *penalty and interest* — hearing.**

(1) If the department determines that the amount of fees due is greater than the amount disclosed by the report, it shall mail to the facility a notice of the additional fees proposed to be assessed. Within 30 days after the mailing of the notice, the facility may file with the department a written protest against the proposed additional fees, setting forth the grounds upon which the protest is based, and may request in its protest an oral hearing or an opportunity to present additional evidence relating to its fees liability. If ~~no~~ a protest is *not* filed, the amount of the additional fees proposed to be assessed becomes final upon the expiration of the 30-day period. If ~~such~~ a protest is filed, the department shall reconsider the proposed assessment and, if the facility has ~~so~~ requested, shall grant the facility an oral hearing. After consideration of the protest and the evidence presented ~~in the event of~~ *at* an oral hearing, the department’s action upon the protest is final when it mails notice of its action to the facility.

(2) When a deficiency is determined and the fees become final, the department shall mail notice and demand to the facility for payment, ~~and the fees become due and payable at the expiration of 10 days from the date of the notice and demand.~~ *Penalty and interest* must be added to any deficiency assessment ~~bears interest from the date specified in 15-60-203 for payment of the fees.~~ A certificate by the department of the mailing of the notices specified in this section is prima facie evidence of the computation and levy of the deficiency in the fees and of the giving of the notices *as provided in 15-1-216.* (Void on occurrence of contingency—sec. 18, Ch. 746, L. 1991—see chapter compiler’s comment.)”

**Section 35.** Section 15-65-115, MCA, is amended to read:

**“15-65-115. Failure to pay or file — penalty and interest — review — interest.** (1) An owner or operator of a facility who fails to file the report as required by 15-65-112 must be assessed a penalty as provided in 15-1-216. The department may waive any penalty as provided in 15-1-206.

(2) An owner or operator of a facility who fails to make payment or fails to report and make payment as required by 15-65-112 must be assessed penalty and interest as provided in 15-1-216. The department may waive any penalty pursuant to 15-1-206.

(3) (a) If an owner or operator of a facility fails to file the report required by 15-65-112 or if the department determines that the report understates the amount of tax due, the department may determine the amount of the tax due and assess that amount against the owner or operator. The provisions of 15-1-211 apply to any assessment by the department. The taxpayer may seek review of the assessment pursuant to 15-1-211.

(b) When a deficiency is determined and the tax becomes final, the department shall mail a notice and demand for payment to the owner or operator. ~~The tax is due and payable at the expiration of 30 days after the notice and demand were mailed. Interest on~~ *Penalty and interest must be added to any deficiency assessment must be computed* as provided in 15-1-216.”

**Section 36.** Section 15-66-206, MCA, is amended to read:

**“15-66-206. (Temporary) Deficiency assessment — penalty and interest — hearing.** (1) If the department determines that the amount of fees due is greater than the amount disclosed by the report, it shall mail to the hospital a notice of the additional fees proposed to be assessed. Within 30 days after the mailing of the notice, the hospital may file with the department a written protest against the proposed additional fees, setting forth the grounds upon which the protest is based, and may request in its protest an oral hearing or an opportunity to present additional evidence relating to its fees liability. If a protest is not filed, the amount of the additional fees proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department shall reconsider the proposed assessment and, if the hospital has requested, shall grant the hospital an oral hearing. After consideration of the protest and the evidence presented at an oral hearing, the department’s action upon the protest is final when it mails notice of its action to the hospital.

(2) When a deficiency is determined and the fees become final, the department shall mail notice and demand for payment to the hospital, ~~and the fees become due and payable at the expiration of 10 days from the date of the notice and demand. Any~~ *Penalty and interest must be added to any deficiency assessment bears interest as provided in 15-1-216* from the date specified in 15-66-201 for payment of the fees. A certificate by the department of the mailing of the notices specified in this section is prima facie evidence of the computation and levy of the deficiency in the fees and of the giving of the notice. (Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003. Terminates June 30, 2005—sec. 20, Ch. 390, L. 2003.)”

**Section 37.** Section 15-67-206, MCA, is amended to read:

**“15-67-206. (Temporary) Deficiency assessment — penalty and interest — hearing.** (1) If the department determines that the amount of fees due is greater than the amount disclosed by the report, it shall mail to the intermediate care facility a notice of the additional fees proposed to be assessed. Within 30 days after the mailing of the notice, the intermediate care facility may

file with the department a written protest against the proposed additional fees, setting forth the grounds upon which the protest is based, and may request in its protest an oral hearing or an opportunity to present additional evidence relating to its fee liability. If a protest is not filed, the amount of the additional fees proposed to be assessed becomes final upon the expiration of the 30-day period. If a protest is filed, the department shall reconsider the proposed assessment and, if the intermediate care facility has requested it, shall grant the intermediate care facility an oral hearing. After consideration of the protest and the evidence presented at an oral hearing, the department's action upon the protest is final when it mails notice of its action to the intermediate care facility.

(2) When a deficiency is determined and the fees become final, the department shall mail notice and demand to the intermediate care facility ~~and the fees become due and payable at the expiration of 10 days from the date of the notice and demand. Interest on Penalty and interest must be added to any~~ deficiency assessment *and* accrues from the date specified in 15-67-201 for payment of the fees. A certificate by the department of the mailing of the notices specified in this section is prima facie evidence of the computation and levy of the deficiency in the fees and of the giving of the notices. (Void on occurrence of contingency—sec. 17, Ch. 531, L. 2003—see chapter compiler's comment.)”

**Section 38.** Section 15-68-513, MCA, is amended to read:

**“15-68-513. Examination of return — adjustments — *penalty and interest* — delivery of notices and demands.** (1) If the department determines that the amount of tax due is different from the amount reported, the amount of tax computed on the basis of the examination conducted pursuant to 15-68-502 constitutes the tax to be paid.

(2) (a) If the tax due exceeds the amount of tax reported as due on the taxpayer's return, the excess must be paid to the department ~~within 30 days after notice of the amount and demand for payment is mailed or delivered to the person making the return~~ unless the taxpayer files a timely objection as provided in 15-1-211.

(b) *Penalty and interest must be added to any deficiency assessment as provided in 15-1-216.*

(3) If the amount of the tax found due by the department is less than that reported as due on the return and has been paid, the excess must be credited or, if no tax liability exists or is likely to exist, refunded to the person making the return.

~~(3)~~(4) The notice and demand provided for in this section must contain a statement of the computation of the tax and interest and must be sent by mail to the taxpayer at the address given in the taxpayer's return, if any, or to the taxpayer's last-known address.

~~(4)~~(5) A taxpayer filing an objection to the demand for payment is subject to and governed by the uniform dispute review procedure provided in 15-1-211.”

**Section 39.** Section 15-72-114, MCA, is amended to read:

**“15-72-114. Interest *Penalty and interest on deficiency* — ~~penalty.~~ (1) Interest accrues on unpaid or delinquent taxes *Penalty and interest must be added to any deficiency assessment* as provided in 15-1-216. ~~The interest must be computed from the date on which the return and tax were originally due.~~**

~~(2) If the payment of a tax deficiency is not made within 60 days after it is due and payable and if the deficiency is due to negligence on the part of the~~

~~taxpayer but without fraud, the penalty imposed by 15-1-216(1)(e) must be added to the amount of the deficiency.”~~

**Section 40. Repealer.** Section 15-31-545, MCA, is repealed.

**Section 41. Coordination instruction.** If House Bill No. 158 is passed and approved and if it includes a section that amends 15-30-209, then [section 7 of this act] that amends 15-30-209 is void.

**Section 42. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective July 1, 2005.

(2) [Section 3] is effective January 1, 2007.

**Section 43. Applicability.** (1) Except as provided in subsections (2) and (3), [this act] applies on and after July 1, 2005.

(2) [Section 3] applies to penalties assessed against taxes or fees due for tax reporting periods beginning after December 31, 2006.

(3) [Section 3] applies to interest computed under 15-1-216 assessed on taxes or fees owing after December 31, 2006, regardless of the tax reporting period for which the taxes or fees are owed.

Approved May 6, 2005

## CHAPTER NO. 595

[HB 667]

AN ACT CREATING A SMALL BUSINESS HEALTH INSURANCE POOL; PROVIDING FOR EMPLOYER PREMIUM INCENTIVE PAYMENTS, EMPLOYEE PREMIUM ASSISTANCE PAYMENTS, AND TAX CREDITS TO BE ADMINISTERED BY THE COMMISSIONER OF INSURANCE FOR ELIGIBLE SMALL EMPLOYERS WHO PROVIDE CERTAIN GROUP HEALTH PLAN COVERAGE FOR THEIR ELIGIBLE EMPLOYEES; PROVIDING THAT CERTAIN ELIGIBLE SMALL EMPLOYERS MAY RECEIVE PREMIUM INCENTIVE PAYMENTS AND EMPLOYEES MAY RECEIVE ASSISTANCE FOR PAYING PREMIUMS FOR HEALTH INSURANCE PURCHASED THROUGH THE SMALL BUSINESS HEALTH INSURANCE POOL; ALLOWING THE TAX CREDIT TO BE CLAIMED WHEN FILING TAX RETURNS; CREATING THE SMALL BUSINESS HEALTH INSURANCE POOL BOARD OF DIRECTORS AND ESTABLISHING ITS DUTIES; PROVIDING AUTHORITY TO THE BOARD TO ESTABLISH ELIGIBILITY REQUIREMENTS FOR RECEIVING THE PREMIUM INCENTIVE PAYMENTS, PREMIUM ASSISTANCE PAYMENTS, AND TAX CREDITS; PROVIDING RULEMAKING AUTHORITY TO THE COMMISSIONER TO IMPLEMENT THE PREMIUM INCENTIVE PAYMENTS, PREMIUM ASSISTANCE PAYMENTS, AND TAX CREDITS; PROVIDING PENALTIES FOR WRONGFULLY OBTAINING PREMIUM INCENTIVE PAYMENTS, PREMIUM ASSISTANCE PAYMENTS, OR THE TAX CREDIT; AUTHORIZING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO PURSUE MEDICAID FUNDING FOR EMPLOYEE PREMIUM ASSISTANCE; AMENDING THE HEALTH AND MEDICAID INITIATIVES ACCOUNT TO CLARIFY FUNDING FOR PREMIUM INCENTIVE PAYMENTS, PREMIUM ASSISTANCE PAYMENTS, AND TAX CREDITS AND PROVIDING FOR CONTINGENT FUNDING; AMENDING SECTIONS 15-30-111, 15-30-303,

15-31-511, 33-22-1815, 45-6-301, AND 53-6-1201, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Establishment of small business health insurance pool — intent.** (1) There is established a nonprofit legal entity known as the small business health insurance pool, with participating membership consisting of all employer members of the purchasing pool.

(2) The small business health insurance pool is created as a voluntary purchasing pool pursuant to the provisions of 33-22-1815 through 33-22-1817.

(3) Subject to the conditions in 53-6-1201, the purchasing pool shall make group health plan coverage available effective January 1, 2006.

(4) It is the intent of the legislature that the board:

(a) establish criteria that will allow the greatest number of employees possible to be eligible for premium assistance payments by not permitting eligibility for premium assistance payments under [sections 1 through 9] to employees who continue to maintain enrollment in another comprehensive health insurance coverage through a spouse, parent, or other person; and

(b) allow eligible small employers to determine the length of the waiting period that will apply to their employees, as long as the waiting period:

(i) is not more than 12 months; and

(ii) applies to all eligible employees within that small group in the same manner.

(5) The legislative auditor shall conduct or have conducted, at least once each biennium covering the prior 2 fiscal years, a financial compliance audit of the board and the purchasing pool. The cost of the audit must be paid for by the purchasing pool as a direct cost not subject to the cap on administrative expenses.

**Section 2. Small business health insurance pool — definitions.** As used in [sections 1 through 9], the following definitions apply:

(1) “Board” means the board of directors of the small business health insurance pool as provided for in [section 3].

(2) “Dependent” has the meaning provided in 33-22-1803.

(3) “Eligible employee” has the meaning provided in 33-22-1803.

(4) (a) “Eligible small employer” means an employer who is sponsoring or will sponsor a group health plan and who employed at least two but not more than nine employees during the preceding calendar year and who employs at least two but not more than nine employees on the first day of the plan year.

(b) The term includes small employers who obtain group health plan coverage through a qualified association health plan.

(5) “Group health plan” has the meaning provided in 33-22-140.

(6) “Premium” means the amount of money that a health insurance issuer charges to provide coverage under a group health plan.

(7) “Premium assistance payment” means a payment provided for in [section 6] on behalf of eligible employees who qualify to be applied on a monthly basis to premiums paid for group health plan coverage through the purchasing pool or through qualified association health plans.

(8) "Premium incentive payment" means a payment provided for in [section 7(1)(b)] to eligible small employers who qualify under [section 7] to be applied to premiums paid on a monthly basis for group health plan coverage obtained through the purchasing pool or through qualified association health plans.

(9) "Purchasing pool" means the small business health insurance pool.

(10) "Qualified association health plan" means a plan established by an association whose members consist of employers who sponsor group health plans for their employees and purchase that coverage through an association that qualifies as a bona fide association, as defined in 33-22-1803, or nonbona fide, as provided for in administrative rule. A qualified association health plan is subject to applicable employer group health insurance law and must receive approval from the commissioner to operate as a qualified association health plan for the purposes of [sections 1 through 9].

(11) "Related employers" means persons having a relationship as described in section 267 of the Internal Revenue Code, 26 U.S.C. 267.

(12) "Tax credit" means a refundable tax credit as provided for in [section 8].

(13) "Tax year" means the taxpayer's tax year for federal income tax purposes.

**Section 3. Board of directors — composition — appointment — compensation.** (1) There is a board of directors of the small business health insurance pool, consisting of seven directors and two nonvoting members serving 3-year staggered terms and appointed in the following manner:

(a) three directors must be appointed by the commissioner, one of whom must be a person who has specialized knowledge regarding health insurance, one of whom must be a consumer representing the small business community, and one of whom must be a consumer representing the public interest;

(b) four directors must be appointed by the governor, one of whom must be a management-level individual with knowledge of state employee health benefit plans, one of whom must be a management-level individual with knowledge of medicaid services, one of whom must be a consumer representing the public interest, and one of whom must be a consumer representing the small business community.

(2) Each director is entitled to one vote on the board.

(3) The commissioner and the governor shall each appoint a representative from their respective staffs to participate in all board meetings as nonvoting members.

(4) The directors must be compensated and receive travel expenses in the same manner as members of the quasi-judicial boards under 2-15-124(7). The costs of conducting the meetings of the purchasing pool and the compensation for its board of directors must be borne by the purchasing pool.

(5) A board director or member must be replaced in the same manner as the original appointment if that board member is not actively participating in the affairs of the board.

**Section 4. Powers and duties of board.** (1) The board shall:

(a) establish an operating plan that includes but is not limited to administrative and accounting procedures for the operation of the purchasing pool and a schedule for premium incentive and premium assistance payments and that complies with the powers and duties provided for in this section;

(b) require employers and employees to reapply for premium incentive payments or premium assistance payments on an annual basis;

(c) upon reapplication, give priority to employers and their employees who are already receiving the premium incentive payments and premium assistance payments;

(d) upon reapplication, allow employers to retain eligibility to receive premium incentive payments and premium assistance payments on behalf of their eligible employees if the number of their employees goes over the maximum number, not to exceed nine employees, established by the commissioner in administrative rule;

(e) renew purchasing pool group health plan coverage for all employer groups, even if the employer group no longer receives or is eligible for a premium incentive payment;

(f) adopt a premium incentive payment amount that is the same for all registered eligible small employers who join the purchasing pool or obtain qualified association health plan coverage;

(g) adopt premium assistance payment amounts that, in combination with the premium incentive payments, are consistent with the amounts provided for in [sections 6 and 8] or with the assistance of the department of public health and human services, adopt a premium assistance payment schedule that is equitably proportional to the income or wage level for eligible employees;

(h) establish criteria for determining which employees will be eligible for a premium assistance payment and the amount that the employees will receive from among those eligible small employer groups that have registered with the commissioner pursuant to [section 8] and applied for coverage under the purchasing pool group health plan or qualified association health plan. However, to the extent that federal funds are used to make some premium assistance payments, criteria for those payments must be consistent with any waiver requirements determined by the department of public health and human services pursuant to [section 10]. Eligibility for employees is not limited to the waiver eligibility groups.

(i) make appropriate changes to eligibility or other elements in the operating plan as needed to reach the goal of expending 90% of the funding dedicated to premium incentive payments and premium assistance payments during the current biennium;

(j) limit the total amount of premium incentive payments and premium assistance payments paid to the amount of available state, federal, and private funding;

(k) approve no more than six fully insured group health plans with different benefit levels that will be offered to employers participating in the purchasing pool;

(l) prepare appropriate specifications and bid forms and solicit bids from health insurance issuers authorized to do business in this state;

(m) contract with no more than three health insurance issuers to underwrite the group health plans that will be offered through the purchasing pool;

(n) request that the department of public health and human services seek a federal waiver for medicaid matching funds for premium assistance payments based on the department's analysis, as provided in [section 10], if it is in the best interests of the purchasing pool;

- (o) comply with the participation requirements provided for in 33-22-1811;
  - (p) meet at least four times annually; and
  - (q) within 2 years after the purchasing pool is established and considered stable by the board, examine the possibility of offering an opportunity for individual sole proprietors without employees to purchase insurance from the purchasing pool without premium incentive payments, premium assistance payments, or tax credits.
- (2) The board may:
- (a) borrow money;
  - (b) enter into contracts with insurers, administrators, or other persons;
  - (c) hire employees to perform the administrative tasks of the purchasing pool;
  - (d) assess its members for costs associated with administration of the purchasing pool and request that the commissioner transfer funds or request that the department of public health and human services transfer funds from the special revenue account, as provided in 53-6-1201, for that purpose;
  - (e) set contribution levels for employers;
  - (f) request that funds be transferred from the funds appropriated for premium incentive payments and premium assistance payments to the general fund to offset tax credits if the number of eligible small employers seeking premium incentive payments and employees receiving premium assistance payments is insufficient to exhaust at least 90% of the appropriated funds for the premium incentive and assistance payments during a biennium;
  - (g) seek other federal, state, and private funding sources;
  - (h) accept all small employer groups who apply for coverage under the small business health insurance pool group health plan even if they are not eligible for any tax credit or premium incentive payment and have not been registered by the commissioner pursuant to [section 8];
  - (i) receive from the commissioner's office or the department of public health and human services premium incentive payments on behalf of eligible small employers and premium assistance payments on behalf of eligible employees, collect the employer or employee premiums from the employer or employees, and make premium payments to insurers on behalf of the eligible small employers and employees;
  - (j) request the commissioner to direct more than 30% of the available funding for premium incentives and premium assistance payments to qualified association health plan coverage instead of purchasing pool coverage; and
  - (k) pay appropriate commissions to licensed insurance producers who market purchasing pool coverage.

**Section 5. Duties of commissioner — rulemaking authority.** Subject to the conditions in 53-6-1201, the commissioner shall:

- (1) adopt rules regarding the implementation of [sections 1 through 9], including rules regarding the administration of the premium incentive payments, premium assistance payments, and tax credits, the approval of qualified association health plans, and the registration process. The rules regarding tax credits may not relate to the filing of tax returns and claiming the tax credit on the tax returns.

(2) supervise the creation of the purchasing pool within the limits described in [sections 1 through 9];

(3) approve or disapprove the operating plan for the purchasing pool;

(4) if the board chooses to hire one, approve or disapprove the selection of a third-party administrator to handle the administration of the purchasing pool;

(5) with the assistance of the department of public health and human services, approve or disapprove the schedule of premium incentive payment or premium assistance payment amounts adopted by the board as provided in [section 4];

(6) approve or disapprove any contracts between a health insurance issuer and the purchasing pool;

(7) approve or disapprove all group health plans being offered by insurers through the purchasing pool;

(8) conduct periodic audits of the financial transactions conducted by the purchasing pool;

(9) allow up to 30%, or more if requested by the board and approved by the commissioner, of the available funding for the premium incentive payments and premium assistance payments to be applied to small group health plan coverage purchased through a qualified association health plan; and

(10) make applicable premium incentive payments or premium assistance payments for qualified association health plan coverage on behalf of eligible small employers and employees or direct the purchasing pool to make the payments; and

(11) approve or disapprove associations as qualified if their members consist of employers who sponsor group health plan coverage for their employees and purchase that coverage through an association that qualifies as a bona fide association, as defined in 33-22-1803, or nonbona fide, as provided for in administrative rule. A qualified association health plan is subject to applicable employer group health insurance law.

**Section 6. Premium incentive payments, premium assistance payments, and tax credits for small employer health insurance premiums paid — eligibility for small group coverage — amounts.** (1) An employer is eligible to apply for premium incentive payments and premium assistance payments or a tax credit under [sections 1 through 9] if the employer and any related employers:

(a) did not have more than the number of employees established for eligibility by the commissioner at the time of registering for premium incentive payments or premium assistance payments or a tax credit under [section 8];

(b) provide or will provide a group health plan for the employer's and any related employer's employees;

(c) do not have delinquent state income tax liability owing to the department of revenue from previous years;

(d) have been registered as eligible small employer participants by the commissioner as provided in [section 8]; and

(e) do not have any employees, not including an owner, partner, or shareholder of the business, who received more than \$75,000 in gross compensation, including bonuses and commissions, from the small employer or related employer in the prior tax year.

(2) The commissioner shall establish, by rule, the maximum number of employees that may be employed to qualify as a small employer under subsection (1). However, the number may not be less than two employees or more than nine employees. The maximum number may be different for employers seeking premium incentive payments and premium assistance payments than for employers seeking a tax credit. The number must be set to maximize the number of employees receiving coverage under [sections 1 through 9]. The commissioner may not change the maximum employee number more often than every 6 months. If the maximum number of allowable employees is changed, the change does not disqualify registered employers with respect to the tax year for which the employer has registered.

(3) Except as provided in subsection (4), an eligible small employer may claim a tax credit in the following amounts:

(a) (i) not more than \$100 each month for each employee and \$100 each month for each employee's spouse, if the employer covers the employee's spouse, if the average age of the group is under 45 years of age; or

(ii) not more than \$125 each month for each employee and \$100 each month for each employee's spouse, if the employer covers the employee's spouse, if the average age of the group is 45 years of age or older; and

(b) not more than \$40 each month for each dependent, other than the employee's spouse, if the employer is paying for coverage for the dependents, not to exceed two dependents of an employee in addition to the employee's spouse.

(4) An employer may not claim a tax credit:

(a) in excess of 50% of the total premiums paid by the employer for the qualifying small group;

(b) for premiums paid from a medical care savings account provided for in Title 15, chapter 61; or

(c) for premiums for which a deduction is claimed under 15-30-121 or 15-31-114.

(5) An employer may not claim a premium incentive payment in excess of 50% of the total premiums paid by the employer for the qualifying small group.

**Section 7. Filing for tax credit — filing for premium incentive payments and premium assistance payments.** (1) An eligible small employer may:

(a) apply the tax credit against taxes due for the current tax year on a return filed pursuant to Title 15, chapter 30 or 31; or

(b) if the eligible small employer did not sponsor a group health plan for employees during the 2 years prior to the first tax year of registration for the premium incentive payments or premium assistance payments or operates a new business that is less than 2 years old and has never sponsored a group health plan, apply to receive monthly premium incentive payments and premium assistance payments to be applied to coverage obtained through the purchasing pool or qualified association health plan coverage approved by the commissioner.

(2) An eligible small employer may not, in the same tax year, apply the tax credit against taxes due for the current tax year as provided for in subsection (1)(a) and receive premium incentive payments as provided for in subsection (1)(b).

(3) The premium incentive payments and premium assistance payments provided for in subsection (1)(b) must be paid pursuant to a plan of operation implemented by the board and any applicable administrative rules.

(4) (a) If an eligible small employer's tax credit as provided in subsection (1)(a) exceeds the employer's liability under 15-30-103 or 15-31-121, the amount of the excess must be refunded to the eligible small employer. The tax credit may be claimed even if the eligible small employer has no tax liability under 15-30-103 or 15-31-121.

(b) A tax credit is not allowed under 15-30-129, 15-31-132, or any other provision of Title 15, chapter 30 or 31, with respect to any amount for which a tax credit is allowed under [sections 1 through 9].

(5) The department of revenue or the commissioner may grant a reasonable extension for filing a claim for premium incentive payments or premium assistance payments or a tax credit whenever, in the department's or the commissioner's judgment, good cause exists. The department of revenue and the commissioner shall keep a record of each extension and the reason for granting the extension.

(6) (a) If an employer that would have a claim under [sections 1 through 9] ceases doing business before filing the claim, the representative of the employer who files the tax return or pays the premium may file the claim.

(b) If a corporation that would have a claim under [sections 1 through 9] merges with or is acquired by another corporation and the merger or acquisition makes the previously eligible corporation ineligible for the premium incentive payments, premium assistance payments, or tax credit in the future, the surviving or acquired corporation may file for the premium incentive payments, premium assistance payments, or tax credit for any claim period during which the former eligible corporation remained eligible.

(c) If an employer that would have a claim under [sections 1 through 9] files for bankruptcy protection, the receiver may file for the premium incentive payments, premium assistance payments, or tax credit for any claim period during which the employer was eligible.

**Section 8. Registration — funding limitations — transfers — maximum number — waiting list — information transfer for tax credits.** (1) (a) Each eligible small employer that proposes to apply for premium incentive payments and premium assistance payments or a tax credit under [sections 1 through 9] must be registered each year with the commissioner. The commissioner shall begin taking new applications for 2006 on October 1, 2005.

(b) An eligible small employer may submit a new application for the premium incentive payments and premium assistance payments or the tax credit anytime during the year, but in order to maintain the employer's registration for the next year, the registration application must be renewed each year.

(c) The commissioner shall begin accepting renewal applications on October 1 of each year and stop accepting renewal applications on October 31 of each year.

(d) The registration application must include the number of individuals covered, as of the date of the registration application, under the small group health plan for which the employer is seeking premium incentive payments and premium assistance payments or a tax credit. If, after the initial registration, the number of individuals increases, the employer may apply to register the

additional individuals, but those additional individuals may be added only at the discretion of the commissioner, who shall limit enrollment based on available funds.

(e) A small employer is not eligible to apply for premium incentive payments and premium assistance payments or a tax credit for a number of employees, or the employees' spouses or dependents, over the number that has been established in [section 6] as the maximum number of employees an employer may have in order to qualify for registration for the time period in question.

(f) An employer's decision to apply for premium incentive payments and premium assistance payments or a tax credit is irrevocable for 12 months or until the purchasing pool group health plan or qualified association health plan renews its registration, whichever time period is less. An employer may choose to discontinue receiving any premium incentive payments and premium assistance payments or tax credits at any time.

(2) The commissioner shall register qualifying eligible small employers in the order in which applications are received and according to whether or not the application is for premium incentive payments and premium assistance payments or a tax credit. Initially, 60% of the available funding must be dedicated to provide and maintain premium incentive payments and premium assistance payments for eligible small employers who have not sponsored group health plans in the previous 2 years and who chose to join the purchasing pool or a qualified association health plan and 40% of the available funding must be dedicated to tax credits for eligible small employers who currently sponsor a small group health plan. Funding may be transferred from the allocated fund for premium incentive payments and premium assistance payments to the general fund for tax credits if the board requests the transfer as provided in [section 4] and the commissioner approves the request.

(3) (a) The maximum number of eligible small employers is reached when the anticipated amount of claims for premium incentive payments and premium assistance payments and tax credits has reached 95% of the amount of money allocated for premium incentive payments and premium assistance payments and tax credits.

(b) The commissioner may establish a waiting list for applicants that are otherwise qualified for registration but cannot be registered because of a lack of money or because the maximum number of eligible small employers has been reached.

(c) The commissioner shall mail to each employer registered under this section a notice of registration containing a unique registration number and indicating eligibility for either premium incentive payments and premium assistance payments or a tax credit. The commissioner shall also issue to each employer that is eligible for premium incentive payments and premium assistance payments or the tax credit a certificate, placard, sticker, or other evidence of participation that may be publicly posted.

(d) The commissioner shall notify all persons who applied for registration and who were not accepted that they were not registered and the reason that they were not registered.

(4) A prospective participant shall apply for registration on a form provided by the commissioner. The prospective participant shall:

(a) provide the number of employees and whether the employer qualifies under [section 6];

(b) provide information that is necessary to estimate the amount of the premium incentive payments and premium assistance payments payable to the applicant or the amount of the tax credit available to the applicant, such as the ages of employees or dependents, relationships of employees' dependents, and information required by the department of public health and human services for determination of eligibility for premium assistance payments matched by federal funds;

(c) indicate whether the prospective employer intends to pursue the claim as a tax credit through the income tax process or through premium incentive payments and premium assistance payments to be applied toward purchasing pool or eligible qualified association health plan coverage;

(d) indicate whether or not the employer previously sponsored a group health plan and, if so, when and for how long; and

(e) provide any additional information determined by the commissioner to be necessary to support an application.

(5) Each year, small employer participants shall reregister with the commissioner in order to determine the participant's continued eligibility.

(6) The commissioner shall transmit to the department of revenue, at least annually, a list of eligible small employers that are taxpayers entitled to the tax credit and shall specify the taxpayer's name and tax identification number, the tax year to which the credit applies, the amount of the credit, and whether the credit is to be applied against taxes due on the taxpayer's return or paid as premium incentive payments or premium assistance payments. Unless there has been a finding of fraud or misrepresentation on the part of the taxpayer regarding issues relating to eligibility for the tax credit, the department of revenue may not redetermine or change the commissioner's determination regarding the taxpayer's entitlement to and amount of the tax credit.

(7) If the department of public health and human services receives approval for a section 1115 waiver as provided in [section 10], the commissioner shall work with the department of public health and human services with regard to eligibility determinations as required by federal law or waiver conditions.

**Section 9. Penalties.** (1) The commissioner may, after providing an opportunity for a hearing pursuant to 33-1-701, impose the penalties provided for in 33-1-317 for a violation of [sections 1 through 9]. Failure to pay a fine under this section results in a lien upon the assets and property of that person in this state and may be recovered by suit by the commissioner and deposited in the special revenue account described in 53-6-1201.

(2) In addition to any penalty provided for in 33-1-317, the commissioner may require a person violating [sections 1 through 9] to make full restitution to the state, including interest of 10% a year from the date of loss, if a violation of [sections 1 through 9] caused a premium incentive payment or premium assistance payment to be paid or a tax credit to be issued to a person who was not entitled to it.

(3) A person who purposely or knowingly violates [sections 1 through 9] and receives a premium incentive payment or premium assistance payment or tax credit that the person is not entitled to commits the offense of theft, which is punishable as provided in 45-6-301.

(4) A person who purposely or knowingly violates [sections 1 through 9] and makes false statements, knowing those statements are not true, commits the

offense of unsworn falsification to authorities, which is punishable as provided in 45-7-203.

(5) Any fines or restitution collected pursuant to this section must be deposited in the special revenue account in 53-6-1201 and dedicated to the payment of premium incentive payments and premium assistance payments or tax credits or funding new programs to assist eligible small employers with the cost of providing health insurance benefits.

**Section 10. Health insurance premium assistance — legislative intent — application for section 1115 waiver — duties of board of directors of small business health insurance pool, commissioner of insurance, and department of public health and human services.** (1) It is the intent of the legislature that the small business health insurance pool board of directors, established in [section 3], consider the option of funding a portion of the premium incentive payments on behalf of eligible small employers or premium assistance payments on behalf of eligible employees under [sections 1 through 9] to the extent possible through a section 1115 waiver demonstration project of medicaid coverage as authorized by section 1115 of Title XI of the Social Security Act, 42 U.S.C. 1315.

(2) The department shall prepare an analysis of the section 1115 waiver for the board for its consideration in deciding whether to request that the department seek the section 1115 waiver as provided in [section 4].

(3) (a) The department, as the designated single state agency for the receipt of medicaid, may seek, if requested by the board, approval from the U.S. department of health and human services for inclusion in a section 1115 waiver for the premium incentive payments and premium assistance payments to be provided on behalf of employees eligible under [sections 1 through 9] who meet the applicable income standard established through the section 1115 waiver.

(b) The commissioner of insurance and the board shall cooperate with the department in obtaining approval for the inclusion of the premium assistance payment coverage group in a section 1115 waiver.

(4) Upon approval of a premium assistance payment coverage group through a section 1115 waiver:

(a) the eligibility of program participants for the section 1115 demonstration premium assistance coverage group must be determined by the department. The commissioner of insurance shall provide employee and other information to the department as necessary for section 1115 waiver eligibility determinations.

(b) the department may access confidential employee and employer information necessary for administration of the premium assistance payment coverage group. The commissioner shall provide employee, employer, and other information to the department as necessary for the administration of the section 1115 waiver.

(c) the commissioner of insurance and the board shall provide to the department the funds or certification necessary to provide the state match for the medicaid money to be expended on behalf of the section 1115 waiver premium incentive payment or premium assistance payment coverage groups and for the administration of the coverage groups by the department;

(d) the commissioner of insurance, the board, and the department shall cooperate in the adoption of administrative rules necessary for the implementation of the premium incentive payments and premium assistance payments. The department shall adopt rules for the implementation of medicaid

coverage for employees participating in the program as provided in the conditions for the waiver.

(e) the commissioner and the board shall cooperate with the department to ensure that expenditures of medicaid money are made in accordance with the requirements of federal law and the approval for the section 1115 waiver.

(5) The department may coordinate or include the authorization to seek the waiver granted by this section with any other authority granted to the department in this part to seek section 1115 waivers.

**Section 11. Tax credit for health insurance premiums paid — eligible small employers — pass-through entities.** (1) There is a tax credit, determined under [sections 1 through 9], for eligible small employers who are individuals against the taxes imposed in 15-30-103 for qualifying premiums paid by the eligible small employer for coverage of eligible employees and eligible employees' spouses and dependents under a group health plan as defined in [section 2].

(2) If the employer is an S. corporation, the shareholders may claim a pro rata share of the tax credit. If the employer is a partnership, the credit may be claimed by the partners in the same proportion used to report the partnership's income or loss for Montana income tax purposes.

**Section 12. Tax credit for health insurance premiums paid — eligible small employers — corporations.** There is a tax credit, as determined under [sections 1 through 9], for eligible small employers against the taxes imposed in 15-31-101 and 15-31-502 for qualifying premiums paid by the eligible small employer for coverage of eligible employees and eligible employees' spouses and dependents under a group health plan as defined in [section 2].

**Section 13.** Section 15-30-111, MCA, is amended to read:

**“15-30-111. Adjusted gross income.** (1) Adjusted gross income is the taxpayer's federal adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62, and in addition includes the following:

(a) (i) interest received on obligations of another state or territory or county, municipality, district, or other political subdivision of another state, except to the extent that the interest is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);

(b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a reduction of Montana income tax liability;

(c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the income;

(d) depreciation or amortization taken on a title plant as defined in 33-25-105(15);

(e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the amount recovered reduced the taxpayer's Montana income tax in the year deducted;

(f) if the state taxable distribution of an estate or trust is greater than the federal taxable distribution of the same estate or trust, the difference between

the state taxable distribution and the federal taxable distribution of the same estate or trust for the same tax period; and

(g) except for exempt-interest dividends described in subsection (2)(a)(ii), for tax years commencing after December 31, 2002, the amount of any dividend, to the extent that the dividend is not included in federal adjusted gross income.

(2) Notwithstanding the provisions of the Internal Revenue Code, adjusted gross income does not include the following, which are exempt from taxation under this chapter:

(a) (i) all interest income from obligations of the United States government, the state of Montana, a county, municipality, or district, or other political subdivision of the state and any other interest income that is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (2)(a)(i);

(b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and including \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;

(c) (i) except as provided in subsection (2)(c)(ii), the first \$3,600 of all pension and annuity income received as defined in 15-30-101;

(ii) for pension and annuity income described under subsection (2)(c)(i), as follows:

(A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total amount of the exclusion provided in subsection (2)(c)(i) by \$2 for every \$1 of federal adjusted gross income in excess of \$30,000 as shown on the taxpayer's return;

(B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of \$30,000 as shown on their joint return;

(d) all Montana income tax refunds or tax refund credits;

(e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

(f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by section 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on January 1, 1983, received by persons for services rendered by them to patrons of premises licensed to provide food, beverage, or lodging;

(g) all benefits received under the workers' compensation laws;

(h) all health insurance premiums paid by an employer for an employee if attributed as income to the employee under federal law;

(i) all money received because of a settlement agreement or judgment in a lawsuit brought against a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";

(j) principal and income in a medical care savings account established in accordance with 15-61-201 or withdrawn from an account for eligible medical

expenses, as defined in 15-61-102, of the taxpayer or a dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the taxpayer;

(k) principal and income in a first-time home buyer savings account established in accordance with 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time purchase of a single-family residence;

(l) contributions withdrawn from a family education savings account or earnings withdrawn from a family education savings account for qualified higher education expenses, as defined in 15-62-103, of a designated beneficiary;

(m) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;

(n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution of the same estate or trust for the same tax period;

(o) deposits, not exceeding the amount set forth in 15-30-603, deposited in a Montana farm and ranch risk management account, as provided in 15-30-601 through 15-30-605, in any tax year for which a deduction is not provided for federal income tax purposes;

(p) income of a dependent child that is included in the taxpayer's federal adjusted gross income pursuant to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the child and taxpayer meet the filing requirements in 15-30-142.

(q) principal and income deposited in a health care expense trust account, as defined in 2-18-1303, or withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303; *and*

(r) *that part of the refundable credit provided in [section 6] that reduces Montana tax below zero.*

(3) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(l) shall include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same manner as provided by section 995 of the Internal Revenue Code, 26 U.S.C. 995, for all periods for which the DISC election is effective.

(4) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's business deductions by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must be made in the year that the wages and salaries were used to compute the credit. In the case of a partnership or small business corporation, the deduction must be made to determine the amount of income or loss of the partnership or small business corporation.

(5) Married taxpayers filing a joint federal return who are required to include part of their social security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement benefits when they file separate Montana income tax returns. The federal base must be split equally on the Montana return.

(6) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the end of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income up to \$100 a week received as wages or payments in lieu of wages for a period during which the employee is absent from work due to the disability. If the adjusted gross income before this exclusion exceeds \$15,000, the excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined adjusted gross income. For the purpose of this subsection, "permanently and totally disabled" means unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting or expected to last at least 12 months.

(7) Married taxpayers who file a joint federal return and who make an election on the federal return to defer income ratably for 4 tax years because of a conversion from an IRA other than a Roth IRA to a Roth IRA, pursuant to section 408A(d)(3) of the Internal Revenue Code, 26 U.S.C. 408A(d)(3), may file separate Montana income tax returns to defer the full taxable conversion amount from Montana adjusted gross income for the same time period. The deferred amount must be attributed to the taxpayer making the conversion.

(8) An individual who contributes to one or more accounts established under the Montana family education savings program may reduce adjusted gross income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not in excess of \$3,000, for the spouses' contributions to the accounts. Spouses may jointly elect to treat half of the total contributions made by the spouses as being made by each spouse. The reduction in adjusted gross income under this subsection applies only with respect to contributions to an account of which the account owner, as defined in 15-62-103, is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with respect to withdrawals of contributions that reduced adjusted gross income.

(9) (a) A taxpayer may exclude up to \$5,000 from the taxpayer's adjusted gross income if the taxpayer:

(i) is a health care professional licensed in Montana as provided in Title 37;

(ii) is serving a significant portion of a designated geographic area, special population, or facility population in a federally designated health professional shortage area, a medically underserved area or population, or a federal nursing shortage county as determined by the secretary of health and human services or by the governor;

(iii) has had a student loan incurred as a result of health-related education; and

(iv) has received a loan payment made on the taxpayer's behalf by a loan repayment program described in subsection (9)(b) as an incentive to practice in Montana.

(b) For the purposes of subsection (9)(a), a loan repayment program includes a federal, state, or qualified private program. A qualified private loan repayment program includes a licensed health care facility, as defined in 50-5-101, that makes student loan payments on behalf of the person who is

employed by the facility as a licensed health care professional. (Subsection (2)(f) terminates on occurrence of contingency—sec. 3, Ch. 634, L. 1983; subsection (2)(o) terminates on occurrence of contingency—sec. 9, Ch. 262, L. 2001.)”

**Section 14.** Section 15-30-303, MCA, is amended to read:

**“15-30-303. Confidentiality of tax records.** (1) Except as provided in subsections (7) and (8) or in accordance with a proper judicial order or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

(a) the amount of income or any particulars set forth or disclosed in any individual report or individual return required under this chapter or any other information secured in the administration of this chapter; or

(b) any federal return or federal return information disclosed on any return or report required by rule of the department or under this chapter.

(2) (a) The officers charged with the custody of the reports and returns may not be required to produce them or evidence of anything contained in them in an action or proceeding in a court, except in an action or proceeding:

(i) to which the department is a party under the provisions of this chapter or any other taxing act; or

(ii) on behalf of a party to any action or proceedings under the provisions of this chapter or other taxes when the reports or facts shown by the reports are directly involved in the action or proceedings.

(b) The court may require the production of and may admit in evidence only as much of the reports or of the facts shown by the reports as are pertinent to the action or proceedings.

(3) This section does not prohibit:

(a) the delivery to a taxpayer or the taxpayer’s authorized representative of a certified copy of any return or report filed in connection with the taxpayer’s tax;

(b) the publication of statistics classified to prevent the identification of particular reports or returns and the items of particular reports or returns; or

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer who brings an action to set aside or review the tax based on the report or return or against whom an action or proceeding has been instituted in accordance with the provisions of 15-30-311.

(4) Reports and returns must be preserved for at least 3 years and may be preserved until the department orders them to be destroyed.

(5) Any offense against subsections (1) through (4) is punishable by a fine not exceeding \$1,000 or by imprisonment in the county jail for a term not exceeding 1 year, or both. If the offender is an officer or employee of the state, the offender must be dismissed from office and may not hold any public office in this state for a period of 1 year after dismissal.

(6) This section may not be construed to prohibit the department from providing taxpayer return information and information from employers’ payroll withholding reports to:

(a) the department of labor and industry to be used for the purpose of investigation and prevention of noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws; or

(b) the state fund to be used for the purpose of investigation and prevention of noncompliance, fraud, and abuse under the workers' compensation program.

(7) The department may permit the commissioner of internal revenue of the United States or the proper officer of any state imposing a tax upon the incomes of individuals or the authorized representative of either officer to inspect the return of income of any individual or may furnish to the officer or an authorized representative an abstract of the return of income of any individual or supply the officer with information concerning an item of income contained in a return or disclosed by the report of an investigation of the income or return of income of an individual, but the permission may be granted or information furnished only if the statutes of the United States or of the other state grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter.

(8) The department shall furnish:

(a) to the department of justice all information necessary to identify those persons qualifying for the additional exemption for blindness pursuant to 15-30-112(4), for the purpose of enabling the department of justice to administer the provisions of 61-5-105;

(b) to the department of public health and human services information acquired under 15-30-301, pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public assistance fraud and abuse, provided notice to the applicant has been given;

(c) to the department of labor and industry for the purpose of prevention and detection of fraud and abuse in and eligibility for benefits under the unemployment compensation and workers' compensation programs information on whether a taxpayer who is the subject of an ongoing investigation by the department of labor and industry is an employee, an independent contractor, or self-employed;

(d) to the department of fish, wildlife, and parks specific information that is available from income tax returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and fishing licenses;

(e) to the board of regents information required under 20-26-1111;

(f) to the legislative fiscal analyst and the office of budget and program planning individual income tax information as provided in 5-12-303. The information provided to the office of budget and program planning must be the same as the information provided to the legislative fiscal analyst.

(g) to the department of transportation farm income information based on the most recent income tax return filed by an applicant applying for a refund under 15-70-223 or 15-70-362, provided that notice to the applicant has been given as provided in 15-70-223 and 15-70-362. The information obtained by the department of transportation is subject to the same restrictions on disclosure as are individual income tax returns.

*(h) to the commissioner of insurance's office all information necessary for the administration of the small business health insurance tax credit provided for in [sections 1 through 9]."*

**Section 15.** Section 15-31-511, MCA, is amended to read:

**"15-31-511. Confidentiality of tax records.** (1) Except as provided in this section in accordance with a proper judicial order or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

(a) the amount of income or any particulars set forth or disclosed in any return or report required under this chapter or any other information relating to taxation secured in the administration of this chapter; or

(b) any federal return or information in or disclosed on a federal return or report required by law or rule of the department of revenue under this chapter.

(2) (a) An officer or employee charged with custody of returns and reports required by this chapter may not be ordered to produce any of them or evidence of anything contained in them in any administrative proceeding or action or proceeding in any court, except:

(i) in an action or proceeding in which the department is a party under the provisions of this chapter; or

(ii) in any other tax proceeding or on behalf of a party to an action or proceeding under the provisions of this chapter when the returns or reports or facts shown in them are directly pertinent to the action or proceeding.

(b) If the production of a return, report, or information contained in them is ordered, the court shall limit production of and the admission of returns, reports, or facts shown in them to the matters directly pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) the delivery of a certified copy of any return or report filed in connection with a return to the taxpayer who filed the return or report or to the taxpayer's authorized representative;

(b) the publication of statistics prepared in a manner that prevents the identification of particular returns, reports, or items from returns or reports;

(c) the inspection of returns and reports by the attorney general or other legal representative of the state in the course of an administrative proceeding or litigation under this chapter;

(d) access to information under subsection (4); or

(e) the director of revenue from permitting a representative of the commissioner of internal revenue of the United States or a representative of a proper officer of any state imposing a tax on the income of a taxpayer to inspect the returns or reports of a corporation. The department may also furnish those persons abstracts of income, returns, and reports; information concerning any item in a return or report; and any item disclosed by an investigation of the income or return of a corporation. The director of revenue may not furnish that information to a person representing the United States or another state unless the United States or the other state grants substantially similar privileges to an officer of this state charged with the administration of this chapter.

*(f) the disclosure of information to the commissioner of insurance's office that is necessary for the administration of the small business health insurance tax credit provided for in [sections 1 through 9].*

(4) The department shall on request:

(a) allow the inspection of returns and reports by the legislative auditor, but the information furnished to the legislative auditor is subject to the same restrictions on disclosure outside that office as provided in subsection (1); and

(b) deliver corporation income tax data to the legislative fiscal analyst and the office of budget and program planning, but the information furnished to the legislative fiscal analyst and the office of budget and program planning is

subject to the same restrictions on disclosure outside those offices as provided in subsection (1).

(5) A person convicted of violating this section shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. If a public servant, as defined in 45-2-101, is convicted of violating this section, the person forfeits office and may not hold any public office or public employment in the state for a period of 1 year after conviction.”

**Section 16.** Section 33-22-1815, MCA, is amended to read:

**“33-22-1815. Qualifications for voluntary purchasing pool.** A voluntary purchasing pool of disability insurance purchasers may be formed solely for the purpose of obtaining disability insurance upon compliance with the following provisions:

(1) It contains at least 51 eligible employees.

(2) It establishes requirements for membership. The voluntary purchasing pool shall accept for membership any small employers and may accept for membership any employers with at least 51 eligible employees that otherwise meet the requirements for membership. However, the voluntary purchasing pool may not exclude any small employers that otherwise meet the requirements for membership on the basis of claim experience, occupation, or health status.

(3) It holds an open enrollment period at least once a year during which new members can join the voluntary purchasing pool.

(4) It offers coverage to eligible employees of member employers and to the employees’ dependents. Coverage may not be limited to certain employees of member small employers except as provided in 33-22-1811(3)(c).

(5) It does not assume any risk or form self-insurance plans among its members.

(6) (a) Disability insurance policies, certificates, or contracts offered through the voluntary purchasing pool must rate the entire *purchasing pool* group as a whole and charge each insured person based on a community rate within the common group, adjusted for case characteristics as permitted by the laws governing group disability insurance.

(b) ~~Rates~~ *Except for the rates for the small business health insurance pool established in [section 1], rates for voluntary purchasing pool groups must be set pursuant to the provisions of 33-22-1809.*

(c) At its discretion, premiums may be paid to the disability insurance policies, certificates, or contracts by the voluntary purchasing pool; *or by member employers, or by eligible employees and their dependents.*

(7) A person marketing disability insurance policies, certificates, or contracts for a voluntary purchasing pool must be licensed as an insurance producer.”

**Section 17.** Section 45-6-301, MCA, is amended to read:

**“45-6-301. Theft.** (1) A person commits the offense of theft when the person purposely or knowingly obtains or exerts unauthorized control over property of the owner and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(2) A person commits the offense of theft when the person purposely or knowingly obtains by threat or deception control over property of the owner and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(3) A person commits the offense of theft when the person purposely or knowingly obtains control over stolen property knowing the property to have been stolen by another and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(4) A person commits the offense of theft when the person purposely or knowingly obtains or exerts unauthorized control over any part of any public assistance provided under Title 52 or 53 by a state or county agency, regardless of the original source of assistance, by means of:

(a) a knowingly false statement, representation, or impersonation; or

(b) a fraudulent scheme or device.

(5) A person commits the offense of theft when the person purposely or knowingly obtains or exerts or helps another obtain or exert unauthorized control over any part of any benefits provided under Title 39, chapter 71 or 72, by means of:

(a) a knowingly false statement, representation, or impersonation; or

(b) deception or other fraudulent action.

(6) (a) A person commits the offense of theft when the person purposely or knowingly commits insurance fraud as provided in 33-1-1202 or 33-1-1302; ~~or~~

(b) purposely or knowingly diverts or misappropriates insurance premiums as provided in 33-17-1102; or

(c) *purposely or knowingly receives small business health insurance premium incentive payments or premium assistance payments or tax credits under [sections 1 through 9] to which the person is not entitled.*

(7) A person commits the offense of theft of property by embezzlement when, with the purpose to deprive the owner of the property, the person:

(a) purposely or knowingly obtains or exerts unauthorized control over property of the person's employer or over property entrusted to the person; or

(b) purposely or knowingly obtains by deception control over property of the person's employer or over property entrusted to the person.

(8) (a) A person convicted of the offense of theft of property not exceeding \$1,000 in value shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a second offense shall be fined \$1,000 or be imprisoned in the county jail for a term

not to exceed 6 months, or both. A person convicted of a third or subsequent offense shall be fined \$1,000 and be imprisoned in the county jail for a term of not less than 30 days or more than 6 months.

(b) Except as provided in subsection (8)(c), a person convicted of the offense of theft of property exceeding \$1,000 in value or theft of any commonly domesticated hoofed animal shall be fined an amount not to exceed \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both.

(c) A person convicted of the offense of theft of property exceeding \$10,000 in value by embezzlement shall be imprisoned in a state prison for a term of not less than 1 year or more than 10 years and may be fined an amount not to exceed \$50,000. The court may, in its discretion, place the person on probation with the requirement that restitution be made under terms set by the court. If the terms are not met, the required prison term may be ordered.

(9) Amounts involved in thefts committed pursuant to a common scheme or the same transaction, whether from the same person or several persons, may be aggregated in determining the value of the property.”

**Section 18.** Section 53-6-1201, MCA, is amended to read:

**“53-6-1201. Special revenue fund — health and medicaid initiatives — *contingency*.** (1) There is a health and medicaid initiatives account in the state special revenue fund established by 17-2-102. This account is to be administered by the department of public health and human services.

(2) There must be deposited in the account:

(a) money from cigarette taxes deposited under 16-11-119(1)(c); and

(b) money from taxes on tobacco products other than cigarettes deposited under 16-11-206(1)(b).

(3) This account may be used only to provide funding for:

(a) the state funds necessary to take full advantage of available federal matching funds in order to maximize enrollment of eligible children under the children’s health insurance program, provided for under Title 53, chapter 4, part 10, and to provide outreach to the eligible children. The increased revenue in this account is intended to increase enrollment rates for eligible children in the program and not to be used to support existing levels of enrollment based upon appropriations for the biennium ending June 30, 2005.

(b) a new need-based prescription drug program established by the legislature for children, seniors, chronically ill, and disabled persons that does not supplant similar services provided under any existing program;

(c) increased medicaid services and medicaid provider rates. The increased revenue is intended to increase medicaid services and medicaid provider rates and not to supplant the general fund in the trended traditional level of appropriation for medicaid services and medicaid provider rates.

(d) an offset to loss of revenue to the general fund as a result of new tax credits; ~~or~~

(e) to fund new programs to assist *eligible* small ~~businesses~~ *employers* with the costs of providing health insurance benefits to *eligible* employees, ~~if these tax credits or programs are established by the legislature after the effective date of this section;~~

(f) *the cost of administering the tax credit, the purchasing pool, and the premium incentive payments and premium assistance payments, as provided in*

*[sections 1 through 9], not to exceed \$600,000 in the first year or 5% for each successive year of the appropriation for the tax credit, the purchasing pool, and the premium incentive payments and premium assistance payments; and*

*(g) to provide a state match for the medicaid program for premium incentive payments or premium assistance payments to the extent that a waiver is granted by federal law as provided in [section 10].*

*(4) (a) The money appropriated for fiscal year 2006 for the program in subsections (3)(d) through (3)(g) may not be expended until the office of budget and program planning has certified that \$25 million has been deposited in the account provided for in this section.*

*(b) For each succeeding fiscal year, on or before July 1, the budget director shall calculate a balance required to sustain the program for each fiscal year of the next biennium. If the budget director certifies that the reserve balance will be sufficient, then the commissioner may expend the revenue for the program as appropriated. If the budget director determines that the reserve balance of the revenue will not support the level of appropriation, the budget director shall notify the commissioner. Upon receipt of the notification, the commissioner shall adjust the operating budget for the program to reflect the available revenue as determined by the budget director.*

*(c) Until the programs or credits described in subsections (3)(b) and (3)(d) through (3)(g) are established, the funding must be used exclusively for the purposes described in subsections (3)(a) and (3)(c).*

*(5) The phrase "trended traditional level of appropriation", as used in subsection (3)(c), means the appropriation amounts, including supplemental appropriations, as those amounts were set based on eligibility standards, services authorized, and payment amount during the past five biennial budgets.*

*(6) The department of public health and human services may adopt rules to implement this section."*

**Section 19. Contingency on expenditure.** [Sections 1 through 9] may not be construed to require implementation or ongoing operation of the programs in 53-6-1201(3)(d) through (3)(g) without a line item appropriation in the general appropriations bill included for that purpose.

**Section 20. Codification instruction.** (1) [Sections 1 through 9] are intended to be codified as an integral part of Title 33, chapter 22, and the provisions of Title 33, chapter 22, apply to [sections 1 through 9].

(2) [Sections 10 and 19] are intended to be codified as an integral part of Title 53, chapter 2, part 2, and the provisions of Title 53, chapter 2, part 2, apply to [sections 10 and 19].

(3) [Section 11] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 11].

(4) [Section 12] is intended to be codified as an integral part of Title 15, chapter 31, and the provisions of Title 15, chapter 31, apply to [section 12].

**Section 21. Effective date.** [This act] is effective July 1, 2005.

**Section 22. Applicability.** [This act] applies to tax years beginning after December 31, 2005.

Approved May 6, 2005

**CHAPTER NO. 596**

[HB 671]

AN ACT GENERALLY REVISING THE MOTOR VEHICLE LAWS; AUTOMATING AND SIMPLIFYING THE PROCESS FOR ISSUANCE OF TEMPORARY REGISTRATION PERMITS; STANDARDIZING THE LENGTH OF TEMPORARY REGISTRATION PERMITS AND THE GRACE PERIOD FOR TITLING OR REGISTERING A NEWLY ACQUIRED VEHICLE; IMPOSING A \$3 FEE FOR ISSUANCE OF CERTAIN TEMPORARY REGISTRATION PERMITS; IMPOSING A \$8 FEE FOR ISSUANCE OF A TEMPORARY REGISTRATION PERMIT TO A NONRESIDENT OR TO A PERSON VIA THE SECURE ELECTRONIC APPLICATION; AUTHORIZING CERTAIN PERSONS TO ELECTRONICALLY UPDATE DEPARTMENT RECORDS VIA AUTHORIZED AGENT AGREEMENTS; SETTING THE STANDARDS FOR AUTHORIZED AGENTS, INCLUDING MAXIMUM ALLOWABLE SERVICE OR CONVENIENCE FEES CHARGEABLE BY AUTHORIZED AGENTS; AUTHORIZING CERTAIN HEALTH CARE PROVIDERS TO ISSUE TEMPORARY DISABLED PARKING PLACARDS AND ELECTRONICALLY SUBMIT DISABLED PARKING PLACARD APPLICATION ON BEHALF OF A PATIENT; ELIMINATING CERTIFICATES OF OWNERSHIP FOR CERTAIN MANUFACTURED HOMES AND FOR MOBILE HOMES AND HOUSETRAILERS; REVISING AND CLARIFYING BUSINESS PROCESSES FOR REGISTERING AND RENEWING THE REGISTRATION OF CERTAIN VEHICLES; REVISING AND CLARIFYING CERTAIN PROVISIONS FOR ISSUANCE AND TRANSFER OF LICENSE PLATES; REVISING AND CLARIFYING SPECIAL MOBILE EQUIPMENT AND SINGLE MOVEMENT PERMITS; CLARIFYING TYPES OF VEHICLES DEALERS; REVISING COLLECTION OF DRIVER'S LICENSE FEES AND CERTAIN FUND TRANSFERS; REVISING AND CLARIFYING DRIVER RECORDS AND RECORDKEEPING REQUIREMENTS; CLARIFYING ADMINISTRATIVE HEARING PROCESS FOR CERTAIN DRIVER'S LICENSE SUSPENSIONS; AMENDING SECTIONS 7-14-112, 10-3-1307, 15-1-101, 15-1-116, 15-1-117, 15-1-121, 15-1-122, 15-8-201, 15-8-202, 15-15-201, 15-24-301, 15-24-302, 19-6-709, 23-1-105, 23-2-502, 23-2-511, 23-2-513, 23-2-515, 23-2-616, 23-2-619, 23-2-818, 49-4-301, 49-4-302, 49-4-303, 49-4-304, 49-4-305, 61-1-104, 61-1-111, 61-1-501, 61-1-508, 61-1-513, 61-1-603, 61-3-107, 61-3-109, 61-3-201, 61-3-203, 61-3-212, 61-3-217, 61-3-218, 61-3-220, 61-3-224, 61-3-301, 61-3-302, 61-3-303, 61-3-311, 61-3-312, 61-3-313, 61-3-314, 61-3-315, 61-3-316, 61-3-317, 61-3-321, 61-3-322, 61-3-324, 61-3-325, 61-3-331, 61-3-332, 61-3-333, 61-3-334, 61-3-335, 61-3-345, 61-3-347, 61-3-401, 61-3-402, 61-3-403, 61-3-407, 61-3-412, 61-3-415, 61-3-421, 61-3-422, 61-3-425, 61-3-426, 61-3-431, 61-3-433, 61-3-446, 61-3-456, 61-3-458, 61-3-463, 61-3-464, 61-3-474, 61-3-479, 61-3-481, 61-3-501, 61-3-503, 61-3-520, 61-3-522, 61-3-527, 61-3-529, 61-3-535, 61-3-560, 61-3-561, 61-3-562, 61-3-701, 61-3-707, 61-3-721, 61-4-101, 61-4-102, 61-4-111, 61-4-112, 61-4-121, 61-4-222, 61-4-223, 61-4-310, 61-5-103, 61-5-111, 61-5-114, 61-5-115, 61-5-121, 61-5-206, 61-5-208, 61-8-442, 61-10-222, 61-11-102, 61-11-105, 61-11-204, 61-11-210, 76-2-202, AND 76-2-302, MCA; REPEALING SECTIONS 15-16-202, 61-3-207, 61-3-209, 61-3-342, AND 61-3-526, MCA; AND PROVIDING EFFECTIVE DATES.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Customer service accounts — electronic updates or changes to motor vehicle or driver records.** (1) The department may provide secure electronic applications to permit a person, for specific purposes and as determined by the department, to access or update:

(a) an electronic record of title or registration for any vehicle registered to that person; or

(b) an electronic individual Montana driving record for that person.

(2) Purposes for which a person may access or update an electronic record of title or registration for a vehicle registered to or acquired by the person may include but are not limited to:

(a) issuing a temporary registration permit for a newly acquired vehicle;

(b) renewing vehicle registration on an annual or periodic basis;

(c) updating or changing personal information, including residence or mailing addresses; and

(d) changing the anniversary date and registration period for a vehicle registered to the person.

(3) Purposes for which a person may access or update an electronic individual Montana driving record for that person may include but are not limited to the following:

(a) updating or changing personal information, including residence or mailing addresses;

(b) obtaining a copy of the person's individual Montana driving record;

(c) paying a reinstatement fee owed to the department; and

(d) applying for a replacement driver's license.

**Section 2. Definitions.** (1) In this title, unless the context otherwise requires, the following definitions apply:

(a) "Authorized agent" means a person who has executed a written agreement with the department and is specifically authorized by the department to electronically access and update the department's motor vehicle titling, registration, or driver records, using an approved automated interface, for specific functions or purposes upon behalf of a third party.

(b) "Authorized agent agreement" means the written agreement executed between an authorized agent and the department that sets the technical and operational program standards, compliance criteria, payment options, and service expectations by which the authorized agent must operate in performing specific motor vehicle or driver-related record functions.

(c) "County where a vehicle is domiciled" means the county in which the vehicle owner permanently resides or, if a vehicle is owned by a corporation or is leased or used for commercial purposes, the county in which the vehicle is permanently assigned or most frequently used, dispatched, or controlled.

(2) For purposes of this section, "person" means an individual, corporation, partnership, limited partnership, limited liability company, association, joint venture, state agency, local government unit, another state government, the United States, a political subdivision of this or another state, or any other legal or commercial entity.

**Section 3. Services that may be performed by authorized agent.** (1) The department may authorize a person to perform, on the department's behalf,

specific motor vehicle titling, registration, or driver licensing functions assigned to or administered by the department under Title 23, chapter 2, parts 5, 6, and 8 or this title. The authorization must be evidenced by an authorized agent agreement.

(2) An authorized agent must meet all of the requirements established by the department.

(3) An authorized agent shall submit to the department or its designee all statutorily prescribed fees, taxes, or penalties the authorized agent collects.

(4) (a) Except where specifically prohibited by statute or the authorized agent agreement, in addition to statutorily prescribed fees, taxes, and penalties, an authorized agent may collect and retain a reasonable convenience fee for services provided.

(b) If an authorized agent is a municipal or county officer, the convenience fee may be charged and collected as permitted under 7-5-2133 or 7-5-4125.

(5) The department may provide an automated mechanism to ensure that any statutorily prescribed fee, tax, or penalty collected by an authorized agent or a county treasurer in a county other than the county where a vehicle is domiciled is transferred to the county treasurer of the county where the vehicle is domiciled.

(6) As used in this section, "person" has the meaning provided in [section 2].

**Section 4. Payment of fees by credit card or other commercially acceptable means.** (1) The department may accept payment of any fee, tax, or penalty that the department administers by credit card, debit card, electronic funds transfer, or other commercially acceptable means.

(2) (a) If the payment is made by credit card, debit card, charge card, or similar method, the liability is not discharged and the person has not paid the tax, fee, or penalty until the department, its authorized agent, or the county treasurer receives payment or credit from the financial institution or credit card company responsible for making the payment or credit and as long as the payment or credit is not subsequently charged back to the state by the financial institution or credit card company. Upon receipt of the payment or credit, the amount is considered paid on the date on which the charge was made by the person unless the payment or credit is subsequently charged back to the department, its authorized agent, or the county treasurer by the financial institution or credit card company.

(b) Upon notice of nonpayment, the department may charge the person who attempted the payment of the fee, tax, or penalty an additional fee not to exceed the costs of processing the claim for payment of the fee, tax, or penalty. The amount of the additional fee must be added to the fee, tax, or penalty due and must be collected in the same manner as the fee, tax, or penalty due.

(3) A person making a payment pursuant to this section shall pay any fee required by a financial institution or credit card company for the payment method used.

**Section 5. Motor vehicle electronic commerce operating account.** (1) There is a motor vehicle electronic commerce operating account of the enterprise fund type as provided in 17-2-102.

(2) Fees imposed for issuance of a temporary registration permit under 61-3-224 must be deposited in the account.

(3) The money in the motor vehicle electronic commerce operating account must be used by the department to pay costs directly incurred in the operation, maintenance, and enhancement of electronic commerce applications, including but not limited to payments to third-party vendors who provide services to support the applications.

**Section 6. Address of record — basis for change — acknowledgment of current address and service — national change of address program.**

(1) (a) Whenever a person completes and submits a department-prescribed form, application, or similar document to the department, an authorized agent, or a county treasurer under Title 23 or this title or whenever a person is issued a notice to appear for a violation of a statute or a municipal ordinance regulating the operation of motor vehicles on highways, the person shall provide the person's current address on the form, application, or similar document or to the peace officer issuing the notice to appear.

(b) By manually or digitally signing the prescribed form, application, or similar document authorizing the electronic submission of the document to the department or providing the information to a peace officer, the person acknowledges that:

(i) the address is correct;

(ii) subject to the provisions of subsection (2)(b), any official notice from the department, including an order of suspension or revocation or mail renewal notice, must be sent by prepaid first-class mail to the most recent address on:

(A) the signed form, application, or similar document; or

(B) if a conviction or bond forfeiture resulting from the notice to appear that was issued, the notice to appear; and

(iii) subject to the provisions of subsection (2)(b), the notice from the department must be considered to have been accepted by the person at that address.

(2) (a) The department may contract with the United States postal service or an authorized agent to use the national change of address system for the purpose of obtaining current address information for a person whose name appears in a motor vehicle or driver record maintained by the department.

(b) If the department receives information from the national change of address system that indicates that a person whose name appears in a record has moved to another address, the department may update its records to include the new address and, after that date or until the person notifies the department, use the new address to correspond with or notify the person by first-class mail.

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

**“7-14-112. Senior citizen and persons with disabilities transportation services account — use.** (1) There is a senior citizen and persons with disabilities transportation services account in the state special revenue fund. Money must be deposited in the account pursuant to ~~61-3-321(6)(a)~~ 61-3-321(5)(a).

(2) Except as provided in subsection (6), the account must be used to provide operating funds to counties, incorporated cities and towns, transportation districts, or nonprofit organizations for transportation services for persons 60 years of age or older and for persons with disabilities.

(3) (a) Subject to the conditions of subsection (3)(b), the department of transportation is authorized to award grants to counties, incorporated cities and

towns, transportation districts, and nonprofit organizations for transportation services using guidelines established in the state management plan for the purposes described in 49 U.S.C. 5310 and 5311.

(b) Priority for awarding grants must be determined according to the following factors:

(i) the most recent census or federal estimate of persons 60 years of age or older and persons with disabilities in the area served by a county, incorporated city or town, transportation district, or nonprofit organization;

(ii) the annual number of trips provided by the transportation provider to persons 60 years of age or older and to persons with disabilities in the transportation service area;

(iii) the ability of the transportation provider to provide matching money in an amount determined by the department of transportation; and

(iv) the coordination of services as required in subsection (5).

(4) The department of transportation shall ensure that the available funding is distributed equally among the five transportation districts provided in 2-15-2502.

(5) In awarding grants, the department of transportation shall give preference to proposals that:

(a) include the establishment of a transit authority to coordinate service area or regional transportation services;

(b) address and document the transportation needs within the community, county, and service area or region;

(c) identify all other transportation providers in the community, county, and service area or region;

(d) explain how services are going to be coordinated with the other transportation providers in the service area or region;

(e) indicate how services are going to be expanded to meet the unmet needs of senior citizens and disabled persons within the community, county, and service area or region who are dependent upon public transit;

(f) include documentation of coordination with other local transportation programs within the community, county, and service area or region, including:

(i) utilization of existing resources and equipment to maximize the delivery of service; and

(ii) the projected increase in ridership and expansion of service;

(g) invite school districts to participate or be included in the transportation coordination efforts within the community, county, and service area or region; and

(h) at a minimum, comply with the provisions in subsections (5)(b) through (5)(f).

(6) Any amount of money remaining after grants have been awarded to transportation providers who provide transportation services for persons 60 years of age or older and persons with disabilities may be awarded to other transportation providers for operating costs for the purposes described in 49 U.S.C. 5311 other than for transportation services for persons 60 years of age or older or persons with disabilities.”

**Section 8.** Section 10-3-1307, MCA, is amended to read:

**“10-3-1307. Responsibilities of department of transportation — assessment and collection of fees — issuance of permits — inspection of motor carriers.** (1) After receiving notification from the person or entity that plans to ship high-level radioactive waste or transuranic waste through the state, the department of transportation shall assess fees according to the following schedule:

(a) a fee of \$2,500 must be assessed for each cask designed for transport by truck; and

(b) a fee of \$4,500 must be assessed for the first cask designed for transport by rail and a fee of \$3,000 for each additional cask designed for transport by rail that is shipped by the same person or entity in the same shipment.

(2) Payment of the fees provided in subsection (1) is the responsibility of the person or entity who owns the waste.

(3) Upon receipt of the fees provided in subsection (1), the department of transportation shall issue to the owner of the waste a permit that must be carried with the waste as it is traveling through the state.

(4) The department of transportation shall deposit all of the fees collected under this section in the radioactive waste transportation monitoring, emergency response, and training account created in 10-3-1304.

(5) If the waste is to be transported through the state by motor carrier, the department of transportation shall coordinate with the highway patrol on the inspection of the motor carrier by the motor carrier services division.

(6) This section does not exempt the operator of a motor carrier from any of the provisions of Title 61, chapter 10, from Title 69, chapter 12, or from any other law that applies to the operation of motor vehicles in Montana.

(7) Fees under this section must be assessed regardless of ownership, and ~~61-3-321(5)~~ *61-3-321(4)* and 61-10-127 do not apply.”

**Section 9.** Section 15-1-101, MCA, is amended to read:

**“15-1-101. Definitions.** (1) Except as otherwise specifically provided, when terms mentioned in this section are used in connection with taxation, they are defined in the following manner:

(a) The term “agricultural” refers to:

(i) the production of food, feed, and fiber commodities, livestock and poultry, bees, biological control insects, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes; and

(ii) the raising of domestic animals and wildlife in domestication or a captive environment.

(b) The term “assessed value” means the value of property as defined in 15-8-111.

(c) The term “average wholesale value” means the value to a dealer prior to reconditioning and the profit margin shown in national appraisal guides and manuals or the valuation schedules of the department.

(d) (i) The term “commercial”, when used to describe property, means property used or owned by a business, a trade, or a corporation as defined in

35-2-114 or used for the production of income, except property described in subsection (1)(d)(ii).

(ii) The following types of property are not commercial:

(A) agricultural lands;

(B) timberlands and forest lands;

(C) single-family residences and ancillary improvements and improvements necessary to the function of a bona fide farm, ranch, or stock operation;

(D) mobile homes and manufactured homes used exclusively as a residence except when held by a distributor or dealer as stock in trade; and

(E) all property described in 15-6-135.

(e) The term "comparable property" means property that:

(i) has similar use, function, and utility;

(ii) is influenced by the same set of economic trends and physical, governmental, and social factors; and

(iii) has the potential of a similar highest and best use.

(f) The term "credit" means solvent debts, secured or unsecured, owing to a person.

(g) (i) "Department", except as provided in subsection (1)(g)(ii), means the department of revenue provided for in 2-15-1301.

(ii) In chapters 70 and 71, department means the department of transportation provided for in 2-15-2501.

(h) The terms "gas" and "natural gas" are synonymous and mean gas as defined in 82-1-111(2). The terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other natural gas found in any coal formation.

(i) The term "improvements" includes all buildings, structures, fences, and improvements situated upon, erected upon, or affixed to land. When the department determines that the permanency of location of a mobile home, manufactured home, or housetrailer has been established, the mobile home, manufactured home, or housetrailer is presumed to be an improvement to real property. A mobile home, manufactured home, or housetrailer may be determined to be permanently located only when it is attached to a foundation that cannot feasibly be relocated and only when the wheels are removed.

(j) The term "leasehold improvements" means improvements to mobile homes and mobile homes located on land owned by another person. This property is assessed under the appropriate classification, and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on leasehold improvements are a lien only on the leasehold improvements.

(k) The term "livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas, bison, ostriches, rheas, emus, and domestic ungulates.

(l) (i) The term "manufactured home" means a residential dwelling built in a factory in accordance with the United States department of housing and urban development code and the federal Manufactured Home Construction and Safety Standards.

(ii) A manufactured home does not include a mobile home, as defined in 61-1-501 and in subsection (1)(m) of this section, a housetrailer, as defined in

~~61-1-501~~, or a mobile home or housetrailer constructed before the federal Manufactured Home Construction and Safety Standards went into effect on June 15, 1976.

(m) The term "mobile home" means forms of housing known as "trailers", "housetrainers", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any trailer, housetrailer, or trailer coach up to 8 feet in width or 45 feet in length used as a principal residence.

(n) The term "personal property" includes everything that is the subject of ownership but that is not included within the meaning of the terms "real estate" and "improvements" and "intangible personal property" as that term is defined in 15-6-218.

(o) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in domestication to produce food or feathers.

(p) The term "property" includes money, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition may not be construed to authorize the taxation of the stocks of a company or corporation when the property of the company or corporation represented by the stocks is within the state and has been taxed.

(q) The term "real estate" includes:

(i) the possession of, claim to, ownership of, or right to the possession of land;

(ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and Title 15, chapter 23, part 8;

(iii) all timber belonging to individuals or corporations growing or being on the lands of the United States; and

(iv) all rights and privileges appertaining to mines, minerals, quarries, and timber.

(r) "Recreational" means hunting, fishing, swimming, boating, waterskiing, camping, biking, hiking, and winter sports, including but not limited to skiing, skating, and snowmobiling.

(s) "Research and development firm" means an entity incorporated under the laws of this state or a foreign corporation authorized to do business in this state whose principal purpose is to engage in theoretical analysis, exploration, and experimentation and the extension of investigative findings and theories of a scientific and technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

(t) The term "stock in trade" means any mobile home, manufactured home, or housetrailer that is listed by the dealer as inventory and that is offered for sale, is unoccupied, and is not located on a permanent foundation. Inventory does not have to be located at the business location of a dealer or a distributor.

(u) The term "taxable value" means the percentage of market or assessed value as provided for in Title 15, chapter 6, part 1.

(2) The phrase "municipal corporation" or "municipality" or "taxing unit" includes a county, city, incorporated town, township, school district, irrigation district, or drainage district or a person, persons, or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

(3) The term “state board” or “board” when used without other qualification means the state tax appeal board.”

**Section 10.** Section 15-1-116, MCA, is amended to read:

**“15-1-116. Manufactured home considered as improvement to real property — requirements.** (1) A manufactured home will be considered for tax purposes an improvement to real property if:

(a) the running gear is removed; and

(b) the manufactured home is attached to a permanent foundation on land that is owned or being purchased by the owner of the manufactured home or, if the land is owned by another person, with the permission of the landowner.

(2) To eliminate a manufacturer’s certificate of origin properly assigned to an owner or a certificate of title of a manufactured home, an owner may file a statement of intent on a form furnished by the department of justice.

(3) The statement of intent must include:

(a) the serial number of the manufactured home;

(b) the legal description of the real property to which the manufactured home has been permanently attached;

(c) a description of any security interests in the manufactured home; and

(d) approval from all lienholders of the intent to eliminate the certificate of title.

(4) (a) The owner shall present the statement of intent to the county treasurer of the county in which the manufactured home is located and shall surrender the certificate of title. ~~Upon payment of the fee required in 61-3-203, the county treasurer shall:~~

~~(i) enter the transfer of interest on the electronic record of title;~~

~~(ii) issue the owner a transaction summary receipt; and~~

~~(iii) forward the statement of intent and the surrendered certificate of title to the department of justice.~~

(b) The county treasurer may not issue ~~the a~~ receipt unless all taxes, interest, and penalties on the manufactured home have been paid in full. ~~The county treasurer shall remit the fee to the department for deposit in the state general fund.~~

(5) Upon the recording of the statement of intent and the receipt of surrender, the manufactured home may not be physically removed without the consent of all persons who have an interest in the manufactured home.

(6) A manufactured home that has been declared an improvement to real property in accordance with this section must be treated by the department and by lending institutions in the same manner as any other residence that is classified as an improvement.”

**Section 11.** Section 15-1-117, MCA, is amended to read:

**“15-1-117. Reversal of declaration — exception.** (1) Before a manufactured home can be physically removed from its location, the owner shall obtain a search of the title to the land from a title insurance company in order to identify those persons or entities whose consent for removal must be obtained. The owner shall obtain permission in writing from the affected persons or entities before removing the manufactured home from its location.

(2) At least 30 days before the manufactured home is removed, the owner shall give written notice to the department and the county treasurer in which the home is currently located of the intended removal of the home. The written notice must include the written consents of the affected persons or entities identified in subsection (1). The owner may not remove the home until the written consents are received and all of the taxes that have been assessed have been paid in full to the county treasurer, *as evidenced by issuance of a tax-paid receipt allowing movement of the manufactured home under 15-24-206.*

~~(3) Within 5 days of the removal of the home, the purchaser shall make a declaration of reversal and apply for a certificate of title for the manufactured home from the department of justice in accordance with the provisions of Title 61, chapter 3, part 2."~~

**Section 12.** Section 15-1-121, MCA, is amended to read:

**"15-1-121. Entitlement share payment — appropriation.** (1) The amount calculated pursuant to this subsection is each local government's base entitlement share. The department shall estimate the total amount of revenue that each local government received from the following sources for the fiscal year ending June 30, 2001:

- (a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999;
- (b) vehicle and boat taxes and fees pursuant to:
  - (i) Title 23, chapter 2, part 5;
  - (ii) Title 23, chapter 2, part 6;
  - (iii) Title 23, chapter 2, part 8;
  - (iv) 61-3-317;
  - (v) 61-3-321;
  - (vi) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the amendment of 61-3-509 in 2001;
  - (vii) Title 61, chapter 3, part 7;
  - (viii) 5% of the fees collected under 61-10-122;
  - (ix) 61-10-130;
  - (x) 61-10-148; and
  - (xi) 67-3-205;
- (c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);
- (d) district court fees pursuant to:
  - (i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);
  - (ii) 25-1-202;
  - (iii) 25-1-1103;
  - (iv) 25-9-506;
  - (v) 25-9-804; and
  - (vi) 27-9-103;
- ~~(e) certificate of title fees for manufactured homes pursuant to 15-1-116;~~
- (e) *certificate of title fees for manufactured homes pursuant to 15-1-116;*

- ~~(f)~~(f) financial institution taxes pursuant to Title 15, chapter 31, part 7;
- ~~(g)~~(g) coal severance taxes allocated for county land planning pursuant to 15-35-108;
- ~~(h)~~(h) all beer, liquor, and wine taxes pursuant to:
  - (i) 16-1-404;
  - (ii) 16-1-406; and
  - (iii) 16-1-411;
- ~~(i)~~(i) late filing fees pursuant to 61-3-220;
- ~~(j)~~(j) title and registration fees pursuant to 61-3-203;
- ~~(k)~~(k) veterans' cemetery license plate fees pursuant to 61-3-459;
- ~~(l)~~(l) county personalized license plate fees pursuant to 61-3-406;
- ~~(m)~~(m) special mobile equipment fees pursuant to 61-3-431;
- ~~(n)~~(n) single movement permit fees pursuant to 61-4-310;
- ~~(o)~~(o) state aeronautics fees pursuant to 67-3-101; and
- ~~(p)~~(p) department of natural resources and conservation payments in lieu of taxes pursuant to Title 77, chapter 1, part 5.

(2) (a) From the amounts estimated in subsection (1) for each county government, the department shall deduct fiscal year 2001 county government expenditures for district courts, less reimbursements for district court expenses, and fiscal year 2001 county government expenditures for public welfare programs to be assumed by the state in fiscal year 2002.

(b) The amount estimated pursuant to subsections (1) and (2)(a) is each local government's base year component. The sum of all local governments' base year components is the base year entitlement share pool. For the purpose of calculating the sum of all local governments' base year components, the base year component for a local government may not be less than zero.

(3) (a) ~~Beginning with fiscal year 2002 and in~~ In each succeeding fiscal year, the base year entitlement share pool must be increased annually by a growth rate as provided for in this subsection (3). The amount determined through the application of annual growth rates is the entitlement share pool for each fiscal year. ~~For fiscal year 2002, the growth rate is 3%. For fiscal year 2003, the growth rate is 3% for incorporated cities and towns, 1.61% for counties, and 2.3% for consolidated local governments. Beginning with calendar year 2002, by~~ By October 1 of each even-numbered year, the department shall calculate the growth rate of the entitlement share pool for each year of the next biennium in the following manner:

~~(i) Before applying the growth rate for fiscal year 2004 to determine the fiscal year 2004 entitlement share pool, the department shall add to the fiscal year 2003 entitlement share pool the fiscal year 2003 amount of revenue actually distributed to the county from the 25-cent marriage license fee in 50-15-301 and the probation and parole fee in 46-23-1031(2)(b).~~

~~(ii)~~(i) The department shall calculate the average annual growth rate of the Montana gross state product, as published by the bureau of economic analysis of the United States department of commerce, for the following periods:

(A) the last 4 calendar years for which the information has been published; and

(B) the 4 calendar years beginning with the year before the first year in the period referred to in subsection ~~(3)(a)(ii)(A)~~ (3)(a)(i)(A).

~~(iii)(ii)~~ (ii) The department shall calculate the average annual growth rate of Montana personal income, as published by the bureau of economic analysis of the United States department of commerce, for the following periods:

(A) the last 4 calendar years for which the information has been published; and

(B) the 4 calendar years beginning with the year before the first year in the period referred to in subsection ~~(3)(a)(iii)(A)~~ (3)(a)(ii)(A).

(b) (i) For ~~fiscal year 2004 and subsequent~~ *each* fiscal years *year*, the entitlement share pool growth rate for the first year of the biennium must be the following percentage of the average of the growth rates calculated in subsections ~~(3)(a)(ii)(B)~~ (3)(a)(i)(B) and ~~(3)(a)(iii)(B)~~ (3)(a)(ii)(B):

(A) for counties, 54%;

(B) for consolidated local governments, 62%; and

(C) for incorporated cities and towns, 70%.

(ii) The entitlement share pool growth rate for the second year of the biennium must be the following percentage of the average of the growth rates calculated in subsections ~~(3)(a)(ii)(A)~~ (3)(a)(i)(A) and ~~(3)(a)(iii)(A)~~ (3)(a)(ii)(A):

(A) for counties, 54%;

(B) for consolidated local governments, 62%; and

(C) for incorporated cities and towns, 70%.

(4) As used in this section, "local government" means a county, a consolidated local government, an incorporated city, and an incorporated town. A local government does not include a tax increment financing district provided for in subsection (6). For purposes of calculating the base year component for a county or consolidated local government, the department shall include the revenue listed in subsection (1) for all special districts within the county or consolidated local government. The county or consolidated local government is responsible for making an allocation from the county's or consolidated local government's share of the entitlement share pool to each special district within the county or consolidated local government in a manner that reasonably reflects each special district's loss of revenue sources listed in subsection (1).

(5) (a) The entitlement share pools calculated in this section and the block grants provided for in subsection (6) are statutorily appropriated, as provided in 17-7-502, from the general fund to the department for distribution to local governments. Each local government is entitled to a pro rata share of each year's entitlement share pool based on the local government's base component in relation to the base year entitlement share pool. The distributions must be made on a quarterly basis ~~beginning September 15, 2001~~.

(b) (i) For ~~fiscal year 2002~~, the growth amount is the difference between the ~~fiscal year 2002~~ entitlement share pool and the base year entitlement share pool. For ~~fiscal year 2002~~, a county may have a negative base year component. For ~~fiscal year 2003~~ and each succeeding fiscal year, the growth amount is the difference between the entitlement share pool in the current fiscal year and the entitlement share pool in the previous fiscal year. For the purposes of subsection (5)(b)(ii)(A), a county with a negative base year component has a base year component of zero. The growth factor in the entitlement share must be calculated separately for:

- (A) counties;
- (B) consolidated local governments; and
- (C) incorporated cities and towns.

(ii) In each fiscal year, the growth amount for counties must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each county's percentage of the base year entitlement share pool for all counties; and

(B) 50% of the growth amount must be allocated based upon the percentage that each county's population bears to the state population not residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(iii) In each fiscal year, the growth amount for consolidated local governments must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each consolidated local government's percentage of the base year entitlement share pool for all consolidated local governments; and

(B) 50% of the growth amount must be allocated based upon the percentage that each consolidated local government's population bears to the state's total population residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(iv) In each fiscal year, the growth amount for incorporated cities and towns must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each incorporated city's or town's percentage of the base year entitlement share pool for all incorporated cities and towns; and

(B) 50% of the growth amount must be allocated based upon the percentage that each city's or town's population bears to the state's total population residing within incorporated cities and towns as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(v) In each fiscal year, the amount of the entitlement share pool not represented by the growth amount is distributed to each local government in the same manner as the entitlement share pool was distributed in the prior fiscal year.

~~(vi) For fiscal year 2002, an amount equal to the district court costs identified in subsection (2) must be added to each county government's distribution from the entitlement share pool.~~

~~(vii) For fiscal year 2002, an amount equal to the district court fees identified in subsection (1)(d) must be subtracted from each county government's distribution from the entitlement share pool.~~

(6) (a) If a tax increment financing district was not in existence during the fiscal year ending June 30, 2000, then the tax increment financing district is not entitled to any block grant. If a tax increment financing district referred to in subsection (6)(b) terminates, then the block grant provided for in subsection (6)(b) terminates.

(b) One-half of the payments provided for in this subsection (6)(b) must be made by November 30 and the other half by May 31 of each year. Subject to subsection (6)(a), the entitlement share for tax increment financing districts is as follows:

Cascade	Great Falls - downtown	\$468,966
Deer Lodge	TIF District 1	3,148
Deer Lodge	TIF District 2	3,126
Flathead	Kalispell - District 1	758,359
Flathead	Kalispell - District 2	5,153
Flathead	Kalispell - District 3	41,368
Flathead	Whitefish District	164,660
Gallatin	Bozeman - downtown	34,620
Lewis and Clark	Helena - #2	731,614
Missoula	Missoula - 1-1B & 1-1C	1,100,507
Missoula	Missoula - 4-1C	33,343
Silver Bow	Butte - uptown	283,801
Yellowstone	Billings	436,815

(c) The entitlement share for industrial tax increment financing districts is as follows:

~~(i) for fiscal years 2002 and 2003:~~

<del>Missoula County</del>	<del>Airport Industrial</del>	<del>\$4,812</del>
<del>Silver Bow</del>	<del>Ramsay Industrial</del>	<del>597,594;</del>

~~(ii)(i) for fiscal years 2004 and year 2005:~~

Missoula County	Airport Industrial	\$2,406
Silver Bow	Ramsay Industrial	298,797; and

~~(iii)(ii) \$0 for all succeeding fiscal years.~~

(d) The entitlement share for industrial tax increment financing districts referred to in subsection (6)(c) may not be used to pay debt service on tax increment bonds to the extent that the bonds are secured by a guaranty, a letter of credit, or a similar arrangement provided by or on behalf of an owner of property within the tax increment financing industrial district.

(e) One-half of the payments provided for in subsection (6)(c) must be made by July 30, and the other half must be made in December of each year.

(7) The estimated base year entitlement share pool and any subsequent entitlement share pool for local governments do not include revenue received from countywide transportation block grants or from countywide retirement block grants.

(8) The estimates for the base year entitlement share pool in subsection (1) must be calculated as if the fees in Chapter 515, Laws of 1999, were in effect for all of fiscal year 2001.

(9) (a) If revenue that is included in the sources listed in subsections (1)(b) through ~~(1)(p)~~ (1)(p) is significantly reduced, except through legislative action, the department shall deduct the amount of revenue loss from the entitlement share pool beginning in the succeeding fiscal year and the department shall

work with local governments to propose legislation to adjust the entitlement share pool to reflect an allocation of the loss of revenue.

(b) For the purposes of subsection (9)(a), a significant reduction is a loss that causes the amount of revenue received in the current year to be less than 95% of the amount of revenue received in the base year.

(10) A three-fifths vote of each house is required to reduce the amount of the entitlement share calculated pursuant to subsections (1) through (3).

(11) When there has been an underpayment of a local government's share of the entitlement share pool, the department shall distribute the difference between the underpayment and the correct amount of the entitlement share. When there has been an overpayment of a local government's entitlement share, the local government shall remit the overpaid amount to the department.

(12) A local government may appeal the department's estimation of the base year component, the entitlement share pool growth rate, or a local government's allocation of the entitlement share pool, according to the uniform dispute review procedure in 15-1-211.

(13) A payment required pursuant to this section may not be offset by a debt owed to a state agency by a local government in accordance with Title 17, chapter 4, part 1."

**Section 13.** Section 15-1-122, MCA, is amended to read:

**"15-1-122. Fund transfers.** (1) There is transferred from the state general fund to the adoption services account, provided for in 42-2-105, \$36,764 for fiscal year 2003. Beginning with fiscal year 2004, the amount of the transfer must be increased by 10% in each succeeding fiscal year.

(2) There is transferred from the state general fund to the department of transportation state special revenue nonrestricted account the following amounts:

~~(a)~~ \$75,000 in fiscal year 2003;

~~(b)(a)~~ \$0 in fiscal years 2004 and year 2005;

~~(c)(b)~~ \$3,050,205 in fiscal year 2006; and

~~(d)(c)~~ in each succeeding fiscal year, the amount in subsection ~~(2)(c)~~ (2)(b), increased by 1.5% in each succeeding fiscal year.

(3) For each fiscal year, there is transferred from the state general fund to the accounts, entities, or recipients indicated the following amounts:

(a) to the motor vehicle recycling and disposal program provided for in Title 75, chapter 10, part 5:

(i) \$2 for each new application for a motor vehicle title and for each transfer of a motor vehicle title for which a fee is paid pursuant to 61-3-203; and

(ii) \$1 for each passenger car or truck under 8,001 pounds GVW that is registered for licensing pursuant to Title 61, chapter 3, part 3, and \$5 for each permanently registered light vehicle. Fifteen cents of each dollar must be used for the purpose of reimbursing the hired removal of abandoned vehicles during the calendar year following the calendar year in which the fee was paid. Any portion of the 15 cents not used for abandoned vehicle removal reimbursement during the calendar year following its payment must be used as provided in 75-10-532.

(b) to the noxious weed state special revenue account provided for in 80-7-816:

(i) \$1 in fiscal year 2006 and, in each subsequent year, \$2.75 for each off-highway vehicle for which the fee in lieu of tax is paid, as provided for in 23-2-803; and

(ii) for vehicles registered or ~~re~~registered for which registration is renewed pursuant to 61-3-321:

(A) \$1.50 for each registered light vehicle, truck or bus weighing less than 1 ton, logging truck, vehicle weighing more than 1 ton, and motor home; and

(B) \$1.50 in fiscal year 2006 and, in each subsequent year, \$3.65 for each motorcycle and quadricycle; and

(C) \$7.50 for each permanently registered light vehicle;

(c) to the department of fish, wildlife, and parks:

(i) \$2.50 in fiscal year 2006 and, in each subsequent year, \$14.50 for each motorboat, sailboat, or personal watercraft receiving a certificate of number under 23-2-512, with 20% of the amount received to be used to acquire and maintain pumpout equipment and other boat facilities;

(ii) \$5 in fiscal year 2006 and, in each subsequent year, \$19 for each snowmobile registered under 23-2-616, with 50% of the amount to be used for enforcing the purposes of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-619, 23-2-621, 23-2-622, 23-2-626, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644 and 50% of the amount designated for use in the development, maintenance, and operation of snowmobile facilities;

(iii) \$1 for each duplicate snowmobile registration decal issued under 23-2-617;

(iv) \$5 in fiscal year 2006 and, in each subsequent year, \$13.25 for each off-highway vehicle decal issued under 23-2-804 and each off-highway vehicle duplicate decal issued under 23-2-809, with 40% of the money used to enforce the provisions of 23-2-804 and 60% of the money used to develop and implement a comprehensive program and to plan appropriate off-highway vehicle recreational use;

(v) to the state special revenue fund established in 23-1-105, \$3.50 in fiscal year 2006 and, in each subsequent year, \$8 for each recreational vehicle, motor home, and travel trailer registered or ~~re~~registered for which registration is renewed and subject to the fee in 61-3-321;

(vi) an amount equal to 20% of the funds collected pursuant to 23-2-518 to be deposited in the motorboat account to be used as provided in 23-2-533; and

(vii) to the state special revenue fund established in 23-1-105, \$4 for each passenger car or truck under 8,001 pounds GVW registered for licensing pursuant to ~~61-3-321(11)(a)~~ 61-3-321(10)(a), with \$3.50 of the money used for state parks, 25 cents used for fishing access sites, and 25 cents used for the operation of state-owned facilities at Virginia City and Nevada City;

(d) to the state veterans' cemetery account, provided for in 10-2-603, \$10 for each veteran's license plate subject to the fee in 61-3-459;

(e) to the supplemental benefits for highway patrol officers' retirement account provided for in 19-6-709, 25 cents for each motor vehicle registered, other than:

(i) trailers or semitrailers registered in other jurisdictions and registered through a proportional registration agreement; and

(ii) vehicles registered under 61-3-527, 61-3-530, and 61-3-562;

(f) 25 cents a year for each registered vehicle and \$1.25 for each permanently registered vehicle subject to the fee in ~~61-3-321(6)~~ 61-3-321(5) for deposit in the state special revenue fund to the credit of the senior citizens and persons with disabilities transportation services account provided for in 7-14-112;

(g) to the search and rescue account provided for in 10-3-801:

(i) \$2 a year for each vessel [subject to the search and rescue surcharge] in 23-2-517;

(ii) \$2 a year for each snowmobile [subject to the search and rescue surcharge] in 23-2-615(1)(b) and 23-2-616(3); and

(iii) \$2 a year for each off-highway vehicle [subject to the search and rescue surcharge] in 23-2-803; and

(h) 50 cents a year for each vehicle subject to the fee in ~~61-3-321(7)~~ 61-3-321(6) for deposit in the state special revenue fund to the credit of the veterans' services account provided for in 10-2-112(1).

(4) For each fiscal year, the department of justice shall provide to the department of revenue a count of the vehicles required for the calculations in subsection (3). The department of justice shall provide a separate count of vehicles that are permanently registered pursuant to 61-3-562. A permanently registered vehicle may be included in vehicle counts only in the year in which the vehicle is registered or ~~reregistered~~ *for which registration is renewed*. Transfer amounts in each fiscal year must be based on vehicle counts in the most recent calendar year for which vehicle information is available. Vehicles that are permanently registered may be included in vehicle counts only in the year in which the vehicles are registered by new owners.

(5) The amounts transferred from the general fund to the designated recipient must be appropriated as state special revenue in the general appropriations act for the designated purposes."

**Section 14.** Section 15-8-201, MCA, is amended to read:

**"15-8-201. General assessment day.** (1) The department shall, between January 1 and the first Monday of August in each year, ascertain the names of all taxable inhabitants and assess all property subject to taxation in each county.

(2) The department shall assess property to:

(a) the person by whom it was owned or claimed or in whose possession or control it was at midnight of the preceding January 1; or

(b) except in the case of land splits, the new owner if the provisions of 15-7-304 have been met and the transfer certificate has been received and processed prior to determining the taxes that are due as provided in 15-10-305(2).

(3) The department shall also ascertain and assess all mobile homes arriving in the county after midnight of the preceding January 1.

(4) A mistake in the name of the owner or supposed owner of real property does not invalidate the assessment.

(5) The procedure provided by this section does not apply to:

(a) motor vehicles;

(b) motor homes, travel trailers, and campers;

(c) watercraft, *snowmobiles, and off-highway vehicles*;

(d) livestock;

(e) property defined in 61-1-104 as special mobile equipment that is subject to assessment for personal property taxes on the date that application is made for a special mobile equipment ~~plate~~ *decal*;

(f) mobile homes and manufactured homes held by a distributor or dealer as stock in trade; and

(g) property subject to the provisions of 15-16-203.”

**Section 15.** Section 15-8-202, MCA, is amended to read:

**“15-8-202. Motor vehicle assessment by department of justice.** (1) (a) The department of justice shall determine the registration fee on light vehicles in accordance with 61-3-560 through 61-3-562.

(b) For the purposes of the local option vehicle tax under 61-3-537, the department of justice shall assess all light vehicles, ~~subject to 61-3-313 through 61-3-316 and 61-3-501, for taxation~~ in accordance with 61-3-503.

(c) The department of justice shall determine the fee in lieu of tax for all buses, trucks having a manufacturer’s rated capacity of more than 1 ton, and truck tractors in accordance with 61-3-528 and 61-3-529.

(d) Taxes, registration fees, or fees in lieu of tax on a motor vehicle under this subsection (1) must be assessed or imposed in each year on the person ~~who owned or claimed the motor vehicles or in whose possession or control the motor vehicle was on the anniversary registration date to whom the vehicle is registered.~~

~~(2) A tax or fee in lieu of tax may not be assessed or imposed against motor vehicles subject to taxation or to a fee in lieu of tax that constitute inventory of motor vehicle dealers as of January 1. These vehicles and all other motor vehicles subject to taxation or a fee in lieu of tax that are brought into the state after January 1 as motor vehicle dealers’ inventories must be assessed to their respective purchasers as of the dates the vehicles are registered by the purchasers.~~

~~(3) “Purchasers” includes dealers who apply for registration or reregistration of motor vehicles.~~

~~(4) Goods, wares, and merchandise of motor vehicle dealers, other than new motor vehicles and new mobile homes, must be assessed at market value as of January 1.~~

~~(5)~~(2) (a) The department of justice is authorized to appear in any proceeding before a county tax appeal board, the state tax appeal board, or a court that seeks to dispute an assessment made by the department pursuant to the authority granted under this section.

(b) For the purposes of proceedings before county tax appeal boards or the state tax appeal board, service of the application required under 15-15-201 must be made on the attorney general. A copy of any application giving rise to a proceeding before a county tax appeal board or the state tax appeal board must also be served on the county treasurer of the county in which the vehicle that is the subject of the proceeding was registered.”

**Section 16.** Section 15-15-201, MCA, is amended to read:

**“15-15-201. Motor vehicle tax appeals — payment and protest of local option taxes or fees in lieu of tax on motor vehicles.** (1) (a) A taxpayer who seeks to appeal the imposition of local option taxes on light

vehicles or fees in lieu of tax assessed against a motor vehicle and imposed by the department of justice under authority of 15-8-202 shall file a written application for the appeal not later than 30 days after ~~the anniversary date for reregistration, as determined by 61-3-315, of the vehicle that is the subject of the appeal~~ *receipt of the mail renewal notice from the department as provided in 61-3-535*. The application must be on a form prescribed by the department of justice in consultation with the state tax appeal board.

(b) The application must include a specific explanation of the basis for the taxpayer's appeal. The basis for appeal must be related to the factors to be considered and applied by the department of justice under 61-3-503, 61-3-506, 61-3-528, and 61-3-529.

(2) (a) The treasurer of the county or municipality is not required to deposit local option vehicle taxes or fees in lieu of tax on a motor vehicle paid under protest in the special fund designated as a protest fund as required for property taxes under 15-1-402. The taxes or fees paid under protest may be reported and distributed in the same manner as those received without protest.

(b) If a refund is payable as a result of the taxpayer prevailing in a tax appeal or court proceeding concerning the protested motor vehicle taxes or fees, a refund may be made in accordance with 15-16-603.

(3) (a) A motor vehicle tax appeal may be heard by the county tax appeal board during its next regularly scheduled session if the application for the appeal was filed by December 1. If during its current session, a county tax appeal board refuses or fails to hear a taxpayer's application that was timely filed by December 1, then the taxpayer's application is considered to be granted on the day following the board's final meeting for that year.

(b) A motor vehicle tax appeal filed after December 1 may be held over by the board to a session in the following year. If a taxpayer's application that was timely filed after December 1 of the current session of the county tax appeal board is held over to a session in the following year and if the county tax appeal board refuses or fails to hear the application during the following session, then the application is considered to be granted on the day following the board's final meeting for that year."

**Section 17.** Section 15-24-301, MCA, is amended to read:

**"15-24-301. Personal property brought into the state — assessment — exceptions — custom combine equipment.** (1) Except as provided in subsections (2) through (5), property in the following cases is subject to taxation and assessment for all taxes levied that year in the county in which it is located:

(a) personal property, excluding livestock, brought into this state at any time during the year that is used in the state for hire, compensation, or profit;

(b) property whose owner or user is engaged in gainful occupation or business enterprise in the state; or

(c) property that becomes a part of the general property of the state.

(2) The taxes on this property are levied in the same manner, except as otherwise provided, as though the property had been in the county on the regular assessment date, provided that the property has not been regularly assessed for the year in some other county of the state.

(3) This section does not levy a tax against a merchant or dealer within this state on goods, wares, or merchandise brought into the county to replenish the stock of the merchant or dealer.

(4) Except as provided in 15-6-217, a motor vehicle ~~subject to the registration fee imposed by 61-3-560 and 61-3-561~~ that is brought into this state by a nonresident person temporarily employed in Montana and used exclusively for transportation of the person is subject to registration ~~fees as follows:~~

~~(a) The motor vehicle fee is imposed by the county in which it is located under 61-3-701.~~

~~(b) One-fourth of the annual fee of the motor vehicle must be paid for each quarter or portion of a quarter of the year that the motor vehicle is located in Montana.~~

~~(c) The quarterly fees are due the first day of the quarter.~~

(5) Agricultural harvesting machinery classified under class eight, licensed in another state, and operated on the land of a person other than the owner of the machinery under a contract for hire is subject to a fee in lieu of tax of \$35 for each machine for the calendar year in which the fee is collected. The machinery is subject to taxation under class eight only if the machinery is sold in Montana.”

**Section 18.** Section 15-24-302, MCA, is amended to read:

**“15-24-302. Collection procedure.** All property mentioned in 15-24-301 is assessed at the same value as property of like kind and character, and the assessment, levy, and collection of the tax are governed by the provisions of 15-8-408, 15-16-115, 15-16-119, 15-16-404, 15-17-911, and 15-24-202, except:

~~(1) the imposition of registration fees on motor vehicles under 15-24-301(4) to the extent that subsection varies from the general provisions cited in this section; and~~

~~(2) livestock taxation governed by 81-7-104 and Title 81, chapter 7, part 2.”~~

**Section 19.** Section 19-6-709, MCA, is amended to read:

**“19-6-709. (Temporary) Supplemental benefits for certain retirees.**

(1) In addition to any retirement benefit payable under this chapter, a retired member or a survivor determined by the board to be eligible under subsection (2) must receive an annual lump-sum benefit payment beginning in September 1991 and each succeeding year as long as the member remains eligible.

(2) To be eligible for the benefits under this section, a person must be receiving a monthly benefit before July 1, 1991, may not be covered by 19-6-710, and must be:

(a) a retired member who is 55 years of age or older and who has been receiving a service retirement benefit for at least 5 years prior to the date of distribution;

(b) a survivor of a member who would have been eligible under subsection (2)(a); or

(c) a recipient of a disability benefit under 19-6-601 or a survivorship benefit under 19-6-901.

(3) A retired member otherwise qualified under this section who is employed in a position covered by a retirement system under Title 19 is ineligible to receive any lump-sum benefit payments provided for in this section until the member’s service in the covered position is terminated. Upon termination of the member’s service, the retired member becomes eligible in the next fiscal year succeeding the member’s termination.

(4) The amount of fees transferred to the pension trust fund pursuant to 15-1-122(3)(e), ~~61-3-527(4)~~ 61-3-527(3), and 61-3-562(1)(b) must be distributed

proportionally as a lump-sum benefit payment to each eligible recipient based on service credit at the time of retirement, subject to the following:

(a) a recipient under subsection (2)(c) is considered to have 20 years of service credit for the purposes of the distributions;

(b) any recipient of a retirement benefit exceeding the maximum monthly benefit under 19-6-707(2)(a) must have the recipient's service credit reduced 25% for the purposes of the distributions;

(c) the maximum annual increase in the amount of supplemental benefits paid to each individual under this section is the percentage increase for the previous calendar year in the annual average consumer price index for urban wage earners and workers, compiled by the bureau of labor statistics of the United States department of labor or its successor agency. (Terminates upon death of last eligible recipient—sec. 1, Ch. 567, L. 1991.)”

**Section 20.** Section 23-1-105, MCA, is amended to read:

**“23-1-105. 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 and to grant concessions that it considers advisable, except as provided in subsections (2) and (6). All money derived from the activities of the department, 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.

(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 either 62 years of age or older or certified as disabled in accordance with rules adopted by the department.

(3) For a violation of any 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 not subject to the deposit requirements of 17-6-105. The department shall deposit money collected under this section within a reasonable time after receipt.

(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 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. 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(11)(a)~~ 61-3-321(10)(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.”

**Section 21.** 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) “Certificate of number” means the certificate issued by the county treasurer to the owner of a motorboat or by the department of justice to dealers or manufacturers, assigning the motorboat an identifying number and containing other information as required by the department of justice.

(2) “Dealer” means a person who engages in whole or in part in the business of buying, selling, or exchanging new and unused vessels or used vessels, or both, either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise, and who has an established place of business for sale, trade, and display of vessels. A yacht broker is a dealer.

(3) “Department” means the department of fish, wildlife, and parks of the state of Montana.

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

(5) “Identifying number” means the boat number set forth in the certificate of number and properly displayed on the motorboat.

(6) “Lienholder” means a person holding a security interest.

(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.

(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.

(9) “Operate” means to navigate or otherwise use a motorboat or a vessel.

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

(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.

(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.

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

(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.

(15) "Registration decal" means an adhesive sticker produced by the department of justice and issued by the department of justice, ~~its~~ an authorized agent, *as defined in [section 2]*, or a county treasurer to the owner of a motorboat, sailboat, or personal watercraft as proof of payment of all fees imposed on the motorboat, sailboat, or personal watercraft for the registration period indicated on the sticker as recorded by the department of justice under 61-3-101.

(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.

(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.

(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;

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

(19) "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) "Waters of this state" means any waters within the territorial limits of this state."

**Section 22.** Section 23-2-511, MCA, is amended to read:

**"23-2-511. Operation of unnumbered motorboats prohibited — display of registration decal.** (1) A motorboat on the waters of this state, propelled by a motor or an engine of any description, must be properly numbered and display a valid registration decal. A person may not operate or give permission for the operation of any motorboat on the waters of this state unless the motorboat is numbered and displays a valid registration decal in accordance with this part and applicable federal law or with a federally approved numbering system of another state and unless:

(a) the certificate of number assigned to the motorboat is in effect;

(b) the identifying number set forth in the certificate of number and the valid license decals are displayed on the motorboat; and

(c) a temporary permit has been obtained from the county in which the boat is being operated if that county requires a temporary permit for out-of-state motorboats, as provided in 7-16-2121.

(2) Upon transfer of ownership of a motorboat from a registered boat dealer or manufacturer, the transferred motorboat may be operated on the waters of this state for ~~30~~ 40 consecutive calendar days immediately following the transfer of ownership without displaying the numbers and registration decal required by subsection (1) if when the motorboat is operated during those ~~30~~ 40 consecutive calendar days, a bill of sale or other evidence of transfer reciting the date of the transfer of ownership is retained in the motorboat temporary registration permit has been issued under 61-3-224 and is exhibited to a warden or other officer upon request.”

**Section 23.** Section 23-2-513, MCA, is amended to read:

**“23-2-513. Dealer’s or manufacturer’s identifying number — premises — inspection — bond — judgment — temporary registration permit.** (1) A dealer or manufacturer may apply directly to the department of justice for one identifying number and one or more certificates of number. A dealer’s or manufacturer’s identifying number must be displayed on a dealer’s or manufacturer’s boat while the boat is operating for a purpose related to the buying, selling, or exchanging of the boat by the dealer or manufacturer.

(2) The application for a dealer’s or manufacturer’s identifying number must include the dealer’s or manufacturer’s name and business address. Each dealer or manufacturer must have one identifying number assigned to the dealer’s or manufacturer’s business.

(3) An application for a dealer’s or manufacturer’s identifying number and a certificate of number must be accompanied by the following fees:

(a) for the identifying number, first certificate of number, and registration decal, \$5;

(b) for each additional certificate of number and registration decal applied for in any application, \$2.

(4) The department of justice shall issue certificates of number for the identifying number assigned to a dealer or manufacturer in the same manner as provided in 23-2-512(1) and (8), except that a boat may not be described in a certificate and each certificate must state that the identifying number has been assigned to a dealer or manufacturer. A dealer’s or manufacturer’s certificate of number expires on December 31 of the year for which it is issued.

(5) A dealer’s or manufacturer’s identifying number must be displayed in the same manner as provided in 23-2-512(8), except that the number may be temporarily attached. The last three letters must be “DLR” for dealer and “MFR” for manufacturer. These letters must be included, respectively, in dealer or manufacturer identification numbers.

(6) A person other than a dealer or manufacturer or an employee of a dealer or manufacturer may not display or use a dealer’s or manufacturer’s identifying number. A dealer’s or manufacturer’s identifying number may be displayed only on motorboats owned by the dealer or manufacturer.

(7) A dealer or manufacturer or an employee of a dealer or manufacturer may not use a dealer’s or manufacturer’s identifying number for any purpose other than the purpose described in subsection (1).

(8) A dealer shall maintain a principal place of business, coinciding with the business address listed on the application, where all business records are maintained and where the dealer displays, sells, and services merchandise. The dealer shall display a sign at the place of business that clearly states the name of

the business. The premises of the dealer's principal place of business must be inspected by an official of the department of justice to ensure compliance with this section.

(9) To qualify for renewal of a boat dealer's license, the dealer shall certify to the department of justice, upon application for renewal, that the dealer sold five or more boats during the previous license year. If five or more boats were not sold, an additional fee of \$50 is required for renewal of the dealer's license.

(10) (a) The applicant for a boat dealer's license shall file with the application a bond of \$5,000. The bond must be conditioned that the applicant will conduct the business in accordance with the requirements of the law. All bonds must run to the state of Montana, must be approved by the department of justice and filed in its office, and must be renewed annually.

(b) A person who suffers loss or damage because of the unlawful conduct of a dealer licensed under this section shall obtain a judgment from a court of competent jurisdiction prior to collecting on the bond. The judgment must determine a specific loss or damage amount and conclude that the licensee's unlawful operation caused the loss or damage before payment on the bond is required.

(11) ~~Prior to~~ *Within 30 days following the delivery of a motorboat or a sailboat 12 feet in length or longer to a purchaser, the dealer shall issue and affix to a motorboat or a sailboat constructed after October 31, 1972, a temporary registration permit, as defined in 61-1-603 forward an application for certificate of title executed by the purchaser and the assigned manufacturer's certificate of origin or certificate of title for the motorboat or sailboat to the office of the county treasurer in the county where the owner resides. The temporary registration permit expires 30 days after the date of issuance. The dealer shall keep a copy of the temporary registration permit for the dealer's records and shall send a copy of the temporary registration permit to the department of justice. If the dealer is an authorized agent, as defined in [section 2], a temporary registration permit may be issued upon delivery of the motorboat or sailboat to the purchaser in accordance with 61-3-224.*

**Section 24.** Section 23-2-515, MCA, is amended to read:

**"23-2-515. Registration decal to be displayed.** (1) A Montana motorboat, sailboat, or personal watercraft numbered in accordance with the provisions of 23-2-512 or 23-2-513 must display a registration decal. For this purpose the county treasurer, upon proof of payment of the fee in lieu of tax as required by ~~15-16-202~~ 23-2-517 for motorboats 10 feet in length or longer, sailboats 12 feet in length or longer, or personal watercraft, shall issue a registration decal prepared and furnished by the department of justice with all new certificates of number and, if applicable, all renewals of the certificates of number.

(2) (a) The registration decal must be of a style and design prescribed by the department of justice.

(b) The registration decal must be serially numbered.

(c) The registration decals issued for a motorboat or sailboat do not expire while the motorboat or sailboat remains in the same ownership.

(3) A registration decal must be displayed on the left side of the forward half, 3 inches aft of the identifying numbers."

**Section 25.** Section 23-2-616, MCA, is amended to read:

**“23-2-616. Registration and registration decal — application and issuance — use of certain fees.** (1) Except for a snowmobile registered under 23-2-621, a snowmobile may not be operated on public lands by any person unless it has been registered and a registration decal is displayed in a conspicuous place on the left side of the cowl.

(2) (a) A Montana resident who owns a snowmobile operated on public land shall register the snowmobile at the county treasurer’s office in the county where the owner resides.

(b) A county treasurer shall register a snowmobile if:

(i) as of the date that the snowmobile is to be registered, the owner delivers or has delivered an application for a certificate of title to the department, its authorized agent, or a county treasurer; or

(ii) the county treasurer has confirmed that the department of justice has an electronic record of title for the snowmobile as provided in 61-3-101.

(c) To register a snowmobile, the county treasurer shall update the electronic record of title maintained by the department of justice, by entering the fees paid and recording any changes to the record.

(3) The owner registering a snowmobile shall pay a registration fee of ~~\$6.50 in calendar year 2004 and, in each subsequent year, \$20.50 and, if the snowmobile has previously been registered, show the county treasurer the registration receipt for the most recent year in which the snowmobile was registered.~~ Upon payment of the proper fees, including the fee in lieu of tax *under 23-2-626*, the treasurer shall issue a registration receipt that contains information considered necessary by the department of justice and a listing of fees paid. The owner shall retain possession of the registration receipt until it is surrendered to the county treasurer or to a purchaser or subsequent owner pursuant to a transfer of ownership.

(4) The county treasurer shall forward the application to the department of justice and shall issue to the applicant a registration decal in the style and design prescribed by the department of justice.

(5) The county treasurer may not register a snowmobile under this section unless the applicant has paid the registration fee and the fee in lieu of property tax on the snowmobile as required by ~~15-16-202~~ *23-2-626*.

(6) All money collected from payment of registration fees and all interest accruing from use of this money must be forwarded to the department of revenue, as provided in 15-1-504, for deposit in the state general fund.

(7) The county treasurer shall credit all fees in lieu of tax collected on snowmobiles to the state general fund.

(8) The fee imposed in subsection (3) is a one-time fee except on change of ownership. When ownership of the snowmobile changes, the new owner shall pay the fee in subsection (3).”

**Section 26.** Section 23-2-619, MCA, is amended to read:

**“23-2-619. Dealer registration certificate — use of fees — temporary registration permit.** (1) (a) Unless the dealer is licensed under the provisions of 61-4-101, a dealer registration certificate must be issued in accordance with 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-619, 23-2-621, 23-2-622, 23-2-626, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644.

(b) To qualify as a dealer, the applicant, when registering or renewing a registration, shall:

(i) complete an application:

(A) stating the name under which the business is to be conducted and the location of the premises (street address, city, county, and state) where records are kept, sales are made, and stock is displayed;

(B) stating the name, address, date of birth, and social security number of all owners or persons having an interest in the business, provided that in the case of a corporation, the names and addresses of the president and secretary are sufficient;

(C) identifying other dealerships owned by the applicant, identifying all persons in Montana or in another state having an interest in another dealership owned by the applicant, and disclosing whether the applicant or any other person with interest in a dealership owned by the applicant has been convicted of a felony; and

(D) stating the name and make of all snowmobiles handled and the name and address of the manufacturer, importer, or distributor with whom the applicant has a written franchise or sales agreement;

(ii) provide an affidavit certifying that the applicant has acquired and shall maintain liability insurance for any snowmobile offered for demonstration or loan to a customer;

(iii) execute a certificate to the effect that the applicant has a permanent building for the display and sale of snowmobiles at the location of the premises where sales are conducted;

(iv) execute a certificate to the effect that the applicant has a bona fide service department for the repair, service, and maintenance of snowmobiles; and

(v) execute a certificate to the effect that the applicant is a bona fide dealer in snowmobiles and that the dealer is recognized by a manufacturer, importer, or distributor as a dealer in snowmobiles.

(2) The dealer application must be accompanied by an application fee of \$5 and a registration fee of \$5. Upon receipt of the dealer application and payment of fees, the dealer must be issued two dealer snowmobile identification cards that must be carried by the dealer or the dealer's customer when demonstrating the dealer's snowmobiles.

(3) (a) A dealer shall file a bond in the amount of \$5,000.

(b) The bond must be conditioned that the applicant shall conduct business in accordance with the requirements of the law. The bond must run to the state of Montana, must be approved by the department and filed in its office, and must be renewed annually.

(c) A person who suffers loss or damage because of the unlawful conduct of a dealer registered under this section shall obtain a judgment from a court of competent jurisdiction prior to collecting on the bond. Before payment on the bond is required, the judgment must determine a specific loss or damage amount and conclude that the dealer's unlawful operation caused the loss or damage.

(4) The dealer shall have a principal place of business where the dealer maintains all business records and where the dealer displays and sells merchandise.

(5) An applicant for renewal of a snowmobile dealer registration shall certify that the applicant has sold five or more snowmobiles during the preceding year or pay an additional \$50 renewal registration fee or provide a copy of a written new snowmobile franchise or sales agreement that the applicant has with a manufacturer, importer, or distributor.

(6) Additional dealer snowmobile identification cards as required by need justified to the department of justice may be purchased by the dealer for a fee of \$2.

(7) Dealer registration certificates and identification cards expire on June 30 following the date of issuance.

~~(8) Prior to~~ *Within 30 days following* the delivery of a snowmobile to the purchaser, the dealer shall ~~issue and affix to the snowmobile a temporary registration permit forward an application for certificate of title, executed by the purchaser, and the assigned manufacturer's certificate of origin or certificate of title for the snowmobile to the office of the county treasurer for the county in which the owner resides. The temporary registration permit expires 20 days after the date of issuance. The dealer shall keep a copy of the temporary registration permit for the dealer's records and shall send a copy of the temporary registration permit to the department of justice. If the dealer is an authorized agent, as defined in [section 2], a temporary registration permit may be issued upon delivery of the snowmobile to the purchaser in accordance with 61-3-224.~~

(9) (a) The dealer application fees and all interest accruing from use of this money must be deposited in the state special revenue fund to the credit of the department, with one-half designated for use in enforcing the purposes of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-619, 23-2-621, 23-2-622, 23-2-626, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644 and one-half designated for use in the development, maintenance, and operation of snowmobile facilities.

(b) All money collected from dealer registration and renewal registration fees must be deposited in the general fund."

**Section 27.** Section 23-2-818, MCA, is amended to read:

**"23-2-818. Dealer registration certificate — temporary registration permit.** (1) (a) Unless the dealer is licensed under the provisions of 61-4-101, a dealer may not sell off-highway vehicles unless the dealer has first obtained a dealer registration certificate from the department of justice under the provisions of this section.

(b) To qualify as a dealer the applicant, when registering or renewing a registration, shall:

(i) complete an application:

(A) stating the name under which the business is to be conducted and the location of the premises (street address, city, county, and state) where records are kept, sales are made, and stock is displayed;

(B) stating the name, address, date of birth, and social security number of all owners or persons having an interest in the business, provided that in the case of a corporation, the names and addresses of the president and secretary are sufficient;

(C) identifying other dealerships owned by the applicant, identifying all persons in Montana or in another state having an interest in another dealership

owned by the applicant, and disclosing whether the applicant or any other person with interest in a dealership owned by the applicant has been convicted of a felony; and

(D) stating the name and make of all off-highway vehicles handled and the name and address of the manufacturer, importer, or distributor with whom the applicant has a written franchise or sales agreement;

(ii) provide an affidavit certifying that the applicant has acquired and shall maintain liability insurance for any off-highway vehicle offered for demonstration or loan to a customer;

(iii) execute a certificate to the effect that the applicant has a permanent building for the display and sale of off-highway vehicles at the location of the premises where sales are conducted;

(iv) execute a certificate to the effect that the applicant has a bona fide service department for the repair, service, and maintenance of off-highway vehicles; and

(v) execute a certificate to the effect that the applicant is a bona fide dealer in off-highway vehicles and that the dealer is recognized by a manufacturer, importer, or distributor as a dealer in off-highway vehicles.

(2) The dealer application for registration or renewal of registration must be accompanied by an application or renewal fee of \$5 and a registration fee of \$5. To qualify for the fees in this subsection, the applicant for renewal shall certify that the applicant has sold three or more off-highway vehicles during the preceding year. Upon receipt of the dealer application or renewal and payment of fees, the dealer must be issued two dealer off-highway identification cards to be carried by the dealer or the dealer's customer when demonstrating the dealer's off-highway vehicles. Additional dealer off-highway vehicle identification cards may be purchased by the dealer from the department of justice for a fee of \$2 each.

(3) (a) A dealer shall file a bond in the amount of \$5,000.

(b) The bond must be conditioned that the applicant shall conduct business in accordance with the requirements of the law. The bond must run to the state of Montana, must be approved by the department and filed in its office, and must be renewed annually.

(c) A person who suffers loss or damage because of the unlawful conduct of a dealer registered under this section shall obtain a judgment from a court of competent jurisdiction prior to collecting on the bond. Before payment on the bond is required, the judgment must determine a specific loss or damage amount and conclude that the dealer's unlawful operation caused the loss or damage.

(4) The dealer shall have a principal place of business where the dealer maintains all business records and where the dealer displays and sells merchandise.

(5) An applicant for renewal of an off-highway vehicle dealer registration who does not qualify under subsection (2) shall:

(a) pay an additional \$50 renewal registration fee; and

(b) provide a copy of a new off-highway vehicle franchise or sales agreement that the applicant has with a manufacturer, importer, or distributor.

(6) Dealer registration certificates and identification cards expire on December 31 following the date of issuance.

(7) ~~Prior to~~ *Within 30 days following the* delivery of an off-highway vehicle to a purchaser, the dealer shall ~~issue and affix to the off-highway vehicle a temporary registration permit, as defined in 61-1-603~~ *forward an application for certificate of title, executed by the purchaser, and the assigned manufacturer's certificate of origin or certificate of title for the off-highway vehicle to the office of the county treasurer for the county in which the owner resides. The dealer shall keep a copy of the temporary registration permit for the dealer's records and shall send a copy of the temporary registration permit to the department of justice. If the dealer is an authorized agent, as defined in [section 2], a temporary registration permit may be issued upon delivery of the snowmobile to the purchaser in accordance with 61-3-224.*

(8) (a) The dealer application fees and all interest accruing from use of this money must be deposited in the general fund to be used by the department of justice for the administration of this part.

(b) All dealer registration fees and renewal fees collected must be deposited in the state general fund.”

**Section 28.** Section 49-4-301, MCA, is amended to read:

**“49-4-301. Eligibility for special parking permit.** (1) The department of justice shall issue a special parking permit to a person who has a disability that limits or impairs the person's mobility and ~~who, as determined by~~ *for whom* a licensed physician, a licensed chiropractor, or a licensed advanced practice registered nurse, as provided in 37-8-202, *submits a certification to the department, by electronic or other means prescribed by the department, that the person* meets one of the following criteria:

(a) cannot walk 200 feet without stopping to rest;

(b) is severely limited in ability to walk because of an arthritic, neurological, or orthopedic condition;

(c) is so severely disabled that the person cannot walk without the use of or assistance from a brace, cane, another person, prosthetic device, wheelchair, or other assistive device;

(d) uses portable oxygen;

(e) is restricted by lung disease to the extent that forced expiratory respiratory volume, when measured by spirometry, is less than 1 liter per second or the arterial oxygen tension is less than 60 mm/hg on room air at rest;

(f) has impairment because of cardiovascular disease or a cardiac condition to the extent that the person's functional limitations are classified as class III or IV under standards accepted by the American heart association; or

(g) has a disability resulting from an acute sensitivity to automobile emissions or from another disease or physical condition that limits or impairs the person's mobility and that is documented by the licensed physician, the licensed chiropractor, or the licensed advanced practice registered nurse as being comparable in severity to the other conditions listed in this subsection (1).

(2) A person who has a condition expected to improve within 6 months may be issued a temporary placard for a period not to exceed 6 months but may not be issued a special license plate under ~~61-3-332(11)~~ *61-3-332(9)*. If the condition exists after 6 months, a new temporary placard must be issued for the time

period prescribed by the applicant's physician, chiropractor, or advanced practice registered nurse, not to exceed 24 months, upon receipt of a *new later paper or electronic* certification from the disabled person's physician, chiropractor, or advanced practice registered nurse that the conditions specified in subsection (1) continue to exist and are expected to continue for the time specified.

(3) The department of justice may issue special parking permits to an agency or business that provides transportation as a service for persons with a disability. The permits must be used only to load and unload persons with a disability in the special parking place provided for in 49-4-302. As used in this subsection, "disability" means a physical impairment that severely limits a person's ability to walk.

(4) Except as provided in subsection (3), an applicant may not receive more than one permit."

**Section 29.** Section 49-4-302, MCA, is amended to read:

**"49-4-302. Privileges of permitholder — privilege for disabled veteran — exemptions from time limits — requirements for special parking spaces.** (1) The parking permit issued under this part, when displayed, entitles a person to park a motor vehicle in a special parking space reserved for a person with a disability, whether on public property or on private property available for public use, when the person for whom the permit was issued is using the special parking space to enter or exit the vehicle.

(2) A vehicle may not be parked in a parking space on public or private property that is clearly identified by an official sign as being reserved for use by a person with a disability unless:

(a) the vehicle is lawfully displaying a parking permit issued under this part, a distinguishing license plate or placard for a person with a disability that was issued by a foreign jurisdiction conferring parking privileges similar to those conferred in subsection (1), or a specially inscribed license plate displaying the letters "DV" issued under 61-3-458(3)(b) or displaying a wheelchair as provided in ~~61-3-332(11)~~ 61-3-332(9); and

(b) the reserved parking space is being used by the person for whom the permit, plate, or placard was issued to enter or exit the vehicle.

(3) The governing body of a city, town, or county may exempt vehicles lawfully displaying parking permits issued under this part and vehicles lawfully displaying specially inscribed license plates displaying the letters "DV" issued under 61-3-458(3)(b) or displaying a wheelchair as provided in ~~61-3-332(11)~~ 61-3-332(9) and parked in public places along public streets from any time limitation imposed upon parking, except in areas where:

(a) stopping, standing, or parking of all vehicles is prohibited;

(b) only special vehicles may be parked; or

(c) parking is not allowed during specific periods of the day in order to accommodate heavy traffic.

(4) In accordance with subsection (2), the governing body of a city, town, or county or appropriate state agency may impose all, but not less than all, of the following requirements with respect to any special parking space constructed after September 30, 1985, and reserved for a person with a disability or a permitholder on ways of this state open to the public, as defined in 61-8-101:

(a) The space must be located on a smooth, level surface as near as practicable to building entrances or walkways that have curb cuts and appropriately designed ramps and access lanes to accommodate wheelchairs.

(b) If parallel to curbside, the parking space must be separated from an adjacent space, either in the front or the rear, by at least 5 feet of striped no-parking area.

(c) If at an angle to curbside, the parking space must be at least 8 feet wide and free of obstruction if located at the end of a line of angle parking spaces, and each other angle parking space designated for a person with a disability must be at least 13 feet wide.

(d) A parking space reserved for a person with a disability must be designated by a sign showing the international symbol of accessibility, indicating that a permit is required, and stating the penalty for a violation. In order to meet the penalty statement requirement, signs existing on October 1, 1993, must have attached a decal stating the penalty for a violation. The sign must be attached to a wall or post in a way that it is not obscured by a vehicle parked in the space.”

**Section 30.** Section 49-4-303, MCA, is amended to read:

**“49-4-303. Applications for Issuance of interim special parking permit.** (1) ~~Applications for a special parking permit may be made to the department of justice on forms provided by the department that require sufficient information to determine eligibility for a permit. The application must be accompanied by:~~

~~(a) a certificate from a A licensed physician, a licensed chiropractor, or a licensed advanced practice registered nurse, as provided in 37-8-202, describing the extent of the applicant’s disability; and~~

~~(b) a fee of \$1 may issue an interim special parking permit, in a form authorized by the department, to a person who has a disability that limits or impairs the person’s mobility and upon whose behalf the physician, chiropractor, or advanced practice registered nurse has submitted a request for a special parking permit under 49-4-301. The interim special parking permit is valid only in Montana, may not be renewed or extended, and expires 5 days from the date of issuance.~~

~~(2) Applications must be available at the office of the county treasurer in each county and directly from the department.”~~

**Section 31.** Section 49-4-304, MCA, is amended to read:

**“49-4-304. Special license plate or card to be provided and displayed — additional cards allowed for owners of more than one vehicle.** (1) ~~Unless Except as authorized in 49-4-303, unless~~ the department of justice issued a special license plate under ~~61-3-332(11) 61-3-332(9)~~ or 61-3-458(3)(b) indicating a special parking privilege, the department shall provide a card to be displayed on or in a motor vehicle to indicate a parking privilege granted under this part. The special license plate must be affixed to the vehicle according to 61-3-301, or the card must be prominently displayed in the windshield of a vehicle when the parking privilege is being used by the person with a disability in a vehicle other than the one to which a special license plate is affixed.

(2) Subject to the provisions of 49-4-301 through 49-4-305, a person who is eligible to receive a special parking permit and who owns more than one motor vehicle may request and the department of justice shall provide additional cards

described in subsection (1) to equal the number of motor vehicles, other than commercial vehicles, owned by the person.

(3) Upon application under ~~49-4-303~~ *49-4-301*, a person with a disability who does not hold a driver's license or does not own a vehicle may receive a card described in subsection (1) to be displayed in a vehicle in which the person with a disability is being conveyed when the parking privilege is being used.

(4) The card must bear a representation of a wheelchair as the symbol of a person with a disability."

**Section 32.** Section 49-4-305, MCA, is amended to read:

**"49-4-305. Expiration of permit.** (1) Except as provided in *49-4-303* and subsection (2) of this section, a *special parking* permit expires on the occurrence of either of the following:

(a) 3 years from the date of issuance, unless the permit was issued to a person who has a condition expected to improve within 6 months. A person may renew a permit if a licensed physician, a licensed chiropractor, or a licensed advanced practice registered nurse, as provided in 37-8-202, certifies that the person's mobility disability still exists and that one of the criteria specified in 49-4-301 continues to be met.

(b) certification by a licensed physician, a licensed chiropractor, or a licensed advanced practice registered nurse that the person's mobility disability no longer exists or that the criteria specified in 49-4-301 can no longer be met.

(2) A permit issued before October 1, 1993, expires on:

(a) the death of the permittee; or

(b) certification by a licensed physician, a licensed chiropractor, or a licensed advanced practice registered nurse that the person's mobility disability no longer exists or that the criteria specified in 49-4-301 can no longer be met."

**Section 33.** Section 61-1-104, MCA, is amended to read:

**"61-1-104. Special mobile equipment.** (1) "Special mobile equipment" means a vehicle not designed for the transportation of persons or property on the highways but incidentally operated or moved over the highways, including road construction or maintenance machinery, ditch-digging apparatus, and well-boring apparatus. The fact that equipment is permanently attached to a vehicle does not make the vehicle special mobile equipment. The enumeration in this section is partial and does not exclude other vehicles that are within the general terms of this section *as determined by the department*.

(2) For purposes of Title 61, chapter 3, and Title 61, chapter 10, part 2, a motor vehicle or a trailer designed and used to apply fertilizer to agricultural land must be treated as special mobile equipment.

(3) For registration purposes, a log loader must be treated as special mobile equipment, subject to the identification and registration exemptions and regulations in 61-3-431."

**Section 34.** Section 61-1-111, MCA, is amended to read:

**"61-1-111. Trailer.** (1) "Trailer" means every vehicle, with or without motive power (other than a pole trailer), designed for carrying property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle, except that as used in chapters 3 and 4 the term includes every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle.

(2) *The term does not include a mobile home or a manufactured home, as defined in 15-1-101.*

**Section 35.** Section 61-1-501, MCA, is amended to read:

**“61-1-501. Mobile home or housetrailer.** ~~“Mobile home” or “housetrailer” means a trailer or a semitrailer that is designed, constructed, and equipped as a dwelling place, living abode, or sleeping place (either permanently or temporarily) and is equipped for use as a conveyance on streets and highways or a trailer or semitrailer whose chassis and exterior shell is designed and constructed for use as a housetrailer but that is used permanently or temporarily for the advertising, sales, display, or promotion of merchandise or services or for any commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier has the meaning provided in 15-1-101.~~

**Section 36.** Section 61-1-508, MCA, is amended to read:

**“61-1-508. Registration — register.** ~~“Registration” or “register” means, as used in part 1, chapter 6, registration certificate or certificates and registration plates issued under the laws of this state pertaining to the registration of motor vehicles the act or process of creating an electronic record, maintained by the department, of the assignment of a license plate or a set of license plates to and the issuance of a registration decal for a specific vehicle, the ownership of which has been established or is presumed in department records.~~

**Section 37.** Section 61-1-513, MCA, is amended to read:

**“61-1-513. Manufactured home.** ~~(1) “Manufactured home” means a residential dwelling built in a factory in accordance with the United States department of housing and urban development code and the federal Manufactured Home Construction and Safety Standards has the meaning provided in 15-1-101.~~

~~(2) A manufactured home does not include a mobile home, as defined in 61-1-501 or 15-1-101, a housetrailer, as defined in 61-1-501, or a mobile home or housetrailer constructed before the federal Manufactured Home Construction and Safety Standards went into effect on June 15, 1976.~~

**Section 38.** Section 61-1-603, MCA, is amended to read:

**“61-1-603. Temporary registration permit.** ~~“Temporary registration permit” means:~~

~~(1) a paper record: produced and issued by the department, its authorized agent, a county treasurer, or a law enforcement officer to a person to whom ownership of a vehicle was transferred that, when mounted in the left hand corner of a rear window of a motor vehicle or affixed as prescribed on a motorboat, a sailboat that is 12 feet in length or longer, a snowmobile, or an off-highway vehicle, authorizes the operation of the vehicle for a specified time period prior to registration under 23-2-512, 23-2-616, 23-2-804, or 61-3-303 (1) issued by the department, an authorized agent, a county treasurer, or a person, using a department-approved electronic interface after an electronic record has been transmitted to the department, that contains:~~

~~(a) required vehicle and owner information; and~~

~~(b) the purpose for which the record was generated; or and~~

~~(2) a durable license plate style placard approved by the department and issued by an authorized agent of the department or a county treasurer to a~~

person to whom ownership of a vehicle has been transferred that, when attached to the rear of the vehicle in a manner prescribed by the department, authorizes the operation of a motor vehicle for a specified time period prior to registration under 61-3-303 *that, when placed in a durable license-plate style plastic pouch approved by the department and displayed as prescribed in 61-3-224, authorizes a person to operate the described motor vehicle, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for 40 days from the date the record is issued or until the vehicle is registered under Title 23 or this title, whichever first occurs.*"

**Section 39.** Section 61-3-107, MCA, is amended to read:

**"61-3-107. Identification number for trailers, campers, and other vehicles.** (1) A trailer, semitrailer, ~~house trailer~~, or camper that does not have a manufacturer's or other identifying number on the trailer, semitrailer, ~~house trailer~~, or camper must be assigned an identification number by the department.

(2) The department may not issue ~~a certificate of ownership or a certificate of title or reissue a certificate of ownership or a certificate of title~~ covering a motor vehicle on which the identification number has been altered, removed, obliterated, defaced, omitted, or is otherwise absent unless the owner or other person lawfully in possession of the vehicle files an application with the department, accompanied by a fee of \$5. The application must be on a form provided by the department and must contain information required by the department for the assignment of a special identification number for a vehicle. Upon receipt of the application and if the department is satisfied that the applicant is entitled to the assignment of an identification number, the department shall designate a special identification number for the vehicle. The department shall note the special identification number on the application and on records to be kept by the department. This assigned identification number must be stamped or securely attached in a conspicuous position on the vehicle in the manner and form prescribed by the department.

(3) If the true identity of a vehicle can be established by restoring the original manufacturer's serial number or other distinguishing numbers or identification marks, the department may not assign a special identification number and shall replace the vehicle's identification mark by duplicating the manufacturer's full numeric or alphanumeric identification sequence. The department may replace an identification mark only after conducting an inquiry to determine that ownership of the vehicle bearing a restored identification mark has been lawfully transferred to the applicant. The applicant shall apply for and the department shall replace the identification mark on the vehicle as required under subsection (2).

(4) Upon receipt by the department of a certificate of inspection completed by a peace officer or authorized member of the department verifying that the identification number has been stamped or securely attached in a conspicuous position upon the vehicle, accompanied by an application for ~~a certificate of ownership or a certificate of title~~ and the required fee, the department shall use the number as the numeric or alphanumeric identification mark for the vehicle in any ~~certificate of ownership or a certificate of title~~ that may be issued."

**Section 40.** Section 61-3-109, MCA, is amended to read:

**"61-3-109. Electronic title, lien filing, and registration.** ~~(1)~~ The department shall develop and implement a pilot program to allow:

~~(a)(1)~~ electronic transmission of data by ~~the department's~~ *an* authorized agent, ~~or~~ a county treasurer, *or a person* to or from the department in lieu of the transmission of paper documents;

~~(b)(2)~~ substantiation of electronic record transactions performed by the department, ~~its~~ *an* authorized agent, ~~or~~ a county treasurer, *or a person*;

~~(c)(3)~~ the ~~search of production and certification by a court or an authorized agent of a motor vehicle record generated from~~ electronic records of title and registration ~~maintained by the department, its agents, and county treasurers~~;

~~(d)(4)~~ electronic filing, perfection, and release of security interests or liens of record; and

~~(e)(5)~~ certification and audit by the department of its authorized agents.

~~(2) The department shall adopt rules to implement the pilot program. The rules must include procedures designed to constitute constructive notice of electronically filed and perfected liens and electronically maintained ownership records to subsequent purchasers, secured parties, or lienholders from the date of a lien's perfection or transfer of ownership."~~

**Section 41.** Section 61-3-201, MCA, is amended to read:

**"61-3-201. Certificate of title required — exclusions.** (1) Except as provided in subsection (2), the owner of a motor vehicle that is in this state and for which a certificate of title has not been issued by or an electronic record of title has not been created by the department shall apply to the department, its authorized agent, or a county treasurer for a certificate of title for the motor vehicle.

(2) The following vehicles are exempt from the requirements of this part:

(a) a vehicle owned by the United States, unless the vehicle is registered in this state;

(b) *except as required in 61-4-111*, a vehicle that is:

(i) owned by a manufacturer, a dealer, a wholesaler, or an auto auction; and

(ii) held for sale, even though incidentally moved on the highway, used for purposes of testing or demonstration, or used solely by a manufacturer for testing;

(c) a vehicle owned by a nonresident of this state;

(d) a vehicle regularly engaged in the interstate transportation of person or property and:

(i) for which a currently effective certificate of title has been issued in another state or jurisdiction; or

(ii) that is properly registered under the provisions of Title 61, chapter 3, part 7;

(e) a vehicle moved solely by human or animal power;

(f) an implement of husbandry;

(g) special mobile equipment;

(h) a self-propelled wheelchair or tricycle used by a person with a disability;

~~or~~

(i) a dolly or converter gear;

(j) *a mobile home or housetrailer; or*

(k) a manufactured home declared to be an improvement to real property under 15-1-116.

~~(3) The certificate of title is valid until canceled by the department upon a transfer of any interest shown in the certificate of title, and annual renewal is not needed.~~

**Section 42.** Section 61-3-203, MCA, is amended to read:

**“61-3-203. Fee for original certificate of title — disposition.** (1) A person applying for a certificate of title shall pay *the department, its authorized agent, or a county treasurer* a fee of:

(a) \$10 ~~for issuance of an original if the vehicle for which a certificate of title is sought is not a light vehicle or a truck or bus that weighs less than 1 ton; or~~

(b) \$12 ~~if the vehicle for which application is made is a light vehicle or a truck or bus that weighs less than 1 ton. The fee must be collected by the county treasurer or by an authorized agent of the department at the time of application. An additional fee of \$2 must be paid for light vehicles, trucks and buses weighing less than 1 ton, and logging trucks. The fees must be paid to the county treasurer or agent of the department and, of the \$10 fee,~~

(2) ~~The amount of \$5 of the fee imposed pursuant to subsection (1) must be forwarded to the department of revenue and deposited in the state general fund. The remaining \$5 must be forwarded to the department for deposit in the motor vehicle information technology system account provided for in 61-3-550 and the remaining amount must be deposited in the state general fund.”~~

**Section 43.** Section 61-3-212, MCA, is amended to read:

**“61-3-212. Retitling salvage vehicles — penalty.** (1) Prior to operating a salvage vehicle on the roads and highways of this state, the owner shall present the vehicle and the salvage certificate, if one has been issued, or the certificate of title, the appropriate receipts or bills of sale establishing ownership, and the source of component parts used to rebuild the vehicle to a department employee or designated peace officer for inspection, as provided in 61-3-223. An owner may obtain a ~~72-hour~~ temporary registration permit ~~from the department or its designee under 61-3-224~~ for the purpose of moving a salvage vehicle to and from the designated inspection site.

(2) (a) The inspector shall inspect the vehicle to verify the identity of the vehicle.

(b) The inspector shall verify that the component parts used to rebuild the vehicle are evidenced by traceable receipts or bills of sale and that there are no indications that the vehicle or any of its parts are stolen. Documentation provided by the owner or employee of a wrecking facility licensed under the provisions of Title 75, chapter 10, part 5, is prima facie evidence of the facts stated in the documentation.

(3) Following inspection and prior to operating the vehicle on the roads and highways of this state, the owner shall apply for a new certificate of title by submitting the application, the salvage certificate, receipts or bills of sale, and a copy of the inspection report to the department.

(4) Upon receipt of the application, required documentation, and payment of the fee required in 61-3-203, the department shall issue a new certificate of title with the words “rebuilt salvage” on the face of the certificate of title.

(5) A person failing to comply with the provisions of this part is guilty of a misdemeanor and upon conviction shall be fined an amount not to exceed \$500. The salvage vehicle purchaser shall produce the salvage certificate upon request of a public official legally entitled to request the certificate. A person may not operate or use a salvage vehicle on the roads or highways of this state except when a temporary registration permit has been issued as provided in subsection (1).”

**Section 44.** Section 61-3-217, MCA, is amended to read:

**“61-3-217. Certificate of title — duties — examination of application — records check — incomplete application.** (1) (a) Upon receipt of an application for a certificate of title and any supporting documents, an authorized agent of the department or a county treasurer shall:

- (i) review the application and documents;
- (ii) complete the records check required in subsection (2); and

(iii) if an authorized agent of the department or the county treasurer is satisfied as to the genuineness and regularity of the application and satisfied that the applicant is entitled to the issuance of a certificate of title, enter the transfer of interest on the electronic record of title.

(b) If an authorized agent of the department or the county treasurer is not satisfied as to the genuineness and regularity of the application or is not satisfied that the applicant is entitled to the issuance of a certificate of title, the authorized agent or the county treasurer may not enter the transfer of interest on the electronic record of title.

(c) If an authorized agent of the department or the county treasurer enters the transfer of interest on the electronic record of title, an authorized agent or the county treasurer shall:

(i) issue a transaction summary receipt to the applicant and, if requested, to any secured party or lienholder with a perfected security interest; and

(ii) as prescribed by the department, forward to the department the application, the assigned certificate of title, and any other documents provided in support of the application.

(2) The department, its authorized agent, or a county treasurer who first receives an application for a certificate of title shall check the vehicle identification number shown on the application against:

- (a) the records of vehicles maintained by the department under 61-3-101;
- (b) the reported stolen vehicle databases maintained on the state’s criminal justice information network and by the national crime information center; and
- (c) any other records or databases prescribed by the department.

(3) (a) Upon receipt of an application for a certificate of title and supporting documents that have been processed by an authorized agent of the department or a county treasurer, the department shall review the documents to determine if the application is complete. If the department determines that the application is incomplete, the department shall enter the incomplete status of the application on the electric record of title for the vehicle and return to the applicant, by first-class mail, the application and all supporting documents. The department shall provide a statement with a specific description of the additional information or documents that must be supplied by the applicant to complete the application process.

(b) ~~Except as provided in 61-3-342, the~~ *The* department may not complete the application process, remove the incomplete status notation on the electronic record of title, or issue a certificate of title until the applicant returns the completed application, including any supporting additional information or documents, to the department.”

**Section 45.** Section 61-3-218, MCA, is amended to read:

**“61-3-218. Certificate of title — issuance — delivery.** (1) Except as provided in subsection (2), if a person who applied for a certificate of title also requested the issuance of the certificate of title as provided in 61-3-216(2)(f)(i), upon receipt of the application and all supporting documents and after an examination and determination that the application is complete and regular, the department shall issue a certificate of title of the vehicle and shall mail the certificate of title to the owner.

(2) If a person to whom a vehicle was transferred has not satisfied the titling and registration provisions of this chapter or, if applicable, the registration provisions of Title 23, chapter 2, part 5 or 6, within the ~~20-day~~ *40-day* period provided in 61-3-220(3) and the secured party or lienholder pays the title fee required in 61-3-203, the department may mail a certificate of title to the secured party or lienholder upon request of the secured party or lienholder.

(3) (a) A vehicle owner who requested the delayed issuance of a certificate of title under 61-3-216(2)(f)(ii), in the initial application for a certificate of title, may submit a request for the issuance of the certificate of title to the department, its authorized agent, or a county treasurer in a manner prescribed by the department. Upon receipt, the department shall issue a certificate of title for the vehicle and mail the certificate of title to the owner.

(b) A title fee may not be demanded from the owner or collected by the department, its authorized agent, or a county treasurer for a certificate of title requested or issued under subsection (3)(a).”

**Section 46.** Section 61-3-220, MCA, is amended to read:

**“61-3-220. Certificate of title — voluntary transfer — ~~timeliness — penalty~~ duties.** (1) Upon the voluntary transfer of any interest in a motor vehicle for which a certificate of title was issued under the provisions of this chapter, the owner whose interest is to be transferred shall:

(a) authorize, in writing and on a form prescribed by the department, ~~its an~~ authorized agent, or a county treasurer, to enter the transfer of the owner’s interest in the vehicle to the transferee on the electronic record of title maintained under 61-3-101; or

(b) execute a transfer in the appropriate space provided on the certificate of title issued to the owner and deliver the assigned certificate of title to:

(i) the transferee at the time of delivery of the vehicle; or

(ii) the department, its authorized agent, or a county treasurer if an application for a certificate of title has been completed by the transferee and accompanies the assigned certificate of title.

(2) The transferor’s signature on the certificate of title, or the form authorizing transfer of interest upon the electronic record of title, must be acknowledged before the county treasurer, a deputy county treasurer, an elected official authorized to acknowledge signatures, an employee or authorized agent of the department, or a notary public.

(3) Except as provided in ~~sections 23-2-513, 23-2-619, 23-2-818, or~~ 61-4-111, the person to whom an interest in a motor vehicle has been transferred shall:

(a) execute an application for a certificate of title in the space provided on the assigned certificate of title or as prescribed by the department; and

(b) within ~~20~~ 40 days after the interest in the vehicle was transferred to the person, *either*:

(i) ~~mail or deliver the assigned~~ *apply for a certificate of title or application to the county treasurer of the person's county of residence or, as permitted by the department, its authorized agent under 61-3-216 and register the vehicle under 61-3-303; or*

(ii) *subject to the limitations of 61-3-312, register the vehicle without the surrender of a previously assigned certificate of title and application for certificate of title under 61-3-303.*

(4) If the person to whom an interest in a motor vehicle has been transferred fails to submit the application for a certificate of title to the department's authorized agent or a county treasurer *comply with the requirements described in subsection (3) within the 20-day 40-day grace period described in subsection (3),* a late penalty of \$10 must be imposed against the transferee. The penalty must be paid by the transferee to the county treasurer when the application for a certificate of title is finally submitted by the transferee or before the transferee ~~may register~~ registers the vehicle in this state, *with or without the surrender of an assigned certificate of title.* The penalty is in addition to the fees otherwise provided by law.

(5) If the transferee does not ~~apply for a certificate of title~~ *comply with the requirements of subsection (3) within the 20-day 40-day grace period,* a secured party or lienholder of record may pay the fees for the transfer of title and for filing a voluntary security interest or lien. The secured party or lienholder is not liable for the late penalty imposed in subsection (4) or for registration fees, taxes, or fees in lieu of tax on the vehicle."

**Section 47.** Section 61-3-224, MCA, is amended to read:

**"61-3-224. Temporary registration permit — issuance — placement — fees.** (1) ~~A The department, an authorized agent, or a county treasurer or a law enforcement officer may issue a temporary registration permit under the provisions of 61-3-317. A county treasurer may also issue a temporary registration permit under the provisions of 61-3-342 to:~~

(a) *a Montana resident who acquires a new or used motor vehicle, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for operation of the vehicle prior to titling and registration of the vehicle under this chapter;*

(b) *the owner of a salvage vehicle for moving the vehicle to and from a designated inspection site prior to applying for a new certificate of title under 61-3-212;*

(c) *the owner of a motor vehicle registered in this state for operation of the vehicle while awaiting production and receipt of special or duplicate license plates ordered for the vehicle under this chapter;*

(d) *a nonresident of this state who acquires a motor vehicle in this state for operation of the vehicle prior to its titling and registration under the laws of the nonresident's jurisdiction of residence;*

(e) a dealer licensed in another state who brings a motor vehicle or trailer designed and used to apply fertilizer to agricultural lands into the state for special demonstration in this state; or

(f) a financial institution located in Montana for a prospective purchaser to demonstrate a motor vehicle that the financial institution has obtained following repossession.

~~(2) An employee or agent of the department may issue a temporary registration permit only under express authorization from the department and in accordance with the provisions of this chapter. A person, using a department-approved electronic interface, may issue a temporary registration permit for the specified purposes if the person is:~~

~~(a) a Montana resident who acquires a new or used motor vehicle, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for operation of the vehicle prior to titling and registration the vehicle under this chapter;~~

~~(b) the owner of a salvage vehicle for moving the vehicle to and from a designated inspection site prior to applying for a new certificate of title under 61-3-212;~~

~~(c) a nonresident of this state who acquires a motor vehicle in this state for operation of the vehicle prior to its titling and registration under the laws of the nonresident's jurisdiction of residence; or~~

~~(d) a financial institution located in Montana that intends to allow a prospective purchaser to demonstrate a motor vehicle that the financial institution has obtained following repossession.~~

~~(2) A dealer licensed under Title 23, chapter 2, part 5, 6, or 8, or under Title 61, chapter 4, part 1, may issue a temporary registration permit only as authorized under 23-2-513, 23-2-619, 23-2-818, 61-4-111, or 61-4-112.~~

~~(4)(3) A temporary registration permit issued under subsections (1) through (2) this section must contain the following information:~~

~~(a) a temporary registration permit control plate number, registration receipt number, or transaction record number, as prescribed by the department;~~

~~(b) the expiration date of the temporary registration permit; and~~

~~(c) if required by the department, a description of the vehicle, including year, make, model, and vehicle identification number, the name and address of the person from whom ownership of the vehicle was transferred, the name, mailing address, and residence address of the person to whom ownership of the vehicle has been transferred, and the date of transfer issuance.~~

~~(4) A temporary registration permit for:~~

~~(a) a motor vehicle must be plainly visible and firmly attached to the rear exterior of the vehicle where a license plate is required to be displayed; and~~

~~(b) a motorboat, a sailboat that is 12 feet in length or longer, a snowmobile, or an off-highway must be plainly visible and firmly attached to the vessel or vehicle.~~

~~(5) (a) Except as provided in 61-3-431 and subsection (5)(b) of this section, a \$3 fee is imposed upon issuance of a temporary registration permit by the department, an authorized agent, or a county treasurer. The fee must be paid by the owner of the vehicle or vessel and collected by the department, the authorized agent, or a county treasurer when the vehicle is registered.~~

(b) *Except as provided in 61-3-431, a fee of \$8 is imposed and must be paid upon issuance of a temporary registration permit by:*

(i) *the department, an authorized agent, or a county treasurer to a nonresident of this state who acquires a motor vehicle in this state; or*

(ii) *a person who issued a temporary registration permit using a department-approved electronic interface.*

(6) *The fees imposed under this section, upon collection, must be forwarded to the state and deposited in the motor vehicle electronic commerce operating account provided for in [section 5].*

(7) *If a temporary registration permit is issued under this section to a person to whom ownership of a vehicle has been transferred, the permitholder must title and register the vehicle in this or another jurisdiction before the ownership of the vehicle may be transferred to another person."*

**Section 48.** Section 61-3-301, MCA, is amended to read:

**"61-3-301. Registration — license plate required — display.** (1) (a) ~~Except as otherwise provided in this chapter 61-4-120, 61-4-129, and subsection (1)(b) of this section,~~ a person may not operate a motor vehicle upon the public highways of Montana unless the vehicle is properly registered and has the proper ~~number~~ license plates conspicuously displayed, one on the front and one on the rear of the vehicle, each securely fastened to prevent it from swinging and unobstructed from plain view, ~~except that vehicles authorized to display demonstrator plates under 61-4-125 or 61-4-129 may have only one number plate conspicuously displayed on the rear.~~

(b) *A motorcycle, quadricycle, trailer, semitrailer, pole trailer, or travel trailer must display a single license plate on the rear of the vehicle.*

(c) ~~A person may not display on a vehicle at the same time a number assigned to it under any motor vehicle law except as provided in this chapter. A junk vehicle, as defined in Title 75, chapter 10, part 5, being driven or towed to an auto wrecking graveyard for disposal is exempt from the provisions of this section.~~

(2) ~~A person may not purchase or display on a motor vehicle a license plate bearing the number assigned to any county, as provided in 61-3-332, other than the county of the person's permanent residence where the vehicle is domiciled at the time of application for registration. However, the owner of a motor vehicle requiring a license plate on a motor vehicle used in the public transportation of persons or property may make application for the license in any county through which the motor vehicle passes in its regularly scheduled route, and the license plate issued bearing the number assigned to that county may be displayed on the motor vehicle in any other county of the state.~~

(3) It is unlawful to:

(a) ~~display license plates issued to one vehicle on any other vehicle, trailer, or semitrailer, pole trailer, or travel trailer unless legally transferred as provided by statute;~~

(b) ~~repaint old license plates to resemble current license plates; or~~

(c) ~~display a prior design of number standard license plates issued under 61-3-332(4)(a) 61-3-332(3)(a) or special license plates issued under 61-3-332(10) 61-3-332(8) or 61-3-421 more than 18 months after a new design of number standard license plates or special license plates has been issued, except as~~

provided in ~~61-3-332(4)(c) and (4)(d)~~ 61-3-332(3)(c) and (3)(d), 61-3-448, or 61-3-468.

~~(4) This section does not apply to a vehicle exempt from taxation under 15-6-215 or subject to the registration fee or fee in lieu of tax under 61-3-520.~~

~~(5) A person violating these provisions is guilty of a misdemeanor and is subject to the penalty prescribed in 61-3-601.~~

~~(6)~~(4) For the purposes of this section, "conspicuously displayed" means that the required license plates are obviously visible and firmly attached to:

(a) the front and the rear bumper of a motor vehicle equipped with front and rear bumpers; or

(b) other clearly visible locations on the front and the rear exteriors of a motor vehicle."

**Section 49.** Section 61-3-302, MCA, is amended to read:

**"61-3-302. Residents operating motor vehicles under licenses issued by any state other than Montana forbidden — vehicles exempt from registration — exceptions.** (1) (a) ~~It shall especially be provided that a~~ A resident of the state of Montana ~~shall who owns a motor vehicle may not operate a~~ the motor vehicle ~~under a license with license plates~~ issued by any other state than Montana.

(b) *A person who has resided in Montana for more than 60 consecutive days is considered to be a resident for the purpose of vehicle titling and registration laws, and a motor vehicle, trailer, semitrailer, or pole trailer owned by the person must be titled and registered under the laws of Montana prior to operation in this state after the 60-day period.*

(2) *A motor vehicle driven or moved upon a highway in this state and owned by a nonresident of this state is exempt from registration under this chapter if:*

(a) *the vehicle is properly registered in and displays valid license plates of the jurisdiction in which the nonresident owner resides; and*

(b) (i) *the vehicle is not used for the transportation of persons or property for hire, compensation, or profit;*

(ii) *the nonresident owner is not employed or engaged in a commercial or business enterprise in this state; or*

(iii) *the vehicle is used for the exclusive purpose of filming motion pictures or television commercials and does not remain in the state for a period in excess of 180 consecutive days in a calendar year.*

(3) *A motor vehicle owned by a manufacturer, a dealer, a wholesaler, or an auto auction and that is held for sale is exempt from registration under this part, even though the motor vehicle is incidentally moved on the highway and is used for purposes of testing or demonstration or is used by a manufacturer solely for testing.*

(4) *A junk vehicle, as defined in Title 75, chapter 10, part 5, being driven to an auto wrecking graveyard for disposal is exempt from the provisions of this chapter."*

**Section 50.** Section 61-3-303, MCA, is amended to read:

**"61-3-303. Registration Original registration — process — fees.** (1) *Except as provided in 61-3-324, a Montana resident who owns a motor vehicle operated or driven upon the public highways of this state shall register the*

motor vehicle in the office of the county treasurer in the county where the owner permanently resides or, if the vehicle is owned by a corporation or used primarily for commercial purposes, in the county where the vehicle is permanently assigned domiciled.

(2) ~~(a)~~ Except as provided in subsection (3), the county treasurer ~~shall~~ *may* register any vehicle for which:

~~(i)~~(a) as of the date that the vehicle is to be registered, the owner delivers an application for a certificate of title to the department, its authorized agent, or a county treasurer; or

~~(ii)~~(b) the county treasurer confirms that the department has an electronic record of title for the vehicle as provided under 61-3-101.

~~(b) To register a vehicle, the county treasurer shall update the electronic record of title maintained by the department under 61-3-101 by entering the fees paid and recording any changes to the recorded data.~~

(3) (a) A county treasurer ~~shall~~ *may* register a motor vehicle for which a certificate of title and registration were issued in another jurisdiction and for which registration is required under 61-3-701 after the county treasurer examines the current out-of-jurisdiction registration certificate or receipt and receives payment of the fees required in 61-3-701. The county treasurer may ask the vehicle owner to provide additional information, prescribed by the department, to ensure that the electronic record of registration maintained by the department is complete.

(b) A county treasurer may register a motor vehicle for which the new owner cannot, *due to circumstances beyond the new owner's control*, ~~present the surrender a previously issued assigned certificate of title only as authorized by the department under 61-3-342 and submit an application for certificate of title, subject to the registration renewal limitations of 61-3-312.~~

(4) ~~The department or the county treasurer shall determine the amount of fees, including local option taxes or fees, to be collected at the time of registration for each light vehicle subject to a registration fee under 61-3-560 through 61-3-562 and for each bus, truck having a manufacturer's rated capacity of more than 1 ton, and truck tractor subject to a fee in lieu of tax under 61-3-529. The county treasurer shall collect the registration fee, other appropriate fees, and local option taxes or fees, if applicable, on each motor vehicle at the time of its registration. Upon registering a motor vehicle for the first time in this state, the county treasurer shall:~~

~~(a) update the electronic record of title, if any, maintained for the vehicle by the department under 61-3-101;~~

~~(b) assign a registration period for the vehicle under 61-3-311;~~

~~(c) determine the vehicle's age, if required, under 61-3-501;~~

~~(d) determine the amount of fees, including local option taxes or fees, to be paid under subsection (5) of this section and~~

~~(e) assign and issue license plates for the vehicle under 61-3-331.~~

(5) ~~A person who seeks to register a motor vehicle, except a mobile home or a manufactured home as those terms are defined in 15-1-101(1), shall pay to the county treasurer:~~

~~(a) the registration fee fees, as provided in 61-3-311 and 61-3-321 or 61-3-456;~~

(b) ~~except as provided in 61-3-456 or unless it has been previously paid, the motor vehicle fees in lieu of tax or registration fees, as required for:~~

~~(i) a light vehicle under 61-3-560 through 61-3-562, in addition to, if applicable, any local option tax or fee under 61-3-537 or 61-3-570 imposed against the vehicle for the current year of registration and the immediately previous year;~~

~~(ii) a motor home under 61-3-522;~~

~~(iii) a travel trailer under 61-3-523;~~

~~(iv) a motorcycle or quadricycle under 61-3-527;~~

~~(v) a bus, truck having a manufacturer's rated capacity of more than 1 ton, or a truck tractor under 61-3-529; or~~

~~(vi) a trailer under 61-3-530; and~~

~~(c) a donation of \$1 or more if the person has indicated on the application indicates that the person wishes to donate to promote awareness and education efforts for procurement of organ and tissue donations in Montana to favorably impact anatomical gifts; and~~

~~(d) a donation of \$1 or more if the person has indicated on the application indicates that the person wishes to donate to promote education on, support for, and awareness of traumatic brain injury.~~

~~(6) The county treasurer may not issue a registration receipt or license plates for the vehicle to the owner unless the owner makes the payments required by subsection (5). Except as provided in 61-3-560 through 61-3-562, the department may not assess or impose and the county treasurer may not collect taxes or fees for a period other than:~~

~~(a) the current year; and~~

~~(b) except as provided in subsection (9), the immediately preceding year if the vehicle was not registered or operated on the highways of the state, regardless of the period of time since the vehicle was previously registered or operated.~~

(7) The department may make full and complete investigation of the registration status of the vehicle. A person seeking to register a motor vehicle under this section shall provide additional information to support the registration to the department if requested.

(8) Revenue that accrues from the voluntary donation provided in subsection (5)(c) must be forwarded by the respective county treasurer to the department of revenue for deposit in the state special revenue fund to the credit of an account established by the department of public health and human services to support activities related to awareness and education efforts for procurement of organ and tissue donations for anatomical gifts.

(9) (a) Except as provided in subsection (9)(b), the fees in lieu of tax, taxes, and fees imposed on or collected from the registration of a travel trailer, motorcycle, or quadricycle or a trailer, pole trailer, or semitrailer that has a declared weight of less than 26,000 pounds are required to be paid only once during the time that the vehicle is owned by the same person who registered the vehicle. Once registered, a vehicle described in this subsection (9)(a) is registered permanently unless ownership of the vehicle is transferred.

(b) Whenever ownership of a vehicle described in subsection (9)(a) is transferred, the new owner is required to register the vehicle as if it were being

registered for the first time, including paying all of the required fees in lieu of tax, taxes, and fees.

(10) Revenue that accrues from the voluntary donation provided in subsection (5)(d) must be forwarded by the respective county treasurer to the department of revenue for deposit in the state special revenue fund to the credit of the account established in 2-15-2218 to support activities related to education regarding prevention of traumatic brain injury.”

**Section 51.** Section 61-3-311, MCA, is amended to read:

**“61-3-311. Registration — annual renewal — time periods.** (1) ~~Registration must be renewed annually, and registration fees must be paid annually. Except~~ *Unless a vehicle is subject to permanent registration under this title and except as provided in 61-3-313 through 61-3-316, 61-3-318, 61-3-526 61-3-701, and 61-3-721, and subsection (3) of this section, all registrations expire on December 31 of the year in which they are issued and must be renewed annually upon payment of all required fees to the county treasurer or the department’s agent not later than February 15 of each year the department, an authorized agent, or a county treasurer shall, upon original registration of a vehicle in this state, assign each vehicle to a registration period, as provided in 61-3-316, based upon the calendar month in which the vehicle is first registered in this state and designate the calendar year in which the current registration will expire. If the ownership of a motor vehicle is transferred during the registration year, the new owner shall apply for a certificate of title and register the motor vehicle as provided by this chapter.*

~~(2) The department, its authorized agent, or a county treasurer may not renew the registration of a vehicle whose ownership has been transferred and that was originally registered under the provisions of 61-3-342(3) unless:~~

~~(a) the previously issued certificate of title has been surrendered to the department, its authorized agent, or the county treasurer and the process for issuing a certificate of title has been completed; or~~

~~(b) the person to whom ownership of the vehicle has been transferred presents an affidavit and bond in support of the application for a certificate of title as permitted in 61-3-208.~~

*(2) Each registration period commences on the first day of the calendar month in the calendar year in which the vehicle is registered and the vehicle’s registration expires on the earlier of:*

*(a) the last day of the month preceding the anniversary of the registration period for the year designated on the vehicle’s registration decal, if the vehicle is registered for a minimum 12-month period;*

*(b) the last day of the month preceding the anniversary of the registration period for the year designated on the vehicle’s registration decal, if the vehicle is registered for a period of at least 13 but less than 25 months; or*

*(c) the transfer of ownership of the vehicle to another person.*

*(3) (a) Upon request of the vehicle owner, a county treasurer may assign a vehicle to a registration period, as provided in 61-3-316, other than the calendar month in which the vehicle is first registered in this state if at least 13 but less than 25 months will elapse between the first day of the calendar month in which the vehicle is registered and the last day of the month preceding the anniversary of the requested registration period in the year designated on the vehicle’s registration decal.*

(b) *The county treasurer shall determine fees imposed for a vehicle registered for a period between 13 and 24 months. Registration fees imposed under 61-3-321 must be applied for the entire registration period. All other registration fees, fees in lieu of tax, or local option taxes or fees that are imposed on an annual basis must be prorated based on the number of months in the requested registration period.*

(c) *A vehicle registered under the provisions of 61-3-303(3)(b) may not be registered under this subsection (3).*

(4) *If a vehicle is permanently registered under the provisions of this chapter, the registration is not subject to expiration unless the registered owner of the vehicle transfers ownership of the vehicle to another person."*

**Section 52.** Section 61-3-312, MCA, is amended to read:

**"61-3-312. Renewal of registration — exceptions — grace period.** (1) Except as provided in ~~61-3-311(1), 61-3-314, 61-3-313 61-3-318, 61-3-526, 61-3-560, 61-3-562, and 61-3-721,~~ the registration of a vehicle under this chapter ~~expires on December 31 of each year and must be renewed annually upon payment of registration fees as provided in 61-3-303 and 61-3-321 on or before the last day of the month of the vehicle's registration period following the expiration of the vehicle's registration. The renewal takes effect on January 1 of each year.~~ A person may renew a vehicle's registration by submitting full payment for the fees or taxes, required under 61-3-303, to the department, an authorized agent, or a county treasurer in any county of this state. Except as provided in 61-3-315, the registration period originally assigned under 61-3-311 must be retained, and the duration of the renewed registration is determined in accordance with 61-3-311. A registration receipt is valid ~~only during~~ for the registration year period for which it is issued.

(2) The owner of a vehicle ~~registered subject to registration renewal under the provisions of this section may operate the vehicle between January 1 and February 15 without displaying the registration decal of the current year if, during the period, the owner displays upon the vehicle the number plates or plate assigned for the previous year is considered to have renewed the vehicle's registration in a timely manner if the owner submits full payment for the required fees or taxes, as prescribed in the mail renewal notice from the department, to the department, an authorized agent, or a county treasurer on or before the last day of the month of the vehicle's registration period.~~

(3) *The department, an authorized agent, or a county treasurer may not renew the registration of a vehicle whose ownership has been transferred and that was originally registered without being titled under the provisions of 61-3-303(3)(b) unless:*

(a) *the previously issued certificate of title has been surrendered to the department, an authorized agent, or the county treasurer and the process for issuing a certificate of title has been completed; or*

(b) *the person to whom ownership of the vehicle has been transferred presents an affidavit and bond in support of the application for a certificate of title as permitted in 61-3-208."*

**Section 53.** Section 61-3-313, MCA, is amended to read:

**"61-3-313. Vehicles subject to staggered exempt from registration renewal.** For purposes of 61-3-313 through 61-3-316, "vehicle" means a motor vehicle, as defined in 61-1-102, that is subject to annual registration in this state

~~except~~ *The following vehicles are exempt from the registration renewal requirements of 61-3-312:*

(1) vehicles owned or leased and operated by the government of the United States or by the state of Montana or a political subdivision of the state;

~~(2) mobile homes and motor homes;~~

~~(3) vehicles that are registered in accordance with or subject to 61-3-411 or 61-3-458(3)(b);~~

~~(4) trucks exceeding a 1-ton rated capacity;~~

~~(5) trailers, semitrailers, tractors, and buses;~~

~~(6) special mobile equipment as defined in 61-1-104;~~

~~(7)(2) motor vehicles registered as part of a fleet under 61-3-318; and~~

~~(8)(3) apportionable vehicles registered as part of a fleet, as defined in 61-3-712, that is subject to the provisions of 61-3-711 through 61-3-733; and~~

*(4) unless a transfer of ownership occurs, a travel trailer, trailer, semitrailer, pole trailer, motorcycle, or quadricycle, including a motorcycle or quadricycle registered only for off-highway use under Title 23, chapter 2, part 8, that is permanently registered.”*

**Section 54.** Section 61-3-314, MCA, is amended to read:

**“61-3-314. Registration period.** ~~(1) Except as provided in 61-3-315, each vehicle subject to the provisions of 61-3-313 through 61-3-316 must be registered for a 12-month period based upon the date it is first registered in this state pursuant to 61-3-313 through 61-3-316.~~

~~(2) There~~ *For the purposes of this chapter, there are 12 registration periods to which a vehicle may be assigned., each of which* *Each registration period commences on the first day of a calendar month. The periods are:*

<del>(a)</del> (1) January 1 through January 31	1st period
<del>(b)</del> (2) February 1 through February 28/29	2nd period
<del>(c)</del> (3) March 1 through March 31	3rd period
<del>(d)</del> (4) April 1 through April 30	4th period
<del>(e)</del> (5) May 1 through May 31	5th period
<del>(f)</del> (6) June 1 through June 30	6th period
<del>(g)</del> (7) July 1 through July 31	7th period
<del>(h)</del> (8) August 1 through August 31	8th period
<del>(i)</del> (9) September 1 through September 30	9th period
<del>(j)</del> (10) October 1 through October 31	10th period
<del>(k)</del> (11) November 1 through November 30	11th period
<del>(l)</del> (12) December 1 through December 31	12th period”

**Section 55.** Section 61-3-315, MCA, is amended to read:

**“61-3-315. Reregistration on anniversary date — department to make rules** ~~Rules — early reregistration renewal.~~ (1) A vehicle that has been registered for any of the periods designated in 61-3-314 must be reregistered for the same period on or before the anniversary date of the initial registration unless that period is changed as provided in subsections (2) and (4).

The anniversary date for reregistration is the last day of the month for the designated registration period.

~~(2) (a) The owner of a motor vehicle subject to the provisions of 61-3-313 through 61-3-316 and subject to the registration fee, as provided in 61-3-560 and 61-3-561, may register the motor vehicle for a period not to exceed 24 months. The registration expires on the last day of the 24th month commencing from the date of the designated registration period under 61-3-314 for which the vehicle is registered.~~

~~(b) The owner of a motor vehicle 11 years old or older subject to the provisions of 61-3-313 through 61-3-316 and subject to the registration fee, as provided in 61-3-560 and 61-3-561, may permanently register the motor vehicle as provided in 61-3-562. The registration remains in effect until ownership of the vehicle is transferred to another person by the registered owner.~~

~~(3) The department shall adopt rules for the implementation and administration of 61-3-313 through 61-3-316 and for the identification of the registration on the of vehicles under this chapter. The rules adopted by the department pursuant to this section must also allow for:~~

~~(1) early reregistration of renewal of registration for motor vehicles that are subject to the provisions of 61-3-313 through 61-3-316 and subject to the registration fee, as provided in 61-3-560 and 61-3-561, when an owner of a motor vehicle presents extenuating circumstances; and~~

~~(4)(2) The department shall provide for simultaneous registration of multiple vehicles that have common ownership. The rules must provide for a change of the registration period to coincide with the date an owner desires to register the vehicles."~~

**Section 56.** Section 61-3-316, MCA, is amended to read:

**"61-3-316. New registrations under staggered registration.** *A Except as provided in 61-3-311, a vehicle that is registered for the first time in this state must be assigned a registration period corresponding to when the vehicle is first registered in this state. Except as provided permitted in 61-3-315, 61-3-318, and 61-3-324, the registration period for a vehicle must remain the same from year to year."*

**Section 57.** Section 61-3-317, MCA, is amended to read:

**"61-3-317. New registration required for transferred vehicle — grace period — penalty — display of proof of purchase.** (1) ~~Except as otherwise provided in this section, the~~ *The new owner of a transferred motor vehicle has a grace period of 20 40 calendar days from the date of purchase to make application for a certificate of title and pay the registration fees, fees in lieu of tax and other fees required by part 5 of this chapter, and local option taxes, if applicable, unless the fees and taxes have been paid for the year or for the 24 month period as provided in 61-3-315, as if the vehicle were being registered for the first time in that registration year. However, the motor vehicle may not be operated upon the streets and highways of this state during this period unless a temporary registration permit has been issued for, and is properly displayed on, the vehicle as permitted by 61-3-224.*

~~(2) The new owner of a vehicle described in 61-3-303(9) shall make application and pay the registration fees, fees in lieu of tax, and other fees required by part 5 of this chapter and local option taxes, if applicable, whether or not the fees and taxes have been paid previously.~~

~~(2)~~(2) If the motor vehicle was not purchased from a licensed motor vehicle dealer as provided in this chapter, it is not a violation of this chapter or any other law for the purchaser to operate the vehicle upon the streets and highways of this state without a current registration receipt or registration decal during the ~~20-day~~ 40-day period if at all times during that period, a temporary registration permit, ~~issued under 61-3-224, obtained from the county treasurer or a law enforcement officer as authorized by the department,~~ is clearly properly displayed in the rear window of the motor vehicle or, if a durable placard has been issued for the vehicle, the placard is attached to the rear of the vehicle.

~~(4) Registration fees collected under 61-3-321 are not required to be paid when a license plate is transferred under 61-3-335 and this section.~~

~~(5) Failure to make application for a certificate of title within the time provided in this section subjects the purchaser to a penalty of \$10. The penalty must be collected by the county treasurer at the time of registration and is in addition to the fees otherwise provided by law. The penalty must be deposited in the state general fund."~~

**Section 58.** Section 61-3-321, MCA, is amended to read:

**"61-3-321. Registration fees of vehicles — 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, ~~reregistration~~ *renewal of registration* of motor vehicles, trailers, and semitrailers, in accordance with this chapter, as follows:

(a) light vehicles under 2,850 pounds, ~~\$19.75 in calendar year 2004 and, in each subsequent year,~~ \$17;

(b) trailers with a declared weight of less than 2,500 pounds and semitrailers, \$8.25. For a trailer or semitrailer described in 61-3-530(1), this fee is a one-time fee, except upon transfer of ownership of the trailer or semitrailer.

(c) motor vehicles registered pursuant to 61-3-411 that are:

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

(ii) under 2,850 pounds, \$5;

(d) off-highway vehicles registered pursuant to 23-2-817, ~~\$9 in calendar year 2004 and, in each subsequent year,~~ \$19.25. This fee is a one-time fee, except upon transfer of ownership of an off-highway vehicle.

(e) light vehicles over 2,850 pounds, trucks and buses less than 1 ton, and heavy trucks in excess of 1 ton, ~~\$18.75 in calendar year 2004 and, in each subsequent year,~~ \$22;

(f) logging trucks less than 1 ton, \$23.75;

(g) motor homes, \$22.25;

(h) motorcycles and quadricycles, \$9.75 for a motorcycle or quadricycle with special license plates issued under 61-3-415 and, for a motorcycle or quadricycle under one-time registration, ~~\$9.75 in calendar year 2004 and, in each subsequent year,~~ \$11.25. This fee is a one-time fee, except upon transfer of ownership of a motorcycle or quadricycle.

(i) trailers and semitrailers between 2,500 and 6,000 pounds, \$11.25. For a trailer or semitrailer described in 61-3-530(1), this fee is a one-time fee, except upon transfer of ownership of the trailer or semitrailer.

(j) trailers and semitrailers in excess of 6,000 pounds, other than trailers and semitrailers registered in other jurisdictions and registered through a

proportional registration agreement, \$16.25. For a trailer or semitrailer described in 61-3-530(1), this fee is a one-time fee, except upon transfer of ownership of the trailer or semitrailer.

(k) travel trailers, \$11.75. This fee is a one-time fee, except upon transfer of ownership of a travel trailer.

(l) recreational vehicles, ~~\$3.50 in calendar year 2004 and, in each subsequent year, \$9.75.~~ If the recreational vehicle is a travel trailer, this fee is a one-time fee, except upon transfer of ownership of a travel trailer.

~~(2) (a) Except as provided in subsection (2)(b), if a motor vehicle, trailer, or semitrailer is originally registered 6 months after the time of registration as set by law, the registration fee for the remainder of the year is one-half of the regular fee.~~

~~(b) For a trailer or semitrailer described in 61-3-530(1), the applicable fees must be paid regardless of when the fees were last paid or if the fees were paid at all.~~

~~(3)(2)~~ An additional fee of \$5 for a motorcycle or quadricycle with special license plates issued under 61-3-415 and, for a motorcycle or quadricycle under one-time registration, ~~\$5 in calendar year 2004 and, in each subsequent year,~~ \$16 must be collected for the registration of each motorcycle as a safety fee and must be deposited in the state motorcycle safety account provided for in 20-25-1002.

~~(4)(3)~~ A fee of \$5 for each set of new number plates must be collected when ~~number plates~~ *a new set of standard license plates or a new single standard license plate* provided for under 61-3-332~~(2)~~ *are* is issued.

~~(5)(4)~~ 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, 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.

~~(6)(5)~~ (a) Except as provided in 61-3-562 and subsection ~~(6)(b)~~ *(5)(b)* of this section, a fee of 25 cents a year for each registration of a vehicle must be collected when a vehicle is registered or ~~reregistered~~ *when registration is renewed*. The revenue derived from this fee must be forwarded by the county treasurer for deposit in the state general fund for transfer to the credit of the senior citizens and persons with disabilities transportation services account provided for in 7-14-112.

(b) The following vehicles are not subject to the fee imposed in subsection ~~(6)(a)~~ *(5)(a)*:

(i) trailers and semitrailers registered in other jurisdictions and registered through a proportional registration agreement; and

(ii) travel trailers, recreational vehicles, and off-highway vehicles registered pursuant to 23-2-817.

~~(7)(6)~~ (a) Except as provided in 61-3-562 and subsection ~~(7)(b)~~ *(6)(b)* of this section, a fee of 50 cents a year for each registration of a vehicle must be collected when a vehicle is registered or ~~reregistered~~ *when registration is renewed*. The county treasurer shall forward revenue derived from this fee to the state for deposit in the general fund.

(b) The following vehicles are not subject to the fee:

(i) trailers and semitrailers registered in other jurisdictions and registered through a proportional registration agreement;

(ii) off-highway vehicles registered pursuant to 23-2-817; and

(iii) vehicles bearing license plates described in 61-3-458(3)(d).

~~(8)(7)~~ The provisions of this section relating to the payment of registration fees or new number standard license plate fees do not apply when number license plates are transferred to a replacement vehicle under ~~61-3-317, 61-3-332, or 61-3-335~~. Registration fees must be paid if the vehicle to which plates are transferred was not previously registered.

~~(9)(8)~~ A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section.

~~(10)(9)~~ Except as otherwise provided in this section, revenue collected under this section must be deposited in the state general fund.

~~(11)(10)~~ (a) Unless a person exercises the option in subsection ~~(11)(b)~~ (10)(b), an additional fee of \$4 must be collected for each light vehicle or truck under 8,001 pounds GVW registered for licensing pursuant to this part. The fee must be deposited in the state general fund to be used for state parks, for fishing access sites, and for the operation of state-owned facilities as provided in 15-1-122(3)(c)(vii).

(b) A person who registers a light vehicle or truck under 8,001 pounds GVW 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 \$4 fee provided for in subsection ~~(11)(a)~~ (10)(a). If a written election is made, the fee may not be collected.”

**Section 59.** Section 61-3-322, MCA, is amended to read:

**“61-3-322. Registration receipts — issuance.** (1) Upon completion of the original registration or registration renewal process, the department, an authorized agent, or a county treasurer shall issue a registration receipt to the owner of the vehicle.

(2) The registration receipt must contain the name and address of the vehicle owner, the license plate number assigned to the vehicle, sufficient information to identify the registered vehicle and determine its registration date and period of registration, and any additional information required by rule.

(3) The registration receipt must at all times be carried in the vehicle to which it refers or must be carried by the person driving or in control of the vehicle, who shall display it upon demand of a peace officer or any officer or employee of the department or the department of transportation.”

**Section 60.** Section 61-3-324, MCA, is amended to read:

**“61-3-324. Fleet registration — application — additions to and deletions from fleet.** (1) A person owning or leasing a fleet may apply to the department of transportation to register the fleet annually through the department of transportation in lieu of registering each motor vehicle in its domicile.

(2) (a) ~~The application for~~ Except as provided in subsection (2)(b), fleet registration information, as prescribed by the department, must:

(a) be submitted to the department of transportation prior to November 1 of each year;

~~(b) include a list of the motor vehicles in the fleet;~~

~~(c) include the current registration receipt for each motor vehicle; and~~

~~(d) include any other relevant information required by the department of transportation.~~

*(b) The fleet owner or lessor and the department may enter into an agreement to change the registration period for the fleet in a manner that comports with the requirements of 61-3-311(3).*

*(3) A motor vehicle may be added to the fleet at any time during the registration period. If a certificate of title for a vehicle to be added to the fleet has not been issued by the department, the fleet owner or lessor may submit the application for certificate of title directly to the department.*

~~(4) A motor vehicle may be removed from a fleet if the owner of the fleet surrenders to owner or lessor notifies the department of transportation the current registration receipt and the license plate for the vehicle no later than December 31 its removal. If the Upon receipt or license plate has been lost or stolen, the owner shall submit an affidavit explaining why he is not able to surrender the receipt or license plate of the notice, the department shall cancel the vehicle's registration."~~

**Section 61.** Section 61-3-325, MCA, is amended to read:

~~"61-3-325. Vehicles subject to staggered Fleet registration — fees and taxes — disposition license plates. (1) Any motor vehicle in the fleet that is subject to staggered registration under 61-3-313 through 61-3-316 may be registered as part of the fleet on the following fleet renewal date. The department of transportation shall collect the remaining fees and taxes due for the registration year after crediting the registrant for the period that was previously paid.~~

~~(2)(1) (a) The department of transportation shall compute fees and taxes due on each motor vehicle in the fleet as provided in part parts 3 and 5 of this chapter, based on its domicile.~~

~~(b) The department of transportation shall also collect a registration fee of \$7.50 for each motor vehicle in the fleet in lieu of the registration fee provided for in 61-3-321. The department shall retain \$4.50 of each registration fee for administrative costs and forward the remaining \$3 to the state treasurer for deposit in the general fund.~~

~~(e)(b) All Unless the fleet's registration period is changed under 61-3-324, all fees and taxes must be paid no later than February 15 each year.~~

~~(2) The department may issue a separate series of license plates for fleet vehicles that have the same background as standard license plates issued under 61-3-332 but have a separate numbering system determined by the department. At the request of the fleet owner or lessor and upon payment of all applicable fees, a license plate type other than the fleet plate may be issued to a fleet vehicle."~~

**Section 62.** Section 61-3-331, MCA, is amended to read:

~~"61-3-331. Assignment of number license plates. The county treasurer shall, at the time of issuing a registration receipt under 61-3-322, assign such the motor vehicle a distinctive number, viz., the license plate number, and unless the license plates must be specially ordered from the department, deliver to the applicant, depending on the type of motor vehicle that was registered, a set of two license plates or one license plate, as received from the department, each of which shall must bear such the assigned distinctive numbers number. The department shall ship said license plates to the various county treasurers by freight, so that they will be received by the county treasurer on or before January 1 of each year."~~

**Section 63.** Section 61-3-332, MCA, is amended to read:

**“61-3-332. Number Standard license plates.** (1) ~~A motor vehicle that is driven upon the streets or highways of Montana must display both front and rear number plates, bearing the distinctive number assigned to the vehicle.~~

~~(2)(1)~~ In addition to special license plates, collegiate license plates, and generic specialty license plates, and *fleet license plates* authorized under this chapter, a separate series of *number standard license plates* must be issued, in the manner specified, for each of the following vehicle or dealer types:

~~(a) passenger vehicles, including automobiles, vans, and sport utility vehicles;~~

~~(b) motorcycles and quadricycles, bearing the letters “MC” or “CYCLE”;~~

~~(c) trucks, bearing the letter “T” or the word “TRUCK”;~~

~~(d) trailers, bearing the letters “TR” or the word “TRAILER”;~~

~~(e) dealers of new, or new and used, motor vehicles, including trucks and trailers, bearing the letter “D” or the word “DEALER”;~~

~~(f) dealers of used motor vehicles only, including trucks and trailers, bearing the letters “UD” or the letter “U” and the word “DEALER”;~~

~~(g) dealers of motorcycles or quadricycles, bearing the letters “MCD” or the letters “MC” and the word “DEALER”;~~

~~(h) dealers of trailers or semitrailers, bearing the letters “DTR” or the letters “TR” and the word “DEALER”; and~~

~~(i) dealers of recreational vehicles, bearing the letters “RV” or the letter “R” and the word “DEALER” motor vehicles, quadricycles, travel trailers, trailers, semitrailers, and pole trailers registered in this state or offered for sale by a vehicle dealer licensed in this state. Standard license plates issued to licensed vehicle dealers must be readily distinguishable from license plates issued to vehicles owned by other persons.~~

~~(3)(2)~~ (a) Except as provided in 61-3-479 and subsections ~~(3)(b)~~ (2)(b), ~~(4)(e)~~ (3)(c), and ~~(4)(d)~~ (3)(d) of this section, all *number standard license plates* for motor vehicles must be issued for a minimum period of 4 years, bear a distinctive marking, *as determined by the department*, and be furnished by the department. In years when *number standard license plates* are not issued, the department shall provide a registration decal that must be affixed to the rear license plate of the vehicle.

(b) For light vehicles that are permanently registered as provided in ~~61-3-527 or 61-3-315 and~~ 61-3-562 and vehicles described in 61-3-303(9) that are permanently registered, the department shall provide a distinctive registration decal indicating that the vehicle is permanently registered. The registration decal must be affixed to the rear license plate of the permanently registered vehicle.

~~(4)(3)~~ (a) Subject to the provisions of this section, the department shall create a new design for *number standard license plates* as provided in this section, and it shall manufacture the newly designed *number standard license plates* for issuance after December 31, 2005, to replace at renewal, as required in 61-3-312 and ~~61-3-314~~, *number standard license plates* that were displayed on motor vehicles before that date.

(b) Beginning January 1, 2006, the department shall manufacture and issue new *number standard license plates* after the existing plates have been used for a minimum period of 4 years.

(c) A ~~light~~ motor vehicle that is registered for a 13-month to a 24-month period, as provided in ~~61-3-315 and 61-3-560~~ 61-3-311, may display the ~~number~~ license plate and plate design in effect at the time of registration for the entire ~~24-month~~ registration period.

(d) A light vehicle described in subsection ~~(3)(b)~~ (2)(b) that is permanently registered may display the ~~number~~ license plate and plate design in effect at the time of registration for the entire period that the vehicle is permanently registered.

~~(5)~~(4) For passenger vehicles and trucks, plates must be of metal 6 inches wide and 12 inches in length. Except for generic specialty license plates, the outline of the state of Montana must be used as a distinctive border on ~~the all~~ license plates, and the word "Montana" must be placed on each license plate. ~~Registration~~ All license plates must be treated with a reflectorized background material according to specifications prescribed by the department.

~~(6)~~(5) The distinctive registration numbers for standard license plates must begin with a number one or with a letter-number combination, such as "A 1" or "AA 1", or any other similar combination of letters and numbers. Except for special license plates, collegiate license plates, ~~and~~ generic specialty license plates, and fleet license plates, the distinctive registration number or letter-number combination assigned to the vehicle must appear on the plate preceded by the number of the county and appearing in horizontal order on the same horizontal baseline. The county number must be separated from the distinctive registration number by a separation mark unless a letter-number combination is used. The dimensions of the numerals and letters must be determined by the department, and all county and registration numbers must be of equal height.

~~(7)~~(6) For the use of exempt motor vehicles and motor vehicles that are exempt from the registration fee as provided in 61-3-560(2)(a), in addition to the markings provided in this section, ~~number~~ standard license plates must bear the following distinctive markings:

(a) For motor vehicles owned by the state, the department may designate the prefix number for the various state departments. All numbered plates issued to state departments must bear the words "State Owned", and a year number may not be indicated on the plates because these numbered plates are of a permanent nature and will be replaced by the department only when the physical condition of numbered plates requires it.

(b) For motor vehicles that are owned by the counties, municipalities, and special districts, as defined in 18-8-202, organized under the laws of Montana and not operating for profit, and that are used and operated by officials and employees in the line of duty and for motor vehicles on loan from the United States government or the state of Montana to, or owned by, the civil air patrol and used and operated by officials and employees in the line of duty, there must be placed on the ~~number~~ standard license plates assigned, in a position that the department may designate, the letter "X" or the word "EXEMPT". Distinctive registration numbers for plates assigned to motor vehicles of each of the counties in the state and those of the municipalities and special districts that obtain plates within each county must begin with number one and be numbered consecutively. Because these ~~number~~ standard license plates are of a permanent nature, they are subject to replacement by the department only when the physical condition of the ~~number~~ license plates requires it and a year number may not be displayed on the ~~number~~ plates.

~~(8) Number plates issued to a passenger vehicle, truck, trailer, motorcycle, or quadricycle may be transferred only to a replacement passenger vehicle, truck, trailer, motorcycle, or quadricycle. A registration fee may not be assessed upon a transfer of a number plate under 61-3-317 and 61-3-335.~~

~~(9)~~(7) For the purpose of this chapter, the several counties of the state are assigned numbers as follows: Silver Bow, 1; Cascade, 2; Yellowstone, 3; Missoula, 4; Lewis and Clark, 5; Gallatin, 6; Flathead, 7; Fergus, 8; Powder River, 9; Carbon, 10; Phillips, 11; Hill, 12; Ravalli, 13; Custer, 14; Lake, 15; Dawson, 16; Roosevelt, 17; Beaverhead, 18; Chouteau, 19; Valley, 20; Toole, 21; Big Horn, 22; Musselshell, 23; Blaine, 24; Madison, 25; Pondera, 26; Richland, 27; Powell, 28; Rosebud, 29; Deer Lodge, 30; Teton, 31; Stillwater, 32; Treasure, 33; Sheridan, 34; Sanders, 35; Judith Basin, 36; Daniels, 37; Glacier, 38; Fallon, 39; Sweet Grass, 40; McCone, 41; Carter, 42; Broadwater, 43; Wheatland, 44; Prairie, 45; Granite, 46; Meagher, 47; Liberty, 48; Park, 49; Garfield, 50; Jefferson, 51; Wibaux, 52; Golden Valley, 53; Mineral, 54; Petroleum, 55; Lincoln, 56. Any new counties must be assigned numbers by the department as they are formed, beginning with the number 57.

~~(10)~~(8) Each type of special license plate approved by the legislature, except collegiate license plates authorized in 61-3-463 and generic specialty license plates authorized in 61-3-472 through 61-3-481, must be a separate series of plates, numbered as provided in subsection ~~(6)~~ (5), except that the county number must be replaced by a nonremovable design or decal designating the group or organization to which the applicant belongs. Unless otherwise specifically stated in this section, the special plates are subject to the same rules and laws as govern the issuance of regular license plates, must be placed or mounted on a *motor* vehicle owned by the person who is eligible to receive them, with the registration decal affixed to the rear license plate of the vehicle, and must be removed upon sale or other disposition of the vehicle.

~~(11)~~(9) A Montana resident who is eligible to receive a special parking permit under 49-4-301 may, upon written application on a form prescribed by the department, be issued a special license plate with a design or decal bearing a representation of a wheelchair as the symbol of a person with a disability. If the *motor* vehicle to which the license plate is attached is permanently registered, the owner of the *motor* vehicle shall ~~maintain~~ *provide, upon request of a person authorized to enforce special parking laws or ordinances in this or any state,* evidence of continued eligibility to use the license plate, ~~which must be attached to the registration document in the vehicle in the form of a valid special parking permit issued to or renewed by the vehicle owner under 49-4-304 and 49-4-305.~~

~~(12)~~(10) The provisions of this section do not apply to a motor vehicle, trailer, or semitrailer that is registered as part of a fleet, as defined in 61-3-712, and that is subject to the provisions of 61-3-711 through 61-3-733.”

**Section 64.** Section 61-3-333, MCA, is amended to read:

**“61-3-333. Replacing number license plates or decals.** (1) ~~If loss, mutilation, or destruction of number plates or a motor vehicle’s registration decal occurs~~ *Except as provided in subsection (2), if one or both license plates registered to a motor vehicle, quadricycle, travel trailer, trailer, semitrailer, or pole trailer or the registration decal for the motor vehicle, quadricycle, travel trailer, trailer, semitrailer, or pole trailer is mutilated or destroyed,* the owner of the registered motor vehicle or trailer may obtain ~~from the department~~ *replacements of the number a set of replacement license plates, a replacement license plate, or a duplicate registration decal upon filing a sworn declaration*

stating that fact and payment of a fee of \$5. ~~If loss, mutilation, or destruction of pioneer plates occurs, duplicates may be obtained in the same manner upon payment of a fee of \$5.~~

(2) *If the owner requests that the replacement license plates bear the same background and license plate number as the plate or plates that were destroyed or mutilated, the duplicate license plate or plates may be issued upon payment of a fee of \$5.*"

**Section 65.** Section 61-3-334, MCA, is amended to read:

**"61-3-334. Expiration of registration on transfer of ownership of vehicle — duty to remove plates.** Upon the transfer of ownership of a motor vehicle, ~~the registration of the motor vehicle shall expire and it shall be the duty of the transferor~~ *shall immediately to remove the license plates from the vehicle.*"

**Section 66.** Section 61-3-335, MCA, is amended to read:

**"61-3-335. Transfer of license plates to another motor vehicle.** (1) ~~Should the transferor make application for the registration of another motor vehicle at any time during the remainder of the current registration year as shown on the original certificate of registration, he may file an application in the office of the county treasurer where the motor vehicle is registered, upon a form to be prepared and furnished by the department, accompanied by the original certificate of registration, for the transfer of the license plates. The application for a person may request the transfer of the license plates removed from the a motor vehicle for which originally issued under 61-3-334 to a another motor vehicle acquired or owned by the same person in whose name the original license plates were issued shall be made within 20 days from date of acquiring the vehicle. The use of the license plates shall may not be legalized until proper transfer of license plates has been made.~~

(2) License plates may be transferred pursuant to this section without transferring ownership of the first vehicle.

(3) Upon transfer of the license plates, the registration of the motor vehicle from which the license plates were transferred expires. ~~The certificate of registration for such vehicle must be surrendered to the county treasurer with the application for transfer.~~"

**Section 67.** Section 61-3-345, MCA, is amended to read:

**"61-3-345. County motor ~~Motor~~ vehicle computer system.** (1) ~~The department shall maintain a statewide online computer system to be used to title and register and reregister motor vehicles, boats, snowmobiles, and off-highway vehicles.~~

(2) ~~The department shall establish the user advisory group to assist in the development of policies governing the registration and reregistration of motor vehicles, boats, snowmobiles, and off-highway vehicles. The user advisory group must be appointed by the attorney general and must include:~~

(a) ~~an employee of the department of administration selected by the director of the department of administration;~~

(b) ~~two county treasurers, selected by the Montana county treasurers association;~~

(c) ~~one county motor vehicle section supervisor, selected by the Montana county treasurers association;~~

~~(d) an employee of the department of revenue who is engaged in property assessment, selected by the director of the department of revenue;~~

~~(e) an employee of the department of justice, data processing division, selected by the division administrator;~~

~~(f) an employee of the department of justice, motor vehicle division, registrar's bureau, selected by the division administrator;~~

~~(g) an employee of the department of justice, motor vehicle division, driver services bureau, selected by the division administrator;~~

~~(h) a member of the Montana bankers' association, selected by the association director;~~

~~(i) a member of the Montana automobile dealers association, selected by the association director; and~~

~~(j) a member or employee of the Montana American automobile association, selected by the association director.~~

~~(3) Committee members who are not employees of the state of Montana shall serve a term of 2 years, and state employee members shall serve at the pleasure of the attorney general.~~

~~(4) Travel and per diem expenses for the committee must be charged to the motor vehicle division.~~

~~(5) Secretarial and support services for the committee must be provided by the motor vehicle division.~~

~~(6) The committee shall meet no more than four times a year unless specifically called by the attorney general."~~

**Section 68.** Section 61-3-347, MCA, is amended to read:

**"61-3-347. Duties of county motor vehicle computer committee.** (1) The county motor vehicle computer committee shall:

(a) establish the requirements and specifications for the county motor vehicle computer system to be used by county treasurers and the department of justice to register and ~~reregister~~ *renew the registration of* motor vehicles, boats, snowmobiles, and off-highway vehicles;

(b) approve the purchase of computer equipment, including peripherals, to be used for the registration and ~~reregistration~~ *renewal of the registration of* motor vehicles, boats, snowmobiles, and off-highway vehicles;

(c) approve the procedures for the development of the county motor vehicle computer system provided for in 61-3-345 and for training in the use of that system.

(2) As used in this section, "computer system" means the county motor vehicle application system and does not include the central computer centers or imply that the department of administration is responsible for establishing policy and operating and maintaining central computer centers."

**Section 69.** Section 61-3-401, MCA, is amended to read:

**"61-3-401. Definition of personalized license plates.** Personalized license plates, as used in 61-3-401 through 61-3-406, ~~mean~~ *are* license plates that ~~have displayed upon them the registration number assigned to the passenger motor vehicle for which such registration number was issued in a~~ *are specially produced and display a specific* combination of letters or numbers, or both, *expressly* requested by the owner of the vehicle."

**Section 70.** Section 61-3-402, MCA, is amended to read:

**“61-3-402. Personalized license plates authorized.** ~~Any~~ A person who is the registered owner of a motor vehicle, a truck, motor home, ~~camping~~ trailer, motorcycle, quadricycle, or other vehicle for the owner’s personal use ~~registered with the department or who makes application for original registration of a motor vehicle~~ may upon payment of the fee prescribed in 61-3-406 apply to the department for personalized license plates in the manner prescribed in 61-3-405, ~~which~~ *The plates shall must be affixed to the motor vehicle for which registration is sought in lieu of the regular license plates provided for in this chapter numbered as provided in 61-3-332.”*

**Section 71.** Section 61-3-403, MCA, is amended to read:

**“61-3-403. Color and design of personalized license plates — exception — county designation.** ~~(4)~~ Except as provided in 61-3-407 and 61-3-466, the personalized license plates must be the same color and design as ~~regular passenger motor vehicle standard~~ license plates and must consist of numbers or letters, or any combination ~~thereof of numbers or letters~~, not exceeding eight positions and not less than two positions, provided that there are no conflicts with existing ~~passenger, commercial, trailer, motorcycle, quadricycle,~~ *standard* or special license plate series under this title. *A registration decal must be displayed on personalized license plates as provided in 61-3-332.*

~~(2) Upon the issuance of personalized license plates or upon the reregistration of any motor vehicle assigned personalized license plates that do not bear a county designation or no longer bear the correct county designation, the department shall provide nonremovable stickers bearing the appropriate county designation, which must be affixed to the license plates in use in accordance with instructions by the department.”~~

**Section 72.** Section 61-3-407, MCA, is amended to read:

**“61-3-407. Personalized license plates for disabled — special veteran and generic specialty license plates.** Subject to the provisions of 61-3-405 and 61-3-406, an application for *standard license plates bearing a wheelchair as the symbol of a person with a disability under 61-3-332(9)*, special veteran license plates under 61-3-458(3), or generic specialty license plates under 61-3-472 through 61-3-481 may be combined with an application for personalized plates. The application must be made on a form supplied by the department.”

**Section 73.** Section 61-3-412, MCA, is amended to read:

**“61-3-412. Display of original Montana license plates on collector’s item and general transportation collector’s item vehicles — definition — validation.** (1) As used in 61-3-413 and this section, “original Montana license plate” means a license plate issued according to the provisions of 61-3-331; section 53-116, R.C.M. 1947; section 1759.1, R.C.M. 1935; or section 1759, R.C.M. 1921; whichever section was effective during the year of the manufacture of the motor vehicle on which the license plate is authorized to be displayed.

(2) Notwithstanding the provisions of 61-3-332, the department shall authorize the owner of a motor vehicle registered as provided in 61-3-411 or 61-3-413 to display original Montana license plates, with validation as required in 61-3-413 or subsection (3) of this section, after:

(a) payment of the fee required in subsection (5);

(b) inspection by a highway patrol officer of the original Montana license plate to be displayed on the motor vehicle and, upon payment of a \$5 fee, receipt of the highway patrol officer's certification that the officer has determined that:

(i) the license plate is legible and meets the requirements of subsection (1); and

(ii) in the case of a license plate intended for use on a general transportation collector's item, the license plate is visible at night;

(c) receipt of an application by the owner of the motor vehicle as provided for in 61-3-411 or 61-3-413; and

(d) in the case of a general transportation collector's item application, certification from the department that a duplicate license plate number does not exist among currently issued license plates.

(3) If the owner of a vehicle ~~registered under the provisions of 61-3-314~~ meets the requirements of subsection (2), the department shall:

(a) ~~file the application and register information on the motor vehicle in the manner as~~ prescribed in 61-3-303; and

(b) issue a validating decal inscribed with:

(i) a unique number; and

(ii) the letter:

(A) "P" to designate vehicles described in 61-3-411(2)(a); or

(B) "V" to designate vehicles described in 61-3-411(2)(b).

(4) The owner of the motor vehicle shall permanently affix the validating decal to the windshield of the collector's item motor vehicle or, if a windshield does not exist, to another prominent and visible position on the vehicle.

(5) The owner of the motor vehicle shall pay to the department with the application required under this section a one-time special collector's item motor vehicle license fee of \$20."

**Section 74.** Section 61-3-415, MCA, is amended to read:

**"61-3-415. Special motorcycle license plates — department to design — fees — distribution.** (1) A Montana resident who is the owner of a motorcycle or quadricycle titled and registered under this chapter and who pays the fee required under subsection (2) may be issued a ~~set of~~ special motorcycle license ~~plates~~ *plate* bearing a design created by the department. The design must recognize the efforts of one or more Montana-based nonprofit organizations that grant wishes to chronically or critically ill Montana children.

(2) ~~A~~ *In addition to the fee required in 61-3-527, a person requesting a set of* special motorcycle license ~~plates~~ *plate* under this section shall pay to the county treasurer:

(a) an administrative fee of \$5 upon ~~initial~~ issuance of the special license ~~plates~~ *plate*, to be deposited in the county general fund; and

(b) a \$5 license plate fee; and

~~(b)(c) an annual~~ a donation fee of \$20 ~~\$20 upon initial issuance, renewal, or transfer of the special license plates.~~

(3) The county treasurer shall remit the fees required in ~~subsection (2) subsections (2)(b) and (2)(c)~~ to the department of revenue. For each ~~set of plates~~ *special plate* issued, the department of revenue shall deposit \$5 in the state

general fund and ~~\$20~~ \$20 in an account in the state special revenue fund to be used by the department as provided in subsection (4).

(4) The department shall use the money deposited in the account in the state special revenue fund as provided in subsection (3) to provide grants, using criteria established by the department, to Montana-based nonprofit organizations that grant wishes to Montana children who are chronically or critically ill.

(5) The department shall adopt rules to identify the entity or entities that may qualify for grants under this section and to establish the criteria that an entity must meet to receive grant funds.

(6) The account in the state special revenue fund provided for in subsection (3) is statutorily appropriated to the department, as provided in 17-7-502.”

**Section 75.** Section 61-3-421, MCA, is amended to read:

**“61-3-421. Amateur radio operators — special license plate.** A ~~motor vehicle owner and~~ resident of this state who holds an unrevoked and unexpired official amateur radio station license and operator’s license, “conditional” or higher class, issued by the federal communications commission of the United States, upon ~~written application on a form prescribed by the department,~~ accompanied by proof of ownership of the amateur radio station license and operator’s license, ~~must~~ *may* be issued lettered *a set of* license plates in pairs (two identically lettered plates), in lieu of the regular license plates prescribed by law. ~~There must be stamped or impressed upon the special license plates in clear lettering~~ *displaying* the official amateur radio call letters of the owner as assigned to the owner by the federal communications commission; ~~for a light vehicle or motor home owned by and registered to the resident. and the~~ *The* plates so lettered must be renewed as provided in 61-3-312.”

**Section 76.** Section 61-3-422, MCA, is amended to read:

**“61-3-422. Issuance — application — additional fee.** The department shall issue lettered license plates *with the official amateur radio call letters* as provided in ~~61-3-421~~ to an amateur radio ~~operator~~ *operator* upon:

(1) application showing proof that the applicant is the owner and holder of an amateur radio station license and operator’s license;

(2) compliance with the state ~~motor vehicle~~ laws relating to *titling and* registration and licensing of ~~motor~~ *light* vehicles and *motor homes*;

(3) payment, or proof of payment, of all other fees and taxes applicable to regular ~~motor vehicle license plates~~ *the light vehicle or motor home*; and

(4) payment of a \$5 additional fee.”

**Section 77.** Section 61-3-425, MCA, is amended to read:

**“61-3-425. Special plates — how affixed to car — sale or transfer of auto — revocation or expiration of radio license.** The lettered license plates, as herein provided, are in lieu of the regular license plates on the ~~motor vehicle owned by the amateur radio licensee for the period of time that~~ *issued under 61-3-422 may be renewed as long as* the amateur radio license is in force under the federal communications commission and the special license issued hereunder is in force, ~~but no longer~~. If the official amateur radio license is revoked or expires for any reason, the license ~~plate~~ *plates* must be removed immediately by the owner of the ~~motor light vehicle or motor home, and it is the responsibility of the owner to then~~ *shall* obtain regular ~~standard~~ license plates numbered as provided in 61-3-332. If the ~~motor light vehicle or motor home~~ is

sold or otherwise transferred, the owner and holder of valid official amateur radio station and operator's licenses ~~has the right to~~ *may* transfer the ~~lettered amateur radio license~~ plates to another ~~motor light vehicle or motor home~~ owned by him upon such reasonable conditions as may be prescribed by the department *the holder as provided in 61-3-335*. On the revocation or expiration of the amateur radio station and operator's licenses, the ~~lettered~~ license plates ~~as issued under 61-3-422~~ must be returned and surrendered to the department."

**Section 78.** Section 61-3-426, MCA, is amended to read:

**"61-3-426. Combined license plates.** (1) An application for license plates for amateur radio operators may be combined with an application for the special license plates issued under 61-3-458(3) or with an application for special license plates issued to a person with a disability who complies with the provisions in ~~61-3-332(11)~~ *61-3-332(9)*.

(2) Issuance of combined license plates is subject to 61-3-422.

(3) The combined license plates must ~~be stamped with~~ *display* the official amateur radio call letters of the owner as assigned to the owner by the federal communications commission. The plates must also ~~be stamped with~~ *display* the design or decal provided for in ~~61-3-332(11)~~ *61-3-332(9)* or 61-3-458(3)."

**Section 79.** Section 61-3-431, MCA, is amended to read:

**"61-3-431. Special mobile equipment — exemption from registration and payment of fees and charges — identification plate decal — special demonstration permit — publicly owned special mobile equipment.** (1) A person, firm, partnership, or corporation who owns, leases, or rents special mobile equipment as defined in 61-1-104 and occasionally moves that equipment on, over, or across the highways of the state is not subject to registration of that equipment or required to pay the fees and charges provided for in 61-4-301 through 61-4-308 or part 2 of chapter 10. Prior to movement on the highways:

(a) each piece of equipment must display an equipment identification ~~plate decal~~ or a dealer's license plate attached to the equipment, except for equipment referred to in 61-1-104(2) that is brought into Montana for demonstration purposes;

(b) each piece of equipment referred to in 61-1-104(2) that is brought into Montana for demonstration purposes must have a ~~special demonstration temporary registration~~ permit conspicuously displayed.

(2) (a) Annual application for the identification ~~plate decal~~ must be made to the county treasurer before any piece of equipment is moved on the highways. Application must be made on a form furnished by the department, together with the payment of a fee of \$5. The equipment for which a special mobile equipment ~~plate decal~~ or for which a ~~special demonstration temporary registration~~ permit is sought is subject to the assessment of personal property taxes on the date application is made for the ~~plate decal~~ or the date determined pursuant to subsection (4). The personal property taxes assessed against the special mobile equipment must be paid before a special mobile equipment ~~plate decal~~ may be issued. The fees collected under this section must be deposited in the state general fund, except that \$25 of the ~~special demonstration temporary registration~~ permit fee must be remitted to the department of transportation.

(b) Application must be made for a ~~special demonstration temporary registration~~ permit as provided in subsection (1)(b). The application must be made to the county treasurer or to ~~a weigh station~~ *an authorized agent* before

the piece of equipment is moved on Montana highways. Application for the ~~special demonstration~~ temporary registration permit must be made on a form furnished by the department and must be accompanied by the payment of a fee of \$50, *in addition to the fee required under 61-3-224.*

(3) The identification ~~plate~~ decal expires on December 31 of each year. If the expired identification ~~plate~~ decal is displayed, an owner of special mobile equipment registered under the provisions of this section is entitled to operate the equipment between January 1 and February 15 following expiration without displaying the identification ~~plate~~ decal or receipt of the current year.

(4) (a) The ~~special demonstration~~ temporary registration permit expires 45 40 days after its issuance. Special mobile equipment that remains in the state past the expiration of the permit is subject to the assessment of personal property taxes, starting on the first day following expiration of the permit.

(b) If the holder of a ~~special demonstration~~ temporary registration permit leases or sells the piece of equipment during the term that is covered by the permit, the permit is no longer valid and the special mobile equipment is subject to the assessment of personal property taxes, starting on the first day of the lease or the date of the sale.

(5) Publicly owned special mobile equipment and implements of husbandry used exclusively by an owner in the conduct of the owner's farming operations are exempt from this section."

**Section 80.** Section 61-3-433, MCA, is amended to read:

**"61-3-433. Issuance of identification ~~plate~~ decal and receipt — contents.** The county treasurer shall issue to an applicant for an equipment identification ~~plate~~ decal a single ~~metal plate~~ decal with a distinguishing number and a receipt for the fee collected, ~~which~~ The receipt ~~shall~~ must contain the name and address of the applicant, the number of the ~~plate~~ decal issued, the serial number of the equipment, and a brief description of that equipment."

**Section 81.** Section 61-3-446, MCA, is amended to read:

**"61-3-446. Retention of special license plates.** If during a registration year the holder of special license plates issued under ~~61-3-332(10)~~ 61-3-332(8) or generic specialty license plates issued as provided in 61-3-472 through 61-3-481 disposes of the vehicle to which the plates are affixed, the holder may retain the plates and ~~affix~~ transfer them to another vehicle *under 61-3-335.*"

**Section 82.** Section 61-3-456, MCA, is amended to read:

**"61-3-456. Registration of motor vehicle owned and operated by Montana resident on active military duty stationed outside Montana.**

(1) As an incentive for military service, an owner of a motor vehicle who is a Montana resident who entered active military duty from Montana and who is stationed outside Montana may file with the department an application for the registration of the motor vehicle. The application must be sworn to before an officer authorized to administer oaths. The application must state:

(a) the name and address of the owner;

(b) the make, the gross weight, the year and number of the model, and the manufacturer's identification number and serial number of the motor vehicle; and

(c) that the vehicle is owned and operated by a Montana resident who meets the qualifications of subsection (1) and is on active military duty and stationed outside Montana.

(2) The registration fee for a motor vehicle registered under subsection (1) is as provided in ~~61-3-311~~ and 61-3-321.

(3) A vehicle registered under this section is not subject to:

(a) the taxes or fees described in 61-3-303(5)(b);

(b) ~~assessment under 15-8-202 or 61-3-503~~, the fee in lieu of tax under 61-3-529, or the registration fee under 61-3-560 through 61-3-562; or

(c) any of the fees provided in part 5 of this chapter.”

**Section 83.** Section 61-3-458, MCA, is amended to read:

**“61-3-458. Special plates for military personnel, veterans, and spouses.** (1) (a) Active military personnel, veterans, or the surviving spouse of an eligible veteran, if the spouse has not remarried, may be issued special military or veteran license plates as provided in this section.

(b) Subject to the provisions of 61-3-332 and except as otherwise provided in this chapter, special license plates issued pursuant to this section must be numbered in sets of two with a different number on each set and must be properly displayed as provided in 61-3-301. *Special military or veteran license plates may not be issued for a motorcycle, quadricycle, travel trailer, trailer, semitrailer, or pole trailer. Special military or veteran license plates bearing a wheelchair as the symbol of a person with a disability may be issued to a person who meets the qualifications under 61-3-332(9) and this section.*

(2) (a) Upon application, after paying all applicable vehicle registration fees and special license plate fees and providing an official certificate from the applicant’s unit commander verifying the individual’s eligibility and authorizing the department to issue the plates to the individual, eligible military personnel may be issued one set of special military license plates as provided in this subsection (2).

(b) A member of the Montana national guard who is a state resident may be issued special license plates with a design or decal displaying the letters “NG”. However, the member shall surrender the plates to the department when the member becomes ineligible.

(c) A member of the reserve armed forces of the United States who is a state resident may be issued special license plates according to the member’s branch of service verified in the application with a design or decal displaying one of the following: United States army reserve, AR (symbol); United States naval reserve, NR (anchor); United States air force reserve, AFR (symbol); or United States marine corps reserve, MCR (globe and anchor). However, the member shall surrender the plates to the department when the member becomes ineligible.

(d) An active member of the regular armed forces of the United States who is a state resident may be issued special license plates inscribed with a symbol signifying the United States army, United States navy, United States air force, United States marine corps, or United States coast guard, according to the member’s branch of service verified in the application. However, the member shall surrender the plates to the department upon becoming ineligible.

(3) (a) Upon application, after presenting proper identification and a department of defense form 214 (DD-214) or its successor or documents showing an other-than-dishonorable discharge or a reenlistment verifying the applicant’s eligibility and paying the veterans’ cemetery fee specified in 61-3-459 and all applicable vehicle registration fees under this chapter, subject

to the provisions of 61-3-460, an eligible veteran must be issued any set and more than one set of the special license plates provided for in this subsection (3) that the member requests and is eligible to receive.

(b) A veteran may be issued special license plates displaying the letters "DV", which entitles the veteran to the parking privileges allowed to a person with a special parking permit issued under Title 49, chapter 4, part 3, if the veteran:

(i) has been awarded the purple heart and has been rated by the U.S. department of veterans affairs as 50% or more disabled because of a service-connected injury; or

(ii) is currently rated 100% disabled or is paid at the 100% disabled rate by the U.S. department of veterans affairs for a service-connected disability.

(c) A veteran who has been awarded the purple heart may be issued special license plates with the purple heart decal displaying the words "combat wounded".

(d) A veteran who was captured and held prisoner by the military force of a foreign nation may be issued special license plates with a design or decal displaying the words "ex-prisoner of war" or an abbreviation that the department considers appropriate.

(e) If the veteran was a member of the United States armed forces on December 7, 1941, and during the hours of 7:55 a.m. to 9:45 a.m. (Hawaii time) was on station at Pearl Harbor on the island of Oahu or was offshore from Pearl Harbor at a distance of not more than 3 miles, the veteran may be issued special license plates designed to show that the veteran is a survivor of the Pearl Harbor attack.

(f) A person who is a member of the legion of valor may be issued special plates displaying a design or decal depicting the recognized legion of valor medallion.

(g) A veteran may be issued special license plates displaying the word "VETERAN" and a symbol signifying the United States army, United States navy, United States air force, United States marine corps, or United States coast guard, according to the veteran's service record verified in the application.

(h) A member or former members of the Montana national guard eligible to receive a military retirement may be issued special license plates displaying the Montana national guard insignia and the words "National Guard veteran".

(4) Upon request, after paying the veterans' cemetery fee provided in 61-3-459 and all applicable vehicle registration fees under this chapter, subject to the provisions of 61-3-460, the surviving spouse of an eligible veteran, if the spouse has not remarried, may retain the special license plates issued to the deceased veteran, except the special "DV" plates provided for under subsection (3)(b).

(5) For purposes of this section, "veteran" has the meaning provided in 10-2-101."

**Section 84.** Section 61-3-463, MCA, is amended to read:

**"61-3-463. Collegiate license plates.** (1) Subject to the provisions of ~~61-3-332(4)~~ 61-3-332(3) and the requirement that collegiate license plates must have a white reflectorized background, the department shall design, cause to be manufactured, and issue collegiate license plates as provided in 61-3-464 through 61-3-466.

(2) After consultation with each institution, the department shall prescribe the color and insignia to be displayed on the collegiate license plates for each institution.

(3) In addition to each institution's distinctive color and insignia provided in subsection (2), each collegiate license plate must:

(a) be imprinted consecutively with distinctive numerals from 1 through 99999, capital letters A through Z, or a combination of numerals and letters; and

(b) bear a registration decal ~~denoting the correct county designation under as provided in 61-3-332.~~

(4) The department shall determine the minimum and maximum number of characters, including both numerals and letters, on the collegiate license plates.

(5) An issue of collegiate license plates may not be ordered or manufactured for any individual institution unless at least 400 sets of plates are ordered and prepaid."

**Section 85.** Section 61-3-464, MCA, is amended to read:

**"61-3-464. Application for collegiate license plates.** An applicant for collegiate license plates or renewal of collegiate license plates pursuant to 61-3-465 shall apply in the form and by the date the department requires. *An application for a collegiate license plate may be combined with an application for a license plate bearing a wheelchair as the symbol of a person with a disability if the applicant meets the qualifications under 61-3-332(9).*"

**Section 86.** Section 61-3-474, MCA, is amended to read:

**"61-3-474. Responsibility for design of generic specialty license plates — numbering — rulemaking — approval — registration decal — listing of plate sponsors.** (1) The department shall:

(a) design the background and general format of generic specialty license plates;

(b) in consultation with the department of corrections, determine which license plate processing system is the most efficient and versatile manufacturing method for the production of generic specialty license plates;

(c) use a numbering system for generic specialty license plates that is distinctive from the numbering system required under 61-3-332 or used for collegiate license plates;

(d) adopt rules that prescribe:

(i) the minimum and maximum number of characters that a generic specialty license plate may display;

(ii) the general placement of the sponsor's name, identifying phrase, and graphic; and

(iii) any specifications or limitations on the use or choice of color or detail in the sponsor's graphic design.

(2) All sponsor names, identifying phrases, and graphics intended for use on generic specialty license plates must be approved by the department prior to the manufacture of the plates.

(3) Upon the issuance of generic specialty license plates, ~~the department shall provide registration decals bearing the appropriate county designation as provided in 61-3-332. The~~ a registration decal must be affixed to the license plates in use in accordance with instructions by the department *as provided in 61-3-332.*

(4) The department shall maintain a list of the sponsors that have been approved to promote the sale and issuance of generic specialty license plates, the initial distribution date for sale of each sponsored generic specialty license plate, and the donation fee established by the sponsor for each sponsored generic specialty license plate. The department shall, upon request, make copies of this list available to interested members of the public.

(5) The department may, in its discretion, revoke its previous approval of a sponsor's generic specialty license plate sponsorship if:

(a) the sponsor fails to comply with the provisions of 61-3-472 through 61-3-481;

(b) fewer than 400 sets of a sponsor's generic specialty license plate have been sold or renewed in the 12-month period immediately preceding the third anniversary of the date of initial distribution of the sponsored generic specialty license plate; or

(c) the department has reliable information that the sponsor is no longer qualified for sponsorship under 61-3-472 through 61-3-481.

(6) (a) Upon revocation of a sponsor's generic specialty license plate sponsorship status, the issuance and sale of the sponsor's generic specialty license plates must be terminated and a donation fee may not be charged or collected upon registration renewal of a vehicle displaying previously issued generic specialty license plates affiliated with that sponsor.

(b) A person who owns a vehicle displaying valid generic specialty license plates affiliated with a sponsor whose sponsorship status has been revoked may continue to display those generic specialty license plates on the person's vehicle if the vehicle's registration is properly renewed in subsequent years and the plates remain legible.

(c) Following revocation of a sponsor's sponsorship status, the department may not issue *replacements or duplicates* of generic specialty license plates affiliated with that sponsor ~~that are lost~~, *if the license plates are destroyed, or mutilated.*"

**Section 87.** Section 61-3-479, MCA, is amended to read:

**"61-3-479. Issuance of generic specialty license plates — qualifications.** (1) (a) Except as provided in subsection (1)(b), the department shall issue a set of generic specialty license plates to a person who applies for a particular style of generic specialty license plates and pays the donation fee established by the plate sponsor and the administrative fee required in 61-3-480.

(b) If the sponsor of a generic specialty license plate is not listed on the county collection report published by the department of revenue and required under 15-1-504 as of the initial distribution date for the sale of the sponsor's plates, the department shall require the sponsor to collect the initial donation fee from, and issue a special certificate of registration to, a person who is eligible to receive the sponsor's generic specialty license plates. The person shall present the special certificate of registration upon application for the generic specialty license plates.

(2) A set of generic specialty license plates may be issued for any vehicle, except a trailer of any size, a motorcycle, or a quadricycle.

(3) (a) Except as provided in 61-3-472 through 61-3-481 and 61-3-562, a person who receives generic specialty license plates is subject to the same rules and laws as those that govern ~~number~~ *standard license* plates.

(b) Except as provided in 61-3-472 through 61-3-481 and 61-3-562, the department is subject to the same rules and laws that govern the issuance of ~~number~~ *standard license* plates.

(c) Generic specialty license plates issued under 61-3-472 through 61-3-481 are not subject to any maximum issuance or use limitation that may be imposed on ~~number~~ *standard license* plates.

(4) A person may combine an application for a generic specialty license plate with an application for a license plate with a design bearing a representation of a wheelchair as the symbol of a person with a disability as provided in ~~61-3-332(11)~~ *61-3-332(9)*.”

**Section 88.** Section 61-3-481, MCA, is amended to read:

**“61-3-481. Generic specialty license plates — restrictions on use.** (1) Generic specialty license plates may be issued by the department in conjunction with the registration of any vehicle, except a trailer of any size, a motorcycle, or a quadricycle. The department may not issue generic specialty license plates without the motor vehicle having been registered.

(2) Generic specialty license plates may be used only as the official ~~number~~ *license* plates for a motor vehicle.”

**Section 89.** Section 61-3-501, MCA, is amended to read:

**“61-3-501. When *motor vehicle taxes and fees are due.*** (1) ~~Light Motor~~ vehicle registration fees, local option vehicle taxes or fees, fees in lieu of tax, and other fees must be paid on the date of registration or ~~reregistration~~ *renewal of registration* of the *motor* vehicle.

~~(2) (a) If the anniversary date for reregistration of a vehicle passes while the vehicle is owned and held for sale by a licensed new or used car dealer, light vehicle registration fees, local option vehicle taxes or fees, or fees in lieu of tax abate on the vehicle properly reported with the county treasurer until the vehicle is the subject of a retail sale. After the sale, the purchaser shall pay the pro rata balance of the light vehicle registration fees, local option vehicle taxes or fees, or fees in lieu of tax due and owing on the vehicle.~~

~~(b) A person selling a vehicle or trading a vehicle to a dealer shall disclose to the purchaser any amount of taxes or fees in lieu of tax that are due or past due on the vehicle at the time the person sells a vehicle or trades a vehicle to a dealer. If the disclosure is not made, the person selling the vehicle or trading the vehicle to the dealer shall pay the taxes or fees. Taxes or fees in lieu of tax that are due or past due on a vehicle at the time that a person sells or trades the vehicle to a dealer must be paid by the person who sold or traded the vehicle to the dealer, unless the person who purchases the vehicle from the dealer agrees in writing to assume the payment of those taxes or fees. This subsection (2)(b) does not apply to fleet vehicles, leased vehicles, or rental return vehicles.~~

~~(c) For the purposes of this subsection (2), a retail sale does not include a transfer between any of the following:~~

- ~~(i) a licensed new motor vehicle or used motor vehicle dealer;~~
- ~~(ii) another licensed new motor vehicle or used motor vehicle dealer;~~
- ~~(iii) a licensed wholesaler; or~~
- ~~(iv) a licensed auto auction.~~

~~(3) In the event that a vehicle’s registration period is changed under 61-3-315, all light vehicle registration fees, local option vehicle taxes or fees, fees~~

~~in lieu of tax, and other fees due must be prorated and paid from the last day of the old period until the first day of the new period in which the vehicle is registered. The light vehicle registration fees, local option vehicle taxes or fees, fees in lieu of tax, and other fees must be paid from the first day of the new period for a minimum period of 1 year. When the change is to a later registration period, light vehicle registration fees, local option vehicle taxes or fees, and other fees must be prorated and paid based on the same tax year as the original registration period. Thereafter, during the appropriate anniversary registration period, each vehicle must again be registered or reregistered and all light vehicle registration fees, local option vehicle taxes or fees, and other fees must be paid for a 12-month period.~~

*(2) Motor vehicle registration fees, fees in lieu of tax, and local option taxes or fees imposed under this chapter do not accrue after ownership of the vehicle has been transferred to another person.*

*(3) (a) For purposes of this chapter and except as provided in subsection (3)(b), the age of a motor vehicle is determined by subtracting the manufacturer's designated model year from the current calendar year.*

*(b) If the purchase year of a motor home precedes the designated model year of the motor home and the motor home is originally titled in Montana, then the purchase year is considered the model year for calculating the age of the motor home under 61-3-522."*

**Section 90.** Section 61-3-503, MCA, is amended to read:

**"61-3-503. Assessment.** (1) *(a) Except as provided in 61-3-520 and subsection (4) of this section, the following apply to the taxation of motor vehicles:*

~~*(a) For the purposes of imposing the local option vehicle tax under 61-3-537, light vehicles subject to the provisions of 61-3-313 through 61-3-316 a local option vehicle tax under 61-3-537 must be assessed the tax as of the first day of the registration period, using the depreciated value of the manufacturer's suggested retail price as determined in subsection (2).*~~

*(b) A lien for taxes and fees due on the vehicle occurs on the anniversary date of the registration and continues until the fees and taxes have been paid. If the depreciated value is less than \$500, the department shall value the vehicle at \$500.*

*(2) (a) Except as provided in subsections (2)(c) and (2)(d), the depreciated value for the taxation of light vehicles is computed by multiplying the manufacturer's suggested retail price by a percentage multiplier based on the type and age of the vehicle determined from the following table:*

Age of Vehicle (in years)	Type of Vehicle			
	Automobile	Truck	Van	Sport Utility
-1	100%	100%	100%	100%
0	90	96	93	98
1	80	91	86	94
2	69	86	78	90
3	58	80	69	84
4	49	73	60	76
5	41	66	52	67

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6	33	57	45	57
7	26	49	38	48
8	21	43	32	39
9	17	37	27	33
10	14	31	22	29
11	12	26	18	25
12	10	22	15	22
13	09	18	13	21
14	09	15	11	19
15	09	13	09	17
16	09	12	09	15

(b) The age for the light vehicle is determined by subtracting the manufacturer's model year of the vehicle from the calendar year for which the tax is due under 61-3-501.

(c) If the value of the vehicle determined under subsection (2)(a) is \$500 or less, the value of the vehicle is \$500 and the value must remain at that amount as long as the vehicle is registered.

(d) The depreciated value of a light vehicle that is 17 years old or older is computed by depreciating the value obtained for the vehicle at 16 years old, as determined under subsection (2)(a), by 10% a year until a minimum value of \$500 is attained. The value must remain at that amount as long as the vehicle is registered.

(3) (a) For the purposes of this section, "manufacturer's suggested retail price" means the price suggested by the manufacturer for each given type, style, or model of light vehicle produced and first made available for retail sale by the manufacturer.

(b) The manufacturer's suggested retail price is based on standard equipment of a vehicle and does not contain price additions or deductions for optional accessories.

(c) When a manufacturer's suggested retail price is unavailable for a motor vehicle, the department shall determine an alternative valuation for the vehicle.

~~(4) The provisions of subsections (1) through (3) do not apply to buses, trucks having a manufacturer's rated capacity of more than 1 ton, truck tractors, motorcycles, motor homes, quadricycles, travel trailers, campers, mobile homes or manufactured homes as those terms are defined in 15-1-101(1).~~

**Section 91.** Section 61-3-520, MCA, is amended to read:

**"61-3-520. Fees on vehicles used exclusively in filming motion pictures or television commercials.** (1) A vehicle used exclusively in the filming of motion pictures or television commercials that has been in the state for a period exceeding 180 consecutive days in a calendar year is subject to a ~~applicable~~ registration fee under 61-3-560 and 61-3-561 fees, including one-time registration fees for vehicles subject to permanent registration or a fee in lieu of tax under this chapter as if the vehicle were not used exclusively for filming motion pictures or television commercials, but the registration fee fees or fee fees in lieu of tax must be prorated as provided in subsection (2).

(2) (a) The registration fees or the fees in lieu of tax imposed under subsection (1) must be prorated by dividing the number of days in excess of 180 consecutive days in the calendar year by 365.

(b) Fees on a vehicle imposed pursuant to this section must be collected as provided in this chapter.”

**Section 92.** Section 61-3-522, MCA, is amended to read:

**“61-3-522. Schedule of fees for motor homes.** (1) The owner of a motor home shall pay ~~a~~ *an annual fee in lieu of tax* based on the age of the motor home according to the following schedule:

less than 2 years old .....	\$250
2 years old and less than 3 years old .....	230
3 years old and less than 4 years old .....	195
4 years old and less than 5 years old .....	150
5 years old and less than 6 years old .....	125
6 years old and less than 7 years old .....	100
7 years old and less than 8 years old .....	75
8 years old and older .....	65

(2) ~~(a) Except as provided in subsection (2)(b), the~~ *The age of a motor home is must be determined by subtracting the manufacturer’s designated model year from the current calendar year under 61-3-501.*

~~(b) If the purchase year of a motor home precedes the designated model year of the motor home and the motor home is originally titled in Montana, then the purchase year is considered the model year for the purposes of calculating the fee in lieu of tax.”~~

**Section 93.** Section 61-3-527, MCA, is amended to read:

**“61-3-527. One-time fee in lieu of tax for motorcycles and quadricycles — permanent registration.** (1) ~~(a) There~~ *Except as provided in subsection (2), there* is a one-time fee in lieu of property tax of ~~\$20 in calendar year 2004 and, in each subsequent year,~~ \$40 imposed on motorcycles and quadricycles that are subject to one-time registration. The fee is in addition to registration fees.

(b) The fee imposed by subsection (1)(a) is not required to be paid by a dealer for motorcycles or quadricycles that constitute inventory of the dealership.

(2) The owner of a motorcycle or quadricycle with *a special license plates* issued under 61-3-415 shall pay ~~an annual fee based on the age of the motorcycle or quadricycle and the size of the engine, according to the following schedule:~~

~~(a) The fee schedule for a motorcycle or quadricycle with an engine that measures from 1 cubic centimeter to 600 cubic centimeters is as follows:~~

~~(i) less than 5 years old, \$30;~~

~~(ii) 5 years old but less than 11 years old, \$15; and~~

~~(iii) 11 years old and older, \$6~~ *the \$40 one-time registration fee imposed under subsection (1), the \$1.25 one-time fee imposed under subsection (3), and the fees imposed under 61-3-415.*

~~(b) The fee schedule for a motorcycle or quadricycle with an engine that measures from 601 cubic centimeters to 1,000 cubic centimeters is as follows:~~

- ~~(i) less than 5 years old, \$55;~~
- ~~(ii) 5 years old but less than 11 years old, \$20; and~~
- ~~(iii) 11 years old and older, \$6.~~

~~(c) The fee schedule for a motorcycle or quadricycle with an engine that measures 1,001 cubic centimeters and larger is as follows:~~

- ~~(i) less than 5 years old, \$90;~~
- ~~(ii) 5 years old but less than 11 years old, \$50; and~~
- ~~(iii) 11 years old and older, \$6.~~

~~(3) (a) Except as provided in subsection (3)(b), the age of a motorcycle or quadricycle is determined by subtracting the manufacturer's designated model year from the current calendar year.~~

~~(b) If the purchase year of a motorcycle or quadricycle precedes the designated model year of the motorcycle or quadricycle and the motorcycle or quadricycle is originally titled in Montana, then the purchase year is considered the model year for the purposes of calculating the fee in lieu of tax.~~

~~(4)(3) A person who registers a motorcycle or quadricycle as provided in this section shall pay an additional one-time fee of \$1.25 at the time of registration for deposit in the state general fund. The department shall pay from the general fund an amount equal to the \$1.25 fee collected under this subsection from each vehicle registration to the pension trust fund for payment of supplemental benefits provided for in 19-6-709.~~

~~(5)(4) Whenever a transfer of ownership of a motorcycle or quadricycle occurs, the one-time fees required under this section must be paid by the new owner. (Subsection (4) (3) terminates on occurrence of contingency—sec. 24, Ch. 191, L. 2001.)”~~

**Section 94.** Section 61-3-529, MCA, is amended to read:

**“61-3-529. Schedule of fees for buses, motor vehicles having rated capacity of more than 1 ton, and truck tractors — proration — exemption.** (1) (a) There is ~~a~~ *an annual* fee in lieu of property tax imposed on buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors. The fee is in addition to annual registration fees.

(b) The fee imposed by subsection (1)(a) is not required to be paid by a dealer of buses, trucks, or truck tractors that constitute inventory of the dealership.

(2) Subject to the conditions of subsection (4), the owner of a bus, truck with a manufacturer's rated capacity of more than 1 ton, or truck tractor shall pay a fee in lieu of tax based on the age and manufacturer's rated capacity of the vehicle according to the following schedule:

Age of Vehicle (in years)	Rated Capacity (in pounds)			
	16,999 or less	17,000-26,999	27,000-54,999	55,000 or more
1 or less	\$117	\$167	\$284	\$375
2	109	150	250	300
3	100	134	220	266
4	92	117	184	242
5	83	109	160	195

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6	75	100	134	167
7	66	91	117	147
8	58	83	100	125
9	50	75	92	109
10	41	58	79	92
11-12	33	50	67	76
13-14	28	37	52	61
15-16	25	30	38	47
17-18	18	26	29	36
19-20	13	19	22	26
21 or more	10	12	16	20

(3) The age of the vehicle ~~is must be determined by subtracting the manufacturer's model year of the vehicle from the calendar year for which the fee in lieu of tax is due under 61-3-501.~~

(4) (a) The manufacturer's rated capacity for a bus or truck with a manufacturer's rated capacity of more than 1 ton is the manufacturer's rated gross vehicle weight.

(b) The manufacturer's rated capacity for a truck tractor is the manufacturer's rated gross combined weight.

~~(5) A motor vehicle brought into the state or otherwise used for the exclusive purpose of filming motion pictures or television commercials is exempt from the fee in lieu of tax if the vehicle does not remain in the state for a period in excess of 180 consecutive days in a calendar year.~~

~~(6)(5) Except as provided in 61-3-520, the fee in lieu of tax on a vehicle subject to this section that is brought or driven into this state by a nonresident person for hire, compensation, or profit must be prorated according to the ratio that the remaining number of months in the year bears to the total number of months in the year as determined and paid under 61-3-701.~~

~~(7) (a) The fee in lieu of tax on a vehicle subject to this section that is registered in the state for the first time must be prorated as provided in subsection (6).~~

~~(b) The fee in lieu of tax on a vehicle subject to this section that is reregistered in the state is for a full year.~~

~~(8)(6) The fee in lieu of tax may not be refunded."~~

**Section 95.** Section 61-3-535, MCA, is amended to read:

**"61-3-535. Vehicle reregistration by mail renewal — reminder notice and reregistration notice renewal by mail.** (1) The department may allow the owner of a motor vehicle ~~to subject to renewal of registration under 61-3-312~~ may renew the registration of a vehicle by mail or by electronic methods when the value, age, length, weight, or other criteria used to determine the tax or fee for a particular type of vehicle is available to the department by electronic means.

(2) Any mail ~~reregistration~~ *renewal* procedure developed by the department must include a procedure to facilitate automated handling of mail ~~reregistration~~ *renewal* and must provide for a written reminder notice by mail to a vehicle

owner of the requirement to ~~reregister the owner's vehicle with the county treasurer or to apply for the annual~~ *renew the vehicle's* registration decal.

~~(3) The department shall adopt rules to implement the mail reregistration and registration decal application procedure."~~

**Section 96.** Section 61-3-560, MCA, is amended to read:

**"61-3-560. Light vehicle registration fee — exemptions — 24-month registration.** (1) Except as provided in subsections (2) and (3), there is ~~a~~ *an* annual registration fee imposed on light vehicles. The registration fee is in addition to other annual registration fees.

(2) The following vehicles are exempt from the fee imposed in subsection (1):

(a) light vehicles that meet the description of property exempt from taxation under 15-6-201(1)(a), (1)(c) through (1)(e), (1)(g), (1)(m), (1)(o), (1)(q), or (1)(w), 15-6-203, or 15-6-215, except as provided in 61-3-520;

(b) a light vehicle owned by a person eligible for a waiver of registration fees under 61-3-460;

(c) a light vehicle registered under 61-3-456.

(3) A dealer for light vehicles is not required to pay the registration fee for light vehicles that constitute inventory of the dealership ~~and that are reported under 61-3-501.~~

~~(4) The owner of a light vehicle subject to the provisions of 61-3-313 through 61-3-316 may register the light vehicle for a period not to exceed 24 months. The application for registration or reregistration must be accompanied by the registration fee and all other fees required in this chapter for each 12-month period of the 24-month period. However, the registration fees required under 61-3-321(1)(a) or (1)(b) paid at the time of registration or reregistration apply for the entire registration period."~~

**Section 97.** Section 61-3-561, MCA, is amended to read:

**"61-3-561. Schedule of fees for light vehicles — limitation on fee — payment of fee required for operation.** (1) The following schedule, based on vehicle age, is used to determine the annual registration fee imposed by 61-3-560:

Vehicle Age (in years)	Annual Fee
4 or less	\$195
5-10	65
11 or more	6

(2) A light vehicle subject to the registration fee imposed by 61-3-560 may not be operated unless the fee has been paid and the vehicle is licensed. A lien for fees due on the vehicle occurs on the anniversary date of the registration and continues until the fees have been paid.

~~(3) For the purposes of this section, "vehicle age" means the *The* age of the *light* vehicle *must be* determined by subtracting the manufacturer's model year of the vehicle from the calendar year for which the registration fee is due under 61-3-501."~~

**Section 98.** Section 61-3-562, MCA, is amended to read:

**"61-3-562. Permanent registration — transfer of vehicle ownership — rules.** (1) (a) Except as provided in subsection (1)(c), the owner of a light

vehicle 11 years old or older subject to the registration fee, as provided in 61-3-561, may permanently register the vehicle upon payment of a \$50 registration fee, the applicable registration and license fees under 61-3-321 and 61-3-412, and an amount equal to five times the applicable fees imposed for each of the following:

- ~~(i) junk vehicle disposal fees under 15-1-122(3)(a);~~
- ~~(ii) weed control fees under 15-1-122(3)(b);~~
- (iii) the former county motor vehicle computer fees under 61-3-511;
- ~~(iv)~~(i) the local option vehicle tax or flat fee on vehicles under 61-3-537;
- ~~(v)~~(ii) if applicable, ~~special license plate fees under 61-3-332~~ and renewal fees for personalized plates under 61-3-406; and
- ~~(vi)~~(iii) senior citizens and persons with disabilities transportation services fees as provided in ~~61-3-321(6)~~ 61-3-321(5).

(b) A person who permanently registers a vehicle as provided in subsection (1)(a) shall pay an additional \$2 fee at the time of registration for deposit in the state general fund. The department shall pay from the general fund an amount equal to the \$2 fee collected under this subsection (1)(b) from each motor vehicle registration to the pension trust fund for payment of supplemental benefits provided for in 19-6-709.

(c) The following series of license plates may not be used for purposes of permanent registration of a vehicle:

- (i) Montana national guard license plates issued under 61-3-458(2)(b);
- (ii) reserve armed forces license plates issued under 61-3-458(2)(c);
- ~~(iii) license plates bearing a wheelchair design as a symbol of a person with a disability issued under 61-3-332(11);~~
- ~~(iv)~~(iii) amateur radio operator license plates issued under 61-3-422;
- ~~(v)~~(iv) collegiate license plates issued under 61-3-465; and
- ~~(vi)~~(v) generic specialty license plates issued under 61-3-479.

(2) In addition to the fees described in subsection (1), an owner of a truck with a manufacturer's rated capacity of 1 ton or less that is permanently registered shall pay five times the applicable fees imposed under 61-10-201.

(3) The owner of a *motor* vehicle that is permanently registered under this section is not subject to additional fees under 61-3-561 or to other motor vehicle registration fees described in this section for as long as the owner owns the vehicle.

(4) The county treasurer shall:

(a) distribute the \$50 registration fee collected under this section as provided in 61-3-509;

(b) once each month, remit to the department of revenue the amounts collected under this section, other than the local option vehicle tax or flat fee, for the purposes of ~~61-3-321(3)~~ 61-3-321(2) and 61-10-201. The county treasurer shall retain the local option vehicle tax or flat fee.

(5) (a) The permanent registration of a *motor* vehicle allowed by this section may not be transferred to a new owner. If the vehicle is transferred to a new owner, the department shall cancel the vehicle's permanent registration.

(b) Upon transfer of a *motor* vehicle registered under this section to a new owner, the new owner shall apply for a certificate of title under 61-3-201 and 61-3-216 and file an application for registration register the motor vehicle under 61-3-303. (Subsection (1)(b) terminates on occurrence of contingency—sec. 24, Ch. 191, L. 2001.)”

**Section 99.** Section 61-3-701, MCA, is amended to read:

**“61-3-701. Out-of-state vehicles used in gainful occupation to be registered — reciprocity.** (1) ~~Before~~ A person may not operate a motor vehicle that is registered in another jurisdiction ~~may be operated~~ on the highways of this state ~~if the motor vehicle is used~~ for hire, compensation, or profit or ~~before the owner or user of the vehicle uses the vehicle~~ if the owner or user person is engaged in gainful occupation or business enterprise in the state, including highway work, ~~the owner of the vehicle shall register~~ unless the motor vehicle is registered at the office of a county treasurer or an authorized agent of the department. Upon satisfactory evidence of ownership submitted to the county treasurer or the department’s authorized agent and the payment of fees in lieu of taxes or registration fees, if appropriate, as required by ~~15-8-201, 15-8-202, 15-24-301~~ 61-3-321, 61-3-529, 61-3-537, or 61-3-560 and 61-3-561, the treasurer or authorized agent shall enter the vehicle for registration purposes only on the electronic registry maintained by the department under 61-3-101. *One-fourth of the annual fees or taxes due on the motor vehicle subject to registration under this section must be paid for each calendar quarter or portion of a calendar quarter for the year that the motor vehicle will be located or operated in Montana.*

(2) Upon payment of the fees or taxes, the treasurer or the department’s authorized agent shall issue to the *motor* vehicle owner a registration receipt, ~~and the proper license plates, or other identification markers and a registration decal indicating the calendar quarter and year for which the motor vehicle is registered.~~ The license plates, *with attached registration decal, or identification markers* must at all times be displayed upon the *motor* vehicle when operated or driven upon roads and highways of this state during the registration period indicated on the receipt.

(3) The registration receipt does not constitute evidence of ownership but must be used only for registration purposes. A Montana certificate of title may not be issued for a *motor* vehicle registered under this section.

(4) This section is not applicable to a *motor* vehicle covered by a valid and existing reciprocal agreement or declaration entered into under Montana law.”

**Section 100.** Section 61-3-707, MCA, is amended to read:

**“61-3-707. Foreign vehicles used for transportation in connection with employment Health care professional exception.** (1) (a) ~~Before a motor vehicle that has been assessed a fee pursuant to 15-24-301(4) may be operated in Montana for a calendar quarter, the person responsible for payment of fees shall apply for and obtain a window decal provided by the department.~~

~~(b) Decals must be color coded to distinguish the four quarterly registration periods of the year.~~

~~(c) An applicant may purchase a decal for more than one registration quarter at a time by paying the appropriate amount.~~

~~(d) There is a \$2 fee for each decal, and money collected from this fee must be deposited to the state general fund. The \$2 fee is in addition to the registration fee.~~

~~(c) A current window decal must be displayed on the lower right hand corner of the windshield.~~

~~(2) (a)(1)~~ Before a motor vehicle exempted pursuant to 15-6-217 may be operated in Montana, the person responsible for the motor vehicle shall apply for and obtain a window decal from the county treasurer. *The fee for the decal is \$2, which must be remitted to the state and deposited in the state general fund.* The department shall supply the decals to the county treasurers.

~~(b)(2)~~ An application approved by the department must include a verification from the employer that the person is employed by a Montana health care facility that is located in an area that has been:

~~(i)(a)~~ designated by the secretary of the federal department of health and human services as a health professional shortage area, as provided in 42 U.S.C. 254(e); or

~~(ii)(b)~~ determined to have a critical shortage of nurses, as provided in 42 U.S.C. 297n(a)(3).

~~(e)(3)~~ Decals expire each year on December 31 of the year in which issued, and application for ~~reregistration~~ *renewal of registration* must be filed with the county treasurer no later than February 15 of each year. Decals must be color-coded to distinguish the year.

~~(d)(4)~~ A current window decal must be displayed on the lower right-hand corner of the windshield.”

**Section 101.** Section 61-3-721, MCA, is amended to read:

**“61-3-721. Proportional registration of fleet vehicles, registration periods, application, fee formula, and payment — transfer of ownership — transfer of license plates.** (1) An owner of one or more fleets may register and license each fleet for operation in this state by filing an application with the department of transportation. The application must contain the information pertinent to vehicle registration that is required by the department of transportation. *If an electronic record of title has not been created for or a certificate of title issued for an apportionable vehicle in the fleet, the department of transportation, as an authorized agent of the department of justice, may also process the application for certificate of title for the vehicle as provided in 61-3-203 and 61-3-217.*

(2) Each fleet subject to the provisions of 61-3-711 through 61-3-733 must, except as provided in 61-3-318(1) and subsection (6) of this section, be registered for an annual registration period based upon the date that the fleet is first registered in this state.

(3) There are four annual registration periods, each of which begins on the first day of a calendar quarter. As used in this subsection, “calendar quarter” means the period of 3 consecutive months ending March 31, June 30, September 30, or December 31. The periods are:

- (a) January 1 through March 31.....1st period
- (b) April 1 through June 30 .....2nd period
- (c) July 1 through September 30 .....3rd period
- (d) October 1 through December 31 .....4th period

(4) Registration of a fleet of apportionable vehicles under subsection (2) must be renewed on or before the last day of the month for the designated annual registration period unless a different registration period has been authorized

pursuant to 61-3-716(2). The department shall provide for simultaneous registration of multiple fleets of apportionable vehicles in common ownership.

(5) Except as provided in subsection (6), the application for each fleet may be accompanied by a fee payment computed by:

(a) dividing in-state miles by total fleet miles as defined in the applicable agreement entered into pursuant to 61-3-711 through 61-3-733;

(b) determining the total amount necessary to register each vehicle in the fleet for which registration is requested, based on the regular annual registration fees prescribed by 61-3-321 and chapter 10, part 2, and the property taxes that are due on the fleet;

(c) multiplying the sum obtained under subsection (5)(b) by the fraction obtained under subsection (5)(a).

(6) (a) Each trailer and semitrailer fleet must be registered for a 5-year period based upon the date that the fleet is first registered in this state.

(b) Each trailer and semitrailer in the fleet for which registration is requested must be assessed a registration fee equal to five times the amount prescribed by 61-3-321.

(c) Each trailer or semitrailer must be issued a license plate, a distinctive sticker, or other suitable identification device valid for 5 years from the date of the original application or renewal application.

(d) Registration of a trailer or semitrailer must be renewed on or before the last day of the month for the designated 5-year registration period.

(7) Upon the transfer of ownership of a trailer or semitrailer, the registration of the trailer or semitrailer expires and it is the duty of the transferor to immediately remove the license plates from the trailer or semitrailer.

(8) (a) If the transferor applies for the registration of another trailer or semitrailer at any time during the remainder of the current registration period as shown on the original registration, the transferor may file an application with the department of transportation, accompanied by the original certificate of registration, for the transfer of the license plates. The application for transfer of the license plates must be made by the person or motor carrier in whose name the original license plates to the trailer or semitrailer were issued. The use of the license plates is not legal until the proper transfer of license plates has been made.

(b) License plates may be transferred pursuant to this section without transferring ownership of the trailer or semitrailer for which the license plates were originally issued.

(c) Upon transfer of the license plates, the registration of the trailer or semitrailer from which the license plates were transferred expires. The registration for the trailer or semitrailer must be surrendered to the department of transportation with the application for transfer.

(d) License plates issued for a trailer or semitrailer under this section may be transferred only to a replacement trailer or semitrailer. A license plate fee may not be assessed upon transfer of a license plate.

(9) Applications submitted with fees may be recomputed by the department of transportation. The department of transportation shall furnish a statement showing the overpayment or balance due.

(10) Applications submitted without fees must be computed by the department of transportation. The department of transportation shall furnish a statement showing the amount of fees due.”

**Section 102.** Section 61-4-101, MCA, is amended to read:

**“61-4-101. Dealer’s license — types of licenses and terms — plates — bonds — zoning.** (1) Except as provided in 61-4-125, a person may not engage in the business of buying, selling, exchanging, accepting on consignment, or acting as a broker of a new motor vehicle or used motor vehicle, new or used recreational vehicle, trailer (except a trailer having an unloaded weight of less than 500 pounds), motorcycle, quadricycle, or special mobile equipment that is not registered in the person’s name, unless the person is the holder of a dealer’s license issued by the department under this part.

(2) (a) The department is authorized to issue a dealer’s license for one or more specified vehicle types to any person it determines is qualified to hold a license under the provisions of this section. A dealer’s license may be issued for, and restricted to, one or more of the following vehicle types:

(i) new motor ~~vehicle~~ *vehicles, including new trucks, buses, and light vehicles covered under the franchise the dealer holds as franchisee and used trucks, buses, recreational vehicles, light vehicles, and trailers;*

(ii) used motor ~~vehicle~~ *vehicles, including used trucks, buses, and light vehicles;*

(iii) new recreational ~~vehicle~~ *vehicles, including new motor homes and travel trailers covered under the franchise the dealer holds as franchisee and used motor homes and travel trailers;*

(iv) used recreational ~~vehicle~~ *vehicles, including used motor homes and travel trailers;*

(v) ~~trailer~~ *trailers, including semitrailers and pole trailers, but excluding travel trailers;*

(vi) ~~or~~ special mobile equipment; or

~~(vii) motorcycle~~ *motorcycles or quadricycle quadricycles, including new or used motorcycles or quadricycles, but excluding new off-highway vehicles unless the dealer is licensed under Title 23.*

(b) The department shall design and issue dealer and demonstrator plates as provided in 61-4-102 and 61-4-129.

~~(c) With the exception of a licensed new motor vehicle dealer, a~~ A dealer licensed for a particular type of vehicle may sell, trade, or accept on consignment only vehicles of the type for which the license is authorized, ~~unless the dealer’s license specifically refers to more than one vehicle type, such as a motorcycle or quadricycle license under subsection (2)(a). A new motor vehicle dealer is authorized to sell, trade, or accept on consignment new motor vehicles or used motor vehicles.~~

(d) Subject to the provisions of 61-4-124, a dealer’s license issued by the department is valid until:

(i) voluntarily returned to the department for surrender and cancellation upon the cessation of the dealer’s business operations; or

(ii) suspended or revoked for a violation of this chapter or any other laws relating to the sale of motor vehicles.

(3) (a) An applicant for a dealer's license shall submit a written application for a dealer's license to the department, specifying the type or types of dealer's license sought. The application must be signed by the applicant and contain a verification by the applicant, under penalty of law, that the information contained in the application is true and correct. Any information provided in the license application process is subject to independent verification by the department or an authorized representative of the department.

(b) After examining a license application and conducting an investigation necessary to verify the information contained in the application and if the department is satisfied that the applicant qualifies for the issuance of a license under the provisions of this chapter, the department may issue the license. The department may refuse, after examination and investigation, to issue a license to an applicant who is not qualified for licensure or whose prior financial or other activities or criminal record, as determined by the department:

(i) poses a threat to the effective regulation of dealers, wholesalers, or auto auctions;

(ii) poses a threat to the public interest of the state; or

(iii) creates a danger of illegal or deceptive practices being used in the conduct of the proposed dealership, wholesaler, or auto auction.

(4) To be qualified for licensure as a dealer, an applicant shall provide to the department the following:

(a) the name under which the applicant intends to conduct business and the name, address, date of birth, and social security number of any person who possesses or will possess an ownership interest in the business for which the license is sought. If the applicant is a corporation, the personal information required in this subsection (4)(a) must be provided for each corporate officer and the person designated by the corporation to manage or oversee the dealership.

(b) for each person subject to the provisions of subsection (4)(a), information concerning whether the person has:

(i) an ownership interest in a vehicle dealership or a wholesaler business in Montana or another jurisdiction and, if so, the name and address of each dealership or wholesaler; and

(ii) been found guilty of, or pleaded guilty to, a felony in this or any other jurisdiction and, if so, shall provide a summary of the conduct resulting in the felony charge, including the dates of the conduct and any court proceedings pertaining to the conduct and the name and address of any court in which the matter was heard;

(c) the name, address, and telephone number of the insurance carrier from whom the applicant has acquired general liability insurance, naming the department as a certificate holder of the policy, and the name, address, and telephone number of the local insurance agent for the carrier and the applicant's policy number. The insurance must cover any vehicle bearing dealer or demonstrator license plates that is offered for demonstration or loan to, or otherwise operated by, a customer in the regular course of the applicant's business and must be for a minimum of 1 year;

(d) the geographic location of the physical lot or lots upon which vehicles will be displayed for sale and of a permanent nonresidential building that will be maintained to store the actual physical or electronic records resulting from the purchase, sale, trade, or consignment of vehicles for which licensure is sought.

An applicant may use more than one location to display vehicles for sale if the maximum distance between each display lot does not exceed 200 feet and if the distance between a display lot and the building in which vehicle sales records are stored does not exceed 1,000 feet.

(e) for each geographic location specified in the application, evidence of the applicant's compliance with applicable local land use planning, zoning, and business permitting requirements, if any. Evidence of compliance may be documented by means of a written verification of compliance signed by the authorized representative of the local land use planning or zoning board or the local business permitting agency.

(f) a diagram or plat showing the geographic location, lot dimensions, and building and sign placement for the applicant's proposed established place of business, along with two or more photographs of the geographic location, building premises, and sign, as prescribed by the department;

(g) a certification by the applicant that the applicant is a bona fide dealer in new motor vehicles, used motor vehicles, *new recreational vehicles*, used recreational vehicles, trailers, motorcycles, quadricycles, or special mobile equipment;

(h) if the applicant is seeking a new motor vehicle dealer's license:

(i) the name and address of the manufacturer, importer, or distributor with whom the applicant has a written new motor vehicle franchise or sales agreement and the name and make of all motor vehicles to be handled by the applicant;

(ii) the geographic location or locations, specified in writing, upon which the applicant will provide and maintain a permanent building to display and sell new motor vehicles and offer and maintain a bona fide service department for the repair, service, and maintenance of the motor vehicles; and

(iii) verification that the applicant otherwise meets the requirements of part 2 of this chapter; and

(i) if the applicant is applying for a new recreational vehicle dealer's license, certification that the person is recognized by a manufacturer, importer, or distributor as a dealer in new recreational vehicles.

(5) If an applicant for a new motor vehicle or used motor vehicle, new or used recreational vehicle, or trailer dealer's license wants to maintain more than one established place of business, the applicant shall file a separate license application for each proposed place of business and otherwise qualify for licensure at each place separately.

(6) Each application under this section must be accompanied by an application fee of \$5 and one or more of the following license fees based on the type of dealer's license being sought:

- (a) \$25 for a new motor vehicle dealer's license;
- (b) \$25 for a used motor vehicle dealer's license;
- (c) \$25 for a new or used recreational vehicle dealer's license; or
- (d) \$25 for a motorcycle or trailer dealer's license.

(7) The applicant for a dealer's license shall also file with the application a bond of \$50,000 for a license as a new motor vehicle dealer, a used motor vehicle dealer, a new or used recreational vehicle dealer, or a trailer dealer. Applicants for a motorcycle dealer's license shall file a bond in the sum of \$15,000. All bonds

must be conditioned that the applicant shall conduct the business in accordance with the requirements of the law. The bond may extend to any other type of dealer license issued to the applicant at the same geographic location if all types of licenses are indicated on the face of the bond. All bonds must be approved by the department, must be filed in its office, and must be renewed annually.”

**Section 103.** Section 61-4-102, MCA, is amended to read:

**“61-4-102. Dealer’s license numbers — assignment, numbering, and limitation of dealer plates — restriction of use — fees.** (1) Upon the licensing of a dealer, the department shall assign to the dealer a distinctive serial license number as a dealer and furnish the dealer with one or more sets of numbered dealer plates in accordance with the provisions of this section.

(2) (a) Dealer plates designed by the department must be similar to the ~~numbered~~ *standard license* plates furnished to owners of motor vehicles under 61-3-332, but they must bear:

(i) the license number assigned to the dealer;

(ii) an abbreviation for the vehicle type of the dealer’s license issued, as follows:

(A) the letter “D” for a new motor vehicle dealer;

(B) the letters “UD” for a used motor vehicle dealer; or

(C) the letters “RV” for a new or used recreational vehicle dealer; and

(iii) the actual number of sets of dealer plates issued to the dealer.

(b) Dealer plates may not be issued to a motorcycle or trailer dealer or a wholesaler.

(3) Dealer plates must contain the prefix of the county in which the dealer’s established place of business is located, followed by the dealer’s license type abbreviation, the dealer’s license number, and the number of sets of dealer plates issued to that dealer. For example, new motor vehicle dealer number 4 in Lewis and Clark County would be numbered 5D-4, and if the dealer were issued three sets of dealer plates, they would be numbered consecutively as follows, 5D-4-1, 5D-4-2, and 5D-4-3.

(4) (a) In addition to the fees required under the provisions of 61-4-101 and 61-4-124, an applicant for a dealer’s license shall pay an annual fee of \$25 for each set of numbered dealer plates requested and issued.

(b) The number of dealer plates that may be issued to a dealer must be determined as follows:

(i) a dealer is entitled to one set of dealer plates upon the issuance of an original license or a renewed license;

(ii) an applicant qualified for a license renewal is entitled to additional sets of numbered plates based on the following formula:

(A) 5% of the first 100 vehicle sales for the previous year; plus

(B) 3% of the next 100 vehicle sales for the previous year; plus

(C) 2% of vehicle sales in excess of 200 for the previous year; and

(iii) a dealer is entitled to additional sets of dealer plates during a license term as the dealer’s sales incrementally meet or exceed the requirements of the formula established in subsection (4)(b)(ii). However, the aggregate number of sets of dealer plates issued to a dealer under this subsection (4)(b)(iii) may not exceed the combined number allowed under subsections (4)(b)(i) and (4)(b)(ii).

(5) (a) A dealer is authorized to use and display dealer plates on a motor vehicle held for bona fide sale by the dealer and that is operated by or under the control of the dealer, the dealer's spouse, officers, or employees.

(b) For purposes of this subsection (5):

(i) the term "officers" includes only the persons listed on the manufacturer's franchise agreement or the importer's distribution agreement and the term "employees" means persons upon whom the dealer has paid social security taxes as a full-time employee; and

(ii) the display of a Monroney label or a buyer's guide label, as required by 61-4-123(2), on a vehicle bearing dealer plates is prima facie evidence that the vehicle is offered for bona fide sale by the dealer.

(6) Dealer plates may not be used or displayed on vehicles used for hire, lease, or rental.

(7) (a) A dealer is accountable for each set of numbered dealer plates issued and, except as provided in subsection (7)(b), shall file an annual report with the department certifying the disposition of each set of dealer plates assigned to the dealer and specifying the name, address, and occupation of the person primarily using each set of plates.

(b) Upon reassignment of one or more sets of dealer plates to another person, within 15 days of the reassignment, the dealer shall notify the department, in a manner prescribed by the department, of the name, address, and occupation of the person to whom the plates were assigned.

(8) (a) All numbered dealer plates expire on December 31 of the year of issue and must be renewed annually.

(b) A dealer who files the annual report required under 61-4-124 on or before December 31 of the calendar year may display or use dealer plates assigned and registered for the prior calendar year through the last day of February of the following year, as provided in 61-4-124(5)."

**Section 104.** Section 61-4-111, MCA, is amended to read:

**"61-4-111. Used motor vehicles — transfer to and from dealers.** (1) Except as provided in 61-4-124(6), a licensed dealer, broker, or wholesaler who intends to resell a used motor vehicle and who operates the vehicle only for demonstration purposes:

(a) is exempt from registration under ~~61-3-201(2)~~ 61-3-302(3) when applying for a certificate of title; and

(b) may transfer or receive ownership of a motor vehicle by use of a dealer reassignment section on a certificate of title. However, when the allotted number of dealer reassignment sections on a certificate of title has been completed, ownership of the vehicle may not be transferred until an application for a certificate of title has been submitted by the dealer to the department and a new certificate of title has been issued.

(2) Upon the transfer of a used motor vehicle to a person other than a licensed dealer, broker, or wholesaler, *a temporary registration permit may be issued under 61-3-224 to the person to whom the used motor vehicle was transferred if the dealer is an authorized agent, as defined in [section 2]. In addition,* the following acts are required of the dealer on or before the times set forth in this subsection:

~~(a) Prior to delivery of the vehicle to the purchaser, the dealer shall issue a temporary registration permit for the vehicle and affix the temporary registration permit to the vehicle in a manner prescribed by the department. The temporary registration permit issued by the dealer is valid for 20 days from the date of issuance. There must be imprinted on the temporary registration permit in bold letters the following statement: "IT IS UNLAWFUL TO PLACE LICENSE PLATES UPON THIS VEHICLE UNTIL REGISTERED AT THE OFFICE OF THE COUNTY TREASURER". Unless a durable license plate style placard is issued, one copy of the temporary registration permit must be delivered by the dealer to the county treasurer in the manner prescribed in subsection (2)(b), and a copy must be retained by the dealer for the dealer's file. If a durable placard is issued, the dealer shall create and retain the relevant records as prescribed by the department. It is unlawful for the dealer to issue more than one 20-day temporary registration permit for each vehicle sale.~~

~~(b)(a) Within 4 working 30 calendar days following the date of delivery of the motor vehicle, the dealer shall forward to the county treasurer of the county where the purchaser resides vehicle is domiciled:~~

~~(i) the assigned certificate of title or, if a certificate of title for the vehicle has not been issued in this state, a copy of the then-current registration receipt or certificate in the dealer's possession; and~~

~~(ii) an application for a certificate of title executed by the new owner in accordance with the provisions of 61-3-221 and 61-3-222 61-3-216 and 61-3-220; and~~

~~(iii) a copy of the temporary registration permit affixed to the vehicle by the dealer.~~

~~(e)(b) Transmission of the documents by the dealer to the county treasurer may be accomplished either by personal delivery, or by first-class mail, in which event they are considered to have been delivered at the time of mailing or by electronic means, as authorized by the department.~~

~~(d)(c) If the dealer is unable to forward the certificate of title or, if applicable, registration receipt within the time set forth in subsection ~~(2)(b)~~ (2)(a) because the certificate of title is lost, is in the possession of third parties, or is in the process of reissuance in this state or elsewhere, the dealer shall comply in all other respects with the provisions of subsection ~~(2)(b)~~ (2)(a) and shall forward the missing document or documents to the county treasurer, either personally or by first-class mail, within 3 days after receipt.~~

(3) Upon compliance by the dealer with the requirements in this section, title to the motor vehicle is considered to have passed to the purchaser as of the date of the delivery of the vehicle to the purchaser by the dealer, and the dealer has no further liability or responsibility with respect to the processing of registration.

(4) Upon receipt from the county treasurer of the documents required under subsection (2), the department shall:

(a) update the electronic record of the title maintained by the department under 61-3-101; or

(b) issue a certificate of title if requested under 61-3-216(2)(f); and

(c) comply with the applicable provisions of Title 61, chapter 3, parts 1 through 3.

(5) For purposes of this section, "motor vehicle" includes a trailer as defined in 61-1-111."

**Section 105.** Section 61-4-112, MCA, is amended to read:

**"61-4-112. New motor vehicles — transfers by dealers.** (1) (a) When a motor vehicle dealer transfers a new motor vehicle to a purchaser or other recipient, the dealer shall:

~~(a) issue and affix a temporary registration permit, as prescribed in 61-4-111(2)(a), for transfers of used motor vehicles and retain a copy of the temporary registration permit or, if a durable license plate style placard is issued, affix the placard and create and retain all other relevant records prescribed by the department;~~

~~(b) within 4 working~~ 30 calendar days following the date of delivery of the new motor vehicle, forward to the county treasurer of the county where the purchaser or recipient resides *vehicle is domiciled*:

~~(i) one copy of the temporary registration permit issued under subsection (1)(a) or a copy of the information described in the records concerning a placard;~~

~~(ii)(i) an application for a certificate of title with a notice of security interest, if any, executed by the purchaser or recipient; and~~

~~(iii)(ii) a manufacturer's certificate of origin that shows that the vehicle has not previously been registered or owned, except as otherwise provided in this section, by any person other than a new motor vehicle dealer holding a franchise or distribution agreement from a new car manufacturer, distributor, or importer.~~

*(b) If the dealer is an authorized agent, as defined in [section 2], a temporary registration permit may be issued under 61-3-224 to the person to whom the new motor vehicle was transferred.*

(2) Upon receipt from the county treasurer of the documents required under subsection (1), the department shall issue a certificate of title if requested under 61-3-216(2)(f) and otherwise comply with the provisions of Title 61, chapter 3, parts 1 through 3, as applicable."

**Section 106.** Section 61-4-121, MCA, is amended to read:

**"61-4-121. Twenty-day temporary Temporary registration permit — limitation on issuance and transfer — violation — penalty.** (1) ~~(a)~~ *A If the dealer is an authorized agent, as defined in [section 2], the dealer may not issue more than one 20-day temporary registration permit under 61-4-111 or 61-4-112 for each vehicle sale.*

~~(b) A dealer may not transfer 20-day temporary registration permits to another dealer unless the dealer:~~

~~(i) notifies the department within 3 days of the transfer;~~

~~(ii) identifies to the department the dealer to whom any temporary registration permits have been transferred;~~

~~(iii) informs the department of the date of the transfer and the quantity and serial numbers of the transferred temporary registration permits.~~

(2) A dealer who violates the provisions of subsection (1) is subject to revocation of the privilege to issue 20-day temporary registration permits for a period of time determined by the department."

**Section 107.** Section 61-4-222, MCA, is amended to read:

**“61-4-222. Fees.** (1) Upon making the application required under 61-4-221, the manufacturer shall pay to the department a fee of \$250, which entitles the manufacturer to one set of ~~number~~ license plates, and an additional fee of \$20 for each additional set of ~~number~~ license plates. The manufacturer may receive one set of ~~number~~ license plates for each manufacturer’s representative.

(2) The fees provided for in subsection (1) do not apply to the manufacturer of a personal watercraft as defined in 23-2-502, a snowmobile as defined in 23-2-601, or an off-highway vehicle as defined in 23-2-801.”

**Section 108.** Section 61-4-223, MCA, is amended to read:

**“61-4-223. Assignment of numbers.** (1) Upon the licensing of a manufacturer under 61-4-202, the department shall assign to the manufacturer a distinctive serial number and, after payment of fees provided for in 61-4-222, furnish every qualified manufacturer’s representative of that manufacturer with one set of ~~number~~ license plates. Assigned ~~number~~ license plates must be similar to ~~number~~ standard license plates furnished to owners of motor vehicles but must bear, in addition to the serial number assigned to the manufacturer, the letters “MFG”.

(2) The department shall cause to be placed on each set of license plates issued to a manufacturer a serial number assigned to the manufacturer and the actual number of license plates issued to the manufacturer. The department shall provide nonremovable stickers bearing the appropriate county designation. The stickers must be affixed to the license plates in use in accordance with instructions by the department.

(3) A manufacturer’s representative who qualifies as provided in 61-4-221(1) may display manufacturer’s license plates on a motor vehicle held for bona fide sale or used solely in the conduct of the manufacturer’s business and operated by or under the control of the manufacturer’s representative.

(4) When the department has reasonable cause to believe, from an investigation made by it or information furnished to it by a sheriff or any other law enforcement officer, that a manufacturer has been improperly licensed, has used the manufacturer’s license other than as authorized in this section, or is not qualified as a manufacturer under the requirements of this part, the department may revoke the manufacturer’s license.”

**Section 109.** Section 61-4-310, MCA, is amended to read:

**“61-4-310. Single movement permit — fee — limitation — county treasurer to issue.** (1) ~~(a)~~ A vehicle, subject to license under this title registration under chapter 3, or a mobile home may be moved unladen upon the highways of this state from a point within the state to a point of destination. The county treasurer at the point of the origin of the movement shall issue a special permit for the vehicle in lieu of fees required under 61-3-321 and part 2 of chapter 10 of this title upon application presented to the county treasurer in a form provided by the department, upon exhibiting to the county treasurer proof of ownership and evidence that the personal property taxes or fees in lieu of property tax on the vehicle, if any are due, have been paid, and upon payment of a fee of \$5. The fee must be forwarded to the department of revenue for deposit in the state general fund. The permit is not in lieu of fees and permits required under 61-4-301 and 61-4-302.

~~(b) For purposes of this section, a mobile home is considered unladen when all items are removed except the equipment originally installed by the manufacturer and the personal effects of the owners.~~

(2) The permit is for the transit of the vehicle ~~or mobile home~~ only, and the vehicle ~~or mobile home~~ may not at the time of the transit be used for the transportation of any persons, except the driver, or any property for compensation or otherwise and is for one transit only between the points of origin and destination as set forth in the application and shown on the permit.

(3) A junk vehicle being driven or towed to a motor vehicle wrecking facility or a motor vehicle graveyard for disposal is exempt from the provisions of this section. The definitions in 75-10-501 apply to this subsection.

(4) *A manufactured home, mobile home, or house trailer may be moved unladen upon the highways of this state from a point within the state to a point of destination only if a tax-paid receipt authorizing the move has been issued under 15-24-206.*

**Section 110.** Section 61-5-103, MCA, is amended to read:

**“61-5-103. Residency requirement.** (1) A person who has resided in Montana for more than ~~120~~ 60 consecutive days is considered to be a resident for the purpose of being licensed to operate a motor vehicle and must be licensed under the laws of Montana before operating a motor vehicle.

(2) A person who operates a commercial motor vehicle in Montana is considered to be a resident of Montana for the purpose of being licensed to operate a commercial motor vehicle if the person has resided in Montana for more than 30 consecutive days and must be licensed under the laws of Montana before operating any commercial motor vehicle.”

**Section 111.** Section 61-5-111, MCA, is amended to read:

**“61-5-111. Contents of a driver’s license, renewal, renewal by mail, license expirations, grace period, and fees for licenses, permits, and endorsements — notice of expiration.** (1) (a) The department may appoint county treasurers and other qualified officers to act as its agents for the sale of driver’s licenses receipts. The department shall adopt necessary rules governing sales. In areas in which the department provides driver licensing services 3 days or more a week, the department is responsible for sale of receipts and may appoint an agent to sell receipts.

(b) *The department may enter into an authorized agent agreement with the county treasurer of any county in which the department no longer maintains a driver examination station for the purpose of providing driver license renewal services.*

(2) (a) The department, upon receipt of payment of the fees specified in this section, shall issue a driver’s license to each qualifying applicant. The license must contain:

(i) a full-face photograph of the licensee in the size and form prescribed by the department;

(ii) a distinguishing number issued to the licensee;

(iii) the full legal name, date of birth, Montana mailing address, and a brief description of the licensee; and

(iv) either the licensee’s customary signature or a digital reproduction of the licensee’s customary signature.

(b) The department may not use the licensee’s social security number as the distinguishing number unless the licensee expressly authorizes the use. A license is not valid until it is signed by the licensee.

(3) (a) When a person applies for renewal of a driver's license, the department shall conduct a records check in accordance with 61-5-110(1) to determine the applicant's eligibility status and shall test the applicant's eyesight. The department may also require the applicant to submit to a knowledge and skills test if:

(i) the renewal applicant has a physical or mental disability, limitation, or condition that impairs, or may impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway; and

(ii) the expired or expiring license does not include adaptive equipment or operational restrictions appropriate to the applicant's functional abilities; or

(iii) the applicant wants to remove or modify the restrictions stated on the expired or expiring license.

(b) In the case of a commercial driver's license, the department shall, if the information was not provided in a prior licensing cycle, require the renewal applicant to provide the name of each jurisdiction in which the applicant was previously licensed to drive any type of motor vehicle during the 10-year period immediately preceding the date of the renewal application and may also require that the applicant successfully complete a written examination as required by federal regulations.

(c) A person is considered to have applied for renewal of a Montana driver's license if the application is made within 6 months before or 3 months after the expiration of the person's license. Except as provided in subsection (3)(d), a person seeking to renew a driver's license shall appear in person at a Montana driver's examination station.

(d) (i) A person may renew a driver's license by mail if the person certifies that the person is temporarily out of state and will not be returning to the state prior to the expiration of the license.

(ii) An applicant who renews a driver's license by mail shall submit to the department an approved vision examination and a medical evaluation from a licensed physician in addition to the fees required for renewal.

(iii) If the department does not have a digitized photograph or signature record of the renewal applicant from the expiring license, then the department may require the renewal applicant to submit a personal photograph and signature that meets the requirements prescribed by the department.

(iv) The term of a license renewed by mail is 4 years, and a person may not renew by mail for consecutive license terms.

(v) The department may not renew a license by mail if the records check conducted in accordance with 61-5-110(1) shows an ineligible license status for the applicant.

(e) The department shall mail a driver's license renewal notice no earlier than 60 days and no later than 30 days prior to the expiration date of a driver's license. ~~The~~ *Except as provided in [section 6] and 61-5-115, the* department shall mail the notice to the Montana mailing address shown on the driver's license ~~unless the licensee has submitted a change of address as required by 61-5-115.~~

(4) (a) Except as provided in subsections (4)(b) and (4)(c), a license expires on the anniversary of the licensee's birthday 8 years or less after the date of issue or on the licensee's 75th birthday, whichever occurs first.

(b) A license issued to a person who is 75 years of age or older expires on the anniversary of the licensee's birthday 4 years or less after the date of issue.

(c) A license issued to a person who is under 21 years of age expires on the licensee's 21st birthday.

(5) Whenever the department issues an original license to a person under the age of 18 years, the license must be designated and clearly marked as a "provisional license". Any license designated and marked as provisional may be suspended by the department for a period of not more than 12 months when its records disclose that the licensee, subsequent to the issuance of the license, has been guilty of careless or negligent driving.

(6) Fees for driver's licenses are:

(a) driver's license, except a commercial driver's license — \$5 a year or fraction of a year;

(b) motorcycle endorsement — 50 cents a year or fraction of a year;

(c) commercial driver's license:

(i) interstate — \$5 a year or fraction of a year;

(ii) intrastate — \$3.50 a year or fraction of a year;

(d) renewal notice — ~~50 cents~~ 50 cents.

~~(7) Upon receipt of notice from another jurisdiction that a person licensed under this chapter has surrendered a Montana driver's license to that jurisdiction, the department shall change the license status on the person's official driver record to "inactive". If the person returns to Montana prior to the expiration of the previously surrendered license, the department may reactivate the license for the remainder of the license term."~~

**Section 112.** Section 61-5-114, MCA, is amended to read:

**"61-5-114. Duplicate or replacement licenses license or permit.** If an instruction permit or driver's license issued under the provisions of this chapter is lost or destroyed ~~or a person wants to update personal information contained on an instruction permit or a driver's license issued to the person~~, the person to whom ~~it~~ the permit or license was issued may, upon the payment of a fee of \$10, obtain a duplicate or ~~substitute~~ replacement permit or license, upon furnishing proof satisfactory to the department that the permit or license has been lost or destroyed ~~or that personal information has changed.~~"

**Section 113.** Section 61-5-115, MCA, is amended to read:

**"61-5-115. Notice of change of address or name.** Whenever any person after applying for or receiving a driver's license ~~shall move~~ moves from the address named in ~~such~~ the application or in the issued license, ~~issued to him or~~ when the name of a licensee is changed by marriage or otherwise ~~such~~ the person shall within 10 days thereafter notify the department in writing ~~or electronically by an approved automated interface of his~~ the old and new addresses ~~or of such former and new names~~ and of the number of any license then held by ~~him~~ the person."

**Section 114.** Section 61-5-121, MCA, is amended to read:

**"61-5-121. Disposition of fees.** (1) ~~The~~ The disposition of the fees from driver's licenses, motorcycle endorsements, commercial driver's licenses, and duplicate driver's licenses provided for in 61-5-114 is as follows:

(a) The amount of 22.3% of each driver's license fee and 25% of each duplicate driver's license fee must be deposited into an account in the state special revenue fund. The department shall transfer the funds from this account to the Montana highway patrol officers' retirement pension trust fund as provided in 19-6-404. The department shall report the amount deposited and transferred under this subsection (1)(a) to the legislative finance committee by October 31 of the year preceding each regular session of the legislature.

(b) (i) If the fees are collected by a county treasurer or other agent of the department, the amount of 2.5% of each driver's license fee and 3.75% of each duplicate driver's license fee must be deposited into the county general fund.

(ii) If the fees are collected by the department, the amount provided for in subsection (1)(b)(i) must be deposited into the state general fund.

(c) (i) If the fee is collected by a county treasurer or other agent of the department, the amount of 3.34% of each motorcycle endorsement must be deposited into the county general fund.

(ii) If the fee is collected by the department, the amount provided for in subsection (1)(c)(i) must be deposited into the state general fund.

(d) The amount of 20.7% of each driver's license fee and 8.75% of each duplicate driver's license fee must be deposited into the state traffic education account.

(e) In addition to the amounts deposited pursuant to subsections (1)(b)(ii) and (1)(c)(ii), the amount of 54.5% of each driver's license fee and 62.5% of each duplicate driver's license fee must be deposited into the state general fund.

(f) If the fee is collected by the county treasurer or other agent of the department, the amount of 2.5% of each commercial driver's license fee must be deposited into the county general fund, otherwise all of the fee must be deposited into the state general fund.

(g) The amount of 63.46% of each motorcycle endorsement fee must be deposited into the state motorcycle safety account in the state special revenue fund, and the amount of 33.2% of each motorcycle endorsement fee must be deposited into the state general fund.

(2) (a) If fees from driver's licenses, commercial driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected by a county treasurer or other agent of the department, the county treasurer or agent shall deposit the amounts provided for in subsections (1)(b)(i) and (1)(c)(i) into the county general fund. The county treasurer or agent shall then remit *all remaining fees* to the department of revenue ~~all remaining fees, together with a statement indicating what portion of each fee is to be deposited into the account state for deposit in the state special revenue fund, as provided in subsection (1)(a), and the state general fund. The department of revenue, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a) and (1)(d) through (1)(g).~~

(b) If fees from driver's licenses, commercial driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected by the department, it shall remit all fees to the department of revenue, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund as provided in subsection (1)(a), the state special revenue fund, and the state general fund. The department of revenue, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a), (1)(b)(ii), (1)(c)(ii), and (1)(d) through (1)(g)."

**Section 115.** Section 61-5-206, MCA, is amended to read:

**“61-5-206. Authority of department to suspend license or driving privilege or issue probationary license — right to hearing.** (1) The department may suspend the driver’s license or driving privilege of a driver without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:

(a) has committed or permitted an unlawful or fraudulent use of the license as specified in 61-5-302;

(b) has falsified the licensee’s date of birth on the application for a driver’s license;

(c) is under 21 years of age and has altered the licensee’s or another’s driver’s license or identification card to obtain alcohol; or

(d) has authorized another to use the licensee’s driver’s license or identification card to obtain alcohol.

(2) ~~However, the department may, in lieu of suspending the license or driving privilege, issue a probationary license to a driver, without preliminary hearing, upon a showing by its records or other sufficient evidence that the licensee’s driving record would authorize suspension as provided in subsection (1). Upon issuance of a probationary license, the licensee is subject to the restrictions set forth in the probationary license. The licensee’s driving privilege may be suspended. If the department suspends a driver’s license under 61-5-207 or this section or reinstates a license suspension or revocation upon conviction or forfeiture of bail not vacated of any traffic violation during the period of probation. The licensee shall surrender to the department all driver’s licenses that have been issued to the licensee before the probationary license may be issued. The licensee’s refusal or neglect to surrender the licenses upon demand is grounds for suspending all licenses. Probationary licenses may be issued for a period not to exceed 12 months.~~

~~(3) Upon suspending the license of any person or upon placing the person on probation, as authorized in this section, by a person who holds a probationary driver’s license under 61-2-302, the department shall immediately notify the licensee in writing and upon the licensee’s request shall afford the licensee an opportunity for a hearing as early as practical, within 20 days after receipt of the request, in the county in which the licensee resides unless the department and the licensee agree that the hearing may be held in some other county. At the hearing, the department through its authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. At the hearing, the department shall either rescind its order of suspension or probation or, for good cause, may affirm, reduce, or extend the period of probation or suspension of the license.”~~

**Section 116.** Section 61-5-208, MCA, is amended to read:

**“61-5-208. Period of suspension or revocation — limitation on issuance of probationary license — ignition interlock device allowed on first offense.** (1) The department may not suspend or revoke a driver’s license or privilege to drive a motor vehicle on the public highways, except as permitted by law.

(2) (a) Except as provided in 61-2-302, a person whose license or privilege to drive a motor vehicle on the public highways has been suspended or revoked

may not have the license, endorsement, or privilege renewed or restored until the revocation or suspension period has been completed.

(b) When a person is convicted or forfeits bail or collateral not vacated for a first offense of operating or being in actual physical control of a motor vehicle while under the influence of alcohol or any drug or a combination of alcohol or drugs or for a first offense of operation of a motor vehicle by a person with alcohol concentration of 0.08 or more, the department shall, upon receiving a report of conviction or forfeiture of bail or collateral not vacated, suspend the driver's license or driving privilege of the person for a period of 6 months. Upon receiving a report of a conviction or forfeiture of bail or collateral for a second, third, or subsequent offense within 5 years of the first offense, the department shall suspend the license or driving privilege of the person for a period of 1 year and may not issue a probationary license during the period of suspension. If the 1-year suspension period passes and the person has not completed a chemical dependency education course, treatment, or both, as ordered by the sentencing court, the license suspension remains in effect until the course, treatment, or both, are completed.

(c) For the purposes of subsection (2)(b), a person is considered to have committed a second, third, or subsequent offense if fewer than 5 years have passed between the date of an offense that resulted in a prior conviction and the date of the offense that resulted in the most recent conviction.

~~(3) (a) If the person pays the reinstatement fee required in 61-2-107 and provides the department proof of compliance with an ignition interlock restriction imposed under 61-8-442, the department shall stay the license suspension of a person who has been convicted of a first violation of 61-8-401 or 61-8-406 and return the person's driver's license. The stay must remain in effect until the period of suspension has expired and any required chemical dependency education course, treatment, or both, have been completed.~~

~~(b) If the department receives notice from a court, peace officer, or ignition interlock vendor that the person has violated the court imposed ignition interlock restriction by, including but not limited to operating a motor vehicle not equipped with the device, tampering with the device, or removing the device before the period of restriction has expired, the department shall lift the stay and reinstate the license suspension for the remainder of the time period. The department may not issue a probationary driver's license to a person whose license suspension has been reinstated because of violation of an ignition interlock restriction.~~

~~(4)(3)~~ (a) Except as provided in subsection ~~(4)(b)~~ ~~(3)(b)~~, the period of suspension or revocation for a person convicted of any offense that makes mandatory the suspension or revocation of the person's driver's license commences from the date of conviction or forfeiture of bail.

(b) A suspension commences from the last day of the prior suspension or revocation period if the suspension is for a conviction of driving with a suspended or revoked license.

~~(5)(4)~~ If a person is convicted of a violation of 61-8-401 or 61-8-406 while operating a commercial motor vehicle, the department shall suspend the person's driver's license as provided in 61-8-802."

**Section 117.** Section 61-8-442, MCA, is amended to read:

**"61-8-442. Driving under influence of alcohol or drugs — driving with excessive alcohol concentration — ignition interlock device.** (1) In

addition to the punishments provided in 61-8-714 and 61-8-722, regardless of disposition *and if a probationary license is recommended by the court*, the court may for a person convicted of a first offense under 61-8-401 or 61-8-406 ~~and granted a probationary license~~ restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device during the *probationary* period ~~that the person is granted a probationary license~~ and require the person to pay the reasonable cost of leasing, installing, and maintaining the device if:

(a) the court determines that approved ignition interlock devices are reasonably available; and

(b) the person's blood alcohol concentration at the time of the arrest was 0.16 or greater.

(2) If a person is convicted of a second or subsequent violation of 61-8-401 or 61-8-406, in addition to the punishments provided in 61-8-714 and 61-8-722, regardless of disposition, the court shall order that each motor vehicle owned by the person at the time of the offense be either:

(a) seized and subjected to the forfeiture procedure provided under 61-8-421; or

(b) during the 12-month period beginning with the end of the period of driver's license revocation, equipped with a functioning ignition interlock device and require the person to pay the reasonable cost of leasing, installing, and maintaining the device if the court determines that approved ignition interlock devices are reasonably available.

(3) Any restriction imposed under this section must be included in a report of the conviction made by the court to the department in accordance with 61-11-101 and placed upon the person's driving record maintained by the department in accordance with 61-11-102.

(4) The duration of a restriction imposed under this section must be monitored by the department."

**Section 118.** Section 61-10-222, MCA, is amended to read:

**"61-10-222. Time for payment of fees.** ~~(1)~~ Prior to or at the time of registration of the vehicle as required under chapter 3 or chapter 4 or prior to the operation of the vehicle on the public highways, fees provided in this part must be paid in the full amount unless otherwise provided by law. With respect to vehicles operating on the highways with a current ~~20-day temporary registration~~ permit issued under ~~the provisions of 61-4-111 or 61-4-112 61-3-224~~, the fees provided in this part are due and payable at the time of registration.

~~(2) A person who applies for a GVW license after July 1 of any year shall pay one-half of the fees provided in this part.~~

~~(3) When a person applies for registration required under chapter 3 for a period of time other than the calendar year, the fees provided in this part must be computed for the registration period at one twelfth of the applicable fee for each month or part of month in the registration period."~~

**Section 119.** Section 61-11-102, MCA, is amended to read:

**"61-11-102. Records to be kept by the department.** (1) ~~The~~ *Except as provided in subsection (6),* the department shall ~~file every application for a driver's license received by it and shall maintain suitable indexes containing, in alphabetical order:~~

~~(a) all applications denied and on each the reasons for denial;~~

~~(b) all applications granted; and~~

~~(c) the name of each licensee whose license has been suspended or revoked by the department and after each name the reasons for the action. create and maintain a central database of electronic files that includes an individual Montana driving record for each person:~~

~~(a) who has been issued a Montana driver's license;~~

~~(b) who does not have a driver's license from, or active driving record in, another jurisdiction and for whom the department receives a report of conviction of a traffic violation or an offense requiring suspension or revocation of the person's driver's license; and~~

~~(c) whose driver's license or driving privileges have been suspended, revoked, canceled or otherwise withdrawn by the department.~~

~~(2) (a) The department shall also file all accident reports and abstracts of court records of convictions received by it under the laws of this state. The department shall maintain records in a manner that allows an individual record of each licensee, showing the convictions of the licensee and certain traffic accidents in which the licensee has been involved. The records must be readily ascertainable and available for the consideration of the department upon any application for renewal of a license and at other suitable times. A An individual Montana driving record maintained under this section must include:~~

~~(i) personal information obtained from the application for a driver's license or a report of conviction;~~

~~(ii) the person's driver's license number, license type, status, endorsements, restrictions, issue and expiration dates, and any suspensions, revocations, disqualifications, or cancellations that have been imposed against the person;~~

~~(iii) all convictions reported to the department for the person; and~~

~~(iv) traffic accidents in which the person was involved, except that a record of involvement in a traffic accident may not be entered on a licensee's record unless the licensee was convicted, as defined in 61-11-203, for an act causally related to the accident.~~

~~(b) If the department receives notice that a licensee person has been disqualified by the federal motor carrier safety administration as an imminent hazard under 49 CFR 383.52, the department shall record the disqualification on the licensee's person's individual Montana driving record.~~

~~(3) The department is further authorized, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this state, to forward, by electronic or other means, a report of the conviction a certified copy of the record to the motor vehicle administrator in the state in which the person is a resident or licensed.~~

~~(4) The department may photograph, microphotograph, photostat, or reproduce on film any of its records. The film or reproducing material must be durable, and the device used to reproduce the records on the film or material must accurately reproduce and perpetuate the original records. A photograph, microphotograph, photostatic copy, or photographic film of the original record is an original record for all purposes and is admissible in evidence in all courts or administrative agencies. A facsimile, exemplification, or certified copy of the original record is a transcript of the original for purposes stated in this section.~~

~~(5)~~(4) The department may place on a computer storage device the information contained on original records or reproductions of original records made pursuant to this section. Signatures on records are not required to be placed on a computer storage device.

~~(6)~~(5) (a) ~~Except as provided in subsection (5)(b), a reproduction of the information placed on a computer storage device is an original of the record for all purposes and is admissible in evidence without further foundation in all courts or administrative agencies when the reproduction of the information is signed by a named custodian of the record and the following certification by a custodian of the record appears on each page:~~

The individual named below, being a designated custodian of the driver records of the department of justice, motor vehicle division, certifies this document as a true reproduction, in accordance with ~~61-11-102(6)~~ 61-11-102(5), of the information contained in a computer storage device of the department of justice, motor vehicle division.

Signed: \_\_\_\_\_  
(Print Full Name)

(b) *An order, record, or paper generated from the department's central database of electronic files of individual Montana driving records may be certified electronically by the generating computer. The certification must be a certification of the order, record, or paper as it appeared on a specific date. A court or the office of a clerk of court of this state that is electronically connected by a terminal device to the department's central database of electronic individual Montana driving records may receive and use as evidence without further foundation the computer-generated certified information obtained by the terminal device from the file. An authorized employee of a court of record of this state may certify in writing that an order, record, or paper was produced from a terminal device that is located in and under the control of the court and that is connected to the department's central database of electronic individual Montana driving records files and that the order, record, or paper was not altered in any way.*

(6) *The department may remove any individual Montana driving record from the active database of electronic files maintained under this section if there has been no change in license status on or additional reports of conviction to the record in the immediately preceding 16 years. Any individual driving record removed must be retained elsewhere by the department as an inactive record in an electronic storage device that is searchable and retrievable.*

**Section 120.** Section 61-11-105, MCA, is amended to read:

**"61-11-105. Release of information — fees.** (1) Subject to the limitations of this section, the department shall, upon request, furnish a person the individual Montana driving record of a driver or licensee, containing the following data:

- (a) the driver's or licensee's name, driver's license number, and date of birth;
- (b) driver's license status, including the license type and any endorsements, the license issue date, license restrictions, any suspensions, revocations, or cancellations that have been imposed against the driver or licensee, and the license expiration date;
- (c) convictions of the driver or licensee; and
- (d) traffic accidents in which the driver or licensee was involved.

(2) The department may not enter into any agreement to disclose or sell, in bulk, any data contained in an individual Montana driving record unless the requester of the information provides the department with the names, driver's license numbers, and dates of birth of the drivers or licensees from whose records a change in license status or conviction activity is to be reported.

(3) The department may not disclose personal information or highly restricted personal information from an individual Montana driving record, except as permitted or required under 61-11-507, 61-11-508, or 61-11-509.

(4) Information relating to a traffic accident that did not involve a conviction, as defined in 61-11-203, may not be released by the department unless the release is requested or approved by a party involved in the accident or is required by court order or a duly executed subpoena.

(5) (a) Subject to the requirements of subsection (6) and except as provided in subsection (5)(b), a fee of \$4 must be paid for each individual Montana driving record requested. A fee of \$10 must be paid if a certified Montana record, as provided in ~~61-11-102(6)~~ 61-11-102(5), is requested. A fee of 8 cents must be paid for each individual Montana driving record that is searched by the department to report to a requester a change in license status or conviction activity from one or more individual Montana driving records.

(b) An individual Montana driving record must be provided without charge to any criminal justice agency, as defined in 44-5-103, or other state or federal agency.

(6) In addition to the fees required in 61-11-510(3) and subsection (5) of this section, an individual Montana driving record or any report compiled from one or more individual Montana driving records that are electronically transmitted to a requester through a point of entry for electronic government services are subject to the convenience fee established under 2-17-1103.

(7) The department may require a requester, other than a federal, state, or local government agency, seeking one or more individual Montana driving records or any data otherwise contained in one or more individual Montana driving records in electronic format to use a point of entry for electronic government services to obtain the record or data."

**Section 121.** Section 61-11-204, MCA, is amended to read:

**"61-11-204. Department's duties.** (1) If the records maintained by the department show that a person's driving record brings the person within the definition of a habitual traffic offender, the department shall:

- (a) declare the person a habitual traffic offender;
- (b) revoke the person's driver's license or driving privileges as provided in 61-11-211; and
- (c) notify the person in writing of the declaration and revocation.

(2) The notice must be sent by first-class mail to the most current address on record with the department. The notice must include a certified reproduction of the person's driving record as contained in the computer storage device used by the department for recordkeeping *record of the convictions and bond forfeitures upon which the habitual traffic offender designation was based.* The notice must inform the person of the right under 61-11-210 to appeal the declaration and revocation. Service of the notice is complete upon mailing."

**Section 122.** Section 61-11-210, MCA, is amended to read:

**“61-11-210. Appeals.** (1) A person declared to be a habitual traffic offender may file a petition in the district court in the county in which the person resides, or in Lewis and Clark County if the person is not a resident of the state, challenging the declaration and revocation. The petition must be filed within 30 days after the person received notice under 61-11-204. Receipt under 61-11-204 is presumed to be on the third day after the date of mailing. After the petition is filed, a copy must be promptly served on the county attorney of the county in which the petition was filed. The county attorney shall represent the department in the proceeding. Proof of service must be filed with the clerk of the court prior to a hearing or grant of relief. Untimely service or lack of service upon the county attorney waives the right to a hearing. The filing of the petition does not stay enforcement of the revocation.

(2) Upon receipt from the county attorney of notice of the petition, the department shall give the county attorney a certified ~~copy of the abstracts of the records of record~~ of the convictions and bond forfeitures upon which the habitual traffic offender declaration was based.

(3) A hearing date must be set and at least 10 days' notice of the date must be given to the parties. The scope of the hearing is limited to whether the petitioner is the person named in the certified ~~abstracts~~ record of convictions and bond forfeitures upon which the habitual traffic offender declaration was based and whether the petitioner is a habitual traffic offender. The petitioner has the burden of proving that the department's actions are invalid or that its records are erroneous.

(4) If the court finds that the petitioner is the person declared by the department to be a habitual traffic offender and that the petitioner is a habitual traffic offender, the court shall dismiss the petition. If the court finds that the petitioner is not the person declared by the department to be a habitual traffic offender or that the petitioner is not a habitual traffic offender, the court shall grant the petition and provide the petitioner with appropriate relief, which must include an order that the department reimburse the petitioner for court fees paid by the petitioner.

(5) Upon a finding adverse to the petitioner, the clerk of the court shall file with the department a copy of the court's order, together with the petitioner's driver's license if the license has not been previously surrendered. If the petition is granted, the clerk of the court shall file with the department a copy of the court's order granting the petition. The order must state the grounds upon which the relief was granted and must specify the court findings on the conviction points, if any, that have been accrued by the petitioner. The department shall then correct the petitioner's driving record to comport with the court's specific findings.”

**Section 123.** Section 76-2-202, MCA, is amended to read:

**“76-2-202. Establishment of zoning districts — regulations.** (1) (a) Within the unincorporated portions of a jurisdictional area that has been established under provisions of 76-1-501 through 76-1-503 or 76-1-504 through 76-1-507, the board of county commissioners may by resolution establish zoning districts and zoning regulations for all or part of the jurisdictional area.

(b) An action challenging the creation of a zoning district must be commenced within 5 years after the date of the order by the board of county commissioners creating the district.

(2) Within some zoning districts, it is lawful and within others it is unlawful to erect, construct, alter, or maintain certain buildings or to carry on certain trades, industries, or callings.

(3) In a proceeding for a permit or variance to place manufactured housing within a residential zoning district, there is a rebuttable presumption that placement of a manufactured home will not adversely affect property values of conventional housing.

(4) Within each district the height and bulk of future buildings and the area of the yards, courts, and other open spaces and the future uses of the land or buildings must be limited and future building setback lines must be established.

(5) All regulations must be uniform for each class or kind of buildings throughout a district, but the regulations in one district may differ from those in other districts.

(6) As used in this section, "manufactured housing" means a single-family dwelling, built offsite in a factory on or after January 1, 1990, that is placed on a permanent foundation, is at least 1,000 square feet in size, has a pitched roof and siding and roofing materials that are customarily, as defined by local regulations, used on site-built homes, and is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of its production. A manufactured home does not include a mobile home or housetrailer, as defined in ~~61-1-501~~ 15-1-101.

(7) Nothing contained in this section may be construed to limit conditions imposed in historic districts, local design review standards, existing covenants, or the ability to enter into covenants pursuant to Title 70, chapter 17, part 2."

**Section 124.** Section 76-2-302, MCA, is amended to read:

**"76-2-302. Zoning districts.** (1) For the purposes of 76-2-301, the local city or town council or other legislative body may divide the municipality into districts of the number, shape, and area as are considered best suited to carry out the purposes of this part. Within the districts, it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land.

(2) All regulations must be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

(3) In a proceeding for a permit or variance to place manufactured housing within a residential zoning district, there is a rebuttable presumption that placement of a manufactured home will not adversely affect property values of conventional housing.

(4) As used in this section, "manufactured housing" means a single-family dwelling, built offsite in a factory on or after January 1, 1990, that is placed on a permanent foundation, is at least 1,000 square feet in size, has a pitched roof and siding and roofing materials that are customarily, as defined by local regulations, used on site-built homes, and is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of its production. A manufactured home does not include a mobile home or housetrailer, as defined in ~~61-1-501~~ 15-1-101.

(5) This section may not be construed to limit conditions imposed in historic districts, local design review standards, existing covenants, or the ability to enter into covenants pursuant to Title 70, chapter 17, part 2."

**Section 125. Repealer.** Sections 15-16-202, 61-3-207, 61-3-209, 61-3-342, and 61-3-526, MCA, are repealed.

**Section 126. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved, then 61-3-101, must read as follows:

**“61-3-101. Duties of department — records.** (1) (a) The department shall create and maintain a central registry of electronic files that includes an electronic record of title as specified in this section for motor vehicles, *trailers, semitrailers, pole trailers, campers, motorboats, personal watercraft, sailboats, and snowmobiles* for which:

(i) an application for a certificate of title has been received by the department, its authorized agent, or a county treasurer;

(ii) a certificate of title has been issued by the department; or

(iii) a registration, security interest, or lien transaction has been recorded by the department.

(b) The central registry of electronic files described in subsection (1) must include an electronic record of registration for each *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, and snowmobile* registered in this state:

(i) for which the certificate of title was issued by another jurisdiction and that was registered in another jurisdiction; or

(ii) for which a certificate of title has not been issued or is not required.

(2) The electronic record of title for a motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* must contain the following information:

(a) the name, residence, and mailing address of the owner and:

(i) if the owner is the holder of a driver’s license or identification card issued by the department or by a motor vehicle agency of another jurisdiction, the owner’s driver’s license or identification card number and the issuing jurisdiction; or

(ii) if the owner is a corporation, the registered agent’s name and, if the agent is the holder of a driver’s license or identification card, the agent’s driver’s license or identification card number and the issuing jurisdiction;

(b) a description of the motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*, including, as pertinent to the motor vehicle, *trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*:

(i) the manufacturer of the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*;

(ii) the manufacturer’s designation of the style of the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*;

(iii) the identifying number;

(iv) the manufacturer’s designated model year of manufacture and the odometer reading, *if applicable*, at the time of the transfer of ownership;

(v) the character of the motive power and the shipping weight of the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* as shown by the manufacturer;

(vi) the distinctive license number assigned to the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*, if any;

(vii) the gross vehicle weight and gross vehicle weight rating, as determined by the manufacturer, or, for a trailer operating interstate, the declared weight;

(viii) the unique transaction record number, when available and assigned by the department, for each transaction pertaining to the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* and the date of each transaction;

(ix) any brand required under state law or any brand carried forward from a certificate of title surrendered from another jurisdiction;

(x) if the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* has been or is currently registered in this state, the distinctive license plate number or certificate number assigned to the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* and a record of all fees and local option taxes, if applicable, paid for the current and preceding registration periods; and

(xi) other information that may be required for registration or may from time to time be found desirable.

(3) The electronic record of registration for a *motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile* must contain, at a minimum, the following information:

(a) the name, residence, and mailing address of the owner and the driver's license or identification card data required in subsections (2)(a)(i) and (2)(a)(ii);

(b) the same data that is required under subsection (2)(b) for the electronic record of title; and

(c) any other data consider to be pertinent by the department.

(4) In order to prevent an accumulation of unneeded records and files, regardless of any other statutory requirements, the department may destroy all records and files that relate to *motor vehicles, trailers, semitrailers, pole trailers, motorboats, personal watercraft, sailboats, or snowmobiles* that have not been registered within the preceding 4 years and that do not have an active lien.

(5) Subject to the provisions of Title 61, chapter 11, part 5, *motor vehicle* records maintained by the department must be open to inspection during reasonable business hours, and the department shall furnish any information from the records, except personal information and highly restricted personal information, as defined in 61-11-503, upon payment by the applicant of the cost of the information requested. Prior to providing the information, the department shall require the applicant to provide identification. The department may not disclose personal information or highly restricted personal information except as permitted or required under 61-11-507, 61-11-508, or 61-11-509."

**Section 127. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved, then 61-3-208 must read as follows:

**"61-3-208. Affidavit and bond for certificate of title.** (1) If an applicant for a certificate of title cannot provide the department with the certificate of title

that assigns the prior owner's interest in the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* to the applicant, the department may issue a certificate of title if subsection (2) is complied with.

(2) (a) The applicant shall submit an affidavit in a form prescribed by the department that must be signed and sworn to before an officer authorized to administer oaths and affirmations. The affidavit must accompany the application for the certificate of title and must:

(i) include the facts and circumstances through which the applicant acquired ownership and possession of the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*;

(ii) disclose security interests, liens, or encumbrances that are known to the applicant and that are outstanding against the *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile*;

(iii) state that the applicant has the right to have a certificate of title issued.

(b) The application must satisfy one of the following conditions:

(i) The vehicle for which the application is being made must be a ~~boat~~ *camper, off-highway vehicle, motorboat, personal watercraft, sailboat* 12 feet in length or longer, or snowmobile, and the loss of the certificate of title must be established by the applicant to the department's satisfaction.

~~(ii) The applicant shall certify in the affidavit that the value of the vehicle for which the application is made is~~ *If application is being made for a certificate of title to a motor vehicle, trailer, semitrailer, or pole trailer with a value of \$500 or less, the applicant must establish the loss of the certificate of title to the department's satisfaction and either provide evidence of as indicated by the average trade-in or wholesale value of the vehicle motor vehicle, trailer, semitrailer, or pole trailer as determined by the applicable national appraisal guide for the vehicle as of January 1 for the year in which the application is made or, if a national appraisal guide is not available for a vehicle motor vehicle, trailer, semitrailer, or pole trailer, according to the applicant's knowledge and belief the applicant must certify that the value of the motor vehicle, trailer, semitrailer, or pole trailer is \$500 or less.*

~~(iii) The~~ *If application is being made for a motor vehicle, trailer, semitrailer, or pole trailer with a value that exceeds \$500, the applicant shall provide a bond, in a form prescribed by the department, issued by a surety company authorized to do business in this state, in an amount equal to the value of the vehicle motor vehicle, trailer, semitrailer, or pole trailer for which the application is being made, as determined by the surety company. The bond is conditioned to indemnify a prior owner, lienholder, subsequent purchaser, secured creditor, or encumbrancer of the motor vehicle, trailer, semitrailer, or pole trailer and any respective successors in interest against expenses, losses, or damages, including reasonable attorney fees, caused by the issuance of the certificate of title or by a defect in or undisclosed security interest upon the right, title, and interest of the applicant in the vehicle motor vehicle, trailer, semitrailer, or pole trailer.*

(3) Any interested person has a right of action to recover on the bond furnished under this section for a breach of its conditions, but the aggregate liability of the surety to all persons may not exceed the amount of the bond.

(4) Unless the department has been notified of a pending action to recover the bond furnished under this section, the department shall return the bond at the earlier of:

(a) 3 years from the date of issuance of the certificate of title; or

(b) the date of surrender of the valid certificate of title to the department if the ~~vehicle~~ *motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile* is no longer required to have a certificate of title in this state.”

**Section 128. Codification instruction.** [Sections 1 through 6] are intended to be codified as an integral part of Title 61, and the provisions of Title 61 apply to [sections 1 through 6].

**Section 129. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved, then the definitions contained in [section 2 of this act] must be codified in 61-1-101 and the internal references must be adjusted.

**Section 130. Coordination instruction.** If Senate Bill No. 261 and [this act] are both passed and approved, then [section 10 of this act], amending 15-1-116, is void.

**Section 131. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved then [section 13 of this act], amending 15-1-122, is void and [section 4] of Senate Bill No. 285, amending 15-1-122, is amended as follows:

**“15-1-122. Fund transfers.** (1) There is transferred from the state general fund to the adoption services account, provided for in 42-2-105, \$36,764 for fiscal year 2003. Beginning with fiscal year 2004, the amount of the transfer must be increased by 10% in each succeeding fiscal year.

(2) There is transferred from the state general fund to the department of transportation state special revenue nonrestricted account the following amounts:

~~(a) \$75,000 in fiscal year 2003;~~

~~(b)(a)~~ \$0 in fiscal years 2004 and 2005;

~~(c)(b)~~ \$3,050,205 in fiscal year 2006; and

~~(d)(c)~~ in each succeeding fiscal year, the amount in subsection ~~(2)(e)~~ ~~(2)(b)~~, increased by 1.5% in each succeeding fiscal year.

(3) For each fiscal year, there is transferred from the state general fund to the accounts, entities, or recipients indicated the following amounts:

(a) to the motor vehicle recycling and disposal program provided for in Title 75, chapter 10, part 5,:

~~(i) \$2 for each new application for a motor vehicle title and for each transfer of a motor vehicle title for which a fee is paid pursuant to 61-3-203; and~~

~~(ii) \$1 for each passenger car or truck under 8,001 pounds GVW that is registered for licensing pursuant to Title 61, chapter 3, part 3, and \$5 for each permanently registered light vehicle. Fifteen cents of each dollar must be used for the purpose of reimbursing the hired removal of abandoned vehicles during the calendar year following the calendar year in which the fee was paid. Any portion of the 15 cents not used for abandoned vehicle removal reimbursement during the calendar year following its payment must be used as provided in~~

~~75-10-532.~~ *1.62% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 1.48% of the motor vehicle revenue deposited in the state general fund in succeeding fiscal years. The amount of 8.75% of the allocation in fiscal year 2006 and 9.48% of the allocation in fiscal year 2007 and succeeding years must be used for the purpose of reimbursing the hired removal of abandoned vehicles. Any portion of the allocation not used for abandoned vehicle removal reimbursement must be used as provided in 75-10-532.*

(b) to the noxious weed state special revenue account provided for in 80-7-816;

~~(i) \$1 in fiscal year 2006 and, in each subsequent year, \$2.75 for each off-highway vehicle for which the fee in lieu of tax is paid, as provided for in 23-2-803; and~~

~~(ii) for vehicles registered or reregistered pursuant to 61-3-321:~~

~~(A) \$1.50 for each registered light vehicle, truck or bus weighing less than 1 ton, logging truck, vehicle weighing more than 1 ton, and motor home; and~~

~~(B) \$1.50 in fiscal year 2006 and, in each subsequent year, \$3.65 for each motorcycle and quadricycle; and~~

~~(C) \$7.50 for each permanently registered light vehicle~~ *1.53% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 1.50% of the motor vehicle revenue deposited in the state general fund in succeeding fiscal years;*

(c) to the department of fish, wildlife, and parks:

~~(i) \$2.50 in fiscal year 2006 and, 0.47% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and in succeeding fiscal years, 0.46% of the motor vehicle revenue deposited in the state general fund, in each subsequent year, \$14.50 for each motorboat, sailboat, or personal watercraft receiving a certificate of number under 23-2-512, with 20% of the amount received with the applicable percentage to be:~~

~~(A) used to:~~

~~(I) acquire and maintain pumpout equipment and other boat facilities, 5.2% in fiscal year 2006 and 4.8% in fiscal year 2007 and succeeding years;~~

~~(II) administer and enforce the provisions of Title 23, chapter 2, part 5, 20.8% in fiscal year 2006 and 19.1% in fiscal year 2007 and succeeding years;~~

~~(III) enforce the provisions of 23-2-804, 12.1% in fiscal year 2006 and 11.1% in fiscal year 2007 and succeeding fiscal years; and~~

~~(IV) develop and implement a comprehensive program and to plan appropriate off-highway vehicle recreational use, 18.1% in fiscal year 2006 and 16.7% in fiscal year 2007 and succeeding fiscal years; and~~

~~(B) deposited in the state special revenue fund established in 23-1-105 in an amount equal to 43.8% in fiscal year 2006 and 48.3% in fiscal year 2007 and succeeding fiscal years;~~

~~(ii) \$5 in fiscal year 2006 and, 0.12% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 0.10% of the motor vehicle revenue deposited in the state general fund in each subsequent fiscal year, \$19 for each snowmobile registered under 23-2-616, with 50% of the amount to be used for enforcing the purposes of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-619, 23-2-621, 23-2-622, ~~23-2-626~~, 23-2-631 through 23-2-635, and~~

23-2-641 through 23-2-644 and 50% of the amount designated for use in the development, maintenance, and operation of snowmobile facilities; *and*

~~(iii) \$1 for each duplicate snowmobile registration decal issued under 23-2-617;~~

~~(iv) \$5 in fiscal year 2006 and, in each subsequent year, \$13.25 for each off-highway vehicle decal issued under 23-2-804 and each off-highway vehicle duplicate decal issued under 23-2-809, with 40% of the money used to enforce the provisions of 23-2-804 and 60% of the money used to develop and implement a comprehensive program and to plan appropriate off-highway vehicle recreational use;~~

~~(v) to the state special revenue fund established in 23-1-105, \$3.50 in fiscal year 2006 and, in each subsequent year, \$8 for each recreational vehicle, motor home, and travel trailer registered or reregistered and subject to the fee in 61-3-321;~~

~~(vi)(iii) an amount equal to 20% 0.5% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 0.16% of the motor vehicle revenue deposited in the state general fund in each succeeding fiscal year of the funds collected pursuant to 23-2-518 to be deposited in the motorboat account to be used as provided in 23-2-533; and~~

~~(vii) to the state special revenue fund established in 23-1-105, \$4 for each passenger car or truck under 8,001 pounds GVW registered for licensing pursuant to 61-3-321(11)(a), with \$3.50 of the money used for state parks, 25 cents used for fishing access sites, and 25 cents used for the operation of state-owned facilities at Virginia City and Nevada City;~~

~~(d) 0.75% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 0.64% of the motor vehicle revenue deposited in the state general fund in each succeeding fiscal year, with 21.30% in fiscal year 2006 and 24.55% in fiscal year 2007 and succeeding fiscal years to be deposited in the state veterans' cemetery account; provided for in 10-2-603, \$10 for each veteran's license plate subject to the fee in 61-3-459 and with 78.70% in fiscal year 2006 and 75.45% in fiscal year 2007 and succeeding fiscal years to be deposited in the veterans' services account provided for in 10-2-112(1);~~

~~(e) to the supplemental benefits for highway patrol officers' retirement account provided for in 19-6-709, 25 cents for each motor vehicle registered, other than:~~

~~(i) trailers or semitrailers registered in other jurisdictions and registered through a proportional registration agreement; and~~

~~(ii) vehicles registered under 61-3-527, 61-3-530, and 61-3-562;~~

~~(f)(e) 25 cents a year for each registered vehicle and \$1.25 for each permanently registered vehicle subject to the fee in 61-3-321(G) 0.59% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 0.30% of the motor vehicle revenue deposited in the state general fund in each succeeding fiscal year for deposit in the state special revenue fund to the credit of the senior citizens and persons with disabilities transportation services account provided for in 7-14-112; and~~

~~(g)(f) to the search and rescue account provided for in 10-3-801,;~~

~~(i) \$2 a year for each vessel [subject to the search and rescue surcharge] in 23-2-517;~~

~~(ii) \$2 a year for each snowmobile [subject to the search and rescue surcharge] in 23-2-615(1)(b) and 23-2-616(3); and~~

~~(iii) \$2 a year for each off-highway vehicle [subject to the search and rescue surcharge] in 23-2-803 0.20% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 0.04% of the motor vehicle revenue deposited in the state general fund in each succeeding fiscal year; and~~

~~(h) 50 cents a year for each vehicle subject to the fee in 61-3-321(7) for deposit in the state special revenue fund to the credit of the veterans' services account provided for in 10-2-112(1).~~

~~(4) For each fiscal year, the department of justice shall provide to the department of revenue a count of the vehicles required for the calculations in subsection (3). The department of justice shall provide a separate count of vehicles that are permanently registered pursuant to 61-3-562. A permanently registered vehicle may be included in vehicle counts only in the year in which the vehicle is registered or reregistered. Transfer amounts in each fiscal year must be based on vehicle counts in the most recent calendar year for which vehicle information is available. Vehicles that are permanently registered may be included in vehicle counts only in the year in which the vehicles are registered by new owners. For the purposes of this section, "motor vehicle revenue deposited in the state general fund" means revenue received from:~~

~~(a) fees for issuing a motor vehicle title paid pursuant to 61-3-203;~~

~~(b) fees, fees in lieu of taxes, and taxes for vehicles, vessels, and snowmobiles registered or reregistered pursuant to 61-3-321 and 61-3-562;~~

~~(c) GVW fees for vehicles registered for licensing pursuant to Title 61, chapter 3, part 3; and~~

~~(d) all money collected pursuant to 15-1-504(3).~~

~~(5) The amounts transferred from the general fund to the designated recipient must be appropriated as state special revenue in the general appropriations act for the designated purposes."~~

**Section 132. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved, then [section 25 of this act], amending 23-2-616, is void.

**Section 133. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved, then 61-1-101(57) as amended by Senate Bill No. 285 must read as follows:

"(57) (a) "Trailer" means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) The term does not include a mobile home or a manufactured home, as defined in 15-1-101."

**Section 134. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved, then 61-1-101(19) as amended by Senate Bill No. 285 must read as follows:

"(19) "Manufactured home" has the meaning provided in 15-1-101."

**Section 135. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved, then 61-1-101(55) as amended by Senate Bill No. 285 must read as follows:

“(55) “Temporary registration permit” means a paper record:

(a) issued by the department, an authorized agent, a county treasurer, or a person, using a department-approved electronic interface after an electronic record has been transmitted to the department, that contains:

- (i) required vehicle and owner information; and
- (ii) the purpose for which the record was generated; and

(b) that, when placed in a durable license-plate style plastic pouch approved by the department and displayed as prescribed in 61-3-224, authorizes a person to operate the described motor vehicle, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for 40 days from the date the record is issued or until the vehicle is registered under Title 23 or this title, whichever first occurs.”

**Section 136. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved, then 61-1-101(22) as amended by Senate Bill No. 285 must read as follows:

“(22) “Mobile home” or “house trailer” has the meaning provided in 15-1-101.”

**Section 137. Coordination instruction.** (1) If Senate Bill No. 285 and [this act] are both passed and approved, then [section 41] of Senate Bill No. 285, amending 61-1-101, must include a new subsection (42) that reads:

“(42) “Registration” or “register” means the act or process of creating an electronic record, maintained by the department, of the assignment of a license plate or a set of license plates to and the issuance of a registration decal for a specific vehicle, the ownership of which has been established or is presumed in department records.”

(2) Subsequent subsections in [section 41] of Senate Bill No. 285, amending 61-1-101, must be renumbered and internal references must be adjusted.

**Section 138. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved, then [section 64] of Senate Bill No. 285, amending 61-3-224, is void and [section 47 of this act], amending 61-3-224, is amended as follows:

**“61-3-224. Temporary registration permit — issuance — placement — fees.** (1) ~~A The department, an authorized agent, or a county treasurer or a law enforcement officer may issue a temporary registration permit under the provisions of 61-3-317. A county treasurer may also issue a temporary registration permit under the provisions of 61-3-342 to:~~

(a) *a Montana resident who acquires a new or used motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for operation of the vehicle or vessel prior to titling and registration of the vehicle under this chapter;*

(b) *the owner of a salvage vehicle for moving the vehicle to and from a designated inspection site prior to applying for a new certificate of title under 61-3-212;*

(c) *the owner of a motor vehicle, trailer, semitrailer, or pole trailer registered in this state for operation of the vehicle while awaiting production and receipt of special or duplicate license plates ordered for the vehicle under this chapter;*

(d) *a nonresident of this state who acquires a motor vehicle, trailer, semitrailer, or pole trailer in this state for operation of the vehicle prior to its*

*titling and registration under the laws of the nonresident's jurisdiction of residence;*

*(e) a dealer licensed in another state who brings a motor vehicle or trailer designed and used to apply fertilizer to agricultural lands into the state for special demonstration in this state; or*

*(f) a financial institution located in Montana for a prospective purchaser to demonstrate a motor vehicle that the financial institution has obtained following repossession.*

~~(2) An employee or agent of the department may issue a temporary registration permit only under express authorization from the department and in accordance with the provisions of this chapter. A person, using a department-approved electronic interface, may issue a temporary registration permit for the specified purposes if the person is:~~

*(a) a Montana resident who acquires a new or used motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for operation of the vehicle or vessel prior to titling and registration the vehicle under this chapter;*

*(b) the owner of a salvage vehicle for moving the vehicle to and from a designated inspection site prior to applying for a new certificate of title under 61-3-212;*

*(c) a nonresident of this state who acquires a motor vehicle, trailer, semitrailer, or pole trailer in this state for operation of the vehicle prior to its titling and registration under the laws of the nonresident's jurisdiction of residence; or*

*(d) a financial institution located in Montana that intends to allow a prospective purchaser to demonstrate a motor vehicle that the financial institution has obtained following repossession.*

~~(3) A dealer licensed under Title 23, chapter 2, part 5, 6, or 8, or under Title 61, chapter 4, part 1, may issue a temporary registration permit only as authorized under 23-2-513, 23-2-610, 23-2-818, 61-4-111, or 61-4-112.~~

~~(4)(3) A temporary registration permit issued under subsections (1) through (3) this section must contain the following information:~~

~~(a) a temporary registration permit control plate number, registration receipt number, or transaction record number, as prescribed by the department;~~

~~(b) the expiration date of the temporary registration permit; and~~

~~(c) if required by the department, a description of the motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile, including year, make, model, and vehicle identification number, the name and address of the person from whom ownership of the motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile was transferred, the name, mailing address, and residence address of the person to whom ownership of the motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile has been transferred, and the date of transfer issuance.~~

~~(4) A temporary registration permit for:~~

~~(a) a motor vehicle, trailer, semitrailer, or pole trailer must be plainly visible and firmly attached to the rear exterior of the vehicle where a license plate is required to be displayed; and~~

(b) a motorboat, a sailboat that is 12 feet in length or longer, a snowmobile, or an off-highway must be plainly visible and firmly attached to the vehicle or vessel.

(5) (a) Except as provided in 61-3-431 and subsection (5)(b) of this section, a \$3 fee is imposed upon issuance of a temporary registration permit by the department, an authorized agent, or a county treasurer. The fee must be paid by the owner of the vehicle or vessel and collected by the department, the authorized agent, or a county treasurer when the vehicle is registered.

(b) Except as provided in 61-3-431, a fee of \$8 is imposed and must be paid upon issuance of a temporary registration permit by:

(i) the department, an authorized agent, or a county treasurer to a nonresident of this state who acquires a vehicle or vessels in this state; or

(ii) a person who issued a temporary registration permit using a department-approved electronic interface.

(6) The fees imposed under this section, upon collection, must be forwarded to the state and deposited in the motor vehicle electronic commerce operating account provided for in [section 5 of House Bill No. 671].

(7) If a temporary registration permit is issued under this section to a person to whom ownership of a vehicle or vessel has been transferred, the permitholder must title and register the vehicle or vessel in this or another jurisdiction before the ownership of the vehicle or vessel may be transferred to another person."

**Section 139. Coordination instruction.** If Senate Bill No. 318 and [this act] are both passed and approved, then [section 8] of Senate Bill No. 318, amending 61-3-301, is void.

**Section 140. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved, then 61-3-302 must be amended as follows:

**"61-3-302. Residents operating motor vehicles under licenses issued by any state other than Montana forbidden — vehicles exempt from registration — exceptions.** (1) (a) ~~It shall especially be provided that a~~ A resident of the state of Montana ~~shall~~ who owns a motor vehicle, trailer, semitrailer, or pole trailer may not operate ~~a~~ the motor vehicle, trailer, semitrailer, or pole trailer ~~under a license with license plates~~ issued by any other state than Montana.

(b) A person who has resided in Montana for more than 60 consecutive days is considered to be a resident for the purpose of vehicle titling and registration laws, and a motor vehicle, trailer, semitrailer, or pole trailer owned by the person must be titled and registered under the laws of Montana prior to operation in this state after the 60-day period.

(2) A motor vehicle, trailer, semitrailer, or pole trailer driven or moved upon a highway in this state and owned by a nonresident of this state is exempt from registration under this chapter if:

(a) the vehicle is properly registered in and displays valid license plates of the jurisdiction in which the nonresident owner resides; and

(b) (i) the vehicle is not used for the transportation of persons or property for hire, compensation, or profit;

(ii) the nonresident owner is not employed or engaged in a commercial or business enterprise in this state; or

(iii) *the vehicle is used for the exclusive purpose of filming motion pictures or television commercials and does not remain in the state for a period in excess of 180 consecutive days in a calendar year.*

(3) *A motor vehicle, trailer, semitrailer, or pole trailer that is owned by a manufacturer, a dealer, a wholesaler, or an auto auction and that is held for sale is exempt from registration under this part, even though the motor vehicle, trailer, semitrailer, or pole trailer is incidentally moved on the highway and is used for purposes of testing or demonstration or is used by a manufacturer solely for testing.*

(4) *A junk vehicle, as defined in Title 75, chapter 10, part 5, being driven to an auto wrecking graveyard for disposal is exempt from the provisions of this chapter."*

**Section 141. Coordination instruction.** If House Bill No. 541 and [this act] are both passed and approved, then [section 3] of House Bill No. 541 that amends 61-3-303 is void.

**Section 142. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved, then 61-3-303 must be amended as follows:

**"61-3-303. ~~Registration~~ Original registration — process — fees.** (1) ~~A~~ Except as provided in 61-3-324, Montana resident who owns a motor vehicle, trailer, semitrailer, or pole trailer operated or driven upon the public highways of this state shall register the motor vehicle, trailer, semitrailer, or pole trailer in the office of the county treasurer in the county where the owner permanently resides or, if the motor vehicle, trailer, semitrailer, or pole trailer is owned by a corporation or used primarily for commercial purposes, in the county where the motor vehicle, trailer, semitrailer, or pole trailer is ~~permanently assigned~~ domiciled.

(2) ~~(a)~~ Except as provided in subsection (3), the county treasurer shall register any vehicle for which:

~~(i)~~(a) as of the date that the motor vehicle, trailer, semitrailer, or pole trailer is to be registered, the owner delivers an application for a certificate of title to the department, its authorized agent, or a county treasurer; or

~~(ii)~~(b) the county treasurer confirms that the department has an electronic record of title for the motor vehicle, trailer, semitrailer, or pole trailer as provided under 61-3-101.

~~(b) To register a vehicle, the county treasurer shall update the electronic record of title maintained by the department under 61-3-101 by entering the fees paid and recording any changes to the recorded data.~~

(3) (a) A county treasurer ~~shall~~ may register a motor vehicle, trailer, semitrailer, or pole trailer for which a certificate of title and registration were issued in another jurisdiction and for which registration is required under 61-3-701 after the county treasurer examines the current out-of-jurisdiction registration certificate or receipt and receives payment of the fees required in 61-3-701. The county treasurer may ask the motor vehicle, trailer, semitrailer, or pole trailer owner to provide additional information, prescribed by the department, to ensure that the electronic record of registration maintained by the department is complete.

(b) A county treasurer may register a motor vehicle, trailer, semitrailer, or pole trailer for which the new owner cannot, due to circumstances beyond the new owner's control, ~~present the surrender a previously issued~~ assigned

certificate of title ~~only as authorized by the department under 61-3-342. The new owner may submit an application for certificate of title, subject to the registration renewal limitations of 61-3-312.~~

(4) ~~The department or the county treasurer shall determine the amount of fees, including local option taxes or fees, to be collected at the time of registration for each light vehicle subject to a registration fee under 61-3-560 through 61-3-562 and for each bus, truck having a manufacturer's rated capacity of more than 1 ton, and truck tractor subject to a fee in lieu of tax under 61-3-529. The county treasurer shall collect the registration fee, other appropriate fees, and local option taxes or fees, if applicable, on each motor vehicle at the time of its registration. Upon registering a motor vehicle, trailer, semitrailer, or pole trailer for the first time in this state, the county treasurer shall:~~

~~(a) update the electronic record of title, if any, maintained for the vehicle by the department under 61-3-101;~~

~~(b) assign a registration period for the vehicle under 61-3-311;~~

~~(c) determine the vehicle's age, if required, under 61-3-501;~~

~~(d) determine the amount of fees, including local option taxes or fees, to be paid under subsection (5); and~~

~~(e) assign and issue license plates for the vehicle under 61-3-331.~~

(5) ~~A~~ Unless otherwise provided by law, a person who seeks to register ~~registering~~ a motor vehicle, ~~except a mobile home or a manufactured home as those terms are defined in 15-1-101(1), shall pay to the county treasurer:~~

~~(a) the registration fee, as provided in 61-3-311 and 61-3-321 or 61-3-456;~~

~~(b) except as provided in 61-3-456 or unless it has been previously paid, the motor vehicle the fees in lieu of tax or registration fees, as required for:~~

~~(i) a light vehicle under 61-3-560 through 61-3-321(2) or 61-3-562, in addition to, if applicable, any local option tax or fee under 61-3-537 or 61-3-570 imposed against the vehicle for the current year of registration and the immediately previous year;~~

~~(ii) a motor home under 61-3-321;~~

~~(iii) a travel trailer under 61-3-321;~~

~~(iv) a motorcycle or quadricycle under 61-3-321;~~

~~(v) a bus, a truck having a manufacturer's rated capacity of more than 1 ton, or a truck tractor under 61-3-321 and 61-3-529; or~~

~~(vi) a trailer under 61-3-321; and~~

~~(e)(b) a donation of \$1 or more if the person has indicated on the application indicates that the person wishes to donate to promote awareness and education efforts for procurement of organ and tissue donations in Montana to favorably impact anatomical gifts; and~~

~~(d)(c) a donation of \$1 or more if the person has indicated on the application indicates that the person wishes to donate to promote education on, support for, and awareness of traumatic brain injury.~~

(6) The county treasurer may not issue a registration receipt or license plates for the *motor vehicle, trailer, semitrailer, or pole trailer* to the owner unless the owner makes the payments required by subsection (5). ~~Except as provided in 61-3-560 through 61-3-562, the department may not assess or~~

impose and the county treasurer may not collect taxes or fees for a period other than:

(a) ~~the current year; and~~

(b) ~~except as provided in subsection (9), the immediately preceding year if the vehicle was not registered or operated on the highways of the state, regardless of the period of time since the vehicle was previously registered or operated.~~

(7) The department may make full and complete investigation of the registration status of the *motor vehicle, trailer, semitrailer, or pole trailer*. A person seeking to register a motor vehicle, *trailer, semitrailer, or pole trailer* under this section shall provide additional information to support the registration to the department if requested.

(8) Revenue that accrues from the voluntary donation provided in subsection ~~(5)(e)~~ *(5)(b)* must be forwarded by the respective county treasurer to the department of revenue for deposit in the state special revenue fund to the credit of an account established by the department of public health and human services to support activities related to awareness and education efforts for procurement of organ and tissue donations for anatomical gifts.

(9) (a) Except as provided in subsection (9)(b), the fees in lieu of tax, taxes, and fees imposed on or collected from the registration of a travel trailer, motorcycle, or quadricycle or a trailer, *semitrailer, or pole trailer, or semitrailer* that has a declared weight of less than 26,000 pounds are required to be paid only once during the time that the ~~vehicle~~ *travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer* is owned by the same person who registered the ~~vehicle~~ *travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer*. Once registered, a ~~vehicle described in this subsection (9)(a)~~ *travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer* is registered permanently unless ownership of the vehicle is transferred.

(b) Whenever ownership of a ~~vehicle described in subsection (9)(a)~~ *travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer* is transferred, the new owner is required to register the ~~vehicle~~ *travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer* as if it were being registered for the first time, including paying all of the required fees in lieu of tax, taxes, and fees.

(10) Revenue that accrues from the voluntary donation provided in subsection ~~(5)(d)~~ *(5)(c)* must be forwarded by the respective county treasurer to the department of revenue for deposit in the state special revenue fund to the credit of the account established in 2-15-2218 to support activities related to education regarding prevention of traumatic brain injury.”

**Section 143. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved, then 61-3-311 must be amended as follows:

**“61-3-311. Registration — ~~annual renewal~~ — time periods.** (1) ~~Registration must be renewed annually, and registration fees must be paid annually. Except Unless a motor vehicle, trailer, semitrailer, or pole trailer is subject to permanent registration under this title and except as provided in 61-3-313, through 61-3-316, 61-3-318, 61-3-526 61-3-701, and 61-3-721, and subsection (3) of this section, all registrations expire on December 31 of the year in which they are issued and must be renewed annually upon payment of all required fees to the county treasurer or the department's agent not later than February 15 of each year the department, an authorized agent, or a county~~

*treasurer shall, upon original registration of a motor vehicle in this state, assign each motor vehicle to a registration period, as provided in 61-3-316, based upon the calendar month in which the motor vehicle is first registered in this state and designate the calendar year in which the current registration will expire. If the ownership of a motor vehicle is transferred during the registration year, the new owner shall apply for a certificate of title and register the motor vehicle as provided by this chapter.*

~~(2) The department, its authorized agent, or a county treasurer may not renew the registration of a vehicle whose ownership has been transferred and that was originally registered under the provisions of 61-3-342(3) unless:~~

~~(a) the previously issued certificate of title has been surrendered to the department, its authorized agent, or the county treasurer and the process for issuing a certificate of title has been completed; or~~

~~(b) the person to whom ownership of the vehicle has been transferred presents an affidavit and bond in support of the application for a certificate of title as permitted in 61-3-208.~~

*(2) Each registration period commences on the first day of the calendar month in the calendar year in which the motor vehicle is registered and the motor vehicle's registration expires on the earlier of:*

*(a) the last day of the month preceding the anniversary of the registration period for the year designated on the motor vehicle's registration decal, if the motor vehicle is registered for a minimum 12-month period;*

*(b) the last day of the month preceding the anniversary of the registration period for the year designated on the motor vehicle's registration decal, if the motor vehicle is registered for a period of at least 13 but less than 25 months; or*

*(c) the transfer of ownership of the motor vehicle, trailer, semitrailer, or pole trailer to another person.*

*(3) (a) Upon request of the motor vehicle a county treasurer may assign a motor vehicle to a registration period, as provided in 61-3-316, other than the calendar month in which the motor vehicle is first registered in this state if at least 13 but less than 25 months will elapse between the first day of the calendar month in which the motor vehicle is registered and the last day of the month preceding the anniversary of the requested registration period in the year designated on the motor vehicle's registration decal.*

*(b) The county treasurer shall determine fees imposed for a motor vehicle registered for a period between 13 and 24 months. All registration fees, fees in lieu of tax, or local option taxes or fees that are imposed on an annual basis must be prorated based on the number of months in the requested registration period.*

*(c) A motor vehicle registered under the provisions of 61-3-303(3)(b) may not be registered under this subsection (3).*

*(4) If a motor vehicle, trailer, semitrailer, or pole trailer is permanently registered under the provisions of this chapter, the registration is not subject to expiration unless the registered owner of the motor vehicle, trailer, semitrailer, or pole trailer transfers ownership of the vehicle to another person."*

**Section 144. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved, then 61-3-312 must be amended as follows:

**"61-3-312. Renewal of registration — exceptions — grace period.** (1) Except as provided in ~~61-3-311(1), 61-3-314, 61-3-318, 61-3-526, 61-3-560,~~

~~61-3-562, 61-3-313~~ and 61-3-721, the registration of a motor vehicle under this chapter expires on December 31 of each year and must be renewed annually upon payment of registration fees as provided in 61-3-303 and 61-3-321 on or before the last day of the month of the motor vehicle's registration period following the expiration of the motor vehicle's registration. ~~The renewal takes effect on January 1 of each year.~~ A person may renew a motor vehicle's registration by submitting full payment for the fees or taxes required under 61-3-303 to the department, an authorized agent, or a county treasurer in any county of this state. Except as provided in 61-3-315, the registration period originally assigned under 61-3-311 must be retained and the duration of the renewed registration is determined in accordance with 61-3-311. A registration receipt is valid ~~only during~~ for the registration year period for which it is issued.

(2) The owner of a motor vehicle ~~registered~~ subject to registration renewal under the provisions of this section may operate the vehicle between January 1 and February 15 without displaying the registration decal of the current year if, during the period, the owner displays upon the vehicle the number plates or ~~plate assigned for the previous year~~ is considered to have renewed the motor vehicle's registration in a timely manner if the owner submits full payment for the required fees or taxes, as prescribed in the mail renewal notice from the department, to the department, an authorized agent, or a county treasurer on or before the last day of the month of the motor vehicle's registration period.

(3) The department, an authorized agent, or a county treasurer may not renew the registration of a motor vehicle for which ownership has been transferred and that was originally registered without being titled under the provisions of 61-3-303(3)(b) unless:

(a) the previously issued certificate of title has been surrendered to the department, an authorized agent, or the county treasurer and the process for issuing a certificate of title has been completed; or

(b) the person to whom ownership of the motor vehicle has been transferred presents an affidavit and bond in support of the application for a certificate of title as permitted in 61-3-208."

**Section 145. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved, then 61-3-313 must be amended as follows:

**"61-3-313. Vehicles subject to staggered Motor vehicles exempt from registration renewal.** For purposes of 61-3-313 through 61-3-316, "vehicle" means a motor vehicle, as defined in 61-1-102, that is subject to annual registration in this state except ~~The following motor vehicles are exempt from the registration renewal requirements of 61-3-312:~~

(1) motor vehicles owned or leased and operated by the government of the United States or by the state of Montana or a political subdivision of the state;

~~(2) mobile homes and motor homes;~~

~~(3) vehicles that are registered in accordance with or subject to 61-3-411 or 61-3-458(3)(b);~~

~~(4) trucks exceeding a 1-ton rated capacity;~~

~~(5) trailers, semitrailers, tractors, and buses;~~

~~(6) special mobile equipment as defined in 61-1-104;~~

~~(7)(2) motor vehicles registered as part of a fleet under 61-3-318; and~~

~~(8)(3)~~ apportionable *motor* vehicles registered as part of a fleet, as defined in 61-3-712, that is subject to the provisions of 61-3-711 through 61-3-733; and

~~(4) unless a transfer of ownership occurs, a travel trailer, trailer, semitrailer, pole trailer, motorcycle, or quadricycle, including a motorcycle or quadricycle registered only for off-highway use under Title 23, chapter 2, part 8, is permanently registered.”~~

**Section 146. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved, then 61-3-314 must be amended as follows:

**“61-3-314. Registration period.** ~~(1) Except as provided in 61-3-315, each vehicle subject to the provisions of 61-3-313 through 61-3-316 must be registered for a 12-month period based upon the date it is first registered in this state pursuant to 61-3-313 through 61-3-316.~~

~~(2) There~~ For the purposes of this chapter, there are 12 registration periods to which a motor vehicle may be assigned, ~~each of which~~ Each registration period commences on the first day of a calendar month. The periods are:

- |  |              |
|--|--------------|
| <del>(a)</del> (1) January 1 through January 31      | 1st period   |
| <del>(b)</del> (2) February 1 through February 28/29 | 2nd period   |
| <del>(c)</del> (3) March 1 through March 31          | 3rd period   |
| <del>(d)</del> (4) April 1 through April 30          | 4th period   |
| <del>(e)</del> (5) May 1 through May 31              | 5th period   |
| <del>(f)</del> (6) June 1 through June 30            | 6th period   |
| <del>(g)</del> (7) July 1 through July 31            | 7th period   |
| <del>(h)</del> (8) August 1 through August 31        | 8th period   |
| <del>(i)</del> (9) September 1 through September 30  | 9th period   |
| <del>(j)</del> (10) October 1 through October 31     | 10th period  |
| <del>(k)</del> (11) November 1 through November 30   | 11th period  |
| <del>(l)</del> (12) December 1 through December 31   | 12th period” |

**Section 147. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved, then 61-3-317 must be amended as follows:

**“61-3-317. New registration required for transferred motor vehicle — grace period — penalty — display of proof of purchase.** (1) ~~Except as otherwise provided in this section, the~~ The new owner of a transferred motor vehicle, trailer, semitrailer, or pole trailer has a grace period of ~~20~~ 40 calendar days from the date of purchase to make application for a certificate of title and pay the registration fees, fees in lieu of tax and other fees required by ~~part 5 of~~ this chapter, and local option taxes, if applicable, ~~unless the fees and taxes have been paid for the year or for the 24-month period as provided in 61-3-315, as if the vehicle were being registered for the first time in that registration year.~~ However, the motor vehicle, trailer, semitrailer, or pole trailer may not be operated upon the streets and highways of this state during this period unless a temporary registration permit has been issued for and is properly displayed on the motor vehicle, trailer, semitrailer, or pole trailer as permitted by 61-3-224.

~~(2) The new owner of a vehicle described in 61-3-303(9) shall make application and pay the registration fees, fees in lieu of tax, and other fees required by part 5 of this chapter and local option taxes, if applicable, whether or not the fees and taxes have been paid previously.~~

~~(3)(2)~~ If the motor vehicle, *trailer, semitrailer, or pole trailer* was not purchased from a licensed motor vehicle dealer as provided in this chapter, it is not a violation of this chapter or any other law for the purchaser to operate the *motor vehicle, trailer, semitrailer, or pole trailer* upon the streets and highways of this state without a current registration receipt or registration decal during the ~~20-day~~ *40-day* period if at all times during that period, a temporary registration permit, *issued under 61-3-224, obtained from the county treasurer or a law enforcement officer as authorized by the department*, is clearly *properly* displayed in the rear window of the motor vehicle or, if a durable placard has been issued for the vehicle, the placard is attached to the rear of the vehicle.

~~(4)~~ Registration fees collected under 61-3-321 are not required to be paid when a license plate is transferred under 61-3-335 and this section.

~~(5)~~ Failure to make application for a certificate of title within the time provided in this section subjects the purchaser to a penalty of \$10. The penalty must be collected by the county treasurer at the time of registration and is in addition to the fees otherwise provided by law. The penalty must be deposited in the state general fund.

**Section 148. Coordination instruction.** If Senate Bill No. 285, Senate Bill No. 318, and [this act] are all passed and approved, then [section 16] of Senate Bill No. 318, a coordination instruction, is void and 61-3-321 must be amended as follows:

**“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, ~~reregistration~~ *renewal of registration* of motor vehicles, *snowmobiles, watercraft, trailers, and semitrailers, and pole trailers* in accordance with this chapter, as follows as provided in subsections (2) through (19):

~~(a)(2)~~ *Unless a light vehicle is permanently registered under 61-3-562, the annual registration fee for light vehicles under 2,850 pounds, \$13.75 in calendar year 2004 and, in each subsequent year, \$17; trucks and buses under 1 ton, and logging trucks less than 1 ton is as follows:*

- (a) if the vehicle is 4 years old or less, \$217;*
- (b) if the vehicle is 5 through 10 years old, \$87; and*
- (c) if the vehicle is 11 or more years old, \$28.*

~~(b)(3)~~ *Except as provided in subsection (15), the one-time registration fee based on the declared weight of the 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*

~~trailers with a declared weight of less than 2,500 pounds and semitrailers, \$8.25. For a trailer or semitrailer described in 61-3-530(1), this fee is a one-time fee, except upon transfer of ownership of the trailer or semitrailer.~~

~~(e)(4)~~ *The annual registration fee for motor vehicles registered owned and operated solely as collector's items pursuant to 61-3-411 that are for motor vehicles:*

- ~~(i)(a)~~ *2,850 pounds and over, \$10; and*
- ~~(ii)(b)~~ *under 2,850 pounds, \$5.*

~~(d)~~(5) *Except as provided in subsection (15), the one-time registration fee for off-highway vehicles registered pursuant to 23-2-817, \$9 in calendar year 2004 and, in each subsequent year, \$19.25 other than quadricycles is \$61.25. This fee is a one-time fee, except upon transfer of ownership of an off-highway vehicle.*

~~(e)~~(6) *The annual registration fee for light vehicles over 2,850 pounds, trucks and buses less than 1 ton, and heavy trucks, buses, and logging trucks in excess of 1 ton, \$18.75 in calendar year 2004 and, in each subsequent year, \$22 is \$22.75;*

~~(f)~~ logging trucks less than 1 ton, \$23.75;

~~(g)~~(7) (a) *motor homes, \$22.25; 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 \$237.75; and*

*(ii) if applicable, five times the renewal fees for personalized plates under 61-3-406.*

~~(h)~~(8) (a) *Except as provided in subsection (15), the one-time registration fee for motorcycles and quadricycles, \$9.75 for a motorcycle or quadricycle with special license plates issued under 61-3-415 and, for a motorcycle or quadricycle under one-time registration, \$9.75 in calendar year 2004 and, in each subsequent year, \$11.25 registered for use on public highways is \$53.25 and the one-time registration fee for motorcycles registered for both off-road use and for use on the public highways is \$114.50. This fee is a one-time fee, except upon transfer of ownership of a motorcycle or quadricycle.*

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

~~(i)~~ trailers and semitrailers between 2,500 and 6,000 pounds, \$11.25. For a trailer or semitrailer described in 61-3-530(1), this fee is a one-time fee, except upon transfer of ownership of the trailer or semitrailer.

~~(j)~~ trailers and semitrailers in excess of 6,000 pounds, other than trailers and semitrailers registered in other jurisdictions and registered through a proportional registration agreement, \$16.25. For a trailer or semitrailer described in 61-3-530(1), this fee is a one-time fee, except upon transfer of ownership of the trailer or semitrailer.

~~(k)~~(9) *Except as provided in subsection (15), the one-time registration fee for travel trailers under 16 feet in length, \$11.75 is \$72 and the one-time registration fee for travel trailers 16 feet in length or longer is \$152. This fee is a one-time fee, except upon transfer of ownership of a travel trailer.*

~~(l)~~ recreational vehicles, \$3.50 in calendar year 2004 and, in each subsequent year, \$9.75. If the recreational vehicle is a travel trailer, this fee is a one-time fee, except upon transfer of ownership of a travel trailer.

(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 that 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 fee in lieu of tax imposed in subsection (11)(a).

~~(2) (a) Except as provided in subsection (2)(b), if a motor vehicle, trailer, or semitrailer is originally registered 6 months after the time of registration as set by law, the registration fee for the remainder of the year is one-half of the regular fee.~~

~~(b) For a trailer or semitrailer described in 61-3-530(1), the applicable fees must be paid regardless of when the fees were last paid or if the fees were paid at all.~~

~~(3) An additional fee of \$5 for a motorcycle or quadricycle with special license plates issued under 61-3-415 and, for a motorcycle or quadricycle under one-time registration, \$5 in calendar year 2004 and, in each subsequent year, \$16 must be collected for the registration of each motorcycle as a safety fee and must be deposited in the state motorcycle safety account provided for in 20-25-1002.~~

(12) Except as provided in subsection (15), the one-time registration fee for a quadricycle is \$59.25.

~~(4)~~(13) A fee of \$5 for each set of new number plates must be collected when ~~number plates~~ a new set of standard license plates or a new single standard license plate provided for under ~~61-3-332(2) are~~ 61-3-332 is issued. The \$5 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.

~~(5)~~(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 light vehicles that are exempt from taxation under 15-6-201(1)(a), (1)(c) through (1)(e), (1)(m), (1)(o), (1)(q), or (1)(w), 15-6-203, or 15-6-215, except as provided in 61-3-520.

~~(6) (a) Except as provided in 61-3-562 and subsection (6)(b) of this section, a fee of 25 cents a year for each registration of a vehicle must be collected when a vehicle is registered or reregistered. The revenue derived from this fee must be forwarded by the county treasurer for deposit in the state general fund for transfer to the credit of the senior citizens and persons with disabilities transportation services account provided for in 7-14-112.~~

~~(b) The following vehicles are not subject to the fee imposed in subsection (6)(a):~~

~~(i) trailers and semitrailers registered in other jurisdictions and registered through a proportional registration agreement; and~~

~~(ii) travel trailers, recreational vehicles, and off-highway vehicles registered pursuant to 23-2-817.~~

~~(7) (a) Except as provided in 61-3-562 and subsection (7)(b) of this section, a fee of 50 cents a year for each registration of a vehicle must be collected when a vehicle is registered or reregistered. The county treasurer shall forward revenue derived from this fee to the state for deposit in the general fund.~~

~~(b) The following vehicles are not subject to the fee:~~

~~(i) trailers and semitrailers registered in other jurisdictions and registered through a proportional registration agreement;~~

~~(ii) off-highway vehicles registered pursuant to 23-2-817; and~~

~~(iii) vehicles bearing license plates described in 61-3-458(3)(d).~~

~~(8)(15) The provisions of this section relating to the payment of registration fees or new number plate fees do not apply when number plates are transferred to a replacement vehicle under 61-3-317, 61-3-332, or 61-3-335. Whenever ownership of a trailer, semitrailer, pole trailer, off-highway vehicle, motorcycle, quadricycle, travel trailer, motor home, motorboat, sailboat, personal watercraft, motorized pontoon, or snowmobile 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.~~

~~(9)(16) A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section.~~

~~(10)(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 (13) are not required to be paid by a dealer for the enumerated vehicles or vessels that constitute inventory of the dealership.~~

~~(11)(19) (a) Unless a person exercises the option in subsection ~~(11)(b)~~ (19)(b), an additional fee of \$4 must be collected for each light vehicle or truck under 8,001 pounds GVW registered for licensing pursuant to under this part. This fee must be accounted for and transmitted separately from the registration fee. The fee must be deposited in an account in the state general special revenue fund to be used for state parks, for fishing access sites, and for the operation of state-owned facilities as provided in 15-1-122(3)(e)(vii). Of the \$4 fee, the department shall use \$3.50 for state parks, 25 cents for fishing access sites, and 25 cents for the operation of state-owned facilities at Virginia City and Nevada City.~~

~~(b) A person who registers a light vehicle or truck under 8,001 pounds GVW 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 \$4 fee provided for in subsection ~~(11)(a)~~ (19)(a). If a written election is made, the fee may not be collected.

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

**Section 149. Coordination instruction.** If Senate Bill No. 318 is not passed and approved and Senate Bill No. 285 and [this act] are both passed and approved, then subsection (12) of 61-3-321 contained in [section 148 of this act] is void and internal references must be adjusted and subsection (8) of 61-3-321 contained in [section 148 of this act] must read as follows:

*"(8) (a) Except as provided in subsection (15), the one-time registration fee for motorcycles and quadricycles, ~~\$9.75 for a motorcycle or quadricycle with special license plates issued under 61-3-415 and, for a motorcycle or quadricycle under one-time registration, \$9.75 in calendar year 2004 and, in each subsequent year, \$11.25~~ 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. This fee is a one-time fee, except upon transfer of ownership of a motorcycle or quadricycle.*

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

**Section 150. Coordination instruction.** If Senate Bill No. 285, House Bill No. 35, and [this act] are all passed and approved, then 61-3-321(12) as amended by House Bill No. 35 must read as follows:

*"(12) 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 [section 4 of House Bill No. 35]."*

**Section 151. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved, then [section 83] of Senate Bill No. 285, amending 61-3-333, is void.

**Section 152. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved, then 61-3-334 must be amended as follows:

~~"61-3-334. Expiration of registration on transfer~~ **Transfer of ownership of motor vehicle — duty to remove plates.** Upon the transfer of ownership of a motor vehicle, *trailer, semitrailer, or pole trailer*, the registration of the motor vehicle shall expire and it shall be the duty of the transferor *shall* immediately ~~to~~ remove the license plates from the *motor vehicle, trailer, semitrailer, or pole trailer.*"

**Section 153. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved, then [section 97] of Senate Bill No. 285, amending 61-3-425, is void.

**Section 154. Coordination instruction.** If Senate Bill No. 285, which repeals 61-3-522, is not passed and approved and House Bill No. 541 and [this act] are both passed and approved, then 61-3-522 must be amended as follows:

**"61-3-522. Schedule of fees for motor homes — permanent registration of motor homes — transfer of ownership.** (1) The owner of a motor home shall pay a fee based on the age of the motor home according to the following schedule:

less than 2 years old .....	\$250
2 years old and less than 3 years old .....	230
3 years old and less than 4 years old .....	195
4 years old and less than 5 years old .....	150
5 years old and less than 6 years old .....	125
6 years old and less than 7 years old .....	100
7 years old and less than 8 years old .....	75
8 years old and older .....	65

(2) (a) ~~Except as provided in subsection (2)(b), the~~ *The age of a motor home is must be determined by subtracting the manufacturer's designated model year from the current calendar year under 61-3-501.*

(b) ~~If the purchase year of a motor home precedes the designated model year of the motor home and the motor home is originally titled in Montana, then the purchase year is considered the model year for the purposes of calculating the fee in lieu of tax.~~

(3) (a) *The owner of a motor home that is 11 years old or older and that is subject to the registration fee under 61-3-321 may permanently register the motor home upon payment of:*

(i) *a one-time registration fee of \$237.75; and*

(ii) *if applicable, five times the renewal fees for personalized plates under 61-3-406.*

(b) *The following series of license plates may not be used for purposes of permanent registration of a motor home:*

(i) *Montana national guard license plates issued under 61-3-458(2)(b);*

(ii) *reserve armed forces license plates issued under 61-3-458(2)(c);*

(iii) *amateur radio operator license plates issued under 61-3-422;*

(iv) *collegiate license plates issued under 61-3-465; and*

(v) *generic specialty license plates issued under 61-3-479.*

(4) *The permanent registration of a motor home allowed by this section may not be transferred to a new owner. If the motor home is transferred to a new owner, the new owner shall apply for a certificate of title under 61-3-201 and register the motor home under 61-3-303."*

**Section 155. Coordination instruction.** If Senate Bill No. 285, House Bill No. 541, and [this act] are all passed and approved, then subsection (3)(b) of 61-3-522, as it reads in [section 154 of this act] must be codified as a new section in Title 61, chapter 5, because 61-3-522 is repealed by Senate Bill No. 285.

**Section 156. Coordination instruction.** If Senate Bill No. 285, which repeals 61-3-527, is not passed and approved and House Bill No. 102 and [this act] are both passed and approved, then 61-3-527 must be amended as follows:

**"61-3-527. One-time fee in lieu of tax for motorcycles and quadricycles — permanent registration.** (1) (a) ~~There~~ *Except as provided in subsection (2), there is a one-time fee in lieu of property tax of \$20 in calendar year 2004 and, in each subsequent year, \$40 \$41.25 imposed on motorcycles and quadricycles that are subject to one-time registration. The fee is in addition to registration fees.*

(b) The fee imposed by subsection (1)(a) is not required to be paid by a dealer for motorcycles or quadricycles that constitute inventory of the dealership.

(2) The owner of a motorcycle or quadricycle with a special license plate issued under 61-3-415 shall pay an annual fee based on the age of the motorcycle or quadricycle and the size of the engine, according to the following schedule:

~~(a) The fee schedule for a motorcycle or quadricycle with an engine that measures from 1 cubic centimeter to 600 cubic centimeters is as follows:~~

~~(i) less than 5 years old, \$30;~~

~~(ii) 5 years old but less than 11 years old, \$15; and~~

~~(iii) 11 years old and older, \$6 the one-time registration fee imposed under subsection (1) and the fees imposed under 61-3-415.~~

~~(b) The fee schedule for a motorcycle or quadricycle with an engine that measures from 601 cubic centimeters to 1,000 cubic centimeters is as follows:~~

~~(i) less than 5 years old, \$55;~~

~~(ii) 5 years old but less than 11 years old, \$20; and~~

~~(iii) 11 years old and older, \$6.~~

~~(c) The fee schedule for a motorcycle or quadricycle with an engine that measures 1,001 cubic centimeters and larger is as follows:~~

~~(i) less than 5 years old, \$90;~~

~~(ii) 5 years old but less than 11 years old, \$50; and~~

~~(iii) 11 years old and older, \$6.~~

~~(3) (a) Except as provided in subsection (3)(b), the age of a motorcycle or quadricycle is determined by subtracting the manufacturer's designated model year from the current calendar year.~~

~~(b) If the purchase year of a motorcycle or quadricycle precedes the designated model year of the motorcycle or quadricycle and the motorcycle or quadricycle is originally titled in Montana, then the purchase year is considered the model year for the purposes of calculating the fee in lieu of tax.~~

~~(4) A person who registers a motorcycle or quadricycle as provided in this section shall pay an additional one-time fee of \$1.25 at the time of registration for deposit in the state general fund. The department shall pay from the general fund an amount equal to the \$1.25 fee collected under this subsection from each vehicle registration to the pension trust fund for payment of supplemental benefits provided for in 19-6-709.~~

~~(5)(3) Whenever a transfer of ownership of a motorcycle or quadricycle occurs, the one-time fees required under this section must be paid by the new owner. (Subsection (4) terminates on occurrence of contingency—sec. 24, Ch. 191, L. 2001.)~~

**Section 157. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved, then 61-3-701 must be amended as follows:

**“61-3-701. Out-of-state vehicles used in gainful occupation to be registered — reciprocity.** (1) ~~Before~~ *A person may not operate a motor vehicle, trailer, semitrailer, or pole trailer that is registered in another jurisdiction may be operated on the highways of this state if the vehicle is used for hire, compensation, or profit or before the owner or user of the vehicle uses the vehicle*

if the ~~owner or user~~ *person* is engaged in gainful occupation or business enterprise in the state, including highway work, ~~the owner of the vehicle shall register unless the motor vehicle, trailer, semitrailer, or pole trailer is registered~~ at the office of a county treasurer or an authorized agent of the department. Upon satisfactory evidence of ownership submitted to the county treasurer or the department's authorized agent and the payment of fees in lieu of taxes or registration fees, if appropriate, as required by ~~15-8-201, 15-8-202, 15-24-301, 61-3-321, 61-3-529, or 61-3-537, or 61-3-560 and 61-3-561,~~ the treasurer or authorized agent shall enter the vehicle for registration purposes only on the electronic registry maintained by the department under 61-3-101. *One-fourth of the annual fees or taxes due on the motor vehicle, trailer, semitrailer, or pole trailer subject to registration under this section must be paid for each calendar quarter or portion of a calendar quarter for the year that the vehicle will be located or operated in Montana.*

(2) Upon payment of the fees or taxes, the treasurer or the department's authorized agent shall issue to the ~~vehicle~~ *owner of the motor vehicle, trailer, semitrailer, or pole trailer* a registration receipt, ~~and the proper license plates, or other identification markers~~ *and a registration decal indicating the calendar quarter and year for which the motor vehicle, trailer, semitrailer, or pole trailer is registered.* The license plates, *with attached registration decal,* ~~or identification markers~~ must at all times be displayed upon the *motor vehicle, trailer, semitrailer, or pole trailer* when operated or driven upon roads and highways of this state during the registration period indicated on the receipt.

(3) The registration receipt does not constitute evidence of ownership but ~~must~~ *may* be used only for registration purposes. A Montana certificate of title may not be issued for a *motor vehicle, trailer, semitrailer, or pole trailer* registered under this section.

(4) This section is not applicable to a *motor vehicle* covered by a valid and existing reciprocal agreement or declaration entered into under Montana law.”

**Section 158. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved, then [section 129] of Senate Bill No. 285, amending 61-3-707, is void.

**Section 159. Coordination instruction.** If Senate Bill No. 285, House Bill No. 55, and [this act] are all passed and approved, then [section 2] of House Bill No. 55, a coordination section, is void and 61-3-721 must be amended as follows:

**“61-3-721. Proportional registration of motor fleet vehicles, registration periods, application, fee formula, and payment — permanent registration of trailer and semitrailer fleets — transfer of ownership — transfer of license plates.** (1) An owner of one or more fleets may register and license each fleet for operation in this state by filing an application with the department of transportation. The application must contain the information pertinent to *motor vehicle, trailer, semitrailer, or pole trailer* registration that is required by the department of transportation. *If an electronic record of title has not been created for or a certificate of title issued for an apportionable vehicle in the fleet, the department of transportation, as an authorized agent of the department of justice, may also process the application for certificate of title for the vehicle as provided in 61-3-203 and 61-3-217.*

(2) ~~Each~~ *Except as provided in 61-3-318(1) and subsection (6) of this section,* each fleet subject to the provisions of 61-3-711 through 61-3-733 must, ~~except as provided in 61-3-318(1) and subsection (6) of this section,~~ be registered for an

annual registration period based upon the date that the fleet is first registered in this state.

(3) There are four annual registration periods, each of which begins on the first day of a calendar quarter. As used in this subsection, "calendar quarter" means the period of 3 consecutive months ending March 31, June 30, September 30, or December 31. The periods are:

- (a) January 1 through March 31.....1st period
- (b) April 1 through June 30 .....2nd period
- (c) July 1 through September 30 .....3rd period
- (d) October 1 through December 31 .....4th period

(4) Registration of a fleet of apportionable *motor* vehicles under subsection (2) must be renewed on or before the last day of the month for the designated annual registration period unless a different registration period has been authorized pursuant to 61-3-716(2). The department shall provide for simultaneous registration of multiple fleets of apportionable *motor* vehicles in common ownership.

(5) Except as provided in subsection (6), the application for each fleet may be accompanied by a fee payment computed by:

(a) dividing in-state miles by total fleet miles as defined in the applicable agreement, *arrangement*, or *declaration* entered into pursuant to 61-3-711 through 61-3-733;

(b) determining the total amount necessary to register each *motor* vehicle, *trailer*, *semitrailer*, or *pole trailer* in the fleet for which registration is requested, based on the regular annual registration fees prescribed by 61-3-321 and chapter 10, part 2, and the property taxes that are due on the fleet;

(c) multiplying the sum obtained under subsection (5)(b) by the fraction obtained under subsection (5)(a).

~~(6) (a) Each trailer and semitrailer fleet must be registered for a 5-year period based upon the date that the fleet is first registered in this state.~~

~~(b) Each trailer and semitrailer in the fleet for which registration is requested must be assessed a registration fee equal to five times the amount prescribed by 61-3-321.~~

~~(c) Each trailer or semitrailer must be issued a license plate, a distinctive sticker, or other suitable identification device valid for 5 years from the date of the original application or renewal application.~~

~~(d) Registration of a trailer or semitrailer must be renewed on or before the last day of the month for the designated 5-year registration period.~~

~~(7) Upon the transfer of ownership of a trailer or semitrailer, the registration of the trailer or semitrailer expires and it is the duty of the transferor to immediately remove the license plates from the trailer or semitrailer.~~

~~(8) (a) If the transferor applies for the registration of another trailer or semitrailer at any time during the remainder of the current registration period as shown on the original registration, the transferor may file an application with the department of transportation, accompanied by the original certificate of registration, for the transfer of the license plates. The application for transfer of the license plates must be made by the person or motor carrier in whose name~~

~~the original license plates to the trailer or semitrailer were issued. The use of the license plates is not legal until the proper transfer of license plates has been made.~~

~~(b) License plates may be transferred pursuant to this section without transferring ownership of the trailer or semitrailer for which the license plates were originally issued.~~

~~(c) Upon transfer of the license plates, the registration of the trailer or semitrailer from which the license plates were transferred expires. The registration for the trailer or semitrailer must be surrendered to the department of transportation with the application for transfer.~~

~~(d) License plates issued for a trailer or semitrailer under this section may be transferred only to a replacement trailer or semitrailer. A license plate fee may not be assessed upon transfer of a license plate. Upon renewal or new registration, each trailer, semitrailer, or pole trailer fleet must be permanently registered and assessed a registration fee of \$82.50. Each trailer, semitrailer, or pole trailer in the fleet must be issued a permanent license plate and sticker.~~

~~(7) The fee assessed in subsection (6) is a one-time fee except upon transfer of ownership of a trailer, semitrailer, or pole trailer.~~

~~(8) If the owner of a fleet removes a trailer, semitrailer, or pole trailer from the fleet, the owner shall surrender the registration and license plate assigned to the trailer, semitrailer, or pole trailer to the department of transportation. The owner may not transfer the license plate and sticker to a trailer, semitrailer, or pole trailer that is added to the fleet.~~

~~(9) Applications submitted with fees may be recomputed by the department of transportation. The department of transportation shall furnish a statement showing the overpayment or balance due.~~

~~(10) Applications submitted without fees must be computed by the department of transportation. The department of transportation shall furnish a statement showing the amount of fees due."~~

**Section 160. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved, then [section 159] of Senate Bill No. 285, amending 61-4-111, is void and [section 104 of this act], amending 61-4-111, must be amended as follows:

**"61-4-111. Used motor vehicles — transfer to and from dealers.** (1) Except as provided in 61-4-124(6), a licensed dealer, broker, or wholesaler who intends to resell a used motor vehicle and who operates the vehicle only for demonstration purposes:

(a) is exempt from registration under ~~61-3-201(2)~~ *61-3-302(3)* when applying for a certificate of title; and

(b) may transfer or receive ownership of a motor vehicle by use of a dealer reassignment section on a certificate of title. However, when the allotted number of dealer reassignment sections on a certificate of title has been completed, ownership of the vehicle may not be transferred until an application for a certificate of title has been submitted by the dealer to the department and a new certificate of title has been issued.

(2) Upon the transfer of a used motor vehicle *or trailer* to a person other than a licensed dealer, broker, or wholesaler, *a temporary registration permit may be issued under 61-3-224 to the person to whom the used motor vehicle or trailer was transferred if the dealer is an authorized agent, as defined in [section 2 of House*

*Bill No. 671]. In addition, the following acts are required of the dealer on or before the times set forth in this subsection:*

~~(a) Prior to delivery of the vehicle to the purchaser, the dealer shall issue a temporary registration permit for the vehicle and affix the temporary registration permit to the vehicle in a manner prescribed by the department. The temporary registration permit issued by the dealer is valid for 20 days from the date of issuance. There must be imprinted on the temporary registration permit in bold letters the following statement: "IT IS UNLAWFUL TO PLACE LICENSE PLATES UPON THIS VEHICLE UNTIL REGISTERED AT THE OFFICE OF THE COUNTY TREASURER". Unless a durable license plate style placard is issued, one copy of the temporary registration permit must be delivered by the dealer to the county treasurer in the manner prescribed in subsection (2)(b), and a copy must be retained by the dealer for the dealer's file. If a durable placard is issued, the dealer shall create and retain the relevant records as prescribed by the department. It is unlawful for the dealer to issue more than one 20-day temporary registration permit for each vehicle sale.~~

~~(b)(a) Within 4 working 30 calendar days following the date of delivery of the motor vehicle or trailer, the dealer shall forward to the county treasurer of the county where the purchaser resides vehicle is domiciled:~~

~~(i) the assigned certificate of title or, if a certificate of title for the motor vehicle or trailer has not been issued in this state, a copy of the then-current registration receipt or certificate in the dealer's possession; and~~

~~(ii) an application for a certificate of title executed by the new owner in accordance with the provisions of 61-3-221 and 61-3-222 61-3-216 and 61-3-220; and~~

~~(iii) a copy of the temporary registration permit affixed to the vehicle by the dealer.~~

~~(e)(b) Transmission of the documents by the dealer to the county treasurer may be accomplished either by personal delivery, or by first-class mail, in which event they are considered to have been delivered at the time of mailing or by electronic means, as authorized by the department.~~

~~(d)(c) If the dealer is unable to forward the certificate of title or, if applicable, registration receipt within the time set forth in subsection (2)(b) (2)(a) because the certificate of title is lost, is in the possession of third parties, or is in the process of reissuance in this state or elsewhere, the dealer shall comply in all other respects with the provisions of subsection (2)(b) (2)(a) and shall forward the missing document or documents to the county treasurer, either personally or by first-class mail, within 3 days after receipt.~~

(3) Upon compliance by the dealer with the requirements in this section, title to the motor vehicle *or trailer* is considered to have passed to the purchaser as of the date of the delivery of the *motor vehicle or trailer* to the purchaser by the dealer, and the dealer has no further liability or responsibility with respect to the processing of registration.

(4) Upon receipt from the county treasurer of the documents required under subsection (2), the department shall:

(a) update the electronic record of the title maintained by the department under 61-3-101; or

(b) issue a certificate of title if requested under 61-3-216(2)(f); and

(c) comply with the applicable provisions of Title 61, chapter 3, parts 1 through 3.

~~(5) For purposes of this section, "motor vehicle" includes a trailer as defined in 61-1-111."~~

**Section 161. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved, then [section 160] of Senate Bill No. 285, amending 61-4-112, is void and [section 105 of this act], amending 61-4-112, must be amended as follows:

**"61-4-112. New motor vehicles — transfers by dealers.** (1) (a) When a motor vehicle dealer transfers a new motor vehicle to a purchaser or other recipient, the dealer shall:

~~(a) issue and affix a temporary registration permit, as prescribed in 61-4-111(2)(a), for transfers of used motor vehicles and retain a copy of the temporary registration permit or, if a durable license-plate style placard is issued, affix the placard and create and retain all other relevant records prescribed by the department;~~

~~(b) within 4 working 30 calendar days following the date of delivery of the new motor vehicle, forward to the county treasurer of the county where the purchaser or recipient resides motor vehicle is domiciled:~~

~~(i) one copy of the temporary registration permit issued under subsection (1)(a) or a copy of the information described in the records concerning a placard;~~

~~(ii)(i) an application for a certificate of title with a notice of security interest, if any, executed by the purchaser or recipient; and~~

~~(iii)(ii) a manufacturer's certificate of origin that shows that the motor vehicle has not previously been registered or owned, except as otherwise provided in this section, by any person other than a new motor vehicle dealer holding a franchise or distribution agreement from a new car manufacturer, distributor, or importer.~~

~~(b) If the dealer is an authorized agent, as defined in [section 2 of House Bill No. 671], a temporary registration permit may be issued under 61-3-224 to the person to whom the new motor vehicle was transferred.~~

(2) Upon receipt from the county treasurer of the documents required under subsection (1), the department shall issue a certificate of title if requested under 61-3-216(2)(f) and otherwise comply with the provisions of Title 61, chapter 3, parts 1 through 3, as applicable."

**Section 162. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved, then [section 178] of Senate Bill No. 285, amending 61-4-310, is void.

**Section 163. Coordination instruction.** If House Bill No. 192 and [this act] are both passed and approved, then 61-5-114 must be amended as follows:

**"61-5-114. Duplicate licenses Replacement license or permit.** (1) If an instruction permit or driver's license issued under the provisions of this chapter is lost or destroyed or a person wants to update personal information contained on an instruction permit or a driver's license issued to the person, the person to whom it the permit or license was issued may, upon the payment of a fee of \$10, obtain a duplicate or substitute replacement permit or license, upon furnishing proof satisfactory to the department that the permit or license has been lost or destroyed or that personal information has changed.

(2) *If the hazardous materials endorsement on a commercial driver's license issued under the provisions of this chapter is revoked or removed pursuant to the authority provided in [section 2 of House Bill No. 192], the person to whom the license was issued shall surrender to the department the person's commercial driver's license with the hazardous materials endorsement and may obtain, upon making application and paying a \$10 fee, a replacement license that does not include a hazardous materials endorsement."*

**Section 164. Coordination instruction.** If House Bill No. 102, House Bill No. 192, Senate Bill No. 285, and [this act] are all passed and approved then [section 165 of this act] is void and [section 22] of House Bill No. 192, amending 61-5-121, [section 191] of Senate Bill No. 285, amending 61-5-121, and [section 114 of this act], amending 61-5-121, are all void and [section 10] of House Bill No. 102, amending 61-5-121, is amended as follows:

**"61-5-121. Disposition of fees.** (1) ~~The~~ *Except as provided in subsection (3), the disposition of the fees from driver's licenses, motorcycle endorsements, commercial driver's licenses, and duplicate replacement driver's licenses provided for in 61-5-114 is as follows:*

(a) The amount of 22.3% of each driver's license fee, *18.25% of each commercial driver's license fee*, and 25% of each ~~duplicate replacement~~ driver's license fee must be deposited into an account in the state special revenue fund. ~~The~~ *Upon receiving an appropriation, the department shall transfer the funds from this account to the Montana highway patrol officers' retirement pension trust fund as provided in 19-6-404. The department shall report the amount deposited and transferred under this subsection (1)(a) to the legislative finance committee by October 31 of the year preceding each regular session of the legislature.*

(b) (i) If the fees are collected by a county treasurer or other agent of the department, the amount of 2.5% of each driver's license fee, *2.5% of each commercial driver's license fee*, and 3.75% of each ~~duplicate replacement~~ driver's license fee must be deposited into the county general fund.

(ii) If the fees are collected by the department, the amount provided for in subsection (1)(b)(i) must be deposited into the state general fund.

(c) (i) If the fee is collected by a county treasurer or other agent of the department, the amount of 3.34% of each motorcycle endorsement must be deposited into the county general fund.

(ii) If the fee is collected by the department, the amount provided for in subsection (1)(c)(i) must be deposited into the state general fund.

(d) The amount of 20.7% of each driver's license fee, *16.94% of each commercial driver's license fee*, and 8.75% of each ~~duplicate replacement~~ driver's license fee must be deposited into the state traffic education account.

(e) In addition to the amounts deposited pursuant to subsections (1)(b)(ii) and (1)(c)(ii), ~~the amount of 54.5% of each driver's license fee and 62.5% of each duplicate driver's license fee~~ *the remainder of each driver's license fee, each commercial driver's license fee, and each replacement driver's license fee* must be deposited into the state general fund.

(f) ~~If the fee is collected by the county treasurer or other agent of the department, the amount of 2.5% of each commercial driver's license fee must be deposited into the county general fund, otherwise all of the fee must be deposited into the state general fund.~~

~~(g)~~(f) The amount of 63.46% of each motorcycle endorsement fee must be deposited into the state motorcycle safety account in the state special revenue fund, and the amount of 33.2% of each motorcycle endorsement fee must be deposited into the state general fund.

(2) (a) If fees from driver's licenses, commercial driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected by a county treasurer or other agent of the department, the county treasurer or agent shall deposit the amounts provided for in subsections (1)(b)(i) and (1)(c)(i) into the county general fund. The county treasurer or agent shall then remit *all remaining fees to the state for deposit to the department of revenue all remaining fees, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund, as provided in subsection (1)(a), and the state general fund. The department of revenue, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a) and (1)(d) through* ~~(1)(g)~~ (1)(f).

(b) If fees from driver's licenses, commercial driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected by the department, it shall ~~remit all fees to the department of revenue, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund as provided in subsection (1)(a), the state special revenue fund, and the state general fund. The department of revenue, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a), (1)(b)(ii), (1)(c)(ii), and (1)(d) through~~ ~~(1)(g)~~ (1)(f).

(3) *The fee for a renewal notice, whether collected by a county treasurer, an authorized agent, or the department, must be remitted to the department for deposit in the state general fund.*

**Section 165. Coordination instruction.** If House Bill No. 102, Senate Bill No. 285, and [this act] are all passed and approved, then [section 191] of Senate Bill No. 285, amending 61-5-121, and [section 114 of this act], amending 61-5-121, are void and [section 10] of House Bill No. 102, amending 61-5-121, is amended as follows:

**"61-5-121. Disposition of fees.** (1) The disposition of the fees from driver's licenses, motorcycle endorsements, commercial driver's licenses, and duplicate driver's licenses provided for in 61-5-114 is as follows:

~~(a) The amount of 22.3% of each driver's license fee and 25% of each duplicate driver's license fee must be deposited into an account in the state special revenue fund. The department shall transfer the funds from this account to the Montana highway patrol officers' retirement pension trust fund as provided in 19-6-404. The department shall report the amount deposited and transferred under this subsection (1)(a) to the legislative finance committee by October 31 of the year preceding each regular session of the legislature.~~

~~(b)~~(a) (i) If the fees are collected by a county treasurer or other agent of the department, the amount of 2.5% of each driver's license fee and 3.75% of each duplicate driver's license fee must be deposited into the county general fund.

(ii) If the fees are collected by the department, the amount provided for in subsection ~~(1)(b)(i)~~ (1)(a)(i) must be deposited into the state general fund.

~~(e)~~(b) (i) If the fee is collected by a county treasurer or other agent of the department, the amount of 3.34% of each motorcycle endorsement must be deposited into the county general fund.

(ii) If the fee is collected by the department, the amount provided for in subsection ~~(1)(e)(i)~~ (1)(b)(i) must be deposited into the state general fund.

~~(d)(c)~~ The amount of 20.7% of each driver's license fee and 8.75% of each duplicate driver's license fee must be deposited into the state traffic education account.

~~(e)(d)~~ In addition to the amounts deposited pursuant to subsections ~~(1)(b)(ii)~~ (1)(a)(ii) and ~~(1)(e)(ii)~~ (1)(b)(ii), the amount of ~~54.5%~~ 76.8% of each driver's license fee and ~~62.5%~~ 87.5% of each duplicate driver's license fee must be deposited into the state general fund.

~~(f)(e)~~ If the fee is collected by the county treasurer or other agent of the department, the amount of 2.5% of each commercial driver's license fee must be deposited into the county general fund, otherwise all of the fee must be deposited into the state general fund.

~~(g)(f)~~ The amount of 63.46% of each motorcycle endorsement fee must be deposited into the state motorcycle safety account in the state special revenue fund, and the amount of 33.2% of each motorcycle endorsement fee must be deposited into the state general fund.

(2) (a) If fees from driver's licenses, commercial driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected by a county treasurer or other agent of the department, the county treasurer or agent shall deposit the amounts provided for in subsections ~~(1)(b)(i)~~ (1)(a)(i) and ~~(1)(e)(i)~~ (1)(b)(i) into the county general fund. The county treasurer or agent shall then ~~remit all remaining fees to the state for deposit to the department of revenue all remaining fees, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund, as provided in subsection (1)(a), and the state general fund. The department of revenue, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a) and (1)(d) through (1)(g)~~ (1)(c) through (1)(f).

(b) If fees from driver's licenses, commercial driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected by the department, it shall ~~remit all fees to the department of revenue, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund as provided in subsection (1)(a), the state special revenue fund, and the state general fund. The department of revenue, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a), (1)(b)(ii), (1)(c)(ii), and (1)(d) through (1)(g)~~ (1)(a)(ii), (1)(b)(ii), and (1)(c) through (1)(f)."

**Section 166. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved, then [section 192] of Senate Bill No. 285, amending 61-5-208, is void.

**Section 167. Coordination instruction.** If Senate Bill No. 285 and [this act] are both passed and approved, then [section 124 of this act], amending 76-2-302, is void.

**Section 168. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective January 1, 2006.

(2) [Sections 1 through 6 and this section] are effective July 1, 2005.

Approved May 6, 2005

**CHAPTER NO. 597**

[HB 689]

AN ACT ALLOWING THE RECAPTURE OF PROPERTY TAX INCENTIVES THAT DO NOT MEET THE REQUIREMENTS OF A TAX ABATEMENT FOR NEW AND EXPANDING INDUSTRY, BUILDING REMODELING, RECONSTRUCTION, AND EXPANSION, BUSINESS INCUBATORS, INDUSTRIAL PARKS, ECONOMIC DEVELOPMENT ORGANIZATIONS, AND VALUE-ADDED MANUFACTURING; AND AMENDING SECTIONS 15-24-1402, 15-24-1501, 15-24-1502, 15-24-1802, 15-24-1902, 15-24-2002, AND 15-24-2404, MCA.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 15-24-1402, MCA, is amended to read:

**“15-24-1402. New or expanding industry — assessment — notification.** (1) In the first 5 years after a construction permit is issued, qualifying improvements or modernized processes that represent new industry or expansion of an existing industry, as designated in the approving resolution, must be taxed at 50% of their taxable value. Subject to 15-10-420, each year thereafter, the percentage must be increased by equal percentages until the full taxable value is attained in the 10th year. In subsequent years, the property must be taxed at 100% of its taxable value.

(2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the governing body of the affected county or the incorporated city or town must have approved by separate resolution for each project, following due notice as defined in 76-15-103 and a public hearing, the use of the schedule provided for in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the project until all of the applicant’s taxes have been paid in full. Taxes paid under protest do not preclude approval.

(b) Subject to 15-10-420, the governing body may end the tax benefits by majority vote at any time, but the tax benefits may not be denied an industrial facility that previously qualified for the benefits.

(c) The resolution provided for in subsection (2)(a) must include a definition of the improvements or modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The resolution may provide that real property other than land, personal property, improvements, or any combination thereof is eligible for the tax benefits described in subsection (1).

(d) *Property taxes abated from the reduction in taxable value allowed by this section are subject to recapture by the local governing body if the ownership or use of the property does not meet the requirements of 15-24-1401, this section, or the resolution required by subsections (2)(a) and (2)(c) of this section. The recapture is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period in which an abatement under the provisions of this section was in effect. The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that the taxpayer’s failure to*

*meet the requirements is a result of circumstances beyond the control of the taxpayer.*

(3) The taxpayer shall apply to the department for the tax treatment allowed under subsection (1). The application by the taxpayer must first be approved by the governing body of the appropriate local taxing jurisdiction, and the governing body shall indicate in its approval that the property of the applicant qualifies for the tax treatment provided for in this section. Upon receipt of the form with the approval of the governing body of the affected taxing jurisdiction, the department shall make the assessment change pursuant to this section.

(4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed for local high school district and elementary school district purposes and to the number of mills levied and assessed by the governing body approving the benefit over which the governing body has sole discretion. The benefit described in subsection (1) may not apply to levies or assessments required under Title 15, chapter 10, 20-9-331, 20-9-333, or 20-9-360 or otherwise required under state law.

(5) Prior to approving the resolution under this section, the governing body shall notify by certified mail all taxing jurisdictions affected by the tax benefit.”

**Section 2.** Section 15-24-1501, MCA, is amended to read:

**“15-24-1501. Remodeling, reconstruction, or expansion of buildings or structures — assessment provisions — levy limitations.** (1) Subject to 15-10-420 and the authority contained in subsection (4) of this section, remodeling, reconstruction, or expansion of existing buildings or structures, which increases their taxable value by at least 2 1/2% as determined by the department, may receive tax benefits during the construction period and for the following 5 years in accordance with subsections (2) through (4) and the following schedule. The percentages must be applied as provided in subsections (3) and (4) and are limited to the increase in taxable value caused by remodeling, reconstruction, or expansion:

Construction period	0%
First year following construction	20%
Second year following construction	40%
Third year following construction	60%
Fourth year following construction	80%
Fifth year following construction	100%
Following years	100%

(2) In order to confer the tax benefits described in subsection (1), the governing body of the affected county or, if the construction will occur within an incorporated city or town, the governing body of the incorporated city or town shall approve by resolution for each remodeling, reconstruction, or expansion project the use of the schedule provided for in subsection (1) or a schedule adopted pursuant to subsection (4).

(3) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed for high school district and elementary school district purposes and to the number of mills levied and assessed by the local governing body approving the benefit. The benefit described in subsection (1) may not apply to statewide levies.

(4) A local government may, in the resolution required by subsection (2), modify the percentages contained in subsection (1) that apply to the first year following construction through the fourth year following construction. A local government may not modify the percentages contained in subsection (1) that apply to the fifth year following construction or years following the fifth year. A local government may not modify the time limits contained in subsection (1). The modifications to the percentages in subsection (1) adopted by a local government apply uniformly to each remodeling, reconstruction, or expansion project approved by the governing body.

*(5) Property taxes abated from the reduction in property taxes allowed by this section are subject to recapture by the local governing body if the ownership or use of the property does not meet the requirements of this section or the resolution required by subsection (2). The recapture is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period in which an abatement under the provisions of this section was in effect. The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer.*

**Section 3.** Section 15-24-1502, MCA, is amended to read:

**“15-24-1502. Tax exemption and abatement for remodeling, reconstruction, or expansion of certain commercial property — approval.** (1) (a) Subject to the conditions of this section, remodeling, reconstruction, or expansion of an existing commercial building or structure that increases its taxable value by at least 5%, as determined by the department, may receive a property tax exemption during the construction period, not to exceed 12 months, and for up to 5 years following completion of construction. The property tax exemption is limited to 100% of the increase in taxable value caused by remodeling, reconstruction, or expansion.

(b) (i) In addition to the property tax exemption described in subsection (1)(a), the buildings and structures may receive a property tax reduction for 4 years following the exemption period as provided in this subsection (1)(b). The percentages must be applied to the increase in taxable value caused by remodeling, reconstruction, or expansion according to the following schedule:

First year following the exemption period	20%
Second year following the exemption period	40%
Third year following the exemption period	60%
Fourth year following the exemption period	80%
Fifth year following the exemption period	100%
Following years	100%

(ii) Mill levies are assessed against the reduced taxable value of the remodeling, reconstruction, or expansion determined under subsection (1)(b)(i).

(c) To be eligible for the property tax exemption and the property tax reduction, the commercial building or structure may not have been used in a

business for at least 6 months immediately preceding the date of application to the governing body for approval under subsection (2).

(2) (a) In order to confer the tax benefits described in subsection (1), the governing body of the affected county or consolidated government or, if the construction will occur within an incorporated city or town, the governing body of the incorporated city or town shall approve by resolution for each remodeling, reconstruction, or expansion project the use of the property tax exemption and property tax reduction.

(b) The governing body may not grant the property tax benefits described in subsection (1) if property taxes on the buildings or structures are delinquent.

(3) *Property taxes abated from the reduction in property taxes allowed by this section are subject to recapture by the local governing body if the ownership or use of the property does not meet the requirements of this section or the resolution required by subsection (2). The recapture is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period in which an abatement under the provisions of this section was in effect. The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer.*

**Section 4.** Section 15-24-1802, MCA, is amended to read:

**“15-24-1802. Business incubator tax exemption — procedure.** (1) A business incubator owned or leased and operated by a local economic development organization is eligible for an exemption from property taxes as provided in this section.

(2) In order to qualify for the tax exemption described in this section, the governing body of the county, consolidated government, incorporated city or town, or school district in which the property is located shall approve the tax exemption by resolution, after due notice, as defined in 76-15-103, and hearing. The governing body may approve or disapprove the tax exemption provided for in subsection (1). If a tax exemption is approved, the governing body shall do so by a separate resolution for each business incubator in its respective jurisdiction. The governing body may not grant approval for the business incubator until all of the applicant's taxes have been paid in full or, if the property is leased to a business incubator, until all of the owner's property taxes on that property have been paid in full. Taxes paid under protest do not preclude approval. Prior to holding the hearing, the governing body shall determine that the local economic development organization:

(a) is a private, nonprofit corporation as provided in Title 35, chapter 2, and is exempt from taxation under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

(b) is engaged in economic development and business assistance work in the area; and

(c) owns or leases and operates or will operate the business incubator.

(3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the department shall make the assessment change for the tax exemption provided for in this section.

(4) The tax exemption described in subsection (1) applies only to the number of mills levied and assessed by the governing body approving the exemption over which the governing body has sole discretion. If the governing body of a county, consolidated government, or incorporated city or town approves the exemption, the exemption applies to levies and assessments required under Title 15, chapter 10, 20-9-331, or 20-9-333 or otherwise required under state law.

*(5) Property taxes abated from the reduction in property taxes allowed by this section are subject to recapture by the local governing body if the ownership or use of the property does not meet the requirements of 15-24-1801, this section, or the resolution required by subsection (2) of this section. The recapture is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period in which an abatement under the provisions of this section was in effect. The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer."*

**Section 5.** Section 15-24-1902, MCA, is amended to read:

**"15-24-1902. Industrial park tax exemption — procedure — termination.** (1) An industrial park owned and operated by a local economic development organization or a port authority is eligible for an exemption from property taxes as provided in this section.

(2) In order to qualify for the tax exemption described in this section, the governing body of the county, consolidated government, incorporated city or town, or school district in which the property is located shall approve the tax exemption by resolution, after due notice, as defined in 76-15-103, and hearing. The governing body may approve or disapprove the tax exemption provided for in subsection (1). If a tax exemption is approved, the governing body shall do so by a separate resolution for each industrial park in its respective jurisdiction. The governing body may not grant approval for the industrial park until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval. Prior to holding the hearing, the governing body shall determine that:

(a) the local economic development organization:

(i) is a private, nonprofit corporation as provided in Title 35, chapter 2, and is exempt from taxation under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

(ii) is engaged in economic development and business assistance work in the area; and

(iii) owns and operates or will own and operate the industrial development park; or

(b) the port authority legally exists under the provisions of 7-14-1101 or 7-14-1102.

(3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the department shall make the assessment change for the tax exemption provided for in this section.

(4) The tax exemption described in subsection (1) applies only to the number of mills levied and assessed by the governing body approving the exemption over which the governing body has sole discretion. If the governing body of a county, consolidated government, or incorporated city or town approves the exemption, the exemption applies to levies or assessments required under Title 15, chapter 10, 20-9-331, or 20-9-333 or otherwise required under state law.

(5) If a local economic development organization sells, leases, or otherwise disposes of the exempt property to a purchaser or lessee that is not a local economic development organization or a unit of federal, state, or local government, the tax exemption provided in this section terminates. The termination of the exemption applies January 1 of the taxable year immediately following the sale, lease, or other disposition of the property. Upon termination of the exemption, the property must be assessed as provided in 15-16-203.

*(6) Property taxes abated from the reduction in property taxes allowed by this section are subject to recapture by the local governing body if the ownership or use of the property does not meet the requirements of 15-24-1901, this section, or the resolution required by subsection (2) of this section. The recapture is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period in which an abatement under the provisions of this section was in effect. The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer."*

**Section 6.** Section 15-24-2002, MCA, is amended to read:

**"15-24-2002. Building and land tax exemption — procedure — termination.** (1) A building and land owned by a local economic development organization that the local economic development organization intends to sell or lease to a profit-oriented, employment-stimulating business are eligible for an exemption from property taxes as provided in this section.

(2) In order to qualify for the tax exemption described in this section, the governing body of the affected county, consolidated government, incorporated city or town, or school district in which the building and land are located shall approve the tax exemption by resolution, after due notice, as defined in 76-15-103, and hearing. The governing body may approve or disapprove the tax exemption provided for in subsection (1). The governing body shall approve a tax exemption by a separate resolution. The governing body may not grant approval for the building and land until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval. Prior to holding the hearing, the governing body shall determine that the local economic development organization:

(a) is a private, nonprofit corporation, as provided in Title 35, chapter 2, and is exempt from taxation under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

(b) is engaged in economic development and business assistance work in the area; and

(c) owns or will own the building and land.

(3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the department shall make the assessment change for the tax exemption provided for in this section.

(4) The tax exemption described in subsection (1) applies only to the number of mills levied and assessed by the governing body approving the exemption over which the governing body has sole discretion. If the governing body of a county, consolidated government, or incorporated city or town approves the exemption, the exemption applies to levies or assessments required under Title 15, chapter 10, 20-9-331, or 20-9-333 and other levies required under state law.

(5) When a local economic development organization sells, leases, or otherwise disposes of the exempt property to a purchaser or lessee that is not a local economic development organization or a unit of federal, state, or local government, the tax exemption provided in this section terminates. The termination of the exemption applies January 1 of the taxable year immediately following the sale, lease, or other disposition of the property. Upon termination of the exemption, the property must be assessed as provided in 15-16-203.

*(6) Property taxes abated from the reduction in property taxes allowed by this section are subject to recapture by the local governing body if the ownership or use of the property does not meet the requirements of this section or the resolution required by subsection (2). The recapture is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period in which an abatement under the provisions of this section was in effect. The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer."*

**Section 7.** Section 15-24-2404, MCA, is amended to read:

**"15-24-2404. Exclusion from other property tax reductions or exemptions — recapture.** (1) If a taxable value decrease is taken pursuant to this part, other property tax reductions or exemptions, including but not limited to those provided in 15-6-135, 15-24-1402, and 15-24-1501, are not allowed for the qualifying property.

*(2) Property taxes abated from the reduction in property taxes allowed by this section are subject to recapture by the local governing body if the ownership or use of the property does not meet the requirements of this part. The recapture is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period in which an abatement under the provisions of this section was in effect. The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated taxes may be canceled, in whole or in part, if*

*the local governing body determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer."*

Approved May 6, 2005

## CHAPTER NO. 598

[HB 700]

AN ACT GENERALLY REVISING AND CLARIFYING THE LAWS GOVERNING THE DISPOSITION AND USE OF METALLIFEROUS MINES LICENSE TAX MONEY; INCREASING THE ALLOCATION OF FUNDS TO THE COUNTY IN WHICH THE MINE IS LOCATED; DECREASING THE ALLOCATION TO THE GENERAL FUND; REVISING THE NAMES OF ACCOUNTS FOR PURPOSES OF CLARIFICATION; CLARIFYING THE USE OF FUNDS ALLOCATED TO THE COUNTY; ELIMINATING THE METAL MINES TAX RESERVE ACCOUNT THAT COULD BE USED FOR ANY PURPOSE PROVIDED BY LAW; AMENDING SECTIONS 7-6-2225, 7-6-2226, 15-37-117, 90-6-304, AND 90-6-331, MCA; AND PROVIDING AN EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 7-6-2225, MCA, is amended to read:

**"7-6-2225. County hard-rock mine ~~trust-reserve trust~~ account — expenditure restrictions.** (1) The governing body of a county receiving an allocation under 15-37-117(1)(e) shall establish a county hard-rock mine ~~trust-reserve trust~~ account.

(2) Money received by a county pursuant to 15-37-117 or 90-6-331 must remain in the *hard-rock mine trust* account and may not be appropriated by the governing body until:

(a) a mining operation has permanently ceased all ~~mining-related~~ *mining-related* activity; or

(b) the number of persons employed full-time in mining activities by the mining operation is less than one-half of the average number of persons employed full-time in mining activities by the mining operation during the immediately preceding 5-year period.

(3) If the circumstances described in subsection (2)(a) or (2)(b) occur, the governing body of the county shall allocate at least one-third of the funds proportionally to affected high school districts and elementary school districts in the county and may use the remaining funds in the *hard-rock mine trust* account to:

(a) pay for outstanding capital project bonds or other expenses incurred prior to the end of mining activity or the reduction in the mining work force described in subsection (2)(b);

(b) decrease property tax mill levies that are directly caused by the cessation or reduction of mining activity;

(c) promote diversification and development of the economic base within the jurisdiction of a local government unit *through assistance to existing business for retention and expansion or to assist new business*;

(d) attract new industry to the impact area;

(e) provide cash incentives for expanding the employment base of the area impacted by the changes in mining activity described in subsection (2); or

(f) provide grants or loans to other local government jurisdictions to assist with impacts caused by the changes in mining activity described in subsection (2).

(4) Except as provided in subsection (3)(b), money held in the *hard-rock mine trust* account may not be considered as cash balance for the purpose of reducing mill levies.

(5) Money in the ~~reserve~~ *hard-rock mine trust* account must be invested as provided by law. Interest and income from the investment of funds in the account must be credited to the account.”

**Section 2.** Section 7-6-2226, MCA, is amended to read:

**“7-6-2226. Metal mines license tax ~~reserve~~ account.** (1) The governing body of a county receiving tax collections under 15-37-117(1)(e) may establish a metal mines *license tax* ~~reserve~~ account to be used to hold the collections. The governing body may hold money in the account for any time period considered appropriate by the governing body. Money held in the account may not be considered as cash balance for the purpose of reducing mill levies.

(2) Money may be expended from the account ~~for any purpose~~ as provided by law in 7-6-2225.

(3) Money in the account must be invested as provided by law. Interest and income from the investment of the metal mines *license tax* ~~reserve~~ account must be credited to the account.”

**Section 3.** Section 15-37-117, MCA, is amended to read:

**“15-37-117. Disposition of metalliferous mines license taxes.** (1) Metalliferous mines license taxes collected under the provisions of this part must, in accordance with the provisions of 15-1-501, be allocated as follows:

(a) to the credit of the general fund of the state, ~~for the fiscal year ending June 30, 2003, 65% and for the fiscal years beginning on or after July 1, 2003, 58%~~ 57% of total collections each year;

(b) to the state special revenue fund to the credit of a hard-rock mining impact trust account, 2.5% of total collections each year;

(c) to the hard-rock mining reclamation debt service fund created in 82-4-312, 8.5% of total collections each year;

(d) to the reclamation and development grants program state special revenue account, ~~for the fiscal years beginning on or after July 1, 2003, 7%~~ of total collections each year; and

(e) within 60 days of the date the tax is payable pursuant to 15-37-105, to the county or counties identified as experiencing fiscal and economic impacts, resulting in increased employment or local government costs, under an impact plan for a large-scale mineral development prepared and approved pursuant to 90-6-307, in direct proportion to the fiscal and economic impacts determined in the plan or, if an impact plan has not been prepared, to the county in which the mine is located, ~~24%~~ 25% of total collections each year, to be allocated by the county commissioners as follows:

(i) not less than 37.5% to the county hard-rock mine ~~trust~~ *reserve trust* account established in 7-6-2225; and

(ii) all money not allocated to the account pursuant to subsection (1)(e)(i) to be further allocated as follows:

(A) 33 1/3% is allocated to the county for *general planning functions* or economic development activities *as described in 7-6-2225(3)(c) through (3)(e)*;

(B) 33 1/3% is allocated to the elementary school districts within the county that have been affected by the development or operation of the metal mine; and

(C) 33 1/3% is allocated to the high school districts within the county that have been affected by the development or operation of the metal mine.

(2) When an impact plan for a large-scale mineral development approved pursuant to 90-6-307 identifies a jurisdictional revenue disparity, the county shall distribute the proceeds allocated under subsection (1)(e) in a manner similar to that provided for property tax sharing under Title 90, chapter 6, part 4.

(3) The department shall return to the county in which metals are produced the tax collections allocated under subsection (1)(e). The allocation to the county described by subsection (1)(e) is a statutory appropriation pursuant to 17-7-502.”

**Section 4.** Section 90-6-304, MCA, is amended to read:

**“90-6-304. Accounts established.** (1) There is within the state agency fund type a hard-rock mining impact account. Money is payable into this account from payments made by a mining developer in compliance with the written guarantee from the developer to meet the increased costs of public services and facilities as specified in the impact plan provided for in 90-6-307. The state treasurer shall draw warrants from this account upon order of the board.

(2) There is within the state special revenue fund a hard-rock mining impact trust account. Within this trust account, there is established a reserve ~~account~~ *amount* not to exceed \$100,000.

(a) Money within the hard-rock mining impact trust account may be used:

(i) for the administrative and operating expenses of the board, as provided by 90-6-303(4);

(ii) to establish and maintain the reserve ~~account~~ *amount*; and

(iii) for distribution to the counties of origin, as provided by 90-6-331 and this section.

(b) Money within the hard-rock mining impact trust ~~reserve~~ account may be used for the administrative and operating expenses of the board if:

(i) the revenue provided under 15-37-117(1)(b) is less than the amount appropriated for the administrative and operating expenses of the board; or

(ii) the use of the reserve ~~account~~ *amount* of revenue is necessary to allow the board to meet its quasi-judicial responsibilities under 90-6-307, 90-6-311, or 90-6-403(3).

(3) Money is payable into the hard-rock mining impact trust account under the provisions of 15-37-117. After first deducting the administrative and operating expenses of the board, as provided in 90-6-303, and then establishing and maintaining the reserve ~~account in the~~ amount of \$100,000, as provided in subsection (2) of this section, the remaining money must be segregated within the account by county of origin. The state treasurer shall draw warrants from this account upon order of the board.”

**Section 5.** Section 90-6-331, MCA, is amended to read:

**“90-6-331. Fund transfer.** Prior to each October 31, all money segregated by county in the hard-rock mining impact trust account following allocation to the hard-rock mining impact trust ~~reserve~~ account established in 90-6-304(2) as of September 30 immediately preceding must be transferred to the county for which the funds have been held in deposit. The funds transferred must be deposited in the county hard-rock mine ~~trust reserve~~ *trust* account established in 7-6-2225.”

**Section 6. Effective date.** [This act] is effective July 1, 2005.

Approved May 6, 2005

## CHAPTER NO. 599

[HB 713]

AN ACT APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE TO CREATE A TASK FORCE TO CONDUCT A MISSION ASSESSMENT FOR MILITARY AND NATIONAL GUARD INSTALLATIONS IN MONTANA AND TO PROMOTE THE ESTABLISHMENT OF NEW INSTALLATIONS AND EXPANDED MISSIONS; REQUIRING REPORTS AND RECOMMENDATIONS FROM THE TASK FORCE AND THE DEPARTMENT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Appropriation — mission assessment and promotion for military and national guard installations.** (1) The amount of \$100,000 is appropriated from the state general fund to the department of commerce. The department shall use the appropriation to create a task force to conduct a mission assessment for military and national guard installations in Montana and to promote the establishment of new installations and expanded missions.

(2) The task force shall prepare a report and make recommendations to the department. Based upon the report and recommendations of the task force, the department shall, by September 1, 2006, prepare a report and recommendations for submission to the governor and the legislature as provided in 5-11-210.

(3) Any funds not expended specifically for the purposes of [this act] must revert to the general fund.

**Section 2. Effective date.** [This act] is effective on passage and approval.

Approved May 6, 2005

## CHAPTER NO. 600

[HB 728]

AN ACT REVISING FUNDING FOR THE STATE VETERANS' CEMETERY PROGRAM; PROVIDING FOR A STATE VETERANS' CEMETERY IN MISSOULA COUNTY AND IN YELLOWSTONE COUNTY AS FUNDING ALLOWS; PROVIDING A STATUTORY APPROPRIATION OF SPECIAL REVENUE; AMENDING SECTIONS 10-2-601, 10-2-603, AND 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 10-2-601, MCA, is amended to read:

**“10-2-601. State veterans’ cemeteries — statutory appropriations.** (1) The board shall establish and operate state veterans’ cemeteries.

(2) A cemetery must be located at Fort William Henry Harrison; *in* Lewis and Clark County, Montana, ~~and~~ and at Miles City. *A cemetery may be located in Missoula County and in Yellowstone County if funding allows.* ~~The board may establish a state veterans’ cemetery in Missoula County, Montana.~~

(3) The board may establish additional state veterans’ cemeteries *only* as funding ~~appropriated pursuant to 10-2-603~~ allows.”

**Section 2.** Section 10-2-603, MCA, is amended to read:

**“10-2-603. Special revenue account — use of funds — solicitation.** (1) There is an account in the special revenue fund to the credit of the board for the state veterans’ cemeteries.

(2) Plot allowances, donations to the cemetery program, and fund transfers pursuant to 15-1-122(3)(d) must be deposited into the account.

(3) ~~As appropriated by the legislature, money in the~~ *The account is statutorily appropriated, as provided in 17-7-502, to the board and* may be used only for the construction, maintenance, operation, and administration of the state veterans’ cemeteries.

(4) The board shall solicit veterans’ license plate sales and donations on behalf of the state veterans’ cemeteries.”

**Section 3.** 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: 2-15-151; 2-17-105; 5-13-403; ~~10-2-603~~; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-11-404; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; 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 Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 2 and 5, Ch. 481, L. 2003, the inclusion of 90-6-710 terminates June 30, 2005; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; and pursuant to sec. 135, Ch. 114, L. 2003, the inclusion of 2-15-151 terminates June 30, 2005.)"

**Section 4. Effective date.** [This act] is effective July 1, 2005.

Approved May 6, 2005

## CHAPTER NO. 601

[HB 740]

AN ACT CREATING THE ASBESTOS DISEASE ACCOUNT IN THE STATE SPECIAL REVENUE FUND TO BE USED BY THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES FOR GRANTS TO THE LINCOLN COUNTY HEALTH BOARD FOR ASBESTOS-RELATED DISEASE PROGRAMS; APPROPRIATING MONEY FOR THE PROGRAMS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, hundreds of residents of Lincoln County, Montana, have been diagnosed with chronic asbestos-related diseases due to exposure to vermiculite from the Zonolite Mountain mine that was contaminated with tremolite asbestos, and this number continues to rise as more individuals are diagnosed; and

WHEREAS, these individuals, and many more, either now or in the future will need assistance both with paying medical expenses that are not covered by insurance and in meeting their own basic human needs due to the debilitating nature of asbestos-related diseases; and

WHEREAS, by providing case management and personal care assistance, many of these individuals will better utilize federal and private health care and social programs and be able to remain in their homes, creating savings to the state and county; and

WHEREAS, these individuals suffer from asbestos-related negative health impacts through no fault of their own; and

WHEREAS, there is still no permanent source of funding for medical and psychosocial care for Lincoln County asbestos patients, as the medical plan currently funded by W.R. Grace is voluntary and unregulated and federal grant funding that is currently paying for asbestos patient services is unlikely to be renewed; and

WHEREAS, there is currently no cure for either asbestosis or mesothelioma, and it is likely that autoimmune diseases, including rheumatoid arthritis and lupus, will be found to be linked to tremolite asbestos exposure, and there is no cure for these diseases either; and

WHEREAS, the unmet medical and social needs of asbestos patients in Lincoln County are disproportionate to the community's size and ability to meet these needs from county funds.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Asbestos disease account.** There is an asbestos disease account in the state special revenue fund to be used by the department for grants to the Lincoln County health board to be used for the following purposes:

- (1) providing case management services for asbestos patients;
- (2) maintaining and overseeing a working network of Lincoln County health care and social service providers;
- (3) providing direct services to individuals who have a positive result as determined by a qualified physician for asbestos-related diseases;
- (4) evaluating the programs for effectiveness and quality; and
- (5) pursuing both short-term and permanent funding for health care and social service needs of asbestos patients.

**Section 2. Fund transfer — appropriation.** There is transferred \$175,000 from the general fund to the asbestos disease account provided for in [section 1]. The money in the account is appropriated to the department of public health and human services for the 2007 biennium to be used for grants to the Lincoln County health board for the purposes stated in [section 1].

**Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 50, chapter 1, part 1, and the provisions of Title 50, chapter 1, part 1, apply to [section 1].

**Section 4. Effective date.** [This act] is effective July 1, 2005.

Approved May 6, 2005

## CHAPTER NO. 602

[HB 757]

AN ACT ESTABLISHING THE MONTANA ESSENTIAL FREIGHT RAIL ACT; CREATING A REVOLVING LOAN ACCOUNT; PROVIDING FUNDING FOR THE MONTANA ESSENTIAL FREIGHT RAIL ACT REVOLVING LOAN ACCOUNT; PROVIDING GUIDELINES FOR APPLICATIONS AND ELIGIBILITY FOR A LOAN FROM THE REVOLVING LOAN ACCOUNT; PROVIDING FOR MANAGEMENT OF THE ACCOUNT; AUTHORIZING THE ISSUANCE OF REVENUE BONDS FOR FUNDING THE ACCOUNT; PROVIDING FOR A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502 AND 60-11-120, MCA; AND PROVIDING AN EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Short title.** [Sections 1 through 4] may be cited as the "Montana Essential Freight Rail Act".

**Section 2. Purpose.** (1) Montana's railroad branch lines provide critical transportation to Montana businesses and communities. These lines are especially important to Montana's agricultural and wood products industries that rely on railroads to transport Montana products to national and international markets. The branch lines are also critical to efforts to increase or expand businesses that process Montana commodities into more valuable products.

(2) A state rail funding program will provide Montana with an important tool to help preserve and enhance Montana's branch lines.

(3) The purpose of [sections 1 through 4] is to provide low-interest loans to railroads, cities, counties, companies, or regional rail authorities for the purposes provided in 60-11-120 to preserve or enhance cost-effective rail service to Montana communities and businesses.

**Section 3. Revolving loan account — statutory appropriation — rulemaking.** (1) There is a revolving loan account to be administered by the department. Any interest or income that is earned by the account and loan repayments must be deposited into the revolving loan account unless revenue bonds are issued to fund a loan, in which case the loan repayments must be deposited in the debt service account. The department may request the board of investments to issue revenue bonds, as provided in [sections 7 through 9], for the purpose of providing funds for a loan.

(2) The department may make loans from the account pursuant to 60-11-120.

(3) Funds in the account that are deposited pursuant to former 49 U.S.C. 1654 must continue to be managed as local rail freight assistance program funds. Any additional federal funds received for local rail freight assistance programs or for railroad projects must be deposited in the account.

(4) There is statutorily appropriated, as provided in 17-7-502, to the department up to \$2 million annually for the purposes of making loans pursuant to 60-11-120.

(5) Loans may not be made if the loan would cause the balance in the account to be less than \$500,000.

(6) The department may adopt rules to implement [sections 1 through 4].

**Section 4. Funding for account.** Federal funds received for local freight assistance programs under former 49 U.S.C. 1654 in an amount up to \$1.1 million must be deposited in the account established in [section 3].

**Section 5.** 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: 2-15-151; 2-17-105; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-11-404; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; [section 3]; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; 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 Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 2 and 5, Ch. 481, L. 2003, the inclusion of 90-6-710 terminates June 30, 2005; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; and pursuant to sec. 135, Ch. 114, L. 2003, the inclusion of 2-15-151 terminates June 30, 2005.)"

**Section 6.** Section 60-11-120, MCA, is amended to read:

**“60-11-120. Railroad and intermodal transportation facility loans and grants — authorization — eligibility.** (1) Money appropriated by the legislature ~~may~~ *for the purposes provided for in this section and pursuant to [section 3] must be used by the department of transportation, after deducting the necessary costs and expenses for administering this section, to provide loans and grants for:*

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

(b) ~~for~~ the development, ~~and~~ improvement, *construction, purchase, maintenance, or rehabilitation of:*

(i) intermodal transportation facilities;

(ii) *branch lines or short lines;*

(iii) *sidings;*

(iv) *light density railroad lines; and*

(v) *rolling stock, including rail cars.* ~~Proceeds of all repayments of loans, including interest, made under this section must be deposited in the state general fund.~~

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

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

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

(3) A port authority created under Title 7, chapter 14, part 11, is eligible for a loan ~~or grant~~ under this section ~~for the development or improvement of an intermodal transportation facility under this section if:~~

(a) the port authority is included in the state transportation planning process as described in 23 U.S.C. 135; and

(b) the ~~intermodal transportation facility~~ purpose for which a loan ~~or grant~~ is sought is integrally related to the railroad transportation system of the state.

(4) *Applications for a loan must include:*

(a) *a financial statement;*

(b) *evidence of matching funds required pursuant to subsection (5);*

(c) *an operating or business plan that demonstrates the applicant's ability to repay the funds; and*

(d) *upon request of the department, an independent feasibility study.*

(5) *Pursuant to requirements of former 49 U.S.C. 1654, which is providing a portion of the funds under [section 3], rehabilitation projects must be matched with 30% in other funds and new construction projects must be matched with 50% in other funds. The transportation commission, provided for in 2-15-2502, shall establish matching fund requirements for other project categories.*

(6) *The transportation commission is responsible for determining funding recipients. Recipients must be determined using the guidelines provided in 60-2-110.*

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

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

**Section 7. Definitions.** As used in [sections 7 through 9], the following definitions apply:

(1) "Board" means the board of investments established in 2-15-1808.

(2) "Bonds" means bonds, notes, or other evidences of indebtedness issued pursuant to [sections 7 through 9] as essential freight rail revenue bonds.

(3) "Cost", as applied to any project, means any cost of any part of the project pursuant to 60-11-120.

(4) "Projects" means the acquisition, construction, reconstruction, maintenance, and repair of rail lines.

(5) "Revenue" means the revenue from the operation of a rail line loan repayments and any delinquency charges on loan repayments.

**Section 8. Revenue bond debt service account — deposit of bond proceeds.** (1) There is in the debt service fund an essential freight rail revenue bond debt service account. The state treasurer shall deposit revenue as may be

pledged to the payment of particular bonds to the credit of the essential freight rail revenue bond debt service account as required by resolution or indenture.

(2) All proceeds of an issue of bonds must be deposited in a separate account in the state special revenue fund, except that any premiums and accrued interest received may be deposited in a separate account in the debt service fund established for that bond issue by resolution or indenture. No more than the principal and interest on the bonds due in any year may be retained in the essential freight rail revenue bond debt service account for the payment of bonds. The remainder of pledged revenue is available for authorized purposes of the department. Money deposited in the separate accounts in the state special revenue fund until spent for project purposes may be pledged and appropriated for the payment of bonds, which are a first lien and prior charge upon the funds, and the funds may be used for payment of bonds to the extent that revenue deposited in the essential freight rail revenue bond debt service account are not sufficient for those purposes.

(3) Interest and investment earnings on the separate accounts in subsections (1) and (2) must be retained in the separate accounts referred to in subsection (2).

**Section 9. Authority to issue revenue bonds.** The board may issue and sell essential freight rail revenue bonds to make loans to finance the cost of projects, to pay the costs of issuing the bonds, and to provide for reserves, upon recommendation of the department. The bonds must be issued under Title 17, chapter 5, part 15.

**Section 10. Codification instruction.** [Sections 1 through 4 and 7 through 9] are intended to be codified as an integral part of Title 60, chapter 11, part 1, and the provisions of Title 60, chapter 11, part 1, apply to [sections 1 through 4 and 7 through 9].

**Section 11. Effective date.** [This act] is effective July 1, 2005.

Approved May 6, 2005

## CHAPTER NO. 603

[HB 758]

AN ACT ESTABLISHING AN OIL, GAS, AND COAL NATURAL RESOURCE ACCOUNT; REDIRECTING COAL SEVERANCE TAX LOCAL IMPACT FUNDS FROM THE SHARED ACCOUNT; ENACTING A TAX ON OIL AND GAS PRODUCTION THAT TIES TO THE UNUSED PORTION OF THE TAX RATE AUTHORITY OF THE BOARD OF OIL AND GAS CONSERVATION; PROVIDING THAT THE TAX PROCEEDS ARE DEPOSITED INTO THE OIL, GAS, AND COAL NATURAL RESOURCE ACCOUNT; PROVIDING FOR A DISTRIBUTION BETWEEN COUNTY AND MUNICIPAL GOVERNMENTS OF THE COUNTY; AMENDING SECTIONS 15-35-108, 15-36-304, 15-36-331, AND 15-36-332, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Oil, gas, and coal natural resource account.** There is an oil, gas, and coal natural resource account in the state special revenue fund. The collections allocated to the account from 15-35-108(7) and 15-36-331(2) must be deposited in the account.

**Section 2.** 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 15-1-501, 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) For the fiscal year ending June 30, 2003, the amount of 10% and for fiscal years beginning on or after July 1, 2003, the amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) For the fiscal year ending June 30, 2003, the amount of 6.01% and for fiscal years beginning on or after July 1, 2003, the amount of ~~7.75%~~ 5.02% must be credited to an account in the state special revenue fund to be allocated by the legislature for ~~local impacts~~, 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) For fiscal years beginning on or after July 1, 2003, 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.

(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) For fiscal years beginning on or after July 1, 2003, 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, 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 2.73% must be credited to the oil, gas, and coal natural resource account established in [section 1].*

~~(7)(8)~~ (a) Subject to subsections ~~(7)(b) and (7)(e)~~ (8)(b) and (8)(c), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.

(b) The interest income from \$140 million of the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:

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

(ii) for fiscal years beginning on or after July 1, 2003, \$1.25 million 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) \$600,000 to the department of administration for the purpose of reimbursing tax increment financing industrial districts as provided in 7-15-4299. Reimbursement must be made to qualified districts on a proportional basis to the loss of taxable value as a result of Chapter 285, Laws of 1999, and as documented by the department of revenue. This documentation must be provided to the budget director and to the legislative fiscal analyst. The reimbursement may not be used to pay debt service on tax increment bonds to the extent that the bonds are secured by a guaranty, a letter of credit, or a similar arrangement provided by or on behalf of an owner of property within the district.

(c) Beginning July 1, 2003, there is transferred annually from the interest income referred to in subsection ~~(7)(b)~~ (8)(b) \$3.65 million to the research and commercialization state special revenue account created in 90-3-1002. (Terminates June 30, 2005—sec. 10(2), Ch. 10, Sp. L. May 2000; sec. 8(1), Ch. 12, Sp. L. August 2002.)

**15-35-108. (Effective July 1, 2005) Disposal of severance taxes.** Severance taxes collected under this chapter must, in accordance with the provisions of 15-1-501, 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) Twelve percent of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of ~~7.75%~~ 5.02% must be credited to an account in the state special revenue fund to be allocated by the legislature for local impacts, 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.

(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 2.73% must be credited to the oil, gas, and coal natural resource account established in [section 1].*

(7)(8) (a) Subject to subsection (7)(b) (8)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.

(b) The interest income from \$140 million of the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:

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

(ii) \$1.25 million for the growth through agriculture program provided for in Title 90, chapter 9;

(iii) \$3.65 million to the research and commercialization state special revenue account created in 90-3-1002;

(iv) 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. (Terminates June 30, 2010—sec. 6, Ch. 481, L. 2003.)

**15-35-108. (Effective July 1, 2010) Disposal of severance taxes.** Severance taxes collected under this chapter must, in accordance with the provisions of 15-1-501, 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) Twelve percent of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of ~~7.75%~~ 5.02% must be credited to an account in the state special revenue fund to be allocated by the legislature for local impacts, 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.

(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 2.73% must be credited to the oil, gas, and coal natural resource account established in [section 1].*

~~(7)~~(8) All other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.”

**Section 3.** Section 15-36-304, MCA, is amended to read:

**“15-36-304. Production tax rates imposed on oil and natural gas.** (1) The production of oil and natural gas is taxed as provided in this section. The tax is distributed as provided in 15-36-331 and 15-36-332.

(2) Natural gas is taxed on the gross taxable value of production based on the type of well and type of production according to the following schedule for working interest and nonworking interest owners:

	Working Interest	Nonworking Interest
(a) (i) first 12 months of qualifying production	0.5%	14.8%
(ii) after 12 months:		
(A) pre-1999 wells	14.8%	14.8%
(B) post-1999 wells	9%	14.8%
(b) stripper natural gas pre-1999 wells	11%	14.8%
(c) horizontally completed well production:		
(i) first 18 months of qualifying production	0.5%	14.8%
(ii) after 18 months	9%	14.8%

(3) The reduced tax rates under subsection (2)(a)(i) on production for the first 12 months of natural gas production from a well begins following the last day of the calendar month immediately preceding the month in which natural gas is placed in a natural gas distribution system, provided that notification has been given to the department.

(4) The reduced tax rate under subsection (2)(c)(i) on production from a horizontally completed well for the first 18 months of production begins following the last day of the calendar month immediately preceding the month in which natural gas is placed in a natural gas distribution system, provided that notification has been given to the department.

(5) Oil is taxed on the gross taxable value of production based on the type of well and type of production according to the following schedule for working interest and nonworking interest owners:

	Working Interest	Nonworking Interest
(a) primary recovery production:		
(i) first 12 months of qualifying production	0.5%	14.8%
(ii) after 12 months:		
(A) pre-1999 wells	12.5%	14.8%

(B) post-1999 wells	9%	14.8%
(b) stripper oil production:		
(i) first 1 through 10 barrels a day production	5.5%	14.8%
(ii) more than 10 barrels a day production	9.0%	14.8%
(c) stripper well exemption production	0.5%	14.8%
(d) horizontally completed well production:		
(i) first 18 months of qualifying production	0.5%	14.8%
(ii) after 18 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%
(e) incremental production:		
(i) new or expanded secondary recovery production	8.5%	14.8%
(ii) new or expanded tertiary production	5.8%	14.8%
(f) horizontally recompleted well:		
(i) first 18 months	5.5%	14.8%
(ii) after 18 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%

(6) (a) The reduced tax rates under subsection (5)(a)(i) for the first 12 months of oil production from a well begins following the last day of the calendar month immediately preceding the month in which oil is pumped or flows, provided that notification has been given to the department.

(b) (i) The reduced tax rates under subsection (5)(d)(i) on oil production from a horizontally completed well for the first 18 months of production begins following the last day of the calendar month immediately preceding the month in which oil is pumped or flows if the well has been certified as a horizontally completed well to the department by the board.

(ii) The reduced tax rate under subsection (5)(f)(i) on oil production from a horizontally recompleted well for the first 18 months of production begins following the last day of the calendar month immediately preceding the month in which oil is pumped or flows if the well has been certified as a horizontally recompleted well to the department by the board.

(c) Incremental production is taxed as provided in subsection (5)(e) only if the average price for each barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less than \$30 a barrel. If the price of oil is equal to or greater than \$30 a barrel in a calendar quarter as determined in subsection (6)(d), then incremental production from pre-1999 wells and from post-1999 wells is taxed at the rate imposed on primary recovery production under subsections (5)(a)(ii)(A) and (5)(a)(ii)(B), respectively, for production occurring in that quarter, other than exempt stripper well production. Stripper well exemption production is taxed as provided in subsection (5)(c) only if the average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less than \$38 a barrel.

(d) For the purposes of subsection (6)(c), the average price for each barrel must be computed by dividing the sum of the daily price for west Texas intermediate crude oil as reported in the Wall Street Journal for the calendar quarter by the number of days on which the price was reported in the quarter.

(7) (a) The tax rates imposed under subsections (2) and (5) on working interest owners and nonworking interest owners must be adjusted to include the *total of the privilege and license tax* adopted by the board of oil and gas conservation pursuant to 82-11-131 *and the derived rate for the oil, gas, and coal natural resource account as determined under subsection (7)(b)*.

(b) *The total of the privilege and license tax and the tax for the oil, gas, and coal natural resource account may not exceed 0.3%. The base rate for the tax for oil, gas, and coal natural resource account funding is 0.08%, but when the rate adopted pursuant to 82-11-131 by the board of oil and gas conservation for the privilege and license tax:*

(i) *exceeds 0.22%, the rate for the tax to fund the oil, gas, and coal natural resource account is equal to the difference between the rate adopted by the board of oil and gas conservation and 0.3%; or*

(ii) *is less than 0.18%, the rate for the tax to fund the oil, gas, and coal natural resource account is equal to the difference between the rate adopted by the board of oil and gas conservation and 0.26%.*

(c) *The board of oil and gas conservation must give the department at least 90 days' notice of any change in the rate adopted by the board. Any rate change of the tax to fund the oil, gas, and coal natural resource account is effective at the same time that the board of oil and gas conservation rate is effective."*

**Section 4.** Section 15-36-331, MCA, is amended to read:

**"15-36-331. Distribution of taxes.** (1) (a) For each calendar quarter, the department shall determine the amount of tax, late payment interest, and penalties collected under this part.

(b) For the purposes of distribution of oil and natural gas production taxes to county and school district taxing units under 15-36-332 and to the state, the department shall determine the amount of oil and natural gas production taxes paid on production in the taxing unit.

(2) (a) The amount of oil and natural gas production taxes collected for the privilege and license tax pursuant to 82-11-131 must be deposited, in accordance with the provisions of 15-1-501, in the state special revenue fund for the purpose of paying expenses of the board, as provided in 82-11-135.

(b) *The amount of the tax for the oil, gas, and coal natural resource account established in [section 1] must be deposited in the account.*

(3) (a) ~~For tax year 2003 and succeeding each tax years year,~~ the amount of oil and natural gas production taxes determined under subsection (1)(b) plus the phased-out amount distributed pursuant to 15-36-324(12)(b) as that section read on December 31, 2002, is allocated to each county according to the following schedule:

	<del>2003</del>	<del>2004</del>	2005	2006 and succeeding tax years
Big Horn	<del>45.03%</del>	<del>45.04%</del>	45.04%	45.05%
Blaine	<del>57.56%</del>	<del>57.84%</del>	58.11%	58.39%

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Carbon	<del>50.24%</del>	<del>49.59%</del>	48.93%	48.27%
Chouteau	<del>56.67%</del>	<del>57.16%</del>	57.65%	58.14%
Custer	<del>103.63%</del>	<del>92.27%</del>	80.9%	69.53%
Daniels	<del>48.31%</del>	<del>49.15%</del>	49.98%	50.81%
Dawson	<del>56.32%</del>	<del>53.48%</del>	50.64%	47.79%
Fallon	<del>39.89%</del>	<del>40.52%</del>	41.15%	41.78%
Fergus	<del>112.2%</del>	<del>97.86%</del>	83.52%	69.18%
Garfield	<del>54.51%</del>	<del>51.66%</del>	48.81%	45.96%
Glacier	<del>76.56%</del>	<del>70.65%</del>	64.74%	58.83%
Golden Valley	<del>55.5%</del>	<del>56.45%</del>	57.41%	58.37%
Hill	<del>66.97%</del>	<del>66.15%</del>	65.33%	64.51%
Liberty	<del>63.32%</del>	<del>61.53%</del>	59.73%	57.94%
McCone	<del>58.75%</del>	<del>55.81%</del>	52.86%	49.92%
Musselshell	<del>57.06%</del>	<del>54.25%</del>	51.44%	48.64%
Petroleum	<del>67.8%</del>	<del>61.21%</del>	54.62%	48.04%
Phillips	<del>53.3%</del>	<del>53.54%</del>	53.78%	54.02%
Pondera	<del>104.14%</del>	<del>87.51%</del>	70.89%	54.26%
Powder River	<del>64.7%</del>	<del>63.44%</del>	62.17%	60.9%
Prairie	<del>38.43%</del>	<del>39.08%</del>	39.73%	40.38%
Richland	<del>45.23%</del>	<del>45.97%</del>	46.72%	47.47%
Roosevelt	<del>46.75%</del>	<del>46.4%</del>	46.06%	45.71%
Rosebud	<del>37.41%</del>	<del>38.05%</del>	38.69%	39.33%
Sheridan	<del>46.64%</del>	<del>47.09%</del>	47.54%	47.99%
Stillwater	<del>56.05%</del>	<del>55.2%</del>	54.35%	53.51%
Sweet Grass	<del>58.23%</del>	<del>59.24%</del>	60.24%	61.24%
Teton	<del>53.01%</del>	<del>50.71%</del>	48.4%	46.1%
Toole	<del>56.2%</del>	<del>56.67%</del>	57.14%	57.61%
Valley	<del>59.82%</del>	<del>57.02%</del>	54.22%	51.43%
Wibaux	<del>47.71%</del>	<del>48.19%</del>	48.68%	49.16%
Yellowstone	<del>50.69%</del>	<del>49.37%</del>	48.06%	46.74%
All other counties	<del>50.15%</del>	<del>50.15%</del>	50.15%	50.15%

(b) The oil and natural gas production taxes allocated to each county must be deposited in the state special revenue fund and transferred to each county for distribution, as provided in 15-36-332.

(4) The department shall, in accordance with the provisions of 15-1-501, distribute the state portion of oil and natural gas production taxes remaining after the distributions pursuant to subsections (2) and (3) as follows:

(a) ~~for the fiscal year ending June 30, 2003, to be distributed as follows:~~

(i) ~~a total of \$400,000 to the coal bed methane protection account established in 76-15-904; and~~

~~(ii) all remaining proceeds to the state general fund;~~

~~(b)(a)~~ for the *each* fiscal year beginning July 1, 2003, through the fiscal year ending June 30, 2011, to be distributed as follows:

(i) 1.23% to the coal bed methane protection account established in 76-15-904;

(ii) 2.95% to the reclamation and development grants special revenue account established in 90-2-1104;

(iii) 2.95% to the orphan share account established in 75-10-743;

(iv) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 20-25-423; and

(v) all remaining proceeds to the state general fund;

~~(b)~~ for fiscal years beginning after June 30, 2011, to be distributed as follows:

(i) 4.18% to the reclamation and development grants special revenue account established in 90-2-1104;

(ii) 2.95% to the orphan share account established in 75-10-743;

(iii) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 20-25-423; and

(iv) all remaining proceeds to the state general fund.”

**Section 5.** Section 15-36-332, MCA, is amended to read:

**“15-36-332. Distribution of taxes to taxing units — appropriation.** (1)

(a) By the dates referred to in subsection (6), the department shall distribute oil and natural gas production taxes allocated under 15-36-331(3) to each eligible county.

(b) *By the dates referred to in subsection (6), the department shall distribute the amount deposited in the oil, gas, and coal natural resource account under 15-36-331(2)(b) as provided in subsection (8).*

(2) (a) Each county treasurer shall distribute the amount of oil and natural gas production taxes designated under subsection (1), including the amounts referred to in subsection (2)(b), to the countywide elementary and high school retirement funds, countywide transportation funds, and eligible school districts according to the following schedule:

	Elementary Retirement	High School Retirement	Countywide Transportation	School Districts
Big Horn	14.81%	10.36%	2.99%	26.99%
Blaine	5.86%	2.31%	2.71%	24.73%
Carbon	3.6%	6.62%	1.31%	49.18%
Chouteau	8.1%	4.32%	3.11%	23.79%
Custer	6.9%	3.4%	1.19%	31.25%
Daniels	0	7.77%	3.92%	48.48%
Dawson	5.53%	2.5%	1.11%	35.6%
Fallon	0	7.63%	1.24%	42.58%

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Fergus	7.88%	4.84%	2.08%	53.25%
Garfield	4.04%	3.13%	5.29%	26.19%
Glacier	11.2%	4.87%	3.01%	46.11%
Golden Valley	0	11.52%	2.77%	54.65%
Hill	6.7%	4.07%	1.59%	49.87%
Liberty	4.9%	4.56%	1.15%	35.22%
McCone	4.18%	3.19%	2.58%	43.21%
Musselshell	5.98%	4.07%	3.53%	32.17%
Petroleum	0	11.92%	4.59%	55.48%
Phillips	0.43%	6.6%	1.08%	41.29%
Pondera	6.96%	5.06%	1.94%	45.17%
Powder River	3.96%	2.97%	4.57%	22.25%
Prairie	0	8.88%	1.63%	36.9%
Richland	4.1%	3.92%	2.26%	43.77%
Roosevelt	9.93%	7.37%	2.74%	40.94%
Rosebud	3.87%	2.24%	1.05%	72.97%
Sheridan	0	3.39%	2.22%	47.63%
Stillwater	6.87%	4.86%	1.63%	41.16%
Sweet Grass	6.12%	6.5%	2.4%	37.22%
Teton	6.88%	8.19%	3.8%	29.43%
Toole	2.78%	4.78%	1.3%	43.56%
Valley	2.26%	12.61%	4.63%	41.11%
Wibaux	0	4.1%	0.77%	31.46%
Yellowstone	7.98%	4.56%	1.07%	52.77%
All other counties	3.81%	7.84%	1.81%	41.04%

(b) (i) The county treasurer shall distribute 9.8% of the Custer County share to the countywide community college district in Custer County.

(ii) The county treasurer shall distribute 14.5% of the Dawson County share to the countywide community college district in Dawson County.

(3) The remaining oil and natural gas production taxes for each county must be used for the exclusive use and benefit of the county, including districts within the county established by the county.

(4) (a) The county treasurer shall distribute oil and natural gas production taxes to school districts in each county referred to in subsection (2) as provided in subsections (4)(b) through (4)(d).

(b) The amount distributed to each K-12 district within the county is equal to oil and natural gas production taxes in the county multiplied by the ratio that oil and natural gas production taxes attributable to oil and natural gas production in the K-12 school district bear to total oil and natural gas production taxes attributable to total oil and natural gas production in the county and multiply that amount by the school district percentage figure for the county referred to in subsection (2)(a).

(c) For the amount to be distributed to each elementary school district and to each high school district under subsection (4)(d), the department shall first determine the amount of oil and natural gas taxes in the high school district that is attributable to oil and natural gas production in each elementary school district that is located in whole or in part within the exterior boundaries of a high school district and multiply that amount by the school district percentage figure for the county referred to in subsection (2)(a).

(d) (i) The amount distributed to each elementary school district that is located in whole or in part within the exterior boundaries of a high school district is equal to the amount determined in subsection (4)(c) multiplied by the ratio that the total mills of the elementary school district bear to the sum of the total mills of the elementary school district and the total mills of the high school district.

(ii) The amount distributed to the high school district is equal to the amount determined in subsection (4)(c) multiplied by the ratio that the total mills of the high school district bear to the sum of the total mills of each elementary school district referred to in subsection (4)(c) and the total mills of the high school district.

(5) (a) Oil and natural gas production taxes calculated for each school district under subsections (4)(b) through (4)(d) must be distributed to each school district in the relative proportion of the mill levy for each fund.

(b) If a distribution under subsection (5)(a) exceeds the total budget for a school district fund, the board of trustees of an elementary or high school district may reallocate the excess to any budgeted fund of the school district.

(6) The department shall remit the amounts to be distributed in this section to the county treasurer by the following dates:

(a) On or before August 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending March 31 of the current year.

(b) On or before November 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending June 30 of the current year.

(c) On or before February 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending September 30 of the previous year.

(d) On or before May 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending December 31 of the previous year.

(7) The department shall provide to each county by May 31 of each year the amount of gross taxable value represented by all types of production taxed under 15-36-304 for the previous calendar year multiplied by 60%. The resulting value must be treated as taxable value for county classification purposes under 7-1-2111.

(8) *The department shall distribute the funds received under 15-36-331(2)(b) to counties based on county oil and gas production. Of the distribution to a county, one-third must be distributed to the county government and two-thirds must be distributed to incorporated cities and towns within the county. If there is more than one incorporated city or town within the county, the city and town*

*allocation must be distributed to the cities and towns based on their relative populations.*

~~(8)~~(9) The ~~distribution~~ *distributions* to taxing units *and to counties and incorporated cities and towns* under this section ~~is~~ *are* statutorily appropriated, as provided in 17-7-502, from the state special revenue fund.”

**Section 6. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa.

**Section 7. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 90, chapter 6, and the provisions of Title 90, chapter 6, apply to [section 1].

**Section 8. Coordination instruction.** If House Bill No. 482 and [this act] are passed and approved, then:

(1) the percentage figure referred to in each version of 15-35-108(3) in House Bill No. 482 and [this act] must be 5.46%; and

(2) the percentage figure referred to in each version of 15-35-108 allocating money to the oil, gas, and coal natural resource account must be 2.9%.

**Section 9. Effective date.** [This act] is effective July 1, 2005.

**Section 10. Applicability.** [This act] applies to oil and gas production occurring after June 30, 2005.

Approved May 6, 2005

## CHAPTER NO. 604

[HB 761]

AN ACT CREATING AN ACCOUNT IN THE STATE TREASURY FROM WHICH PREMIUMS PAID FOR GROUP LIFE INSURANCE BY MEMBERS OF THE MONTANA NATIONAL GUARD AND RESERVE WHO ARE ON ACTIVE DUTY FOR A CONTINGENCY OPERATION MAY BE REIMBURSED; REQUIRING THE DEPARTMENT OF MILITARY AFFAIRS TO ADOPT RULES TO DETERMINE SERVICE MEMBERS' ELIGIBILITY FOR REIMBURSEMENT FOR GROUP LIFE INSURANCE PREMIUMS PAID AND IMPLEMENT THE REIMBURSEMENT PROGRAM; EXEMPTING FROM STATE INCOME TAXATION THE AMOUNT RECEIVED BY A SERVICE MEMBER AS REIMBURSEMENT FOR GROUP LIFE INSURANCE PREMIUMS PAID; APPROPRIATING FUNDS TO REIMBURSE SERVICE MEMBERS WHO ARE ON ACTIVE DUTY FOR A CONTINGENCY OPERATION FOR THE PREMIUMS PAID BY MEMBERS FOR GROUP LIFE INSURANCE; AMENDING SECTION 15-30-116, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Legislative findings — purpose.** (1) The legislature finds that:

(a) the Montana national guard and reserve have a proud tradition of military service with thousands of Montanans having answered the call of the nation and having served in the national guard and reserve;

(b) there have been instances in which the dependents of members of the Montana national guard and reserve have been left without adequate financial resources when a national guard or reserve member has been killed while on active duty;

(c) members of the Montana national guard and reserve are now being asked to serve extended periods of active duty in combat areas;

(d) members of the Montana national guard and reserve are eligible for life insurance policies with limits of up to \$250,000 through the federal service members' group life insurance program; and

(e) members of the Montana national guard and reserve provide Montana and its citizens valuable benefits through the members' service inside this state and through the members' recently extended periods of active duty in combat areas outside of Montana, and in exchange for these extended periods of active duty they should receive assistance with the premiums that members pay for the federal service members' group life insurance program.

(2) The purpose of creating and funding the account established in [section 3] is to provide a benefit to members of the Montana national guard and reserve in exchange for and in recognition of the members' assumption of extended periods of active duty in a contingency operation, in addition to the members' increased contributions to the safety and welfare of the citizens of Montana.

**Section 2. Definitions.** As used in [sections 1 through 4], unless the context requires otherwise, the following definitions apply:

(1) "Active duty" has the meaning provided in 38 U.S.C. 1965(1)(A) and generally means full-time duty in the armed forces, other than active duty for training.

(2) "Contingency operation" means an assignment within the provisions of 10 U.S.C. 101(a)(13).

(3) "National guard" has the meaning provided in 10-1-101.

(4) "Reserve" means a member of a reserve component, as defined in 38 U.S.C. 101, of the United States armed forces.

(5) "Service member" means a member of the national guard or reserve.

**Section 3. Account for service members' life insurance.** (1) There is an account in the state treasury that is composed of statutory deposits to the account and includes any gifts, grants, donations, or bequests to the account and earnings from investing the money in the account.

(2) Money in the account must be used as provided in [section 4] to reimburse service members serving on active duty in a contingency operation for the premiums paid, if any, for service members' group life insurance.

**Section 4. Military service members' life insurance — reimbursement — eligibility.** (1) (a) Subject to subsections (1)(b) and (1)(c), the department shall reimburse eligible service members for premiums paid for benefits under the service members' group life insurance program pursuant to 38 U.S.C. 1965 through 1980.

(b) A service member is eligible for reimbursement of group life insurance premiums only if the service member paid premiums for service members' life insurance available under 38 U.S.C. 1965 through 1980 after [the effective date of this act] and the service member served on active duty in a contingency operation after [the effective date of this act].

(c) The maximum amount of premium to be reimbursed may not exceed \$16.25 a month for each month during which the member was on active duty in a contingency operation and purchased service members' group life insurance pursuant to 38 U.S.C. 1965 through 1980.

(2) The amount received by a service member as reimbursement for group life insurance premiums paid is considered to be a bonus for the purposes of taxation.

(3) The department shall adopt rules necessary to determine eligibility for reimbursement from the service members' life insurance reimbursement account and to implement the reimbursement program.

(4) This section does not alter, amend, or change the eligibility or applicability of the service members' group life insurance program pursuant to 38 U.S.C. 1965 through 1980 or any rights, responsibilities, or benefits under the program.

**Section 5.** Section 15-30-116, MCA, is amended to read:

**"15-30-116. Veterans' bonus or military salary — exemptions.** (1) All payments made under the World War I bonus law, Korean bonus law, and the veterans' bonus law are hereby exempt from taxation under the income tax laws of the state of Montana, and any *this chapter*. Any income tax which ~~that~~ has been or may hereafter be paid on income received from ~~this source shall be the World War I bonus law, Korean bonus law, and the veterans' bonus law~~ is considered an overpayment and ~~shall~~ *must* be refunded upon the filing of an amended return and a verified claim for refund on forms prescribed by the department in the same manner as other income tax refund claims are paid.

(2) The salary received from the armed forces by residents of Montana who are serving on active duty in the regular armed forces and who entered into active duty from Montana is exempt from state income tax.

(3) *The amount received pursuant to [section 4] or from the federal government by a service member, as defined in [section 2], as reimbursement for group life insurance premiums paid is considered to be a bonus and is exempt from taxation under this chapter.*"

**Section 6. Appropriation — periodic transfer — reversion.** (1) There is transferred from the general fund to the account established in [section 3] to reimburse the premiums for service members' life insurance \$60,000 for fiscal year 2005, \$300,000 for fiscal year 2006, and \$300,000 for fiscal year 2007. The amount transferred is appropriated to the department of military affairs to be used as provided in [sections 1 through 4].

(2) Subject to subsection (1), the director of the department of military affairs shall, as necessary to administer the program for reimbursing service members for premiums paid for group life insurance under [sections 1 through 4], request the state treasurer to transfer sufficient funds from the general fund to the account established in [section 3]. The state treasurer shall comply with the request.

(3) Any unexpended or unencumbered balance remaining in the account at the end of a fiscal year reverts to the general fund.

**Section 7. Codification instruction.** [Sections 1 through 4] are intended to be codified as an integral part of Title 10, and the provisions of Title 10 apply to [sections 1 through 4].

**Section 8. Effective date — applicability.** [This act] is effective on passage and approval and applies to premiums paid after [the effective date of this act] for service members' life insurance by a service member serving on active duty in a contingency operation after [the effective date of this act].

**Section 9. Termination.** (1) [This act] terminates on the last day of the first month in which:

(a) the amount of the death gratuity provided for in 10 U.S.C. 1478 for a service member is at least \$250,000;

(b) the United States government directly pays for the premiums under the service members' group life insurance program provided for in 38 U.S.C. 1965 through 1980 for at least \$250,000 of coverage for the death of a service member; or

(c) the amount of the death gratuity provided for in 10 U.S.C. 1478 plus the amount of coverage for which the United States government directly pays for the premiums under the service members' group life insurance program provided for in 38 U.S.C. 1965 through 1980 for a service member totals at least \$250,000.

(2) A service member, as defined in [section 2], who is on active duty in a contingency operation after [the effective date of this act] is considered a service member for the purposes of this section.

(3) For the purposes of this section, the definitions for "active duty" and "contingency operation" provided in [section 2] apply.

Approved May 6, 2005

## CHAPTER NO. 605

[HB 769]

AN ACT CREATING THE RAIL SERVICE COMPETITION COUNCIL; ESTABLISHING THE MEMBERSHIP AND DUTIES OF THE COUNCIL; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Rail service competition council.** (1) There is a rail service competition council consisting of the following members:

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

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

(c) the director of the department of revenue provided for in 2-15-1301;

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

(e) six people appointed by the governor with the following qualifications:

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

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

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

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

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

(vi) one person with substantial knowledge and experience related to transportation for the wood products industry in the state of Montana; and

(f) two members, one from each political party and one from each house of the legislature, from the economic affairs interim committee established in 5-5-223, selected by the presiding officer of the economic affairs interim committee with the concurrence of the vice presiding officer.

(2) The rail service competition council shall perform the following duties:

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

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

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

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

(e) analyze the feasibility of developing legal structures to facilitate growth of producer transportation investment cooperatives and rural transportation infrastructure authorities;

(f) provide advice and recommendations to the department of transportation for the department's rail planning activities pursuant to Title 60, chapter 11, part 1;

(g) coordinate efforts and develop cooperative partnerships with other states and federal agencies to promote rail service competition; and

(h) act as the state's liaison in working with Class I railroads to promote rail service competition.

(3) The council shall cooperate with and report to any standing or interim legislative committee that is assigned to study or has oversight duties for rail service competition issues.

(4) The council must be compensated, reimbursed, and otherwise governed by the provisions of 2-15-122.

(5) The council is attached for administrative purposes only to the governor's office, which may assist the council by providing staff and budgetary, administrative, and clerical services that the council or its presiding officer requests.

(6) Staffing and other resources may be provided to the council only from state and nonstate resources donated to the council and from direct appropriations by each legislature.

**Section 2. Appropriation.** There is appropriated up to \$50,000 from the department of transportation's highway revenue account in the state special revenue fund to the rail service competition council for each of fiscal years 2006 and 2007 in order to carry out the duties required in [section 1].

**Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 2, chapter 15, part 2, and the provisions of Title 2, chapter 15, part 2, apply to [section 1].

**Section 4. Coordination instruction.** If House Bill No. 757 and [this act] are both passed and approved, then [section 1(2)(f) of this act] must read as follows:

“(f) provide advice and recommendations to the department of transportation on the department's activities under [sections 1 through 4 of House Bill No. 757];”

**Section 5. Effective date.** [This act] is effective July 1, 2005.

Approved May 6, 2005

## CHAPTER NO. 606

[SB 120]

AN ACT REVISING AND EXTENDING THE UTILIZATION FEE ON HOSPITAL FACILITIES FOR INPATIENT BED DAYS; INCLUDING CRITICAL ACCESS FACILITIES IN THE DEFINITION OF “HOSPITAL”; AMENDING SECTIONS 15-66-101, 15-66-102, AND 15-66-201, MCA, AND SECTION 20, CHAPTER 390, LAWS OF 2003; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1.** Section 15-66-101, MCA, is amended to read:

**“15-66-101. (Temporary) Definitions.** For purposes of this chapter, the following definitions apply:

(1) (a) “Hospital” means a facility licensed as a hospital pursuant to Title 50, chapter 5, *and includes a critical access hospital.*

(b) The term does not include Montana state hospital.

(2) (a) “Inpatient bed day” means a day of inpatient care provided to a patient in a hospital. A day begins at midnight and ends 24 hours later. A part of a day, including the day of admission, counts as a full day. The day of discharge or death is not counted as a day. If admission and discharge or death occur on the same day, the day is considered a day of admission and *is* counted as one inpatient bed day. Inpatient bed days include all inpatient hospital benefit days as defined for medicare reporting purposes in section 216 of the centers for medicaid and medicare services publication 10, the Hospital Manual. Inpatient bed days also include all nursery days during which a newborn infant receives care in a nursery.

(b) The term does not include observation days or days of care in a swing bed, as defined in 50-5-101.

(3) “Patient” means an individual obtaining skilled medical and nursing services in a hospital. The term includes newborn infants.

(4) "Report" means the report of inpatient bed days required in 15-66-201.

(5) "Utilization fee" or "fee" means the fee required to be paid for each inpatient bed day, as provided in 15-66-102. (Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003. Terminates June 30, 2005 2007—sec. 20, Ch. 390, L. 2003.)"

**Section 2.** Section 15-66-102, MCA, is amended to read:

**"15-66-102. (Temporary) Utilization fee for inpatient bed days.** (1) Each hospital in the state shall pay to the department a utilization fee in the amount of:

(a) ~~\$32.44 for each inpatient bed day between July 1, 2003, and December 31, 2003; and~~

~~(b)~~(a) *in the amount of \$19.43 for each inpatient bed day between January 1, 2004, and June 30, 2005;*

*(b) in the amount of \$29.75 for each inpatient bed day between July 1, 2005, and December 31, 2005;*

*(c) in the amount of \$27.70 for each inpatient bed day between January 1, 2006, and December 31, 2006; and*

*(d) after January 1, 2007, in an amount determined by rule as provided in subsection (2).*

*(2) Prior to each calendar year that will be subject to the fee, the department by rule shall determine the amount of the fee, not to exceed \$50, based upon:*

*(a) an estimate of the unpaid medicaid hospital costs, total inpatient days, and the federal medical assistance percentages;*

*(b) an estimate of any federal limit on federal financial participation for hospital services; and*

*(c) an estimate of federal disproportionate share funds not matched by state general funds.*

~~(2)~~(3) (a) All proceeds from the collection of utilization fees, including penalties and interest, must be deposited to the credit of the department of public health and human services in a state special revenue fund account as provided in 53-6-149.

(b) A hospital may not place a fee created in this chapter on a patient's bill. (Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003. Terminates June 30, 2005 2007—sec. 20, Ch. 390, L. 2003.)"

**Section 3.** Section 15-66-201, MCA, is amended to read:

**"15-66-201. (Temporary) Reporting and collection of fee.** (1) ~~(a)~~ On or before January 31, 2004 2006, a hospital shall file with the department an annual report of the number of inpatient bed days in the hospital during each of the 6-month period periods beginning January 1, 2005, and ending June 30, 2005, and beginning July 1, 2003 2005, and ending December 31, 2003 2005. The report must be in the form prescribed by the department. The report must be accompanied by a payment in an amount equal to the appropriate fee required to be paid under 15-66-102(1)(a).

~~(b) On or before January 31, 2004, the department of public health and human services shall provide the department with a list of hospitals licensed and operating in the state during the 6-month period beginning July 1, 2003, and ending December 31, 2003.~~

(2) (a) Except as provided in subsection (1), on or before January 31 of each year, a hospital shall file with the department an annual report of the number of inpatient bed days during the preceding year beginning January 1 and ending December 31. The report must be in the form prescribed by the department. The report must be accompanied by a payment in an amount equal to the fee required to be paid under 15-66-102~~(1)(b)~~.

(b) ~~Except as provided in subsection (1), on~~ On or before January 31 of each year, the department of public health and human services shall provide the department with a list of hospitals licensed and operating in the state during the preceding year beginning January 1 and ending December 31. (Void on occurrence of contingency—sec. 18, Ch. 390, L. 2003. Terminates June 30, ~~2005~~ 2007—~~sec. 20, Ch. 390, L. 2003.~~)”

**Section 4.** Section 20, Chapter 390, Laws of 2003, is amended to read:

**“Section 20. Termination.** [This act] terminates June 30, ~~2005~~ 2007.”

**Section 5. Cessation on collection and expenditure.** The collection of the utilization fee under 15-66-102 and 15-66-201 and related expenditures of the revenue authorized in House Bill No. 2 must cease if a court issues a final order that the state expenditure limit contained in 17-8-106 has been exceeded. If expenditures of the revenue authorized in House Bill No. 2 cease, any collected but unexpended utilization fees must be returned to the hospital.

**Section 6. Effective date.** [This act] is effective on passage and approval.

**Section 7. Termination.** [This act] terminates June 30, 2007.

Approved May 5, 2005

## CHAPTER NO. 607

[HB 2]

AN ACT APPROPRIATING MONEY TO VARIOUS STATE AGENCIES FOR THE BIENNIUM ENDING JUNE 30, 2007; AND PROVIDING AN EFFECTIVE DATE.

*Be it enacted by the Legislature of the State of Montana:*

**Section 1. Short title.** [This act] may be cited as “The General Appropriations Act of 2005”.

**Section 2. First level expenditures.** The agency and program appropriation tables in the legislative fiscal analyst narrative accompanying this bill, showing first level expenditures and funding for the 2007 biennium, are adopted as legislative intent.

**Section 3. Severability.** If any section, subsection, sentence, clause, or phrase of [this act] is for any reason held unconstitutional, the decision does not affect the validity of the remaining portions of [this act].

**Section 4. Appropriation control.** An appropriation item designated as “Biennial” may be spent in either year of the biennium. An appropriation item designated “Restricted” may be used during the biennium only for the purpose designated by its title and as presented to the legislature. An appropriation item designated “One Time Only” or “OTO” may not be included in the present law base for the 2009 biennium. The office of budget and program planning shall establish a separate appropriation on the statewide accounting, budgeting, and

human resource system for any item designated as “Biennial”, “Restricted”, “One Time Only”, or “OTO”. The office of budget and program planning shall establish at least one appropriation on the statewide accounting, budgeting, and human resource system for any appropriation that appears as a separate line item in [this act].

**Section 5. Program definition.** As used in [this act], “program” has the same meaning as defined in 17-7-102, is consistent with the management and accountability structure established on the statewide accounting, budgeting, and human resource system, and is identified as a major subdivision of an agency ordinally numbered with an arabic numeral.

**Section 6. Personal services funding — 2009 biennium.** (1) Except as provided in subsection (2), present law and new proposal funding budget requests for the 2009 biennium submitted under Title 17, chapter 7, part 1, by each executive, judicial, and legislative branch agency must include funding of first level personal services separate from funding of other expenditures. The funding of first level personal services by accounting entity or equivalent for each fiscal year must be shown at the fourth reporting level or equivalent in the budget request for the 2009 biennium submitted by October 30 to the legislative fiscal analyst by the office of budget and program planning.

(2) The provisions of subsection (1) do not apply to the Montana university system.

**Section 7. Totals not appropriations.** The totals shown in [this act] are for informational purposes only and are not appropriations.

**Section 8. Effective date.** [This act] is effective July 1, 2005.

**Section 9. Appropriations.** The following money is appropriated for the respective fiscal years:

	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
A. GENERAL GOVERNMENT AND TRANSPORTATION							
LEGISLATIVE BRANCH (1104)							
1. Legislative Services (20) (Biennial)							
4,438,074	858,175	0	0	5,296,249	4,842,848	379,585	0
a. Interim School Funding Study (Restricted/Biennial/OTO)							
200,000	0	0	0	200,000	0	0	0
2. Legislative Committees and Activities (21) (Biennial)							
419,732	0	0	0	419,732	198,830	0	0
3. Fiscal Analysis and Review (27) (Biennial)							
1,271,142	0	0	0	1,271,142	1,312,797	0	0
4. Audit and Examination (28) (Biennial)							
1,778,408	1,501,291	0	0	3,279,699	1,909,158	1,361,872	0
a. Legislative Audit of Public Defender Services — SB 146 (OTO)							
88,155	0	0	0	88,155	0	0	0
Total	8,195,511	2,359,466	0	10,554,977	8,263,633	1,741,457	0
Interim School Funding Study is for an interim study of the school funding formula.							
If Senate Bill No. 146 is not passed and approved, Audit and Examination is reduced by \$88,155 in general fund money in fiscal year 2006.							
CONSUMER COUNSEL (1112)							
1. Administration Program (01)							
0	1,160,767	0	0	1,160,767	0	1,170,980	0
a. Case-load Contingency Fund (Restricted)							
0	250,000	0	0	250,000	0	250,000	0

	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
Total	0	1,410,767	0	0	1,420,980	0	1,420,980
<b>JUDICIARY (2110)</b>							
1. Supreme Court Operations (01)							
5,399,501	173,530	192,510	0	5,765,541	181,370	192,310	5,731,376
a. Legislative Audit (Restricted/Biennial)	38,461	0	0	38,461	0	0	38,461
b. Software Licenses (Restricted/Biennial/OTO)	1,095,000	0	0	1,095,000	0	0	1,095,000
2. Boards and Commissions (02)	228,744	25,000	0	253,744	25,000	0	253,744
a. Judicial Standards Investigation (Restricted/Biennial)	25,000	0	0	25,000	0	0	25,000
3. Law Library (03)	811,952	0	0	811,952	0	0	811,952
4. District Court Operations (04)	29,979,801	150,000	500,000	30,629,801	150,000	500,000	31,279,801
a. Court Reporting Equipment (Restricted/Biennial/OTO)	34,495	0	0	34,495	0	0	34,495
<del>B. Authority for County Paid Leave (Restricted/Biennial)</del>	<del>0</del>	<del>642,548</del>	<del>0</del>	<del>642,548</del>	<del>0</del>	<del>0</del>	<del>642,548</del>
c. Judicial Education (Restricted/Biennial)	50,000	0	0	50,000	0	0	50,000
5. Water Courts Supervision (05)	0	1,183,880	0	1,183,880	1,183,010	0	1,183,010
6. Clerk of Court (06)	387,493	0	0	387,493	0	0	387,493

	Fiscal 2006			Fiscal 2007			Total			
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue				
Total	38,050,447	2,174,958	692,510	0	40,917,915	29,022,561	1,539,380	692,310	0	31,254,251
If Senate Bill No. 146 is not passed and approved, Supreme Court Operations is increased by \$43,725 in general fund money in fiscal year 2007. If Senate Bill No. 146 is not passed and approved, District Court Operations is decreased by \$209,508 in general fund money in fiscal year 2006 and increased by \$8,093,435 in general fund money in fiscal year 2007.										
If Senate Bill No. 406 is not passed and approved, Supreme Court Operations is reduced by \$23,530 in fiscal year 2006 and by \$31,370 in fiscal year 2007 in state special revenue.										
If House Bill No. 536 is not passed and approved, Supreme Court Operations is decreased by \$1,935,000 in general fund money in each fiscal year of the 2007 biennium.										
If Senate Bill No. 18 is not passed and approved, District Court Operations is reduced by \$157,477 in general fund money in fiscal year 2006 and by \$270,615 in general fund money in fiscal year 2007.										
If Senate Bill No. 355 is not passed and approved, District Court Operations is reduced by \$5,000 in general fund money in each fiscal year of the biennium.										
If House Bill No. 22 is not passed and approved, Water Courts Supervision funding is reduced by \$416,690 in state special revenue in each year of the biennium.										
GOVERNOR'S OFFICE (3101)										
1. Executive Office Program (01)	2,531,284	72,180	0	0	2,603,464	2,529,059	71,980	0	0	2,601,039
a. Legislative Audit (Restricted/Biennial)	32,544	0	0	0	32,544	0	0	0	0	0
b. Computer Equipment Replacement (OTO)	40,736	0	0	0	40,736	21,641	0	0	0	21,641
c. Increased Budget for Governor's Office (OTO)	62,587	0	0	0	62,587	53,815	0	0	0	53,815
d. Marketing and Business Recruitment (Biennial)	300,000	0	0	0	300,000	300,000	0	0	0	300,000

	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
2. Mansion Maintenance Program (02)	86,527	0	0	86,527	0	0	86,395
a. Mansion Budget Increase (OTO)	25,000	0	0	25,000	0	0	25,000
3. Air Transportation Program (03)	274,417	20,000	0	294,417	20,000	0	284,366
4. Office of Budget and Program Planning (04)	1,372,665	0	0	1,372,665	0	0	1,383,163
a. Legislative Audit (Restricted/Biennial)	16,272	0	0	16,272	0	0	0
5. Indian Affairs (05)	156,675	0	0	156,675	0	0	156,394
6. Lieutenant Governor (12)	271,950	0	0	271,950	0	0	271,368
7. Citizens' Advocate Office (16)	69,675	0	20,000	69,472	0	20,000	89,472
8. Mental Disabilities Board of Visitors (20)	346,776	0	0	341,343	0	0	341,343
<b>Total</b>	<b>5,587,108</b>	<b>92,180</b>	<b>20,000</b>	<b>5,502,016</b>	<b>91,980</b>	<b>20,000</b>	<b>5,613,996</b>

The Marketing and Business Recruitment program of the governor's office shall develop goals, objectives, and performance indicators and submit interim reports to the legislative finance committee for the categories of personal services, institutional advertising, website activity, travel, trade show activity, target research, promotional materials, and telecommunications of the marketing Montana and business recruitment program. A written summary of interim reports must be presented to the government and transportation subcommittee at the 2007 legislative session. The dates and contents of the interim reports are as follows:

(1) by July 31, 2005, provide a list of the intended results of each category. For each result, one of which must include the names of successfully recruited businesses and number of jobs created, the staff shall provide a list of the performance indicators that will be used to measure the result, indicate who is responsible for ensuring attainment, and include a specific timeline indicating the stages and time needed to reach attainment.

	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
(2) by July 1, 2006, provide a report on the success of meeting intended results, including measures of the performance indicators, reasons for not meeting any intended results (if applicable), changes that are needed to meet intended results, changes to performance indicators, changes to timelines, and whether intended results are attainable; and							
(3) by November 15, 2006, provide an update to the July 1, 2006, report on the success of meeting intended results, including measures of the performance indicators, accomplishments to date, and, if necessary, reasons for not meeting any intended results.							
If Senate Bill No. 385 is not passed and approved, Mental Disabilities Board of Visitors is reduced by \$36,008 in fiscal year 2006 and by \$30,860 in fiscal year 2007 in general fund money.							
<b>SECRETARY OF STATE (3201)</b>							
1. Business and Government Services (01)	0	0	5,469,529	0	0	5,556,936	5,556,936
Total	0	0	5,469,529	0	0	5,556,936	5,556,936
<b>COMMISSIONER OF POLITICAL PRACTICES (3202)</b>							
1. Administration (01)							
350,062 0	0	0	0	350,603	0	0	350,603
a. Legislative Audit (Restricted/Biennial)	6,509	0	0	0	0	0	0
b. Computer Equipment Replacement/Upgrade (OTO)	6,365	0	0	0	0	0	0
Total	362,936	0	0	350,603	0	0	350,603
<b>OFFICE OF THE STATE AUDITOR (3401)</b>							
1. Central Management (01)	0	579,161	0	0	578,661	0	578,661

	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
a. Legislative Audit (Restricted/Biennial)	0	5,532	0	0	0	0	0
2. Insurance Program (03)	0	2,912,107	0	0	2,910,330	0	2,910,330
a. Legislative Audit (Restricted/Biennial)	0	24,083	0	0	0	0	0
b. Contract Examinations (Restricted)	0	227,820	0	0	283,544	0	283,544
c. Montana Comprehensive Health Association (Restricted)	0	573,215	0	0	573,215	0	573,215
d. Captive Insurance Examinations (Restricted)	0	19,200	0	0	19,200	0	19,200
e. Premium Assistance for Small Employers -- HB 667 (Restricted)	0	1,671,375	0	0	5,899,001	0	5,899,001
f. Provide Tax Relief in the Form of Tax Credits -- HB 667	0	1,200,000	0	0	3,976,330	0	3,976,330
3. Securities (04)	0	683,772	0	0	689,887	0	689,887
a. Legislative Audit (Restricted/Biennial)	0	5,858	0	0	0	0	0
b. Contract Examinations (Restricted)	0	60,792	0	0	65,792	0	65,792
<b>Total</b>	<b>0</b>	<b>7,962,915</b>	<b>0</b>	<b>0</b>	<b>14,995,960</b>	<b>0</b>	<b>14,995,960</b>

Funding in Premium Assistance for Small Employers and Provide Tax Relief in the Form of Tax Credits is contingent upon passage and approval of House Bill No. 667 and may be used only to implement House Bill No. 667. If the department of public health and human services is successful in obtaining a medicare 1115 waiver for a premium incentive or premium assistance program, the state auditor's office shall transfer \$994,000 in state special revenue in fiscal year 2007 to the department of public health and human services to be used to match federal medicare funds.

	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
Funding for Premium Assistance for Small Employers and Provide Tax Relief in the Form of Tax Credits includes the support of 3 new FTE.							
DEPARTMENT OF TRANSPORTATION (5401)							
1. General Operations Program (01) (Biennial)	0	19,061,913	731,920	0	19,276,705	786,461	20,063,166
a. Legislative Audit (Restricted/Biennial)	0	133,136	0	0	133,136	0	133,136
b. Commercial Vehicle Operations Enhancements (OTO)	0	103,007	86,484	0	64,629	54,262	118,891
2. Construction Program (02) (Biennial)	0	117,550,637	282,192,809	0	120,516,453	290,618,785	411,135,238
a. Bridge Inspection Capital Equipment (OTO)	0	140,000	860,000	0	0	0	1,000,000
b. Federal Earmarks (OTO)	0	831,810	10,466,000	0	50,000	3,390,000	3,440,000
3. Maintenance Program (03) (Biennial)	0	90,753,483	7,306,779	0	90,769,973	7,431,416	98,201,389
a. Remote Weather Information System Expansion (OTO)	0	131,375	0	0	131,375	0	131,375
b. Lewis and Clark 511 Federal Earmark (OTO)	0	0	900,000	0	0	0	900,000
4. Motor Carrier Services Division (22)	0	5,787,856	1,050,000	0	5,822,978	1,400,000	7,222,978
a. Computer Programming — HB 55 (OTO)	0	10,000	0	0	10,000	0	10,000
5. Aeronautics Program (40)	0	795,883	42,046	0	794,500	42,057	836,557
a. Airport Grants (Biennial)							

	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
b. System Plan (Biennial)	0	1,033,000	0	0	0	0	0
c. West Yellowstone Airport (Biennial/OTO)	0	17,500	332,500	0	0	0	0
d. Lincoln Airport Runway Rehabilitation (Biennial/OTO)	0	0	285,000	0	0	0	0
e. Aircraft Engine (Biennial/OTO)	0	119,987	2,279,763	0	7,487	142,263	149,750
f. Aircraft Purchase (Biennial/OTO)	0	32,000	0	0	0	0	0
6. Transportation Planning Division (50) (Biennial)	0	324,000	0	0	0	0	0
a. Corridor Studies (OTO)	0	2,264,925	8,285,144	0	2,254,428	8,296,778	10,551,206
Total	0	75,000	300,000	0	0	0	0
	0	239,165,512	315,118,445	0	239,688,528	312,162,022	551,850,550

The department may adjust appropriations in the general operations, construction, maintenance, and transportation planning programs between state special revenue and federal special revenue funds if the total state special revenue authority for these programs is not increased by more than 10% of the total appropriations established by the legislature for each program.

All federal special revenue appropriations in the department are biennial.

All appropriations in the general operations, construction, maintenance, and transportation planning programs are biennial.

All remaining federal pass-through grant appropriations for highway traffic safety, including reversions, for the 2005 biennium are authorized to continue and are appropriated in fiscal year 2006 and fiscal year 2007.

The department shall provide a report to the general government and transportation joint appropriations subcommittee of the 2007 legislature that summarizes the accomplishments achieved from funding provided in the 2007 biennium for disadvantaged business enterprises and fuel tax evasion included in General

	Fiscal 2006			Fiscal 2007			Total	Other	Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue			
1. Director's Office (01)	2,077,468	0	0	2,104,800	2,077,671	0	27,332	0	2,105,003
a. Legislative Audit (Restricted/Biennial)	170,797	0	800	171,597	0	0	0	0	0
b. Replace Remainder of POINTS (Restricted/Biennial/OTO)	3,000,000	0	0	3,000,000	1,000,000	0	0	0	1,000,000
2. Information Technology (02)	3,264,485	0	0	3,332,815	3,903,588	0	68,330	0	3,971,918
3. Resource Management (05)	991,141	0	0	2,226,283	989,824	0	1,233,887	0	2,223,711
4. Customer Service Center (06)	4,794,495	421,441	92,400	6,092,961	4,780,586	427,335	784,625	0	6,084,946
a. Child Support Debt Collection Costs (Restricted/Biennial)	73,730	0	0	73,730	73,730	0	0	0	73,730
b. Delinquent Income Tax Receivable Collection (OTO)	8,400	0	0	8,400	0	0	0	0	0
5. Business and Income Taxes Division (07)	5,096,954	150,480	205,221	5,452,655	5,106,724	154,995	209,102	0	5,470,821
a. Tax Compliance Staff (Restricted/Biennial)	1,120,000	0	0	1,120,000	0	0	0	0	0
6. Property Assessment Division (08)	15,243,834	50,000	0	15,293,834	15,352,506	50,000	0	0	15,402,506

Operations Program and Corridor Studies. The report must at a minimum specify how many disadvantaged businesses were served and what services were provided. For each listed funding area, the report must include a listing of outcome goals planned for the 2007 biennium and the actual activities toward attaining the goals]

Computer Programming is contingent upon passage and approval of House Bill No. 55.

DEPARTMENT OF REVENUE (5801)

	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
a. Property Tax Computer System (Restricted/Biennial/OTC)	0	0	0	2,750,000	0	0	2,750,000
b. Agriculture/Forest Land Reappraisal Program (OTC)	147,502	0	0	423,161	0	0	423,161
<b>Total</b>	<b>38,738,806</b>	<b>621,921</b>	<b>298,421</b>	<b>41,774,577</b>	<b>632,330</b>	<b>301,502</b>	<b>39,505,796</b>

Any funds remaining, up to \$1,400,000, from the appropriation authorized in section 12(1), Chapter 597, Laws of 2003, are reappropriated to the department for the 2007 biennium for the stated purpose.

Liquor division proprietary funds necessary to maintain adequate inventories, pay freight charges, and transfer profit and taxes to appropriate accounts are appropriated from the liquor enterprise fund (06005) to the department in amounts not to exceed \$78,766,985 in fiscal year 2006 and \$83,497,337 in fiscal year 2007.

In the event that the department is unable to meet statutory service levels because of the increase in demand for liquor products, the department may hire additional temporary employees or pay overtime, whichever is determined to be the more cost-effective, to maintain required service levels to stores. In fiscal year 2006 and in fiscal year 2007, the department is appropriated not more than \$40,000 each year for additional costs from the liquor enterprise fund (06005) to meet the service level requirements.

In the liquor division, upon a termination that requires a payout of accrued leave balances, liquor division proprietary funds are appropriated from the liquor enterprise fund (06005) to the department in the amount equal to the payout of the accrued leave balances, not to exceed \$30,000 for each of fiscal years 2006 and 2007.

Funds are not appropriated or otherwise made available to the department to support continuation of individual income tax debt collection contracts entered into before July 1, 2005.

Funding in Tax Compliance Staff may be used only for personal services and operating costs for additional tax audit staff, including support and legal staff.

If Senate Bill No. 48 is not passed and approved, Property Assessment Division is reduced by \$18,720 in general fund money in fiscal year 2006 and by \$18,720 in general fund money in fiscal year 2007.

DEPARTMENT OF ADMINISTRATION (6101)

I. Administrative Financial Services Division (03)	2,883	64,156	44,997	0	1,328,906	1,217,039	3,498	64,206	44,934	0	1,329,677
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	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
a. Legislative Audit (Restricted/Biennial)							
18,089	615	0	0	0	0	0	0
2. Architecture and Engineering Program (04)							
0	1,252,414	0	0	1,251,602	0	0	1,251,602
a. Legislative Audit (Restricted/Biennial)							
0	1,731	0	0	0	0	0	0
3. General Services Program (06)							
607,003	0	0	500,000	606,324	0	0	1,106,324
4. Information Technology Services Division (07)							
450,010	1,050,000	767,902	0	449,651	1,050,000	768,793	2,268,444
a. Legislative Audit (Restricted/Biennial)							
608	0	1,515	0	0	0	0	0
b. Montana Spatial Data Infrastructure (OTO)							
0	0	707,000	0	0	0	707,000	707,000
c. Emergency Telecommunication Infrastructure (Restricted/Biennial/OTO)							
3,500,000	0	0	0	0	0	0	0
5. Banking and Financial Division (14)							
0	2,701,813	0	0	0	2,790,093	0	2,790,093
a. Legislative Audit (Restricted/Biennial)							
0	3,173	0	0	0	0	0	0
b. Mortgage Broker Act — SB 274							
0	54,706	0	0	0	59,784	0	59,784
6. Montana State Lottery (15)							
0	0	0	7,199,873	0	0	0	7,201,651
a. Legislative Audit (Restricted/Biennial)							
0	0	0	99,913	0	0	0	0
b. Administrative Server (OTO)							
0	0	0	7,000	0	0	0	0

	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
c. Vendor Fees (Restricted)	0	0	0	0	0	0	0
7. State Personnel Division (23)	1,235,347	32,241	0	1,267,588	32,241	0	1,268,688
8. State Tax Appeal Board (37)	331,134	0	0	331,134	0	0	330,474
<b>Total</b>	<b>7,359,061</b>	<b>5,099,576</b>	<b>1,540,573</b>	<b>22,000,993</b>	<b>5,187,218</b>	<b>1,539,999</b>	<b>18,563,737</b>

If House Bill No. 425 is not passed and approved, then Administrative Financial Services Division is increased by \$785 in general fund money and \$496,118 in state special revenue in fiscal year 2006 and by \$1,400 in general fund money and \$495,843 in state special revenue in fiscal year 2007, which reflects the current appropriations for administration and enforcement functions relating to unfair trade practices and consumer protection and telemarketing laws in the consumer protection office in the department. The legislative fiscal division and the office of budget and program planning are authorized to transfer all fiscal year 2004 expenditures and fiscal year 2005 appropriations from the department of administration to the department of justice for the purpose of display in the legislative fiscal division 2007 biennium fiscal report.

If House Bill No. 102 is not passed and approved, there is appropriated from the general fund to the department for payments to the Montana highway patrol pension fund the amount required for this transfer, not to exceed \$350,000 in fiscal year 2006 and \$350,000 in fiscal year 2007.

There is appropriated from the general fund to the department the amount required to be refunded to the federal government for its participation in the workers' compensation old fund transfer to the general fund, not to exceed \$300,000 in fiscal year 2006. Funding is contingent upon the department validating a need for the refund following negotiations with the federal government.

Any funds remaining, up to \$2,100,000, from the appropriation authorized in section 11(2), Chapter 597, Laws of 2003, are reappropriated to the department for the 2007 biennium for the stated purpose. If House Bill No. 745 is passed and approved in a form that includes an appropriation of \$2,100,000 to finish the contractor payments on IRIS phase one, then this appropriation is void.

Mortgage Broker Act is contingent upon passage and approval of Senate Bill No. 274.

Funding for Vendor Fees is restricted to payment of fees to the lottery online gaming system vendor under valid contract obligations.

APPELLATE DEFENDER COMMISSION (6102)

	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
1. Appellate Defender (01)							
a. Computer Purchases (OTO)	208,849	0	0	0	0	0	0
3.819	0	0	0	0	0	0	0
Total	212,668	0	0	0	0	0	0
If Senate Bill No. 146 is not passed and approved, Appellate Defender is increased by \$205,261 in general fund money in fiscal year 2007.							
MONTANA CONSENSUS COUNCIL (6106)							
1. Montana Consensus Council (01)							
69,040	247,569	0	0	68,829	247,936	0	316,765
a. Legislative Audit (Restricted/Biennial)							
0	382	0	0	0	0	0	0
Total	69,040	247,951	0	68,829	247,936	0	316,765
OFFICE OF STATE PUBLIC DEFENDER (6108)							
1. Office of State Public Defender (01)							
514,552	0	0	0	13,017,335	0	0	13,017,335
2. Office of Appellate Defender (02)							
0	0	0	0	852,883	0	0	852,883
Total	514,552	0	0	13,870,218	0	0	13,870,218
All funding for the office is contingent upon passage and approval of Senate Bill No. 146.							

	<u>General Fund</u>	<u>State Special Revenue</u>	<u>Fiscal 2006</u>		<u>Total</u>	<u>General Fund</u>	<u>State Special Revenue</u>	<u>Fiscal 2007</u>		<u>Total</u>
			<u>Federal Special Revenue</u>	<u>Proprietary</u>				<u>Proprietary</u>	<u>Other</u>	
TOTAL SECTION A	99,090,129	259,135,246	323,139,478	9,617,212	691,482,065	97,375,585	265,545,769	320,272,769	500,000	693,304,582
								9,610,759	500,000	



	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
	51,344	0	42,009	51,344	0	42,009	93,353
b. Foster Care — Transportation Allowance (Restricted)	111,101	0	90,900	111,101	0	90,900	202,001
c. Foster Care — Diaper Allowance (Restricted)	59,294	0	48,514	59,294	0	48,514	107,808
d. Foster Care — Clothing Allowance (Restricted)	131,200	0	82,800	131,200	0	82,800	214,000
e. Family Foster Care Rate Increase (Restricted)	192,000	0	82,286	192,000	0	82,286	274,286
f. Foster Care Group Home Rate Increase (Restricted)	102,000	0	43,714	102,000	0	43,714	145,714
3. Director's Office (04)	1,328,489	241,224	2,624,543	831,310	241,473	17,142,060	18,214,843
a. Waiver of Deeming	0	0	0	0	100,000	0	100,000
b. Tribal Programs (Restricted/Biennial)	52,000	0	52,000	0	0	0	0
4. Child Support Enforcement Division (05)	666,138	1,900,929	6,516,638	656,647	1,901,929	6,510,299	9,068,875
a. Child Support Enforcement (Biennial)	1,263,678	0	0	0	0	0	0
5. Fiscal Services Division (06)	2,107,434	349,940	3,248,729	2,106,600	349,794	3,247,495	5,703,889
a. Legislative Audit (Restricted/Biennial)	137,988	6,272	169,348	0	0	0	0
6. Public Health and Safety Division (07)	2,642,811	10,388,493	43,149,520	1,377,518	11,025,125	43,143,957	55,546,600
a. Local Inspection Funds (OTO)				1,377,518	11,025,125	43,143,957	55,546,600



	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
326,138	0	798,863	0	335,700	0	789,300	1,125,000
f. Montana Development Center Bed Tax (Restricted)							
860,168	0	0	0	858,263	0	0	858,263
g. Extended Employment Follow Along (Restricted)							
140,000	0	0	0	140,000	0	0	140,000
h. Extended Employment Sheltered (Restricted)							
70,000	0	0	0	70,000	0	0	70,000
i. Independent Living (Restricted)							
100,000	0	0	0	100,000	0	0	100,000
j. Computer Tech Support to Assist Blind (Restricted)							
65,000	0	0	0	65,000	0	0	65,000
k. Part C Early Intervention (Restricted)							
90,000	0	0	0	90,000	0	0	90,000
l. Direct-Care Worker Salary Increase From 25th to 35th Percentile (Restricted)							
475,000	475,000	1,219,445	0	0	950,000	1,190,604	2,140,604
10. Health Resources Division (11)							
96,577,980	11,892,070	319,083,736	0	104,889,808	13,764,183	341,879,892	460,533,883
a. Hospital Bed Tax (Restricted)							
0	11,504,525	27,560,392	0	0	13,171,367	30,733,189	43,904,556
b. Physician Rate Increase (Restricted/Biennial)							
400,000	1,200,000	3,862,615	0	0	0	0	0
c. Raise Asset Limit for Medicaid Eligibility for Children (Restricted)							
0	0	0	0	0	0	5,847,754	5,847,754
d. Children's Mental Health Direct-Care Worker Wage Increase (Restricted/Biennial)							
0	875,000	2,112,368	0	0	0	0	0
e. Additional Medicaid Management Staff (Restricted)							
117,934	0	117,935	0	117,590	0	117,590	235,180
f. Medicaid (Biennial)							

	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
g. Nonhospital Provider Rate Increase, Dental Access	0	601,571	1,452,473	0	0	0	0
858,952	858,952	5,410,263	0	0	2,253,872	5,094,061	7,347,933
h. Cardiac and Pulmonary Rehabilitation	0	56,465	136,314	0	120,750	282,826	403,576
i. Flexible Funds for SED Waiver	0	0	0	0	50,000	117,112	167,112
j. Children's Special Health Care Clinic	0	25,000	0	0	50,000	0	50,000
k. EPSDT and Rate Increases for Hospitals, Critical Access Hospitals, and Ambulatory Surgical Centers	0	272,717	658,376	0	551,350	1,291,397	1,842,747
l. Prescription Drug Program — SB 324 (Restricted)	0	6,000,000	0	0	8,750,000	0	8,750,000
m. Startup Funds for Prescription Drug Program (Biennial)	0	1,000,000	0	0	0	0	0
n. HRD — Implement Provisions of HB 667	0	12,830	12,830	0	21,744	2,349,937	2,371,681
11. Senior and Long-Term Care Division (22)	46,911,777	13,370,487	130,912,385	0	14,095,748	130,089,876	191,449,027
a. County Nursing Home Intergovernmental Transfer (Restricted)	0	4,992,719	14,735,350	0	6,080,522	17,185,978	23,266,500
b. Montana Veterans' Home Contingency Fund (Restricted)	0	250,000	0	0	250,000	0	250,000
c. Meals on Wheels (Restricted/OTO)	567,000	0	0	0	567,000	0	567,000
d. In-Home Caregiver (Restricted/Biennial/OTO)	600,000	0	0	0	600,000	0	0
e. Direct-Care Worker Wage Increase (Restricted/Biennial)							

	Fiscal 2006			Fiscal 2007		
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue
1,000,000	3,000,000	9,656,538	0	0	0	0
f. Study of Veterans' Long-Term Health Care Needs (Restricted/Biennial/OTO)	0	50,000	0	0	0	0
g. Provider Rate Increases — Nursing Home and Community Services	991,877	4,789,051	0	2,018,663	4,728,205	0
h. Community Services HCBS Expansion	0	57,848	139,908	0	118,184	279,816
12. Addictive and Mental Disorders Division (33)	41,867,075	5,300,526	35,030,998	0	82,198,599	42,533,984
a. PACT Services (Restricted)	745,152	0	1,731,678	0	2,476,830	861,684
b. Nursing Care Center Bed Tax Payment (Restricted)	180,127	0	0	0	180,127	211,915
c. Mental Health Services Plan (Restricted/Biennial)	0	6,500,000	0	0	6,500,000	0
d. Expand Intensive Community-Based Rehabilitation	0	84,191	203,247	0	287,438	402,872
e. Develop Home and Community-Based Waiver	0	0	0	0	631,601	1,479,364
Total	308,876,120	88,762,684	940,955,676	0	1,338,594,480	309,143,662

87,959,609 987,758,734 0 1,384,862,005

[Appropriations for Human and Community Services Division, Child and Family Services Division, Director's Office, Child Support Enforcement Division, Fiscal Services Division, Public Health and Safety Division, Quality Assurance Division, Operations and Technology Division, Disability Services Division, Health Resources Division, Senior and Long-Term Care Division, and Addictive and Mental Disorders Division include over \$70 million annually to support contracts with local, nonstate public and private entities that provide either direct services and benefits directly to individuals or broad direct and indirect public benefits to the citizens of Montana. These appropriations have been made as requested by the department in either the operating category of expenditure or the grants category of expenditure. The department is directed to work with the department of administration, the legislative branch, and the office of budget and program planning to help establish accounting guidance that allows the executive branch to more consistently and uniformly account for appropriations that provide direct and indirect benefits to persons. The department and department of administration shall report to the legislative finance committee and members of the 2005



	Fiscal 2006			Total	Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue		General Fund	State Special Revenue	Federal Special Revenue	

- (4) the balance of federal TANF block grant funds that remain unexpended;
- (4) the monthly TANF cash assistance caseload, costs of cash assistance, and the cash assistance benefit level;
- (5) the projected annual amount to be transferred to child care and Title XX; and
- (6) the projected TANF block grant ending fund balance for the current and next state fiscal years;

Funding for Energy Ombudsman Services may be used only to fund case management-type staff at human resource development councils whose purpose is to assist low-income customers seeking emergency energy assistance. [The department shall provide an annual report to the members of the 2005 legislative joint appropriations subcommittee on health and human services on the successes, failures, and impact that this effort has on assisting low-income families to move toward self-sufficiency in meeting their home heating needs.]

Funding for Low-Income Energy Assistance includes \$500,000 in general fund money for each year of the biennium to support increases in low-income energy assistance programs.

Funding for Low-Income Energy Assistance includes general fund money supporting energy assistance and weatherization. These funds may be used to support the state low-income energy assistance program, the state weatherization program, or tribal energy assistance programs.

Funding in TANF Cash Assistance Increase Benefit Level and TANF Reduce CC Transfer, Fund Cash Assistance may be used only to increase the monthly cash assistance benefit provided to TANF cash assistance recipients, and it is estimated that each \$2.4 million provided for TANF Cash Assistance Increase Benefit Level and TANF Reduce CC Transfer, Fund Cash Assistance is adequate to increase the TANF cash assistance benefit level, for the average family of three on the current caseload, by approximately \$50 a month.

Funding in Adult Basic Education supports provision of adult basic education services designed to meet the specific needs of TANF participants. Priority for funding must be given to the geographic areas that have the highest percentage of their population enrolled in the TANF program.

Funding in HCSD — Implement Provisions of HB 667, OTD — Implement Provisions of HB 667, and HRD — Implement Provisions of HB 667 is contingent upon passage and approval of House Bill No. 667. Funding in HCSD — Implement Provisions of HB 667 includes funding for 1 FTE for eligibility determination. Funding in HRD — Implement Provisions of HB 667 includes funding for 1 FTE to administer the medicaid 1115 waiver for a premium incentive or premium assistance program associated with House Bill No. 667.

Funding in HCSD — Implement Change in Medicaid Asset Test for Children, OTD — Implement Change in Medicaid Asset Test for Children, and Raise Asset Limit for Medicaid Eligibility for Children is contingent upon passage and approval of House Bill No. 552. Funding in HCSD — Implement Change in Medicaid Asset Test for Children includes funding for 3 FTE.

Fiscal 2006				Fiscal 2007			
General Fund	State Special Revenue	Federal Special Revenue	Total	General Fund	State Special Revenue	Federal Special Revenue	Total

Funding for the Child and Family Services Division includes \$126,401 in general fund money and \$143,838 in federal funds for fiscal year 2006 and \$129,101 in general fund money and \$147,013 in federal funds for fiscal year 2007 to replace funding removed because of the across-the-board personal services reduction implemented by the 2003 legislature and to support social work staff providing services to clients. ~~[The department shall report to the legislative finance committee and members of the 2005 legislative joint appropriations subcommittee on health and human services annually, at fiscal yearend, on the impact of this additional staffing on division operations and compliance with federal requirements.]~~

Funding for Foster Care — Respite Allowance may be used only to provide foster care-related respite care.

Funding for Foster Care — Transportation Allowance may be used only to provide foster care-related respite care, transportation, diapers, or clothing.

Funding for Foster Care — Diaper Allowance may be used only to provide foster care-related diaper allowances.

Funding for Foster Care — Clothing Allowance may be used only to provide foster care-related clothing allowances.

Funding for the Director's Office includes a \$500,000 reduction in general fund money in fiscal year 2007 from savings because of activities funded in Tribal Programs to assist Indian health services in claiming additional federal pass-through Medicaid funding. The department may allocate this funding reduction among programs that administer Medicaid services when developing the 2007 biennium operating plans.

Funds in Tribal Programs must be used for personal services costs for an FTE and operating costs to work with tribes to provide technical assistance on provision of pass-through federal Medicaid funding for Indian health services. The appropriation must be used to:

- (1) develop expertise on tribal organization and tribal funding and to provide technical assistance to state staff; and
- (2) identify and resolve barriers and work on innovating programs for tribes to access federal Medicaid pass-through funding for allowable costs. ~~[The department shall report to the legislative finance committee by September 1, 2006, on the number of tribes contacted, the type of work undertaken with each tribe, the specific tasks that each tribe identified to be accomplished, and the progress in completing those tasks.]~~

If Senate Bill No. 137 is not passed and approved, funding in the Public Health and Safety Division is decreased by \$17,375 in state special revenue in each year of the biennium.

If Senate Bill No. 275 is not passed and approved, funding in the Public Health and Safety Division is increased by \$545,991 in general fund money in fiscal year 2006 and by \$545,928 in general fund money in fiscal year 2007 and decreased by \$832,794 in state special revenue in fiscal year 2006 and by \$832,794 in state special revenue in fiscal year 2007.



Fiscal 2006			Fiscal 2007			Total
General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	Total

- (4) status and timing of state-wide implementation of the published rate schedule and Montana resource allocation protocol and
- (5) status of achieving compliance with centers for medicare and medicaid findings and regulations and whether or not imposition of any penalties is occurring.

Disability Services Division includes \$10,000 in state special revenue and \$17,038 in federal funds in fiscal year 2006 and \$10,000 in state special revenue and \$16,443 in federal funds in fiscal year 2007 that are contingent upon passage and approval of House Bill No. 513. If House Bill No. 513 is not passed and approved, funding in Disability Services Division is reduced by \$10,000 in state special revenue and \$17,038 in federal funds in fiscal year 2006 and by \$10,000 in state special revenue and \$16,443 in federal funds in fiscal year 2007.

Disability Services Division includes \$16,000 in state special revenue in fiscal year 2006 and \$16,000 in state special revenue in fiscal year 2007 that are contingent upon passage and approval of Senate Bill No. 433. If Senate Bill No. 433 is not passed and approved, funding in Disability Services Division is reduced by \$16,000 in state special revenue in fiscal year 2006 and \$16,000 in state special revenue in fiscal year 2007.

Rate increases and services funded in Direct-Care Worker Salary Increase From 25th to 35th Percentile, Physician Rate Increase, Nonhospital Provider Rate Increase, Dental Access, Direct-Care Worker Wage Increase, and Provider Rate Increases — Nursing Home and Community Services should be established and implemented at levels that will fully expend the appropriations beginning no later than July 15, 2005, and ending June 30, 2007. Rate increases should be structured so that funding in Direct-Care Worker Salary Increase From 25th to 35th Percentile, Physician Rate Increase, Nonhospital Provider Rate Increase, Dental Access, Direct-Care Worker Wage Increase, and Provider Rate Increases — Nursing Home and Community Services is expended incrementally throughout the 2007 biennium.

Funding for the Montana Telecommunications Access Program may be expended only to support the activities of the Montana telecommunications access program.

Funding for Developmental Disabilities Training may be expended only to support developmental disabilities training for staff and providers as required in the settlement agreement of the Travis D. litigation.

Funding for Developmental Disabilities Crisis may be expended only to support developmental disabilities consumers who experience crisis and as required in the settlement agreement of the Travis D. litigation.

Funding for Developmental Disabilities Startup may be expended only to support startup costs for service expansion as required by the settlement agreement of the Travis D. litigation.

Funding for Developmental Disabilities Waiting List Reduction may be used only to support services provided to individuals who have been on the developmental disabilities waiting list and are entering developmental disabilities services.

Funding for Montana Development Center Bed Tax may be used only to support the bed tax charged to the Montana developmental center.







	Fiscal 2006				Fiscal 2007							
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
The appropriation for the Addictive and Mental Disorders Division includes funding for a rate increase for psychiatric services. <del>[[The department shall report to the legislative finance committee by September 1, 2005, and every 6 months thereafter on the amount of rate increase given, the number of services provided, and assessment of whether the rate increase facilitated access to psychiatrists for low-income persons with a serious and disabling mental illness.]]</del>												
Funds in PACT Services may be used only for the program for assertive community treatment (PACT). <del>[[The department shall report to the legislative finance committee by September 1, 2005, and every 6 months thereafter on the number of PACT teams, number of persons served in PACT, and PACT outcome measures tracked by the department.]]</del>												
Funding in Nursing Care Center Bed Tax Payment may be used only to pay the nursing home utilization fees as provided for in 15-60-102. If House Bill No. 749 is not passed and approved, funding in Nursing Care Center Bed Tax Payment must be reduced by \$44,712 in general fund money in fiscal year 2006 and by \$76,500 in general fund money in fiscal year 2007.												
In fiscal year 2006, funds in Mental Health Services Plan may be used only for the mental health services program authorized in 53-21-702(2) and for state medicaid matching funds to implement Senate Bill No. 110.												
<b>TOTAL SECTION B</b>	308,876,120	88,762,684	940,955,676	0	0	1,338,594,480	309,143,662	87,959,609	987,758,734	0	0	1,384,862,005

	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
C. NATURAL RESOURCES AND COMMERCE							
DEPARTMENT OF FISH, WILDLIFE, AND PARKS (5201)							
1. Administration and Finance Division (01)	0	6,138,467	1,835,623	0	6,192,633	1,813,983	8,006,616
a. Legislative Audit (Restricted/Biennial)	0	77,959	13,757	0	0	0	0
2. Field Services Division (02)	0	5,948,352	773,950	0	4,667,020	453,561	5,120,581
a. Net Client Hunter Use (Restricted/Biennial)	0	8,770	0	0	8,770	0	8,770
b. Public Wildlife Interface (Biennial)	0	32,500	0	0	32,500	0	32,500
3. Fisheries Division (03)	0	4,330,744	6,836,770	0	4,336,823	6,826,427	11,153,250
a. Legislative Contract Authority (OTO)	0	0	2,250,000	0	0	2,250,000	2,250,000
4. Law Enforcement Division (04)	0	6,719,053	252,253	0	6,598,549	222,938	6,821,487
a. Seasonal Water Safety (Restricted)	0	0	71,832	0	0	71,714	71,714
b. Warden Trainee Program (Restricted)	0	34,436	11,479	0	34,436	11,479	45,915
c. Legislative Contract Authority (OTO)	0	0	20,000	0	0	20,000	20,000
d. Bison Hunt (Biennial)	0	5,000	0	0	5,000	0	5,000
5. Wildlife Division (05)							

	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
	0	4,236,476	3,834,388	0	4,236,114	3,834,585	8,070,699
a. Enhanced Wildlife Surveys (Restricted/OTO)	0	125,000	125,000	0	125,000	125,000	250,000
b. Equipment (OTO)	0	47,000	0	0	0	0	47,000
c. Nongame Funds (Restricted)	0	43,500	0	0	43,500	0	43,500
d. Legislative Contract Authority (OTO)	0	0	400,000	0	0	400,000	400,000
e. Black Bear Harvest (OTO)	0	17,263	51,787	0	17,263	51,787	69,050
f. Mountain Lion Research (OTO)	0	40,000	120,540	0	0	0	160,540
6. Parks Division (06)	0	7,020,521	397,169	0	6,686,526	397,279	7,417,690
a. Snowmobile Groomer (Biennial)	0	178,500	0	0	178,500	0	178,500
b. Legislative Contract Authority	0	0	35,000	0	0	35,000	35,000
7. Conservation Education Division (08)	0	2,053,800	718,621	0	1,939,446	718,621	2,772,421
a. Shooting Grants (Biennial)	0	83,118	0	0	83,118	0	83,118
8. Department Management (09)	0	3,052,681	1,036,331	0	3,060,902	1,011,062	4,071,964
a. State Wildlife Grants (Biennial/OTO)	0	200,000	2,800,000	0	0	0	3,000,000





	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
2,191,663	956,146	10,408,252	0	2,193,985	960,882	10,405,836	13,560,703
a. TMDL Database (OTO)	165,000	0	0	165,000	0	0	165,000
b. Database Maintenance (OTO)	25,000	0	0	25,000	0	0	25,000
c. TMDL Temporary Employees (OTO)	182,843	0	0	182,443	0	0	182,443
d. Water Adjudication Fees — HB 22 (Restricted)	0	0	16,620	0	0	0	0
3. Enforcement Division (30)	400,172	251,342	357,298	401,492	252,231	358,475	1,012,198
4. Remediation Division (40)	0	4,516,234	9,583,862	0	4,471,585	9,582,988	14,054,573
a. Environmental Quality Protection Fund (Biennial/OTO)	0	20,202	0	0	20,203	0	20,203
b. Lockwood Site (Biennial)	0	0	200,000	0	0	200,000	200,000
c. Orphan Share (Biennial/OTO)	0	1,025,000	0	0	1,025,000	0	1,025,000
d. Ustfields (OTO)	0	5,555	50,000	0	0	0	0
e. LUST Cost Recovery (Biennial)	0	100,000	0	0	100,000	0	100,000
f. Libby Asbestos/Troy (Biennial)	0	0	629,663	0	0	629,663	629,663
g. Orphan Share Feasibility Study — SB 489 (Restricted/Biennial/OTO)	0	1,500,000	0	0	0	0	0
5. Permitting and Compliance Division (50)							

	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
955,900	10,824,800	5,076,424	0	953,963	10,898,943	5,078,312	16,931,218
a. Major Facility Siting Act and Hard Rock (Restricted/Biennial)	0	7,942,000	4,000,000	0	0	0	0
b. Air Quality Research (Restricted/OTO)	0	0	50,000	0	0	0	0
c. PCD Database (Restricted/Biennial/OTO)	0	75,000	0	0	75,000	0	75,000
d. Hazardous Waste/Brownfields (Biennial)	0	0	87,500	0	0	87,500	87,500
e. Subdivision Review (Restricted/Biennial/OTO)	0	100,000	0	0	100,000	0	100,000
f. Termination Pay (OTO)	4,171	11,002	0	0	0	0	0
g. CAFO Inventory (Restricted/Biennial/OTO)	0	25,000	0	0	25,000	0	25,000
6. Petroleum Tank Release Compensation Board (90)	0	593,798	0	0	593,259	0	593,259
<b>Total</b>	<b>4,242,366</b>	<b>29,796,124</b>	<b>30,611,899</b>	<b>4,239,230</b>	<b>19,997,559</b>	<b>26,495,235</b>	<b>50,732,024</b>

If Senate Bill No. 320 is passed and approved in a form that does not require a programmatic EIS to be completed, Confined Animal Feeding Operations is void.

The department is authorized to decrease federal special revenue in the water pollution control and/or drinking water revolving loan programs and to increase state special revenue by a like amount within the special administration account when the amount of federal capitalization funds have been expended or when federal funds and bond proceeds will be used for other program purposes.

The department is authorized to expend up to 25% of subrogated petroleum tank release compensation funds to pay contract expenses associated with release subrogation activities. Expenditure of these funds is limited to the fee collected.

If Senate Bill No. 489 is not passed and approved, Orphan Share Feasibility Study is void.





	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
b. CD Financial Assistance (Biennial)	0	47,168	0	0	48,263	0	48,263
c. Irrigation Development (OTO)	0	150,000	0	0	150,000	0	150,000
d. Missouri River Conservation District Council (OTO)	0	80,000	0	0	80,000	0	80,000
e. Conservation District Assistance (OTO)	0	150,000	0	0	0	0	0
4. Water Resources Division (24)	6,187,256	1,618,604	92,773	6,193,402	1,623,647	93,106	7,910,155
a. Dam Rehabilitation (Restricted/Biennial/OTO)	0	165,000	0	0	165,000	0	165,000
b. Preconstruction (Biennial/OTO)	0	206,800	0	0	206,800	0	206,800
c. Well Contractors (Restricted/OTO)	0	16,800	0	0	16,800	0	16,800
d. Optical Imaging (OTO)	0	108,551	0	0	89,556	0	89,556
e. Water Adjudication Database (Restricted/OTO)	400,000	0	0	0	0	0	0
f. Expedite Water Adjudication (Restricted/Biennial/OTO)	600,000	0	0	1,000,000	0	0	1,000,000
g. Broadwater Bridge (Restricted/Biennial/OTO)	0	325,000	0	0	325,000	0	325,000
h. Fisheries Mitigation (Biennial)	0	43,000	0	0	43,000	0	43,000
i. Water Adjudication (Biennial)	0	1,991,600	0	0	1,991,600	0	1,991,600

	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
j. Clark Fork River Task Force (Biennial)	0	12,500	0	0	12,500	0	12,500
5. Reserved Water Rights Compact Commission (25)	690,337	0	0	0	690,337	0	691,421
a. Contracted Services (Restricted/Biennial/OTO)	97,500	0	0	0	97,500	0	97,500
6. Forestry and Trust Lands (35)	7,777,587	12,759,904	1,547,294	0	22,084,785	1,549,133	22,137,927
a. Trust Land Equipment (OTO)	0	16,000	0	0	16,000	0	0
b. Build UH-1 (OTO)	200,000	0	0	0	200,000	0	0
<b>Total</b>	<b>19,174,083</b>	<b>22,883,081</b>	<b>1,987,962</b>	<b>0</b>	<b>44,045,126</b>	<b>2,001,908</b>	<b>43,656,375</b>

The department is authorized to decrease state special revenue in the underground injection control program and increase federal special revenue by a like amount when the amount of federal EPA funds available for the program becomes known. Any federal special revenue is to be spent before state special revenue.

The department is appropriated up to \$600,000 for the 2007 biennium from the state special revenue account established in 85-1-604 for the purchase of prior liens on property held as loan security as required by 85-1-618.

The department is authorized to decrease federal special revenue in the pollution control and/or drinking water revolving loan programs and increase state special revenue by a like amount within the special administration account when:

- (1) the federal capitalization funds have been expended; or
- (2) federal funds and bond proceeds are used for other program purposes.

During the 2007 biennium, up to \$500,000 of funds in or to be deposited in the coal bed methane account is appropriated to the department for use by conservation districts in the case of an emergency, as defined in 76-15-903, for private landowners or water right holders who qualify for compensation and for conservation district services provided under the program.



	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
2. Agricultural Sciences Division (30)							
101,341	5,087,051	1,012,212	0	101,341	5,080,187	996,779	6,178,307
a. Noxious Weed Control (Biennial)	0	3,580,000	0	0	0	0	0
b. EPA Homeland Security Grant (Restricted/OTO)	0	294,490	0	0	0	294,438	294,438
c. Ground Water Base Adjustment (Restricted/OTO)	0	23,277	0	0	23,277	0	23,277
d. Analytical Lab Cost Adjustment (OTO)	230,300	0	0	108,034	0	0	108,034
3. Agricultural Development Division (50)	334,278	3,738,435	113,401	333,981	3,735,240	113,401	4,491,785
Total	844,207	9,457,609	5,090,103	683,183	9,432,116	1,494,618	11,979,509

[The department shall present a report to the joint subcommittee on natural resources of the 2007 legislative session that compares the cost of leasing a vehicle from the department of transportation to purchasing a vehicle.]

If House Bill No. 482 is not passed and approved, the Agriculture Development Division is reduced by \$38,554 in state special revenue in fiscal year 2006 and by \$39,367 in state special revenue in fiscal year 2007.

DEPARTMENT OF COMMERCE (6501)

1. Business Resources Division (51)							
1,701,642	230,034	3,797,862	0	1,704,909	231,030	3,794,584	5,730,523
a. Legislative Audit (Restricted/Biennial)	3,885	1,155	3,884	0	0	0	0
b. Economic Indian Development (Restricted/OTO)	500,000	0	0	500,000	0	0	500,000
c. Worker Training (Restricted/Biennial/OTO)							

	Fiscal 2006				Fiscal 2007				Total			
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue		Federal Special Revenue	Proprietary	Other
1,400,000	0	0	0	0	0	1,400,000	1,400,000	0	0	0	0	1,400,000
d. SBIR Federal Grant (OTO)	0	0	200,000	0	0	200,000	0	0	0	0	0	0
e. Made in Montana (Restricted/OTO)	100,000	0	0	0	0	100,000	100,000	0	0	0	0	100,000
f. Main Street Program (OTO)	0	125,000	0	0	0	125,000	0	125,000	0	0	0	125,000
2. Montana Promotion Division (52)	0	750,000	0	0	0	750,000	0	750,000	0	0	0	750,000
a. Legislative Audit (Restricted/Biennial)	0	19,386	0	0	0	19,386	0	0	0	0	0	0
3. Community Development Division (60)	217,001	862,649	7,931,971	0	0	9,011,621	220,000	862,779	7,929,866	0	0	9,012,645
a. Legislative Audit (Restricted/Biennial)	2,999	2,097	3,000	0	0	8,096	0	0	0	0	0	0
b. Coal Board Local Impact Grants (Biennial)	0	1,672,453	0	0	0	1,672,453	0	0	0	0	0	0
4. Housing Division (74)	0	0	5,880,420	0	0	5,880,420	0	0	6,130,146	0	0	6,130,146
a. Legislative Audit (Restricted/Biennial)	0	0	5,534	0	0	5,534	0	0	0	0	0	0
5. Director's Office/Management Services Division (81)	0	0	475,000	0	0	475,000	0	0	475,000	0	0	475,000
Total	3,925,527	3,662,774	18,297,671	0	0	25,885,972	3,924,909	1,968,809	18,329,596	0	0	24,223,314

[The department shall present a written report every 6 months beginning December 1, 2005, to the economic affairs interim committee on the status of grants and program implementation of the worker training program and the Indian country economic development program.]



	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
D. CORRECTIONS AND PUBLIC SAFETY							
CRIME CONTROL DIVISION (4107)							
1. Justice System Support Service (01)							
1,720,172	93,483	693,878	0	1,717,425	93,483	691,935	2,502,843
a. Federal Pass-Through Grants (Biennial)							
0	0	12,896,032	0	0	0	12,897,832	12,897,832
Total							
1,720,172	93,483	13,589,910	0	1,717,425	93,483	13,589,767	15,400,675
All remaining federal pass-through grants appropriations, including reversion, for the 2005 biennium are authorized to continue and are appropriated in fiscal year 2006 and fiscal year 2007.							
If House Bill No. 476 is not passed and approved, Justice System Support Service is reduced by \$93,483 in state special revenue in each fiscal year of the 2007 biennium.							
DEPARTMENT OF JUSTICE (4110)							
1. Legal Services Division (01)							
3,571,073	313,534	442,453	0	3,570,279	314,424	442,368	4,327,071
a. Major Litigation (Biennial)							
400,000	0	0	0	400,000	0	0	400,000
b. Water Court Claims (Biennial/OTO)							
0	49,000	0	0	49,000	49,000	0	49,000
2. Office of Consumer Protection (02)							
785	496,118	0	0	1,400	495,843	0	497,243
3. Gambling Control Division (07)							
0	2,133,209	0	826,070	0	2,134,189	0	2,960,687
a. Accounting/Reporting System (Restricted/Biennial/OTO)							
0	1,065,000	0	435,000	0	0	0	1,500,000

	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
4. Motor Vehicle Division (12)							
5,388,911	3,729,602	0	0	5,397,570	3,735,314	0	9,132,884
a. HB 577 Interest (Biennial)							
0	210,000	0	0	0	0	0	0
b. HB 261 Interest (Restricted/Biennial)							
0	1,200,000	0	0	0	0	0	0
c. Reissue License Plates (OTO)							
192,470	0	0	0	0	0	0	0
d. Website Fees (Biennial)							
0	0	0	50,000	0	0	0	0
e. Support Patriot Act (OTO)							
101,180	0	0	0	95,138	0	0	95,138
f. Revising Motor Vehicle Laws — HB 671							
0	0	0	262,500	0	0	0	262,500
g. Revising Motor Vehicle Laws — SB 285							
47,813	0	0	0	44,837	0	0	44,837
h. Programming Costs — Motor Vehicle Legislation (Restricted/OTO)							
30,716	20,478	0	0	0	0	0	0
i. Quadcycles Registration (OTO)							
9,184	6,122	0	0	0	0	0	0
5. Highway Patrol Division (13)							
573,623	19,343,696	288,108	0	764,562	19,534,058	0	20,298,620
a. Prisoner Per Diem (Biennial)							
0	1,988,342	0	0	0	0	0	0
6. Division of Criminal Investigation (18)							
3,542,285	1,524,729	1,170,723	0	3,672,480	1,491,457	1,191,710	6,355,647
a. Miles City Narcotics Agent (OTO)							
61,451	0	0	0	0	0	0	0

	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
b. Medicaid Fraud Program (OTO)							
6,498 0	19,495 0	25,993 0	0 0	0 0	0 0	0 0	0 0
c. Medicaid Fraud Agent (OTO)							
15,500 0	46,500 0	62,000 0	15,500 0	46,500 0	62,000 0	62,000 0	62,000 0
d. Adjustment to Base (OTO)							
42,000 0	0 0	42,000 0	0 0	0 0	0 0	0 0	0 0
7. County Attorney Payroll (19)							
1,912,588 0	0 0	1,912,588 0	1,961,244 0	0 0	0 0	1,961,244 0	1,961,244 0
8. Central Services Division (28)							
330,753 521,406	0 55,185	907,344 0	334,048 521,065	0 52,730	0 907,843	907,843 0	907,843 0
a. Legislative Audit (Restricted/Biennial)							
26,715 34,172	0 1,243	62,130 0	0 0	0 0	0 0	0 0	0 0
9. Information Technology Services Division (29)							
2,916,655 1,410,520	80,902 13,321	4,421,398 0	2,916,731 1,411,844	80,715 13,321	4,422,611 0	4,422,611 0	4,422,611 0
a. Criminal History Data Coordination (Restricted/Biennial/OTO)							
0 250,000	0 0	250,000 0	0 0	0 0	0 0	0 0	0 0
10. Forensic Sciences Division (32)							
2,753,013 303,204	91,134 0	3,147,351 0	2,756,224 303,204	91,265 0	3,150,693 0	3,150,693 0	3,150,693 0
a. Requiring Felons to Submit DNA Samples—HB 113 (Biennial)							
0 0	409,480 0	409,480 0	0 0	0 0	0 0	0 0	0 0
Total							
21,923,213 34,599,132	2,548,795 1,643,319	60,714,459 0	21,530,013 29,990,398	1,852,558 1,417,549	54,790,518 0	54,790,518 0	54,790,518 0

If House Bill No. 782 is not passed and approved, Water Court Claims is void in its entirety.

If House Bill No. 425 is not passed and approved, then Office of Consumer Protection is decreased by \$785 in general fund money and \$496,118 in state special revenue in fiscal year 2006 and by \$1,400 in general fund money and \$495,843 in state special revenue in fiscal year 2007, which reflects the current appropriations for administration and enforcement functions relating to unfair trade practices and consumer protection and telemarketing laws in the consumer protection office in the department of administration. The legislative fiscal division and the office of budget and program planning are authorized to transfer all fiscal year 2004

Fiscal 2006			Fiscal 2007			Total
General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
						Other
						Proprietary
						Total

expenditures and fiscal year 2005 appropriations from the department of administration to the department of justice for the purpose of display in the legislative fiscal division 2007 biennium fiscal report.

At the beginning of fiscal year 2006, \$98,000 of the amount in excess of the \$100 million base amount that cannot be used for other purposes is transferred from the resource indemnity tax trust to state special revenue for the attorney general's office.

If House Bill No. 102 is not passed and approved, there is appropriated up to \$1,200,000 each fiscal year from the highway patrol retirement clearing account to the department for payments to the Montana highway patrol pension fund.

If House Bill No. 99 is not passed and approved, Prisoner Per Diem is reduced by \$573,623 in general fund money in fiscal year 2006 and by \$764,562 in general fund money in fiscal year 2007.

~~The department shall prepare an economic analysis that compares the value of a purchase by the state versus the continued lease by the state of the forensic lab facility located in Missoula. The department shall present this analysis to the legislative finance committee at its first meeting following July 1, 2005.~~

The legislature approved the attorney general's request for 2 FTE and general fund money of \$101,180 in fiscal year 2006 and \$95,138 in fiscal year 2007 to support the Patriot Act. These FTE will provide auditing and public contact services regarding issues surrounding the Patriot Act. This approval is contingent upon a current level fund transfer by the department and verified by the budget director.

The legislature approved the attorney general's request for 1 FTE and general fund money of \$61,451 in fiscal year 2006 to support the Miles City narcotics program. This approval is contingent upon a current level fund transfer by the department and verified by the budget director.

The legislature approved the attorney general's request for \$6,498 in general fund money and \$19,495 in federal funds in fiscal year 2006 to support the medicaid fraud program. This approval is contingent upon passage and approval of House Bill No. 102.

The legislature approved the attorney general's request for 1 FTE and \$15,500 of general fund money and \$46,500 in federal funds in fiscal year 2006 and \$15,500 of general fund money and \$46,500 in federal funds in fiscal year 2007 to support a medicaid fraud agent and the fraud program. This approval is contingent upon passage and approval of House Bill No. 102.

The legislature approved the attorney general's request for \$42,000 in general fund money in fiscal year 2006 to the department of criminal investigation's base budget. This approval is contingent upon passage and approval of House Bill No. 102.

If Senate Bill No. 282 is not passed and approved, Division of Criminal Investigation is reduced by \$16,760 in state special revenue in fiscal year 2006 and by \$5,760 in state special revenue in fiscal year 2007.

Revising Motor Vehicle Laws — HB 671 is contingent upon passage and approval of House Bill No. 671.



	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
	0	2,874,244	13,732	0	2,813,430	13,732	2,827,162
DEPARTMENT OF CORRECTIONS (6401)							
1. Administration and Support Services (01)							
9,948,071	243,938	0	56,279	9,899,088	231,183	0	10,180,391
a. Legislative Audit (Restricted/Biennial)							
94,674	0	0	0	94,674	0	0	0
2. Community Corrections (02)							
29,545,835	530,002	0	0	32,643,886	530,002	0	33,173,888
3. Secure Facilities (03) (Biennial)							
55,677,904	1,239,351	93,584	0	58,473,128	1,239,351	93,584	59,806,063
4. Montana Correctional Enterprises (04)							
1,596,587	0	0	431,518	1,595,438	0	0	2,026,972
a. License Plate Reissue (Restricted/OTO)							
3,853,751	0	0	0	496,837	0	0	496,837
5. Juvenile Corrections (05)							
10,243,060	288,378	432,976	0	10,964,414	288,378	432,976	10,969,171
a. Juvenile Placement Funds (Restricted)							
7,542,344	418,443	28,292	0	7,989,079	418,443	28,292	7,989,079
Total	118,502,226	2,720,112	554,852	487,797	122,264,987	120,898,538	124,642,401

[The department shall report annually to the legislative finance committee by September 15 on the amounts collected by the restitution unit, the amounts disbursed to victims of crime by that unit, and the cost to administer the program.]

If Senate Bill No. 426 is not passed and approved, Administration and Support Services is reduced by \$20,000 in general fund money in fiscal year 2006.

If Senate Bill No. 146 is not passed and approved, Administration and Support Services is increased by \$50,141 in general fund money in fiscal year 2007.





	Fiscal 2006			Fiscal 2007			Total				
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total		State Special Revenue	Federal Special Revenue	Proprietary	Other
312,343	0	2,740,064	0	0	0	3,052,407	0	2,740,957	0	0	3,051,148
a. Legislative Audit (Restricted/Biennial)	592	0	5,325	0	0	5,917	0	0	0	0	0
6. Disaster and Emergency Services (21)	628,114	114,437	1,771,067	0	0	2,513,618	114,437	1,778,715	0	0	2,515,016
a. Legislative Audit (Restricted/Biennial)	1,183	0	15,385	0	0	16,568	0	0	0	0	0
7. Veterans' Affairs Program (31)	658,159	867,927	0	0	0	1,526,086	866,963	0	0	0	1,526,514
a. Legislative Audit (Restricted/Biennial)	1,646	1,312	0	0	0	2,958	0	0	0	0	0
b. Purchase Mobile Van (OTO)	0	75,000	0	0	0	75,000	0	0	0	0	0
c. Liberty House Project (Restricted)	100,000	0	0	0	0	100,000	0	0	0	0	0
Total	4,711,153	1,084,976	12,344,963	0	0	18,141,092	4,602,138	1,082,700	12,376,526	0	18,061,364
The Liberty House Project may be used only for the purpose of constructing a liberty house at Fort Harrison VA medical center.											
TOTAL SECTION D	148,470,270	71,237,695	65,457,292	2,211,323	0	287,376,580	150,383,881	66,665,417	64,576,419	1,978,551	283,604,268

	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
E. EDUCATION							
OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION (3501)							
1. OPI Administration (06)							
4,702,474	217,779	11,899,897	0	16,820,150	4,763,796	217,784	17,181,602
a. Indian Education for All (Biennial)							
1,155,423	0	0	0	1,155,423	1,155,423	0	1,155,423
b. Special Ed Audiology (OTO)							
85,000	0	0	0	85,000	85,000	0	85,000
c. Student Information Data System (Biennial/OTO)							
2,455,026	0	0	0	2,455,026	370,974	0	370,974
2. Distribution to Public Schools (09)							
0	0	133,537,139	0	133,537,139	0	0	140,457,910
a. Base Aid (Restricted)							
432,454,324	0	0	0	432,454,324	436,372,548	0	436,372,548
b. Special Education (Restricted)							
38,506,122	0	0	0	38,506,122	39,348,289	0	39,348,289
c. Transportation Aid (Restricted)							
12,142,550	0	0	0	12,142,550	12,242,550	0	12,242,550
d. School Facility Reimbursement (Restricted)							
9,411,293	0	0	0	9,411,293	9,411,293	0	9,411,293
e. In-State Treatment (Restricted)							
974,896	0	0	0	974,896	974,896	0	974,896
f. Secondary Vocational Education (Restricted)							
1,000,000	0	0	0	1,000,000	1,000,000	0	1,000,000
g. Adult Basic Education (Restricted)							
275,000	0	0	0	275,000	275,000	0	275,000
h. Gifted and Talented (Restricted)							

	Fiscal 2006			Fiscal 2007		
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue
	250,000	0	0	250,000	0	0
i. School Food (Restricted)	648,653	0	0	648,653	0	0
j. School District Audits (Restricted)	151,356	0	0	151,356	0	0
k. HB 124 Block Grants (Restricted)	50,213,191	0	0	50,213,191	0	0
l. School Facility Increase (Restricted/OTO)	987,842	0	0	987,842	0	0
m. Indian Education for All (Restricted)	550,000	0	0	550,000	0	0
n. Traffic Safety Distribution	0	750,000	0	750,000	0	0
<b>Total</b>	<b>555,963,150</b>	<b>967,779</b>	<b>145,437,036</b>	<b>702,367,965</b>	<b>967,784</b>	<b>152,657,932</b>

The office of public instruction may distribute funds from the appropriation for in-state treatment to public school districts for the purpose of providing for educational costs of children with significant behavioral or physical needs.

All revenue up to \$1.1 million in the state traffic education account for distribution to schools under the provisions of 20-7-506 and 61-5-121 is appropriated as provided in Title 20, chapter 7, part 5.

All appropriations for federal special revenue programs in state level activities and in local educational activities and all general fund appropriations in local educational activities are biennial.

~~The office of public instruction shall include as a part of its work plan priorities for the next biennium the prevention of dropouts and the reduction of dropout rates in Montana's public schools and report on these efforts to the education and local government interim committee before September 1, 2006.~~

Base Aid will be decreased by \$183,000 in fiscal year 2007 if Senate Bill No. 48 is not passed and approved. Base Aid will be decreased in fiscal year 2006 by \$5,008 if House Bill No. 22 is not passed and approved. Base Aid will be decreased by \$21,200 in fiscal year 2007 if Senate Bill No. 296 is not passed and approved. Base Aid will be increased by \$700 in fiscal year 2006 and by \$263,400 in fiscal year 2007 if Senate Bill No. 276 is not passed and approved.

	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
<b>BOARD OF PUBLIC EDUCATION (5101)</b>							
1. Administration (01)							
164,969	21,388	0	0	165,348	21,388	0	186,736
a. Legislative Audit (Restricted/Biennial)							
2,323	0	0	0	0	0	0	0
2. Advisory Council (03)							
0	173,641	0	0	0	173,657	0	173,657
a. Legislative Audit (Restricted/Biennial)							
0	1,711	0	0	0	0	0	0
<b>Total</b>	<b>167,292</b>	<b>196,740</b>	<b>0</b>	<b>165,348</b>	<b>195,045</b>	<b>0</b>	<b>360,393</b>
<b>SCHOOL FOR THE DEAF AND BLIND (5113)</b>							
1. Administration Program (01)							
337,701	439	0	0	337,559	439	0	337,998
a. Legislative Audit (Restricted/Biennial)							
25,552	0	0	0	0	0	0	0
2. General Services Program (02)							
488,752	0	0	0	482,700	0	0	482,700
3. Student Services (03)							
1,171,703	0	29,111	0	1,175,580	0	29,111	1,204,691
4. Education (04)							
2,349,253	282,313	73,754	0	2,344,367	282,313	73,754	2,700,434
<b>Total</b>	<b>4,372,961</b>	<b>282,732</b>	<b>102,865</b>	<b>4,340,206</b>	<b>282,752</b>	<b>102,865</b>	<b>4,725,823</b>
<b>MONTANA ARTS COUNCIL (5114)</b>							

	Fiscal 2006				Fiscal 2007							
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
<b>I. Promotion of the Arts (01)</b>												
382,125	180,978	617,734	0	0	1,180,837	375,905	182,702	617,734	0	0	0	1,176,341
a. Legislative Audit (Restricted/Biennial)												
19,231	0	0	0	0	19,231	0	0	0	0	0	0	0
b. Additional Money for Loss of C&A Interest (Restricted/OTO)												
100,275	0	0	0	0	100,275	0	0	0	0	0	0	0
c. E-Grants and Database System (Restricted/OTO)												
5,000	0	0	0	0	5,000	5,000	0	0	0	0	0	5,000
<b>Total</b>												
506,631	180,978	617,734	0	0	1,305,343	380,905	182,702	617,734	0	0	0	1,181,341
All federal funds in Montana Arts Council are biennial appropriations.												
<b>MONTANA STATE LIBRARY COMMISSION (5115)</b>												
<b>I. Statewide Library Resources (01)</b>												
1,759,342	1,081,518	1,180,694	0	0	4,021,554	1,560,479	1,082,210	780,694	0	0	0	3,423,383
a. Legislative Audit (Restricted/Biennial)												
17,751	0	0	0	0	17,751	0	0	0	0	0	0	0
b. Computer Equipment Upgrade (Restricted/OTO)												
70,000	0	0	0	0	70,000	0	0	0	0	0	0	0
<b>Total</b>												
1,847,093	1,081,518	1,180,694	0	0	4,109,305	1,560,479	1,082,210	780,694	0	0	0	3,423,383
Montana State Library Commission funding includes biennial appropriations of \$205,662 in general fund money and \$800,000 in federal funds for grants to local libraries.												

If House Bill No. 482 is not passed and approved, Statewide Library Resources is reduced by \$32,771 in state special revenue in fiscal year 2006 and by \$33,462 in state special revenue in fiscal year 2007.

	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
<b>MONTANA HISTORICAL SOCIETY (5117)</b>							
<b>1. Administration Program (01)</b>							
929,586	79,665	133,432	439,604	938,819	78,529	133,369	1,582,287
<b>a. Legislative Audit (Restricted/Biennial)</b>							
29,586	0	0	0	0	0	0	29,586
<b>b. Computer Equipment Replacement (Restricted/Biennial/OTO)</b>							
55,074	0	0	0	0	0	0	55,074
<b>c. Computer Server (Restricted/Biennial/OTO)</b>							
20,000	0	0	0	0	0	0	20,000
<b>2. Library Program (02)</b>							
743,513	2,624	0	66,970	743,517	2,680	0	813,107
<b>3. Museum Program (03)</b>							
184,830	55,584	0	11,615	184,825	55,583	0	252,029
<b>4. Publications (04)</b>							
50,503	0	0	435,825	50,671	0	0	486,328
<b>5. Historic Preservation Program (06)</b>							
40,819	0	658,109	5,000	41,170	0	657,420	703,928
<b>Total</b>							
2,053,911	137,873	791,541	959,014	1,959,002	136,792	790,789	3,942,339

It is the intent of the legislature that the department of commerce use lodging facility use taxes to fund \$625,703 in fiscal year 2006 and \$521,562 in fiscal year 2007 for the Montana historical society. This would be expended as follows:

Historical Interpretation	\$197,631	\$190,392
Scraper Collection	128,072	131,170
Lewis and Clark Exhibit and Interpretation	100,000	100,000

Other

Proprietary

State Special Revenue

General Fund

Other

Total

Federal Special Revenue

Proprietary

State Special Revenue

General Fund

Other

Total

Fiscal 2007

Federal Special Revenue

Proprietary

State Special Revenue

General Fund

Other

Total



	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
450,000	0	0	0	450,000	0	0	450,000
5. OCHE—Talent Search (06)	99,761	0	3,105,037	100,531	0	3,105,024	3,205,555
a. Montana Conference on Race (Biennial)	0	50,000	0	0	0	0	0
6. OCHE—C.D. Perkins Administration (08)	90,414	0	6,272,301	93,108	0	6,147,301	6,240,409
7. OCHE—Appropriation Distribution Transfers (09)	107,760,789	13,373,391	0	107,716,785	13,648,111	0	121,364,896
a. Legislative Audit (Restricted/Biennial)	544,376	0	0	0	0	0	0
b. Equipment/Program Development — 2-Year Degree Programs (Restricted/Biennial/OTO)	1,960,678	0	0	2,500,000	0	0	2,500,000
c. Class 8 Threshold — Business Tax Exemption	11,610	0	0	30,889	0	0	30,889
d. Distance Learning Initiative (Biennial/OTO)	300,000	0	0	0	0	0	0
e. Agricultural Experiment Station	10,311,165	0	0	10,321,121	0	0	10,321,121
f. Extension Service	4,783,103	0	0	4,871,848	0	0	4,871,848
g. Forest and Conservation Experiment Station	971,324	0	0	968,731	0	0	968,731
h. Bureau of Mines and Geology	1,693,291	666,000	0	1,692,258	666,000	0	2,358,258
i. Bureau Ground Water Program (OTO)	0	64,697	0	0	69,038	0	69,038
j. Fire Services Training School							

	Fiscal 2006			Fiscal 2007			Total
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue	
582,015	0	0	0	582,015	0	0	580,010
k. Family Practice Residency Program	319,366	0	0	319,366	0	0	319,366
l. Motorcycle Safety Training Program	0	220,000	0	220,000	220,000	0	220,000
m. Institute for Biobased Products and Food Science @ AES	200,000	0	0	200,000	0	0	200,000
n. Dental Hygiene Program @ Great Falls-COT (Restricted)	235,000	0	0	235,000	0	0	235,000
o. New Extension Agent for Meagher County (Restricted)	35,103	0	0	35,103	0	0	35,103
p. Yellow Bay Biological Station (Restricted)	100,000	0	0	100,000	0	0	100,000
8. Tribal College Assistance Program (11) (Biennial)	400,000	0	0	400,000	0	0	0
a. Enhancing Tribal College Assistance Program (Biennial/OTO)	1,000,000	0	0	1,000,000	0	0	1,000,000
b. Special Nonbeneficiary Student Assistance (Biennial/OTO)	500,000	0	0	500,000	0	0	0
9. OCHE — Guaranteed Student Loan (12)	0	34,745,685	0	34,745,685	0	37,003,555	37,003,555
a. Legislative Audit (Restricted/Biennial)	0	13,314	0	13,314	0	0	0
10. OCHE — Board of Regents (13)	44,485	0	0	44,485	0	0	44,485
Total	151,031,786	14,399,088	44,725,056	210,155,930	14,628,149	46,844,599	211,971,348

Fiscal 2006				Fiscal 2007					
General Fund	State Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Proprietary	Other	Total

Items designated as OCHE Administration (01), Student Assistance (02), Improving Teacher Quality (formerly Dwight D. Eisenhower) (03), Talent Search (06), C.D. Perkins (Workforce development) (08), Appropriation Distribution (Educational units) (09) (excluding Agriculture Experiment Station, Extension Service, Forest and Conservation Experiment Station, Bureau of Mines and Geology, Bureau Ground Water Program, Fire Services Training School, and Institute for Biobased Products and Food Science @ AES), Guaranteed Student Loan (12), and the Board of Regents (13) are a single biennial lump-sum appropriation.

General fund money and state and federal special revenue funds appropriated to the board of regents are included in all commissioner of higher education programs. All other public funds received by units of the Montana university system (other than plant funds appropriated in House Bill No. 5, relating to long-range building) are appropriated to the board of regents and may be expended under the provisions of 17-7-138(2). The board of regents shall allocate the appropriations to individual university system units, as defined in 17-7-102(13), according to board policy.

In addition to the requirements in 17-1-102(4), all university system units, except the office of the commissioner of higher education, shall account for expenditures consistently within programs and funds across all units and shall use the standards of accounting and reporting, as described by the national association of college and university business officers, as a minimum for achieving consistency.

The Montana university system, except the office of the commissioner of higher education and the community colleges, shall provide the office of budget and program planning and the legislative fiscal division banner access to the entire university system's banner information system, except for information pertaining to individual students or individual employees that is protected by Article II, sections 9 and 10, of the Montana constitution, 20-25-515, or the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g. The Montana university system shall provide the electronic data required for entering human resource data for the current unrestricted operating funds into the Montana Budgeting and Reporting System (MBARS). The salary and benefit data provided must reflect approved board of regents operating budgets.

The legislature encourages the Montana university system/commissioner of higher education to explore and establish partnerships with the department of public health and human services, including the temporary assistance for needy families (TANF) program, to ensure access to quality postsecondary education and training opportunities for families in Montana who would benefit from such training to help them move toward economic self-sufficiency. ~~[[The Montana university system/commissioner of higher education shall submit a report to the next legislature, by January 1, 2007, addressing what these strategies were and the results of these partnership efforts.]]~~

~~[[The Montana university system shall prepare a plan for implementation of Indian education for all Montanans within the educational units of the university system and present this plan to the appropriate interim committee by July 31, 2006.]]~~

Potential Rent Increase funding is restricted for expenditure only in the event of a relocation and only if a rent increase actually occurs and may be used only for increased rent and/or relocation and moving costs.

WICHE/WWAMI/MN Dental Program is restricted such that any surplus funding may be transferred only to other student financial aid programs in Program 02.

Governor's Postsecondary Scholarship Program is contingent upon passage and approval of House Bill No. 435.

Fiscal 2006			Fiscal 2007		
General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue
			Proprietary	Other	Total

Of the amount in Governor's Postsecondary Scholarship Program, \$22,000 in fiscal year 2006 and \$22,000 in fiscal year 2007 are restricted for administration costs of the scholarship program.

The budget amount for each full-time equivalent student at the community colleges, including Summitnet, is \$5,203 each year of the 2007 biennium. The general fund appropriation for OCHE — Community College Assistance provides 53% of the budget amount for each full-time equivalent student each year of the 2007 biennium. The remaining 47% of the budget amount for each full-time equivalent student must be paid from funds other than those appropriated for OCHE — Community College Assistance.

The general fund appropriation for OCHE — Community College Assistance is calculated to fund education in the community colleges for an estimated 2,631 resident FTE students in fiscal year 2006 and 2,770 in fiscal year 2007. If total resident FTE student enrollment in the community colleges is greater than the estimated number for the biennium, the community colleges shall serve the additional students without a state general fund contribution. If actual resident FTE student enrollment is less than the estimated numbers for the biennium, the commissioner of higher education shall revert general fund money to the state in accordance with 17-7-142.

Total Summitnet costs are estimated to be \$25,000 each year for the community colleges. Summitnet costs charged to the community colleges for each year may not exceed \$8,000 each for Dawson and Miles community colleges and \$9,000 for Flathead Valley community college.

Total audit costs are estimated to be \$40,000 for the community colleges for the biennium. The general fund appropriation for each community college provides 53% of the total audit costs in the 2007 biennium. The remaining 47% of these costs must be paid from funds other than those appropriated for OCHE — Community College Assistance — Legislative Audit. Audit costs charged to the community colleges for the biennium may not exceed \$12,500 each for Dawson and Miles community colleges and \$15,000 for Flathead Valley community college.

Community College Assistance Special Funding is appropriated as a block grant allocation, rather than following the standard three-factor funding formula, because the legislature has concerns about the cost of education factor. The legislature requests that the legislative finance committee make it a high priority to look at the community college funding formula and statutes and report to the 2007 legislature on recalibrating the cost of education factor and other funding issues.

Revenue anticipated to be received by the Montana university system units and colleges of technology includes:

- (1) interest earnings of \$791,274 each year of the 2007 biennium; and
- (2) other revenue of \$1,301,198 each year of the 2007 biennium.

These amounts are appropriated for current unrestricted operating expenses as a biennial lump-sum appropriation and are in addition to the funds shown in OCHE — Appropriation Distribution Transfers.



Fiscal 2006			Fiscal 2007		
General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue
			Other	Proprietary	Other
			Total	Proprietary	Total

Anticipated sales revenue of \$35,700 each year of the 2007 biennium is appropriated to the bureau of mines and geology for current unrestricted operating expenses. This amount is in addition to that shown in OCHE — Appropriation Distribution Transfers.

Anticipated interest revenue of \$943 each year of the 2007 biennium is appropriated to the fire services training school for current unrestricted operating expenses. This amount is in addition to that shown in OCHE — Appropriation Distribution Transfers.

The appropriation for Equipment/Program Development — 2-Year Degree Programs is a restricted, biennial, one-time-only appropriation that is to be distributed in two blocks as follows:

- (1) \$1.4 million must be allocated equally (\$200,000 per unit) to the seven university units' 2-year degree programs to be used for either program development or equipment acquisition; and
- (2) \$3,060,678 must be distributed entirely by a competitive grant process administered by the office of the commissioner of higher education. These equipment grants must be available to both the seven university units' 2-year degree programs and the three community colleges (Dawson, Miles, and Flathead Valley).

The \$3,060,678 general fund appropriation for equipment in Equipment/Program Development — 2-Year Degree Programs must be matched from nonstate funds identified by the board of regents. The grant process for distributing these funds, administered by the office of the commissioner of higher education, must give scoring priority to grants that include matching funds. Matching funds may include federal funding revenue, private funding revenue, and other nonstate university funds. The funding match may include in-kind revenue only if that revenue is equipment itself, cost reductions offered for purchased equipment, or space to house equipment. The office of the commissioner of higher education shall certify to the office of budget and program planning that an allowable funding match has been committed from an eligible revenue source, as evidenced by a commitment letter from that funding source.

Class 8 Threshold — Business Tax Exemption funding is contingent upon passage and approval of Senate Bill No. 284.

Funding for OCHE — Appropriation Distribution Transfers is increased by \$11,610 in state special revenue in fiscal year 2006 and by \$30,889 in state special revenue in fiscal year 2007 if Senate Bill No. 284 is not passed and approved.

Extension Service includes \$196,800 in general fund money for an extension cropping specialist and livestock specialist (2 FTE), which must be matched with \$49,200 in nonstate funds identified by the board of regents. Matched funds for these items may include federal funding revenue, private funding revenue, and other nonstate university funds. The funding match may include in-kind revenue only if that revenue is equipment, cost reductions offered for purchased equipment, or space to house equipment. The office of the commissioner of higher education shall certify to the office of budget and program planning that an allowable funding match has been committed from an eligible revenue source, as evidenced by a commitment letter from that funding source.

Bureau of Mines and Geology includes \$146,880 in general fund money for a coal/coalbed methane geologist (1 FTE), which must be matched with \$36,720 in nonstate funds identified by the board of regents. Matched funds for these items may include federal funding revenue, private funding revenue, and other nonstate university funds. The funding match may include in-kind revenue only if that revenue is equipment, cost reductions offered for purchased equipment, or space to



**Section 10. Rates.** Internal service fund type fees and charges established by the legislature for the 2005 biennium in compliance with 17-7-123(1)(f)(ii) are as follows:

	<u>Fiscal 2006</u>	<u>Fiscal 2007</u>
<b>DEPARTMENT OF TRANSPORTATION — 5401</b>		
1. State Motor Pool		
a. Class 02 (small utilities)		
Per Hour Assigned	\$1.377	\$1.408
Per Mile Operated	\$0.069	\$0.069
b. Class 04 (large utilities)		
Per Hour Assigned	\$1.856	\$1.955
Per Mile Operated	\$0.081	\$0.081
c. Class 06 (midsize compacts)		
Per Hour Assigned	\$1.196	\$1.186
Per Mile Operated	\$0.048	\$0.048
d. Class 07 (small pickups)		
Per Hour Assigned	\$1.153	\$1.106
Per Mile Operated	\$0.073	\$0.073
e. Class 11 (large pickups)		
Per Hour Assigned	\$1.521	\$1.653
Per Mile Operated	\$0.095	\$0.095
f. Class 12 (vans – all type)		
Per Hour Assigned	\$1.399	\$1.432
Per Mile Operated	\$0.084	\$0.084
2. Equipment Program		
All of Program Operations		60-day working capital reserve

**DEPARTMENT OF REVENUE – 5801**

1. Customer Service Center		
Delinquent Account Collection Fee (percent of amount collected)*	10.0%	10.0%

\*The department may not collect the delinquent account collection fee for debt codes 43 (collection of overpaid child support payments made to custodial parents) or 44 (collection of delinquent child support payments from noncustodial parents).

**DEPARTMENT OF ADMINISTRATION — 6101**

1. Administration and Financial Services Division		
a. Legal Services Unit		
Total Allocation of Costs	\$182,525	\$182,525
b. Management Services Unit		
Total Allocation of Costs	\$537,492	\$537,492

**Portion of Unit for Human Resources**

Charge per FTE of User Programs	\$476	\$475
c. Warrant Writer Program		
Mailer Warrants	\$0.58331	\$0.58089
Nonmailer Warrants	\$0.18159	\$0.17917
Duplicate Warrants	\$6.03998	\$6.03939
External Warrants	\$0.15575	\$0.15333
Emergency Warrants	\$4.70228	\$4.70170
Direct Deposit	\$0.15578	\$0.15510

The department may charge the office of public defender up to \$55,000 in general fund money in fiscal year 2006 and \$25,000 in general fund money in fiscal year 2007 for human resources and payroll costs associated with the office. This authorization is contingent upon the passage and approval of Senate Bill No. 146.

If House Bill No. 425 is passed and approved, Legal Services Unit Total Allocation of Costs is reduced by \$49,631 in fiscal year 2006 and by \$49,631 in fiscal year 2007. The department may reallocate the costs of the Legal Services Unit to programs served by the unit as necessary to address impacts because of House Bill No. 425.

## 2. General Services Division

a. Facilities Management Bureau		
Office Rent (\$ per sq. ft.)	\$6.613	\$6.681
Storage Rent (\$ per sq. ft.)	\$3.901	\$3.969
Capitol Grounds Maintenance	\$0.3896/sq.ft.	\$0.3896/sq.ft.
In-House Project Management (% of cost)	15%	15%
Contracted Project Management (% of cost)	5%	5%
b. Print and Mail Services		
Interagency Mail (total amount allocated to agencies)	\$162,180	\$162,180
All Other Operations Except Interagency Mail	45-day working capital reserve	
c. Central Stores Program		
<b>Vendor-Provided Service</b>		
Markup as a Percent of Retail Cost of Goods Sold	3.0%	3.0%
<b>Direct State Service</b>		
Forms (percent markup)	100%	100%
Office Supplies (percent markup)	25%	25%
Computer Paper (percent markup)	25%	25%
Fine Paper (percent markup)	25%	25%
Course Paper (percent markup)	25%	25%

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	Janitorial (percent markup)	25%	25%
d.	Statewide Fueling Network Program		
	Markup as a Percent of Gross Fuel Purchases by Users	0.5%	0.5%
e.	State Procurement Card Program		
	Monthly Card Fee (per card per month)	\$1.00	\$1.00

Capitol Grounds Maintenance is contingent upon passage and approval of House Bill No. 109.

The department may charge fees identified in the Central Stores Program under the direct state service heading if the department operates a state-provided central stores program using state employees and funds to administer, store, and deliver products to state and local government consumers. If the governor directs the department, by executive order, to provide services of the central stores program using a private vendor, the department may charge fees identified in the Central Stores Program under the vendor-provided service heading, and revenue derived from central stores program retail markup rates may be used only for personal services and operating expenses directly supporting coordination and contract administration costs for supplies purchased through a contracted vendor for central stores supplies and may not be used for office or warehouse rent or lease costs of facilities not owned by the state of Montana.

### 3. Information Technology Services Division

Data Network Fee (maximum per connected terminal per month)*	\$72.60	\$72.60
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\*The data network fee is the greater of the maximum per connected terminal rate or the amount in agency budgets.

SABHRS Cost Allocation (total allocation to users)	\$6,335,169	\$6,335,169
All Operations Except SABHRS Cost Allocation	30-day working capital reserve	

### 4. State Personnel Division

#### a. Professional Development Center

Training Services per Hour Staff Cost	\$127.86	\$127.97
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#### b. Payroll Processing

Payroll Fees (per employee processed per pay period)	\$1.34	\$1.33
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### 5. Risk Management & Tort Defense

General Liability (total allocation to agencies)	\$7,203,992	\$7,242,383
Auto Liability, Comprehensive, and Collision (total allocation to agencies)	\$1,668,644	\$1,671,416
Aviation (total allocation to agencies)	\$174,014	\$174,003
Property/Miscellaneous (total allocation to agencies)	\$5,385,291	\$5,412,054

**DEPARTMENT OF FISH, WILDLIFE, & PARKS — 5201**

1. Administration and Finance (% markup)		
a. Warehouse Overhead	5%	5%
2. Vehicle Account Rates Per Mile		
a. Sedans	\$0.30	\$0.30
b. Vans	\$0.33	\$0.33
c. Utilities	\$0.37	\$0.37
d. Grounds Maintenance	\$1.05	\$1.10
e. Pickup 1/2 Ton	\$0.32	\$0.32
f. Pickup 3/4 Ton	\$0.37	\$0.37
3. Aircraft Per Hour Rates		
a. Two-Place Single Engine	\$ 59.56	\$ 62.54
b. Partnavia	\$297.78	\$297.78
c. Turbine Helicopters	\$363.01	\$363.01
4. Duplicating – Number of Copies (includes paper)		
a. 1-20	\$0.045	\$0.050
b. 21-100	\$0.030	\$0.035
c. 101-1000	\$0.025	\$0.030
d. 1001-5000	\$0.020	\$0.025
e. Color (per sheet)	\$0.25	\$0.25
5. Bindery		
a. Collating (per sheet)	\$0.005	\$0.005
b. Hand Stapling (per set)	\$0.015	\$0.015
c. Saddle Stitch (per set)	\$0.030	\$0.030
d. Folding (per sheet)	\$0.005	\$0.005
e. Punching (per sheet)	\$0.001	\$0.001
f. Cutting (per minute)	\$0.550	\$0.550
6. Parks		
a. Visitor Center Goods (percent markup)	40%	40%

If House Bill No. 109 is not passed and approved, the following is added to the department of fish, wildlife, and parks rates in this section:

Capitol Grounds Maintenance                      \$0.3896/sq.ft.    \$0.3896/sq.ft.

**DEPARTMENT OF ENVIRONMENTAL QUALITY — 5301**

1. Central Management		
a. Expenses Against Personal Services	24%	24%

**DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION — 5706**

1. Air Operations Program		
a. Bell UH-1H	\$875.00	\$875.00
b. Bell Jet Ranger	\$375.00	\$375.00

c. Cessna 180 Series \$ 95.00 \$ 95.00

**DEPARTMENT OF COMMERCE – 6501**

1. Board of Investments

For the purposes of [this act], the legislature defines “rates” as the total collections necessary to operate the board of investments as follows:

a. Administration Charge (total) \$3,203,219 \$3,128,734

2. Director’s Office/Management Services

a. Management Services Indirect Charge Rate 13.7% 13.65%

**DEPARTMENT OF JUSTICE – 4110**

1. Agency Legal Services

a. Attorney (per hour) \$71.80 74.00

b. Paralegal (per hour) \$44.00 \$46.00

**DEPARTMENT OF CORRECTIONS - 6401**

1. Secure Facilities

a. Cook/Chill Rate to Montana State Prison \$1.37/meal \$1.37/meal

b. Cook/Chill Rate to Riverside Youth Correctional Facility \$2.01/meal \$2.01/meal

c. Cook/Chill Rate to WATCH DUI Unit \$1.59/meal \$1.59/meal

d. Cook/Chill Rate to Helena Prerelease \$2.01/meal \$2.01/meal

2. Montana Correctional Enterprises

a. Laundry Rate to Montana State Prison \$0.39/lb. \$0.39/lb.

b. Laundry Rate to Treasure State Correctional Training Center \$0.39/lb. \$0.39/lb.

c. Laundry Rate to Montana State Hospital \$0.38/lb. \$0.38/lb.

d. Laundry Rate to Montana Developmental Center \$0.46/lb. \$0.46/lb.

e. Laundry Rate to Riverside Youth Correctional Facility \$0.46/lb. \$0.46/lb.

**DEPARTMENT OF LABOR AND INDUSTRY – 6602**

1. Centralized Services Division

a. Cost Allocation Plan 8% 8%

2. Business Standards Division

a. House Bill No. 2 Programs Recharge Rate 44.8% 44.8%

**MONTANA UNIVERSITY SYSTEM - 5100**

Because certain employee benefit plans require a large number of individual premiums for a variety of benefit options, because the portion of these premiums paid by the state is statutorily established in 2-18-703, and because the employee-paid portion of these premiums must be adjusted from time to time to maintain employee group benefit plans on an actuarially sound basis, the legislature defines rates and fees for Montana university system employee benefit programs to mean the state contribution toward employee group benefits provided for in 2-18-703 and the employee contribution toward

employee group benefits necessary to maintain the employee group benefit plans on an actuarially sound basis.

Approved May 6, 2005

Note: The bracketed language in section 9 was stricken by Governor's line item veto dated May 6, 2005.



**RESOLUTIONS**

**Passed by the**

**FIFTY-NINTH LEGISLATURE  
IN REGULAR SESSION**

**Held at Helena, the Seat of Government  
January 3, 2005, through April 21, 2005**

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**COMPILED BY MONTANA  
LEGISLATIVE SERVICES DIVISION**

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## House Joint Resolutions

### HOUSE JOINT RESOLUTION NO. 1

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE GOVERNOR, THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES, AND THE DEPARTMENT OF CORRECTIONS TO CONTINUE EFFORTS TOWARD INTRAAGENCY AND INTERAGENCY PREVENTION COORDINATION AND TO SUPPORT INTERAGENCY EFFORTS TO ASSIST MONTANANS IN NEED AND TO COMBAT THE SUBSTANTIAL EFFECTS OF SUBSTANCE ABUSE, ESPECIALLY METHAMPHETAMINE USE, ON OUR SOCIETY.

WHEREAS, the Department of Public Health and Human Services has made proposals regarding intraagency prevention coordination for the myriad of prevention programs at the Department that involve public health and prevention activities, including alcohol, tobacco, and other drug use and abuse prevention; and

WHEREAS, the Department of Public Health and Human Services and the Department of Corrections have teamed together in the "Building Bridges" effort to provide transition social services to offenders who are or will be released from incarceration; and

WHEREAS, the Board of Crime Control has restructured to include subcommittees on prevention and treatment and funds many prevention programs involving youth, crime, and drug control; and

WHEREAS, Governor Judy Martz held a Methamphetamine Summit to explore the policy options and strategies to reduce the production, distribution, and use of methamphetamine in Montana and energized many regions of the state to coordinate efforts at the local level and also reconvened the Montana Alcohol, Tobacco and Other Drug Control Policy Task Force to assist in developing policy initiatives for the future; and

WHEREAS, the majority of drug control efforts lie in local, state, tribal, and federal law enforcement agencies and with the Department of Justice, and law enforcement cannot solve the problem of substance abuse, especially methamphetamine use, alone and requires coordinated education, prevention, intervention, and treatment efforts throughout society.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That all agencies in the Executive Branch, including those under the Governor, the Attorney General, and the Superintendent of Public Instruction, work together to coordinate education, prevention, and drug control efforts to enable and provide resources to local communities to combat the ill effects of abuse of legal and illegal substances and their concomitant effects on the public health and criminal justice systems.

(2) That Governor Schweitzer support efforts to coordinate substance abuse prevention and treatment activities within and between Executive Branch agencies and continue the efforts between the Departments of Public Health

and Human Services and Corrections to bridge offenders back into the community.

(3) That the Director of the Department of Public Health and Human Services support the efforts of the VISTA program and the Prevention Resource Center and maintain the Prevention Connection newsletter to disseminate information directly to communities.

(4) That the Director of the Department of Public Health and Human Services support a position to perform intraagency, cross-division planning and coordination for prevention activities, including the prevention of alcohol, tobacco, and other drug use and abuse, with other public health prevention efforts, including but not limited to the prevention of child abuse, teen pregnancy, HIV/AIDS, suicide, and the retail sale of alcohol and tobacco to minors.

(5) That the Board of Crime Control grow in its efforts to coordinate its substance abuse prevention, delinquency and crime prevention, and public safety programs with those at the Department of Public Health and Human Services and other agencies.

(6) That all agencies involved in prevention programs implement and continue collaborative efforts with Indian tribes.

Adopted April 14, 2005

### HOUSE JOINT RESOLUTION NO. 3

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO ENTER INTO NEGOTIATIONS WITH THE UNITED STATES BUREAU OF RECLAMATION TO DETERMINE THE AVAILABILITY AND COST OF WATER STORED BEHIND HUNGRY HORSE DAM FOR WHICH THE STATE OF MONTANA MIGHT CONTRACT TO SUPPORT FUTURE WATER DEVELOPMENT AND EXISTING WATER USE IN THE CLARK FORK RIVER BASIN.

WHEREAS, the 2001 Montana Legislature passed House Bill No. 397 creating the Clark Fork River basin task force and directing it to write a water management plan for the Clark Fork River basin that identifies options to protect the security of water rights, provides for the orderly development of water, and provides for the conservation of water in the future; and

WHEREAS, the Clark Fork task force on August 16, 2004, adopted "The Clark Fork River Basin Water Management Plan"; and

WHEREAS, the Clark Fork task force concludes in the plan that the basin's hydroelectric utility water rights likely pose a constraint on future basin water development and a risk to water use based on water rights junior to the hydroelectric rights; and

WHEREAS, Hungry Horse Reservoir was constructed and is operated by the United States Department of the Interior Bureau of Reclamation "for the purpose of irrigation and reclamation of arid lands, for controlling flood, improving navigation, regulating the flow of the South Fork of the Flathead

River, for the generation of electric energy, and for other beneficial uses primarily in the State of Montana, but also for downstream uses"; and

WHEREAS, in its application of water right, the United States Bureau of Reclamation claimed 3.5 million acre-feet of storage for future sales; and

WHEREAS, no contracts for the sale of Hungry Horse water have been issued to date; and

WHEREAS, the plan concludes that water stored in Hungry Horse Reservoir could be released in a manner that would allow new water development in the Clark Fork River basin without adversely affecting downstream existing hydroelectric water rights; and

WHEREAS, water stored in Hungry Horse Reservoir could also be released in the amount used by water users with water rights junior to the hydroelectric utilities, thereby precluding the need for the hydroelectric utilities to make a call on junior water right holders; and

WHEREAS, the plan recommends that the State of Montana open discussions with the United States Bureau of Reclamation to determine the availability and cost of temporary and long-term contracting options and to determine a quantity of firm storage available from Hungry Horse Reservoir for Montana uses other than hydroelectric power.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Department of Natural Resources and Conservation be urged to enter into negotiations with the United States Bureau of Reclamation to determine the availability and cost of water stored behind Hungry Horse Dam for which the State of Montana might contract to support existing water use and future water development in the Clark Fork River basin.

BE IT FURTHER RESOLVED, that the Montana Department of Natural Resources and Conservation report to the Environmental Quality Council and the Clark Fork River basin task force the results of these negotiations prior to January 1, 2007.

Adopted March 8, 2005

#### **HOUSE JOINT RESOLUTION NO. 4**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING MONTANA'S CONGRESSIONAL DELEGATION TO INTRODUCE AND SUPPORT LEGISLATION REQUIRING THE U.S. ARMY CORPS OF ENGINEERS TO INCREASE AND MAINTAIN A MINIMUM POOL ELEVATION IN FORT PECK RESERVOIR OF 2226 FEET ABOVE MEAN SEA LEVEL.

WHEREAS, due to management of downstream barge traffic by the U.S. Army Corps of Engineers, the water levels of Fort Peck Reservoir have reached historic lows; and

WHEREAS, the low water levels have had an adverse impact on recreational uses of Fort Peck Reservoir; and

WHEREAS, the declining water levels have had an adverse effect on fisheries management of Fort Peck Reservoir; and

WHEREAS, declining reservoir levels are affecting the availability of water for irrigation and other agricultural uses; and

WHEREAS, reduced reservoir levels have exposed thousands of acres of land, resulting in an accelerated spread of noxious weeds; and

WHEREAS, the reduced water levels have caused a severe economic impact on all of central and eastern Montana in that marinas have closed, most boat ramps no longer reach the water and are unusable, and recreational boaters have limited use of the reservoir, thereby causing an economic disaster to the service industries of central and eastern Montana that provide food, lodging, fuel, sporting goods, boats, and marinas; and

WHEREAS, studies have concluded that the economic value of barge traffic is approximately \$7 million annually, and the economic value of recreational uses of upstream dams is estimated to be \$85 million annually; and

WHEREAS, the drawdown of the reservoirs on the Missouri River will have an impact on the cost of electricity to customers that receive power from the Western Area Power Administration; and

WHEREAS, restoring the lake level to 2226 feet above mean sea level will restore most of the recreational uses and will still allow for future flood control.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That Montana's Congressional Delegation be strongly urged to introduce and support legislation requiring the U.S. Army Corps of Engineers to increase and maintain a minimum pool elevation in Fort Peck Reservoir of 2226 feet above mean sea level.

Adopted March 10, 2005

## HOUSE JOINT RESOLUTION NO. 5

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE U.S. DEPARTMENT OF AGRICULTURE TO REFER TO THE BEEF INDUSTRY IN THIS COUNTRY AS THE UNITED STATES BEEF INDUSTRY AND TO REFRAIN FROM REFERRING TO IT AS THE NORTH AMERICAN BEEF INDUSTRY.

WHEREAS, the U.S. Department of Agriculture refers to the beef industry in this country as the North American beef industry rather than the United States beef industry; and

WHEREAS, it is important that the United States beef industry maintain its identity, even as the marketplace becomes one of more global proportions; and

WHEREAS, because of the unique features of the Canadian and Mexican beef industries that allow them to complement the United States beef industry in a balanced trade relationship, it is more accurate and respectful to differentiate the United States beef industry from the beef industries of our neighbors to the north and south; and

WHEREAS, at a time when serious livestock diseases such as bovine spongiform encephalopathy (BSE) and tuberculosis affect this country's trading partners, United States consumers deserve to know that the laws their

producers observe and abide by are not diluted and that the integrity of the United States beef industry is being maintained.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the U.S. Department of Agriculture be urged to refer to the beef industry in this country as the United States beef industry and to refrain from referring to it as the North American beef industry.

(2) That copies of this resolution be sent by the Secretary of State to the Secretary of the U.S. Department of Agriculture and to the members of the Montana Congressional Delegation.

Adopted March 21, 2005

### **HOUSE JOINT RESOLUTION NO. 6**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE U.S. DEPARTMENT OF AGRICULTURE TO LOCATE ITS RURAL DEVELOPMENT SATELLITE OFFICES IN RURAL MONTANA.

WHEREAS, many Montana U.S. Department of Agriculture regional rural development offices were recently moved from rural areas to larger cities in Montana; and

WHEREAS, office employees are now required to commute between their rural homes and larger cities; and

WHEREAS, USDA rural development satellite offices provide more accessible and appropriate services to rural northeastern Montanans when located in rural areas.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the U.S. Department of Agriculture be urged to locate rural development satellite offices in the rural Montana communities where the offices used to be located.

(2) That the Secretary of State send copies of this resolution to the Secretary of the U.S. Department of Agriculture, to the members of the Montana Congressional Delegation, and to the director of the state USDA rural development main office in Bozeman.

Adopted April 14, 2005

### **HOUSE JOINT RESOLUTION NO. 7**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE UNITED STATES CONGRESS TO REJECT THE UNITED STATES DEPARTMENT OF AGRICULTURE'S PROPOSAL TO RESUME LIVE CATTLE TRADE WITH CANADA UNTIL MONTANA PRODUCERS AND CONSUMERS CAN BE ASSURED THAT THE FOOD SUPPLY IS SAFE

FROM BOVINE SPONGIFORM ENCEPHALOPATHY (BSE) AND THAT THE CATTLE INDUSTRY OF MONTANA WILL NOT BE HARMED.

WHEREAS, Montana's beef industry is a significant contributor to the state's agricultural economy and is vital to Montana's economy; and

WHEREAS, Montana relies on export markets in the Pacific Rim and other markets around the world; and

WHEREAS, the United States' export markets have declined more than \$2 billion since the first Canadian cow with bovine spongiform encephalopathy (BSE) was discovered in Washington state in 2003; and

WHEREAS, 70% of countries with a confirmed case of BSE have discovered additional infected animals after the initial outbreak; and

WHEREAS, Montana borders the province of Alberta, Canada, where all of the BSE-positive animals in North America have originated; and

WHEREAS, Montana provides a trucking corridor to the south for all Alberta feedlots; and

WHEREAS, 27,872 head of cattle, out of a national herd of approximately 6 million adult animals, or 0.46% of the national herd, have been tested for BSE in Canada compared to more than 199,166 in the United States, out of a national herd of approximately 80 million adult animals, or 0.24% of the national herd, despite the fact that all BSE-positive cases in North America have been discovered among the native Canadian herd; and

WHEREAS, Canada's meat and bone meal feed ban has not prevented several shipments of feed from being turned back by the Canadian government because of unknown animal parts, there are reports that 70% of tested feed samples in Canada contained unknown animal proteins, and the Canadian Food Inspection Agency confirmed that the original BSE-positive Canadian cow that was discovered in May 2003 was rendered into nonruminant animal feed and distributed to approximately 1,800 Canadian farms; and

WHEREAS, in early January 2005, Canada confirmed a third BSE-positive animal; and

WHEREAS, the United States Department of Agriculture has announced opening the border to imports of live Canadian cattle and further Canadian beef products.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the United States Congress be urged to reject the current proposal by the U.S. Department of Agriculture to reestablish live cattle trade with Canada until safeguards have been established and specific measures have been met to assure the producers and consumers in Montana that the cattle industry in Montana will not be placed in jeopardy.

BE IT FURTHER RESOLVED that international trade be reestablished with as many countries as possible that maintain their ban on United States beef and beef products, including our largest international customers, Japan and South Korea, prior to the United States border with Canada being opened.

BE IT FURTHER RESOLVED that the United States Congress be urged to ban all meat and feed imports from countries that have not implemented and successfully enforced a 100% compliance rate with a ruminant-to-ruminant feed ban.

BE IT FURTHER RESOLVED that the United States Department of Agriculture be urged to immediately finalize reasonable, cost-efficient, and workable rules to implement mandatory country of origin labeling before any live cattle or any additional Canadian beef product imports resume.

BE IT FURTHER RESOLVED that the Secretary of State send a copy of this resolution to the President of the United States, the United States Department of Agriculture, and the Montana Congressional Delegation.

Adopted April 14, 2005

### HOUSE JOINT RESOLUTION NO. 10

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO DEVELOP, CONSOLIDATE, AND UPDATE FIRE-RELATED STATUTES IN ORDER TO IMPROVE WILDLAND FIRE SUPPRESSION AND MITIGATION AND TO ADDRESS DANGEROUS ENVIRONMENTAL CONDITIONS ARISING FROM DROUGHT AND FOREST FUELS, AS WELL AS THE COMPLICATIONS AND COSTS OF FIGHTING FIRES IN WILDLAND/URBAN INTERFACES.

WHEREAS, wildfires impose a large recurrent financial, human resources, and natural resources cost on Montana; and

WHEREAS, Montana state agencies, as well as national and regional studies, commonly point to the high risk of wildfire posed by fuel accumulation; and

WHEREAS, movement into the wildland/urban interface has increased both the risk to inhabitants and the cost of fire suppression; and

WHEREAS, there is considerable sentiment among knowledgeable officials that Montana statutes are outdated or even silent on these important issues; and

WHEREAS, study is needed not only of these fire hazards but also of Montana's statutory response to these hazards, the use of local resources, and the funding of wildland fire protection and suppression costs; and

WHEREAS, a strong relationship between the federal, state, and local agencies is necessary, and the need to study their interrelationships and clarify how to enhance them is important.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to develop, consolidate, and update fire-related statutes, in collaboration with the Department of Natural Resources and Conservation, wildland fire service organizations, and any other organizations, to address dangerous environmental conditions and areas of wildland/urban interface, to improve wildland fire suppression and mitigation, and to recommend legislation to appropriately fund wildland fire protection and suppression costs.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2006.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 60th Legislature.

Adopted March 17, 2005

## HOUSE JOINT RESOLUTION NO. 11

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING COOPERATION BETWEEN AND AMONG STATE AND FEDERAL AGRICULTURAL RESEARCH STATIONS AND TRIBAL AGRICULTURAL RESEARCH PROGRAMS TO FACILITATE ONGOING RESEARCH, SHARING OF RESEARCH SCIENTISTS, AND EDUCATIONAL EFFORTS IN ADDRESSING CRITICAL ISSUES CONCERNING DELETERIOUS INSECTS, PESTICIDE USE, LIVESTOCK DISEASE, NOXIOUS WEEDS, AND IRRIGATED AND DRYLAND CROPPING SYSTEMS; AND URGING SUBMISSION OF A REPORT TO THE LEGISLATURE REGARDING THE PROGRESS OF COOPERATIVE RESEARCH EFFORTS AND THE SHARING OF EDUCATIONAL INFORMATION BETWEEN THE STATE AND MONTANA TRIBES AND BETWEEN STATE AND FEDERAL AGRICULTURAL RESEARCH STATIONS.

WHEREAS, critical issues concerning deleterious insects, pesticide use, livestock disease, noxious weeds, and irrigated and dryland cropping systems affect all Montana agricultural interests, both tribal and nontribal; and

WHEREAS, the state through its University System agricultural research stations, Montana tribes through tribal agricultural research programs, and the U.S. Department of Agriculture through its agricultural research service programs seek to address these important agricultural issues; and

WHEREAS, cooperation between agricultural research stations at both the state and federal levels and between state, federal, and tribal entities regarding ongoing research, sharing of research scientists, and educational efforts would help provide a unified approach toward solving these critical issues and strengthen overall efforts on a statewide basis; and

WHEREAS, the agricultural research program at the Fort Belknap Reservation would provide a logical tribal vehicle for cooperation with state and pertinent federal research programs to study insects and pesticides, the agricultural research program at the Fort Peck Reservation would provide a logical tribal vehicle for cooperation with state and pertinent federal research programs to study livestock issues, and the agricultural research program at the Rocky Boy Reservation would provide a logical tribal vehicle for cooperation with state and pertinent federal research programs to study noxious weeds; and

WHEREAS, irrigated and dryland cropping system issues would be an appropriate research focus for cooperation between state and pertinent federal research programs and all tribal agricultural research programs; and

WHEREAS, sharing of research and information between state and federal agricultural research stations, particularly the U.S. Department of Agriculture agricultural research laboratories in Sidney and Miles City, would be beneficial to statewide efforts; and

WHEREAS, because a portion of both state and tribal agricultural research funding comes from federal sources, it is appropriate that the federal government be made aware of Montana's efforts to enhance cooperation between and among state and federal agricultural research stations and tribal agricultural research programs and that the Montana Congressional Delegation be encouraged to seek increased federal funding for all Montana agricultural research efforts, including funding for joint state, federal, and tribal partnerships that address Montana's water resources and irrigated and dryland cropping systems; and

WHEREAS, a report to the Montana Legislature regarding cooperative research efforts and the sharing of educational information between the state and Montana tribes and between state and federal agricultural research stations would help the Legislature identify areas of greatest immediate concern, and available funding sources to address those concerns, in a timely and cost-effective manner.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That Montana agricultural research stations, including federal agricultural research facilities in Sidney and Miles City, be encouraged to share research and information between stations in order to more effectively address agricultural issues of regional and statewide concern.

BE IT FURTHER RESOLVED, that the state agricultural research stations be encouraged to share ongoing research, research scientists, and educational efforts with tribal agricultural research programs in order to help provide a unified approach toward solving critical agricultural issues and strengthening efforts regarding deleterious insects, pesticide use, livestock disease, noxious weeds, and irrigated and dryland cropping systems on a statewide basis.

BE IT FURTHER RESOLVED, that the Montana Congressional Delegation be urged to seek increased federal funding for all Montana agricultural research efforts, including funding for joint state, federal, and tribal partnerships that address Montana's water resources and irrigated and dryland cropping systems.

BE IT FURTHER RESOLVED, that Montana agricultural research stations, through the Montana University System, be encouraged to provide a systemwide report to the 60th Legislature regarding cooperative research efforts and the sharing of educational information between and among state and federal agricultural research stations and tribal agricultural research programs in order to help the Legislature identify areas of greatest immediate concern, examine available funding sources to address those concerns, and consider the potential for cooperative state, federal, and tribal agricultural research pilot programs.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to the natural resource committee of each tribal government in Montana, to the director of each state and federal agricultural research station in Montana, to the Director of the Montana Department of Agriculture, to the

U.S. Secretary of Agriculture, and to the members of the Montana Congressional Delegation.

Adopted March 10, 2005

## HOUSE JOINT RESOLUTION NO. 12

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA ENCOURAGING THE CONSTRUCTION OF ROUNDABOUTS INSTEAD OF RIGHT-ANGLE INTERSECTIONS.

WHEREAS, the Insurance Institute for Highway Safety reports that nationwide, fatal crashes at intersections increased 18% during the period between 1992 and 1998; and

WHEREAS, modern roundabouts are designed to control traffic flow at intersections without the use of stop signs or traffic signals; and

WHEREAS, in recent years, there has been growing interest in the potential benefits of roundabouts and an increase in construction of roundabouts; and

WHEREAS, although uncommon in Montana, other states and countries are constructing roundabouts as a safer alternative to intersections; and

WHEREAS, California, Colorado, Florida, Maine, Maryland, Michigan, Nevada, South Carolina, Vermont, and Washington are among the states that are constructing modern roundabouts; and

WHEREAS, the absence of right angles, combined with the necessary reduction in speed, makes roundabouts safer for pedestrians and bicyclists as well as for motorists; and

WHEREAS, an 8-state study of 24 intersections before and after construction of roundabouts found a 39% decrease in crashes and a 76% decrease in crashes that resulted in injury; and

WHEREAS, commercial motor vehicles contribute to the state's economy and the operation of commercial motor vehicles should be considered when roundabouts are designed; and

WHEREAS, the evidence is clear that constructing properly designed roundabouts instead of right-angle intersections in Montana would likely reduce the number of crashes and the number of injuries suffered by Montana motorists.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the Department of Transportation and cities and towns in their respective jurisdictions be encouraged to construct more roundabouts instead of signalized, right-angle intersections.

(2) That copies of this resolution be sent by the Secretary of State to the Governor, to the director of the Department of Transportation, and to the Montana League of Cities and Towns with the request that it be forwarded to each city or town public works department or similar entity involved in road design and construction.

Adopted April 5, 2005

## HOUSE JOINT RESOLUTION NO. 13

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE UNITED STATES CONGRESS TO REPEAL THE FEDERAL LANDS RECREATION ENHANCEMENT ACT.

WHEREAS, H.R. 3283, the Federal Lands Recreation Enhancement Act, allows the federal land management agencies to charge access fees for recreational use of federally managed public lands by the general public; and

WHEREAS, Montana recently made access to its state parks and stream access locations easier for Montanans; and

WHEREAS, Montana's culture, quality of life, and traditions demand free access to public lands; and

WHEREAS, fees for access to public lands discriminate economically against those least able to pay the fees, especially citizens in low-income states, including Montana; and

WHEREAS, these public lands access fees have been highly controversial and are opposed by hundreds of organizations and county governments, by state legislatures, including the Montana Legislature, and by millions of rural Americans; and

WHEREAS, H.R. 3283 is substantive legislation, including criminal penalties, that fundamentally changes the way America's public lands are funded and managed; and

WHEREAS, federal policies regarding management of public lands have a profound impact on the well-being of the citizens of Montana and changes to them should be conducted in an open public forum; and

WHEREAS, H.R. 3283 was never approved by the U.S. House of Representatives and was never introduced, never had hearings, and was never approved by the U.S. Senate but was instead attached to an omnibus spending bill as an appropriations rider.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the Montana Legislature demands that H.R. 3283 be repealed by the United States Congress.

(2) That copies of this resolution be sent to the Governor of Montana, Brian Schweitzer, to the President of the United States, to the Vice President of the United States, to the Speaker of the United States House of Representatives, to the majority and minority leadership of the United States Senate, to United States Senators Max Baucus, Conrad Burns, and Craig Thomas, to United States Representatives Denny Rehberg and Ralph Regula, and to the presiding officer of the Public Lands Committee in the United States House of Representatives.

Adopted March 14, 2005

**HOUSE JOINT RESOLUTION NO. 15**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO REVIEW ISSUES RELATED TO SENTENCING PRACTICES AND THE DISPROPORTIONATE REPRESENTATION OF MINORITIES IN THE CRIMINAL JUSTICE AND CORRECTIONS SYSTEMS.

WHEREAS, Indians and other minorities in Montana are disproportionately overrepresented in the criminal justice system compared to their representation in the general population; and

WHEREAS, there are numerous points of discretion in the criminal justice and corrections system that need to be reviewed for causes behind racial disparity in sentencing, including quality of counsel, arrest rates, detention in jail versus release on bail, the various uses of plea agreements and trials, rates of conviction, sentencing patterns, opportunities for effective treatment, rates of incarceration, rates in receiving deferred or suspended sentences and in granting of parole, and differences in probation and parole revocations; and

WHEREAS, Indians represent over 7.5% of the overall population of Montana, yet Indian females represent 17% and Indian males represent 14.4% of the overall 2004 state adult offender population, including prison, intensive supervision parole, prerelease, and probation; and

WHEREAS, the numbers incarcerated in state prisons are even more disproportionate — 27.2% of incarcerated females and 16.8% of incarcerated males are Indian — and those rates have remained consistent for at least 20 years; and

WHEREAS, Indian youth are also disproportionately overrepresented in the Youth Court system, representing 12% to 18% of arrests, referrals to juvenile court, secure detention, petition filings, delinquent findings, probation placement, and secure confinement, and in the juvenile corrections systems, ranging from 20% at the Pine Hills Youth Correctional Facility for boys and up to 50% at the Riverside Youth Correctional Facility for girls; and

WHEREAS, two-thirds of Indians in Montana live on reservations under federal jurisdiction, and the Indian adults and youth who are in federal prisons or under federal supervision are not reflected in the state statistics, which further exacerbates and distorts the magnitude of the disproportionality.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to study the reasons, including quality of counsel, arrest rates, detention in jail versus release on bail, the various uses of plea agreements and trials, rates of conviction, sentencing patterns, opportunities for effective treatment, rates of incarceration, rates in receiving deferred or suspended sentences and in granting of parole, and differences in probation and parole revocations, why there is a disproportionate number of adult and youth minority persons in the criminal justice system in Montana.

BE IT FURTHER RESOLVED, that the committee make recommendations for the criminal justice and corrections systems and the Judiciary to alleviate any disparate treatment of minorities.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2006.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 60th Legislature, each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa, the Governor, the Montana Congressional Delegation, and the Bureau of Indian Affairs of the United States Department of the Interior.

Adopted April 14, 2005

## HOUSE JOINT RESOLUTION NO. 16

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING SUPPORT FOR A PILOT-SCALE HYPERSONIC WIND TUNNEL IN BUTTE.

WHEREAS, the State of Montana would like to advance the MARIAH Hypersonic Wind Tunnel Program as an initiative having a statewide economic impact; and

WHEREAS, the current efforts related to the Magnetohydrodynamic Accelerated Research Into Advanced Hypersonics (MARIAH) hypersonic wind tunnel are led by Butte-based MSE Technology Applications, Inc., which coordinates a superb cast of team members, including Sandia National Laboratories, Lawrence Livermore National Laboratory, Oak Ridge National Laboratory, Princeton University, and AeroSystems Engineering, Inc.; and

WHEREAS, the current program is intended to develop a pilot-scale hypersonic wind tunnel in Butte at the Mike Mansfield Advanced Technology Center; and

WHEREAS, this pilot-scale hypersonic wind tunnel will be used to demonstrate the utility of a large-scale hypersonic wind tunnel, which must be built if the nation is to be competitive in hypersonic technology; and

WHEREAS, in all probability, the large-scale hypersonic wind tunnel will be built at a secure military installation; and

WHEREAS, Malmstrom Air Force Base is a secure military installation located in Montana and possesses the necessary infrastructure required for a large-scale wind tunnel; and

WHEREAS, the State of Montana, the Governor, the Department of Commerce, the Office of Economic Development, the Montana Aerospace Development Association, and MSE Technology Applications, Inc., wish to make every effort to ensure that the program, and the resultant jobs, are established and remain in Montana; and

WHEREAS, the large-scale wind tunnel will provide an initial economic investment of up to \$500 million; and

WHEREAS, the economic spinoff from this project will have tremendous benefit to the entire State of Montana; and

WHEREAS, the State of Montana, under the proactive leadership of the Governor and the Legislature, endeavors to become a leader among states in the field of high technology generally, and specifically in hypersonic flight technology; and

WHEREAS, the State of Montana recognizes the economic impact of Malmstrom Air Force Base and wishes to see Malmstrom continue to have a viable mission well into the future; and

WHEREAS, the MARIAH hypersonic wind tunnel will have a positive economic impact on the Montana University System and the communities associated with the University System; and

WHEREAS, aerospace and defense companies will most likely develop a physical and economic presence in Montana during construction and after completion of the large-scale wind tunnel; and

WHEREAS, the Congressional Delegation from Montana has been very supportive of the MARIAH Hypersonic Wind Tunnel Program; and

WHEREAS, the State of Montana recognizes the Montana Aerospace Development Association as a valuable resource in forming public/private partnerships to support the site for the large-scale wind tunnel.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the State of Montana supports the efforts of MSE Technology Applications, Inc., to successfully complete the pilot-scale hypersonic wind tunnel in Butte.

BE IT FURTHER RESOLVED, that the State of Montana supports efforts to locate the large-scale wind tunnel in Montana.

BE IT FURTHER RESOLVED, that the State of Montana urges its Congressional Delegation to continue to support the development of the MARIAH Hypersonic Wind Tunnel Program in Montana.

Adopted March 19, 2005

## **HOUSE JOINT RESOLUTION NO. 17**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA ENCOURAGING THE BOARD OF PUBLIC EDUCATION TO CONSIDER THE BENEFITS OF INCREASING HEALTH ENHANCEMENT IN SCHOOLS AND ENCOURAGING SCHOOLS TO PROVIDE STUDENTS WITH MORE OPPORTUNITIES FOR PHYSICAL ACTIVITY.

WHEREAS, obesity in children is a national epidemic and can lead to chronic diseases, such as heart disease, stroke, and diabetes; and

WHEREAS, poor dietary habits and inactivity contribute to the increase of obesity in youth; and

WHEREAS, today's youth are considered the most inactive generation in history, caused in part by reductions in school physical education programs; and

WHEREAS, nearly half of all high school students are not even enrolled in a physical education class, and only 29% of all high school students and 23% of all 7th and 8th grade students attend daily physical education classes; and

WHEREAS, 18% of Montana high school students are overweight or at risk of becoming overweight; and

WHEREAS, Montana high school and junior high school students are required to take only two half-year classes of health enhancement, including physical education; and

WHEREAS, health enhancement is part of the Montana accreditation standards upon which a quality education is built; and

WHEREAS, participation in physical activity and sports can promote social well-being, as well as physical and mental health, among young people.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Legislature encourage the Board of Public Education to consider additional health enhancement for all school students.

BE IT FURTHER RESOLVED, that the Montana Legislature encourage local schools to provide greater opportunities for students to participate in physical activities and sports programs, including intramural programs.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to the Board of Public Education and to the Superintendent of Public Instruction for distribution to every school district in Montana.

Adopted April 14, 2005

## HOUSE JOINT RESOLUTION NO. 18

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING CONGRESS TO ADOPT LEGISLATION THAT WOULD REQUIRE THE UNITED STATES FOREST SERVICE AND THE BUREAU OF LAND MANAGEMENT TO NOT ARBITRARILY CLOSE ROADS AND ACCESS TO MONTANA'S PUBLIC LANDS.

WHEREAS, Montana families live in Montana for its rich recreational opportunities and quality of life; and

WHEREAS, Montana's public lands are to be administered under the concept of multiple use; and

WHEREAS, Americans, especially those who are elderly, disabled, or physically challenged, cannot fully enjoy their public lands if roads and access to trails and streams are arbitrarily closed; and

WHEREAS, across Montana and the intermountain West, the United States Forest Service should manage lands for multiple-use opportunities; and

WHEREAS, roads are a critical component in the use of public lands for recreational and agricultural activities; and

WHEREAS, the United States Forest Service should be administering our public lands for the greatest good for the greatest number; and

WHEREAS, groups using public lands could volunteer to maintain critical points of access.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the United States Congress be urged to adopt legislation that would require the United States Forest Service and the Bureau of Land Management to not arbitrarily close roads and access to Montana's public lands and to require instead that these agencies be properly funded and maintain the current means of access to and on Montana's public lands, trails, and streams.

Adopted March 17, 2005

## HOUSE JOINT RESOLUTION NO. 19

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE AMERICAN LEGION TO ADOPT A WOOD BAT ONLY RULE FOR AMERICAN LEGION BASEBALL.

WHEREAS, Brandon Patch, a citizen of the State of Montana, subject to the state's laws and deserving of its care and protection, and a proud member of the Miles City American Legion Baseball team the Mavericks, was killed by a batted ball from a nonwood bat in a baseball game in 2003; and

WHEREAS, 15 players have been killed by batted baseballs from bats determined to be nonwood aluminum, composite, or "unknown" substances during a 10-year period, according to an examination conducted by the U.S. Consumer Product Safety Commission; and

WHEREAS, nonwood bats when used by young men and mature men may be able to propel a baseball off the bat at a rate of speed that may exceed human reaction time for pitchers and infielders; and

WHEREAS, since its inception until the invention of nonwood bats in the 1970s, baseball had been played with a wood bat; and

WHEREAS, Major League Baseball is played exclusively with wood bats; and

WHEREAS, although nationwide responsible baseball organizations and governmental bodies have not yet conclusively proved that nonwood bats increase the velocity of batted balls beyond the ability of defensive players to react to them, there is at least anecdotal evidence, including the death of Brandon Patch, that the use of nonwood bats places our children, particularly those of high school age, in an unacceptable risk of injury; and

WHEREAS, the State of Montana's American Legion may and should adopt a wood bats only rule; and

WHEREAS, the State of Montana's American Legion may and should petition the National American Legion to amend its rules to adopt a wood bats only rule; and

WHEREAS, the National American Legion organization may and should alter its rules to adopt a wood bats only rule.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the State of Montana's American Legion be strongly urged to adopt a rule for all American Legion games within the State of Montana allowing only wood bats to be used and to petition the National American Legion to adopt a rule for all American Legion games allowing only wood bats to be used.

BE IT FURTHER RESOLVED, that the National American Legion be strongly urged to adopt a rule for all American Legion games allowing only wood bats to be used.

Adopted April 14, 2005

## HOUSE JOINT RESOLUTION NO. 22

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE UNITED STATES SECRETARY OF AGRICULTURE AND THE UNITED STATES SECRETARY OF THE INTERIOR TO DIRECT THE APPROPRIATE FEDERAL AGENCIES TO EXPEDITE THE ELIMINATION OF BRUCELLOSIS IN THE GREATER YELLOWSTONE AREA BISON AND ELK HERDS, AND IN THEIR ENVIRONMENT, AND URGING THE PRESIDENT OF THE UNITED STATES TO NAME THE UNITED STATES DEPARTMENT OF AGRICULTURE AS THE LEAD AGENCY IN AN ELIMINATION PLAN.

WHEREAS, an essential element of proper wildlife management is the maintenance of healthy animal populations; and

WHEREAS, the disease brucellosis, and the causative organism *Brucella abortus*, has been known to be present in the Yellowstone National Park bison herd for over 87 years; and

WHEREAS, the bison population of Yellowstone National Park is now nearly 4,500 bison, well over the population target of 3,000 bison; and

WHEREAS, in the 2000 final environmental impact statement for the interagency bison management plan for the State of Montana and Yellowstone National Park, one of the objectives was to commit to the eventual elimination of brucellosis in bison and other wildlife; and

WHEREAS, the State of Montana, the U.S. Department of Agriculture, and the U.S. Department of the Interior agreed in a 1995 memorandum of understanding that an objective was to plan for the elimination of brucellosis from the greater Yellowstone area by the year 2010; and

WHEREAS, cattle herds in Idaho and Wyoming have been infected with brucellosis by elk in the greater Yellowstone area, resulting in significant economic loss to local economies; and

WHEREAS, Yellowstone National Park bison that have been infected with or exposed to brucellosis and greater Yellowstone area elk that may have been infected with or exposed to brucellosis frequently make nomadic or migratory movements into Montana, threatening the health of Montana citizens as well as the state's livestock industry and brucellosis class-free status; and

WHEREAS, for years, Montana has been forced to react to the nomadic movements of bison from Yellowstone National Park into Montana with costly management measures, including hazing, capturing, and lethally removing

bison, to protect the health and welfare of Montana citizens and the livestock industry; and

WHEREAS, elimination of brucellosis in the greater Yellowstone area bison and elk herds, and in their environment, would mitigate a public health and animal health concern and reduce ongoing state expenses related to the nomadic movement of bison from Yellowstone National Park; and

WHEREAS, a brucellosis vaccination program for bison is being developed and should be implemented in the Yellowstone National Park wild bison herd as soon as possible as a critical component of any ongoing eradication strategy.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the U.S. Secretary of Agriculture and the U.S. Secretary of the Interior be urged to direct the U.S. Department of Agriculture's Animal and Plant Health Inspection Service Veterinary Services Office, the National Park Service, and any other affected federal agencies to undertake the expeditious elimination of brucellosis in the greater Yellowstone area bison and elk herds, and in their environment, by developing and implementing a brucellosis elimination program, and that the President of the United States be urged to name the United States Department of Agriculture as the lead federal agency for the development of an elimination plan.

BE IT FURTHER RESOLVED, that any federal brucellosis elimination program be developed in coordination with Montana state veterinarians and the Montana Department of Livestock to ensure that state and federal programs continue to protect the health and welfare of Montana citizens, Montana wildlife, and the Montana livestock industry.

BE IT FURTHER RESOLVED, that copies of this resolution be sent by the Secretary of State to the members of the Montana Congressional Delegation, the President of the United States, the U.S. Secretary of Agriculture, the U.S. Secretary of the Interior, and the Director of the National Park Service.

Adopted March 10, 2005

## HOUSE JOINT RESOLUTION NO. 24

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA COMMEMORATING THE BICENTENNIAL OF THE LEWIS AND CLARK EXPEDITION IN MONTANA.

WHEREAS, on May 14, 1804, the Corps of Discovery, led by Captains Meriwether Lewis and William Clark, left St. Louis and traveled up the Missouri River, journeyed to its headwaters, and then followed the Columbia River to the Pacific Ocean; and

WHEREAS, Lewis and Clark entered the area currently known as Montana in the springtime of 1805 and traveled more miles in Montana than in any other present state; and

WHEREAS, Lewis and Clark used the Missouri River as a major thoroughfare for their journey through the wild lands of Montana, encountering the Great Falls of the Missouri on June 13, 1805, encountering the Gates of the Mountains on June 19, 1805, when the expedition reached the foothills of the

Rocky Mountains, and finding the headwaters of the Missouri River on July 25, 1805; and

WHEREAS, Lewis and Clark encountered the Salish and Kootenai nations who assisted them in traveling across the most difficult overland segment of their expedition, namely over present-day Lolo Pass and near the area now known as the Great Burn; and

WHEREAS, in July 1806, Corps of Discovery member Sergeant Nathaniel Pryor traversed an area of the Crow Indian nation, now named in his honor as the Pryor Mountains, on the eastward segment of the expedition, a remote area that ranges from high plateaus to desert limestone canyons; and

WHEREAS, Captain Lewis and his return party, traveling east, followed the Blackfoot River and Alice Creek, reaching the Continental Divide, and the expedition reached the location currently known as the Lewis and Clark Pass on July 7, 1806; and

WHEREAS, Lewis and Clark encountered fish and wildlife in abundance during their journey and subsisted on fish and game just as modern-day anglers and hunters currently do, treasuring Montana's trout streams, deer and elk herds, and many other opportunities to enjoy the outdoors; and

WHEREAS, in the span of 200 years since the Lewis and Clark expedition, the Missouri River has been dammed and transformed into a series of slackwater impoundments or, in many places, narrow, fast-flowing channels, and management of this river significantly impacts the continuance of agriculture, fisheries, wildlife, and recreational opportunities.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Senate and House of Representatives:

(1) applaud the extraordinary journey conceived by President Thomas Jefferson and carried out by Captains Lewis and Clark and the Corps of Discovery;

(2) recognize the enormous contribution of the American Indian nations to the success of this journey;

(3) support efforts to conserve the Missouri River through science-based management of its annual water fluctuations and maintenance of its fisheries and wildlife populations;

(4) support the conservation of our natural heritage as a commemoration of the spirit of the Corps of Discovery; and

(5) support Montana's efforts to encourage all Americans to visit, to appreciate, and to develop a sense of the importance of protecting this natural legacy for future generations.

Adopted March 10, 2005

## HOUSE JOINT RESOLUTION NO. 26

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF THE HISTORY AND TRENDS OF THE STATE'S RELIANCE ON AND USE OF FEDERAL FUNDS, OF THE HISTORY,

TRENDS, AND PORTENTS OF FEDERAL BUDGET DEFICITS, PARTICULARLY AS TO HOW FEDERAL BUDGET DEFICITS HAVE AFFECTED AND MAY IN THE FUTURE AFFECT THE AVAILABILITY OF FEDERAL REVENUE FOR STATE-ADMINISTERED PROGRAMS, AND OF OPTIONS AVAILABLE TO THE LEGISLATURE FOR DEALING WITH REDUCTIONS IN THE AVAILABILITY OF FEDERAL FUNDS FOR PROGRAMS ADMINISTERED BY THE STATE.

WHEREAS, the budget deficit for the federal government for fiscal year 2005 is currently estimated by the Congressional Budget Office to be \$368 billion, excluding the additional \$80 billion requested in January for the cost of the war in Afghanistan and Iraq this year; and

WHEREAS, according to the Congressional Budget Office, the national debt at the end of 2004 stood at \$7.355 trillion and is projected to be \$7.975 trillion by the end of this year; and

WHEREAS, according to the Congressional Budget Office, budget deficits for the federal government may increase over the next 5 years; and

WHEREAS, the United States Congress has in recent years reduced direct funding and matching grants available to Montana and other states; and

WHEREAS, the proportion of the budget of the State of Montana paid for by federal dollars is currently 47%; and

WHEREAS, decreases in federal funding that supports state programs will not only challenge the state budget, but will also adversely affect local governments and tribal governments and the citizens whom they serve.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(1) examine and analyze the history and trends of the state's reliance on the use of federal funds in programs administered by the state or jointly by the state and local governments;

(2) examine and analyze:

(a) the potentially dramatic increases in future federal budget deficits and, by default, the national debt;

(b) the probability that increases in federal budget deficits will result in substantial and permanent decreases in federal funding for state-administered programs; and

(c) the possible nature and scope of impacts to state-administered programs, including programs that affect local governments and tribal governments, that may be inferred from potential decreases in federal funding; and

(3) identify policy options available to future Legislatures to prepare for and address reductions in federal funding for state-administered programs.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate interim committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2006.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 60th Legislature.

Adopted April 19, 2005

## HOUSE JOINT RESOLUTION NO. 29

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA CLARIFYING TO APPROPRIATE FEDERAL GOVERNMENT OFFICIALS THAT MONTANA RESERVES ITS APPLICABLE RIGHTS AND REMEDIES TO REQUEST FEDERAL PREDATOR CONTROL AND TO EXERCISE RIGHTS AND REMEDIES TO PREVENT AND CONTROL DAMAGE OR CONFLICT ON FEDERAL, STATE, OR OTHER PUBLIC OR PRIVATE LAND CAUSED BY PREDATORY ANIMALS, AND URGING THE MONTANA CONGRESSIONAL DELEGATION TO TAKE APPROPRIATE MEASURES TO OBTAIN MEANINGFUL FUNDING AND ASSISTANCE FOR MONTANA CITIZENS AND COMMUNITIES THAT HAVE BEEN ADVERSELY AFFECTED BY FEDERAL WOLF REINTRODUCTION.

WHEREAS, Article II, section 3, of the Montana Constitution provides all persons with the inalienable right to enjoy and defend their lives and liberties, to acquire, possess, and protect property, and to seek their safety, health, and happiness in all lawful ways; and

WHEREAS, the 2001 Montana Legislature enacted section 87-5-131, MCA, to provide for state delisting of the gray wolf upon federal delisting and to provide a plan to manage the wolf as a species in need of management until the Department of Fish, Wildlife, and Parks and the Fish, Wildlife, and Parks Commission determine that the wolf no longer needs protection as a species in need of management and can be managed and protected as a game animal; and

WHEREAS, the 2003 Montana Legislature enacted section 87-1-217, MCA, requiring the Department of Fish, Wildlife, and Parks to manage large predators, including wolves, with the primary goals to

preserve citizens' opportunities to hunt large game species, to protect humans, livestock, and pets, and to preserve and enhance the safety of the public during outdoor recreational and livelihood activities; and

WHEREAS, the 2003 Montana Legislature adopted Senate Joint Resolution No. 4, requesting delisting of the wolf pursuant to the federal Endangered Species Act of 1973, requesting that Congress establish and fund the Northern Rocky Mountain Grizzly Bear and Gray Wolf National Management Trust, requesting that wolf population management methods include nonlethal and lethal methods, encouraging the Fish, Wildlife, and Parks Commission to reclassify the gray wolf when regulation of the wolf population is needed, and requesting the Department of Fish, Wildlife, and Parks or the Department of Livestock to address livestock depredations expeditiously; and

WHEREAS, the 2003 Montana Legislature passed House Bill No. 283 (chapter 530, Laws of 2003), directing the Attorney General to prepare a proactive opinion of state options regarding delisting and possible litigation scenarios related to recovery of damages and costs associated with wolf reintroduction in Montana; and

WHEREAS, uncontrolled wolf populations and extraordinarily high wolf densities continue to cause damage to Montana's economy, customs, culture, public safety, and public health despite the state's ongoing efforts to conform to federal requirements regarding wolf management plans and the state's regular requests for wolf delisting and despite the declared intent of Congress in 1988 "not to hurt hunting, not to hurt the local economies"; and

WHEREAS, wolves are predators and should be managed as predators; and

WHEREAS, high wolf population densities resulting from reintroduction are proof of the failure of the U.S. Fish and Wildlife Service to abide by the law and its own regulations; and

WHEREAS, the U.S. Congress has yet to address its restitution responsibilities under the Fifth Amendment to the U.S. Constitution for damage to private property, livestock, domestic animals, and Montana wildlife that has resulted from the unnatural and accelerated reintroduction of wolves; and

WHEREAS, designation of the wolf as a game animal under the Montana management plan will not supersede or undermine current federal or state law allowing management of wolves for depredation and Montana would be better served by a state management plan that allows the controlled taking of wolves following delisting; and

WHEREAS, recent adoption of the final 10(j) Rule under the Endangered Species Act allowed Montana landowners to take additional steps to protect livestock and dogs from attacks by wolves on private land and allowed grazing permittees and guiding and outfitting permittees to take wolves attacking livestock or domestic animals herding and guarding livestock on public lands; and

WHEREAS, a recent U.S. District Court decision in Oregon held that the U.S. Fish and Wildlife Service violated the Endangered Species Act by changing the status of the gray wolf from "endangered" to "threatened" in some regions, relaxing protection on many of the nation's gray wolves and effectively disallowing the shooting of wolves that are not part of the reintroduced experimental populations but that are attacking livestock; and

WHEREAS, the court decision irreparably harmed the good faith efforts between state and federal agencies to move expeditiously toward delisting the gray wolf and raised the prospect of endless third-party lawsuits that will obstruct and delay the delisting process; and

WHEREAS, federal, state, and local governments have a constitutional duty and fiduciary responsibility to provide all available remedies to protect the economy, customs, culture, public safety, and public health of the citizenry.

**NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:**

That the State of Montana reserves its rights and remedies available by order of the U.S. Secretary of Agriculture to provide funding under the federal Granger-Thye Act for predator control pursuant to Title 7 of the U.S. Code and recognizes that an injunction sought in a court of law cannot divest the State of Montana of those rights and remedies.

**BE IT FURTHER RESOLVED**, that the State of Montana reserves its rights and remedies available through the U.S. Secretary of the Interior pursuant to Section 11(h) of the Endangered Species Act to order predator control in defense

of game herds and recognizes that an injunction sought in a court of law cannot divest the State of Montana of those rights and remedies.

BE IT FURTHER RESOLVED, that the State of Montana reserves its rights and remedies to prevent and control damages or conflicts on federal, state, or other public or private lands caused by predatory animals, rodents, and birds that are injurious to livestock, agriculture, horticulture, forestry, wildlife, and human safety and health, including threatened or endangered wildlife within Montana, as established by federal or state law or regulation or by county resolution.

BE IT FURTHER RESOLVED, that the Montana Congressional Delegation is urged to recognize the statutory concessions made by the State of Montana and is urged to obtain meaningful and substantive funding for the impacts from the federal wolf reintroduction program that was forcibly established in Montana, including emergency federal assistance for those Montana communities that bear the disproportionate burden of the impacts from the federal wolf reintroduction program.

BE IT FURTHER RESOLVED, that the Montana Congressional Delegation is urged to review documents published from 1988 through November 22, 1994, that preceded accelerated wolf reintroduction in order to verify that the federal government never intended for high wolf population densities to result in damage to Montana citizens or to strip citizens of their legal rights.

BE IT FURTHER RESOLVED, that the Montana Congressional Delegation is urged to respond to this unintended collateral damage to Montana citizens by seeking restitution under the Fifth Amendment to the U.S. Constitution for Montana citizens who have been damaged by the introduction of wolves into Montana.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the President of the United States, the U.S. Secretary of Agriculture, the U.S. Secretary of the Interior, members of the Montana Congressional Delegation, and all other members of the U.S. Senate and House of Representatives.

Adopted March 14, 2005

### **HOUSE JOINT RESOLUTION NO. 30**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO REVIEW THE PROGRAMS AND STATUTES OF VARIOUS STATES IN CREATING HUNTING LICENSE PREFERENCES FOR LANDOWNERS, WITH THE GOAL OF CREATING HUNTING LICENSE PREFERENCES FOR LANDOWNERS WHO PRACTICE SOUND WILDLIFE MANAGEMENT PRINCIPLES.

WHEREAS, previous sessions of the Legislature have enacted a number of laws providing preference to landowners in obtaining hunting licenses, which laws are codified in sections 87-1-266(2) and (3), 87-1-301(5)(b), 87-2-501(3) through (5), 87-2-511(1), 87-2-512(1)(e), 87-2-513, 87-2-520, and 87-2-705, MCA; and

WHEREAS, the Fish, Wildlife, and Parks Commission and the Department of Fish, Wildlife, and Parks have adopted rules and regulations in administering those statutes; and

WHEREAS, the adopted rules and regulations reflect preferences to meet individual situations and conditions; and

WHEREAS, there has been no comprehensive study of these preferences to determine if they are effective in recognizing the contributions of landowners in maintaining healthy wildlife populations and if they are consistent with sound wildlife management principles.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee or statutory committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(1) evaluate existing statutes that grant a landowner preference in obtaining a big game hunting license or licenses or permit or permits or in sponsoring another person to receive a big game license or permit;

(2) compare the system in Montana for granting those licenses with the statutes, preferences, and administrative rules for similar licenses in other states surrounding Montana; and

(3) assess the impact of granting such licenses on the various wildlife populations and on public-hunting opportunities for both residents and nonresidents.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2006.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 60th Legislature.

Adopted March 23, 2005

## HOUSE JOINT RESOLUTION NO. 32

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THAT THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES REVIEW ITS RULES GOVERNING SUBMISSION OF PROVIDER CLAIMS, POSTPAYMENT AUDITS, AND RECOUPMENT OF OVERPAYMENTS AND AMEND THOSE RULES, IF NECESSARY, IN ORDER TO GIVE PREDICTABILITY AND FINALITY TO THE MEDICAID PAYMENT PROCESS FOR CERTAIN PROVIDERS.

WHEREAS, the Department of Public Health and Human Services administers the Montana Medicaid program in conjunction with the federal government; and

WHEREAS, durable medical equipment providers (providers) deliver prosthetics and other medical equipment to Medicaid recipients; and

WHEREAS, the providers submit invoices to the Department for payment, and the Department reimburses the providers with state and federal money; and

WHEREAS, the Department reimburses providers within 30 days of receiving a "clean" claim, or as quickly as possible, to comply with its own rules and federal regulations; and

WHEREAS, the Department conducts postpayment audits of provider claims to be sure that all supporting documentation is in compliance with state rules and federal regulations; and

WHEREAS, situations sometimes arise in which audits reveal errors in a claim that has already been paid, consisting of errors in the documentation supporting a claim, for which the Department then seeks repayment from the provider because of the error; and

WHEREAS, the provider is responsible for the error, even if the error was on the part of the Department in paying the claim in the first place; and

WHEREAS, sometimes the repayment sought by the Department from the provider is beyond the ability of the provider to repay because of the provider's cash flow situation.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Department of Public Health and Human Services review its administrative rules and procedures, for possible revisions to those rules and procedures, in order to address the issue of overpayments associated with Department or provider errors, made in the process of paying claims, that are discovered in the audit process, in order to give greater certainty and predictability to providers in the payment process.

BE IT FURTHER RESOLVED, that the Department be requested to report its findings and any intended changes to administrative rules and procedures to the Children, Families, Health, and Human Services Interim Committee.

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to the Governor and to the Director of the Department of Public Health and Human Services.

Adopted April 19, 2005

### **HOUSE JOINT RESOLUTION NO. 33**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF ISSUES RELATED TO CONTRACT HARVESTING OF TIMBER FROM SCHOOL TRUST LANDS.

WHEREAS, the Montana Constitution requires that school trust lands be managed for the support and benefit of various state educational institutions; and

WHEREAS, the Department of Natural Resources and Conservation estimates that authorizing the department to sell logs directly from state lands

could increase funding available for trust beneficiaries by as much as 30% over the current method of timber sales; and

WHEREAS, the Washington Department of Natural Resources manages a program that allows contract harvesting on state lands for up to 10% of the total annual volume of timber offered for sale; and

WHEREAS, legislation that would have authorized a similar program in Montana passed the Senate by a 48-2 vote.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to examine issues surrounding the possible implementation of a contract harvesting program for state lands in Montana, including but not limited to an examination of similar programs in other states, standards for log quality, accounting practices, standards for hiring loggers, stewardship contracting, revenue and expenses, and economic impacts to the logging industry.

BE IT FURTHER RESOLVED, that participants in the study include representatives of the Department of Natural Resources and Conservation, beneficiaries of trust lands, the Montana Logging Association, the Montana Wood Products Association, and the conservation community.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2006.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 60th Legislature.

Adopted April 19, 2005

### **HOUSE JOINT RESOLUTION NO. 34**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO IDENTIFY ALL OF THE SUPERFUND SITES IN MONTANA AND TO STUDY THE IMPACTS OF SUPERFUND SITES ON COMMUNITIES DIRECTLY IMPACTED BY A SUPERFUND SITE.

WHEREAS, there are several communities around Montana that are affected by state and federal superfund sites; and

WHEREAS, it is in the best interest of the state and the communities to identify the unique issues and needs within these communities; and

WHEREAS, communities are directly affected by cleanup activities and the timeliness and completeness of these cleanup activities; and

WHEREAS, communities must live with problems associated with superfund sites and the effects on the communities' infrastructure, economy, and social well being; and

WHEREAS, a less than timely response to superfund-related concerns by those responsible for cleanup activities has a direct and immediate and often costly effect on the communities and their abilities to provide basic services for their citizens; and

WHEREAS, it is of great importance to provide options and assistance from programs, whether state or federal, to mitigate the economic, environmental, or social effects of the superfund designation within the communities of Montana.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(1) establish a comprehensive list of:

(a) the superfund sites located in Montana, including the date on which the site was listed, on the state or federal superfund list, a site description, the history, and contaminants associated with the site;

(b) the current status of cleanup efforts, what cleanup milestones have been reached, and how much liquid and solid-based media have been treated;

(c) the decision documents describing the chosen remedy for site remediation for each site in Montana; and

(d) the proposed timeframe for completing the cleanup efforts;

(2) identify alternatives that are available to communities when cleanup efforts are not timely and are having a direct impact on the community, including monetary, economic, and social impacts;

(3) provide a detailed summary of water, infrastructure, and economic development needs of the communities that are a direct or indirect result of the superfund listing or the presence of contaminants that resulted in the superfund listing;

(4) identify alternatives for education of citizens of the communities directly affected by the superfund listing as well as alternatives for providing education to citizens across Montana on the impacts of a superfund site to local communities and the state; and

(5) develop a process to improve communication between local, state, and federal governments when addressing superfund issues.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2006.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 60th Legislature.

Adopted April 16, 2005

**HOUSE JOINT RESOLUTION NO. 36**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF LAWS AND FUNDING RELATED TO THE RESOURCE INDEMNITY TRUST.

WHEREAS, Article IX, section 2, of the Montana Constitution establishes a resource indemnity trust to be funded by taxes on the extraction of natural resources as the Legislature may from time to time impose for that purpose and the principal of the resource indemnity trust must forever remain inviolate in an amount of \$100 million guaranteed by the state against loss or diversion; and

WHEREAS, in February 2002, the trust exceeded the \$100 million threshold; and

WHEREAS, the resource indemnity trust interest, the resource indemnity and ground water assessment tax, the metalliferous mines license tax, and applicable portions of the oil and natural gas production tax will provide \$26.6 million over the 2007 biennium to local governments, two universities, and four state agencies; and

WHEREAS, there is no centralized legislative oversight of the accounts when appropriations are made, the appropriations are made in three subcommittees, and other proposed legislation affecting the resource indemnity trust may not be considered by any subcommittee; and

WHEREAS, this lack of general appropriations oversight of these related accounts puts at risk the stability of the funds; and

WHEREAS, laws regarding the flow of funding from the trust, taxes, and assessments are confusing and conflicting; and

WHEREAS, the historic use of some funds has not met statutory requirements; and

WHEREAS, there is no formal plan to address revenue shortfalls in the interim.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Finance Committee be requested to direct sufficient staff resources to study laws related to the resource indemnity trust.

BE IT FURTHER RESOLVED, that the study:

- (1) propose revisions to laws related to the resource indemnity trust;
- (2) include input from the director of the Office of Budget and Program Planning and the directors of state agencies that would be affected by changes to the resource indemnity trust;
- (3) examine funding priorities; and
- (4) examine possible uses of funds related to the resource indemnity trust.

BE IT FURTHER RESOLVED, that any findings or conclusions be presented to and reviewed by the Legislative Finance Committee.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2006.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 60th Legislature.

Adopted April 19, 2005

## HOUSE JOINT RESOLUTION NO. 41

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO INVESTIGATE THE SPECIAL CHALLENGES AND OPPORTUNITIES FACING MONTANA INDIAN TRIBES AND THEIR RESPECTIVE TRIBAL LANDS OR RESERVATIONS, WHICH INCLUDE THE ASSINIBOINE AND SIOUX TRIBES OF THE FORT PECK INDIAN RESERVATION, THE ASSINIBOINE AND GROS VENTRE TRIBES OF THE FORT BELKNAP INDIAN RESERVATION, THE CHIPPEWA AND CREE TRIBES OF THE ROCKY BOY INDIAN RESERVATION, THE BLACKFEET TRIBE OF THE BLACKFEET INDIAN RESERVATION, THE SALISH AND KOOTENAI TRIBES OF THE FLATHEAD INDIAN RESERVATION, THE CROW TRIBE OF THE CROW INDIAN RESERVATION, THE NORTHERN CHEYENNE TRIBE OF THE NORTHERN CHEYENNE INDIAN RESERVATION, AND THE LITTLE SHELL BAND OF THE CHIPPEWA INDIANS, AND THE STATE OF MONTANA WITH RESPECT TO ECONOMIC DEVELOPMENT, TO EXAMINE ALL FACTORS IMPACTING ECONOMIC GROWTH, INCLUDING BUT NOT LIMITED TO TRIBAL HUMAN AND NATURAL RESOURCE DEVELOPMENT, AND TO PROVIDE A BASIS FOR IMPROVING THE ECONOMIC STATE OF INDIAN COUNTRY AND, BY EXTENSION, ALL OF MONTANA; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 60TH LEGISLATURE IN THE FORM OF COMPREHENSIVE POLICY ANALYSES AND RECOMMENDATIONS.

WHEREAS, it is the mission of the Montana Legislative Indian Caucus to act as a resource regarding Montana Indian issues affecting state legislative action and to do so on behalf of all political parties; and

WHEREAS, the State of Montana recognizes tribal sovereignty through government-to-government relationships; and

WHEREAS, the American Indian tribes within the state of Montana are a unique and integral part of the history and future of Montana; and

WHEREAS, American Indian contributions to the economic structure of the State of Montana have never been fully studied with consideration given to all sources of tribal and individual Indian income, including natural resource ownership, utilization, and development; and

WHEREAS, state programs that involve tribal participation have not been consistently studied to understand the truly reciprocal character of economic development between Indian Country and the State of Montana; and

WHEREAS, conducting research to qualify and quantify Montana's American Indian and individual tribal economic resources and identify their impact is vital to state economic growth; and

WHEREAS, assisting tribal economies in concert with assistance to other economic development goals of the state will provide improved education and employment opportunities for all Montanans; and

WHEREAS, the Constitution of the State of Montana provides that all Montanans share in the responsibility for learning about and preserving the tribal cultures of Montana's American Indians.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee or committees, pursuant to section 5-5-217, MCA, and direct sufficient staff resources to conduct a comprehensive study of tribal economic resources in the State of Montana, including human and educational resources, land and natural resource ownership, and the ability of tribal governments to generate revenue.

BE IT FURTHER RESOLVED, that all findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2006.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 60th Legislature.

Adopted April 19, 2005

## HOUSE JOINT RESOLUTION NO. 42

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THAT A LEGISLATIVE STUDY BE CONDUCTED ON HOW PUBLIC EMPLOYEE RETIREMENT FUNDS ARE INVESTED AND HOW INVESTMENT PERFORMANCE, RETIREMENT PLAN BENEFITS, AND LEGISLATIVE POLICY DECISIONS INTERACT TO AFFECT THE ACTUARIAL SOUNDNESS OF THE PUBLIC EMPLOYEE RETIREMENT PLANS AND EMPLOYER'S FUNDING OBLIGATIONS.

WHEREAS, a significant decline in the market value of public retirement plan investments from fiscal year 2000 through fiscal year 2003 resulted in actuarial losses to the public retirement plans totaling more than \$1.3 billion; and

WHEREAS, as a consequence of these actuarial losses, the amortization schedules for paying off unfunded liabilities in the teachers', public employees', sheriffs', and game wardens' and peace officers' retirement systems had to be extended to well beyond 30 years; and

WHEREAS, Article VIII, section 15, of the Montana Constitution requires that the public retirement systems be funded on an actuarially sound basis; and

WHEREAS, the Legislature has interpreted "actuarially sound basis" to mean having an amortization period of 30 years or less;

WHEREAS, the retirement boards requested legislation to increase employer contributions to the public employee retirement plans until funding was adequate to reduce the amortization schedules to under 30 years; and

WHEREAS, the employer contribution rate increases will require the Legislature to appropriate a total of nearly \$6.7 million in general fund money for state employer contributions during this biennium; and

WHEREAS, in each subsequent biennium, these employer contribution rate increases and the expected growth in the public employee payroll will increase general fund obligations each biennium until the retirement systems are sound; and

WHEREAS, local government and school district employer contribution rate increases will require local governments and school districts to contribute an additional \$20 million during the next biennium with that amount increasing as salaries increase each biennium until the retirement systems are sound; and

WHEREAS, between 58% and 75% of the funding for the public employee retirement plans comes from investment earnings, while only 12% to 20% of the funding comes from employer contributions; and

WHEREAS, public retirement plan funds are invested by the state Board of Investments and constitute nearly \$6 billion or 62% of all investments managed by the Board of Investments; and

WHEREAS, the Legislature is responsible for oversight of the public employee retirement plans and should consider how investment strategies, retirement benefits, and legislative policy decisions interact to affect employer funding obligations.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

- (1) review constitutional and statutory language governing how public employee retirement plan funds are managed and invested;
- (2) study the investment strategies, objectives, and asset allocation of public employee retirement funds managed by the Board of Investments;
- (3) compare the asset allocation, investment performance, and actuarial assumptions regarding Montana's public employee retirement plan funds with asset allocation, investment performance, and actuarial assumptions used in other states;
- (4) study how investments or asset allocation strategies are adjusted by the Board of Investments either in anticipation of changing needs or changing market conditions or after significant national and world events affect the market;
- (5) study actual rates of return versus actuarial gains and losses in market value and how actuarially assumed rates of return adopted by the retirement boards relate to realized returns and the investment objectives set by the Board of Investments;
- (6) examine how investments, retirement benefits, and legislative policy decisions interact to affect the actuarial soundness of the public employee retirement plans and employer funding obligations; and

(7) identify legislative policy issues and concerns, consider options, and develop recommendations.

BE IT FURTHER RESOLVED, that the Legislative Services Division explore whether technical assistance is available and can be provided to assist in conducting this study.

BE IT FURTHER RESOLVED, that if the study is assigned to an interim committee, the committee be staffed by the Legislative Services Division and, if appropriate and by request, that the interim committee also receive staff assistance from the Legislative Fiscal Division and the Legislative Audit Division.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2006.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 60th Legislature.

Adopted April 19, 2005

## HOUSE JOINT RESOLUTION NO. 43

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF THE CLASSIFICATION, VALUATION, AND TAXATION OF AGRICULTURAL LAND.

WHEREAS, the Montana Constitution requires the equalization of valuation of all property subject to taxation; and

WHEREAS, agricultural land is classified for property tax purposes according to its use that includes irrigated use, nonirrigated use, and grazing use and is further subclassified by production categories; and

WHEREAS, agricultural land is taxed based on its productive capacity; and

WHEREAS, the several classification categories and other determinants of value may result in anomalies in the equalization of value of agricultural land; and

WHEREAS, the current classification and valuation methods applied to agricultural land may be outdated and unfair; and

WHEREAS, the Department of Revenue requested legislation to revise the valuation of agricultural land; and

WHEREAS, the proposed legislation did not adequately deal with the many problems associated with the valuation of agricultural land.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff

resources to examine the current methods used for the classification and valuation of agricultural land for property tax purposes and to examine alternative methods of classification and valuation.

BE IT FURTHER RESOLVED, that participants in the study include representatives of the Department of Revenue, the Department of Agriculture, and persons and organizations knowledgeable in agriculture and agricultural economics.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded before September 15, 2006.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 60th Legislature.

Adopted April 19, 2005

#### **HOUSE JOINT RESOLUTION NO. 44**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF THE PROPERTY TAXATION OF OIL AND NATURAL GAS PROPERTY.

WHEREAS, oil and natural gas production machinery and equipment, gathering lines, and transmission lines make up a significant portion of the property tax base of many taxing units across the state; and

WHEREAS, oil and natural gas property that is located in more than one county is centrally assessed and is taxed at a higher rate than other property; and

WHEREAS, ownership patterns of oil and natural gas property have changed over the last several years; and

WHEREAS, many different entities own oil and natural gas property that is centrally assessed; and

WHEREAS, higher property taxes on this property may impede the competitive position of small producers; and

WHEREAS, several owners of oil and natural gas property have challenged the Department of Revenue's authority to centrally assess certain oil and natural gas property; and

WHEREAS, it is in the public interest to establish a balance between the financial needs of local governments and the equitable taxation of oil and natural gas property.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to study the assessment and taxation of oil and natural gas property,

with a focus on oil and natural gas property that is centrally assessed. The study should include but not be limited to:

- (1) an evaluation of the types of oil and natural gas property subject to taxation;
- (2) the ownership patterns of oil and natural gas property subject to central assessment;
- (3) an analysis of the importance of oil and natural gas property to the property tax structure of taxing jurisdictions, including the state;
- (4) a review of the Department of Revenue's assessment procedures and practices with respect to oil and natural gas property, especially property that is centrally assessed by the Department; and
- (5) an analysis of the state's policy regarding the taxation of oil and natural gas property.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded before September 15, 2006.

Adopted April 19, 2005

## HOUSE JOINT RESOLUTION NO. 45

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN APPROPRIATE INTERIM COMMITTEE TO STUDY OPTIONS FOR FUNDING MECHANISMS AND ALLOCATIONS FOR DEPLOYMENT OF A STATEWIDE WIRELESS ENHANCED 9-1-1 EMERGENCY TELEPHONE SYSTEM.

WHEREAS, current statewide enhanced 9-1-1 has saved lives across Montana; and

WHEREAS, because most public safety answering points (PSAPs) and wireless telecommunications service providers in Montana have not deployed Phase I and Phase II wireless enhanced 9-1-1 service; and

WHEREAS, it is in the best interest of all Montanans to ensure that there is adequate funding to support the deployment and ongoing delivery of enhanced 9-1-1 service to locate and rescue people who dial 9-1-1; and

WHEREAS, the 2005 Legislature, through the introduction of House Bill No. 775, attempted to authorize and distribute funding for statewide wireless enhanced 9-1-1; and

WHEREAS, the wireless service providers, PSAPs, and public safety agencies could not come to a consensus on a timely, efficient, effective, equitable, and nondiscriminatory funding and distribution mechanism for statewide enhanced 9-1-1 deployment, and as a result, House Bill No. 775 was tabled in committee; and

WHEREAS, the House Federal Relations, Energy, and Telecommunications Committee felt that given the importance of the public safety issues involved

and the lack of consensus among the interested parties regarding an appropriate funding and allocation mechanism for enhanced 9-1-1 deployment, an interim study was necessary to investigate and resolve these issues.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to study and develop legislation to address appropriate funding of enhanced 9-1-1 deployment in Montana.

BE IT FURTHER RESOLVED, that any funding mechanism developed not discriminate among PSAPs or providers of wireless enhanced 9-1-1 service on the basis of rural or urban areas served, size or type of enhanced 9-1-1 service provider, or other potentially discriminatory factors.

BE IT FURTHER RESOLVED, that a proposed fee, if any, to be imposed on end users be equitable and efficient and that this fee be based on verifiable actual costs that are not proprietary or confidential in nature and that are associated with the provision of enhanced 9-1-1 service in Montana.

BE IT FURTHER RESOLVED, that the appropriate interim committee, in consultation with all parties, including large and small wireless and wireline providers of enhanced 9-1-1 service, PSAPs, the 9-1-1 Advisory Council, the Public Safety Services Office of the Department of Administration, and other interested parties, propose legislation for consideration by the 60th Legislature of the State of Montana that establishes an appropriate level of funding, if any, and an appropriate funding mechanism by which to facilitate deployment of enhanced 9-1-1 services in Montana that conform to state and federal law.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2006.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 60th Legislature.

Adopted April 19, 2005

## House Resolutions

### HOUSE RESOLUTION NO. 1

A RESOLUTION OF THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REVISING AND ADOPTING THE HOUSE RULES.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the following rules be adopted:

**RULES OF THE MONTANA  
HOUSE OF REPRESENTATIVES**

**CHAPTER 1**

**Administration**

**H10-10. House officers.** (1) House officers include a Speaker, a Speaker pro tempore, a House Democratic Leader, a House Republican Leader, Democratic and Republican floor leaders, and Democratic and Republican whips (section 5-2-221, MCA).

(2) A majority of representatives voting elects the Speaker and Speaker pro tempore from the House membership. A majority of each caucus voting nominates House members to the remaining offices, and those nominees are considered to have been elected by a majority vote of the House.

**H10-20. Speaker's duties.** (1) The Speaker is the presiding officer of the House, with authority for administration, order, decorum, and the interpretation and enforcement of rules in all House deliberations.

(2) The Speaker shall see that all members conduct themselves in a civil manner in accordance with accepted standards of parliamentary conduct. The Speaker may, when necessary, order the Sergeant-at-Arms to clear the aisles and seat the members of the House so that business may be conducted in an orderly manner.

(3) Signs, placards, or other objects of a similar nature are not permitted in the rooms, lobby, gallery, or on the floor of the House. The Speaker may order the galleries, lobbies, or hallway cleared in case of disturbance or disorderly conduct.

(4) The Speaker shall sign all necessary certifications by the House, including enrolled bills and resolutions, journals (section 5-11-201, MCA), subpoenas, and payrolls.

(5) The Speaker shall arrange the agendas for second and third readings each legislative day after good faith consultation with the House Democratic Leader and the House Republican Leader. Representatives may amend the agendas as provided in H40-130.

(6) The Speaker is the chief officer of the House, with authority for all House employees. The Speaker may seek the advice and counsel of the Legislative Administration Committee regarding employees.

(7) The Speaker may name any member to perform the duties of the chair. If the House is not in session and the Speaker pro tempore is not available, the Speaker shall name a member who shall call the House to order and preside during the Speaker's absence.

(8) Upon request of the House Leader of the opposite party, the Speaker will submit a request for a fiscal note on any bill.

**H10-30. Speaker-elect.** During the transition period between the party organization caucuses and the election of House officers, the Speaker-elect has the responsibilities and authority appropriate to organize the House (section 5-2-202, MCA). Authority includes approving pre-session expenditures.

**H10-40. Speaker pro tempore duties.** The Speaker pro tempore shall, in the absence or inability of the Speaker, call the House to order and perform all other duties of the chair in presiding over the deliberations of the House and

shall perform other duties and exercise other responsibilities as may be assigned by the Speaker.

**H10-50. Legislative Administration Committee duties.** (1) The Legislative Administration Committee shall consider matters relating to legislative administration, staffing patterns, budgets, equipment, operations, and expenditures.

(2) The committee shall have authority to act in the interim to prepare for future legislative sessions. It may delegate specific duties to a legislative agency.

(3) The committee shall comprise the House membership of the Joint Legislative Administration Committee.

(4) The House Democratic Leader and the House Republican Leader shall meet and reach an agreement on the office space allocated to each political party. If there is no House Democratic Leader, the Speaker shall act on behalf of the Democrats.

**H10-60. Employees.** (1) The Speaker shall appoint a Chief Clerk, Sergeant-at-Arms, and Chaplain, subject to confirmation of the House (section 5-2-221, MCA).

(2) The Speaker shall recommend to the Legislative Administration Committee employment of necessary staff. All House staff hired to date will be retained.

(3) The secretary for a standing or select committee is generally responsible to the committee chair but shall work under the direction of the Chief Clerk.

(4) The Speaker and Democratic and Republican floor leaders may each appoint a private secretary.

**H10-70. Chief Clerk's duties.** The Chief Clerk, under the supervision of the Speaker, is the chief administrative officer of the House and is responsible to:

(1) supervise all House employees;

(2) have custody of all records and documents of the House;

(3) supervise the handling of legislation in the House, the House journal, and other House publications; deliver to the Secretary of State at the close of each session the House journal, bill and resolution records, and all original House bills and joint resolutions; collect minutes and exhibits from all House committees and subcommittees and arrange to have them printed on archival paper and copied in an electronic format within a reasonable time after each meeting. An electronic copy will be provided to the Legislative Services Division and the State Law Library of Montana. The archival paper copy will be delivered to the Montana Historical Society.

**H10-80. Sergeant-at-Arms duties.** The Sergeant-at-Arms shall:

(1) under the direction of the Speaker and the Chief Clerk, have charge of and maintain order in the House, its lobbies, galleries, and hallways and all other rooms in the Capitol assigned for the use of the House;

(2) be present whenever the House is in session and at any other time as directed by the presiding officer;

(3) execute the commands of the House and serve the writs and processes issued by the authority of the House and directed by the Speaker;

(4) supervise assistants to the Sergeant-at-Arms, who shall aid in the performance of prescribed duties and who have the same authority, subject to the control of the Speaker;

(5) clear the floor and anteroom of the House of all persons not entitled to the privileges of the floor prior to the convening of each session of the House;

(6) bring in absent members when so directed under a call of the House;

(7) enforce the distribution of any printed matter in the House chambers and anteroom in accordance with H20-80;

(8) enforce parking regulations applicable to areas of the Capitol complex under the control of the House;

(9) supervise the doorkeeper; and

(10) supervise the pages.

**H10-90. Legislative aides.** (1) A legislative aide is a person specifically designated by a representative to assist that representative in performing legislative duties. A representative may sponsor one legislative aide a session by written notification to the Sergeant-at-Arms.

(2) No representative may designate a second legislative aide in the same session without the approval of the House Rules Committee.

(3) A legislative aide must be of legal age unless otherwise approved by the House Rules Committee.

(4) The Sergeant-at-Arms shall issue distinctive identification tags to legislative aides. The cost must be paid by the sponsoring representative.

**H10-100. Legislative interns.** A legislative intern is a person designated under Title 5, chapter 6, MCA.

**H10-110. House journal.** (1) The House shall keep a journal, which is the official record of House actions (Montana Constitution, Art. V, Sec. 10). The journal must be prepared under the direction of the Speaker.

(2) Records of the following proceedings must be entered on the journal:

(a) the taking and subscription of the constitutional oath by representatives (Montana Constitution, Art. III, Sec. 3; 5-2-214);

(b) committee reports;

(c) messages from the Governor;

(d) messages from the Senate;

(e) every motion, the name of the representative presenting it, and its disposition;

(f) the introduction of legislation in the House;

(g) consideration of legislation subsequent to introduction;

(h) on final passage of legislation, the names of the representatives and their vote on the question (Montana Constitution, Art. V, Sec. 11);

(i) roll call votes; and

(j) upon a request by two representatives before a vote is taken, the names of the representatives and their votes on the question.

(3) The Chief Clerk shall provide to the Legislative Services Division such information as may be required for the publication of the daily journal.

(4) Any representative may examine the daily journal and propose corrections. The Speaker may direct a correction to be made when suggested subject to objection by the House.

(5) The Speaker shall authenticate the House journal after the close of the session (section 5-11-201, MCA).

(6) The Legislative Services Division shall publish and distribute the House journal (sections 5-11-202 and 5-11-203, MCA). The title of each bill must be listed in the index of the published session journal.

**H10-120. Votes recorded and public.** Every vote of each representative on each substantive question in the House, in any committee, or in Committee of the Whole must be recorded and made public (Montana Constitution, Art. V, Sec. 11).

**H10-130. Duration of legislative day.** A legislative day ends either 24 hours after the House convenes for that day or at the time the House convenes for the following legislative day, whichever is earlier.

## CHAPTER 2

### Decorum

**H20-10. Addressing the House — recognition.** (1) When a member desires to speak to or address any matter to the House, the member should rise and respectfully address the Speaker or the presiding officer.

(2) The Speaker or presiding officer may ask, “For what purpose does the member rise?” or “For what purpose does the member seek recognition?” and may then decide if recognition is to be granted. There is no appeal from the Speaker’s or presiding officer’s decision.

**H20-20. Questions of order and privilege.** (1) The Speaker shall decide all questions of order and privilege, subject to an appeal by any representative seconded by two representatives. The question on appeal is, “Shall the decision of the chairman be sustained?”

(2) Responses to parliamentary inquiries and decisions of recognition may not be appealed.

(3) Questions of order and privilege, in order of precedence, are:

(a) those affecting the collective rights, safety, dignity, and integrity of the House; and

(b) those affecting the rights, reputation, and conduct of individual representatives.

(4) A member may not address the House on a question of privilege between the time:

(a) an undebatable motion is offered and the vote is taken on the motion;

(b) the previous question is ordered and the vote is taken on the proposition included under the previous question; or

(c) a motion to lay on the table is offered and the vote is taken on the motion.

**H20-30. Limits on lobbying.** Lobbying on the House floor and in the anteroom is prohibited during a daily session, 2 hours before the session, and 2 hours after the session.

**H20-40. Admittance to the House floor.** (1) The following persons may be admitted to the House floor during a daily session: present and former

legislators; legislative employees necessary for the conduct of the session; accredited news staff; and members' spouses and children. The Speaker may allow exceptions to this rule.

(2) Only a member may sit in a member's chair when the House is in session.

**H20-50. Dilatory motions or questions.** The House has a right to protect itself from dilatory motions or questions used for the purpose of delaying or obstructing business. The presiding officer shall decide if motions (except a call of the House) or questions are dilatory. This decision may be appealed to the House.

**H20-60. Opening and order of business.** The opening of each legislative day must include an invocation, the pledge of allegiance, and roll call. Following the opening, the order of business of the House is as follows:

- (1) communications and petitions;
- (2) reports of standing committees;
- (3) reports of select committees;
- (4) messages from the Senate;
- (5) messages from the Governor;
- (6) first reading and commitment of bills;
- (7) second reading of bills;
- (8) third reading of bills;
- (9) motions;
- (10) unfinished business;
- (11) special orders of the day; and
- (12) announcement of committee meetings.

**H20-70. Lobbying by employees.** (1) A legislative employee, intern, or aide of either house is prohibited from lobbying, although a legislative committee may request testimony from a person so restricted.

(2) The Speaker or the Legislative Administration Committee may discipline or discharge any House employee violating this prohibition. The Speaker or the committee may withdraw the privileges of any House aide or intern violating this prohibition.

**H20-80. Papers distributed on desks.** A paper concerning proposed legislation may not be placed on representatives' desks unless it is authorized by a member and permission has been granted by the Speaker. The Sergeant-at-Arms shall direct its distribution.

**H20-90. Violation of rules.** (1) If a member, in speaking or otherwise, violates the rules of the House, the Speaker shall, or the Democratic or Republican floor leader may, call the member to order, in which case the member called to order must be seated immediately.

(2) The member called to order may move for an appeal to the House and if the motion is seconded by two members, the matter must be submitted to the House for determination by majority vote. The motion is nondebatable.

(3) If the decision of the House is in favor of the member called to order, the member may proceed. If the decision is against the member, the member may not proceed.

(4) If a member is called to order, the matter may be referred to the Rules Committee by the Democratic or Republican floor leader. The Committee may recommend to the House that the member be censured or be subject to other action. The House shall act upon the recommendation of the Committee.

### CHAPTER 3

#### Committees

**H30-10. House standing committees — appointments.** (1) The following are the standing committees: Agriculture; Appropriations; Business and Labor; Education; Ethics; Federal Relations, Energy, and Telecommunications; Fish, Wildlife, and Parks; Transportation; Human Services; Judiciary; Legislative Administration; Local Government; Natural Resources; Rules; State Administration; and Taxation.

(2) (a) Each standing committee must be composed of an equal number of members of each political party.

(b) There will be an equal number of committees chaired by the members of each political party.

(c) There must be two vice chairmen for each committee, one from each political party.

(d) The Democrats will chair the following standing committees: Appropriations; Business and Labor; Education; Ethics; Fish, Wildlife, and Parks; Human Services; Rules; and State Administration.

(e) The Republicans will chair the following standing committees: Agriculture; Federal Relations, Energy, and Telecommunications; Judiciary; Legislative Administration; Local Government; Natural Resources; Taxation; and Transportation.

(f) The House Democratic Leader, in consultation with the Speaker, shall appoint the Democratic committee chairmen and vice chairmen, and the House Republican Leader, in consultation with the Speaker, shall appoint the Republican committee chairmen and vice chairmen. The authority to appoint a chairman or vice chairman carries with it the power to remove that chairman or vice chairman from a committee.

(g) The members of the standing and select committees must be appointed by the House Democratic Leader and the House Republican Leader after good faith consultation with the Speaker and the other House Leader. The Speaker shall appoint a total of three members to standing committees. After the Speaker has made appointments, the Democratic House Leader and the Republican House Leader shall appoint the members of their respective parties. The authority to appoint a member carries with it the power to remove that member from a committee.

(h) There will be six subcommittees of the Committee on Appropriations. Three subcommittees will be chaired by Democratic representatives, and three subcommittees will be chaired by Republican representatives. The chairman of the Committee on Appropriations shall choose the first subcommittee chairman, and the vice chairman of the Committee on Appropriations from the other political party shall choose the second subcommittee chairman. The parties shall then alternate the selection of the remaining subcommittee chairmen.

(3) The Speaker may, in the Speaker's discretion or as authorized by the House, create and appoint select committees, designating the chairman and vice

chairman of the select committee. Select committees may request or receive legislation in the same manner as a standing committee and are subject to the rules of standing committees.

**H30-20. Chairman's duties.** (1) The principal duties of the chairman of standing or select committees are to:

- (a) preside over meetings of the committee and to put all questions;
- (b) maintain order and decide all questions of order subject to appeal to the committee;
- (c) supervise and direct staff of the committee;
- (d) have the committee secretary keep the official record of the minutes;
- (e) sign reports of the committee and submit them promptly to the Chief Clerk;
- (f) appoint subcommittees to perform on a formal or an informal basis as provided in subsection (2); and
- (g) inform the Speaker of committee activity.

(2) With the exception of the House Appropriations subcommittees, a subcommittee of a standing committee may be appointed by the chairman of the committee. A subcommittee must be composed of an equal number of members from each political party. The chairman of the standing committee shall appoint the chairman of the subcommittee.

**H30-30. Quorum — officers as members.** (1) A quorum of a committee is a majority of the members of the committee. A quorum of a committee must be present at a meeting to act officially. A quorum of a committee may transact business, and a majority of the quorum, even though it is a minority of the committee, is sufficient for committee action.

(2) The Speaker, the House Democratic Leader, the House Republican Leader, the Democratic floor leader, and the Republican floor leader are ex officio, nonvoting members of all House committees. They may count toward establishing a quorum.

**H30-40. Meetings.** (1) All meetings of committees must be open to the public at all times, subject always to the power and authority of the chairman to maintain safety, order, and decorum. The date, time, and place of committee meetings must be posted.

- (2) A committee or subcommittee may be assembled for:
- (a) a public hearing at which testimony is to be heard and at which official action may be taken on bills, resolutions, or other matters;
  - (b) a formal meeting at which the committees may discuss and take official action on bills, resolutions, or other matters without testimony; or
  - (c) a work session at which the committee may discuss bills, resolutions, or other matters but take no formal action.

(3) All committees meet at the call of the chairman or upon the request of a majority of the members of the committee directed to and with the approval of the Speaker.

(4) All committees shall provide for and give public notice, reasonably calculated to give actual notice to interested persons, of the time, place, and subject matter of regular and special meetings. All committees are encouraged to provide at least 3 legislative days notice to members of committees and the

general public. However, a meeting may be held upon notice appropriate to the circumstances.

(5) A committee may not meet during the time the House is in session without leave of the Speaker. Any member attending such a meeting must be considered excused to attend business of the House subject to a call of the House.

(6) All meetings of committees must be recorded and the minutes must be available to the public within a reasonable time after the meeting. The official record must contain at least the following information:

- (a) the time and place of each meeting of the committee;
- (b) committee members present, excused, or absent;
- (c) the names and addresses of persons appearing before the committee, whom each represents, and whether the person is a proponent, opponent, or other witness;
- (d) all motions and their disposition;
- (e) the results of all votes;
- (f) references to the recording log, sufficient to serve as an index to the original recording; and
- (g) testimony and exhibits submitted in writing.

**H30-50. Procedures.** (1) The chairman shall notify the sponsor of any bill pending before the committee of the time and place it will be considered.

(2) A standing or select committee may not take up referred legislation unless the sponsor or one of the cosponsors is present or unless the sponsor has given written consent.

- (3) The committee shall act on each bill in its possession:
- (a) by reporting the bill out of the committee:
    - (i) with the recommendation that it be referred to another committee;
    - (ii) favorably as to passage; or
    - (iii) unfavorably; or
  - (b) by tabling the measure in committee.

(4) The committee may not report a bill to the House without recommendation. Except as provided in subsection (5), a tie vote in a standing committee on the question of a recommendation to the whole House on a matter before the committee, for example on a question of whether a bill "do pass" or "do not pass", does not result in the matter passing out to the whole House for consideration without recommendation.

(5) Each political party is entitled to choose 12 bills on which a tie vote in committee will result in the matter passing out of committee to the whole House without recommendation. The bills must be chosen by the House Democratic Leader for the Democratic party and the House Republican Leader for the Republican party. The House Democratic Leader and the House Republican Leader may agree in writing to increase the number of bills on which a tie vote in committee will result in the matter passing out of committee to the whole House without recommendation.

(6) The committee may recommend that a bill on which it has made a favorable recommendation by unanimous vote be placed on the consent calendar.

(7) In reporting a measure out of committee, a committee shall include in its report:

- (a) the measure in the form reported out;
- (b) the recommendation of the committee;
- (c) an identification of all substantive changes; and
- (d) a fiscal note, if required.

(8) If a measure is withdrawn from a committee and brought to the House floor for debate on second reading on that day without a committee recommendation, the bill does not include amendments formally adopted by the committee.

(9) A second to any motion offered in a committee is not required in order for the motion to be considered by the committee.

(10) The vote of each member on all committee actions must be recorded. All motions may be adopted only on the affirmative vote of a majority of the members voting.

(11) A motion to take a bill from the table may be adopted by the affirmative vote of a majority of the members present at any meeting of the committee.

(12) An action formally taken by a committee may not be altered in the committee except by reconsideration and further formal action of the committee.

(13) A committee may reconsider any action as long as the matter remains in the possession of the committee. A committee member need not have voted with the prevailing side in order to move reconsideration.

(14) Any legislation requested by a committee requires three-fourths of all members of the committee to vote in favor of the question to allow the committee to request the drafting or introduction of legislation. Votes requesting drafting and introduction of committee legislation may be taken jointly or separately.

(15) The chairman shall decide points of order.

(16) The privileges of committee members include the following:

- (a) to participate freely in committee discussions and debate;
- (b) to offer motions;
- (c) to assert points of order and privilege;
- (d) to question witnesses upon recognition by the chairman;
- (e) to offer any amendment to any bill; and

(f) to vote, either by being present or by proxy, using a standard form or through the vice chairman or minority vice chairman.

(17) Any meeting of a committee held through the use of telephone or other electronic communication must be conducted in accordance with Chapter 3 of the House Rules.

(18) A committee may consolidate into one bill any two or more related bills referred to it whenever legislation may be simplified by the consolidation.

(19) Committee procedure must be informal, but when any questions arise on committee procedure, the rules or practices of the House are applicable except as stated in the House Rules.

**H30-60. Public testimony.** (1) Testimony from proponents, opponents, and informational witnesses must be allowed on every bill or resolution before a standing or select committee. All persons, other than the sponsor, offering testimony shall complete a "Witness Form" and submit it to the committee secretary.

(2) Any person wishing to offer testimony to a committee hearing a bill or resolution must be given a reasonable opportunity to do so, orally or in writing. Written testimony may not be required of any witness, but all witnesses must be encouraged to submit a statement in writing for the committee's official record.

(3) The chairman may order the committee room cleared of visitors if there is disorderly conduct. During committee meetings, visitors may not speak unless called upon by the chairman. Restrictions on time available for testimony may be announced.

(4) The number of people in a committee room may not exceed the maximum posted by the State Fire Marshal. The chairman shall maintain that limit.

(5) In any committee meeting, the use of cameras, television, radio, or any form of telecommunication equipment is allowed, but the chairman may designate the areas of the hearing room from which the equipment must be operated.

## CHAPTER 4

### Legislation

**H40-10. Introduction deadlines.** If a representative accepts drafted legislation from the Legislative Services Division after the deadline for preintroduction, the representative may not introduce that legislation after 2 legislative days from the time the bill was accepted from the Legislative Services Division.

**H40-20. House resolutions.** (1) A House resolution is used to adopt or amend House rules, make recommendations on the districting and apportionment plan (Montana Constitution, Art. V, Sec. 14), express the sentiment of the House, or assist House operations.

(2) As to drafting, introduction, and referral, a House resolution is treated as a bill. A House resolution may be requested and introduced at any time. Final passage of a House resolution is determined by the Committee of the Whole report. A House resolution does not progress to third reading.

(3) The Chief Clerk shall transmit a copy of each passed House resolution to the Senate and the Secretary of State.

**H40-30. Cosponsors.** (1) Prior to submitting legislation to the Chief Clerk for introduction, the chief sponsor may add representatives and senators as cosponsors by having them sign the legislation.

(2) After legislation is submitted for introduction but before the legislation returns from the first House committee, the chief sponsor may add or remove cosponsors by filing a cosponsor form with the Chief Clerk. This filing must be noted by the Chief Clerk for the record on Order of Business No. 11.

**H40-40. Introduction — receipt.** (1) During a session, proposed House legislation may be introduced in the House by submitting it, endorsed with the signature of a representative as chief sponsor, to the Chief Clerk for introduction. Except for the first 15 bill numbers that may be reserved for preintroduced legislation, in each session of the Legislature, the proposed

legislation must be numbered consecutively by type in the order of receipt. Submission and numbering of properly endorsed legislation constitutes introduction.

(2) Preintroduction of legislation prior to a session under provisions of the joint rules constitutes introduction in the House.

(3) Acknowledgment by the Chief Clerk of receipt of legislation or other matters transmitted from the Senate for consideration by the House constitutes introduction of the Senate legislation in the House or receipt by the House for purposes of applying time limits contained in the House rules. All legislation may be referred to a committee prior to being read across the rostrum as provided in H40-50.

(4) Acknowledgment by the Chief Clerk of receipt of messages from the Senate or other elected officials constitutes receipt by the House for purposes of any applicable time limit. Senate legislation or messages received from the Senate or elected officials are subject to all other rules.

**H40-50. First reading.** Legislation properly introduced or received in the House must be announced across the rostrum and public notice provided. This announcement constitutes first reading, and no debate or motion is in order except that a representative may question adherence to rules. Acknowledgment by the Chief Clerk of receipt of legislation transmitted from the Senate commences the time limit for consideration of the legislation. All legislation received by the House may be referred to a committee prior to being read across the rostrum.

**H40-60. One reading per day.** Except on the final legislative day, legislation may receive no more than one reading per legislative day. On the final legislative day, legislation may receive more than one reading.

**H40-70. Referral.** (1) If the Speaker is not the elected leader of the Democratic caucus, the Rules Committee shall establish the jurisdiction of each standing committee and all properly introduced House legislation and transmitted Senate legislation must be referred to a House committee, joint select committee, or joint special committee by the Chief Clerk of the House in conformity to the committee jurisdiction. The assignment of a bill to a committee may be appealed to the Rules Committee by either House Leader. If the Rules Committee does not reassign a bill to another committee, the original assignment may not be changed unless accomplished by motion on the House floor.

(2) Legislation may not receive final passage and approval unless it has been referred to a House committee, joint select committee, or joint special committee.

**H40-80. Rereferral — normal progression.** (1) Except as provided in subsection (2), legislation that is in the possession of the House and that has not been finally disposed of may be rereferred to a House committee by House motion approved by not less than three-fifths of the members present and voting.

(2) Legislation that is in the possession of the House and that has been reported from a committee with a do pass or be concurred in recommendation may be rereferred to a House committee by a majority vote.

(3) The normal progress of legislation through the House consists of the following steps in the order listed: introduction; referral to a standing or select committee; a report from the committee; second reading; and third reading.

**H40-90. Legislation withdrawn from committee.** Legislation may be withdrawn from a House committee by House motion approved by not less than three-fifths of the members present and voting.

**H40-100. Standing committee reports.** (1) Subject to H30-50(5), a House standing committee recommendation of “do pass” or “be concurred in” must be announced across the rostrum and, if there is no objection to form, is considered adopted.

(2) A recommendation of “do not pass” or “be not concurred in” must be announced across the rostrum and, on the following legislative day, may be debated and adopted or rejected on Order of Business No. 2. A motion to reject an adverse committee report must be approved by not less than three-fifths of the members voting. Failure to adopt a motion to reject an adverse committee report constitutes adoption of the report.

(3) If the House rejects an adverse committee report, the bill progresses to second reading, as scheduled by the Speaker, with any amendments recommended by the committee.

**H40-110. Consent calendar procedure.** (1) Noncontroversial bills and simple and joint resolutions may be recommended for the consent calendar by a standing committee and processed according to the following provisions:

(a) To be eligible for the consent calendar, the legislation must receive a unanimous vote by the members of the standing committee in attendance (do pass, do pass as amended). In addition, a motion must be made and passed unanimously to place the legislation on the consent calendar and this action reflected in the committee report. Appropriation or revenue bills may not be recommended for the consent calendar.

(b) The legislation must then be sent to be processed and reproduced as a third reading version and specifically marked as a “consent calendar” item.

(2) Other legislation may be placed on the consent calendar by agreement between the Speaker and the Republican floor leader following a positive recommendation by a standing committee. The legislation must be sent to be processed as a second reading version but must be specifically announced and posted as a “consent calendar” item.

(3) Legislation must be posted immediately (as soon as it is received appropriately printed) on the consent calendar and must remain there for 1 legislative day before consideration under Order of Business No. 11, special orders of the day. At that time, the presiding officer shall announce consideration of the consent calendar and allow “reasonable time” for questions and answers upon request. No debate is allowed.

(4) If any one representative submits a written objection to the placement of legislation on the consent calendar, the legislation must be removed from the consent calendar and added to the regular second reading board.

(5) Consent calendar legislation will be considered on Order of Business No. 8, third reading of bills, following the regular third reading agenda, as separately noted on the agenda.

(6) Legislation on the consent calendar must be considered individually with the roll call vote spread on the journal as the final vote in the House.

(7) Legislation passed on the consent calendar must then be transmitted to the Senate. Legislation must be appropriately printed prior to transmittal.

**H40-120. Legislation requiring other than a majority vote.** Legislation that requires other than a majority vote for final passage needs only a majority vote for any action that is taken prior to third reading and that normally requires a majority vote.

**H40-130. Amending House second and third reading agendas.** (1) A majority of representatives present may rearrange or remove legislation from either the second or third reading agenda on that legislative day.

(2) Legislation may be added to the second or third reading agenda on that legislative day on a motion approved by not less than three-fifths of the members present and voting.

**H40-140. Second reading.** (1) Legislation returned from committee may be placed on second reading unless otherwise ordered by the House.

(2) The House shall form itself into a Committee of the Whole to consider business on second reading. The Committee of the Whole may debate legislation, attach amendments, and recommend approval or disapproval of legislation.

(3) Except on the final legislative day, at least 1 legislative day must elapse between the time legislation is reported from committee and the time it is considered on second reading.

(4) If a motion to recommend that a bill “do pass” or “be concurred in” fails in the Committee of the Whole, the obverse, i.e., a recommendation that the bill “do not pass” or “be not concurred in”, is considered to have passed. If a motion to recommend that a bill “do not pass” or “be not concurred in” fails in the Committee of the Whole, the obverse, i.e., a recommendation that the bill “do pass” or “be concurred in”, is considered to have passed.

(5) An amendment attached to legislation by the Committee of the Whole remains unless removed by further legislative action.

(6) When the Committee of the Whole reports to the House, the House shall adopt or reject the Committee of the Whole report. If the House rejects the Committee of the Whole report, the legislation remains on second reading, as amended by the Committee of the Whole, unless the House orders otherwise.

(7) A representative may move to segregate legislation from the Committee of the Whole report before the report is adopted. Segregated legislation, as amended by the Committee of the Whole, must be placed on second reading unless the House orders otherwise. Amendments adopted by the Committee of the Whole on segregated legislation remain adopted unless reconsidered or unless the legislation is rereferred to a committee.

**H40-150. Amendments in the Committee of the Whole.** (1) All Committee of the Whole amendments must be checked by the House amendments coordinator for format, style, clarity, consistency, and other factors, in accordance with the most recent Bill Drafting Manual published by the Legislative Services Division, before the amendment may be accepted at the rostrum. The amendment form must include the date and time the amendment is submitted for that check.

(2) An amendment submitted to the rostrum for consideration by the Committee of the Whole must be marked as checked by the amendments coordinator and signed by a representative. Unless the Democratic floor leader, the Republican floor leader, and sponsor agree, amendments must be printed and placed on the members’ desks prior to consideration.

(3) An amendment may not be proposed until the sponsor has opened on a bill.

(4) A copy of every amendment rejected by the Committee of the Whole must be kept as part of the official records.

(5) An amendment may not change the original purpose of the bill.

**H40-160. Motions in the Committee of the Whole.** (1) When the House resolves itself into a Committee of the Whole, the only motions in order are to:

(a) amend;

(b) recommend passage or nonpassage;

(c) recommend concurrence or nonconcurrence;

(d) reconsider;

(e) pass consideration;

(f) call for cloture;

(g) rise, rise and report, or rise and report progress and beg leave to sit again; and

(h) to change the order in which legislation is placed on the agenda.

(2) Subsections (1)(d) through (1)(g) are nondebatable but may be amended. Once a motion under subsection (1)(b) or (1)(c) is made, a contrary motion is not in order.

(3) If a quorum of representatives is not present during second reading, the Committee of the Whole may conduct no business on legislation and a motion for a call of the House without a quorum is in order.

**H40-170. Limits on debate in the Committee of the Whole.** (1) A representative may not speak more than once on the motion and may speak for no more than 5 minutes. The representative who makes the motion may speak a second time for 5 minutes in order to close.

(2) After at least two proponents and two opponents have spoken on a question and 30 minutes have elapsed, a motion to call for cloture is in order. Approval by not less than two-thirds of the members present and voting is required to sustain a motion for cloture. Notwithstanding the passage of a motion to end debate, the sponsor of the motion on which debate was ended may close.

(3) By previous agreement of the Democratic floor leader and the Republican floor leader:

(a) a lead proponent and a lead opponent may be granted additional time to speak on a bill;

(b) a bill or resolution may be allocated a predetermined amount of time for debate and number of speakers.

**H40-180. Special provisions for debate on the general appropriations bill.** (1) The Appropriations Committee chairman, in presenting the bill, is not subject to the 5-minute speaking limitation.

(2) Each appropriations subcommittee chairman shall fully present the chairman's portion of the bill. A subcommittee chairman is not subject to the 5-minute speaking limitation.

(3) After the presentation by the subcommittee chairman, the respective section of the bill is open for debate, questions, and amendments. A proposed amendment to the general appropriations act may not be divided.

(4) An amendment that affects more than one section of the bill must be offered when the first section affected is considered.

(5) Following completion of the debate on each section, that section is closed and may not be reopened except by majority vote.

(6) If a member moves to reopen a section for amendment, only the amendment of that member may be entertained. Another member wishing to amend the same section shall make a separate motion to reopen the section.

(7) Debate on the motion to reopen a section is limited to the question of reopening the section. The amendment itself may not be debated at that time. This limitation does not prohibit the member from explaining the amendment to be considered.

(8) A motion for cloture is not in order during debate on the general appropriations bill.

**H40-190. Engrossing.** (1) After legislation is passed on second reading, it must be engrossed within 48 hours under the direction of the Speaker. The Speaker may grant additional time for engrossing.

(2) When the legislation that has passed second reading, as amended, has been correctly engrossed, it may be placed on third reading on the following legislative day. If the bill is not amended, the bill must be sent to printing. On the final legislative day, the correctly engrossed legislation may be placed on third reading on the same legislative day. For the purposes of this rule, "engrossing" means placing amendments in a bill.

**H40-200. Third reading.** (1) All bills, joint resolutions, and Senate amendments to House bills and joint resolutions passing second reading must be placed on third reading the day following the receipt of the engrossing or other appropriate printing report.

(2) Legislation on third reading may not be amended or debated.

(3) The Speaker shall state the question on legislation on third reading. If a majority of the representatives voting does not approve the legislation, it fails to pass third reading.

**H40-210. Senate legislation in the House.** Senate legislation properly transmitted to the House must be treated as House legislation.

**H40-220. Senate amendments to House legislation.** (1) When the Senate has properly returned House legislation with Senate amendments, the House shall announce the amendments on Order of Business No. 4, and the Speaker shall place them on second reading for debate. The Speaker may rerefer House legislation with Senate amendments to a committee for a hearing if the Senate amendments constitute a significant change in the House legislation. The second reading vote is limited to consideration of the Senate amendments.

(2) If the House accepts Senate amendments, the House shall place the final form of the legislation on third reading to determine if the legislation, as amended, is passed or if the required vote is obtained.

(3) If the House rejects the Senate amendments, the House may request the Senate to recede from its amendments or may direct appointment of a conference committee and request the Senate to appoint a like committee.

(4) Conference committees must be composed of an equal number of members from each political party. The members of conference committees must be appointed by the House Democratic Leader and the House Republican Leader after good faith consultation. Each leader shall appoint the members of the leader's respective party. If there is no House Democratic Leader, then the Speaker shall appoint the members.

**H40-230. Conference committee reports.** (1) When a House conference committee files a report, the report must be announced under Order of Business No. 3. A tie vote in a conference committee on the question of a recommendation to the whole House on a matter referred for a conference results in the matter passing out to the whole House for consideration without recommendation.

(2) The House may debate and adopt or reject the conference committee report on second reading on any legislative day. The House may reconsider its action in rejecting a conference committee report under rules for reconsideration, H50-160.

(3) If both the House and the Senate adopt the same conference committee report on legislation requiring more than a majority vote for final passage, the House, following approval of the conference committee report on third reading, shall place the final form of the legislation on third reading to determine if the required vote is obtained.

(4) If the House rejects a conference committee report, the committee continues to exist unless dissolved by the Speaker or by motion. The committee may file a subsequent report.

(5) A House conference committee may confer regarding matters assigned to it with any Senate conference committee with like jurisdiction and submit recommendations for consideration of the House.

**H40-240. Enrolling.** (1) When House legislation has passed both houses, it must be enrolled within 48 hours under the direction of the Speaker. The Speaker may grant additional time for enrolling.

(2) The chief sponsor of the legislation shall examine the enrolled legislation and, if it has no enrolling errors, shall, within 1 legislative day, certify the legislation as correctly enrolled.

(3) The correctly enrolled legislation must be delivered to the Speaker, who shall sign the legislation.

(4) After the legislation has been reported correctly enrolled but before it is signed, any representative may examine the legislation.

**H40-250. Governor's amendments.** (1) When the Governor returns a bill with recommended amendments, the House shall announce the amendments under Order of Business No. 5.

(2) The House may debate and adopt or reject the Governor's recommended amendments on second reading on any legislative day.

(3) If both the House and the Senate accept the Governor's recommended amendments on a bill that requires more than a majority vote for final passage, the House shall place the final form of the legislation on third reading to determine if the required vote is obtained.

**H40-260. Governor's veto.** (1) When the Governor returns a bill with a veto, the House shall announce the veto under Order of Business No. 5.

(2) On any legislative day, a representative may move to override the Governor's veto by a two-thirds vote under Order of Business No. 9.

**CHAPTER 5****Floor Actions**

**H50-10. Attendance.** (1) A representative, unless excused, is required to be present at every sitting of the House.

(2) A representative may request in writing to be excused for a specified cause by the representative's party leader. This excused absence is not a leave with cause from a call of the House.

**H50-20. Quorum.** (1) A quorum of the House is fifty-one representatives (Montana Constitution, Art. V, Sec. 10).

(2) Any representative may question the lack of a quorum at any time a vote is not being taken. The question is nondebatable, may not be amended, and is resolved by a roll call.

(3) The House may conduct no business without a quorum, except that representatives present may convene, compel the attendance of absent representatives, or adjourn.

**H50-30. Call of the House without a quorum.** (1) In the absence of a quorum, a majority of the representatives present may compel the attendance of absent representatives through a call of the House without a quorum. The motion for the call is nondebatable, may not be amended, and is in order at any time it has been established that a quorum is not present.

(2) During a call of the House, all business is suspended. No motion is in order except a motion to adjourn or to remove the call.

(3) When a quorum has been achieved under the call, the call is automatically lifted. The call may also be lifted by adjournment or by two-thirds of the representatives present and voting.

**H50-40. Call of the House with a quorum.** (1) If a quorum is present but at least one representative is excused or absent, one-third of the representatives present and voting may order a call of the House with a quorum.

(2) The motion for a call is nondebatable, may not be amended, and is in order at any time a vote is not being taken, except that a call of the House with a quorum is not allowed in the Committee of the Whole.

(3) During a call of the House, all business is suspended. No motion is in order except a motion to adjourn or to remove the call.

(4) When all representatives are present, except those on leave with cause, the call is automatically lifted. The call may also be lifted by adjournment or by two-thirds of the representatives present and voting.

**H50-50. Leave with cause.** (1) During a call of the House, a representative with an overriding medical or personal reason may request a leave with cause.

(2) If the representative is present at the time of the call, the Speaker may approve a request for a leave with cause.

(3) If the representative is not present at the time of the call, two-thirds of the representatives present and voting may approve a request for leave with cause.

(4) During a call of the House, a representative on leave with cause may not cast an absentee vote.

**H50-60. Motions.** (1) Any representative may propose a motion allowed by the rules for the order of business under which the motion is offered for the

consideration of the House. Unless otherwise specified in rule or law, a majority of representatives voting is necessary and sufficient to decide a motion.

(2) Seconds to motions on the House floor are not required.

(3) Absentee votes are not allowed on votes that are specified as “representatives present and voting”.

(4) The floor leader of the party of the Speaker shall make routine procedural motions required to conduct the business of the House.

**H50-70. Limits on debate of debatable motions.** (1) Except for the representative who places a debatable motion before the body, no representative may speak more than once on the question unless a unanimous House consents. The representative who places the motion may close.

(2) No representative may speak for more than 10 minutes on the same question, except that a representative may have 5 minutes to close.

**H50-80. Nondebatable motions.** (1) A representative has the right to understand any question before the House and, usually under the administration of the presiding officer, may ask questions to exercise this right.

(2) The following motions are nondebatable:

(a) to adjourn;

(b) for a call of the House;

(c) to recess or rise;

(d) for parliamentary inquiry;

(e) to table or take from the table;

(f) to call for the previous question or cloture;

(g) to amend a nondebatable motion;

(h) to divide a question;

(i) to postpone consideration to a day certain;

(j) to suspend the rules;

(k) all incidental motions, such as motions relating to voting or of a general procedural nature; and

(l) to appeal a call to order.

**H50-90. Questions.** A representative may, through the presiding officer, ask questions of another representative during a floor session. There is no limit on questions and answers, except as provided in H20-50.

**H50-100. Amending motions — limitations.** (1) A representative may move to amend the specific provisions of a motion without changing its substance.

(2) No more than one motion to amend a motion is in order at any one time.

(3) A motion for a call of the House, for the previous question, to table, or to take from the table may not be amended.

**H50-110. Substitute motions.** (1) When a question is before the House, no substitute motion may be made except the following, which have precedence in the order listed:

(a) to adjourn;

(b) for a call of the House;

- (c) to recess or rise;
- (d) for a question of privilege;
- (e) to table;
- (f) to call for the previous question or cloture;
- (g) to postpone consideration to a day certain;
- (h) to refer to a committee; and
- (i) to propose amendments.

(2) Nothing in this section allows a motion that would not otherwise be allowed under a particular order of business.

(3) (a) Except as provided in subsection (3)(b), no more than one substitute motion is in order at any one time.

(b) A motion for cloture is in order on a substitute motion to amend.

**H50-120. Withdrawing motions.** A representative who proposes a motion may withdraw it before it is voted on or amended.

**H50-130. Dividing a question.** Except as provided in H40-180, a representative may request to divide a question as a matter of right if it includes two or more propositions so distinct that they can be separated and if at least one substantive question remains after one substantive question is removed.

**H50-140. Previous question.** (1) If a majority of representatives present and voting adopts a motion for the previous question, debate is closed on the question and it must be brought to a vote. The Speaker may not entertain a motion to end debate unless at least one proponent and one opponent have spoken on the question.

(2) Notwithstanding the passage of a motion to end debate, the sponsor of the motion on which debate was ended may close.

**H50-150. Questions requiring other than a majority vote.** The following questions require the vote specified for each condition:

100 House Members

(1) a motion to approve a bill to appropriate the principal of the tobacco settlement trust fund (two-thirds);

(2) a motion to approve a bill to appropriate the principal of the coal severance tax trust fund (three-fourths);

(3) a motion to approve a bill to appropriate highway revenue, as described in Article VIII, section 6, of the Montana Constitution, for purposes other than therein described (three-fifths);

(4) a motion to approve a bill to authorize creation of state debt (two-thirds);

(5) a motion to temporarily suspend a joint rule governing the procedure for handling bills (two-thirds).

Members Present and Voting

(1) a motion to override the Governor's veto (two-thirds);

(2) a call of the House with a quorum (one-third);

(3) a motion to lift a call of the House (two-thirds);

(4) a motion to rerefer a bill from one committee to another pursuant to Rule 40-80(1) (three-fifths);

(5) a motion to withdraw a bill from a committee (three-fifths);

(6) a motion to add legislation to the second or third reading agenda (three-fifths);

(7) a motion to remove legislation from its normal progress through the House as provided under H40-80(3) and reassign it unless otherwise specifically provided by these rules, such as H40-80(2) (three-fifths);

(8) a motion to change a vote (unanimous);

(9) a motion to call for cloture (two-thirds);

(10) a motion to take from the table in Committee of the Whole (three-fifths).

#### Members Voting

(1) a motion to amend or suspend rules (two-thirds);

(2) a motion to overturn an adverse committee report (three-fifths);

(3) a motion to record a vote (one representative);

(4) a motion to spread a vote on the journal (two representatives);

(5) an appeal of the ruling of the presiding officer (three representatives);

(6) a motion to speak more than once on a debatable motion (unanimous vote);

(7) a motion to appeal the presiding officer's interpretation of the rules to the House Rules Committee (15 representatives).

#### Entire Legislature

(1) a motion to approve a bill proposing to amend the Montana Constitution (two-thirds of the entire Legislature).

**H50-160. Reconsideration.** (1) Any representative may, within 1 legislative day of a vote, move to reconsider the House vote on any matter still within the control of the House.

(2) A motion for reconsideration, unless tabled or replaced by a substitute motion, must be disposed of when made.

(3) When a motion for reconsideration fails, the question is finally settled. A motion for reconsideration may not be renewed or reconsidered.

(4) A motion to recall legislation from the Senate constitutes a motion to reconsider and is subject to the same rules.

(5) A motion for reconsideration is not in order on a vote to postpone to a day certain or to table legislation.

(6) There may be only one reconsideration vote on a specific issue on a legislative day.

**H50-170. Renewing procedural motions.** The House may renew a procedural motion if further House business has intervened.

**H50-180. Tabling.** (1) Under Order of Business No. 9, a representative may move to table any question, motion, or legislation before the House except the question of a quorum or a call of the House. The motion is nondebatable and may not be amended.

(2) When a matter has been tabled, a representative may move to take it from the table under Order of Business No. 9 on any legislative day.

**H50-190. Voting.** (1) The representatives shall vote to decide any motion or question properly before the House. Each representative has one vote.

(2) The House may, without objection, use a voice vote on procedural motions that are not required to be recorded in the journal. If a representative rises and objects, the House shall record the vote.

(3) The House shall record the vote on all substantive questions. If the voting system is inoperable, the Chief Clerk shall record the representatives' votes by other means.

(4) A member who is present shall vote unless the member has disclosed a conflict of interest to the House.

**H50-200. Changing a vote.** (1) A representative may move to change the representative's vote within 1 legislative day of the vote. The motion is nondebatable. The motion must be made on Order of Business No. 9, motions. All of the members present and voting are required to consent to the change in order for it to be effective.

(2) The representative making the motion shall first specify the bill number, the question, and the original vote tally. A vote may not be changed if it would affect the outcome of legislation.

(3) A vote change must be entered into the journal as a notation that the member's vote was changed. The original printed vote will not be reprinted to reflect the change.

(4) An error caused by a malfunction of the voting system may be corrected without a vote.

**H50-210. Absentee votes.** (1) An excused representative may file an absentee vote authorization form to vote during the excused absence on any vote for which absentee voting is allowed.

(2) An excused representative shall sign an absentee vote authorization form that specifies the motion and the desired vote.

(3) The absentee vote authorization form must be handed in at the rostrum by the party whip or designated representative before voting on the motion has commenced.

(4) The absentee vote authorization may be revoked before the vote by the member who signed the authorization.

(5) Absentee voting is not allowed on third reading.

**H50-220. Recess.** The House may stand at ease or recess under any order of business by order of the Speaker or a majority vote. The recess may be ended at the call of the chair or at a time specified.

**H50-230. Adjournment for a legislative day.** (1) A representative may move that the House adjourn for that legislative day. The motion is nondebatable and may be made under any order of business except Order of Business No. 7.

(2) A motion to adjourn for a legislative day must specify a date and time for the House to convene on the subsequent legislative day.

**H50-240. Adjournment sine die.** A representative may move that the House adjourn for the session. The motion is nondebatable and may be made under any order of business except Order of Business No. 7.

**CHAPTER 6****Motions**

**H60-10. Proposal for consideration.** (1) Every question presented to the House or a committee must be submitted as a definite proposition.

(2) A representative has the right to understand any question before the House and, under the authority of the presiding officer, may ask questions to exercise this right.

**H60-20. Nondebatable motions.** The following motions, in addition to any other motion specifically designated, must be decided without debate:

- (1) to adjourn;
- (2) for a call of the House;
- (3) to recess or rise;
- (4) for parliamentary inquiry;
- (5) to table or to take from the table;
- (6) to call for the previous question or for cloture;
- (7) to amend a nondebatable motion;
- (8) to divide a question;
- (9) to postpone consideration to a day certain;
- (10) to suspend the rules; and

(11) all incidental motions, such as motions relating to voting or of a general procedural nature.

**H60-30. Motions allowed during debate.** (1) When a question is under debate, only the following motions are in order. The motions have precedence in the following order:

- (a) to adjourn;
- (b) for a call of the House;
- (c) to recess or rise;
- (d) for a question of privilege;
- (e) to table or take from the table;
- (f) to call for the previous question or cloture;
- (g) to postpone consideration to a day certain;
- (h) to refer or rerefer; and
- (i) to propose amendments.

(2) This section does not allow a motion that would not otherwise be allowed under a particular order of business.

(3) Only one substitute motion is in order at any time.

**H60-40. Motions to adjourn or recess.** (1) A motion to adjourn or recess is always in order, except:

- (a) when the House is voting on another motion;
- (b) when the previous question has been ordered and before the final vote;
- (c) when a member entitled to the floor has not yielded for that purpose; or

(d) when business has not been transacted after the defeat of a motion to adjourn or recess.

(2) The vote by which a motion to adjourn or recess is carried or fails is not subject to a motion to reconsider.

**H60-50. Motion to table.** (1) A motion to table, if carried, has the effect of postponing action on the proposition to which it was applied until superseded by a motion to take from the table.

(2) The vote by which a motion to table is carried or fails cannot be reconsidered.

(3) A motion to table is not in order after the previous question has been ordered.

**H60-60. Motion to postpone.** A motion to postpone to a day certain may be amended and is debatable within narrow limits. The merits of the proposition that is the subject of the motion to postpone may not be debated.

**H60-70. Motion to refer.** When a motion is made to refer a subject to a standing committee or select committee, the question on the referral to a standing committee must be put first.

**H60-80. Terms of debate on motion to refer or rerefer.** (1) A motion to refer or rerefer is debatable within narrow limits. The merits of the proposition that is the subject of the motion may not be debated.

(2) A motion to refer or rerefer with instructions is fully debatable.

**H60-100. Moving the previous question after a motion to table.** (1) If a motion to table is made directly to a main motion, a motion for the previous question is not in order.

(2) If an amendment to a main motion is pending and a motion to table is made, the previous question may be called on the main motion, the pending amendment, and the motion to table the amendment.

**H60-110. Standard motions.** The following are standard motions:

(1) moving House bills or resolutions on second reading, "Mister/Madam Chairman, I move that when this committee does rise and report after having under consideration House Bill \_\_\_\_, that it recommend the same (do pass)/(do pass as amended)/(do not pass)."

(2) moving Senate bills and Senate amendments to House bills, "Mister/Madam Chairman, I move that when this committee does rise and report after having under consideration Senate Bill \_\_\_\_/Senate amendments to House Bill \_\_\_\_, that it recommend the same (be concurred in)/(be not concurred in)."

(3) Committee of the Whole floor amendments, "Mister/Madam Chairman, I move that House Bill \_\_\_\_/Senate Bill \_\_\_\_ be amended and request that the amendment be posted and deemed read."

(4) introducing visitors, "Mister/Madam Speaker/Chairman, I request that we be off the record and out of the journal."

(5) changing a vote, "Mister Speaker, I would like my vote changed on House Bill \_\_\_\_/Senate Bill \_\_\_\_ from (yes/no) to (yes/no). The question on the bill was ( ) with a vote tally of \_\_\_\_ for and \_\_\_\_ against."

(6) question another representative, "Mister/Madam Speaker/Chairman, would Representative \_\_\_\_ yield to a question?"

**CHAPTER 7****Rules**

**H70-10. House rules.** (1) The House may adopt, through a House resolution passed by a majority of its members, rules to govern its proceedings.

(2) After adoption of the House rules, two-thirds of the representatives voting must vote in favor of the question to amend the rules.

(3) The Speaker shall refer to the House Rules Committee all resolutions for House rules.

(4) The House Rules Committee shall report all resolutions for House rules within 1 legislative day of referral.

**H70-20. Tenure of rules.** Rules adopted by the House remain in effect until removed by House resolution or until a new House is elected and takes office.

**H70-30. Suspension of rules.** The House may suspend a House rule on a motion approved by not less than two-thirds of the members voting.

**H70-40. Supplementary rules.** Mason's Manual of Legislative Procedure (2000) governs House proceedings in all cases not covered by House rules.

**H70-50. Interpreting rules.** The Speaker shall interpret all questions on House rules, subject to appeal by any 15 representatives to the House Rules Committee. Unless the delay would cause legislation to fail to meet a scheduled deadline, the House Rules Committee may consider and report on the appeal on the next legislative day. The decision of the House Rules Committee may be appealed to the House by any representative.

**H70-60. Joint rules superseded.** A House rule, insofar as it relates to the internal proceedings of the House, supersedes a joint rule.

**Appendix**

(1) Except as provided in subsections (2) through (4), legislation dealing with an enumerated subject must be referred to a standing committee as follows:

**Agriculture:** Agriculture; country of origin labeling for products; crops; crop insurance; farm subsidies; fuel produced from grain; grazing (other than state land leases); irrigation; livestock; poultry; and weed control.

**Appropriations:** Appropriations for the Legislature, general government, and bonding, including supplemental appropriations and the coal severance tax.

**Business and Labor:** Alcohol regulation other than taxation; associations; corporations; credit transactions; employment; financial institutions; gambling; insurance; labor unions; partnerships; private sector pensions and pension plans; professions and occupations other than the practice of law; salaries and wages; sales; secured transactions; securities regulation other than criminal provisions; sports other than hunting, fishing, and competition water sports; trade regulation; unemployment insurance; the Uniform Commercial Code; and workers' compensation.

**Education:** Higher education; home schools; K-12 education; religion in schools; school buildings and other structures; school libraries and university system libraries; school safety; school sports; school staff other than teachers; school transportation; students; teachers; and vocational education and training.

**Ethics:** Ethical standards applicable to members, officers, and employees of the House and ethical standards for lobbyists.

**Federal Relations, Energy, and Telecommunications:** Energy generation and transmission; Indian reservations; international relations; interstate cooperation and compacts, except those relating to law enforcement and water compacts; relations with the federal government; relations with sovereign Indian tribes; telecommunications; and utilities other than municipal utilities.

**Fish, Wildlife, and Parks:** Fish; fishing; hunting; outdoor recreation; parks other than those owned by local governments; relations with federal and state governments concerning fish and wildlife; Virginia City and Nevada City; water sports; and wildlife.

**Human Services:** Developmentally disabled persons; disabled persons; health; health and disability insurance; housing; human services; mental illness or incapacity; retirement other than pensions and pension plans; senior citizens; tobacco regulation other than taxation; and welfare.

**Judiciary:** Abortion; arbitration and mediation; civil procedure; constitutional amendments; consumer protection; contracts; corrections; courts; criminal law; criminal procedure; discrimination; evidence; family law; fees imposed by or relating to the court system; guaranty; human rights; impeachment; indemnity; judicial system; landlord and tenant; law enforcement; liability and immunity from liability; minors; practice of law; privacy; property law; religion other than in schools; state law library; surety; torts; and trusts and estates.

**Legislative Administration:** Interim committees and subjects assigned by H10-50.

**Local Government:** Cities; consolidated governments; counties; libraries and parks owned or operated by local governments; local development; local government finance and revenue; local government officers and employees, local planning; special districts and other political subdivisions, except school districts; towns; and zoning.

**Natural Resources:** Board of Land Commissioners; dams, except for electrical generation; emission standards; environmental protection; extractive activities; fires and fire protection, except for a local government fire department; forests and forestry; hazardous waste; mines and mining; natural gas; natural resources; oil; pollution; solid waste; state land, except state parks; water and water rights; water bodies and water courses; and water compacts.

**Rules:** House rules; joint rules; legislative procedure; jurisdictions of committees; and rules of decorum.

**State Administration:** Administrative rules; arts and antiquities; ballots; elections; initiative and referendum procedures; military affairs; public contracts and procurement; public employee retirement systems; state buildings; state employees; state employee benefits; state equipment and property, except state lands and state parks; state government generally; state-owned libraries other than the state law library; veterans; and voting.

**Taxation:** Taxes other than fuel taxes.

**Transportation:** Fuel taxes; highways; railroads; roads; traffic regulation; transportation generally; vehicles; and vehicle safety.

(2) If a select committee is created to address a specific subject, then bills relating to that subject must be assigned to the select committee.

(3) (a) If legislation deals with more than one subject and the subjects are assigned to more than one committee, the bill must be assigned to a class one committee before a class two committee and to a class two committee before a class three committee. If there is a conflict of subjects between the same class of committees, then the bill must be assigned by unanimous agreement of the Speaker, the House Democratic Leader, and the House Republican Leader.

(b) If a bill contains substantive provisions dealing with policy and an appropriation, the bill must be referred to the committee with jurisdiction over the subject addressed in the policy provisions. If the bill is reported from the committee to which it was assigned, the Speaker, upon unanimous agreement with the House Democratic Leader and the House Republican Leader, may rerefer the bill to the Appropriations Committee. The referral must be announced to the House. The rereferral does not require action or approval by the House, but may be overturned by a majority vote.

(4) If a committee chair upon consultation with the vice chairs determines that the committee cannot effectively process all bills assigned to the committee because of time limitations, the chair shall, in writing, request the Speaker to reassign specific bills. The Speaker, upon unanimous agreement with the House Democratic Leader and the House Republican Leader, shall reassign the bills to an appropriate committee. The reassignments must be announced to the House. The reassignments do not require action or approval by the House, but may be overturned by a three-fifths vote.

Adopted January 27, 2005

## HOUSE RESOLUTION NO. 2

A RESOLUTION OF THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA OPPOSING, AND REQUESTING THE MONTANA CONGRESSIONAL DELEGATION TO OPPOSE, FEDERAL LEGISLATION ESTABLISHING STANDARDS FOR BIRTH CERTIFICATES ISSUED BY THE STATES AND EITHER FORCING, OR BY THE THREAT OF WITHHOLDING FUNDS OR OTHER ACTION OR INACTION, PERSUADING THE STATES TO ADOPT THE STANDARDS.

WHEREAS, there is at least one bill before the U.S. Congress that would set federal standards for birth certificates issued by the states; and

WHEREAS, the House does not wish to be forced into adopting federal standards.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the House be opposed to federal legislation establishing standards for birth certificates issued by the states and either forcing, or by the threat of withholding funds or other action or inaction, persuading the states to adopt the standards.

BE IT FURTHER RESOLVED, that the Montana Congressional Delegation be strongly urged to work against the legislation.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to the Montana Congressional Delegation and to the publisher of each newspaper in this state.

Adopted February 19, 2005

## Senate Joint Resolutions

### SENATE JOINT RESOLUTION NO. 1

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REVISING AND ADOPTING THE JOINT LEGISLATIVE RULES.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the following Joint Rules be adopted:

#### JOINT RULES OF THE MONTANA SENATE AND HOUSE OF REPRESENTATIVES

##### CHAPTER 10

##### Administration

**10-10. Time of meeting.** Each house may order its time of meeting.

**10-20. Legislative day — duration.** (1) If either house is in session on a given day, that day constitutes a legislative day.

(2) A legislative day for a house ends either 24 hours after that house convenes for the day or at the time the house convenes for the following legislative day, whichever is earlier.

**10-30. Schedules.** The presiding officer of each house shall coordinate its schedule to accommodate the workload of the other house.

**10-40. Adjournment — recess — meeting place.** A house may not, without the consent of the other, adjourn or recess for more than 3 days or to any place other than that in which the two houses are sitting (Montana Constitution, Art. V, Sec. 10(5)).

**10-50. Access of press.** Subject to the presiding officer's discretion on issues of decorum and order, an accredited press representative may not be prohibited from photographing, televising, or recording a legislative meeting or hearing.

**10-60. Conflict of interest.** A member who has a personal or private interest in any measure or bill proposed or pending before the Legislature shall disclose the fact to the house to which the member belongs.

**10-70. Telephone calls and internet access.** (1) Long-distance telephone calls made by a member while the Legislature is in session or while the member is in travel status are considered official legislative business. These include but are not limited to calls made to constituencies, places of business, and family members. A member's access to the internet through a permissible server is a proper use of the state communication system if the use is for

legislative business or is within the scope of permissible use of long-distance telephone calls.

(2) Session staff, including aides and interns, may use telephones for long-distance calls only if specifically authorized to do so by their legislative sponsor or supervisor. Sponsoring members and supervisors are accountable for use of state telephones and internet access by their staff, including aides and interns, and may not authorize others to use state phones or state servers to access the internet.

(3) Permanent staff of the Legislature shall comply with executive branch rules applying to the use of state telephones.

**10-80. Joint employees.** The presiding officers of each house, acting together, shall:

(1) hire joint employees; and

(2) review a dispute or complaint involving the competency or decorum of a joint employee, and dismiss, suspend, or retain the employee.

**10-85. Harassment prohibited.** (1) Legislators and legislative employees have the right to work free of harassment on account of race, color, sex, culture, social origin or condition, or religious ideas when performing services in furtherance of legislative responsibilities, whether the offender is an employer, employee, legislator, lobbyist, or member of the public.

(2) A violation of this policy must be reported to the party leader in the appropriate house if the offended party is a legislator or to the presiding officer if the offended party is the party leader. The presiding officer may refer the matter to the rules committee of the applicable house, and the offender is subject to discipline or censure, as appropriate.

(3) If the offended party is an employee of the house of representatives or the senate, the violation must be reported to the employee's supervisor or, if the offender is the supervisor for the house of representatives or the senate, the report should be made to the chief clerk of the house of representatives or to the secretary of the senate, as appropriate. If the offended party is a permanent legislative employee, the report should be made to the employee's supervisor or, if the offender is the supervisor, to the appropriate division director. If the offender is a division director, the report should be made to the presiding officer of the appropriate statutory committee.

(4) If the offended party is a supervisor for the house of representatives or the senate, the violation must be reported to the chief clerk of the house of representatives or to the secretary of the senate, as appropriate. If the offended party is a supervisor of permanent legislative employees, the violation must be reported to the appropriate division director. If the offender is a division director, the report should be made to the presiding officer of the appropriate statutory committee.

(5) The chief clerk or the secretary shall report the violation to the presiding officer. The presiding officer may refer the matter to the rules committee. If the offender is an employee or supervisor, the employee or supervisor is subject to discipline or discharge.

**10-90. Legislative interns.** Qualifications for legislative interns are specified in Title 5, chapter 6, MCA.

**10-100. Legislative Services Division.** (1) The staff of the Legislative Services Division shall serve both houses as required.

(2) Staff members shall:

- (a) maintain personnel files for legislative employees; and
- (b) prepare payrolls for certification and signature by the presiding officer and prepare a monthly financial report.

**10-120. Engrossing and enrolling staff — duties.** (1) The Legislative Services Division shall provide all engrossing and enrolling staff.

(2) The duties of the engrossing and enrolling staff are:

(a) to engross or enroll any bill or resolution delivered to them within 48 hours after it has been received, unless further time is granted in writing by the presiding officer of the house in which the bill originated; and

(b) to correct clerical errors, absent the objection of the sponsor of a bill, resolution, or amendment and the Secretary of the Senate or the Chief Clerk of the House of Representatives in any bill or amendment originating in the house by which the Clerk or Secretary is employed. The following kinds of clerical errors may be corrected:

- (i) errors in spelling;
- (ii) errors in numbering sections;
- (iii) additions or deletions of underlining or lines through matter to be stricken;
- (iv) material copied incorrectly from the Montana Code Annotated;
- (v) errors in outlining or in internal references;
- (vi) an error in a title caused by an amendment;
- (vii) an error in a catchline caused by an amendment;
- (viii) errors in references to the Montana Code Annotated; and
- (ix) other nonconformities of an amendment with Bill Drafting Manual form.

(3) The engrossing and enrolling staff shall give notice in writing of the clerical correction to the Secretary of the Senate or the Chief Clerk of the House and to the sponsor of the bill or amendment. The sponsor shall sign the clerical form to acknowledge notification of the clerical correction. The signed form must be filed in the office of the amendments coordinator. A party receiving notice may register an objection to the correction by filing the objection in writing within 24 hours after receipt of the notice.

(4) If a committee is the sponsor of a bill or resolution, any committee member designated by the chair may be the principal sponsor for the purpose of this section. If a committee has proposed an amendment, the chair is the principal sponsor for the purpose of this section.

(5) For the purposes of this rule, “engrossing” means placing amendments in a bill.

**10-130. Bills.** (1) A bill draft request must be sponsored by a member of the Legislature.

(2) A bill must be:

- (a) printed on paper with numbered lines;
- (b) numbered at the foot of each page (except page 1);
- (c) covered with a cover page of substantial material; and

(d) introduced.

(3) In a section amending an existing statute, matter to be stricken out must be indicated with a line through the words or part to be deleted, and new matter must be underlined.

(4) Sections of the Montana Code Annotated repealed or amended in a bill must be stated in the title.

(5) Introduced bills must be reproduced on white paper and distributed to members.

(6) An introduced bill may not be withdrawn.

**10-140. Voting.** (1) A bill may not become a law except by vote of the constitutionally required majority of all the members present and voting in each house (Montana Constitution, Art. V, Sec. 11(1)). On final passage, the vote must be taken by ayes and noes and the names of those voting entered on the journal (Montana Constitution, Art. V, Sec. 11(2)).

(2) Any vote in one house on a bill proposing an amendment to The Constitution of the State of Montana under circumstances in which there exists the mathematical possibility of obtaining the necessary two-thirds vote of the Legislature will cause the bill to progress as though it had received the majority vote.

**10-150. Recording and publication of voting.** (1) Every vote of each member on each substantive question in the Legislature, in any committee, or in Committee of the Whole must be recorded and made public. On final passage of any bill or joint resolution, the vote must be taken by ayes and noes and the names entered on the journal.

(2) (a) Roll call votes must be taken by ayes and noes and the names entered on the journal on adopting an adverse committee report and on those motions made in Committee of the Whole to:

- (i) amend;
- (ii) recommend passage or nonpassage;
- (iii) recommend concurrence or nonconcurrence; or
- (iv) indefinitely postpone.

(b) The text of all proposed amendments must be recorded.

(3) A roll call vote must be taken on nonsubstantive questions on the request of two members who may, on any vote, request that the ayes and noes be spread upon the journal.

(4) Roll call votes and other votes that are to be made public but are not specifically required to be spread upon the journal must be entered in the minutes of the appropriate committee or of the appropriate house (Montana Constitution, Art. V, Sec. 11(2)). A copy of the minutes must be filed with the Montana Historical Society. If electronically recorded minutes are kept for a committee, a written log conforming to section 2-3-212(2), MCA, must also be kept.

**10-160. Journal.** Each house shall:

(1) supply the Legislative Services Division with the contents of the daily journal to be stored on an automated system;

(2) examine its journal and order correction of any errors; and

(3) distribute a daily journal to all members.

**10-170. Journals — authentication — availability.** (1) The journal of the Senate must be authenticated by the signature of the President and the journal of the House of Representatives by the signature of the Speaker.

(2) The Legislative Services Division shall make the completed journals available to the public (sections 5-11-201 through 5-11-203, MCA).

## CHAPTER 30

### Committees

**30-10. Committee chair.** Except as provided in Joint Rule 30-50, the chair of the Senate committee is the chair of all joint committees.

**30-20. Voting in joint committees.** (1) Except for Rules Committees and conference committees, a member of a joint committee votes individually and not by the house to which the committee member belongs.

(2) Because the Rules Committees and conference committees are joint meetings of separate committees, in those committees the committees from each house vote separately. A majority of each committee shall agree before any action may be taken, unless otherwise specified by individual house rules.

**30-30. Conference committees.** (1) If either house requests a conference and appoints a committee for the purpose of discussing an amendment on which the two houses cannot agree, the other house shall appoint a committee for the same purpose. The time and place of all conference committee meetings must be agreed upon by their chairs and announced from the rostrum. This announcement is in order at any time. Failure to make this announcement does not affect the validity of the legislation being considered. A conference committee meeting must be conducted as an open meeting, and minutes of the meeting must be kept.

(2) A conference committee, having conferred, shall report to the respective houses the result of its conference. A conference committee shall confine itself to consideration of the disputed amendment. The committee may recommend:

- (a) acceptance or rejection of each disputed amendment in its entirety; or
- (b) further amendment of the disputed amendment.

(3) If either house requests a free conference committee and the other house concurs, appointments must be made in the same manner as above. A free conference committee may discuss a bill in its entirety and is not confined to a particular amendment.

**30-40. Conference committee — enrolling.** A conference committee report must give clerical instructions for a corrected reference bill and for enrolling by referring to the reference bill version.

**30-50. Committee consideration of appropriation bills.** (1) All bills providing for an appropriation of public money may first be considered by a joint committee composed of the members of the Senate Finance and Claims Committee and the House Appropriations Committee, and then by each separately.

(2) Meetings of the joint committee must be held upon call of the chair of the House Appropriations Committee, who is chair of the joint committee.

(3) The committee chair of the Senate Finance and Claims Committee or of the House Appropriations Committee may be a voting member in the joint subcommittees if:

- (a) either house has fewer members on the joint subcommittees;
- (b) the chair represents the house with fewer members on the subcommittees; and
- (c) the chair is present for the vote at the time that a question is called. A vote may not be held open to facilitate voting by a chair.

**30-60. Estimation of revenue.** The Revenue and Transportation Interim Committee shall introduce a House joint resolution for the purpose of estimating revenue that may be available for appropriation by the Legislature.

**30-70. Appointment of interim committees.** As provided for in section 5-5-211(6), MCA, 50% of interim committees must be selected from the following legislative standing committees:

- (1) Economic Affairs Interim Committee:
  - (a) Senate Agriculture, Livestock, and Irrigation Committee;
  - (b) Senate Business, Labor, and Economic Affairs Committee;
  - (c) Senate Energy and Telecommunications Committee;
  - (d) Senate Finance and Claims Committee;
  - (e) House Agriculture Committee;
  - (f) House Business and Labor Committee;
  - (g) House Federal Relations, Energy, and Telecommunications Committee;
- and
- (h) House Appropriations Committee;
- (2) Education and Local Government Interim Committee:
  - (a) Senate Education and Cultural Resources Committee;
  - (b) Senate Local Government Committee;
  - (c) Senate Finance and Claims Committee;
  - (d) House Education Committee;
  - (e) House Local Government Committee; and
  - (f) House Appropriations Committee;
- (3) Children, Families, Health, and Human Services Interim Committee:
  - (a) Senate Public Health, Welfare, and Safety Committee;
  - (b) Senate Finance and Claims Committee;
  - (c) House Human Services Committee; and
  - (d) House Appropriations Committee;
- (4) Law and Justice Interim Committee:
  - (a) Senate Judiciary Committee;
  - (b) Senate Finance and Claims Committee;
  - (c) House Judiciary Committee; and
  - (d) House Appropriations Committee;
- (5) Revenue and Transportation Interim Committee:
  - (a) Senate Taxation Committee;
  - (b) Senate Highways and Transportation Committee;

- (c) Senate Finance and Claims Committee;
- (d) House Taxation Committee;
- (e) House Transportation Committee; and
- (f) House Appropriations Committee;
- (6) State Administration and Veterans' Affairs Interim Committee:
  - (a) Senate State Administration Committee;
  - (b) Senate Finance and Claims Committee;
  - (c) House State Administration Committee; and
  - (d) House Appropriations Committee;
- (7) Energy and Telecommunications Interim Committee:
  - (a) Senate Energy and Telecommunications Committee;
  - (b) House Federal Relations, Energy, and Telecommunications Committee;
  - (c) House Appropriations Committee; and
  - (d) Senate Finance and Claims Committee.

#### CHAPTER 40

##### Legislation

**40-10. Amendment to state constitution.** A bill must be used to propose an amendment to The Constitution of the State of Montana. The bill is not subject to the veto of the Governor (Montana Constitution, Art. VI, Sec. 10(1)).

**40-20. Appropriation bills.** (1) All appropriation bills must originate in the House of Representatives.

(2) Appropriation bills for the operation of the Legislature must be introduced by the chair of the House Appropriations Committee.

**40-30. Effective dates.** (1) Except as provided in subsections (2) through (4), a statute takes effect on October 1 following its passage and approval unless a different time is prescribed in the enacting legislation.

(2) A law appropriating public funds for a public purpose takes effect on July 1 following its passage and approval unless a different time is prescribed in the enacting legislation.

(3) A statute providing for the taxation or imposition of a fee on motor vehicles takes effect on the first day of January following its passage and approval unless a different time is prescribed in the enacting legislation.

(4) A joint resolution takes effect on its passage unless a different time is prescribed therein (sections 1-2-201 and 1-2-202, MCA).

**40-40. Bill requests and introduction — limits and procedures.**

(1) Prior to a regular session, a person entitled to serve in that session, hereafter referred to as a "member", is entitled to request bill drafting services from the Legislative Services Division, subject to the following limits:

(a) Prior to 5 p.m. on December 5 preceding a regular session of the Legislature, a member may request an unlimited number of bills and resolutions to be prepared by the Legislative Services Division for introduction in the regular session.

(b) After 5 p.m. on December 5, a member may request no more than seven bills or resolutions to be prepared by the Legislative Services Division. At least

five of the seven bills or resolutions must be requested before the regular session convenes.

(c) After December 5, a member, in the member's discretion, may grant to any other member any of the remaining bill or resolution requests the granting member has not used. A bill requested by an individual may not be transferred to another legislator but may be introduced by another legislator.

(d) These limitations on bill and resolution requests do not apply to:

(i) Code Commissioner bills;

(ii) a bill or resolution requested by a standing committee; and

(iii) a bill or resolution requested by a member at the request of a newly elected state official if so designated.

(2) The staff of the Legislative Services Division shall work on bill draft requests in the order received. After a member has requested the drafting of five bills, the sixth bill request and all subsequent bill requests of that member must receive a lower drafting priority than all other bills of members not in excess of five per member. The Speaker of the House, the minority leader of the House, the President of the Senate, and the minority leader of the Senate may each direct the staff of the Legislative Services Division to assign a higher priority to 10 draft requests. The staff of the Legislative Services Division shall assign a higher priority to any bill draft request when jointly directed by:

(a) the President of the Senate, the minority leader of the Senate, the Speaker of the House, and the minority leader of the House; or

(b) the House and the Senate.

(3) Bills and resolutions must be reviewed by the staff of the Legislative Services Division prior to introduction for proper format, style, and legal form. The staff of the Legislative Services Division shall store bills on the automated bill drafting equipment and shall print and deliver them to the requesting members. The original bill cover must be signed to indicate review by the Legislative Services Division. A bill may not be introduced unless it is so signed.

(4) (a) During a session, a bill may be introduced by endorsing it with the name of a member and presenting it to the Chief Clerk of the House of Representatives or the Secretary of the Senate. Bills or joint resolutions may be sponsored jointly by Senate and House members. A jointly sponsored bill must be introduced in the house in which the member whose name appears first on the bill is a member. The chief joint sponsor's name must appear immediately to the right of the first sponsor's name. Except as provided in subsection (4)(b), in each session of the Legislature, bills, joint resolutions, and simple resolutions must be numbered consecutively in separate series in the order of their receipt.

(b) The first 15 House bills may be reserved for preintroduced bills.

(5) (a) Any bill proposed by an interim or statutory legislative committee or introduced by request of an administrative or executive agency or department must be so indicated by placing after the names of the sponsors the phrase "By Request of the..... (Name of committee or agency)". The phrase may not be added to an introduced bill and may not be placed on a bill whose subject matter was requested by an agency or statutory or interim committee prior to the convening of the session. Unless requested by an individual member, a bill draft request submitted at the request of an agency must be submitted to, reviewed by, and requested by the appropriate interim or statutory committee. Except as provided in subsection (5)(b), an agency or committee bill request must be

preintroduced or the request is canceled. Preintroduction must occur no later than 5 p.m. on the fifth working day prior to the convening of a legislative session. Preintroduction is accomplished when the Legislative Services Division receives a signed preintroduction form.

(b) The preintroduction requirement does not apply to an office held by an elected official during the official's first year in that office or to bills requested by a joint select or joint special committee appointed prior to the convening of the legislative session to address a specific issue.

(6) Bills may be preintroduced, numbered, and reproduced prior to a legislative session by the staff of the Legislative Services Division. Actual signatures of persons entitled to serve as members in the ensuing session may be obtained on a consent form from the Legislative Services Division and the sponsor's name printed on the bill. Additional sponsors may be added on motion of the chief sponsor at any time prior to a standing committee report on the bill. These names will be forwarded to the Legislative Services Division to be included on the face of the bill following standing committee approval.

**40-50. Schedules for drafting requests and bill introduction.** (1) The following schedule must be followed for submission of drafting requests.

	Request Deadline
	5:00 P.M.
	Legislative Day
	-----
● General Bills and Resolutions	10
● Revenue Bills	17
● Committee Bills and Resolutions	36
● Committee Revenue Bills	62
● Committee Bills implementing provisions of a general appropriation act	75
● Interim study resolutions	75
● Appropriation Bills	No Deadline
● Resolutions to express confirmation of appointments	No Deadline
● Bills repealing or directing the amendment or adoption of administrative rules and joint resolutions advising or requesting the repeal, amendment, or adoption of administrative rules	No Deadline

(2) Bills and resolutions must be introduced within 2 legislative days after delivery.

**40-60. Joint resolutions.** (1) A joint resolution must be adopted by both houses and is not approved by the Governor. It may be used to:

- (a) express desire, opinion, sympathy, or request of the Legislature;
- (b) request, but not require, a legislative entity to conduct an interim study;
- (c) adopt, amend, or repeal the joint rules;

(d) approve construction of a state building under section 18-2-102 or 20-25-302, MCA;

(e) deal with disasters and emergencies under Title 10, specifically as provided in sections 10-3-302(3), 10-3-303(3), 10-3-303(4), and 10-3-505(5), MCA;

(f) submit a negotiated settlement under section 39-31-305(3), MCA;

(g) declare or terminate an energy emergency under section 90-4-310, MCA;

(h) ratify or propose amendments to the United States Constitution; or

(i) advise or request the repeal, amendment, or adoption of a rule in the Administrative Rules of Montana.

(2) A joint resolution may not be used for purposes of congratulating or recognizing an individual or group achievement. Recognition of individual or group achievements is handled on special orders of the day.

(3) Except as otherwise provided in these rules or The Constitution of the State of Montana, a joint resolution is treated in all respects as a bill.

(4) A copy of every joint resolution must be transmitted after adoption to the Secretary of State by the Secretary of the Senate or the Chief Clerk of the House.

**40-65. Appropriation required for bills requesting interim studies.**

A bill including a request for an interim study may not be transmitted to the Governor unless the bill contains an appropriation sufficient to conduct the study. A fiscal note may be requested for a bill requesting an interim study if the appropriation does not appear to be sufficient.

**40-70. Bills with same purpose — vetoes.** (1) A bill may not be introduced or received in a house after that house, during that session, has finally rejected a bill designed to accomplish the same purpose, except with the approval of the Rules Committee of the house in which the bill is offered for introduction or reception.

(2) Failure to override a veto does not constitute final rejection.

**40-80. Reproduction of full statute required.** A statute may not be amended or its provisions extended by reference to its title only, but the statute section that is amended or extended must be reproduced or published at length.

**40-90. Bills — original purpose.** A law may not be passed except by bill. A bill may not be so altered or amended on its passage through either house as to change its original purpose (Montana Constitution, Art. V, Sec. 11(1)).

**40-100. Fiscal notes.** (1) As provided in Title 5, chapter 4, part 2, MCA, all bills reported out of a committee of the Legislature having a potential effect on the revenues, expenditures, or fiscal liability of the state, local governments, or public schools, except appropriation measures carrying specific dollar amounts, must include a fiscal note incorporating an estimate of the fiscal effect. The Legislative Services Division staff shall indicate at the top of each bill prepared for introduction that a fiscal note may be necessary under this rule. Fiscal notes must be requested by the presiding officer of either house, who, at the time of introduction or after adoption of substantive amendments to an introduced bill, shall determine the need for the note, based on the Legislative Services Division staff recommendation.

(2) The Legislative Services Division shall make available an electronic copy of any bill for which it has been determined a fiscal note may be necessary to the Budget Director immediately after the bill has been prepared for introduction and delivered to the requesting member. The Budget Director may proceed with the preparation of a fiscal note in anticipation of a subsequent formal request. A

bill with financial implications for a local government or school district must comply with subsection (4).

(3) The Budget Director, in cooperation with the governmental entity or entities affected by the bill, is responsible for the preparation of the fiscal note. Except as provided in subsection (4), the Budget Director shall return the fiscal note within 6 days unless further time is granted by the presiding officer or committee making the request, based upon a written statement from the Budget Director that additional time is necessary to properly prepare the note.

(4) (a) A bill that may require a local government or school district to perform an activity or provide a service or facility that requires the direct expenditure of additional funds without a specific means to finance the activity, service, or facility in violation of section 1-2-112 or 1-2-113, MCA, must be accompanied, at the time that the bill is presented for introduction, by an estimate of all direct and indirect fiscal impacts on the local government or school district. The estimate of the fiscal impacts must be prepared by the Budget Director in cooperation with a local government or school district affected by the bill.

(b) The Budget Director has 10 days to prepare the estimate. Upon completion of the estimate, the Budget Director shall submit it to the presiding officer and the chief sponsor of the bill.

(5) A completed fiscal note must be submitted by the Budget Director to the presiding officer who requested it. The presiding officer shall notify the bill's chief sponsor of the completed fiscal note and request the chief sponsor's signature. The chief sponsor has 1 legislative day after delivery to review the fiscal note and to discuss the findings with the Budget Director, if necessary. After the legislative day has elapsed, all fiscal notes must be reproduced and placed on the members' desks, either with or without the chief sponsor's signature.

(6) A fiscal note must, if possible, show in dollar amounts:

- (a) the estimated increase or decrease in revenues or expenditures;
- (b) costs that may be absorbed without additional funds; and
- (c) long-range financial implications.

(7) The fiscal note may not include any comment or opinion relative to merits of the bill. However, technical or mechanical defects in the bill may be noted.

(8) A fiscal note also may be requested, through the presiding officer, on a bill and on an amended bill by:

- (a) a committee considering the bill;
- (b) a majority of the members of the house in which the bill is to be considered, at the time of second reading; or
- (c) the chief sponsor.

(9) The Budget Director shall make available on request to any member of the Legislature all background information used in developing a fiscal note.

(10) If a bill requires a fiscal note, the bill may not be reported from a committee for second reading unless the bill is accompanied by the fiscal note.

**40-110. Sponsor's fiscal note.** (1) If a sponsor elects to request the preparation of a sponsor's fiscal note pursuant to section 5-4-204, MCA, the sponsor shall make the election as provided and return the completed sponsor's fiscal note to the presiding officer within 4 days of the election.

(2) The presiding officer may grant additional time to the sponsor for preparation of the sponsor's fiscal note.

(3) Upon receipt of the completed sponsor's fiscal note, the presiding officer shall refer it to the committee hearing the bill. If the bill is printed, the note must be identified as a sponsor's fiscal note, reproduced, and placed on the members' desks.

(4) The Legislative Services Division shall provide forms for preparation of sponsors' fiscal notes and shall print the completed sponsors' fiscal notes on a different color paper than the fiscal notes prepared by the Budget Director.

**40-120. Substitute bills.** (1) A committee may recommend that every clause in a bill be changed and that entirely new material be substituted so long as the new material is relevant to the title and subject of the original bill. The substituted bill is considered an amendment and not a new bill.

(2) The proper form of reporting a substitute bill by a committee is to propose amendments to strike out all of the material following the enacting clause, to substitute the new material, and to recommend any necessary changes in the title of the bill.

(3) If a committee report is adopted that recommends a substitute for a bill originating in the other house, the substitute bill must be printed and reproduced.

**40-130. Reading of bills.** Prior to passage, a bill, other than a bill requested by a joint select or joint special committee as provided in 40-40(5)(b), must be read three times in the house in which it is under consideration. It may be read either by title or by summary of title.

**40-140. Second reading — bill reproduction.** (1) If the majority of a house adopts a recommendation for the passage of a bill originating in that house after the bill has been returned from a committee with amendments, the bill must be reproduced on yellow paper with all amendments incorporated into the copies.

(2) If a bill has been returned from a committee without amendments, only the first sheet must be reproduced on yellow paper, and the remainder of the text may be incorporated by reference to the preceding version of the entire bill.

(3) A bill requested by and heard by a joint select or joint special committee, as provided in 40-40(5)(b), may be referred directly to second reading. If the bill is passed by the house of origin, the bill must be transmitted to the other house, and if the bill was not amended, it may be placed on second reading without the need for referral to a committee.

**40-150. Engrossing.** (1) When a bill has been reported favorably by Committee of the Whole of the house in which it originated and the report has been adopted, the bill must be engrossed if the bill is amended. Committee of the Whole amendments must be included in the engrossed bill. If the bill is not amended, the bill must be sent to printing. The bill must be placed on the calendar for third reading on the legislative day after receipt.

(2) Copies of the engrossed bill to be distributed to members are reproduced on blue paper. If a bill is unamended by the Committee of the Whole and contains no clerical errors, it is not required to be reprinted. Only the first sheet must be reproduced on blue paper, with the remainder of the text incorporated by reference to the preceding version of the entire bill.

(3) If a bill is amended by a standing committee in the second house, the amendments must be included in a tan-colored bill and distributed in the second house for second reading consideration. If the bill is amended in Committee of the Whole, the amendments must be included in a salmon-colored reference bill and distributed in the second house for third reading. If the bill passes on third reading, copies of the reference bill must be distributed in the original house. The original house may request from the second house a specified number of copies of the amendments to be printed.

**40-160. Enrolling.** (1) When a bill has passed both houses, it must be enrolled. An original and two duplicate printed copies of the bill must be enrolled, free from all errors, with a margin of two inches at the top and one inch on each side. In sections amending existing statutes, new matter must be underlined and deleted matter must be shown as stricken.

(2) When the enrolling is completed, the bill must be examined by the sponsor.

(3) The correctly enrolled bill must be delivered to the presiding officer of the house in which the bill originated. The presiding officer shall sign the original and two copies of each bill not later than the next legislative day after it has been reported correctly enrolled, unless the bill is delivered on the last legislative day, in which case the presiding officer shall sign it that day. The fact of signing must be announced by the presiding officer and entered upon the journal no later than the next legislative day. At any time after the report of a bill correctly enrolled and before the signing, if a member signifies a desire to examine the bill, the member must be permitted to do so. The bill then must be transmitted to the other house where the same procedure must be followed.

(4) A bill that has passed both houses of the Legislature by the 90th day may be:

- (a) enrolled;
- (b) clerically corrected by the presiding officers, if necessary;
- (c) signed by the presiding officers; and

(d) delivered to the Governor or, in the case of a bill proposing a referendum, to the Secretary of State, not later than 5 working days after the 90th legislative day.

(5) All journal entries authorized under this rule must be entered on the journal for the 90th day.

(6) The original and two copies signed by the presiding officer of each house must be presented to the Governor or the Secretary of State, as applicable, in return for a receipt. A report then must be made to the house of the day of the presentation, which must be entered on the journal.

(7) The original must be filed with the Secretary of State. Signed copies with chapter numbers assnued pursuant to section 5-11-204, MCA, must be filed with the Clerk of the Supreme Court and the Legislative Services Division.

**40-170. Amendment by second house.** (1) Amendments to a bill by the second house may not be further amended by the house in which the bill originated, but must be either accepted or rejected. A bill amended by the second house when the effect of the combined amendments is to return the bill to the form that the bill passed the house in which the bill originated is not considered to have been amended and need not be returned to the house of origin for acceptance or rejection of the amendments. If the amendments are rejected, a

conference committee may be requested by the house in which the bill originated. If the amendments are accepted and the bill is of a type requiring more than a majority vote for passage, the bill again must be placed on third reading in the house of origin.

(2) The vote on third reading after concurrence in amendments is the vote of the house of origin that must be used to determine if the required number of votes has been cast.

**40-180. Final action on a bill.** (1) When a bill being heard by the second house has received its third reading or has been rejected, the second house shall transmit it as soon as possible to the original house with notice of the second house's action.

(2) A bill that reduces revenue and that contains a contingent voidness provision may not be transmitted to the Governor unless there is an identified corresponding reduction in an appropriation contained in the general appropriations act.

**40-190. Transmittal of bills between houses.** (1) Each house shall transmit to the other with any bill all relevant papers.

(2) When a House bill is transmitted to the Senate, the Secretary of the Senate shall give a dated receipt for the bill to the Chief Clerk of the House. When a Senate bill is transmitted to the House of Representatives, the Chief Clerk of the House shall give a dated receipt to the Secretary of the Senate.

**40-200. Transmittal deadlines.** (1) (a) A bill or amendment transmitted after the deadline established in this subsection (1) may be considered by the receiving house only upon approval of two-thirds of its members present and voting. If the receiving house does not so vote, the bill or amendment must be held pending in the house to which it was transmitted.

(b) (i) A bill, except for an appropriation bill, a revenue bill, an interim study resolution, or amendments considered by joint committee, must be transmitted from one house to the other on or before the 45th legislative day.

(ii) Amendments, except to appropriation bills, bills implementing the general appropriations bill, the revenue estimating resolution, interim study resolutions, and revenue bills, must be transmitted from one house to the other on or before the 73rd legislative day.

(c) (i) Revenue bills must be transmitted to the other house on or before the 71st legislative day.

(ii) Amendments to revenue bills, received from the other house, must be transmitted to the house of origin on or before the 82nd legislative day.

(iii) A revenue bill is one that either increases or decreases revenue.

(d) (i) Appropriation bills and any bill implementing provisions of a general appropriation bill must be transmitted to the Senate on or before the 67th legislative day.

(ii) Senate amendments to appropriation bills must be transmitted by the Senate to the House on or before the 80th legislative day.

(2) (a) A joint resolution introduced for the purpose of estimating revenue available for appropriation by the Legislature must be transmitted to the Senate no later than the 60th legislative day.

(b) Amendments to the revenue estimating resolution must be transmitted to the House no later than the 82nd legislative day.

(3) Bills repealing or directing the amendment or adoption of administrative rules and joint resolutions advising or requesting the repeal, amendment, or adoption of administrative rules may be transmitted at any time during a session.

(4) Interim study resolutions must be transmitted from one house to the other on or before the 85th legislative day.

**40-210. Governor's veto.** (1) Except as provided in 40-65 and 40-180, each bill passed by the Legislature must be submitted to the Governor for the Governor's signature. This does not apply to:

- (a) bills proposing amendments to The Constitution of the State of Montana;
- (b) bills ratifying proposed amendments to the United States Constitution;
- (c) resolutions; and
- (d) referendum measures of the Legislature.

(2) If the Governor does not sign or veto the bill within 10 days after its delivery, the bill becomes law.

(3) The Governor shall return a vetoed bill to the Legislature with a statement of reasons for the veto.

(4) If after receipt of a veto message, two-thirds of the members of each house present approve the bill, it becomes law.

(5) If the Legislature is not in session when the Governor vetoes a bill, the Governor shall return the bill with reasons for the veto to the Legislature as provided by law. The Legislature may be polled on a bill that it approved by two-thirds of the members present or it may be reconvened to reconsider any bill so vetoed (Montana Constitution, Art. VI, Sec. 10).

(6) The Governor may veto items in appropriation bills, and in these instances the procedure must be the same as upon veto of an entire bill (Montana Constitution, Art. VI, Sec. 10).

**40-220. Response to Governor's veto.** (1) When the presiding officer receives a veto message, the presiding officer shall read it to the members over the rostrum. After the reading, a member may move that the Governor's veto be overridden.

(2) A vote on the motion is determined by roll call. If two-thirds of the members present vote "aye", the veto is overridden. If two-thirds of the members present do not vote "aye", the veto is sustained.

**40-230. Governor's recommendations for amendment.** (1) The Governor may return any bill to the Legislature with recommendations for amendment. The Governor's recommendations for amendment must be considered first by the house in which the bill originated.

(2) If the Legislature passes the bill in accordance with the Governor's recommendations, it shall return the bill to the Governor for reconsideration. The Governor may not return a bill to the Legislature a second time for amendment.

(3) If the Governor returns a bill to the originating house with recommendations for amendment, the house shall reconsider the bill under its rules relating to amendments offered in Committee of the Whole.

(4) The bill then is subject to the following procedures:

(a) The originating house shall transmit to the second house, for consideration under its rules relating to amendments in Committee of the Whole, the bill and the originating house's approval or disapproval of the Governor's recommendations.

(b) If both houses approve the Governor's recommendations, the bill must be returned to the Governor for reconsideration.

(c) If both houses disapprove the Governor's recommendations, the bill must be returned to the Governor for reconsideration.

(d) If one house disapproves the Governor's recommendations and the other house approves, then either house may request a conference committee, which may be a free conference committee.

(i) If both houses adopt a conference committee report, the bill in accordance with the report must be returned to the Governor for reconsideration.

(ii) If a conference committee fails to reach agreement or if its report is not adopted by both houses, the Governor's recommendations must be considered not approved and the bill must be returned to the Governor for further consideration.

## CHAPTER 60

### Rules

**60-10. Suspension of joint rule — change in rules.** (1) A joint rule may be repealed or amended only with the concurrence of both houses, under the procedures adopted by each house for the repeal or amendment of its own rules.

(2) A joint rule governing the procedure for handling bills may be temporarily suspended by the consent of two-thirds of the members of either house, insofar as it applies to the house suspending it.

(3) Any Rules Committee report recommending a change in the joint rules must be referred to the other house. Any new rule or any change in the rules of either house must be transmitted to the other house for informational purposes.

(4) Upon adoption of any change, the Secretary of the Senate and the Chief Clerk of the House of Representatives shall provide the office of the Legislative Services Division:

(a) one copy of all motions or resolutions amending Senate, House, or joint rules; and

(b) copies of all minutes and reports of the Rules Committees.

**60-20. Reference to Mason's Manual.** Mason's Manual of Legislative Procedure (2000) governs the proceedings of the Senate and the House of Representatives in all cases not covered by these rules.

**60-30. Publication and distribution of joint rules.** (1) The Legislative Services Division shall codify and publish in one volume:

(a) the rules of the Senate;

(b) the rules of the House of Representatives; and

(c) the joint rules of the Senate and the House of Representatives.

(2) After the rules have been published, the Legislative Services Division shall distribute copies as directed by the Senate and the House of Representatives.

**60-40. Tenure of joint rules.** The joint rules remain in effect until removed by a joint resolution or until a new Legislature is elected and takes office.

Adopted February 11, 2005

#### **SENATE JOINT RESOLUTION NO. 4**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA ENCOURAGING MONTANA TRIBAL GOVERNMENTS TO ADOPT SECURED TRANSACTION COMMERCIAL CODES, ENCOURAGING THE DEVELOPMENT OF TRAINING PROGRAMS FOR TRIBAL COURTS ON THE USE OF THE CODES, AND REQUESTING AN APPROPRIATE LEGISLATIVE COMMITTEE TO REPORT ON THE IMPLEMENTATION OF THE CODES AND THE TRAINING.

WHEREAS, economic development and affordable housing needs are among the most critical of issues facing Indian Country; and

WHEREAS, one significant barrier frequently faced by American Indian-owned businesses and American Indian consumers on reservations is the lack of access to affordable credit for business, housing, or other consumer purposes; and

WHEREAS, the importance of credit as a fundamental component of economic and housing development cannot be overstated; and

WHEREAS, the pervasive lack of access to affordable credit and capital can be generally attributed to the fears and apprehensions routinely expressed by non-Indian lenders and other potential business partners and investors; and

WHEREAS, this has been a persistent problem throughout Indian Country; and

WHEREAS, commercial codes are important tools for enabling and supporting tribal economic and housing development by improving access to commercial and consumer credit; and

WHEREAS, fundamental to the goal of building sound economies is the need for commercial laws that will enhance tribal business environments by reducing risks for outside lenders and other nontribal entities that do business with tribes, tribal enterprises, Indian-owned private businesses, and Indian consumers.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That each tribal government in Montana be encouraged to review the model tribal secured transaction law developed by the National Conference of Commissioners on Uniform State Laws and, if agreeable to the tribal government, adopt the model law for use on its reservation.

BE IT FURTHER RESOLVED, that the Montana Bar Association, the University of Montana Law School, the Montana Judiciary, and the Legislature be encouraged to, upon request, assist tribal courts in developing and implementing a training course, including ongoing education, on the use of secured transaction commercial codes.

BE IT FURTHER RESOLVED, that the Legislative Council be requested to designate an appropriate interim committee or statutory committee to provide a report to the 60th Legislature on the review and implementation of secured transaction commercial codes by tribal governments and the implementation of the training for tribal courts.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to the Montana Bar Association, the University of Montana Law School, the Montana Supreme Court, the 22 judicial districts, and each tribal government located on the seven Montana reservations.

Adopted April 4, 2005

### **SENATE JOINT RESOLUTION NO. 6**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THAT THE LEGISLATIVE COUNCIL DESIGNATE AN APPROPRIATE INTERIM COMMITTEE OR DIRECT STAFF RESOURCES TO STUDY ACCESS BY LOW-INCOME MONTANANS TO THE MONTANA CIVIL LEGAL SYSTEM AND TO DETERMINE WHETHER ANY CHANGES ARE APPROPRIATE.

WHEREAS, nearly one out of every five Montanans, 190,000 people, live at or near the federal poverty level, and Montana ranks 10th in the overall poverty rate among the states and ranks 45th in median household income and 46th in per capita income; and

WHEREAS, a comprehensive legal needs study has recently been completed by the Equal Justice Task Force created by the Montana Supreme Court; and

WHEREAS, although the data from the legal needs study is just beginning to be analyzed, preliminary results of the legal needs study show that 85% of Montana's poor and near-poor residents have at least one legal problem a year; and

WHEREAS, federal funding for civil legal assistance to the poor has been substantially reduced in recent years; and

WHEREAS, in 1996, the Montana Legal Services Association, Montana's only general statewide civil legal assistance provider, suffered a 48% reduction in federal funding, which has never been restored, and the Montana Legal Services Association's Legal Assistance to Victims grant from the U.S. Department of Justice Violence Against Women Act Office was not renewed for 2005, resulting in further reductions in services to low-income people; and

WHEREAS, although there is one private attorney for every 365 Montana residents, there is only one Montana Legal Services Association attorney for every 13,000 low-income residents; and

WHEREAS, the State of Montana provides no funding for civil legal assistance to Montana's low-income population; and

WHEREAS, reductions in civil legal assistance funding for the poor has been exacerbated by the low rate of return on the Interest on Lawyers Trust Accounts funds, managed by the Montana Justice Foundation, one of the few additional funding sources for civil legal services to the poor; and

WHEREAS, denial of access to Montana's civil legal system prevents Montana residents from realizing the protections afforded by the Montana Constitution.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to review the access to the legal system in Montana that is provided to low-income Montanans and to determine whether any changes may be appropriate. The study must include:

(1) a review of the unmet civil legal needs of low-income residents of Montana using the recently completed legal needs study;

(2) a review of technological advances in place to serve the civil legal needs of low-income Montanans and of whether additional resources or further coordination of technological resources could address all or part of the unmet needs;

(3) a review of the services and resources being provided by the attorneys in private practice, governmental agencies, and nongovernmental organizations to meet the civil legal needs of low-income residents of Montana and of the efforts underway to increase those services, resources, or both;

(4) changes in state law necessary to facilitate the provision of civil legal services to those unable to afford them;

(5) a review of funding sources currently available to address civil legal needs of low-income Montanans;

(6) a determination of the level of public funding required to provide the assistance necessary to enhance equal access to the Montana justice system;

(7) a review of revenue options that could be considered in providing state funding for civil legal services for low-income residents of Montana and the manner in which state funds could be appropriated;

(8) a determination of the types and numbers of civil cases in which legal services or resources are provided to low-income Montanans through public or private sources;

(9) a review of and recommendation regarding possible alternative methods of providing needed legal services and resources to low-income Montanans other than by direct representation by attorneys;

(10) a review of courts' involvement in assisting low-income Montanans who appear before the courts to receive needed legal or other services;

(11) a review of how the youth courts may be used to reduce recidivism in the youth court system by providing referrals to services for at-risk families; and

(12) any other aspect of the administration of access to justice for low-income Montanans that is determined to be appropriate.

BE IT FURTHER RESOLVED, that the study committee or staff be directed to request information and staff assistance from the Legislative Fiscal Division.

BE IT FURTHER RESOLVED, that the committee or staff be directed to develop a specific list of options, including an option of no action, to be considered for recommendation to the 60th Legislature.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2006.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 60th Legislature.

Adopted April 18, 2005

## SENATE JOINT RESOLUTION NO. 7

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA RECOGNIZING THE IMPORTANCE OF THE TRANSBOUNDARY REGION OF THE FLATHEAD LAKE AND RIVER DRAINAGE; URGING THAT THE GOVERNOR OF MONTANA NEGOTIATE AN OPERATING AGREEMENT WITH THE GOVERNMENT OF BRITISH COLUMBIA; AND URGING THAT THE INTERNATIONAL JOINT COMMISSION CONDUCT AND COMPLETE AN ENVIRONMENTAL ASSESSMENT PRIOR TO A FINAL DECISION ON COAL BED METHANE AND OTHER HYDROCARBON DEVELOPMENT IN THE VALLEY OF THE FLATHEAD RIVER AND CRITICAL ADJACENT ENVIRONS.

WHEREAS, the people of Montana are grateful to God for the quiet beauty of our state, the grandeur of our mountains, the clarity of our skies, and the purity of our water; and

WHEREAS, Montana has recognized that all persons are endowed with the inalienable right to a clean and healthful environment; and

WHEREAS, the Flathead river system and Flathead Lake contain some of the most pure water in Montana, the nation, and the world; and

WHEREAS, the Flathead is recognized nationally and internationally for its unique and invaluable attributes and characteristics as evidenced by the establishment of Waterton-Glacier International Peace Park; the Great Bear, Bob Marshall, and Mission Mountains Wilderness; the Wild and Scenic Flathead River system; and the International Biosphere Reserves; and

WHEREAS, the long-term economic vitality of northwestern Montana depends in significant measure on preserving world-class waters, fish, wildlife, clean and clear air, and recreational opportunities; and

WHEREAS, Montana recognizes the sovereign right of Canada and the Province of British Columbia to govern their territory and also recognizes that with rights come attendant responsibilities; and

WHEREAS, Montana supports responsible mining and extraction of hydrocarbons, including coal, coal bed methane, oil, and natural gas, where it can be ensured that there will be no unacceptable adverse environmental impacts; and

WHEREAS, resolutions of the Legislature in 1975 and 1989 called on British Columbia to take every possible precaution not to degrade the air and water in the Flathead drainage; and

WHEREAS, on the 15th day of September 2003 the Governor of Montana and the Premier of British Columbia signed a historic environmental cooperation arrangement pledging mutual cooperation and understanding in transboundary issues and requiring a further operating agreement and action plan to be negotiated to implement the agreement; and

WHEREAS, new proposals for coal and coal bed methane development in the Flathead valley and critical adjacent environs in British Columbia are imminent possibilities; and

WHEREAS, there has not been a complete environmental assessment of the impacts of new coal field development on the valley of the north fork of the Flathead River and critical adjacent environs; and

WHEREAS, former Governor Judy Martz and the Montana Congressional Delegation have all requested that a comprehensive environmental assessment be completed prior to coal bed methane gas development in the Canadian headwaters of the Flathead River; and

WHEREAS, the International Joint Commission has expressed its readiness to assist the U.S. and Canadian governments in preventing and resolving environmental disputes in the transboundary areas addressed in this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Governor of Montana be urged to negotiate an operating agreement with the Premier of British Columbia that implements in a meaningful and measurable manner the 2003 environmental cooperation arrangement to resolve transboundary issues.

BE IT FURTHER RESOLVED, that the Legislature of the State of Montana urges that the International Joint Commission conduct a comprehensive environmental assessment of the impacts of developing hydrocarbon resources on the transboundary resources and waters of the valley of the north fork of the Flathead River and critical adjacent environs prior to a final decision on whether or not to approve hydrocarbon development and in particular coal mines and coal bed methane in these transboundary areas.

Adopted April 6, 2005

## **SENATE JOINT RESOLUTION NO. 9**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING FEDERAL FUNDS FOR REHABILITATION OF THE ST. MARY DIVERSION FACILITIES AND URGING THE SUPPORT AND LEADERSHIP OF THE MONTANA CONGRESSIONAL DELEGATION.

WHEREAS, the Milk River Project was authorized in 1903 as one of five initial projects for the newly created U.S. Reclamation Service; and

WHEREAS, the St. Mary Diversion Dam and Canal (St. Mary diversion facilities) were authorized in 1905; and

WHEREAS, construction of the St. Mary diversion facilities was started in 1906 and the facilities started delivering water in 1916; and

WHEREAS, the St. Mary diversion facilities deliver nearly the entire water supply to Montana's Milk River Basin; and

WHEREAS, the Milk River would go dry 6 out of every 10 years without the St. Mary diversions; and

WHEREAS, the regional economy of the Milk River Basin has developed around the Milk River Project and the water supplied through the St. Mary diversion facilities; and

WHEREAS, the regional economy of the Milk River Basin represents a significant part of the Montana economy including agriculture; and

WHEREAS, recreational and wildlife benefits have evolved as a result of the Milk River Project; and

WHEREAS, municipal water supplies are dependent upon the continued operation of the St. Mary diversion facilities; and

WHEREAS, the Fort Belknap Reserved Water Rights Compact is predicated upon the continued operation of the St. Mary diversion facilities; and

WHEREAS, operation of the St. Mary diversion facilities has significantly impacted land, wildlife, and water resources of the Blackfeet Tribe; and

WHEREAS, current operations of the St. Mary diversion facilities impact critical habitat for the threatened bull trout; and

WHEREAS, the St. Mary diversion facilities are operating well beyond their design life; and

WHEREAS, the risk of a catastrophic failure of key structures increases for each year of operation; and

WHEREAS, cost estimates of repair and replacement far exceed the ability of current contract holders to pay expenses using operation and maintenance revenue; and

WHEREAS, the St. Mary diversion facilities are owned and operated by the United States; and

WHEREAS, the United States is not taking the lead to rehabilitate the St. Mary diversion facilities with a cost-share mechanism in a timely manner; and

WHEREAS, the State of Montana, the Blackfeet Tribe, and other parties with interest in the Milk River have formed the St. Mary rehabilitation working group to identify a workable solution to rehabilitation and replacement of the St. Mary diversion facilities.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the Montana Legislature strongly supports the rehabilitation of the St. Mary diversion facilities and the work of the St. Mary rehabilitation working group.

(2) That Congress is requested to immediately appropriate nonreimbursable funds for the State of Montana to complete engineering and environmental investigations necessary to proceed with the rehabilitation of the St. Mary diversion facilities.

(3) That Congress is requested to immediately appropriate nonreimbursable funds for the State of Montana to construct a new bridge across the St. Mary River on the Blackfeet Reservation for safety and rehabilitation reasons.

(4) That the U.S. Department of the Interior is requested to work with the State of Montana, the Blackfeet Tribe, and residents in the Milk River Basin in their efforts to rehabilitate these critical structures and improve management of the Milk River Basin.

(5) That Congress is requested to appropriate money with an appropriate cost-share mechanism, recognizing the ability of residents in the Milk River Basin to provide financial support, for construction and rehabilitation of the St. Mary diversion facilities.

(6) That the Montana Congressional Delegation is requested to make attainment of congressional and federal support for rehabilitation of the St. Mary diversion facilities its utmost priority.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to Montana's Congressional Delegation, the Governor of Montana, the Blackfeet Tribe, the Fort Belknap Tribe, and the St. Mary rehabilitation working group.

Adopted April 6, 2005

## SENATE JOINT RESOLUTION NO. 11

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO LOOK AT THE SUBDIVISION REVIEW PROCESS; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 60TH LEGISLATURE.

WHEREAS, the Montana Subdivision and Platting Act was enacted by the Montana Legislature in 1973; and

WHEREAS, since its enactment, the Montana Legislature has adopted numerous amendments to the Montana Subdivision and Platting Act and yet procedural and substantive issues continue to emerge; and

WHEREAS, acting under House Joint Resolution No. 37 from the 2003 Legislative Session, the Education and Local Government Interim Committee, working with a broad-based group of affected and interested parties, was able to reach consensus regarding many subdivision review process issues, resulting in the introduction of Senate Bill No. 116 in the 2005 Legislative Session; and

WHEREAS, members of the Education and Local Government Interim Committee, as well as the citizens involved in the interim study, realize that many substantive issues remain regarding subdivision review and especially its appropriate role in and interplay with local land use planning and regulation.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to review all relevant portions of the Montana Subdivision and

Platting Act and the Act's appropriate role in and interplay with local government land use planning and regulation, including but not limited to:

(1) a review of the definitions of "division of land" and "subdivision" in Title 76, chapter 3, MCA;

(2) a review of the exemptions to subdivision review in Title 76, chapter 3, MCA; and

(3) the need to clarify the intent of the Legislature in determining when a subdivision review is required.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2006.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 60th Legislature.

Adopted April 18, 2005

## **SENATE JOINT RESOLUTION NO. 12**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA PROMOTING CIVIC EDUCATION IN MONTANA'S ELEMENTARY AND SECONDARY SCHOOLS.

WHEREAS, a high level of disengagement, especially among American youth, demands a recommitment to education for active and effective citizenship; and

WHEREAS, concerted public and academic action is needed to review and reestablish civic education as a high priority in schools and public life; and

WHEREAS, teaching and encouraging the development of citizenship and patriotic values among young people has long been recognized as one of the most important goals of education; and

WHEREAS, schools are one of the places where young people learn to interact and work together for a common purpose; and

WHEREAS, into the late 1960s, schools offered courses in civics, democracy, and government, but today most formal civic education consists of a single government course; and

WHEREAS, the time has come for schools to assist students in becoming competent and responsible citizens who are informed and thoughtful, participate in the community, act politically, and possess civic virtues.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Board of Public Education, the Superintendent of Public Instruction, and local school board trustees be encouraged to:

- (1) promote instruction in government, history, law, democracy, and freedom;
- (2) foster an appreciation for America's founders, our free institutions, and the moral and intellectual foundations of our nation;
- (3) incorporate discussion of current local, national, and international issues into the classroom;
- (4) provide students with learning opportunities through community service;
- (5) offer extracurricular activities that provide for involvement in the school and community; and
- (6) encourage student participation in school governance.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the Board of Public Education and the Superintendent of Public Instruction for distribution to each school district in Montana.

Adopted April 6, 2005

### **SENATE JOINT RESOLUTION NO. 13**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA STRONGLY URGING THAT TAIWAN BE PERMITTED APPROPRIATE AND MEANINGFUL PARTICIPATION IN ACTIVITIES OF THE WORLD HEALTH ORGANIZATION.

WHEREAS, direct and unobstructed participation in international health cooperation forums and programs is crucial for all parts of the world, especially with today's greater potential for the cross-border spread of various infectious diseases; and

WHEREAS, Taiwan's achievements in the field of health are substantial, including one of the highest life expectancy levels in Asia, maternal and infant mortality rates comparable to those of western countries, the eradication of the infectious diseases of cholera, smallpox, and plague, and being the first Asian nation to eradicate polio and the first country in the world to provide children with free hepatitis B vaccinations; and

WHEREAS, the United States Centers for Disease Control and Prevention and its Taiwanese counterpart have enjoyed close collaboration on a wide range of public health issues; and

WHEREAS, in recent years, Taiwan has expressed a willingness to financially and technically assist the international aid and health activities supported by the World Health Organization; and

WHEREAS, Taiwan's population of 23 million people is larger than that of 75% of the World Health Organization member states; and

WHEREAS, the United States, in the 1994 Taiwan Policy Review, declared its intention to support Taiwan's participation in appropriate international organizations; and

WHEREAS, Taiwan's participation in the activities of the World Health Organization could bring many benefits to the state of health not only in Taiwan but also regionally and globally.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Legislature strongly urge that Taiwan be permitted appropriate and meaningful participation in the activities of the World Health Organization.

BE IT FURTHER RESOLVED, that the Montana Secretary of State send copies of this resolution to the President of the United States, the Montana Congressional Delegation, the Director General of the Taipei Economic and Cultural Office in Seattle, and the World Health Organization.

Adopted April 6, 2005

### **SENATE JOINT RESOLUTION NO. 14**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY REGARDING THE MISSIONS AND OPERATION OF THE MONTANA NATIONAL GUARD FOR THE PURPOSES OF STATE ACTIVE DUTY PERFORMED TO MEET STATE EMERGENCIES.

WHEREAS, members of the Montana National Guard, like members of other states' National Guard organizations, serve in either a federal or a state status; and

WHEREAS, the alert system, mobilization and demobilization, deployment and redeployment, pay and benefits, retirement qualification and benefits, life and health insurance provisions, and death benefits for members of the National Guard serving in a federal active duty status are mostly established by federal law and regulation and are reviewed and studied from time to time by the Department of Defense and the United States Congress; and

WHEREAS, the same subjects for members of the Montana National Guard while serving in a state status on State Active Duty (SAD) are governed by state law and regulations of the Montana Department of Military Affairs; and

WHEREAS, SAD is used for many different kinds of state emergencies, including such emergencies as wildfire suppression and strikes at state institutions, and those types of emergencies are difficult to predict, requiring availability of forces, through a mobilization and deployment system, virtually 24 hours a day, 7 days a week, all year long; and

WHEREAS, there may be a need for more Montana National Guard members to serve more state duty in a SAD status in the future, for the purposes of reaction to weapons of mass destruction threats and for antiterrorist missions, because not every response by the National Guard to unidentified causes of emergencies can or will be paid for by the United States; and

WHEREAS, the necessity for SAD, the process by which National Guard members are called to SAD, the conditions under which members serve on SAD, the deployment and redeployment system, the benefits available to them on and after SAD, the laws under which they serve on SAD, and other practical and legal implications of SAD service have not ever been studied by the Legislature; and

WHEREAS, the service of members of the Montana National Guard on SAD is extremely important to the residents of Montana and to state and local

governments in Montana because the state needs an organized, trained, and equipped force ready to respond to state emergencies at the call of the Governor; and

WHEREAS, it is therefore fitting and proper that the Legislature review all aspects of SAD in order to become informed regarding mechanisms and missions of SAD and to determine whether the laws governing the National Guard need to be updated or otherwise changed to enhance the execution of SAD missions and to reflect national and state priorities for the use of the Montana National Guard while on SAD.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to work in collaboration with the Department of Military Affairs and other appropriate groups to:

(1) receive information from the Department of Military Affairs and other federal, state, and local government agencies, as well as persons from the private sector, to determine what aspects of SAD function well and those aspects that need further attention by the Legislature;

(2) examine the method by which state emergencies are declared and ended and the system by which the Montana National Guard is alerted, mobilized, deployed, and redeployed and serves on SAD;

(3) study the preparation, training, mission, and tasks of the Montana National Guard as they relate to the type of emergency for which the Guard is placed on SAD;

(4) study the pay, benefits, and support furnished members of the National Guard while being called to, serving on, and completing SAD;

(5) study the types of emergencies for which the National Guard has been called to SAD and the types of emergencies for which it may be called to SAD in the future and determine how well current practices and statutes relate to those missions; and

(6) examine the laws under which the National Guard is called to duty and executes its SAD missions, to determine whether to ascertain the appropriateness of those laws, given the National Guard's past, present, and future missions while on SAD.

BE IT FURTHER RESOLVED, that, if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2006.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 60th Legislature.

Adopted April 16, 2005

**SENATE JOINT RESOLUTION NO. 17**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA ENCOURAGING RENEWABLE ENERGY DEVELOPMENT; AND URGING THE UNITED STATES CONGRESS TO SUPPORT THE RENEWABLE ENERGY PRODUCTION INCENTIVE PROGRAM AND PRODUCTION TAX CREDIT PROGRAM.

WHEREAS, renewable energy supply brings fuel diversity benefits and mitigates market dominance by a very few energy fuel types in the nation's mix of energy supplies, enhances national security by reducing dependence on imported fuels, and decreases environmental impacts compared to traditional methods of electricity generation; and

WHEREAS, increasing public preference and consumer demand support renewable energy generation and product development and commercialization; and

WHEREAS, renewable energy production costs have progressively declined and performance has steadily improved and promises continued improvement; and

WHEREAS, encouraging use of renewable energy resources has been an important national goal since the passage of the Energy Policy Act of 1992; and

WHEREAS, the United States Congress established the Renewable Energy Production Incentive (REPI) Program, in the Energy Policy Act of 1992, to provide direct payments of 1.5 cents per kilowatt hour to any public, not-for-profit utility for energy it produces through new renewable energy projects brought online between October 1993 and September 30, 2003, during the first 10 years of the utility's operation; and

WHEREAS, the United States Congress also established the Energy Production Tax Credit (PTC) Program, in the Energy Policy Act of 1992, to provide a wind production tax credit of 1.5 cents per kilowatt hour for electrical energy produced from a new facility brought online after December 31, 1993, and before July 1, 1999, for the first 10 years of the facility's operation; and

WHEREAS, the United States Congress has extended and expanded the PTC Program three times over the past 6 years, in 1999, in 2001, and again in 2004, but each time Congress has allowed the credit to expire before acting and has then approved only short-term extensions; and

WHEREAS, funding for the REPI Program has remained far below the level needed to maximize the potential of the incentive, supporting only a fraction of the qualified renewable energy projects that apply each year; and

WHEREAS, authorization for the current REPI Program expired on September 30, 2003, and authorization for the current PTC Program expires on December 31, 2005; and

WHEREAS, given the 2-year or 3-year lead time required for bringing facilities online, the expiration of the REPI and PTC Programs is currently slowing the implementation of hundreds of megawatts worth of future projects and is frustrating plans to build new turbine manufacturing facilities that could supply these projects; and

WHEREAS, failure to extend the REPI and PTC Programs means that contracts will be put on hold, workers will be laid off, and the growing

momentum toward developing renewable energy markets will again be brought to a halt; and

WHEREAS, additional renewable technologies could also benefit from a production incentive or tax credit, just as solar, wind, geothermal, closed-loop biomass, and poultry waste have done through the existing REPI and PTC Programs; and

WHEREAS, tradable tax credits for renewable energy, consisting of a production tax credit that a public or consumer-owned utility can accrue by developing and owning a renewable energy facility and then selling to the private sector, will:

- (1) facilitate public/private partnerships;
- (2) benefit not-for-profit utilities by providing an alternative to the potentially underfunded REPI Program;
- (3) benefit private sector partners that wish to support renewable energy by providing tax credits against existing tax liabilities; and
- (4) further facilitate the development of renewable energy in our region.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the United States Congress be respectfully urged to:

- (1) acknowledge the value of the REPI and PTC Programs to the continued development and commercialization of renewable energy technologies, industries, and markets;
- (2) approve, at a minimum, a 10-year extension of the PTC Program until December 31, 2015, and the retroactive 10-year extension of the REPI Program that was included in the proposed conference report of the Energy Policy Act of 2003;
- (3) expand the eligible resources for the REPI Program to include landfill gas and extend the benefits to additional public utilities and tribes;
- (4) expand the resources eligible for the PTC Program to include geothermal, solar, and both animal and forest waste as biomass feedstocks;
- (5) authorize tradable tax credits for renewable energy; and
- (6) act on this issue immediately, regardless of whether or when comprehensive energy legislation is taken up for consideration.

BE IT FURTHER RESOLVED, that copies of this resolution be sent by the Secretary of State to the Honorable George W. Bush, President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Montana Congressional Delegation.

Adopted April 4, 2005

## **SENATE JOINT RESOLUTION NO. 19**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA SUPPORTING THE MONTANA CONSTITUTION, THE UNITED STATES CONSTITUTION, AND THE BILL OF RIGHTS; ENCOURAGING VARIOUS ACTIONS IN

SUPPORT OF FIGHTING TERRORISM AND PROTECTING CIVIL RIGHTS AND CIVIL LIBERTIES; REQUESTING THE ATTORNEY GENERAL OF MONTANA TO COMPILE AND DISSEMINATE RELEVANT INFORMATION REGARDING ACTIONS TAKEN BY THE FEDERAL GOVERNMENT UNDER THE USA PATRIOT ACT; AND ENCOURAGING MONTANA'S CONGRESSIONAL DELEGATION TO SUPPORT AND ENSURE THE CIVIL RIGHTS OF ALL MONTANANS AND CITIZENS OF THE UNITED STATES, WHICH INCLUDES ALLOWING THE USA PATRIOT ACT TO EXPIRE.

WHEREAS, the citizens of Montana recognize the Constitution of the United States as our charter of liberty and that the Bill of Rights enshrines the fundamental and inalienable rights of Americans, including the freedoms of religion, speech, assembly, and privacy; and

WHEREAS, each of Montana's duly elected public servants has sworn to defend and uphold the United States Constitution and the Constitution of the State of Montana; and

WHEREAS, the citizens of Montana denounce and condemn all acts of terrorism by any entity, wherever the acts occur; and

WHEREAS, terrorist attacks against Americans, such as those that occurred on September 11, 2001, have necessitated the crafting of effective laws to protect citizens of the United States and others from terrorist attacks; and

WHEREAS, any new security measures of federal, state, and local governments should be carefully designed and employed to enhance public safety without infringing on the civil liberties and rights of innocent citizens of Montana and the United States; and

WHEREAS, certain provisions of the "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001", also known as the USA PATRIOT Act, allow the federal government to more liberally detain and investigate citizens and to engage in surveillance activities that may violate or offend the rights and liberties guaranteed by our state and federal constitutions.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the 59th Montana Legislature supports the government of the United States in its campaign against terrorism and affirms the commitment of the United States that the campaign not be waged at the expense of essential civil rights and liberties of citizens of this country that are protected in the United States Constitution and the Bill of Rights.

BE IT FURTHER RESOLVED, that it is the policy of the citizens of Montana to oppose any portion of the USA PATRIOT Act that violates the rights and liberties guaranteed under the Montana Constitution or the United States Constitution, including the Bill of Rights.

BE IT FURTHER RESOLVED, that in accordance with Montana state policy, in the absence of reasonable suspicion of criminal activity under Montana law, the 59th Montana Legislature exhorts agents and instrumentalities of this state to not:

(1) initiate or participate in or assist or cooperate with an inquiry, investigation, surveillance, or detention under the USA PATRIOT Act if the action violates constitutionally guaranteed civil rights or civil liberties;

(2) record, file, or share intelligence information concerning a person or organization, including library lending and research records, book and video store sales and rental records, medical records, financial records, student records, and other personal data, even if authorized under the USA PATRIOT Act, if the action violates constitutionally guaranteed civil rights or civil liberties; or

(3) retain any of the intelligence information described in subsections (1) and (2) of this clause if the information violates constitutionally guaranteed civil rights or civil liberties.

BE IT FURTHER RESOLVED, that the Attorney General of Montana is encouraged to review intelligence information currently held by the state, assess the legality and appropriateness of holding the information under the United States Constitution and Montana Constitution, and permanently dispose of all such information to which there is not attached a reasonable suspicion of criminal activity.

BE IT FURTHER RESOLVED, that the 59th Montana Legislature admonishes every agency and instrumentality of the state to not:

(1) use state resources or institutions for the enforcement of federal immigration matters that are the responsibility of the federal government;

(2) collect or maintain information about the political, religious, or social views, associations, or activities of any individual, group, association, organization, corporation, business, or partnership unless the information directly relates to an investigation of criminal activities and there are reasonable grounds to suspect that the subject of the information was, is, or may be involved in criminal conduct; or

(3) engage in racial profiling.

BE IT FURTHER RESOLVED, that state and local law enforcement agencies should not use race, religion, ethnicity, or national origin as factors in selecting individuals to subject to investigatory activities, except when seeking to apprehend a specific suspect whose race, religion, ethnicity, or national origin is part of the description of the suspect.

BE IT FURTHER RESOLVED, that the 59th Montana Legislature requests:

(1) public schools and institutions of higher learning within Montana to provide notice to each individual whose education records have been obtained by law enforcement agents pursuant to section 507 of the USA PATRIOT Act; and

(2) each public library within Montana to post in a prominent place within the library a notice to library users as follows: "WARNING: Under Section 215 of the federal USA PATRIOT Act (Public Law 107-56), records of the books and other material you borrow from this library may be obtained by federal agents. Federal law prohibits librarians from informing you if records about you have been obtained by federal agents. Questions about the law and policy that allows federal agents to obtain and use information about your activities in this library should be directed to: U.S. Attorney General, Department of Justice, Washington, DC 20530".

BE IT FURTHER RESOLVED, that the 59th Montana Legislature encourages the Attorney General of Montana to periodically seek from federal authorities the following information in a form that facilitates an assessment of the effect of federal antiterrorism efforts on the residents of Montana:

(1) the name of each resident of Montana who has been arrested or otherwise detained by federal authorities as a result of terrorism investigations since September 11, 2001, the location of each detainee, the circumstances that led to each detention, the charges, if any, lodged against each detainee, and the name of counsel, if any, representing each detainee;

(2) the number of search warrants that have been executed in Montana pursuant to section 213 of the USA PATRIOT Act and without notice to the subject of the warrant;

(3) the extent of electronic surveillance carried out in Montana under powers granted in the USA PATRIOT Act;

(4) the extent to which federal authorities monitor political meetings, religious gatherings, or other activities within Montana that are protected by the First Amendment;

(5) the number of times that education records have been obtained from public schools and institutions of higher learning in Montana under section 507 of the USA PATRIOT Act;

(6) the number of times that library records have been obtained from libraries in Montana under section 215 or section 505 of the USA PATRIOT Act; and

(7) the number of times that records of the books purchased by store patrons from bookstores in Montana have been obtained under section 215 of the USA PATRIOT Act.

BE IT FURTHER RESOLVED, that the 59th Montana Legislature requests the Attorney General of Montana to compile and transmit to each member of the Legislature, at least once every 6 months, a summary of the information obtained pursuant to the legislative requests made in this resolution and, based on the information and any other relevant information, to include an assessment of the effect of federal antiterrorism efforts on the residents of Montana.

BE IT FURTHER RESOLVED, that the 59th Montana Legislature desires that all public libraries adopt policies that ensure the regular destruction of records, when the records are no longer needed, that may be used to identify the name of a book borrower or the name of any Internet user.

BE IT FURTHER RESOLVED, that in order to protect intellectual privacy rights, the 59th Montana Legislature advises all persons in local businesses and institutions, particularly booksellers, to refrain whenever possible from keeping records that can be used to identify the name of any purchaser and to regularly destroy sales records maintained by the business or institution.

BE IT FURTHER RESOLVED, that the 59th Montana Legislature urges the Montana delegation in the United States Congress to:

(1) correct provisions in the USA PATRIOT Act and other administrative measures that infringe on civil liberties by supporting the sunset provisions of the USA PATRIOT Act, slated to be reviewed by Congress in 2005, and ultimately allow the USA PATRIOT Act to expire; and

(2) support passage of the Security and Freedom Ensured Act of 2003 and the End Racial Profiling Act of 2004.

BE IT FURTHER RESOLVED, that the 59th Montana Legislature urges the Montana Congressional Delegation to vigorously oppose any pending and all

future federal legislation if the legislation infringes on the civil rights and civil liberties of American citizens. Federal legislation that the Montana Congressional Delegation is encouraged to oppose includes but is not limited to the Domestic Security Enhancement Act of 2003, also known as Patriot Act II.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to President George W. Bush, the Attorney General of the United States, Governor Brian Schweitzer, Senator Max Baucus, Senator Conrad Burns, and Representative Dennis Rehberg.

Adopted April 2, 2005

## **SENATE JOINT RESOLUTION NO. 20**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING A PERFORMANCE AUDIT OF THE EXTENT OF CONSERVATION EASEMENTS AND THE PROPERTY TAX POLICY ISSUES ASSOCIATED WITH CONSERVATION EASEMENTS.

WHEREAS, acquisition of development rights through conservation easements, both public and private, has increased dramatically in the past 4 years; and

WHEREAS, negotiated terms relative to the use of these easements may in perpetuity affect any further development on these easements; and

WHEREAS, acquired development rights on these properties may impact the market value of these and adjacent properties; and

WHEREAS, income and estate tax deductions are often an attractive incentive in negotiating easement contracts; and

WHEREAS, the cumulative effect of ongoing acquisition of development rights may present tax implications for counties; and

WHEREAS, land trusts and government agencies are actively acquiring conservation easements in Montana; and

WHEREAS, it is of compelling interest to officials of Montana counties and Montana taxpayers and elected officials to have accurate information available on which to base policy decisions.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the Legislative Audit Committee prioritize a performance audit of the extent of conservation easements and the property tax policy issues associated with conservation easements.

(2) That the Committee identify the cause of the conflicting information available.

(3) That the Committee recommend a method for compiling this information in a readily available format for use by the Legislature and interested parties.

(4) That the Committee evaluate relevant information to determine trends in conservation easements and development of agricultural lands that would indicate potential for shifts in tax collections.

(5) That the Committee present its findings, recommendations, and any proposed legislation to the 60th Legislature.

Adopted April 18, 2005

## **SENATE JOINT RESOLUTION NO. 21**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING SUPPORT FOR AND CONTINUED FUNDING OF AMTRAK PASSENGER RAIL SERVICE THROUGH MONTANA.

WHEREAS, Amtrak is energy-efficient and environmentally beneficial, consuming about half as much energy per passenger-mile as airlines and causing less air pollution; and

WHEREAS, Amtrak provides mobility to citizens of many smaller communities that are poorly served by air and bus service, as well as to senior citizens, persons with disabilities, students, and persons with medical conditions that prevent them from flying; and

WHEREAS, communities served by Amtrak in Montana are not provided with any other mode of public transportation, and residents of these communities are required to travel up to 200 miles to the nearest airport; and

WHEREAS, 129,044 passengers rode Amtrak across Montana in fiscal year 2004, up from 122,053 in fiscal year 2003; and

WHEREAS, Montana's tourism industry benefits from rail passenger service through the state; and

WHEREAS, Amtrak spent \$57,495 for goods and services in Montana in fiscal year 2004, up from \$19,800 in fiscal year 2003; and

WHEREAS, during fiscal year 2004, Amtrak employed 57 Montanans, who earned a total of \$3,293,052 in wages; and

WHEREAS, according to a February 6, 2005, editorial in the Great Falls Tribune, a recent national survey found that 71% of Americans believe federal subsidies of Amtrak are about right or not enough; and

WHEREAS, Amtrak is vital to the economy of Montana's northern tier, as indicated by a recent study by R.L. Banks & Associates that concluded that Amtrak's Empire Builder contributes nearly \$14 million annually in economic benefits to the State of Montana.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the 59th Montana Legislature urge Montana's Congressional Delegation to support continued Amtrak passenger rail service through Montana.

BE IT FURTHER RESOLVED, that the 59th Montana Legislature urge the President and the United States Congress to include funding for Amtrak in any spending plan that is adopted.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to Montana's Congressional Delegation.

Adopted April 1, 2005

**SENATE JOINT RESOLUTION NO. 22**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING CONGRESS TO PASS A WELL-FUNDED, MULTIYEAR FEDERAL HIGHWAY PROGRAM IN A TIMELY MANNER WHILE ALSO PROTECTING MONTANA'S INTERESTS.

WHEREAS, a well-funded federal highway program is important to the economy and quality of life in Montana, creating and maintaining jobs for Montanans, facilitating commerce in Montana, and enabling Montanans to travel safely to school, work, hospitals, stores, places of recreation, and other destinations that are important to a high quality of life; and

WHEREAS, Congress has not yet enacted legislation providing for a multiyear reauthorization of the federal highway program, hampering the ability of the state to deliver needed highway improvements to the citizens of Montana; and

WHEREAS, Montana has a vast and extensive highway system that serves national as well as state transportation needs, and Montana has very few citizens to finance the highway systems' maintenance and improvement, and it is essential that Montana's position in the federal highway program be perpetuated in the reauthorization.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Legislature strongly supports prompt enactment of a well-funded, multiyear federal highway program that includes a highway funding formula that is at least as favorable to Montana's share of the program as the formula in the most recent multiyear federal highway legislation.

BE IT FURTHER RESOLVED, that copies of this resolution be sent by the Secretary of State to the Montana Congressional Delegation.

Adopted April 6, 2005

**SENATE JOINT RESOLUTION NO. 23**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA AFFIRMING THE LEGISLATURE'S DESIRE TO BE CONSULTED ON THE PROVISIONS OF INTERNATIONAL TRADE AGREEMENTS; AND REQUESTING MONTANA'S CONGRESSIONAL DELEGATION TO PROMOTE PROTECTIONS FOR MONTANA AND THE BEST INTERESTS OF MONTANA IN THE NEGOTIATION OF THESE AGREEMENTS.

WHEREAS, the Constitution of the United States of America reserves powers to the states that it does not grant to the nation and local governments also have autonomy over those powers not reserved to the state under the Montana Constitution; and

WHEREAS, existing trade agreements, such as the North American Free Trade Agreement (NAFTA), and proposed agreements, such as the Free Trade Area of the Americas (FTAA) and the Central American Free Trade Agreement

(CAFTA), grant powers that affect lawmaking authority of state and local governments but do not require a supermajority vote of the U.S. Senate to ratify and cannot be amended as is the case with treaties before the U.S. Senate; and

WHEREAS, NAFTA and CAFTA enable individual foreign investors to sue governments for expropriation of profits, giving individual foreign investors greater rights in the United States than are granted to United States citizens by the Constitution; and

WHEREAS, trade negotiations under the General Agreement on Trade in Services (GATS) could affect Montana's ability to operate or regulate electricity, prescription drug programs, insurance, higher education, water resources, and other essential services; and

WHEREAS, the National Conference of State Legislatures, the International Municipal Lawyers Association, the National Association of Counties, the National Association of Attorneys General, and various state legislators from Idaho and California have sent letters to the U.S. Trade Representative expressing these concerns and have received little response; and

WHEREAS, these agreements might compromise the sovereignty and economic well-being of the State of Montana because:

(1) a NAFTA tribunal has held that Canadian softwood imports do not pose a threat of injury to U.S. producers;

(2) the Economic Policy Institute has determined that 1,700 Montana jobs have been lost because of NAFTA;

(3) the viability of Montana's agricultural economy and family farms and ranches are compromised by excessive competition from low-priced imported agricultural products; and

(4) Montana's energy laws concerning a default supplier, quotas from renewable energy sources and preferential tax treatments given to those energy sources, and preferential treatment to in-state providers of electrical generation and regulation of energy contracts may not comport with U.S. trade commitments to "open markets";

WHEREAS, these international agreements might affect the ability of Montana to regulate its oil and gas royalties and use purchase preferences in Montana's procurement laws; and

WHEREAS, the U.S. Trade Ambassador's State Point of Contact has failed to create a clearly marked channel for two-way communications as it was meant to; and

WHEREAS, Montanans are committed and prepared to treat foreign firms that do business in Montana in a nondiscriminatory fashion under a standard based on the Commerce and Foreign Commerce Clauses of the U.S. Constitution, yet Montanans are neither prepared nor willing to accept a challenge to their sovereignty based on an arbitrary and unreasonable standard of discrimination.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That Montana's Congressional Delegation be requested to take steps to ensure that:

(1) the Montana Legislature and other state legislatures are consulted by the United States Trade Representative before commitments are made to specific provisions in trade agreements; and

(2) legislation implementing any new trade or investment accord include appropriate protections for the states from federal lawsuits enforcing these agreements.

BE IT FURTHER RESOLVED, that Montana's Congressional Delegation is urged to defend the best interests of the State of Montana and Montana's local governments, the United States government, and the Constitution rather than the rights of foreign investors when voting on the ratification of any trade agreements.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the Governor of the State of Montana, Montana's Congressional Delegation, the United States Trade Representative, and the President of the United States.

Adopted April 2, 2005

## **SENATE JOINT RESOLUTION NO. 24**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA RECOGNIZING THE CONTRIBUTIONS OF ROTARY INTERNATIONAL AND DESIGNATING FEBRUARY 23, 2005, AS ROTARY DAY IN MONTANA.

WHEREAS, the Rotary Club of Chicago was founded on February 23, 1905, when Chicago attorney Paul Harris invited three business associates to a meeting to form a club to share "mutual cooperation and informal friendship such as all of us had once known in our villages"; and

WHEREAS, by 1921, Rotary Clubs had been formed on six continents, and the name Rotary International was adopted in 1922; and

WHEREAS, as Rotary International grew, its focus changed from serving the business and professional needs of its members to serving communities in need, as expressed in its motto "Service Above Self"; and

WHEREAS, the Rotary Foundation, established in 1928, today garners contributions exceeding \$80 million annually to support a range of humanitarian grants and educational programs; and

WHEREAS, in 1985, Rotary International made a commitment to immunize all of the world's children against polio, and by the centennial of Rotary in 2005, more than \$500 million will have been earmarked for the eradication of polio; and

WHEREAS, Rotary International is approaching its 100th anniversary and consists of 1.2 million members in some 31,000 Rotary Clubs in 166 countries, all committed to addressing such problems as environmental degradation, illiteracy, world hunger, and children at risk.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Legislature designate February 23, 2005, as Rotary Day in Montana in honor of the numerous and ongoing contributions of Rotary

International to communities throughout the State of Montana, across the nation, and around the world.

BE IT FURTHER RESOLVED, that the Secretary of State transmit a copy of this resolution to Glenn E. Estess, president of Rotary International, so that members of Rotary International may be apprised of the sense of the Montana Legislature in this matter.

BE IT FURTHER RESOLVED, that the Legislative Services Division post the designation of this day on the Montana Legislature's website.

Adopted April 4, 2005

## SENATE JOINT RESOLUTION NO. 26

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING SUPPORT FOR CREATING A CENTER FOR THE STUDY AND TREATMENT OF ASBESTOS-RELATED ILLNESS AND FOR PROVIDING RELIEF FOR THE VICTIMS OF ASBESTOS EXPOSURE IN LIBBY, MONTANA.

WHEREAS, the discovery, on a nationwide basis, of the often terminal effects of asbestos exposure has spawned a massive and still growing civil litigation industry; and

WHEREAS, the United States Supreme Court has repeatedly called upon Congress to resolve the national asbestos litigation issue; and

WHEREAS, United States Senate Judiciary Committee Chairman Arlen Specter has under consideration a provision to help resolve the impasse; and

WHEREAS, in the small community of Libby, Montana, many residents have already succumbed to asbestosis and hundreds more have been diagnosed with the disease; and

WHEREAS, the unique nature of the tremolite fibers found in the vermiculite processed at the W.R. Grace zionolite mine at Libby may cause symptoms to be masked for 20 or more years before a diagnosis can be made; and

WHEREAS, there is currently no cure for either asbestosis or mesothelioma and it is likely that other incurable, autoimmune diseases, including rheumatoid arthritis and lupus, will be found to be linked to tremolite asbestos exposure; and

WHEREAS, current events relative to the W.R. Grace Company seemingly eliminate any access to a remedy against that company for the Libby victims' exposure to asbestos contamination; and

WHEREAS, the compensation measure under consideration by the United States Senate appears to be the last resort for many victims of asbestos exposure; and

WHEREAS, the Lincoln County Health Board, of necessity, has appealed to the Montana Legislature for a modest amount of funding to meet the bare necessities of treating asbestos-related illnesses for the biennium beginning July 1, 2005; and

WHEREAS, in 2003, the Legislature passed House Joint Resolution No. 14, requesting the Montana Congressional Delegation to pursue funding options from federal sources to develop, build, and maintain, in Libby, Montana, a

center for the study of asbestos issues and the treatment of illnesses related to tremolite-series asbestos.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislature formally reaffirms the request made in 2003 to Montana's Congressional Delegation to take action in creating a center for the study and treatment of illnesses related to tremolite-series asbestos.

BE IT FURTHER RESOLVED, that under the terms of the asbestos compensation settlement legislation before Congress, special consideration be extended to litigants who have been exposed to the tremolite-fiber asbestos, the symptoms of which take much longer to manifest themselves.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the President of the United States, to the members of the United States Senate Judiciary Committee, and to the members of the Montana Congressional Delegation.

Adopted April 6, 2005

## **SENATE JOINT RESOLUTION NO. 27**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE MONTANA CONGRESSIONAL DELEGATION TO OPPOSE FEDERAL ASBESTOS LEGISLATION THAT WOULD PAY COMPENSATION TO VICTIMS OF ASBESTOS-RELATED DISEASES UNLESS THE LEGISLATION ENSURES THAT THE RESIDENTS OF LIBBY, MONTANA, WHO SUFFER FROM ASBESTOS-RELATED DISEASES ARE INCLUDED WITHIN THE TERMS OF THE LEGISLATION AND RECEIVE THE COMPENSATION THAT THEY NEED AND DESERVE.

WHEREAS, a screening conducted by the U.S. Agency for Toxic Substances and Disease Registry in the year 2000 determined that over 1,100 individuals who had lived in Libby, Montana, for at least 6 months prior to 1991 had abnormalities shown on x-ray films or spirometry that were indicative of adverse exposure to asbestos; and

WHEREAS, although medical research on Libby tremolite asbestos disease is still ongoing and publication of articles fully describing Libby tremolite asbestos disease is still a number of years away, present research does establish that at least 76% of those suffering from Libby tremolite asbestos disease will unfortunately progress from mild to more severe forms of the disease; and

WHEREAS, over 200 individuals are already reported to have died from Libby tremolite asbestos-related disease and many more are expected to die of the disease; and

WHEREAS, the people of Libby are afflicted with tremolite asbestos disease, which resulted from exposure to mining activities by W.R. Grace; and

WHEREAS, hundreds of civil lawsuits were filed in Montana courts seeking to hold W.R. Grace accountable for the injuries and deaths, which resulted from tremolite asbestos exposure; and

WHEREAS, W.R. Grace filed for bankruptcy protection on April 2, 2001, thereby terminating prosecution of the civil suits in Montana courts; and

WHEREAS, W.R. Grace is expected to pay from \$1.5 billion to \$2 billion for all its asbestos liabilities in the bankruptcy proceeding; and

WHEREAS, federal asbestos legislation has been introduced in the U.S. Congress by Senate Judiciary Committee Chairman Arlen Specter that will preempt all claims by Libby asbestos victims against W.R. Grace and all other potential defendants; and

WHEREAS, the legislation would create a \$140 billion asbestos trust fund from which to pay compensation to asbestos victims other than through the judicial system; and

WHEREAS, the federal asbestos legislation as presently drafted excludes Libby tremolite asbestos victims from those who would be compensated from the trust fund for two reasons, those being that the vast majority of Libby claimants have pleural disease caused by tremolite asbestos, not interstitial disease caused by the far more common chrysotile asbestos, and because the medical criteria for compensation in the federal legislation are based on chrysotile asbestos-induced disease; and

WHEREAS, physicians who are familiar with and who have treated hundreds of Libby tremolite asbestos disease patients have carefully reviewed the criteria in the bill and do not believe that Libby tremolite asbestos disease is covered by the bill; and

WHEREAS, the present value of all W.R. Grace's contributions under the federal asbestos legislation amounts to \$424 million, which is a small percentage of the amount that W.R. Grace would have to pay for its asbestos liabilities absent the federal asbestos legislation; and

WHEREAS, the principles of fundamental fairness and decency require that no further harm be done to those suffering from Libby tremolite asbestos disease through the passage of federal asbestos legislation.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislature urge the Montana Congressional Delegation to oppose any federal asbestos legislation that reduces the amount of compensation that Libby tremolite asbestos disease victims would otherwise receive.

BE IT FURTHER RESOLVED, that in the event that federal asbestos legislation is passed, the Legislature urge the Montana Congressional Delegation to ensure that those suffering from Libby tremolite asbestos disease are covered by the legislation and get the compensation that they need and deserve.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the President of the United States, to the members of the Montana Congressional Delegation, and to all other members of the U.S. Congress.

Adopted April 6, 2005

## **SENATE JOINT RESOLUTION NO. 28**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA ACKNOWLEDGING THE PLANNED FORMATION OF A STATEWIDE TASK FORCE ON PAIN

AND SYMPTOM MANAGEMENT; RECOGNIZING THE ROLE THAT WILL BE PLAYED IN THE PRIVATE FUNDING AND ADMINISTRATIVE SUPPORT OF THE TASK FORCE BY THE AMERICAN CANCER SOCIETY; AND ENCOURAGING THE WIDEST POSSIBLE DISSEMINATION OF THE REPORT AND RECOMMENDATIONS OF THE TASK FORCE IN ORDER TO ENSURE ITS ACCEPTANCE AND IMPLEMENTATION BY PRIVATE HEALTH CARE PROFESSIONALS AND PUBLIC POLICYMAKERS.

WHEREAS, inadequate pain relief is a serious public health problem in the United States, inasmuch as the American Pain Foundation has estimated that 50 million people suffer from persistent pain; and

WHEREAS, pain is associated with lost wages and loss of productivity by American workers; and

WHEREAS, many factors contribute to uncured or inadequately managed pain; and

WHEREAS, all individuals with pain would benefit from having their pain thoroughly assessed and promptly treated; and

WHEREAS, pain is often accompanied by other symptoms that need to be managed along with the pain, including other symptoms arising in cancer patients; and

WHEREAS, appropriate application of excellent pain and symptom management practices, including the use of different treatment modalities, improves the quality of life for those who suffer from pain while reducing the morbidity and cost associated with untreated or inappropriately treated pain; and

WHEREAS, no Montana state agency has been given the mandate to address untreated pain and lack of symptom management as a public health problem; and

WHEREAS, there has been no comprehensive study in Montana of the prevalence of intractable pain in Montanans, nor has there been an assessment of the pain and symptom management practices of Montana health care professionals; and

WHEREAS, private funding may be available from the American Cancer Society and other interested groups to support participation in, staffing, management, and coordination of a statewide pain and symptom management study; and

WHEREAS, the study would be conducted by an advisory task force made up of over 20 members from public agencies and private organizations and individuals with experience in or a demonstrated interest in pain and symptom management issues, including representatives of the Montana Department of Public Health and Human Services, charitable societies, physicians, other health care providers, legislators, public assistance providers, advocates for voluntary health organizations, and individuals suffering from acute or chronic pain; and

WHEREAS, those public agencies, private organizations, and individuals have agreed to serve on the task force without cost to the state, which is of significance because many of the benefits resulting from the task force will be benefits to public policymakers and state agencies; and

WHEREAS, it is the intention of those who will participate on the task force to hold public hearings to gather information from the public on issues

pertaining to pain and symptom management and to then provide advice and recommendations to appropriate public and private entities on pain and symptom management, including advice and recommendations concerning acute and chronic pain and symptom management treatment practices, state statutes and rules regarding pain and symptom management, and use of alternative therapies for pain and symptom management; and

WHEREAS, it is also the intention of those who will participate on the task force to provide advice and recommendations to appropriate public and private entities on acute and chronic pain and symptom management education provided by professional boards or others in the state, acute and chronic pain and symptom management needs of adults, children, and racial and ethnic minority and medically underserved populations, development of a drug repository for unused drugs used for pain and symptom management, and treatment of pain at the end of life; and

WHEREAS, it is also the intention of those who will participate on the task force to study and develop recommendations to state licensing boards on integrating pain and symptom management into the customary practice of health care professionals and identifying the roles and responsibilities of the various health care professionals in pain and symptom management and on the duration and content of continuing education requirements for pain and symptom management, on improving access to pain and symptom management in racial and ethnic minority and medically underserved populations, including the elderly population, and on improving access to pain and symptom management for children and adolescents; and

WHEREAS, it is also the intention of those who will participate on the task force to report on the activities of the task force and make recommendations to the Governor, the Legislature, and the Director of the Department of Public Health and Human Services; and

WHEREAS, it is also the intention of those entities who will serve on the task force, in making the task force's reports and recommendations, to consult with additional entities, including academic institutions, voluntary health organizations not represented on the task force, advocates, consumers, relevant professional organizations, and other appropriate entities.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the American Cancer Society be thanked and congratulated for its support of such a large undertaking as the planned task force on pain and symptom management.

BE IT FURTHER RESOLVED, that the Legislature encourages all of those public and private organizations and private individuals who have agreed to send members to or serve on the task force to participate to the fullest extent possible.

BE IT FURTHER RESOLVED, that the Legislature thanks all of those organizations and individuals especially because the members of the task force will serve without public compensation.

BE IT FURTHER RESOLVED, that the American Cancer Society and the leadership of the task force are encouraged to give the task force's report and recommendations the widest circulation practicable so that implementation of the recommendations made by the task force become a collaborative effort

between public and private bodies and organizations with the most influence on privately furnished health care and on public policy.

BE IT FURTHER RESOLVED, that the Legislature looks forward to receiving the report and recommendations of the task force and implementation of the recommendations made by the task force because implementation will be important to the lives of those many Montanans suffering from acute or chronic pain whose enjoyment of life has been reduced by pain that has not been cured or effectively managed.

BE IT FURTHER RESOLVED, that copies of this resolution be sent by the Secretary of State to the Governor and the Montana Congressional Delegation.

Adopted April 15, 2005

### **SENATE JOINT RESOLUTION NO. 29**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA DESIGNATING JUNE 26, 2005, AS MONTANA MINERS' DAY.

WHEREAS, the first wave of miners came to Montana in 1862; and

WHEREAS, these miners came to Montana with a determination to succeed; and

WHEREAS, these miners did succeed and as a result helped establish churches, schools, towns, and cities that led to Montana's statehood in 1889; and

WHEREAS, these miners understood the importance of family, community, work ethic, and sacrifice that enabled their descendants to live in Montana; and

WHEREAS, Montanans of mining heritage have made and continue to make contributions to the culture and economy of Montana; and

WHEREAS, generations of Montana miners have left a lasting imprint on Montana history and heritage; and

WHEREAS, entities throughout the state have been dedicated to the preservation of the memory of miners, providing the citizens of Montana with inspiring examples of perseverance, sacrifice, and a sense of community.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That June 26, 2005, be designated as Montana Miners' Day.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to the town of Philipsburg in Granite County.

Adopted April 15, 2005

### **SENATE JOINT RESOLUTION NO. 30**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING CONGRESS TO MAINTAIN THE INTEGRITY OF THE MEDICAID PROGRAM AND TO NOT SUPPORT THE PROPOSED PROGRAM REDUCTIONS INCLUDED IN THE EXECUTIVE BUDGET REQUEST TO CONGRESS.

WHEREAS, Medicaid programs provide a very basic component of the safety net for many Montanans; and

WHEREAS, Medicaid programs support the disabled, elderly, children, and pregnant women and the poorest of the poor; and

WHEREAS, proposed federal Medicaid cuts could harm a great many vulnerable Montanans who could suffer devastating health and economic consequences as a result of federal Medicaid cuts; and

WHEREAS, per capita incomes in Montana are proportionally lower than the national average, and a large number of Montanans rely on Medicaid programs; and

WHEREAS, Montana eligibility standards for Medicaid programs are at or near federally required minimum eligibility standards; and

WHEREAS, Montana is a rural state with a very low population density throughout most of the state, and the public Medicaid health system helps ensure that services are available statewide for all persons; and

WHEREAS, local governments do not have enough surplus funds to offset Medicaid funding reductions for local nursing homes and hospitals; and

WHEREAS, Medicaid is a vital component of the health care industry in Montana, representing 17% of the total health care spending in Montana; and

WHEREAS, Montana has made diligent efforts to comply with the letter and spirit of federal Medicaid regulations, especially regarding intergovernmental transfers and provider taxes used as state matching funds; and

WHEREAS, Medicaid health care spending in Montana directly supports 9,172 jobs generating \$267 million in income and indirectly creates 13,469 jobs generating \$375 million in income; and

WHEREAS, for every \$1 million cut in federal Medicaid funding, Montana loses \$4.9 million, which equates to 64 jobs; and

WHEREAS, proposed federal reductions in Medicaid spending, while appearing to be small in percentage, would have drastic effects on the Montana economy; and

WHEREAS, per capita incomes in Montana are proportionally lower than the national average and a large number of Montanans are dependent on Medicaid programs; and

WHEREAS, Montana eligibility standards for Medicaid programs are at or near federally required minimum eligibility standards.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Congressional Delegation vigorously oppose the proposed Medicaid cuts included in the federal budget proposal.

BE IT FURTHER RESOLVED, that the Governor and the Governor's staff, the Department of Public Health and Human Services, and legislative staff provide information and support to the Montana Congressional Delegation in its work on behalf of maintaining the Medicaid program.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to the President of the United States and the Montana Congressional Delegation.

Adopted April 12, 2005

**SENATE JOINT RESOLUTION NO. 31**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THAT PROPOSALS TO TRANSITION THE BONNEVILLE POWER ADMINISTRATION FROM COST-BASED RATES TO MARKET-BASED RATES AND ACCELERATE THE BONNEVILLE POWER ADMINISTRATION'S DEBT REPAYMENT TO THE UNITED STATES TREASURY, AS EXPRESSED IN THE PRESIDENT'S FISCAL YEAR 2006 PROPOSED BUDGET, BE REJECTED.

WHEREAS, the Bonneville Power Administration supplies over 25% of the electrical power consumed in the State of Montana; and

WHEREAS, currently and since its creation, the rates established for this power have been based upon recovery of costs; and

WHEREAS, the Pacific Northwest Region has experienced a nearly 50% increase in wholesale power rates since the energy crisis of 2001-2002; and

WHEREAS, the President's proposed fiscal year 2006 budget would transition the Bonneville Power Administration from cost-based rates to market-based rates; and

WHEREAS, the Office of Management and Budget has estimated that this change would result in an estimated increase of \$100 a year for each ratepayer in the Pacific Northwest; and

WHEREAS, the Northwest Power and Conservation Council has found that this change would cause the Bonneville Power Administration's power rates to increase by 65%; and

WHEREAS, the Northwest Power and Conservation Council has found that this budget proposal would cost the ratepayers of the Pacific Northwest Region about \$1.33 billion over 3 years and would result in a more than \$300 million decrease in state and federal personal income tax receipts; and

WHEREAS, the argument to justify these increased rates, that the ratepayers of the Pacific Northwest are being subsidized by the federal government, is not well-founded in light of the fact that all of the Bonneville Power Administration's costs, including repayment of debt at market-based interest rates to the United States Treasury, are recovered from ratepayers, primarily individuals and businesses in the Pacific Northwest; and

WHEREAS, the argument to justify these increased rates, that of accelerating the Bonneville Power Administration's debt repayment to the United States Treasury, is not well-founded in light of the Bonneville Power Administration's success in recent years of early repayment of its debt, despite the sale of power at-cost and during difficult economic times; and

WHEREAS, this proposal, if enacted, would essentially result in a 100% increase in power rates over a 7-year period, which will severely harm the region's businesses and industries, as well as all the residents of the region; and

WHEREAS, the President's additional budget proposal to increase the types of transactions that would count against the Bonneville Power Administration's authorized debt limit would negatively impact the Bonneville Power Administration's ability to upgrade existing infrastructure or build new vital infrastructure; and

WHEREAS, this proposal would lead to further limiting investment in an already constrained transmission system, which could result in electricity shortages and decreased reliability.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the proposal to transition the Bonneville Power Administration from cost-based rates to market-based rates, as expressed in the President's fiscal year 2006 proposed budget, be rejected.

(2) That the proposal to include additional transactions in the Bonneville Power Administration's authorized debt limit be rejected.

(3) That the Secretary of State send copies of this resolution to the Honorable George W. Bush, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, the Montana Congressional Delegation, and the Secretary of the United States Department of Energy, Samuel W. Bodman.

Adopted April 16, 2005

### **SENATE JOINT RESOLUTION NO. 35**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THE LEGISLATIVE COUNCIL TO DESIGNATE AN APPROPRIATE INTERIM COMMITTEE OR DIRECT SUFFICIENT STAFF RESOURCES TO STUDY METHODS TO INCREASE THE RESPONSIVENESS, EFFECTIVENESS, AND EFFICIENCIES OF PROFESSIONAL AND OCCUPATIONAL BOARDS AND PROGRAMS DEDICATED TO PUBLIC SERVICE IN MONTANA AND TO PROVIDE RECOMMENDED POLICIES FOR CREATION OF NEW BOARDS, BOARD RULEMAKING, AND BOARD ACCOUNTABILITY.

WHEREAS, Montana has 32 professional and occupational licensing boards administratively attached to the Department of Labor and Industry and other regulatory boards attached to other departments, some of which have similar areas of jurisdiction, which occasionally results in jurisdictional conflicts and lack of mission clarity; and

WHEREAS, the 58th Montana Legislature called for limited-scope performance audits of the operations of professional and occupational licensing boards, which resulted in legislation in the 59th Legislature to clarify jurisdiction between the boards and the department to which they are attached but which did not address policies related to both board and department accountability to legislative intent, especially as accountability relates to public safety and protection; and

WHEREAS, the continuing growth of the service industry in Montana has resulted in requests for recognition of professional and occupational status through licensing programs with a resulting expansion of state regulatory authority funded primarily through costs assessed to those being licensed and regulated; and

WHEREAS, the Legislature may assign rulemaking authority to boards that operate autonomously in implementing legislative directives, with limited, inconsistent oversight by legislative committees and limited oversight by the

department to which the board is assigned, sometimes resulting in rules that appear contrary to legislative intent; and

WHEREAS, tension may exist between the role of board members who are knowledgeable about their profession or occupation, which is necessary for rulemaking and regulation of the profession or occupation, and the role of board members in licensing new members who may increase competition within the profession or occupation; and

WHEREAS, appropriate consolidation of boards and revised oversight responsibilities may result in increased efficiencies, effectiveness, and oversight.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to examine the appropriate role of boards in implementing professional and occupational licensing and oversight with the goal of protecting public safety and to study whether consolidating boards and providing subgroups within boards would increase cost efficiencies and governance efficiencies while protecting the public safety.

BE IT FURTHER RESOLVED, that the study address the tensions created by jurisdictional disputes between boards and seek ways to resolve these disputes through consolidation, more specific delineation of authority, or other alternatives.

BE IT FURTHER RESOLVED, that the study address for each board created by the Legislature the balance of professional and occupational membership to public interest membership and whether changing the board membership would improve public protection, which is the basic rationale for the state's regulation of boards.

BE IT FURTHER RESOLVED, that the study address the role of a board's rulemaking authority and the oversight of a board's rulemaking to determine what policies may be necessary to improve implementation of legislative intent and the degree and the extent of the delegation of rulemaking authority to boards rather than to a department.

BE IT FURTHER RESOLVED, that the study provide policy considerations for the Legislature to use in reviewing creation of new boards.

BE IT FURTHER RESOLVED, that the appropriate interim committee or staff work with board members, interested parties, and the affiliated departments to include the broadest perspectives during the implementation of this study.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2006.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 60th Legislature.

Adopted April 19, 2005

**SENATE JOINT RESOLUTION NO. 36**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO INVESTIGATE THE POTENTIAL BENEFITS OF, AND OBSTACLES TO, EXPANDING DISTRIBUTED ENERGY GENERATION IN MONTANA.

WHEREAS, Montana citizens and lawmakers have become very interested in renewable and other small-scale distributed generation systems since the electrical energy crisis in the summer of 2001; and

WHEREAS, distributed energy generation complements the central-station model of electricity generation and offers potential solutions to many of today's pressing energy and electric power problems, including energy price spikes, energy security concerns, power quality issues, rising energy costs, tighter emissions standards, transmission bottlenecks, and the desire for greater control over energy costs; and

WHEREAS, distributed generation might provide a more affordable alternative for adding future load to remote Montana locations than adding parallel lines over long distances; and

WHEREAS, distributed energy technologies may be used to meet baseload power, peaking power, backup power, remote power, power quality, and cooling and heating needs; and

WHEREAS, several of the emerging technologies currently being promoted and developed in Montana, such as rooftop solar arrays, small wind turbines, and fuel cells, are ideal for distributed generation; and

WHEREAS, permitting and construction of large, central power plants takes years, while small generating units can be brought online quickly; and

WHEREAS, homeowners and entrepreneurs generating more electricity than they need can net meter and sell their surplus to the grid; and

WHEREAS, an in-depth study is needed to explore any technical, market, and regulatory challenges to developing distributed generation that might exist and to inform the Legislature how these barriers might be overcome.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to explore any technical, market, and regulatory challenges to developing distributed generation that might exist and to inform the Legislature how these barriers might be overcome.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2006.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 60th Legislature.

Adopted April 19, 2005

**SENATE JOINT RESOLUTION NO. 37**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING A STUDY OF THE CHILD PROTECTIVE SERVICES SYSTEM IN MONTANA.

WHEREAS, the child protective services system is a complex system involving children and families, schools, law enforcement, county attorneys, district courts, guardians ad litem, court-appointed special advocates, the Department of Public Health and Human Services, Indian tribes, and the federal government; and

WHEREAS, numerous federal and state audits have found many deficiencies in the system, yet changes to the system have been slow and the necessary resources to implement the changes have yet to be committed; and

WHEREAS, numerous pieces of legislation have been introduced illustrating the need for change within the child protective services system, such as legislation regarding the professionalization of social workers employed by the Department of Public Health and Human Services, the need for a child and family ombudsman, the need for adequate counsel for families in the system, the need for treatment courts, and the need for further involvement of extended families; and

WHEREAS, children and families involved in child protective services are members of communities and need community involvement outside of the department for prevention and community support may serve the best interests of the child and the child's family; and

WHEREAS, an analysis of the child protective services system that brings safety and permanency to the forefront to provide greater prevention services and community involvement is warranted.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to study the child protective services system in Montana.

BE IT FURTHER RESOLVED, that the committee review the entire system from the initial call regarding an allegation of abuse or neglect and the effectiveness of the centralized intake system to the availability of prevention services and mediation, the child's voice in the process, the level of desired community involvement, and the potential reallocation of resources with safety and permanency at the forefront.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2006.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 60th Legislature.

Adopted April 18, 2005

**SENATE JOINT RESOLUTION NO. 38**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THE LEGISLATIVE COUNCIL TO DESIGNATE AN APPROPRIATE INTERIM COMMITTEE OR DIRECT SUFFICIENT STAFF RESOURCES TO STUDY ISSUES RELATED TO IDENTITY THEFT, INCLUDING JURISDICTIONAL ISSUES REGARDING FEDERAL AND STATE AUTHORITY, THE PROSECUTION OF INTERNET CRIMES, THE ROLE OF CREDIT REPORTS AND CREDIT REPORTING AGENCIES, THE ROLE OF EDUCATION FOR BUSINESSES AND CONSUMERS, VICTIM RESTITUTION, SALES OF PERSONAL INFORMATION BY THIRD PARTIES AND DIRECT MARKETING FIRMS, AND OTHER IDENTITY THEFT ISSUES RAISED DURING THE STUDY.

WHEREAS, identity theft is increasing and affecting more Montanans, with a 2003 Federal Trade Commission survey estimating between 9 million and 10 million identity theft cases over a 1-year period nationwide, of which approximately 33,000 cases were estimated for Montana, with financial losses from identity theft estimated at \$52.6 billion nationally in 2004 by the Federal Trade Commission, and with the unknown cost of time spent in trying to prove, disprove, and rectify credit histories, which is complicated by a lack of coordination that results in Montanans having trouble finding solutions to the myriad credit, financial, and social repercussions of identity theft; and

WHEREAS, the increasing electronic compilation and linkage of data related to businesses and individuals has created increased efficiencies as well as the opportunity for identity theft that can wreak havoc on business and individual financial dealings; and

WHEREAS, the federal government and state governments seek to maintain a smoothly operating financial system while preserving business and consumer rights to protect against the improper use of their business or personal financial data; and

WHEREAS, disagreement exists regarding ownership of the information compiled on businesses and individuals, which complicates the issues raised over inaccurate or stolen identity data and the sale of information to third parties or direct marketing organizations; and

WHEREAS, the global nature of the Internet and the potential for electronic data to be shared worldwide complicate jurisdictional authority over prosecution of identity theft and restitution for victims; and

WHEREAS, government documents, trade secrets, and medical records fall under myriad disclosure or privacy laws, which further raises questions of coordination among these laws.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to study issues related to identity theft, including how these issues are being handled at the federal level and in other states, and what public policy options the Montana Legislature might consider in response.

BE IT FURTHER RESOLVED, that the study address the scope of authority for the state to regulate access to and content of credit reports in cases of identity theft as well as the duties of credit bureaus related to identity theft reports.

BE IT FURTHER RESOLVED, that the study address issues related to consumer protection and prosecution related to identity theft as the theft involves direct marketing organizations and sales of identity theft information to third parties.

BE IT FURTHER RESOLVED, that the study address criteria for businesses to use to protect information that could be used against their Montana customers.

BE IT FURTHER RESOLVED, that the study address victim restitution and what processes might be needed to address cross-jurisdictional authority for restitution and prosecution.

BE IT FURTHER RESOLVED, that the study propose consumer education and business education measures and processes for protecting personal and business information, for dealing with promotional credit offers or "live" credit cards that, if stolen, could impact a person's credit history, and for dealing with personal and business identity theft.

BE IT FURTHER RESOLVED, that the study address the tools and training needed by law enforcement and regulators and propose policies and budgets to address these issues.

BE IT FURTHER RESOLVED, that the study review the various types of government records and the interaction between privacy and the right to know as these concepts affect the protection of identity, trade secrets, medical records, and other information regulated by privacy laws.

BE IT FURTHER RESOLVED, that the study include legislators and interested parties to address these issues and any other issues raised during the study.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2006.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 60th Legislature.

Adopted April 19, 2005

### **SENATE JOINT RESOLUTION NO. 39**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO EVALUATE THE POSSIBLE CREATION OF AN ONGOING ENERGY PLANNING AND COORDINATING ENTITY IN MONTANA.

WHEREAS, energy conservation and resource development are critical to Montana's future; and

WHEREAS, the cost and development of energy resources have a dramatic effect on all Montanans; and

WHEREAS, there are numerous state agencies that are involved in a variety of energy issues ranging from permitting of new plants to providing energy assistance to low-income Montanans; and

WHEREAS, there are numerous federal entities that deal with energy issues, including transmission planning, river governance, and rate regulation; and

WHEREAS, there are many local government-based initiatives, including buying pools, and groups formed to evaluate municipal ownership of transmission, distribution, and generation; and

WHEREAS, there are nonprofit and for-profit organizations engaged in a variety of issues related to energy; and

WHEREAS, there is currently no single entity based in Montana specifically dedicated to planning, analysis, and evaluation of energy issues from a broad societal perspective; and

WHEREAS, it is almost impossible to have a vision for developing resources and meeting future needs without some entity being responsible for meeting that task.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to evaluate the possible creation of an ongoing energy planning and coordinating entity in Montana specifically to include:

- (1) the potential costs and benefits of creating an energy planning and coordinating entity in the state;
- (2) the interest groups that should be engaged in the study;
- (3) the resources available and resources required for supporting an energy planning and coordinating entity; and
- (4) an examination of existing activities that could be better coordinated.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2006.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 60th Legislature.

Adopted April 19, 2005

**SENATE JOINT RESOLUTION NO. 40**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THAT THE LEGISLATIVE COUNCIL DESIGNATE AN APPROPRIATE INTERIM COMMITTEE OR DIRECT STAFF RESOURCES TO STUDY THE DELIVERY OF PROSECUTION SERVICES AND COUNTY CIVIL LEGAL SERVICES BY COUNTY ATTORNEYS IN MONTANA.

WHEREAS, the delivery of competent, qualified, and professional prosecution services is vital to a productive and responsive criminal justice system; and

WHEREAS, prosecution services on the Justice's and District Court level and county civil legal services are now being provided by elected or appointed County Attorneys in every county in the state; and

WHEREAS, the degree of experience and training among Montana's County Attorneys varies greatly throughout the state, as do the salaries of elected County Attorneys and Deputy County Attorneys; and

WHEREAS, the State of Montana has the responsibility pursuant to section 17-7-112, MCA, to pay 50% of a County Attorney's salary, but the amount of that salary is determined by the County Compensation Board; and

WHEREAS, county government has the responsibility to fund 100% of the salary of all Deputy County Attorneys and all operational and maintenance costs of a County Attorney office; and

WHEREAS, the Attorney General's office now maintains a Prosecution Services Bureau that provides prosecution assistance on a limited basis to County Attorneys in primarily small jurisdictions; and

WHEREAS, a comprehensive legal needs study has recently been completed by the Law and Justice Interim Committee, resulting in the introduction of Senate Bill No. 146, the Montana Public Defender Act, creating a statewide public defender system to improve the delivery of indigent defense services on a statewide basis; and

WHEREAS, it is in the best interests of the people of the State of Montana to encourage and develop career County Attorneys who can provide consistent levels of prosecution services and county civil legal services throughout the state.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to review the delivery of prosecution services and county civil legal services by County Attorneys throughout Montana on the county level and to determine whether any changes may be appropriate. The study must include:

- (1) a review of the various means by which prosecution services and county civil legal services are being provided by County Attorneys in Montana counties;
- (2) a review of the costs associated with the provision of prosecution services and county civil legal services by County Attorneys in Montana counties;

(3) changes in state law that may be necessary to facilitate the provision of prosecution services and county civil legal services by County Attorneys throughout the state;

(4) a review of funding sources currently available to address the provision of prosecution needs and county civil legal services needs;

(5) a determination of the level of public funding required to provide consistent, uniform, and professional prosecution services to the criminal justice system and civil legal advice to elected county officials; and

(6) any other aspect of the administration of prosecution services and county civil legal services by County Attorneys for Montanans that is determined to be appropriate.

BE IT FURTHER RESOLVED, that the study committee or staff be directed to request information and staff assistance from the Legislative Fiscal Division.

BE IT FURTHER RESOLVED, that the study committee or staff be directed to develop a specific list of options, including an option of no action, to be considered for recommendation to the 60th Legislature.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2006.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 60th Legislature.

Adopted April 18, 2005

## **SENATE JOINT RESOLUTION NO. 41**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING A STUDY OF THE DEVELOPMENT OF COMMUNITY MENTAL HEALTH CRISIS RESPONSE SYSTEMS.

WHEREAS, individuals with mental illness who are in crisis need to be served with care and compassion in the least restrictive environment that protects the individual and the community; and

WHEREAS, current law requires the Department of Public Health and Human Services to establish crisis intervention programs in the community as an alternative to placement in jail; however, crisis intervention programs have not been specifically funded, made a priority, or addressed in relation to the emergency detentions at the Montana State Hospital; and

WHEREAS, counties are experiencing increasing and unpredictable precommitment costs because of mental health crises in the community; and

WHEREAS, although the Montana State Hospital has a licensed capacity of 189 beds, the average daily census for the month of March was 191 and the admission rate indicates no signs of abating; and

WHEREAS, the Department has pledged to the Joint Subcommittee on Health and Human Services and to the Joint Select Committee on Mental Health the intention to conduct a study of the entire public mental health system regarding community mental health crisis services and the Legislature has included funding for one full-time employee in fiscal year 2006 and two full-time employees in fiscal year 2007 to ensure adequate resources to plan for and implement development of those services; and

WHEREAS, it is necessary for the Legislature to monitor and provide a forum for stakeholders in the establishment of community mental health crisis services to serve those with mental illness by developing models that are flexible for both urban and rural communities and their varying levels of resources.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to study and monitor the development of community mental health crisis services across the state and to respond to any underlying issues that have prevented crisis services from being developed.

BE IT FURTHER RESOLVED, that the committee include in its study of community mental health crisis services the following subjects:

- (1) where the responsibility lies or should lie for providing mental health crisis services at the community level;
- (2) planning and development of community mental health crisis services;
- (3) what mental health crisis services should be provided at the community level;
- (4) how mental health crisis services should be provided at the community level;
- (5) what populations should be served by community mental health crisis services;
- (6) ways to encourage cooperation between and within communities in the planning, development, and provision of community mental health crisis services;
- (7) whether the provision of community mental health crisis services should be prioritized in any way;
- (8) funding and cost consideration in the provision of community mental health crisis services; and
- (9) any other subjects considered by the committee to be necessary or helpful in the provision of community mental health crisis services.

BE IT FURTHER RESOLVED, that the committee seek input and information from all of the stakeholders and work with the Department of Public Health and Human Services to identify the barriers to implementation and develop findings and recommendations for the next legislative session.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2006.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 60th Legislature.

Adopted April 19, 2005

## **SENATE JOINT RESOLUTION NO. 42**

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA CONVEYING THE 59TH LEGISLATURE'S HIGHEST HONOR AND DEEPEST RESPECT FOR THE SERVICE AND SACRIFICE OF MONTANA'S ARMY AND AIR NATIONAL GUARD MEMBERS WHO HAVE BEEN CALLED TO FEDERAL ACTIVE DUTY IN THE WAR ON TERROR.

WHEREAS, the Montana National Guard was first officially organized through a territorial legislative act entitled "An Act to Organize and Regulate the Militia", which was approved May 10, 1887; and

WHEREAS, since its organization, the Montana National Guard has served not only the State of Montana, but also the United States of America, when called to federal active duty service during the Spanish American War, the Mexican Border Incident of 1916, World War I, World War II, the Korean War, Operation Desert Storm, and peacekeeping missions in Bosnia; and

WHEREAS, since September 11, 2001, more than 2,300 members (or more than 65%) of the Montana National Guard, representing 20 units and detachments, have been called to federal active duty for service in 26 countries, including Iraq and Afghanistan, in the War on Terror; and

WHEREAS, ongoing federal operations involve continued deployments of Montana National Guard members at home and abroad; and

WHEREAS, the deployments since September 11, 2001, represent the largest mobilization of Montana's National Guard since World War II; and

WHEREAS, the Montana National Guard recently suffered its first combat fatality since World War II; and

WHEREAS, the service and sacrifice of Montana's National Guard members who put themselves in harm's way or give their lives in service to our nation deserve the state's highest honor and deepest respect.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That Montana's 59th Legislature convey its highest honor and deepest respect to Montana's Army and Air National Guard members for their service and sacrifice on federal active duty in the War on Terror.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to each unit of the Montana National Guard.

Adopted April 19, 2005

## Senate Resolutions

### SENATE RESOLUTION NO. 1

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA  
REVISING AND ADOPTING THE SENATE RULES.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE  
STATE OF MONTANA:

That the following rules be adopted:

#### **RULES OF THE MONTANA SENATE**

#### **CHAPTER 1**

#### **Administration**

**S10-10. Officers of the Senate.** The officers of the Senate are the officers listed and elected in accordance with Title 5, chapter 2, part 2, MCA.

**S10-20. Term of office.** The term of office for the officers and employees of the Senate established by law is until the succeeding Legislature is organized. This rule may not be construed to mean the staff will be full-time employees during an interim.

**S10-30. President pro tempore and other officers.** (1) The Senate shall, at the beginning of each regular session, and at other times as may be necessary, elect a Senator President pro tempore.

(2) The Senate shall choose its other officers and is the judge of the elections, returns, and qualifications of the Senators.

**S10-40. Voting by presiding officer.** Any Senator, when acting as presiding officer of the Senate, shall vote as any other Senator.

**S10-50. Presiding officer and duties.** (1) The presiding officer of the Senate is the President of the Senate, who must be chosen in accordance with law.

(2) The President shall take the chair on every legislative day at the hour to which the Senate adjourned at the last sitting.

(3) The President may name a Senator to perform the duties of the chair when the President pro tempore is not present in the Senate chamber. The Senator who is named is vested during that time with all the powers of the President.

(4) The President has general control over the assignment of rooms for the Senate and shall preserve order and decorum. The President may order the galleries and lobbies cleared in case of disturbance or disorderly conduct.

(5) The President shall issue cards to the media to allow floor access, and reporters holding the cards are subject to placement on the floor by the President. The President may administer this rule through the office of the Secretary of the Senate.

(6) The President shall sign all necessary certifications of the Senate, including enrolled bills and resolutions, journals, subpoenas, and payrolls. The President's signature must be attested by the Secretary of the Senate.

(7) The President shall approve the calendar for each legislative day.

(8) The President is the chief administrative officer of the Senate, with authority for the general supervision of all Senate employees. The President may seek the advice and counsel of the Legislative Administration Committee.

(9) The President of the Senate is the authorized approving authority of the Senate during the term of election to that office.

(10) The President shall refer bills to committee upon introduction or reception in the office of the Secretary of the Senate.

**S10-60. Succession.** (1) In case of the absence or disqualification of the President, the President pro tempore of the Senate shall perform the duties of the President until the vacancy is filled or the disability removed.

(2) Whenever the President pro tempore of the Senate is of the opposite political party from that of the President, the following procedure applies:

(a) If the President dies while in office, the members of the President's political party have the right to immediately nominate and elect an acting President of the same party.

(b) If the President is absent for 2 or more legislative days or at any time after the 85th legislative day or at any time during special session of the Legislature but able and desirous of appointing an acting President to act when the President is absent, the President may do so, or the members of the President's political party have the right to immediately nominate and elect an acting President of the same party.

(c) An acting President of the Senate has the powers of the President and supersedes the powers of the President pro tempore.

**S10-70. President-elect.** The President-elect nominated by the appropriate party caucus held in accordance with section 5-2-201, MCA, has the responsibility and authority to assume the duties of President of the Senate.

**S10-80. Legislative Administration Committee duties.** (1) The Legislative Administration Committee shall consider matters relating to legislative administration, staffing patterns, budgets, equipment, operations, and expenditures.

(2) The committee has authority to act in the interim to prepare for future legislative sessions.

(3) The committee shall approve contracts for purchase or lease of equipment and supplies for the Senate, subject to the approval of the President.

(4) The committee shall consider disputes or complaints involving the competency or decorum of legislative employees referred to it by the President and recommend dismissal, suspension, or retention of employees.

(5) The chair of the Legislative Administration Committee may, upon approval of the President, have purchase orders and requisitions prepared and forwarded to the accounting office in the Legislative Services Division.

**S10-90. Senate employees.** (1) In addition to the employees appointed by the President in accordance with section 5-2-221, MCA, the Senate shall employ

staff recommended by the leadership and the Legislative Administration Committee as necessary to perform the functions of the Senate.

(2) A standing committee chair shall designate a secretary to take and transcribe minutes of committee meetings. A committee secretary is immediately responsible to the chair, but shall work under the overall direction of the Secretary of the Senate, subject to authority of the committee chair.

(3) (a) The President and floor leaders may each appoint a private secretary.

(b) The whips may each appoint a private secretary whose duties will include assisting other staff on an assigned basis when authorized by the secretary's respective whip.

**S10-100. Secretary of the Senate and duties.** The Secretary of the Senate works under the direction of the President. The responsibilities of the Secretary of the Senate include:

(1) performing the duties prescribed by law or other provisions of these rules;

(2) serving as parliamentary advisor to the Senate;

(3) compiling and maintaining the calendar for approval by the President;

(4) keeping the leadership informed on the progress and workload of the Senate;

(5) transmitting bills with appropriate messages to the House of Representatives as instructed by action of the Senate;

(6) keeping and maintaining records of the Senate; and

(7) supervision of the Senate employees, except as otherwise provided.

**S10-110. Sergeant-at-Arms duties.** Under the direction of the President, the Sergeant-at-Arms shall:

(1) maintain order as directed by the President or chair of the Committee of the Whole;

(2) enforce the lobbying rules of the Senate;

(3) supervise the employees assigned to the Sergeant's office;

(4) receive, distribute, and maintain supplies, equipment, and other inventory of the Senate, along with records of purchase and disposal in accordance with law;

(5) perform duties as required by other rules and the Senate.

**S10-120. Legislative aides.** Each Senator may designate one person of legal age to serve as an aide during the session. Exceptions to this policy may be approved by the Rules Committee. The Senator shall register an aide with the Secretary of the Senate and arrange for the purchase of a name tag with the Sergeant-at-Arms.

**S10-130. Senate journal.** (1) The Senate shall keep and authenticate a journal of its proceedings as required by law and the rules.

(2) The Secretary of the Senate will supervise the preparation of the journal under the direction of the President.

(3) In addition to the proceedings required by law to be recorded, the journal must include:

(a) committee reports;

- (b) every motion, the name of the Senator presenting it, and its disposition;
  - (c) the introduction of legislation in the Senate;
  - (d) consideration of legislation subsequent to introduction;
  - (e) roll call votes;
  - (f) messages from the Governor and the House of Representatives;
  - (g) every amendment, the name of the Senator presenting it, and its disposition;
  - (h) the names of Senators and their votes on any question upon a request by two Senators before a vote is taken; and
  - (i) any other records the Senate directs by rule or action.
- (4) The Secretary of the Senate shall provide information that may be necessary for the preparation of the daily journal for printing by the Legislative Services Division. Upon approval by the President, the daily journal must be reproduced and distributed.
- (5) Any Senator may examine the daily journal and propose corrections. Without objection by the Senate, the President may direct the correction to be made.
- (6) The President shall authenticate the original daily journal, from time to time, and the Secretary of the Senate shall, as appropriate, deliver it to the Legislative Services Division to be prepared for publication and distribution in accordance with law.

## CHAPTER 2

### Decorum

**S20-10. Questions of order.** The President of the Senate shall decide all questions of order, subject to an appeal by any Senator seconded by two other Senators. A Senator may not speak more than once on an appeal without the consent of a majority of the Senate.

**S20-20. Questions of privilege.** (1) Questions of privilege in order of precedence are those:

(a) affecting the collective rights, safety, dignity, or integrity of the proceedings of the Senate; and

(b) affecting the rights, reputation, or conduct of individual Senators in their capacity as Senators.

(2) A Senator may not address the Senate on a question of privilege between the time:

(a) an undebatable motion is offered and the vote is taken on the motion;

(b) the previous question is ordered and the vote is taken on the proposition included under the previous question; or

(c) a motion to lay on the table is offered and the vote is taken on the motion.

**S20-30. Recognition by chair.** A Senator desiring to speak shall rise and address the presiding officer and, once being recognized, shall speak standing in place. The presiding officer may grant permission for a speaker to speak from elsewhere in the chamber. When two or more Senators rise at the same time, the presiding officer shall name the order of the speakers.

**S20-40. Senators called to order.** When a Senator has been called to order, the Senator shall sit down until the presiding officer determines whether the Senator is in order or not. If the Senator is called to order for words spoken in debate, the language excepted to must be taken down in writing by the Secretary of the Senate.

**S20-50. Communications to Senate.** A communication to the Senate must be addressed to the President and must bear the name of the person submitting it. The President shall decide if the communication bears including in the calendar.

**S20-60. Floor privileges.** (1) When the Senate is in session no person is permitted in the chambers except:

- (a) legislators;
  - (b) legislative officers and employees whose presence is necessary for the conduct of business of the session;
  - (c) accredited members of the news media; and
  - (d) former legislators (not currently registered as lobbyists).
- (2) The President may make exceptions for visiting dignitaries.
- (3) Beginning 1 hour before and ending one-half hour after adjournment, no person is permitted in the chambers except those authorized as exceptions under subsection (1).

**S20-70. Distribution of materials on floor.** Materials may not be distributed on the Senators' desks in the chamber unless the material bears the signature of the bearer and a Senator and has been approved by the President.

**S20-80. Violation of rules.** (1) If a Senator, in speaking or otherwise, violates the rules of the Senate, the President shall, or the majority or minority floor leader may, call the Senator to order, in which case the Senator called to order must be seated immediately.

(2) The Senator called to order may move for an appeal to the Senate, and if the motion is seconded by two Senators, the matter must be submitted to the Senate for determination by majority vote. The motion is nondebatable.

(3) If the decision of the Senate is in favor of the Senator called to order, the Senator may proceed. If the decision is against the Senator, the Senator may not proceed.

(4) If a Senator is called to order, the matter may be referred to the Rules Committee by the minority or majority leader. The Committee may recommend to the Senate that the Senator be censured or be subject to other action. The Senate shall act upon the recommendation of the Committee.

### CHAPTER 3

#### Committees

**S30-10. Committee appointments.** (1) The Senate shall elect a Committee on Committees consisting of six members. If the Senate is evenly divided between parties, the committee shall consist of six Senators, three from each party.

(2) The Committee on Committees shall, with the approval of the Senate, appoint the members of Senate standing committees and joint committees.

(3) The President of the Senate shall appoint all select committees, conference committees, and special committees, with the advice of the floor leaders.

(4) The Senate may change the membership of any committee on 1 day's notice.

**S30-20. Standing committees.** The standing committees of the Senate are as follows:

- (1) Agriculture, Livestock, and Irrigation
- (2) Business, Labor, and Economic Affairs
- (3) Education and Cultural Resources
- (4) Energy and Telecommunications
- (5) Ethics
- (6) Finance and Claims
- (7) Fish and Game
- (8) Highways and Transportation
- (9) Judiciary
- (10) Legislative Administration
- (11) Local Government
- (12) Natural Resources
- (13) Public Health, Welfare, and Safety
- (14) Rules
- (15) State Administration
- (16) Taxation

**S30-40. Ex officio members — quorum.** (1) A quorum of a committee is a majority of the members of the committee. A quorum of a committee must be present at a meeting to act officially. A quorum of a committee may transact business, and a majority of the quorum, even though it is a minority of the committee, is sufficient for committee action.

(2) Each floor leader is an ex officio member of all committees in order to establish a quorum.

**S30-50. Chair's duties.** (1) The chair of a committee is the presiding officer of that committee and is responsible for:

- (a) maintaining order within the committee room and its environs;
- (b) scheduling hearings and executive action;
- (c) supervising committee work, including the appointment of subcommittees to act on a formal or informal basis; and
- (d) authenticating committee reports and minutes by signing them and submitting them promptly to the Secretary of the Senate. The minutes must be printed on archival paper.

(2) The Secretary of the Senate shall arrange to have the minutes copied in an electronic format. An electronic copy will be provided to the Legislative Services Division and the State Law Library of Montana. The archival paper copy must be delivered to the Montana Historical Society.

**S30-60. Meetings.** (1) All meetings of committees must be open to the public at all times, subject always to the power and authority of the chair to maintain safety, order, and decorum. The date, time, and place of committee meetings must be announced.

(2) A committee or subcommittee may be assembled for:

(a) a public hearing at which testimony is to be heard and at which official action may be taken on bills, resolutions, or other matters;

(b) a formal meeting at which the committees may discuss and take official action on bills, resolutions, or other matters without testimony; or

(c) a work session at which the committee may discuss bills, resolutions, or other matters but take no formal action.

(3) All committees meet at the call of the chair or upon the request of a majority of the members of the committee.

(4) All committees shall provide for and give public notice, reasonably calculated to give actual notice to interested persons, of the time, place, and subject matter of regular and special meetings. All committees are encouraged to provide at least 3 legislative days' notice to members of committees and the general public. However, subject to S30-120, a meeting may be held upon notice appropriate to the circumstances.

(5) A committee may not meet during the time the Senate is in session without leave of the President. Any Senator attending a meeting while the Senate is in session must be considered excused to attend business of the Senate subject to a call of the Senate.

(6) All meetings of committees must be recorded and the minutes must be available to the public within a reasonable time after the meeting. The official record must contain at least the following information:

(a) the time and place of each meeting of the committee;

(b) committee members present, excused, or absent;

(c) the names and addresses of persons appearing before the committee, whom each represents, and whether the person is a proponent, opponent, or other witness;

(d) all motions and their disposition;

(e) the results of all votes; and

(f) all testimony and exhibits.

(7) If a bill is heard in a joint committee, it must be referred to a standing committee. The standing committee is not required to hold an additional hearing but may report the bill to the committee of the whole.

**S30-70. Procedures.** (1) The chair shall notify the sponsor of any bill pending before the committee of the time and place it will be considered.

(2) A standing or select committee may not hear legislation unless the sponsor or one of the cosponsors is present or unless the sponsor has given written consent.

(3) (a) Subject to subsection (3)(b), the committee shall act on each bill in its possession:

(i) by reporting the bill out of the committee;

(A) with the recommendation that it be referred to another committee;

- (B) favorably as to passage; or
- (C) unfavorably; or
- (ii) by tabling the measure in committee.
- (b) At the written request of the sponsor, a committee may finally dispose of a bill without a hearing. Except as provided in S30-60(7), a bill may not be reported from a committee without a hearing.
- (4) The committee may not report a bill to the Senate without recommendation.
- (5) In reporting a measure out of committee, a committee shall include in its report:
  - (a) the measure in the form reported out;
  - (b) the recommendation of the committee;
  - (c) an identification of all substantive changes; and
  - (d) a fiscal note, if required.
- (6) If a measure is taken from a committee and brought to the Senate floor for debate on second reading on that day without a committee recommendation, the bill does not include amendments formally adopted by the committee.
- (7) A second to any motion offered in a committee is not required in order for the motion to be considered by the committee.
- (8) The vote of each member on all committee actions must be recorded and reported in the committee minutes. All motions may be adopted only on the affirmative vote of a majority of the members voting.
- (9) A motion to take a bill from the table may be adopted by the affirmative vote of a majority of the members present at any meeting of the committee.
- (10) An action formally taken by a committee may not be altered in the committee except by reconsideration and further formal action of the committee.
- (11) A committee may reconsider any action as long as the matter remains in the possession of the committee. A bill is in the possession of the committee until a report on the bill is made to the committee of the whole. A committee member need not have voted with the prevailing side in order to move reconsideration.
- (12) The chair shall decide points of order.
- (13) The privileges of committee members include the following:
  - (a) to participate freely in committee discussions and debate;
  - (b) to offer motions;
  - (c) to assert points of order and privilege;
  - (d) to question witnesses upon recognition by the chair;
  - (e) to offer any amendment to any bill; and
  - (f) to vote, either by being present or by proxy, using a standard form.
- (14) Any meeting of a committee held through the use of telephone or other electronic communication must be conducted in accordance with Chapter 3 of the Senate Rules.
- (15) A committee may consolidate into one bill any two or more related bills referred to it whenever legislation may be simplified by the consolidation.

(16) Committee procedure must be informal, but when any questions arise on committee procedure, the rules or practices of the Senate are applicable except as stated in the Senate Rules.

**S30-80. Public testimony.** (1) Testimony from proponents, opponents, and informational witnesses must be allowed on every bill or resolution before a standing or select committee. All persons, other than the sponsor, offering testimony shall complete a "Witness Form" and submit it to the committee secretary.

(2) Any person wishing to offer testimony to a committee hearing a bill or resolution must be given a reasonable opportunity to do so, orally or in writing, subject to time constraints. Written testimony may not be required of any witness, but all witnesses must be encouraged to submit a statement in writing for the committee's official record.

(3) The chair may order the committee room cleared of visitors if there is disorderly conduct. During committee meetings, visitors may not speak unless called upon by the chair. Restrictions on time available for testimony may be announced.

(4) The number of people in a committee room may not exceed the maximum posted by the State Fire Marshall. The chair shall maintain that limit.

(5) In any committee meeting, the use of cameras, television, radio, or any form of telecommunication equipment is allowed, but the chair may designate the areas of the hearing room from which the equipment must be operated. Cell phone use is at the discretion of the chair.

**S30-90. Committee reports to Senate.** (1) Reports of standing committees must be read on Order of Business No. 2, and, subject to subsection (4), debate may not be had on any report unless a minority report has been submitted. A minority report is submitted after a majority report.

(2) Any Senator seeking a reconsideration of the Senate's action on the adoption of a committee report shall do so on Order of Business No. 6 by motion to reconsider. Any Senator may make the reconsideration motion and need not have voted on the prevailing side. This rule applies notwithstanding any joint rule to the contrary. The reconsideration motion must be made within 1 legislative day of the adoption of the committee report.

(3) The Rules Committee and conference committees may report at any time, except during a call of the Senate or when a vote is being taken.

(4) On an adverse committee report, the sponsor may respond to the chair of the committee making the report.

**S30-100. Pairs.** Pairs in standing committee are prohibited. Standing and select committees may by a majority vote of the committee authorize Senators to vote in absentia while engaged in other legislative business. Authorization for absentee or proxy voting must be reflected in the committee minutes.

**S30-110. Committee hearings.** (1) A bill or resolution may not be considered or become a law unless referred to a committee and returned from a committee.

(2) A bill may be rereferred at any time before its passage.

**S30-120. Notice of committee hearings — exceptions.** (1) Notice of a committee hearing must be made by posting the date, time, and subject of the hearing in a conspicuous public place not less than 3 legislative days in advance

of the hearing. This 3-day notice requirement does not apply to hearings scheduled:

- (a) prior to the 3rd legislative day;
  - (b) less than 10 legislative days before the transmittal deadline applicable to the subject of the hearing; or
  - (c) to consider confirmation of a gubernatorial appointment received less than 10 legislative days before the last scheduled day of a legislative session.
- (2) When a committee hearing is scheduled with less than 3 days' notice, the committee chair shall use all practical means to disseminate notice of the hearing to the public.
- (3) Notice of conference committee hearings must be given as provided in Joint Rule 30-30.

**S30-130. Majority/minority reports.** If the members of a committee cannot agree on a report, the majority and minority of the committee present at a committee meeting may submit separate reports. Only one minority report may be submitted. The reports must be entered at length on the journal, unless otherwise ordered by the Senate.

**S30-140. Reconsideration in committee.** Except for the Committee of the Whole, a committee may at any time prior to submitting a report to the Secretary of the Senate reconsider its previous action on legislation.

**S30-150. Committee requested legislation.** (1) (a) Except as provided in subsection (1)(b), at least three-fourths of all the members of a standing committee must have voted in favor of the question to allow the committee to request the introduction of legislation.

(b) The Finance and Claims Committee may request the introduction of legislation by a majority vote of all of the members of the committee.

(2) The chair of a committee shall introduce, or shall designate a member of the committee to introduce, legislation requested by the committee. The introduced bill must be referred to the requesting committee.

(3) When a committee has proposed an amendment, the chair is the principal sponsor.

**S30-160. Ethics Committee.** (1) The Ethics Committee shall meet only upon the call of the chair after the referral of an issue from the Rules Committee. The Rules Committee may be convened to consider the referral of a matter to the Ethics Committee upon the request of a Senator. The Rules Committee shall prepare a written statement of the specific question or issue to be addressed by the Ethics Committee. The issues referred to the Ethics Committee must be related to the actions of a Senator during a legislative session.

(2) The matters that may be referred to the Ethics Committee are:

(a) a violation of:

- (i) 2-2-103;
- (ii) 2-2-104;
- (iii) 2-2-111;
- (iv) 2-2-112;

(b) the use or threatened use of a Senator's position for personal or personal business benefit or advantage; or

(c) any other violation of law by a Senator while acting in the capacity of Senator.

(3) If there is a recommendation from the Ethics Committee, the recommendation is made to the Senate.

#### CHAPTER 4

##### Legislation

**S40-10. Types of legislation.** The only types of legislation that may be introduced in the Senate are those that have been drafted and approved by the Legislative Services Division and signed by a Senator. The types of legislation allowed include:

- (1) bills of any subject, except appropriations;
- (2) joint resolutions, which may:
  - (a) express desire, opinion, sympathy, or request of the Legislature;
  - (b) request an interim study by a legislative subcommittee;
  - (c) adopt or amend the joint rules;
  - (d) set salaries and other terms of employment for legislative employees;
- and
- (e) accomplish other legislative duties required by law; and
- (3) simple resolutions, which may:
  - (a) adopt or amend Senate rules;
  - (b) provide for the internal affairs of the Senate;
  - (c) express confirmation of the Governor's appointments;
  - (d) make recommendations concerning the districting and apportionment plan as provided by Article V, section 14(4), of the Montana Constitution.

**S40-20. Introduction.** (1) Upon receiving a bill or resolution from a Senator, the Secretary of the Senate shall assign an appropriate sequential number, which constitutes introduction of the legislation.

(2) Bills and resolutions may be preintroduced, assigned to committee, and printed prior to the legislative session. The Legislative Services Division is responsible for ensuring the preintroduction intent from each Senator and presenting the preintroduced legislation to the Secretary of the Senate.

(3) Upon referral to committee, the Secretary of the Senate shall publicly post a listing of the bill or resolution by a summary of its title, together with a notation of the committee to which it has been assigned.

**S40-30. Additional sponsors.** (1) Additional sponsors may be added on motion of the chief sponsor at any time prior to a standing committee report on the bill or resolution. Forms for adding sponsors will be supplied on request by the Secretary of the Senate.

(2) Upon passage of the motion, the names of the additional sponsors will be printed in the journal and the form containing the signatures of the additional sponsors will be forwarded to the Legislative Services Division with the original bill for the inclusion of the names in subsequent printings of the bill or resolution.

**S40-40. Reading limitations.** (1) Every bill must be read three times prior to passage, either by title or by summary of title as provided in these rules.

(2) A bill or resolution may not have more than one reading on the same day except the last legislative day.

(3) An amendment may not be offered on third reading.

**S40-50. Rules for questions requiring other than a majority vote.** (1) When a question requires more than a majority vote for final passage, a majority vote is sufficient to decide any question relating to the question prior to third reading.

(2) Any vote in the Senate on a bill proposing an amendment to the Montana Constitution under circumstances in which there exists the mathematical possibility of obtaining the necessary two-thirds vote of the Legislature will cause the bill to progress as though it had received the majority vote. This rule does not prevent a committee from indefinitely postponing or tabling a bill proposing an amendment to the Montana Constitution.

(3) If a bill has been amended in the House of Representatives and the amendments are accepted by the Senate, the bill must again be placed on third reading in the Senate to determine if the required number of votes has been cast.

**S40-60. Scheduling for second reading.** (1) All bills and resolutions that have been reported by a committee, accepted by the Senate, and reproduced must be scheduled for consideration by Committee of the Whole.

(2) Until the 50th legislative day, 1 day must elapse between receiving the legislation from printing and scheduling for second reading for consideration by Committee of the Whole.

(3) The majority leader shall arrange legislation on the agenda in the order in which the bills will be considered, unless otherwise ordered by the Senate or Committee of the Whole.

## CHAPTER 5

### Floor Action

**S50-10. Attendance.** Unless excused, Senators must be present at every sitting of the Senate and shall vote on questions put before the Senate.

**S50-20. Orders of business.** After prayer, roll call, and report on the journal, the order of business of the Senate is as follows:

- (1) communications and petitions;
- (2) reports of standing committees;
- (3) reports of select committees;
- (4) messages from the Governor;
- (5) messages from the House of Representatives;
- (6) motions;
- (7) first reading and commitment of bills;
- (8) second reading of bills (Committee of the Whole);
- (9) third reading of bills;
- (10) unfinished business;
- (11) special orders of the day; and
- (12) announcement of committee meetings.

To revert to or pass to a new order of business requires only a majority vote. Unless otherwise specified in the motion to recess, the Senate shall revert to Order of Business No. 1 when reconvening after a recess.

**S50-30. Limitations on debate.** A Senator may not speak more than twice on any one motion or question without unanimous consent of the Senate, unless the Senator has introduced or proposed the motion or question under debate, in which case the Senator may speak twice and also close the debate. However, a Senator who has spoken may not speak again on the same motion or question to the exclusion of a Senator who has not spoken.

**S50-40. Procedure upon offering a motion.** (1) When a motion is offered it must be restated by the presiding officer. If requested by the presiding officer or a Senator, it must be reduced to writing, presented at the rostrum, and read aloud by the Secretary.

(2) A motion may be withdrawn by the Senator offering it at any time before it is amended or voted upon.

**S50-50. Precedence of motions.** (1) When a question is under debate only the following privileged and subsidiary motions may be made:

- (a) to adjourn;
- (b) for a call of the Senate;
- (c) to recess;
- (d) question of privilege;
- (e) to lay on the table;
- (f) for the previous question;
- (g) to postpone to a certain day;
- (h) to refer or commit;
- (i) to amend; and
- (j) to postpone indefinitely.

(2) The motions listed in subsection (1) have precedence in the order listed.

(3) A question may be indefinitely postponed by a majority roll call of all Senators present and voting. When a bill or resolution is postponed indefinitely, it is finally rejected and may not be acted upon again except upon a motion of reconsideration.

(4) A motion or proposition on a subject different from that under consideration may not be admitted under color of amendment or substitute.

**S50-60. Nondebatable motions.** The following motions are not debatable:

- (1) to adjourn;
- (2) for a call of the Senate;
- (3) to recess or rise;
- (4) for parliamentary inquiry;
- (5) for suspension of the rules;
- (6) to lay on the table;
- (7) for the previous question;
- (8) to limit, extend the limits of, or to close debate;

(9) to amend an undebatable motion;

(10) to divide a question;

(11) to pass business in Committee of the Whole;

(12) to take from the table;

(13) a decision of the presiding officer, unless appealed or unless the presiding officer submits the question to the Senate for advice or decision; and

(14) all incidental motions, such as motions relating to voting or other questions of a general procedural nature.

**S50-70. Amending motions.** (1) Subject to subsection (2), no more than one amendment and no more than one substitute motion may be made to a motion. This rule permits the main motion and two modifying motions.

(2) A motion for a call of the Senate, for the previous question, to table, or to take from the table may not be amended.

**S50-80. Previous question.** (1) Except as provided in subsection (2), the effect of calling for the previous question, if adopted, is to close debate immediately, to prevent the offering of amendments or other subsidiary motions, and to bring to vote promptly the immediately pending main question and the adhering subsidiary motions, whether on appeal or otherwise.

(2) When the previous question is ordered on any debatable question on which there has been no debate, the question may be debated for one-half hour, one-half of that time to be given to the proponents and one-half to the opponents. The sponsor of the main motion on which the previous question is adopted may close on the motion.

(3) A call of the Senate is not in order after the previous question is ordered unless it appears upon an actual count by the presiding officer that a quorum is not present.

**S50-90. Reconsideration.** (1) Any Senator may, on the day the vote was taken or on the next day the Senate is in session, move to reconsider the question. A motion to reconsider is a debatable motion, but the debate is limited to the motion. The debate on a motion to reconsider may not address the substance of the matter for which reconsideration is sought.

(2) A motion to reconsider may not be withdrawn after the next legislative day without the unanimous consent of the Senate, and thereafter any Senator may call it up for consideration. However, a motion to reconsider made after the 54th day of the session must be disposed of when made.

(3) A motion to recall a bill from the House of Representatives constitutes notice to reconsider and must be acted on as a motion to reconsider. A motion to reconsider or to recall a bill from the House of Representatives may be made only under Order of Business No. 6 and, under that order of business, takes precedence over all motions except motions to recess or adjourn.

(4) When a motion to reconsider is laid on the table, a two-thirds majority is required to take it from the table. When a motion to reconsider fails, the question is finally and conclusively settled.

(5) If a motion to reconsider third reading action is carried, there may not be further action until the succeeding legislative day.

**S50-100. Dividing a question.** A Senator may move to divide a question if it includes two or more propositions so distinct in substance that if one thing is taken away a substantive question will remain.

**S50-110. Conference committee reports.** (1) When a conference committee report is filed with the Secretary of the Senate, the report must be read under Order of Business No. 3, select committees, and placed on the calendar the succeeding legislative day for consideration on second reading. If recommended favorably by the Committee of the Whole, it may be considered on third reading the same legislative day.

(2) If both the Senate and the House of Representatives adopt the same conference committee report on legislation requiring more than a majority vote for final passage, the Senate, following approval of the conference committee report on third reading, shall place the final form of the legislation on third reading to determine if the required vote is obtained.

(3) If the Senate rejects a conference committee report, the committee continues to exist unless dissolved by the President or by motion. The committee may file a subsequent report.

(4) A Senate conference committee may confer regarding matters assigned to it with any House conference committee with like jurisdiction and submit recommendations for consideration of the Senate.

**S50-120. Second reading.** (1) The Senate may resolve itself into a Committee of the Whole for consideration of business on second reading, by approval of a motion for that purpose.

(2) After a Committee of the Whole has been formed, the President shall appoint a chair to preside.

(3) All legislation considered in the Committee of the Whole must be read by a summary of its title. Unless the sponsor requests an opening statement beforehand, proposed amendments must be considered, and then the bill must be considered in its entirety.

(4) Prior to adoption of the Committee of the Whole report, a Senator may move to segregate legislation. If the motion prevails, the legislation remains on second reading.

(5) When a Committee of the Whole report on legislation is rejected, the legislation remains on second reading.

**S50-130. Committee of the Whole amendments.** (1) All Committee of the Whole amendments must be prepared, stipulating the date and time of preparation and staff approval, and delivered to the Secretary of the Senate for reading before the amendment is voted on.

(2) Each amendment, rejected or adopted, must be printed in the journal, along with the name of the sponsor and the vote on each.

**S50-140. Motions in Committee of the Whole.** (1) All proper motions on second reading are debatable.

(2) The only motions in order during Committee of the Whole are to:

- (a) amend;
- (b) recommend passage or nonpassage;
- (c) recommend concurrence or nonconcurrence;
- (d) indefinitely postpone;

- (e) pass consideration;
- (f) rise;
- (g) rise and report;
- (h) rise and report progress and ask leave to sit again; or
- (i) change the order in which legislation is placed on the agenda.

**S50-150. Committee of the Whole — generally.** (1) The Committee of the Whole may not appoint subcommittees.

(2) The Committee of the Whole may not punish its members for misconduct, but may report disorder to the Senate.

**S50-160. Voting on second reading.** (1) On Order of Business No. 8, in addition to other methods, a recorded vote may be made in the following manner: the chair may call for a voice vote to accept or reject a question. If the vote is other than unanimous, the chair may ask that the lesser number on the question indicate their vote by standing. The Secretary will then record the vote of those standing. The chair may then rule that unless excused those not standing and present have voted on the prevailing side of the question and that their vote be recorded as voting on the prevailing side. If there was a unanimous voice vote, all those present will be recorded as having voted for the question.

(2) A motion on second reading must be disposed of by a positive vote.

**S50-170. Third reading procedure.** (1) All legislation passing second reading must be placed on third reading the day following the receipt of the engrossing or other appropriate printing report.

(2) On Order of Business No. 9 the Secretary shall read the title and the President shall state the question as follows: "Senate bill number (or other appropriate identification)..... having been read three several times, the question is, shall the bill (or other appropriate identification) pass the Senate?"

(3) If an electronic voting system is used, the President shall state "Those in favor vote yes and those opposed vote no" and the Secretary will sound the signal and open the board for voting. After a reasonable pause the presiding officer asks "Has every member voted?" (reasonable pause), "Does any member wish to change his or her vote?" (reasonable pause), "The Secretary will record the vote."

**S50-180. Senate voting — changing a vote.** (1) A roll call vote must be taken on the request of two Senators, if the request occurs before the vote is taken.

(2) On a roll call vote the names of the Senators must be called alphabetically, unless an electronic voting system is used. A Senator may not vote after the decision is announced from the chair. A Senator may not explain a vote until after the decision is announced from the chair.

(3) A Senator may move to change the Senator's vote, on any recorded vote, within 1 legislative day of the vote. The Senator making the motion shall first specify the bill number, the date of the vote, and the original vote tally. A vote may not be changed if it would affect the outcome of legislation. The motion is nondebatable. If none of the Senators present object, the change must be entered into the journal.

(4) If any Senator objects to the request in subsection (3), the Senator making the request may move to suspend the rules to allow the Senator to change the Senator's vote.

(5) An error caused by a malfunction of the voting system may be corrected without a vote within 10 minutes of the malfunction.

**S50-190. Pairs.** (1) Two Senators may pair on a question that will be determined by a majority vote. On a question requiring a two-thirds vote for adoption, three Senators may pair, with two Senators for the question and one Senator against. Pairing is permitted only when one of the paired Senators is excused when the vote is taken.

(2) An agreement to pair must be in writing and dated and signed by the Senators agreeing to be bound and must specify the duration of the pair. When an agreement to pair is filed with the Secretary of the Senate, it binds the Senators signing until the expiration of time for which it was signed, unless the paired Senators sooner appear and ask that the agreement be canceled.

(3) Pairs in Committee of the Whole are prohibited.

**S50-200. Call of the Senate.** (1) In the absence of a quorum, a majority of Senators present may compel the attendance of absent Senators by ordering a call of the Senate.

(2) If a quorum is present, five Senators may order a call of the Senate.

(3) On a call of the Senate, a Senator who refuses to attend may be arrested by the Sergeant-at-Arms or any other person, as the majority of the Senators present direct. When the attendance of an absent Senator is secured and the Senate refuses to excuse the Senator's absence, the Senator may not be paid any expense payments while absent and is liable for the expenses incurred in procuring the Senator's attendance.

(4) During a call of the Senate, all business must be suspended. After a call has been ordered, no motion is in order except a motion to adjourn or remove the call. The call may be removed by a two-thirds vote.

**S50-210. House amendments to Senate legislation.** (1) When the House has properly returned Senate legislation with House amendments, the Senate shall announce the amendments on Order of Business No. 5 and the President shall place them on second reading for debate. The President may rerefer Senate legislation with House amendments to a committee for a hearing if the House amendments constitute a significant change in the Senate legislation. The second reading vote is limited to consideration of the House amendments.

(2) If the Senate accepts House amendments, the Senate shall place the final form of the legislation on third reading to determine if the legislation, as amended, is passed or if the required vote is obtained.

(3) If the Senate rejects the House amendments, the Senate may request the House to recede from its amendments or may direct appointment of a conference committee and request the House to appoint a like committee.

**S50-220. Governor's amendments.** (1) When the Governor returns a bill with recommended amendments, the Senate shall announce the amendments under Order of Business No. 4.

(2) The Senate may debate and adopt or reject the Governor's recommended amendments on second reading on any legislative day.

(3) If both the Senate and the House of Representatives accept the Governor's recommended amendments on a bill that requires more than a majority vote for final passage, the Senate shall place the final form of the legislation on third reading to determine if the required vote is obtained.

**S50-230. Governor's veto.** (1) When the Governor returns a bill with a veto, the Senate shall announce the veto under Order of Business No. 4.

(2) On any legislative day, a Senator may move to override the Governor's veto by a two-thirds vote under Order of Business No. 6.

## CHAPTER 6

### Rules

**S60-10. Senate rules.** (1) A motion to amend or adopt a rule of the Senate must be referred to the Rules Committee without debate. A rule of the Senate may be amended or adopted only with the concurrence of a majority of the Senate and after 1 day's notice.

(2) A rule may be suspended temporarily by a two-thirds vote.

**S60-20. Mason's Manual of Legislative Procedure.** Mason's Manual of Legislative Procedure (2000) governs the proceedings of the Senate in all cases not covered by these rules.

**S60-30. Quorum.** A majority of the Senate shall constitute a quorum to do business, but a smaller number may adjourn from day to day and compel the attendance of absent Senators, in the manner and under penalties as the Senate may prescribe (Montana Constitution, Art. V, Sec. 10(2)).

## CHAPTER 7

### Nominations from the Governor

**S70-10. Nominations.** (1) The Governor shall nominate and, by and with the consent of the Senate, appoint all officers whose offices are established by the Montana Constitution or which may be created by law and for whom appointment or election is not otherwise provided.

(2) If during a recess of the Senate a vacancy occurs in any office subject to Senate confirmation, the Governor shall appoint some fit person to discharge the duties of the office until the next meeting of the Senate, when the Governor shall nominate a person to fill the office.

**S70-20. Introduction and first reading of nominations.** (1) Nominations received from the Governor are:

- (a) received by the President;
- (b) delivered to the Secretary of the Senate;
- (c) read under Order of Business No. 4, messages from the Governor; and
- (d) referred to committee.

(2) The procedure in subsection (1) constitutes introduction and first reading of the nominations.

(3) The Secretary shall distribute a copy of the list of nominations to each Senator.

**S70-30. Committee process.** (1) (a) The committee shall research each nominee and may request biographical information from the Governor for each nominee if none has been provided.

(b) The committee chair shall submit a bill draft request for a simple resolution to include the nominees specified by the committee chair. These bill draft requests will not count against any bill draft request limit imposed on members. When the resolution has been prepared and introduced, the

committee shall hold a hearing on the resolution after appropriate public notice has been made.

(2) Following the hearings, the committee shall issue preliminary standing committee reports to be distributed to each Senator, stating the committee's recommendations concerning the nominees.

(3) (a) If a Senator wishes to have an individual nominee, or group of nominees, considered by the Senate separately from the group of nominees recommended by the committee, the Senator may request of the chair of the committee that the nominee or nominees be considered by a separate resolution.

(b) A Senator shall request separate consideration of a nominee within 3 days of receipt of the preliminary standing committee report. The committee chair shall honor this request.

(4) After waiting 3 days from the day of distribution of the preliminary standing committee report, the committee chair shall issue a final standing committee report and deliver the report to the Secretary of the Senate.

(a) If a nominee is to be separated from the resolution, the final standing committee report must include an amendment deleting that nominee.

(b) When a nominee has been separated at the request of a Senator, the committee chair shall submit a bill draft request for a simple resolution to include only the nominee so separated. When the resolution has been prepared and introduced, the committee shall take executive action on the resolution. When a hearing on the separated nomination was held prior to the committee's preliminary standing committee report, an additional hearing is not required to be held before the committee takes action on the separate resolution. After the committee's executive action, the committee chair shall issue a standing committee report.

(5) If a resolution contains only one nominee, the committee shall dispense with the preliminary standing committee report and shall issue a final standing committee report to be distributed to each Senator stating the committee's recommendation concerning the nominee.

(6) The Secretary will read the reports under Order of Business No. 2, reports of standing committees.

(7) After the report has been read, the resolution must be placed on Order of Business No. 11 the next legislative day for consideration by the Senate. Motions to approve or disapprove of the resolution are in order and may be debated.

#### **Appendix A**

##### List of Questions Requiring Other Than a Majority Vote

The following questions require the vote specified:

- (1) a call of the Senate with a quorum (five Senators);
- (2) a motion to lift a call of the Senate (two-thirds of the members present and voting);
- (3) a motion to amend or suspend rules (two-thirds);
- (4) a motion to override the Governor's veto (two-thirds);
- (5) a motion to approve a bill to appropriate the principal of the coal trust fund (three-fourths of each house);

(6) a motion to approve a bill to appropriate highway revenue as described in Article VIII, section 6, of the Montana Constitution for purposes other than therein described (three-fifths of each house);

(7) a motion to approve a bill proposing to amend the Montana Constitution (two-thirds of the entire Legislature);

(8) an appeal of the ruling of the presiding officer (one Senator, seconded by two other Senators);

(9) a motion to approve a bill conferring immunity from suit as described in Article II, section 18, of the Montana Constitution (two-thirds); and

(10) a motion to approve a bill to appropriate the principal of the tobacco settlement trust fund (two-thirds).

Adopted January 15, 2005

### **SENATE RESOLUTION NO. 3**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA URGING THE MONTANA DEPARTMENT OF TRANSPORTATION TO MAKE SPECIFIED IMPROVEMENTS ON THE ROAD FROM SCOBEEY TO WOLF POINT.

WHEREAS, portions of the road from Scobee to Wolf Point have had no major improvements made since 1945; and

WHEREAS, sharp turns and narrow width make portions of this road quite dangerous; and

WHEREAS, because of the closure of a local grain elevator, farmers have had to truck approximately 78 semitrailers of grain on this road each week; and

WHEREAS, this road, which was not originally engineered to support such heavy traffic, is now being even more dangerously degraded.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Department of Transportation be encouraged to improve portions of the road between Scobee and Wolf Point by widening it to meet standards for a two-lane road and reengineering it to reduce its dangerous sharp turns.

Adopted February 21, 2005

### **SENATE RESOLUTION NO. 4**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE NOMINATIONS OF APPOINTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 13, 2005, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the nominations of appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Alternative Health Care Board, in accordance with section 2-15-1730, MCA:

Dr. Michael Bergkamp, Helena, Montana, appointed for a term ending September 1, 2007.

Dr. Kathleen Stevens, Billings, Montana, appointed for a term ending September 1, 2007.

Dr. Margaret Beeson, Billings, Montana, appointed for a term ending September 1, 2008.

(2) As a member of the Board of Chiropractors, in accordance with section 2-15-1737, MCA:

Dr. Thomas Fullerton, Kalispell, Montana, appointed for a term ending January 1, 2007.

(3) As members of the Board of Clinical Laboratory Science Practitioners, in accordance with section 2-15-1753, MCA:

Charliene Staffanson, Deer Lodge, Montana, appointed for a term ending April 16, 2007.

Karen McNutt, Sidney, Montana, appointed for a term ending April 16, 2007.

Rosemary Shively, Helena, Montana, appointed for a term ending April 16, 2007.

(4) As members of the Board of Dentistry, in accordance with section 2-15-1732, MCA:

Dr. Robert Jestrab, Havre, Montana, appointed for a term ending March 29, 2009.

Deana Standley, Great Falls, Montana, appointed for a term ending March 29, 2009.

(5) As members of the Board of Hearing Aid Dispensers, in accordance with section 2-15-1740, MCA:

Steve Wilson, Helena, Montana, appointed for a term ending July 1, 2007.

Barbara Tamietti, Stockett, Montana, appointed for a term ending July 1, 2007.

Beckie Hoffman, Butte, Montana, appointed for a term ending July 1, 2007.

Paula Peterson, Belgrade, Montana, appointed for a term ending July 1, 2007.

(6) As members of the Board of Medical Examiners, in accordance with section 2-15-1731, MCA:

Dr. James Upchurch, Crow Agency, Montana, appointed for a term ending September 1, 2007.

Dr. Kurt Kubicka, Helena, Montana, appointed for a term ending September 1, 2008.

Dr. Dennis Salisbury, Butte, Montana, appointed for a term ending September 1, 2007.

(7) As members of the Board of Nursing, in accordance with section 2-15-1734, MCA:

Susan Raph, Shelby, Montana, appointed for a term ending July 1, 2008.

Kathy Hayden, Missoula, Montana, appointed for a term ending July 1, 2008.

Cynthia Pike, Billings, Montana, appointed for a term ending July 1, 2007.

(8) As members of the Board of Nursing Home Administrators, in accordance with section 2-15-1735, MCA:

Lori Henderson, Havre, Montana, appointed for a term ending May 28, 2008.

Loren Hines, Butte, Montana, appointed for a term ending May 28, 2009.

(9) As a member of the Board of Occupational Therapy Practice, in accordance with section 2-15-1749, MCA:

Debra Ammondson, Great Falls, Montana, appointed for a term ending December 31, 2007.

(10) As members of the Board of Optometry, in accordance with section 2-15-1736, MCA:

Delores Hill, Mosby, Montana, appointed for a term ending April 3, 2007.

Dr. Larry Obie, Havre, Montana, appointed for a term ending April 3, 2007.

Dr. Douglas McBride, Billings, Montana, appointed for a term ending April 3, 2009.

(11) As members of the Board of Pharmacy, in accordance with section 2-15-1733, MCA:

Colette Bernica, Great Falls, Montana, appointed for a term ending July 1, 2008.

Jim Cloud, Stevensville, Montana, appointed for a term ending July 1, 2008.

Mark Meredith, Helena, Montana, appointed for a term ending July 1, 2009.

(12) As members of the Board of Physical Therapy Examiners, in accordance with section 2-15-1748, MCA:

Dr. Paul Melvin, Great Falls, Montana, appointed for a term ending July 1, 2006.

Brenda Mahlum, Missoula, Montana, appointed for a term ending July 1, 2006.

Judy Cole, Forsyth, Montana, appointed for a term ending July 1, 2006.

Bruce Lamb, Havre, Montana, appointed for a term ending July 1, 2007.

(13) As members of the Board of Psychologists, in accordance with section 2-15-1741, MCA:

Dr. Edward Trontel, Kalispell, Montana, appointed for a term ending September 1, 2008.

Dr. George Watson, Bozeman, Montana, appointed for a term ending September 1, 2009.

Dr. Stuart Hall, Missoula, Montana, appointed for a term ending September 1, 2009.

(14) As members of the Board of Radiologic Technologists, in accordance with section 2-15-1738, MCA:

Thomas Carter, Shelby, Montana, appointed for a term ending July 1, 2006.

Anne Delaney, Missoula, Montana, appointed for a term ending July 1, 2007.

(15) As members of the Board of Respiratory Care Practitioners, in accordance with section 2-15-1750, MCA:

Dr. Holly Strong, Great Falls, Montana, appointed for a term ending January 1, 2008.

Robert Kirtley, Bozeman, Montana, appointed for a term ending January 1, 2008.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 59th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nominations and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 24, 2005

## SENATE RESOLUTION NO. 5

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE NOMINATIONS OF APPOINTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 13, 2005, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the nominations of appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Board of Architects, in accordance with section 2-15-1761, MCA:

Mr. John Fontaine, Glasgow, Montana, appointed for a term ending March 27, 2007.

Mr. Tom Wood, Bozeman, Montana, appointed for a term ending March 27, 2007.

(2) As members of the Board of Athletics, in accordance with section 2-15-1772, MCA:

Mr. Don Vegge, Billings, Montana, appointed for a term ending April 25, 2006.

Mr. Kevin McCarl, Helena, Montana, appointed for a term ending April 25, 2007.

(3) As members of the Board of Barbers and Cosmetologists, in accordance with section 2-15-1747, MCA:

Mr. Wendell Petersen, Missoula, Montana, appointed for a term ending October 1, 2008.

Ms. Darlene Battaiola, Butte, Montana, appointed for a term ending October 1, 2007.

Ms. Verna Dupuis, Bozeman, Montana, appointed for a term ending October 1, 2006.

Mr. Edward Dutton, Kalispell, Montana, appointed for a term ending October 1, 2008.

Ms. Sharon Richie, Hamilton, Montana, appointed for a term ending October 1, 2007.

Ms. Karan Charles, Miles City, Montana, appointed for a term ending October 1, 2006.

Ms. Maxine Collins, Helena, Montana, appointed for a term ending October 1, 2005.

Ms. Kordelia French, Plentywood, Montana, appointed for a term ending October 1, 2008.

Ms. Delores Lund, Plentywood, Montana, appointed for a term ending October 1, 2005.

(4) As members of the Board of Funeral Service, in accordance with section 2-15-1743, MCA:

Mr. Douglas Lowry, Big Timber, Montana, appointed for a term ending July 1, 2008.

Mr. R.J. (Dick) Brown, Lewistown, Montana, appointed for a term ending July 1, 2009.

(5) As members of the Board of Horseracing, in accordance with section 2-15-3106, MCA:

Ms. Brenda Koch, Lewistown, Montana, appointed for a term ending January 20, 2007.

Ms. Susan Austin, Kalispell, Montana, appointed for a term ending January 20, 2007.

Mr. Jay Clark, Sweetgrass, Montana, appointed for a term ending January 20, 2007.

Mr. C.A. (Al) Carruthers, Butte, Montana, appointed for a term ending January 20, 2007.

(6) As a member of the Board of Landscape Architects, in accordance with section 2-15-1762, MCA:

Mr. Carl Thuesen, Billings, Montana, appointed for a term ending July 1, 2008.

(7) As members of the Board of Outfitters, in accordance with section 2-15-1773, MCA:

Mr. Russ Smith, Philipsburg, Montana, appointed for a term ending October 1, 2006.

Mr. Craig Madsen, Great Falls, Montana, appointed for a term ending October 1, 2006.

Mr. Kelly Flynn, Townsend, Montana, appointed for a term ending October 1, 2007.

(8) As members of the Board of Plumbers, in accordance with section 2-15-1765, MCA:

Ms. Loree Olsen, Helena, Montana, appointed for a term ending May 4, 2007.

Mr. Marc Golz, Helena, Montana, appointed for a term ending May 4, 2007.

Mr. Mike MULLOWNEY, Absarokee, Montana, appointed for a term ending May 4, 2007.

Ms. Margie Laknar, Dillon, Montana, appointed for a term ending May 4, 2007.

Mr. Jeffrey Gruizenga, Billings, Montana, appointed for a term ending May 4, 2008.

Mr. Scott Lemert, Livingston, Montana, appointed for a term ending May 4, 2007.

(9) As members of the Board of Professional Engineers and Professional Land Surveyors, in accordance with section 2-15-1763, MCA:

Mr. James Hahn, Billings, Montana, appointed for a term ending July 1, 2007.

Mr. Vic Cundy, Bozeman, Montana, appointed for a term ending July 1, 2007.

Ms. Paulette Ferguson, Missoula, Montana, appointed for a term ending July 1, 2007.

Mr. David Gates, Butte, Montana, appointed for a term ending July 1, 2007.

(10) As members of the Board of Public Accountants, in accordance with section 2-15-1756, MCA:

Mr. Thomas Shea, Bozeman, Montana, appointed for a term ending July 1, 2008.

Mr. Rick Reisig, Great Falls, Montana, appointed for a term ending July 1, 2009.

(11) As members of the Board of Real Estate Appraisers, in accordance with section 2-15-1758, MCA:

Mr. David Heine, Kalispell, Montana, appointed for a term ending May 1, 2006.

Ms. Janeth Martin, Helena, Montana, appointed for a term ending May 1, 2006.

Mr. Tim Moore, Helena, Montana, appointed for a term ending May 1, 2007.

Ms. Jennifer Seitz, Billings, Montana, appointed for a term ending May 1, 2007.

Mr. Keith O'Reilly, Bozeman, Montana, appointed for a term ending May 1, 2007.

(12) As members of the Board of Realty Regulation, in accordance with section 2-15-1757, MCA:

Mr. Mike Basile, Bozeman, Montana, appointed for a term ending May 9, 2007.

Ms. Teddye Beebe, Libby, Montana, appointed for a term ending May 9, 2007.

Ms. Marilyn Floberg, Billings, Montana, appointed for a term ending May 9, 2008.

(13) As members of the Board of Sanitarians, in accordance with section 2-15-1751, MCA:

Ms. Denise Moldroski, Livingston, Montana, appointed for a term ending July 1, 2006.

Mr. Ted Kylander, Billings, Montana, appointed for a term ending July 1, 2007.

(14) As a member of the Board of Social Work Examiners and Professional Counselors, in accordance with section 2-15-1744, MCA:

Ms. Sherry Meador, Clancy, Montana, appointed for a term ending January 1, 2007.

(15) As members of the Board of Veterinary Medicine, in accordance with section 2-15-1742, MCA:

Dr. Jean Lindley, Miles City, Montana, appointed for a term ending July 31, 2008.

Dr. Bruce Sorensen, Belgrade, Montana, appointed for a term ending July 31, 2009.

(16) As members of the State Banking Board, in accordance with section 2-15-1025, MCA:

Mr. Russ Ritter, Helena, Montana, appointed for a term ending July 1, 2006.

Mr. Robert Gersack, Billings, Montana, appointed for a term ending July 1, 2006.

Mr. Mark Huber, Helena, Montana, appointed for a term ending July 1, 2007.

Mr. Mark Staples, Helena, Montana, appointed for a term ending July 1, 2007.

(17) As a member of the State Electrical Board, in accordance with section 2-15-1764, MCA:

Mr. Rick Hutchinson, Black Eagle, Montana, appointed for a term ending July 1, 2009.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 59th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nominations and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 24, 2005

## SENATE RESOLUTION NO. 6

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE NOMINATIONS OF APPOINTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 13, 2005, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the nominations of appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As a member of the Coal Board, in accordance with section 2-15-1821, MCA:

Jim Smitham, Butte, Montana, appointed for a term ending January 1, 2007.

(2) As members of the Board of Hail Insurance, in accordance with section 2-15-3003, MCA:

Larry Barbie, Hilger, Montana, appointed for a term ending April 18, 2006.

Keith Arntzen, Hilger, Montana, appointed for a term ending April 18, 2007.

(3) As members of the Hard Rock Mining Impact Board, in accordance with section 2-15-1822, MCA:

Sandra Muster, Thompson Falls, Montana, appointed for a term ending January 1, 2007.

Don Kinsey, Big Timber, Montana, appointed for a term ending January 1, 2007.

(4) As members of the Board of Milk Control, in accordance with section 2-15-3105, MCA:

Dr. Robert Greer, Bozeman, Montana, appointed for a term ending January 1, 2007.

Michael Kleese, Stevensville, Montana, appointed for a term ending January 1, 2007.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 59th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nominations and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 24, 2005

## SENATE RESOLUTION NO. 7

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE NOMINATIONS OF APPOINTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 13, 2005, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the nominations of appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Board of Public Education, in accordance with section 2-15-1508, MCA:

Mr. Cal Gilbert, Great Falls, Montana, appointed for a term ending February 1, 2011.

Ms. Gay Ann Masolo, Townsend, Montana, appointed for a term ending February 1, 2006.

(2) As members of the Burial Preservation Board, in accordance with section 22-3-804, MCA:

Mr. John Murray, Browning, Montana, appointed for a term ending August 22, 2005.

Mr. Stephen Platt, Helena, Montana, appointed for a term ending August 22, 2005.

Mr. Carl Fourstar, Poplar, Montana, appointed for a term ending August 22, 2005.

Mr. Tony Incashola, Pablo, Montana, appointed for a term ending August 22, 2005.

Dr. Randall Skelton, Missoula, Montana, appointed for a term ending August 22, 2005.

Mr. Melbert Eaglefeathers, Butte, Montana, appointed for a term ending August 22, 2005.

Mr. Mickey Nelson, Helena, Montana, appointed for a term ending August 22, 2006.

Ms. Sherri Deaver, Billings, Montana, appointed for a term ending August 22, 2006.

Mr. George Reed, Sr., Crow Agency, Montana, appointed for a term ending August 22, 2006.

Mr. Ryan Rusche, Poplar, Montana, appointed for a term ending August 22, 2006.

(3) As a member of the Montana Arts Council, in accordance with section 22-2-102, MCA:

Ms. Cynthia Andrus, Bozeman, Montana, appointed for a term ending February 1, 2007.

(4) As members of the Montana Historical Society Board of Trustees, in accordance with section 22-3-104, MCA:

Mr. William Holt, Lolo, Montana, appointed for a term ending July 1, 2008.

Dr. Thomas Foor, Missoula, Montana, appointed for a term ending July 1, 2008.

Ms. Sharon Lincoln, Billings, Montana, appointed for a term ending July 1, 2008.

Mr. Thomas Siebel, Wolf Creek, Montana, appointed for a term ending July 1, 2006.

Mr. Ed Henrich, Fairmont, Montana, appointed for a term ending July 1, 2009.

Mr. James Utterback, Helena, Montana, appointed for a term ending July 1, 2009.

Ms. Lee Rostad, Martinsdale, Montana, appointed for a term ending July 1, 2009.

(5) As members of the Preservation Review Board, in accordance with section 2-15-1512, MCA:

Mr. Robert Valach, Lewistown, Montana, appointed for a term ending October 1, 2007.

Mr. James Rea, Glasgow, Montana, appointed for a term ending October 1, 2007.

Ms. Kathy Doeden, Miles City, Montana, appointed for a term ending October 1, 2007.

Mr. Timothy Light, Kalispell, Montana, appointed for a term ending October 1, 2008.

Mr. Paul Filicetti, Missoula, Montana, appointed for a term ending October 1, 2008.

Mr. Rafael Chacon, Lolo, Montana, appointed for a term ending October 1, 2008.

(6) As members of the State Library Commission, in accordance with section 22-1-101, MCA:

Ms. Caroline Bitz, Box Elder, Montana, appointed for a term ending May 22, 2007.

Mr. Donald Allen, Billings, Montana, appointed for a term ending May 22, 2006.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 59th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nominations and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 24, 2005

## SENATE RESOLUTION NO. 8

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE NOMINATIONS OF APPOINTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 13, 2005, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the nominations of appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Board of County Printing, in accordance with section 2-15-1026, MCA:

Marianne Roose, Eureka, Montana, appointed for a term ending April 1, 2005.

Julie Jordan, Miles City, Montana, appointed for a term ending April 1, 2005.

Nancy Clark, Ryegate, Montana, appointed for a term ending April 1, 2005.

Verle Rademacher, White Sulphur Springs, Montana, appointed for a term ending April 1, 2005.

Curtiss Starr, Malta, Montana, appointed for a term ending April 1, 2005.

(2) As members of the Board of Crime Control, in accordance with section 2-15-2006, MCA:

Dwight MacKay, Billings, Montana, appointed for a term ending January 1, 2007.

Bill Crismore, Libby, Montana, appointed for a term ending January 1, 2007.

(3) As members of the Board of Investments, in accordance with section 2-15-1808, MCA:

Terrill Moore, Billings, Montana, appointed for a term ending January 1, 2007.

Dr. Maureen Fleming, Missoula, Montana, appointed for a term ending January 1, 2007.

Calvin Wilson, Busby, Montana, appointed for a term ending January 1, 2007.

Karen Fagg, Billings, Montana, appointed for a term ending January 1, 2007.

(4) As members of the Board of Pardons and Parole, in accordance with section 2-15-2302, MCA:

Darryl Dupuis, Polson, Montana, appointed for a term ending January 1, 2006.

Margaret Hall, Pablo, Montana, appointed for a term ending January 1, 2006.

(5) As a member of the Board of Personnel Appeals, in accordance with 2-15-1705, MCA:

Jack Holstrom, Helena, Montana, appointed for a term ending January 1, 2008.

(6) As members of the Board of Private Security Patrol Officers and Investigators, in accordance with section 2-15-1781, MCA:

Linda Sanem, Bozeman, Montana, appointed for a term ending August 1, 2006.

Mori Woods, Columbus, Montana, appointed for a term ending August 1, 2006.

Gary Gray, Great Falls, Montana, appointed for a term ending August 1, 2007.

Sheriff Cheryl Liedle, Helena, Montana, appointed for a term ending August 1, 2006.

Kevin Maddox, Billings, Montana, appointed for a term ending August 1, 2007.

(7) As members of the Board of Veterans' Affairs, in accordance with section 2-15-1205, MCA:

Charles VanGorden, Valier, Montana, appointed for a term ending August 1, 2005.

Karen Furu, Bozeman, Montana, appointed for a term ending August 1, 2008.

Bob Pavlovich, Butte, Montana, appointed for a term ending August 1, 2007.

Harvey Rattey, Glendive, Montana, appointed for a term ending August 1, 2007.

James Heffernan, Helena, Montana, appointed for a term ending August 1, 2007.

C.E. Crookshanks, Missoula, Montana, appointed for a term ending August 1, 2007.

Edward Sperry, Stevensville, Montana, appointed for a term ending August 1, 2006.

Lloyd Jackson, Ronan, Montana, appointed for a term ending August 1, 2006.

Donald Kettner, Glendive, Montana, appointed for a term ending August 1, 2008.

(8) As Commissioner of Political Practices, in accordance with section 13-37-102, MCA:

Gordon Higgins, Helena, Montana, appointed for a term ending January 1, 2011.

(9) As a member of the State Tax Appeal Board, in accordance with section 15-2-101, MCA:

Joe Roberts, Helena, Montana, appointed for a term ending January 1, 2007.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 59th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nominations and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 24, 2005

## SENATE RESOLUTION NO. 9

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE NOMINATION OF APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 13, 2005, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the nomination of an appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Regents of Higher Education in accordance with the provisions of section 2-15-1508, MCA:

Ms. Kala French, Kalispell, Montana, for a term ending July 1, 2007.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 59th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nomination and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 24, 2005

### **SENATE RESOLUTION NO. 10**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE NOMINATION OF APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 13, 2005, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the nomination of an appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Regents of Higher Education in accordance with the provisions of section 2-15-1508, MCA:

Mr. Mike Foster, Billings, Montana, for a term ending February 1, 2011.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 59th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nomination and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 24, 2005

### **SENATE RESOLUTION NO. 11**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE NOMINATION OF APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 13, 2005, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the nomination of an appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Nursing in accordance with the provisions of section 2-15-1734, MCA:

Ms. Roberta Threet, Clancy, Montana, for a term ending July 1, 2007.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 59th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nomination and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 24, 2005

### SENATE RESOLUTION NO. 13

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE NOMINATIONS OF APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 20, 2005, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the nominations of an appointment, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Director of the Department of Administration, in accordance with sections 2-15-111 and 2-15-1001, MCA:

Ms. Janet Kelly, Miles City, Montana, appointed to serve a term at the pleasure of the Governor.

As Director of the Department of Agriculture, in accordance with sections 2-15-111 and 2-15-3001, MCA:

Ms. Nancy Peterson, Havre, Montana, appointed to serve a term at the pleasure of the Governor.

As Director of the Department of Commerce, in accordance with sections 2-15-111 and 2-15-1801, MCA:

Mr. Anthony Preite, Missoula, Montana, appointed to serve a term at the pleasure of the Governor.

As Director of the Department of Corrections, in accordance with sections 2-15-111 and 2-15-2301, MCA:

Mr. Bill Slaughter, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

As Director of the Department of Environmental Quality, in accordance with sections 2-15-111 and 2-15-3501, MCA:

Mr. Richard Opper, Lewistown, Montana, appointed to serve a term at the pleasure of the Governor.

As Director of the Department of Fish, Wildlife, and Parks, in accordance with sections 2-15-111 and 2-15-3401, MCA:

Mr. Jeff Hagener, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

As Director of the Department of Labor and Industry, in accordance with sections 2-15-111 and 2-15-1701, MCA:

Mr. Keith Kelly, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

As Director of the Department of Military Affairs, in accordance with sections 2-15-111 and 2-15-1201, MCA:

Major General Randall Mosley, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

As Director of the Department of Natural Resources and Conservation, in accordance with sections 2-15-111 and 2-15-3301, MCA:

Ms. Mary Sexton, Choteau, Montana, appointed to serve a term at the pleasure of the Governor.

As Director of the Department of Revenue, in accordance with sections 2-15-111 and 2-15-1302, MCA:

Mr. Dan Bucks, Missoula, Montana, appointed to serve a term at the pleasure of the Governor.

As Director of the Department of Transportation, in accordance with sections 2-15-111 and 2-15-2501, MCA:

Mr. Jim Lynch, Kalispell, Montana, appointed to serve a term at the pleasure of the Governor.

As members of the Pacific Northwest Electric Power and Conservation Planning Council, in accordance with section 90-4-402, MCA:

Ms. Rhonda Whiting, Ronan, Montana, and Mr. Bruce Measure, Kalispell, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 59th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nominations and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 24, 2005

## SENATE RESOLUTION NO. 14

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE NOMINATION OF APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 20, 2005, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the nomination of an appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Director of the Department of Public Health and Human Services, in accordance with sections 2-15-111 and 2-15-2201, MCA, Robert Wynia, M.D., Great Falls, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 59th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nomination and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 24, 2005

### **SENATE RESOLUTION NO. 15**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE NOMINATION OF APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 17, 2005, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the nomination of an appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Fish, Wildlife, and Parks Commission, in accordance with section 2-15-3402, MCA, Shane Colton, Billings, Montana, for a term ending January 1, 2009.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 59th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nomination and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 15, 2005

### **SENATE RESOLUTION NO. 16**

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE NOMINATIONS OF APPOINTMENT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 17, 2005, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the nominations of an appointment, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Board of Aeronautics, in accordance with section 2-15-2506, MCA:

Tricia McKenna, Belgrade, Montana, for a term ending January 1, 2009.

Bill Hunt, Jr., Shelby, Montana, for a term ending January 1, 2009.

Fred Leistiko, Kalispell, Montana, for a term ending January 1, 2009.

Roger Lincoln, Gildford, Montana, for a term ending January 1, 2009.

Ted Schye, Fort Peck, Montana, for a term ending January 1, 2009.

(2) As members of the Coal Board, in accordance with section 2-15-1821, MCA:

John Williams, Colstrip, Montana, for a term ending January 1, 2009.

Dan Dutton, Belfry, Montana, for a term ending January 1, 2009.

Chad Fenner, Hardin, Montana, for a term ending January 1, 2009.

Gerald Navratil, Sidney, Montana, for a term ending January 1, 2009.

(3) As members of the Board of Crime Control, in accordance with section 2-15-2006, MCA:

Janet Stevens-Donahue, Missoula, Montana, for a term ending January 1, 2009.

Mike Anderson, Havre, Montana, for a term ending January 1, 2009.

Shannon Augare, Browning, Montana, for a term ending January 1, 2009.

Mikie Baker-Hajek, Great Falls, Montana, for a term ending January 1, 2009.

James R. Cashell, Bozeman, Montana, for a term ending January 1, 2009.

Lyndon Erickson, Glasgow, Montana, for a term ending January 1, 2009.

Harold F. Hanser, Billings, Montana, for a term ending January 1, 2009.

Mike McGrath, Helena, Montana, for a term ending January 1, 2009.

Brad Newman, Butte, Montana, for a term ending January 1, 2009.

Jim Oppedahl, Helena, Montana, for a term ending January 1, 2007.

Godfrey Saunders, Bozeman, Montana, for a term ending January 1, 2007.

Bill Slaughter, Helena, Montana, for a term ending January 1, 2007.

Bonnie Wallem, Kalispell, Montana, for a term ending January 1, 2009.

(4) As members of the Board of Environmental Review, in accordance with section 2-15-3502, MCA:

Don Marble, Chester, Montana, for a term ending January 1, 2009.

Bill Rossbach, Missoula, Montana, for a term ending January 1, 2009.

Robin Shropshire, Helena, Montana, for a term ending January 1, 2009.

Gayle Skunk Cap, Browning, Montana, for a term ending January 1, 2009.

(5) As members of the Montana Facility Finance Authority, in accordance with section 2-15-1815, MCA:

Jon Marchi, Polson, Montana, for a term ending January 1, 2009.

James W. (Bill) Kearns, Townsend, Montana, for a term ending January 1, 2009.

Richard King, Missoula, Montana, for a term ending January 1, 2009.

Larry Putnam, Malta, Montana, for a term ending January 1, 2009.

(6) As members of the Fish, Wildlife, and Parks Commission, in accordance with section 2-15-3402, MCA:

Steve Doherty, Great Falls, Montana, for a term ending January 1, 2009.

Vic Workman, Whitefish, Montana, for a term ending January 1, 2009.

(7) As members of the Board of Housing, in accordance with section 2-15-1814, MCA:

Audrey Black Eagle, Lodge Grass, Montana, for a term ending January 1, 2009.

J.P. Crowley, Helena, Montana, for a term ending January 1, 2009.

Jeff Rupp, Bozeman, Montana, for a term ending January 1, 2009.

Elizabeth Scanlin, Red Lodge, Montana, for a term ending January 1, 2009.

(8) As members of the Commission for Human Rights, in accordance with section 2-15-1706, MCA:

Franke Wilmer, Bozeman, Montana, for a term ending January 1, 2009.

Janine Pease, Billings, Montana, for a term ending January 1, 2009.

Rabbi Allen Secher, Whitefish, Montana, for a term ending January 1, 2009.

(9) As members of the Board of Investments, in accordance with section 2-15-1808, MCA:

Elouise Cobell, Browning, Montana, for a term ending January 1, 2009.

Teresa Olcott Cohea, Helena, Montana, for a term ending January 1, 2009.

Jack Prothero, Great Falls, Montana, for a term ending January 1, 2009.

James Turcott, Helena, Montana, for a term ending July 1, 2005.

(10) As members of the Board of Oil and Gas Conservation, in accordance with section 2-15-3303, MCA:

Linda Nelson, Medicine Lake, Montana, for a term ending January 1, 2009.

Donald D. Bradshaw, Fort Benton, Montana, for a term ending January 1, 2009.

Wayne Smith, Valier, Montana, for a term ending January 1, 2009.

Joan Stahl, Forsyth, Montana, for a term ending January 1, 2009.

(11) As a member of the Board of Public Education, in accordance with sections 2-15-1507 and 2-15-1508, MCA:

Diane Fladmo, Missoula, Montana, for a term ending February 1, 2012.

(12) As a member of the Board of Regents of Higher Education, in accordance with sections 2-15-1506 and 2-15-1508, MCA:

Stephen M. Barrett, Bozeman, Montana, for a term ending February 1, 2012.

(13) As members of the Transportation Commission, in accordance with section 2-15-2502, MCA:

William T. Kennedy, Billings, Montana, for a term ending January 1, 2009.

Rick Griffith, Butte, Montana, for a term ending January 1, 2009.

Deb Kottel, Great Falls, Montana, for a term ending January 1, 2009.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 59th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nominations and that the Secretary of the Senate immediately deliver a copy of this

resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 12, 2005

## SENATE RESOLUTION NO. 17

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE NOMINATIONS OF CERTAIN APPOINTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 31, 2005, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the nominations of appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA.

(1) As a member of the State Banking Board, in accordance with section 2-15-1025, MCA:

Evelyn Casterline, Vida, Montana, for a term ending July 1, 2007.

(2) As a member of the Board of Hail Insurance, in accordance with section 2-15-3003, MCA:

Gary Gollehon, Brady, Montana, for a term ending April 18, 2008.

(3) As a member of the State Library Commission, in accordance with section 22-1-101, MCA:

Ron Moody, Lewistown, Montana, for a term ending March 22, 2006.

(4) As members of the Board of Livestock, in accordance with section 2-15-3102, MCA:

William R. Hedstrom, Kalispell, Montana, for a term ending March 1, 2011.

Linda Nielsen, Nashua, Montana, for a term ending March 1, 2011.

Janice French, Hobson, Montana, for a term ending March 1, 2011.

(5) As members of the Board of Milk Control, in accordance with section 2-15-3105, MCA:

Gary Parker, Fort Shaw, Montana, for a term ending January 1, 2009.

Jim Prinkki, Roberts, Montana, for a term ending January 1, 2009.

Larry Van Dyke, Manhattan, Montana, for a term ending January 1, 2009.

(6) As members of the Montana Arts Council, in accordance with section 22-2-102, MCA:

Tim Holmes, Helena, Montana, for a term ending February 1, 2010.

Rob Quist, Kalispell, Montana, for a term ending February 1, 2010.

Kevin Red Star, Roberts, Montana, for a term ending February 1, 2010.

Kathleen M. Schlepp, Miles City, Montana, for a term ending February 1, 2008.

Youpa Stein, Missoula, Montana, for a term ending February 1, 2010.

Wilbur Wood, Roundup, Montana, for a term ending February 1, 2010.

(7) As members of the Board of Pardons and Parole, in accordance with section 2-15-2302, MCA:

Vance Curtiss, Great Falls, Montana, for a term ending January 1, 2009.

Teresa McCann O'Connor, Billings, Montana, for a term ending January 1, 2009.

Melbert (Mok) Eaglefeathers, Butte, Montana, for a term ending January 1, 2009.

(8) As a member of the State Tax Appeals Board, in accordance with section 15-2-101, MCA:

Sue Bartlett, Helena, Montana, for a term ending January 1, 2011.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 59th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nominations and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 16, 2005

## SENATE RESOLUTION NO. 18

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE NOMINATIONS OF CERTAIN APPOINTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 31, 2005, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the nominations of appointment, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Hard-Rock Mining Impact Board, in accordance with section 2-15-1822, MCA:

Kristen K. Koss, Custer, Montana, for a term ending January 1, 2009.

Mary Ellen Cremer, Big Timber, Montana, for a term ending January 1, 2009.

Edward M. Tinsley, Helena, Montana, for a term ending January 1, 2009.

(2) As members of the Board of Labor Appeals, in accordance with section 2-15-1704, MCA:

Elizabeth Best, Great Falls, Montana, for a term ending January 1, 2009.

Ed Logan, Billings, Montana, for a term ending January 1, 2009.

(3) As members of the Board of Personnel Appeals, in accordance with section 2-15-1705, MCA:

David Alberi, Dillon, Montana, for a term ending January 1, 2009.

Allan Audet, Billings, Montana, for a term ending January 1, 2009.

Jay Reardon, Helena, Montana, for a term ending January 1, 2009.

(4) As members of the Board of Public Assistance, in accordance with section 2-15-2203, MCA:

Scott Sorenson, Whitefish, Montana, for a term ending January 1, 2009.

Amy Christensen, Helena, Montana, for a term ending January 1, 2009.

(5) As members of the Board of Respiratory Care Practitioners, in accordance with section 2-15-1750, MCA:

Eileen Carney, Libby, Montana, for a term ending January 1, 2009.

Leonard Bates, Great Falls, Montana, for a term ending January 1, 2009.

Tony Jay Miller, Joplin, Montana, for a term ending January 1, 2009.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 59th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nominations and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 16, 2005

## SENATE RESOLUTION NO. 19

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE NOMINATIONS OF CERTAIN APPOINTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 8, 2005, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the nominations of appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As a member of the Alternative Health Care Board, in accordance with section 2-15-1730, MCA:

Molly Danison, Missoula, Montana, for a term ending September 1, 2005.

(2) As a member of the Board of Athletics, in accordance with section 2-15-1772, MCA:

Book St. Goddard, Browning, Montana, for a term ending April 25, 2008.

(3) As a member of the Board of Barbers and Cosmetologists, in accordance with section 2-15-1747, MCA:

Jamie Crisafulli, Glendive, Montana, for a term ending October 1, 2008.

(4) As a member of the Board of Chiropractors, in accordance with section 2-15-1737, MCA:

Dr. Daniel Prideaux, Missoula, Montana, for a term ending January 1, 2008.

(5) As members of the Board of County Printing, in accordance with section 2-15-1026, MCA:

Marianne Roose, Libby, Montana, for a term ending April 1, 2007.

Gary MacDonald, Wolf Point, Montana, for a term ending April 1, 2007.

Milt Wester, Laurel, Montana, for a term ending April 1, 2007.

Dan Killoy, Miles City, Montana, for a term ending April 1, 2007.

Calvin J. Oraw, Sidney, Montana, for a term ending April 1, 2007.

(6) As members of the Board of Dentistry, in accordance with section 2-15-1732, MCA:

Dr. Paul Sims, Butte, Montana, for a term ending March 29, 2010.

Helen Waller, Circle, Montana, for a term ending March 29, 2007.

(7) As members of the State Electrical Board, in accordance with section 2-15-1764, MCA:

Jack Fisher, Butte, Montana, for a term ending July 1, 2008.

Fred Talarico, Missoula, Montana, for a term ending July 1, 2010.

(8) As a member of the Board of Investments, in accordance with section 2-15-1808, MCA:

John Paull, Butte, Montana, for a term ending January 1, 2009.

(9) As members of the State Library Commission, in accordance with section 22-1-101, MCA:

Cindy Carrywater, Hays, Montana, for a term ending May 22, 2008.

Nora Smith, Bozeman, Montana, for a term ending May 22, 2008.

(10) As a member of the Board of Occupational Therapy Practice, in accordance with section 2-15-1749, MCA:

Lynn Yocom, Anaconda, Montana, for a term ending December 31, 2008.

(11) As a member of the Board of Optometry, in accordance with section 2-15-1736, MCA:

Rock Svennungsen, Shelby, Montana, for a term ending April 3, 2009.

(12) As a member of the Board of Plumbers, in accordance with section 2-15-1765, MCA:

David Lindeen, Huntley, Montana, for a term ending May 4, 2007.

(13) As members of the Board of Social Work Examiners and Professional Counselors, in accordance with section 2-15-1744, MCA:

Treasa Glinwater, Ronan, Montana, for a term ending January 1, 2009.

Henry Pretty On Top, Crow Agency, Montana, for a term ending January 1, 2009.

Linda Crummett, Billings, Montana, for a term ending January 1, 2009.

John Lynn, Missoula, Montana, for a term ending January 1, 2009.

(14) As members of the Board of Speech-Language Pathologists and Audiologists, in accordance with section 2-15-1739, MCA:

Sharon Dinstel, Colstrip, Montana, for a term ending December 31, 2007.

Darrell Micken, Bozeman, Montana, for a term ending December 31, 2007.

James L. Sias, Ronan, Montana, for a term ending December 31, 2007.

(15) As members of the Board of Directors of the State Compensation Insurance Fund, in accordance with section 2-15-1019, MCA:

James Swanson, Glendive, Montana, for a term ending April 28, 2009.

Ken Johnson, Missoula, Montana, for a term ending April 28, 2009.

Lawrence Zanto, Helena, Montana, for a term ending April 28, 2009.

Jane DeBruycker, Dutton, Montana, for a term ending April 28, 2009.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 59th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above nominations and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 19, 2005



## **2004 BALLOT ISSUES**



## CONSTITUTIONAL AMENDMENT NO. 40

The 2003 Legislature submitted this proposal for a vote. It would amend Montana's Constitution to require the legislature to establish and provide a funding source for a noxious weed management trust fund. The principal would remain untouchable at 10 million dollars unless appropriated by vote of three-fourths of the members of each house of the legislature. Interest, income, and principal in excess of 10 million dollars from the trust could be expended by majority vote of both houses of the legislature to fund only the noxious weed management program.

This amendment provides constitutional protection to the current statutory weed management trust fund. It would have no additional fiscal impact to the state.

Constitutional Amendment No. 40 was approved by the following vote at the General Election held November 2, 2004:

For: 323,929

Against: 105,086

The title and text of the Amendment follows:

AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE IX OF THE MONTANA CONSTITUTION TO CREATE A NOXIOUS WEED MANAGEMENT TRUST FUND; PROVIDING FOR THE PROTECTION OF THE TRUST IN THE AMOUNT OF \$10 MILLION UNLESS APPROPRIATED BY A VOTE OF THREE-FOURTHS OF THE MEMBERS OF EACH HOUSE OF THE LEGISLATURE; AND PROVIDING FOR THE APPROPRIATION OF INTEREST, INCOME, AND A PORTION OF THE PRINCIPAL.

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

**Section 1.** Article IX of The Constitution of the State of Montana is amended by adding a new section 6 that reads:

**Section 6. Noxious weed management trust fund.** (1) The legislature shall provide for a fund, to be known as the noxious weed management trust of the state of Montana, to be funded as provided by law.

(2) The principal of the noxious weed management trust fund shall forever remain inviolate in an amount of ten million dollars (\$10,000,000) unless appropriated by vote of three-fourths ( $\frac{3}{4}$ ) of the members of each house of the legislature.

(3) The interest and income generated from the noxious weed management trust fund may be appropriated by a majority vote of each house of the legislature. Appropriations of the interest and income shall be used only to fund the noxious weed management program, as provided by law.

(4) The principal of the noxious weed management trust fund in excess of ten million dollars (\$10,000,000) may be appropriated by a majority vote of each house of the legislature. Appropriations of the principal in excess of ten million dollars (\$10,000,000) shall be used only to fund the noxious weed management program, as provided by law.

**Section 2. Submission to electorate.** This amendment shall be submitted to the qualified electors of Montana at the general election to be held in

November 2004 by printing on the ballot the full title of this act and the following:

- FOR creating a noxious weed management trust fund and restricting its use.
- AGAINST creating a noxious weed management trust fund and restricting its use.

### CONSTITUTIONAL AMENDMENT NO. 41

The 2003 Legislature submitted this proposal for a vote. It would amend the Montana Constitution by adding a provision specifically to recognize and preserve the opportunity of Montana citizens to harvest wild fish and wild game animals. The amendment specifies that this new provision does not create a right to trespass on private property or diminish any other private rights. This amendment is effective upon approval by the electorate.

Constitutional Amendment No. 41 was approved by the following vote at the General Election held November 2, 2004:

For:	345,505
Against:	83,185

The title and text of the Amendment follows:

AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE IX OF THE MONTANA CONSTITUTION RECOGNIZING AND PRESERVING THE HERITAGE OF MONTANA CITIZENS' OPPORTUNITY TO HARVEST WILD FISH AND WILD GAME ANIMALS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1.** Article IX of The Constitution of the State of Montana is amended by adding a new section 6 that reads:

**Section 6. Preservation of harvest heritage.** The opportunity to harvest wild fish and wild game animals is a heritage that shall forever be preserved to the individual citizens of the state and does not create a right to trespass on private property or diminution of other private rights.

**Section 2. Effective date.** This amendment is effective upon approval by the electorate.

**Section 3. Submission to electorate.** This amendment shall be submitted to the qualified electors of Montana at the general election to be held in November 2004 by printing on the ballot the full title of this act and the following:

- FOR recognizing and preserving the heritage of Montanans' opportunity to harvest wild fish and game.
- AGAINST recognizing and preserving the heritage of Montanans' opportunity to harvest wild fish and game.

### CONSTITUTIONAL INITIATIVE NO. 96

Montana statutes define civil marriage as between a man and a woman, and prohibit marriage between persons of the same sex. The Montana Constitution currently contains no provisions defining marriage. This initiative, effective immediately, would amend the Montana Constitution to provide that only a marriage between a man and a woman may be valid if performed in Montana, or recognized in Montana if performed in another state.

Constitutional Initiative No. 96 was approved by the following vote at the General Election held November 2, 2004:

For:	295,070
Against:	148,263

The text of the Initiative follows:

**NEW SECTION. Section 1.** Article XIII of The Constitution of the State of Montana is amended by adding a new section 7 that reads:

**Section 7. Marriage.** Only a marriage between one man and one woman shall be valid or recognized as a marriage in this state.

**Section 2.** Effective Date. This amendment is effective upon approval by the electorate.

### INITIATIVE NO. 148

This initiative would allow the production, possession, and use of marijuana by patients with debilitating medical conditions. Patients could use marijuana, under medical supervision, to alleviate the symptoms of conditions including cancer, glaucoma, and HIV/AIDS, or other conditions or treatments that produce wasting, severe or chronic pain, severe nausea, seizures, severe muscle spasms, or other conditions defined by the State. A patient or the patient's caregiver could register to grow and possess limited amounts of marijuana by submitting to the State written certification by a physician that the patient has a debilitating medical condition and would benefit from using marijuana.

There would be no measurable cost to state government from the approval of this initiative.

Initiative No.148 was approved by the following vote at the General Election held November 2, 2004:

For:	276,042
Against:	170,579

The text of the Initiative follows:

**NEW SECTION. Section 1. Short title.** [Sections 1 through 9] may be cited as the "Medical Marijuana Act".

**NEW SECTION. Section 2. Definitions.** As used in [sections 1 through 9], the following definitions apply:

(1) "Debilitating medical condition" means:

(a) cancer, glaucoma, or positive status for human immunodeficiency virus, acquired immune deficiency syndrome, or the treatment of these conditions;

(b) a chronic or debilitating disease or medical condition or its treatment that produces one or more of the following:

- (i) cachexia or wasting syndrome;
  - (ii) severe or chronic pain;
  - (iii) severe nausea;
  - (iv) seizures, including but not limited to seizures caused by epilepsy; or
  - (v) severe or persistent muscle spasms, including but not limited to spasms caused by multiple sclerosis or Crohn's disease; or
- (c) any other medical condition or treatment for a medical condition adopted by the department by rule.

(2) "Department" means the department of public health and human services.

(3) "Marijuana" has the meaning provided in 50-32-101.

(4) "Medical use" means the acquisition, possession, cultivation, manufacture, use, delivery, transfer, or transportation of marijuana or paraphernalia relating to the consumption of marijuana to alleviate the symptoms or effects of a qualifying patient's debilitating medical condition.

(5) "Physician" means a person who is licensed under Title 37, chapter 3.

(6) (a) "Caregiver" means an individual, 18 years of age or older who has agreed to undertake responsibility for managing the well-being of a person with respect to the medical use of marijuana. A qualifying patient may have only one caregiver at any one time.

(b) The term does not include the qualifying patient's physician.

(7) "Qualifying patient" means a person who has been diagnosed by a physician as having a debilitating medical condition.

(8) "Registry identification card" means a document issued by the department that identifies a person as a qualifying patient or caregiver.

(9) (a) "Usable marijuana" means the dried leaves and flowers of marijuana and any mixture or preparation of marijuana.

(b) The term does not include the seeds, stalks, and roots of the plant.

(10) "Written certification" means a qualifying patient's medical records or a statement signed by a physician stating that in the physician's professional opinion, after having completed a full assessment of the qualifying patient's medical history and current medical condition made in the course of a bona fide physician-patient relationship, the qualifying patient has a debilitating medical condition and the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient.

**NEW SECTION. Section 3. Procedures — minors — confidentiality — report to legislature.** (1) The department shall establish and maintain a program for the issuance of registry identification cards to persons who meet the requirements of [sections 1 through 9].

(2) Except as provided in subsection (3), the department shall issue a registry identification card to a qualifying patient who submits the following, in accordance with department rules:

- (a) written certification that the person is a qualifying patient;
- (b) an application or renewal fee;
- (c) the name, address, and date of birth of the qualifying patient;

(d) the name, address, and telephone number of the qualifying patient's physician; and

(e) the name, address, and date of birth of the qualifying patient's caregiver, if any.

(3) The department shall issue a registry identification card to a minor if the materials required under subsection (2) are submitted and the custodial parent or legal guardian with responsibility for health care decisions for the minor signs and submits a written statement that:

(a) the minor's physician has explained to that minor and to the custodial parent or legal guardian with responsibility for health care decisions for the minor the potential risks and benefits of the medical use of marijuana; and

(b) the custodial parent or legal guardian with responsibility for health care decisions for the minor:

(i) consents to the medical use of marijuana by the minor;

(ii) agrees to serve as the minor's caregiver; and

(iii) agrees to control the acquisition of marijuana and the dosage and frequency of the medical use of marijuana by the minor.

(4) The department shall issue a registry identification card to the caregiver who is named in a qualifying patient's approved application if the caregiver signs a statement agreeing to provide marijuana only to qualifying patients who have named the applicant as caregiver. The department may not issue a registry identification card to a proposed caregiver who has previously been convicted of a felony drug offense. A caregiver may receive reasonable compensation for services provided to assist with a qualifying patient's medical use of marijuana.

(5) (a) The department shall verify the information contained in an application or renewal submitted pursuant to this section and shall approve or deny an application or renewal within 15 days of receipt of the application or renewal.

(b) The department may deny an application or renewal only if the applicant did not provide the information required pursuant to this section, the department determines that the information was falsified, or the applicant is not qualified to receive a registry identification card under the provisions of [sections 1 through 9]. Rejection of an application or renewal is considered a final department action, subject to judicial review.

(6) The department shall issue a registry identification card within 5 days of approving an application or renewal. Registry identification cards expire 1 year after the date of issuance. Registry identification cards must state:

(a) the name, address, and date of birth of the qualifying patient;

(b) the name, address, and date of birth of the qualifying patient's caregiver, if any;

(c) the date of issuance and expiration date of the registry identification card; and

(d) other information that the department may specify by rule.

(7) A person who has been issued a registry identification card shall notify the department of any change in the qualifying patient's name, address, physician, or caregiver or change in status of the qualifying patient's

debilitating medical condition within 10 days of the change. If a change occurs and is not reported to the department, the registry identification card is void.

(8) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list must be confidential and are not subject to disclosure, except to:

(a) authorized employees of the department as necessary to perform official duties of the department; or

(b) authorized employees of state or local law enforcement agencies, only as necessary to verify that a person is a lawful possessor of a registry identification card.

(9) The department shall report annually to the legislature the number of applications for registry identification cards, the number of qualifying patients and caregivers approved, the nature of the debilitating medical conditions of the qualifying patients, the number of registry identification cards revoked, and the number of physicians providing written certification for qualifying patients. The department may not provide any identifying information of qualifying patients, caregivers, or physicians.

**NEW SECTION. Section 4. Medical use of marijuana — legal protections — limits on amount — presumption of medical use.** (1) A qualifying patient or caregiver who possesses a registry identification card issued pursuant to [section 3] may not be arrested, prosecuted, or penalized in any manner, or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, for the medical use of marijuana or for assisting in the medical use of marijuana if the qualifying patient or caregiver possesses marijuana not in excess of the amounts allowed in subsection (2).

(2) A qualifying patient and that qualifying patient's caregiver may not possess more than six marijuana plants and 1 ounce of usable marijuana each.

(3) (a) A qualifying patient or caregiver is presumed to be engaged in the medical use of marijuana if the qualifying patient or caregiver:

(i) is in possession of a registry identification card; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under subsection (2).

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a qualifying patient's debilitating medical condition.

(4) A physician may not be arrested, prosecuted, or penalized in any manner, or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, for providing written certification for the medical use of marijuana to qualifying patients.

(5) An interest in or right to property that is possessed, owned, or used in connection with the medical use of marijuana or acts incidental to medical use may not be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense.

(6) A person may not be subject to arrest or prosecution for constructive possession, conspiracy, as provided in 45-4-102, or other provisions of law or any

other offense for simply being in the presence or vicinity of the medical use of marijuana as permitted under [sections 1 through 9].

(7) Possession of or application for a registry identification card does not alone constitute probable cause to search the person or property of the person possessing or applying for the registry identification card or otherwise subject the person or property of the person possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency.

(8) A registry identification card or its equivalent issued by another state government to permit the medical use of marijuana by a qualifying patient or to permit a person to assist with a qualifying patient's medical use of marijuana has the same force and effect as a registry identification card issued by the department.

**NEW SECTION. Section 5. Disclosure of confidential information relating to medical use of marijuana — penalty.** (1) A person, including an employee or official of the department or other state or local government agency, commits the offense of disclosure of confidential information relating to medical use of marijuana if the person knowingly or purposely discloses confidential information in violation of [section 3].

(2) A person convicted of disclosure of confidential information relating to medical use of marijuana shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

**NEW SECTION. Section 6. Limitations of medical marijuana act.** (1) [Sections 1 through 9] do not permit:

(a) any person to operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marijuana; or

(b) the smoking of marijuana:

(i) in a school bus or other form of public transportation;

(ii) on any school grounds;

(iii) in any correctional facility; or

(iv) at any public park, public beach, public recreation center, or youth center.

(2) Nothing in [sections 1 through 9] may be construed to require:

(a) a government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana; or

(b) an employer to accommodate the medical use of marijuana in any workplace.

**NEW SECTION. Section 7. Affirmative defense.** Except as provided in [section 6], it is an affirmative defense to any criminal offense involving marijuana that the person charged with the offense:

(1) (a) has a physician who states that or has medical records that indicate that, in the physician's professional opinion, after having completed a full assessment of the person's medical history and current medical condition made in the course of a bona fide physician-patient relationship, the potential benefits of medical marijuana would likely outweigh the health risks for the person; or

(b) provides marijuana to a person described in subsection (a) if the person does not provide marijuana to anyone for uses that are not medical;

(2) is engaged in the acquisition, possession, cultivation, manufacture, use, delivery, transfer, or transportation of marijuana or paraphernalia relating to the consumption of marijuana to alleviate the symptoms or effects of the medical condition of the person identified in subsection (1)(a); and

(3) possesses marijuana only in an amount that is reasonably necessary to ensure the uninterrupted availability of marijuana for the purpose of alleviating the symptoms or effects of the medical condition of the person identified in subsection (1)(a).

**NEW SECTION. Section 8. Fraudulent representation of medical use of marijuana — penalty.** (1) A person commits the offense of fraudulent representation of medical use of marijuana if the person knowingly or purposely fabricates or misrepresents a registry identification card to a law enforcement officer.

(2) A person convicted of fraudulent representation of medical use of marijuana shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

**NEW SECTION. Section 9. Rulemaking — fees.** The department shall adopt rules necessary for the implementation and administration of [sections 1 through 9]. The rules must address the manner in which the department will consider application for and renewals of registry identification cards for qualifying patients and caregivers. The department's rules must establish application and renewal fees that generate revenue sufficient to offset all expenses of implementing and administering [sections 1 through 9]. The department may vary the application and renewal fees along a sliding scale that accounts for a qualifying patient's income.

**Section 10.** Section 37-1-136, MCA, is amended to read:

**“37-1-136. Disciplinary authority of boards — injunctions.** (1) Subject to 37-1-138, each licensing board allocated to the department has the authority, in addition to any other penalty or disciplinary action provided by law, to adopt rules specifying grounds for disciplinary action and rules providing for:

- (a) revocation of a license;
- (b) suspension of its judgment of revocation on terms and conditions determined by the board;
- (c) suspension of the right to practice for a period not exceeding 1 year;
- (d) placing a licensee on probation;
- (e) reprimand or censure of a licensee; or
- (f) taking any other action in relation to disciplining a licensee as the board in its discretion considers proper.

(2) Any disciplinary action by a board shall be conducted as a contested case hearing under the provisions of the Montana Administrative Procedure Act.

(3) Notwithstanding any other provision of law, a board may maintain an action to enjoin a person from engaging in the practice of the occupation or profession regulated by the board until a license to practice is procured. A person who has been enjoined and who violates the injunction is punishable for contempt of court.

(4) An action may not be taken against a person who is in compliance with [sections 1 through 9].”

**Section 11.** Section 45-9-101, MCA, is amended to read:

**“45-9-101. Criminal distribution of dangerous drugs.** (1) A Except as provided in [sections 1 through 9], a person commits the offense of criminal distribution of dangerous drugs if the person sells, barter, exchange, gives away, or offers to sell, barter, exchange, or give away any dangerous drug, as defined in 50-32-101.

(2) A person convicted of criminal distribution of a narcotic drug, as defined in 50-32-101(18)(d), or an opiate, as defined in 50-32-101(19), shall be imprisoned in the state prison for a term of not less than 2 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(3) A person convicted of criminal distribution of a dangerous drug included in Schedule I or Schedule II pursuant to 50-32-222 or 50-32-224, except marijuana or tetrahydrocannabinol, who has a prior conviction for criminal distribution of such a drug shall be imprisoned in the state prison for a term of not less than 10 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222. Upon a third or subsequent conviction for criminal distribution of such a drug, the person shall be imprisoned in the state prison for a term of not less than 20 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(4) A person convicted of criminal distribution of dangerous drugs not otherwise provided for in subsection (2), (3), or (5) shall be imprisoned in the state prison for a term of not less than 1 year or more than life or be fined an amount of not more than \$50,000, or both.

(5) A person who was an adult at the time of distribution and who is convicted of criminal distribution of dangerous drugs to a minor shall be sentenced as follows:

(a) If convicted pursuant to subsection (2), the person shall be imprisoned in the state prison for not less than 4 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(b) If convicted of the distribution of a dangerous drug included in Schedule I or Schedule II pursuant to 50-32-222 or 50-32-224 and if previously convicted of such a distribution, the person shall be imprisoned in the state prison for not less than 20 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(c) If convicted of the distribution of a dangerous drug included in Schedule I or Schedule II pursuant to 50-32-222 or 50-32-224 and if previously convicted of two or more such distributions, the person shall be imprisoned in the state prison for not less than 40 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(d) If convicted pursuant to subsection (4), the person shall be imprisoned in the state prison for not less than 2 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(6) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section.”

**Section 12.** Section 45-9-102, MCA, is amended to read:

**“45-9-102. Criminal possession of dangerous drugs.** (1) A Except as provided in [sections 1 through 9], a person commits the offense of criminal

possession of dangerous drugs if the person possesses any dangerous drug, as defined in 50-32-101.

(2) A person convicted of criminal possession of marijuana or its derivatives in an amount the aggregate weight of which does not exceed 60 grams of marijuana or 1 gram of hashish is, for the first offense, guilty of a misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 and by imprisonment in the county jail for not more than 6 months. The minimum fine must be imposed as a condition of a suspended or deferred sentence. A person convicted of a second or subsequent offense under this subsection is punishable by a fine not to exceed \$1,000 or by imprisonment in the county jail for a term not to exceed 1 year or in the state prison for a term not to exceed 3 years or by both.

(3) A person convicted of criminal possession of an anabolic steroid as listed in 50-32-226 is, for the first offense, guilty of a misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 or by imprisonment in the county jail for not more than 6 months, or both.

(4) A person convicted of criminal possession of an opiate, as defined in 50-32-101(19), shall be imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined not more than \$50,000, except as provided in 46-18-222.

(5) A person convicted of criminal possession of dangerous drugs not otherwise provided for in subsection (2), (3), or (4) shall be imprisoned in the state prison for a term not to exceed 5 years or be fined an amount not to exceed \$50,000, or both.

(6) A person convicted of a first violation under this section is presumed to be entitled to a deferred imposition of sentence of imprisonment.

(7) Ultimate users and practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section.”

**Section 13.** Section 45-9-103, MCA, is amended to read:

**“45-9-103. Criminal possession with intent to distribute.** (1) ~~A~~ Except as provided in [sections 1 through 9], a person commits the offense of criminal possession with intent to distribute if the person possesses with intent to distribute any dangerous drug as defined in 50-32-101.

(2) A person convicted of criminal possession of an opiate, as defined in 50-32-101(19), with intent to distribute shall be imprisoned in the state prison for a term of not less than 2 years or more than 20 years and may be fined not more than \$50,000, except as provided in 46-18-222.

(3) A person convicted of criminal possession with intent to distribute not otherwise provided for in subsection (2) shall be imprisoned in the state prison for a term of not more than 20 years or be fined an amount not to exceed \$50,000, or both.

(4) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section.”

**Section 14.** Section 45-9-110, MCA, is amended to read:

**“45-9-110. Criminal production or manufacture of dangerous drugs.** (1) ~~A~~ Except as provided in [sections 1 through 9], a person commits the offense of criminal production or manufacture of dangerous drugs if the person

knowingly or purposely produces, manufactures, prepares, cultivates, compounds, or processes a dangerous drug, as defined in 50-32-101.

(2) A person convicted of criminal production or manufacture of a narcotic drug, as defined in 50-32-101(18)(d), or an opiate, as defined in 50-32-101(19), shall be imprisoned in the state prison for a term of not less than 5 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(3) A person convicted of criminal production or manufacture of a dangerous drug included in Schedule I of 50-32-222 or Schedule II of 50-32-224, except marijuana or tetrahydrocannabinol, who has a prior conviction that has become final for criminal production or manufacture of a Schedule I or Schedule II drug shall be imprisoned in the state prison for a term of not less than 20 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222. Upon a third or subsequent conviction that has become final for criminal production or manufacture of a Schedule I or Schedule II drug, the person shall be imprisoned in the state prison for a term of not less than 40 years or more than life and may be fined not more than \$50,000, except as provided in 46-18-222.

(4) A person convicted of criminal production or manufacture of marijuana, tetrahydrocannabinol, or a dangerous drug not referred to in subsections (2) and (3) shall be imprisoned in the state prison for a term not to exceed 10 years and may be fined not more than \$50,000, except that if the dangerous drug is marijuana and the total weight is more than a pound or the number of plants is more than 30, the person shall be imprisoned in the state prison for not less than 2 years or more than life and may be fined not more than \$50,000. "Weight" means the weight of the dry plant and includes the leaves and stem structure but does not include the root structure. A person convicted under this subsection who has a prior conviction that has become final for criminal production or manufacture of a drug under this subsection shall be imprisoned in the state prison for a term not to exceed twice that authorized for a first offense under this subsection and may be fined not more than \$100,000.

(5) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section."

**Section 15.** Section 45-9-127, MCA, is amended to read:

**"45-9-127. Carrying dangerous drugs on train — penalty.** (1) ~~A~~ Except as provided in [sections 1 through 9], a person commits the offense of carrying dangerous drugs on a train in this state if ~~he~~ the person is knowingly or purposely in criminal possession of a dangerous drug and boards any train.

(2) A person convicted of carrying dangerous drugs on a train in this state is subject to the penalties provided in 45-9-102."

**Section 16.** Section 45-10-107, MCA, is amended to read:

**"45-10-107. Exemptions.** Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice and persons in compliance with [sections 1 through 9] are exempt from this part."

**NEW SECTION. Section 17. Codification instruction.** Sections 1 through 9 are intended to be codified as an integral part of Title 50, and the provisions of Title 50 apply to sections 1 through 9.

**NEW SECTION. Section 18. 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.

**NEW SECTION. Section 19. Effective date.** This act is effective upon approval by the electorate.

### INITIATIVE NO. 149

This initiative increases tobacco taxes by approximately 140%, to \$1.70 per pack of cigarettes, 85¢ per ounce of moist snuff, and 50% on all other tobacco products, and changes the use of these revenues. The initiative reserves approximately 45% of these revenues for: additional enrollment in the children's health insurance program; increased Medicaid services and provider rates; and, if created by the legislature, a supplemental need-based prescription drug program for certain groups, and programs to help small businesses provide employee health insurance. Remaining revenues are allocated to state veterans' nursing homes, the state building fund, and the general fund.

In fiscal year 2005 this initiative would raise \$38,400,000 for new health insurance and Medicaid initiatives, and an additional \$400,000 for state buildings and \$6,000,000 for the general fund. These revenues could decrease over time as fewer persons consume tobacco. Funding for state veterans' nursing homes would remain at \$2,000,000.

Initiative No.149 was approved by the following vote at the General Election held November 2, 2004:

For:	282,448
Against:	163,626

The text of the Initiative follows:

#### PREAMBLE

**WHEREAS**, tobacco related disease is the single most preventable cause of death in Montana.

**WHEREAS**, tobacco related disease kills more people than alcohol, AIDS, car crashes, illegal drugs, murders, and suicides combined.

**WHEREAS**, 1,400 Montanans die each year from their addiction to smoking.

**WHEREAS**, smokeless tobacco use can lead to oral cancer, gum disease, and nicotine addiction; and increases the risk of cardiovascular disease, including heart attacks.

**WHEREAS**, over 18% of Montana high school students use spit tobacco, more than double the national average of 7.8 %.

**WHEREAS**, 17,100 Montana children, now under 18, will ultimately die prematurely from smoking.

**WHEREAS**, Montanans spend \$216 million annually on health care costs in Montana directly caused by smoking.

**WHEREAS**, studies have also found that adolescents and young adults are 2 to 3 times more likely to quit than adults due to tobacco price increases.

**WHEREAS**, significant tax increases on all tobacco products will reduce consumption, prevent kids from becoming addicted, and increase quitting success for all Montanans.

**WHEREAS**, Montana loses federal matching dollars every year by under funding Medicaid.

**WHEREAS**, 173,000 Montanans, including 41,500 children, lack health care coverage.

**WHEREAS**, 56% of uninsured Montanans are self-employed or work for small businesses with 10 or fewer employees; and 60% of small businesses cannot afford to offer health benefits.

**WHEREAS**, prescription drug costs are increasing 10% per year and are not affordable for many families, seniors or people with disabilities.

**NOW THEREFORE, BE IT RESOLVED BY THE PEOPLE OF THE STATE OF MONTANA:** That we raise the tax on cigarettes by \$1.00 per pack (from 70 cents to \$1.70 per pack) and increase the tax on smokeless tobacco by a proportional amount and dedicate use of those tax funds for health care needs.

**BE IT ENACTED BY THE PEOPLE OF THE STATE OF MONTANA:**

**SECTION 1.** Section 10-2-417, MCA is amended to read:

**“Section 10-2-417. Use of funds generated by taxation on cigarettes.**

(1) Revenue generated by 16-11-119 and allocated to the department of public health and human services must be used to support the operation and maintenance of the Montana veterans’ homes programs or for the health and medicaid initiatives specified by [section 7].

(2) The legislature shall appropriate from the account established in 16-11-119 the funds required for the operation and maintenance of the Montana veterans’ homes or required for the health and medicaid initiatives specified by [section 7].”

**SECTION 2.** Section 16-11-111, MCA is amended to read:

**“16-11-111. Cigarette sales tax—exemption for sale to tribal member.**

(1) (a) A tax on the purchase of cigarettes for consumption, use, or any purpose other than resale in the regular course of business is imposed and must be precollected by the wholesaler and paid to the state of Montana. The tax is ~~70 cents~~ \$1.70 on each package containing 20 cigarettes. Whenever packages contain other than 20 cigarettes, there is a tax on each cigarette equal to  $\frac{1}{20}$  the tax on a package containing 20 cigarettes.

(b) The tax computed under subsection (1)(a) applies to illegally packaged cigarettes under 16-11-307.

(2) The tax imposed in subsection (1) does not apply to quota cigarettes.

(3) Subject to the refund or credit provided in subsection (4), the tax must be precollected on all cigarettes entering a Montana Indian reservation.

(4) Pursuant to the procedure provided in subsection (5), a wholesaler making a sale of cigarettes to a retailer within the boundaries of a Montana Indian reservation may apply to the department for a refund or credit for taxes precollected on cigarettes sold by the retailer to a member of the federally recognized Indian tribe or tribes on whose reservation the sale is made. A

wholesaler who does not file a claim within 1 year of the shipment date forfeits the refund or credit.

(5) The distribution of tax-free cigarettes to a tribal member must be implemented through a system of preapproved wholesaler shipments. A licensed Montana wholesaler shall contact the department for approval prior to the shipment of the untaxed cigarettes. The department may authorize sales based on whether the quota, as established in a cooperative agreement between the department and an Indian tribe or as set out in this chapter, has been met. If authorized as a tax-exempt sale, the wholesaler, upon providing proof of order and delivery to a retailer within the boundaries of a Montana Indian reservation selling cigarettes to members of a federally recognized tribe or tribes of that reservation, must be given a refund or credit. Once the quota has been filled, the department shall immediately notify all affected wholesalers that further sales on that reservation must be taxed and that a claim for a refund or credit will not be honored for the remainder of the quota period. Quota allocations are not transferable between quota periods or between reservations.

(6) The total amount of refunds or credits allowed by the department to all wholesalers claiming the refund or credit under subsection (4) for any month may not exceed an amount that is equal to the tax due on the quota allocation. The department shall determine the amount of refunds or credits for each Indian reservation at the beginning of each fiscal year, using the most recent census data available from the bureau of Indian affairs or as provided in a cooperative agreement with the tribe or tribes of the Indian reservation.”

**SECTION 3.** Section 16-11-114, MCA is amended to read:

“**Section 16-11-114. Insignia discount.** Each licensed wholesaler is entitled to purchase an insignia at full face value less the following percentage of the face value upon payment for the insignia as defrayment of the costs of affixing insignia and precollecting the tax on behalf of the state of Montana:

- (1) ~~1.66%~~ 0.90% for the first 2,580 cartons or portion of 2,580 cartons purchased in any calendar month;
- (2) ~~1.11%~~ 0.60% for the next 2,580 cartons or portion of 2,580 cartons purchased in any calendar month; and
- (3) ~~0.83%~~ 0.45% for purchases in excess of 5,160 cartons in any calendar month.”

**SECTION 4.** Section 16-11-119, MCA is amended to read:

“**16-11-119. Disposition of taxes.** (1) Cigarette taxes collected under the provisions of 16-11-111 must, in accordance with the provisions of 15-1-501, be deposited as follows:

- (a) 8.3% or \$2 million, whichever is greater, in the state special revenue fund to the credit of the department of public health and human services for the operation and maintenance of state veterans’ nursing homes;
- (b) ~~4.3%~~ 2.6% in the long-range building program account provided for in 17-7-205; ~~and~~
- (c) ~~44% in the state special revenue fund to the credit of the health and medicaid initiatives account provided for in [section 7]; and~~
- (e)~~(d)~~ the remainder to the state general fund.

(2) If money in the state special revenue fund for the operation and maintenance of state veterans' nursing homes exceeds \$2 million at the end of the fiscal year, the excess must be transferred to the state general fund."

**SECTION 5.** Section 16-11-202, MCA is amended to read:

**"16-11-202. Tax on sale of tobacco other than cigarettes – imposed on retail consumer – rate of tax.** (1) All taxes paid pursuant to the provisions of this section are considered to be direct taxes on the retail consumer, precollected for the purpose of convenience and facility only. When the tax is paid by any other person, the payment is considered as an advance payment and must be added to the price of tobacco products and recovered from the ultimate consumer or user. A person selling tobacco products at retail shall state or separately display in the premises where the products are sold a notice of the tax included in the selling price and charged or payable pursuant to this section. The provisions of this section do not affect the method of collection of the tax as provided in this part.

(2) There must be collected and paid to the state of Montana a tax of ~~25%~~ 50% of the wholesale price, to the wholesaler, of all tobacco products, other than moist snuff. The tax on moist snuff is ~~35~~ 85 cents an ounce based upon the net weight of the package listed by the manufacturer. For packages of moist snuff that are less than or greater than 1 ounce, the tax must be proportional to the size of the package. Tobacco products shipped from Montana and destined for retail sale and consumption outside the state are not subject to this tax."

**SECTION 6.** Section 16-11-206, MCA is amended to read:

**"16-11-206. Wholesaler's discount – disposition of taxes.** (1) The taxes specified in this part that are paid by the wholesaler must be paid to the department in full less a ~~2.5%~~ 1.50% defrayment for the wholesaler's collection and administrative expense and must, in accordance with the provisions of 15-1-501, be deposited by the department as follows:

(a) one-half in the state general fund; and

(b) one-half in the state special revenue fund account for health and medicaid initiatives provided for in [section 7].

(2) Refunds of the tax paid must be made as provided in 15-1-503 in cases in which the tobacco products purchased become unsalable."

**New Section. Section 7. Special Revenue Fund – Health and Medicaid Initiatives.** (1) There is a health and medicaid initiatives account in the state special revenue fund established by 17-2-102. This account is to be administered by the department of public health and human services.

(2) There must be deposited in the account:

(a) money from cigarette taxes deposited under 16-11-119(1)(c); and

(b) money from taxes on tobacco products other than cigarettes deposited under 16-11-206(1)(b).

(3) This account shall be used only to provide funding for:

(a) the state funds necessary to take full advantage of available federal matching funds in order to maximize enrollment of eligible children under the children's health insurance program, provided for under Title 53, chapter 4, part 10, and to provide outreach to the eligible children. The increased revenue

in this account is intended to increase enrollment rates for eligible children in the program and not to be used to support existing levels of enrollment based upon appropriations for the biennium ending June 30, 2005.

(b) a new need-based prescription drug program established by the legislature for children, seniors, chronically ill, and disabled persons that does not supplant similar services provided under any existing program;

(c) increased medicaid services and medicaid provider rates. The increased revenue is intended to increase medicaid services and medicaid provider rates and not to supplant the general fund in the trended traditional level of appropriation for medicaid services and medicaid provider rates.

(d) an offset to loss of revenue to the general fund as a result of new tax credits or to fund new programs to assist small businesses with the costs of providing health insurance benefits to employees, if these tax credits or programs are established by the legislature after the effective date of this section.

(4) Until the programs or credits described in subsections 3(b) and 3(d) are established, the funding shall be used exclusively for the purposes described in subsections 3(a) and 3(c).

(5) The phrase "trended traditional level of appropriation" as used in subsection 3(c), means the appropriation amounts, including supplemental appropriations, as those amounts were set based on eligibility standards, services authorized and payment amount during the past five biennial budgets.

(6) The department of public health and human services may adopt rules to implement this section.

**New Section. Section 8. Codification instruction** – Section 7 is intended to be codified as part of Title 53, chapter 6 and the provisions of Title 53, chapter 6 apply to [section 7].

**New Section. Section 9. 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 application.

**New Section. Section 10. Effective date**. This act is effective January 1, 2005.

**New Section. Section 11. Applicability**. This act applies to cigarettes and other tobacco products received by wholesalers after December 31, 2004.

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## CODE SECTIONS AFFECTED

This table was compiled before the codification process was completed. It does not reflect certain sections affected by name change amendments. All other substantive changes are reflected. Those sections for which renumbering is not attributed to a particular chapter and bill number were renumbered by the Code Commissioner under the authority of 1-11-204(3)(a)(ii).

<u>Title-Chapter-Section</u>	<u>Action</u>	<u>Chapter</u>	<u>Bill Number</u>
1-1-516	amended	Ch. 130	SB 24
1-1-520	enacted	Ch. 372	SB 2
1-1-526	enacted	Ch. 274	HB 244
1-5-416	amended	Ch. 123	SB 141
1-11-204	amended	Ch. 108	SB 36
1-11-301	amended	Ch. 73	HB 184
2-2-106	amended	Ch. 130	SB 24
2-2-121	amended	Ch. 145	SB 16
	amended	Ch. 173	HB 306
	amended	Ch. 437	HB 302
2-2-131	amended	Ch. 65	HB 155
2-2-302	amended	Ch. 138	SB 170
	amended	Ch. 316	HB 70
2-3-203	amended	Ch. 218	SB 470
2-4-303	amended	Ch. 265	SB 478
2-4-306	amended	Ch. 370	SB 384
2-4-405	amended	Ch. 265	SB 478
2-4-603	amended	Ch. 347	SB 62
2-4-614	amended	Ch. 347	SB 62
2-4-623	amended	Ch. 347	SB 62
	amended	Ch. 571	SB 260
2-4-702	amended	Ch. 347	SB 62
2-6-112	enacted	Ch. 390	SB 196
2-8-301	amended	Ch. 285	SB 299
2-8-302	amended	Ch. 285	SB 299
2-8-303	amended	Ch. 285	SB 299
2-9-211	amended	Ch. 191	HB 631
2-9-501	amended	Ch. 209	SB 162
2-9-701	amended	Ch. 209	SB 162
2-9-703	amended	Ch. 209	SB 162
2-9-711	repealed	Ch. 209	SB 162
2-9-803	amended	Ch. 209	SB 162
2-9-804	amended	Ch. 209	SB 162
2-15-150	amended	Ch. 223	HB 301
2-15-151	amended	Ch. 223	HB 301
2-15-225	amended	Ch. 346	SB 33
2-15-242	enacted	Ch. 115	SB 69
2-15-246	enacted and amended	Ch. 605	HB 769
2-15-401	amended	Ch. 207	SB 136
	amended	Ch. 370	SB 384
2-15-1007	amended	Ch. 105	SB 17
2-15-1019	amended	Ch. 283	SB 61
2-15-1020	repealed 7/1/2006	Ch. 449	SB 146
2-15-1028	enacted	Ch. 449	SB 146
2-15-1524	enacted	Ch. 489	HB 435
2-15-1709	repealed	Ch. 69	HB 161
2-15-1731	amended	Ch. 126	HB 203
	amended	Ch. 519	HB 737
2-15-1734	amended	Ch. 126	HB 203
2-15-1745	enacted	Ch. 294	HB 628
2-15-1751	amended	Ch. 126	HB 203

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2-15-1756	amended	Ch. 126	HB 203
2-15-1772	amended	Ch. 126	HB 203
2-15-1781	amended	Ch. 36	HB 226
2-15-1821	amended	Ch. 130	SB 24
2-15-1822	amended	Ch. 130	SB 24
2-15-1869	amended	Ch. 78	HB 215
2-15-1870	amended	Ch. 78	HB 215
2-15-2014	amended	Ch. 504	HB 577
2-15-2015	amended	Ch. 416	SB 481
2-15-2025	enacted	Ch. 506	HB 615
2-15-2108	amended	Ch. 356	SB 145
2-15-3330	amended	Ch. 387	SB 138
2-16-107	enacted	Ch. 219	HB 150
2-16-112	amended	Ch. 381	SB 118
2-16-501	amended	Ch. 381	SB 118
2-17-526	amended	Ch. 106	SB 23
2-17-803	amended	Ch. 321	HB 109
2-17-804	amended	Ch. 25	HB 107
	amended	Ch. 321	HB 109
2-17-805	amended	Ch. 321	HB 109
2-17-807	amended	Ch. 25	HB 107
2-17-808	amended	Ch. 25	HB 107
	amended	Ch. 223	HB 301
2-17-809	repealed 12/31/2006	Ch. 223	HB 301
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2-17-812	amended	Ch. 321	HB 109
2-17-813	amended	Ch. 25	HB 107
2-17-817	amended	Ch. 321	HB 109
2-18-101	amended	Ch. 56	HB 112
	amended	Ch. 75	HB 198
2-18-103	amended	Ch. 449	SB 146
2-18-111	amended	Ch. 75	HB 198
2-18-120	enacted	Ch. 56	HB 112
2-18-301	amended	Ch. 6	HB 447
2-18-303	amended	Ch. 6	HB 447
	amended	Ch. 238	SB 206
	amended	Ch. 421	HB 35
2-18-304	amended	Ch. 6	HB 447
2-18-312	amended	Ch. 6	HB 447
2-18-313	repealed	Ch. 6	HB 447
2-18-315	repealed	Ch. 6	HB 447
2-18-503	amended	Ch. 112	SB 54
2-18-601	amended	Ch. 11	HB 29
	amended	Ch. 75	HB 198
	amended	Ch. 582	HB 45
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2-18-611	amended	Ch. 11	HB 29
	amended	Ch. 75	HB 198
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2-18-703	amended	Ch. 6	HB 447
2-18-809	amended	Ch. 75	HB 198
2-18-1101	amended	Ch. 75	HB 198
2-18-1202	amended	Ch. 75	HB 198
2-18-1204	amended	Ch. 111	SB 53
	amended	Ch. 130	SB 24
2-18-1303	amended	Ch. 75	HB 198
	amended	Ch. 96	HB 508
3-1-102	amended	Ch. 557	HB 367
3-1-317	amended	Ch. 445	HB 536
3-1-702	amended	Ch. 445	HB 536
3-2-303	amended	Ch. 328	HB 211
3-2-714	amended	Ch. 114	SB 67
	amended	Ch. 408	SB 406

3-5-102	amended	Ch. 373	SB 18
3-5-114	amended	Ch. 557	HB 367
3-5-511	amended	Ch. 449	SB 146
3-5-604	amended	Ch. 254	SB 355
	amended	Ch. 449	SB 146
3-5-901	amended	Ch. 449	SB 146
3-5-904	repealed	Ch. 445	HB 536
3-6-106	amended	Ch. 167	HB 262
3-6-201	amended	Ch. 167	HB 262
3-6-204	amended	Ch. 167	HB 262
	amended	Ch. 557	HB 367
3-10-101	amended	Ch. 557	HB 367
3-10-115	amended	Ch. 557	HB 367
3-10-116	amended	Ch. 557	HB 367
3-10-117	repealed	Ch. 557	HB 367
3-10-118	enacted	Ch. 557	HB 367
3-10-203	amended	Ch. 557	HB 367
3-10-207	amended	Ch. 557	HB 367
3-10-301	amended	Ch. 130	SB 24
3-10-601	amended	Ch. 232	SB 38
5-1-116	repealed	Ch. 357	SB 160
5-2-203	amended	Ch. 311	HB 30
5-5-211	amended	Ch. 527	HB 790
5-5-230	amended	Ch. 221	HB 199
5-7-112	amended	Ch. 130	SB 24
5-7-208	amended	Ch. 250	SB 347
5-11-407	enacted	Ch. 581	HB 28
5-13-203	amended	Ch. 285	SB 299
5-17-201	repealed	Ch. 16	SB 14
5-17-202	repealed	Ch. 16	SB 14
5-17-203	repealed	Ch. 16	SB 14
5-17-204	repealed	Ch. 16	SB 14
5-17-205	repealed	Ch. 16	SB 14
5-17-206	repealed	Ch. 16	SB 14
5-17-207	repealed	Ch. 16	SB 14
5-17-301	repealed	Ch. 25	HB 107
5-17-302	repealed	Ch. 25	HB 107
5-17-303	repealed	Ch. 25	HB 107
7-1-120	repealed	Ch. 268	HB 643
7-1-2103	amended	Ch. 453	SB 301
7-1-2105	enacted	Ch. 198	HB 743
7-1-2111	amended	Ch. 130	SB 24
7-1-2121	amended	Ch. 444	HB 474
7-1-4105	enacted	Ch. 198	HB 743
7-1-4123	amended	Ch. 453	SB 301
7-1-4150	amended	Ch. 398	SB 279
7-2-2422	amended	Ch. 130	SB 24
7-2-2424	amended	Ch. 130	SB 24
7-3-173	amended	Ch. 130	SB 24
7-3-1105	amended	Ch. 261	SB 410
7-3-1222	amended	Ch. 261	SB 410
7-3-1344	amended	Ch. 36	HB 226
7-4-2208	amended	Ch. 381	SB 118
7-4-2503	amended	Ch. 36	HB 226
	amended	Ch. 182	HB 507
7-4-2508	amended	Ch. 36	HB 226
7-4-2509	amended	Ch. 36	HB 226
7-4-2510	amended	Ch. 36	HB 226
7-4-2614	amended	Ch. 165	HB 234
7-4-2632	amended	Ch. 135	SB 98
7-4-2637	amended	Ch. 135	SB 98
7-4-3001	amended	Ch. 36	HB 226
7-4-4604	amended	Ch. 154	HB 103

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7-5-2301	amended	Ch. 574	SB 342
7-5-2315	enacted	Ch. 162	HB 212
7-5-4302	amended	Ch. 192	HB 636
	amended	Ch. 574	SB 342
7-5-4310	amended	Ch. 192	HB 636
7-5-4315	enacted	Ch. 162	HB 212
7-6-206	amended	Ch. 240	SB 225
7-6-1541	amended	Ch. 393	SB 245
7-6-1544	amended	Ch. 393	SB 245
7-6-1546	amended	Ch. 393	SB 245
7-6-1601	enacted	Ch. 299	SB 185
7-6-1602	enacted	Ch. 299	SB 185
7-6-1603	enacted	Ch. 299	SB 185
7-6-1604	enacted	Ch. 299	SB 185
7-6-2225	amended	Ch. 598	HB 700
7-6-2226	amended	Ch. 598	HB 700
7-6-2230	enacted	Ch. 135	SB 98
7-6-2426	amended	Ch. 449	SB 146
7-6-2501	amended	Ch. 453	SB 301
7-6-2521	amended	Ch. 453	SB 301
7-6-2522	amended	Ch. 453	SB 301
7-6-2523	repealed	Ch. 453	SB 301
7-6-2524	amended	Ch. 453	SB 301
7-6-2526	repealed	Ch. 453	SB 301
7-6-2527	amended	Ch. 317	HB 73
	enacted	Ch. 453	SB 301
7-6-2601	amended	Ch. 432	HB 220
7-6-4005	amended	Ch. 209	SB 162
7-6-4023	repealed 7/1/2006	Ch. 449	SB 146
	repealed	Ch. 453	SB 301
7-6-4401	amended	Ch. 453	SB 301
7-6-4421	amended	Ch. 453	SB 301
7-6-4501	amended	Ch. 432	HB 220
7-7-104	amended	Ch. 451	SB 292
7-7-109	amended	Ch. 451	SB 292
7-7-110	enacted	Ch. 336	HB 451
7-7-2206	amended	Ch. 451	SB 292
7-7-2207	amended	Ch. 451	SB 292
7-7-2211	amended	Ch. 451	SB 292
7-7-2304	amended	Ch. 451	SB 292
7-7-4104	amended	Ch. 453	SB 301
7-7-4206	amended	Ch. 451	SB 292
7-7-4210	amended	Ch. 451	SB 292
7-7-4304	amended	Ch. 451	SB 292
7-7-4502	amended	Ch. 451	SB 292
7-12-2102	amended	Ch. 529	SB 40
7-12-2103	amended	Ch. 488	HB 431
7-12-2105	amended	Ch. 488	HB 431
	amended	Ch. 529	SB 40
7-12-2109	amended	Ch. 401	SB 294
	amended	Ch. 488	HB 431
	amended	Ch. 529	SB 40
7-12-2112	amended	Ch. 488	HB 431
7-12-2113	amended	Ch. 451	SB 292
	amended	Ch. 529	SB 40
7-12-2193	amended	Ch. 451	SB 292
7-12-2198	enacted	Ch. 162	HB 212
7-12-4110	amended	Ch. 401	SB 294
7-12-4114	amended	Ch. 401	SB 294
7-12-4194	amended	Ch. 451	SB 292
7-12-4195	enacted	Ch. 451	SB 292
7-12-4198	enacted	Ch. 162	HB 212
7-12-4401	amended	Ch. 231	SB 32

## CODE SECTIONS AFFECTED

7-12-4422	amended	Ch. 567	SB 175
7-13-144	amended	Ch. 453	SB 301
7-13-2204	amended	Ch. 341	HB 666
7-13-2208	amended	Ch. 341	HB 666
7-13-2212	amended	Ch. 341	HB 666
7-13-2215	amended	Ch. 341	HB 666
7-13-2231	amended	Ch. 341	HB 666
7-13-2282	amended	Ch. 341	HB 666
7-13-2290	enacted	Ch. 341	HB 666
7-13-2302	amended	Ch. 341	HB 666
7-13-2321	amended	Ch. 341	HB 666
7-13-2328	amended	Ch. 341	HB 666
7-13-2329	amended	Ch. 341	HB 666
7-13-2333	enacted	Ch. 341	HB 666
7-13-2349	enacted	Ch. 341	HB 666
7-13-3027	amended	Ch. 453	SB 301
7-13-4309	amended	Ch. 451	SB 292
7-14-112	amended	Ch. 596	HB 671
7-14-301	amended	Ch. 539	SB 222
7-14-302	amended	Ch. 539	SB 222
7-14-303	amended	Ch. 539	SB 222
7-14-304	amended	Ch. 539	SB 222
7-14-2504	repealed	Ch. 453	SB 301
7-14-2615	amended	Ch. 168	HB 269
7-14-4109	amended	Ch. 451	SB 292
7-14-4801	amended	Ch. 300	SB 255
7-15-4282	amended	Ch. 566	SB 167
7-15-4283	amended	Ch. 566	SB 167
7-15-4284	amended	Ch. 566	SB 167
7-15-4285	amended	Ch. 566	SB 167
7-15-4286	amended	Ch. 566	SB 167
7-15-4288	amended	Ch. 566	SB 167
7-15-4290	amended	Ch. 566	SB 167
7-15-4292	amended	Ch. 545	SB 345
	amended	Ch. 566	SB 167
7-15-4293	amended	Ch. 545	SB 345
	amended	Ch. 566	SB 167
7-15-4294	enacted	Ch. 545	SB 345
7-15-4295	enacted	Ch. 566	SB 167
7-15-4301	amended	Ch. 566	SB 167
7-15-4304	amended	Ch. 566	SB 167
7-16-2324	amended	Ch. 333	HB 436
7-16-2401	amended	Ch. 175	HB 321
7-16-2423	amended	Ch. 175	HB 321
7-16-2433	amended	Ch. 175	HB 321
7-16-2443	amended	Ch. 451	SB 292
7-21-1001	enacted	Ch. 516	HB 720
7-21-1002	enacted	Ch. 516	HB 720
7-21-1003	enacted	Ch. 516	HB 720
7-21-3410	amended	Ch. 453	SB 301
7-22-2154	enacted	Ch. 395	SB 259
7-22-2403	amended	Ch. 555	HB 218
7-22-2404	repealed	Ch. 555	HB 218
7-22-2406	repealed	Ch. 555	HB 218
7-22-2407	repealed	Ch. 555	HB 218
7-22-2408	amended	Ch. 555	HB 218
7-22-2409	amended	Ch. 555	HB 218
7-22-2442	amended	Ch. 555	HB 218
7-31-4110	amended	Ch. 261	SB 410
7-32-2102	amended	Ch. 36	HB 226
7-32-2113	enacted	Ch. 271	HB 105
7-32-2114	enacted	Ch. 271	HB 105
7-32-2126	amended	Ch. 36	HB 226

7-32-2226	amended	Ch. 414	SB 472
7-32-4114	amended	Ch. 225	HB 483
7-32-4122	amended	Ch. 179	HB 427
7-32-4139	repealed	Ch. 198	HB 743
7-33-2205	amended	Ch. 492	HB 473
7-33-2206	amended	Ch. 492	HB 473
7-35-2121	amended	Ch. 130	SB 24
10-1-104	amended	Ch. 61	HB 139
10-1-105	amended	Ch. 61	HB 139
10-1-121	repealed	Ch. 577	SB 445
10-1-205	amended	Ch. 28	HB 128
10-1-603	repealed	Ch. 381	SB 118
10-1-604	amended and renumbered 10-1-1009	Ch. 381	SB 118
10-1-606	amended	Ch. 587	HB 227
10-1-615	amended	Ch. 381	SB 118
10-1-902	amended	Ch. 534	SB 81
10-1-1001	enacted	Ch. 381	SB 118
10-1-1002	enacted	Ch. 381	SB 118
10-1-1003	enacted	Ch. 381	SB 118
10-1-1004	enacted	Ch. 381	SB 118
10-1-1005	enacted	Ch. 381	SB 118
10-1-1006	enacted	Ch. 381	SB 118
10-1-1007	enacted	Ch. 381	SB 118
10-1-1008	enacted	Ch. 381	SB 118
10-1-1009	formerly 10-1-604	Ch. 381	SB 118
10-1-1010	enacted	Ch. 381	SB 118
10-1-1015	enacted	Ch. 381	SB 118
10-1-1016	enacted	Ch. 381	SB 118
10-1-1017	enacted	Ch. 381	SB 118
10-1-1018	enacted	Ch. 381	SB 118
10-1-1019	enacted	Ch. 381	SB 118
10-1-1020	enacted	Ch. 381	SB 118
10-1-1021	enacted	Ch. 381	SB 118
10-1-1022	enacted	Ch. 381	SB 118
10-1-1027	enacted	Ch. 381	SB 118
10-1-1101	enacted	Ch. 604	HB 761
10-1-1102	enacted	Ch. 604	HB 761
10-1-1103	enacted	Ch. 604	HB 761
10-1-1104	enacted	Ch. 604	HB 761
10-2-112	amended	Ch. 542	SB 285
10-2-211	repealed	Ch. 381	SB 118
10-2-212	repealed	Ch. 381	SB 118
10-2-213	repealed	Ch. 381	SB 118
10-2-214	repealed	Ch. 381	SB 118
10-2-221	repealed	Ch. 381	SB 118
10-2-222	repealed	Ch. 381	SB 118
10-2-223	repealed	Ch. 381	SB 118
10-2-224	repealed	Ch. 381	SB 118
10-2-225	repealed	Ch. 381	SB 118
10-2-226	repealed	Ch. 381	SB 118
10-2-227	repealed	Ch. 381	SB 118
10-2-228	repealed	Ch. 381	SB 118
10-2-417	amended	Ch. 481	HB 411
10-2-601	amended	Ch. 600	HB 728
10-2-603	amended	Ch. 600	HB 728
10-3-801	amended	Ch. 542	SB 285
10-3-901	enacted	Ch. 354	SB 140
10-3-902	enacted	Ch. 354	SB 140
10-3-903	enacted	Ch. 354	SB 140
10-3-904	enacted	Ch. 354	SB 140
10-3-905	enacted	Ch. 354	SB 140
10-3-906	enacted	Ch. 354	SB 140
10-3-907	enacted	Ch. 354	SB 140

## CODE SECTIONS AFFECTED

10-3-908	enacted	Ch. 354	SB 140	
10-3-909	enacted	Ch. 354	SB 140	
10-3-910	enacted	Ch. 354	SB 140	
10-3-911	enacted	Ch. 354	SB 140	
10-3-912	enacted	Ch. 354	SB 140	
10-3-1204	amended	Ch. 354	SB 140	
10-3-1307	amended	Ch. 596	HB 671	
10-4-102	amended	Ch. 36	HB 226	
13-1-116	enacted	Ch. 367	SB 500	
13-1-303	amended	Ch. 586	HB 177	
13-2-108	amended	Ch. 286	SB 302	
13-2-110	amended	Ch. 286	SB 302	
13-2-115	amended	Ch. 286	SB 302	
13-2-222	amended	Ch. 446	HB 590	
13-2-301	amended	Ch. 286	SB 302	
	amended	Ch. 586	HB 177	
13-2-302	repealed	Ch. 286	SB 302	
13-2-304	enacted	Ch. 286	SB 302	
13-2-402	amended	Ch. 586	HB 177	
13-2-512	amended	Ch. 446	HB 590	
13-2-514	amended	Ch. 286	SB 302	
	amended	Ch. 586	HB 177	
13-3-205	amended	Ch. 367	SB 500	
13-10-201	amended	Ch. 586	HB 177	
13-10-204	amended	Ch. 586	HB 177	
13-10-209	amended	Ch. 586	HB 177	
13-10-211	amended	Ch. 586	HB 177	
13-10-302	amended	Ch. 586	HB 177	
13-13-114	amended	Ch. 367	SB 500	
13-13-119	amended	Ch. 367	SB 500	
13-13-201	amended	Ch. 286	SB 302	
13-13-204	amended	Ch. 359	SB 182	
13-13-205	amended	Ch. 286	SB 302	
13-13-211	amended	Ch. 130	SB 24	
13-13-212	amended	Ch. 284	SB 88	
	amended	Ch. 286	SB 302	
	amended	Ch. 586	HB 177	
13-13-213	amended	Ch. 286	SB 302	
	amended	Ch. 367	SB 500	
13-13-214	amended	Ch. 284	SB 88	
	amended	Ch. 367	SB 500	
13-13-232	amended	Ch. 286	SB 302	
13-13-233	amended	Ch. 286	SB 302	
13-13-241	amended	Ch. 286	SB 302	
13-13-243	amended and renumbered	13-15-108	Ch. 286	SB 302
	amended	Ch. 359	SB 182	
13-13-301	amended	Ch. 586	HB 177	
13-14-112	amended	Ch. 586	HB 177	
13-14-113	amended	Ch. 586	HB 177	
13-15-107	amended	Ch. 286	SB 302	
	amended	Ch. 586	HB 177	
13-15-108	formerly 13-13-243	Ch. 286	SB 302	
13-15-111	amended	Ch. 586	HB 177	
13-15-201	amended	Ch. 286	SB 302	
13-15-203	repealed	Ch. 286	SB 302	
13-15-206	amended	Ch. 586	HB 177	
13-15-209	enacted	Ch. 586	HB 177	
13-16-412	amended	Ch. 586	HB 177	
13-16-414	amended	Ch. 586	HB 177	
13-17-103	amended	Ch. 275	HB 297	
	amended	Ch. 286	SB 302	
13-17-211	amended	Ch. 586	HB 177	
13-17-212	amended	Ch. 286	SB 302	

13-19-104	amended	Ch. 264	SB 460
13-21-206	amended	Ch. 586	HB 177
13-27-111	amended	Ch. 479	HB 386
13-27-410	amended	Ch. 586	HB 177
13-35-226	amended	Ch. 437	HB 302
13-37-101	amended	Ch. 479	HB 386
13-37-102	amended	Ch. 479	HB 386
13-37-103	amended	Ch. 479	HB 386
13-37-107	enacted	Ch. 479	HB 386
13-37-108	enacted	Ch. 479	HB 386
13-37-111	amended	Ch. 479	HB 386
15-1-101	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
15-1-116	amended	Ch. 450	SB 261
	amended (Void. Sec. 130, Ch. 596)	Ch. 596	HB 671
15-1-117	repealed	Ch. 450	SB 261
	amended	Ch. 596	HB 671
15-1-118	enacted	Ch. 450	SB 261
15-1-121	amended	Ch. 114	SB 67
	amended	Ch. 130	SB 24
	amended	Ch. 163	HB 223
	amended	Ch. 449	SB 146
	amended	Ch. 596	HB 671
15-1-122	amended	Ch. 130	SB 24
	amended	Ch. 325	HB 170
	amended	Ch. 464	HB 102
	amended (Void. Sec. 8, Ch. 500)	Ch. 500	HB 541
	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
15-1-141	repealed	Ch. 550	SB 442
15-1-206	amended	Ch. 594	HB 592
15-1-216	amended	Ch. 288	HB 22
	amended	Ch. 594	HB 592
15-1-230	amended	Ch. 4	HB 193
15-1-231	amended	Ch. 47	HB 54
15-1-402	amended	Ch. 536	SB 87
15-1-501	amended	Ch. 163	HB 223
	amended	Ch. 428	HB 192
	amended	Ch. 550	SB 442
15-1-504	amended	Ch. 542	SB 285
15-2-302	amended	Ch. 67	HB 158
15-6-131	amended	Ch. 559	SB 276
15-6-133	amended	Ch. 376	SB 74
15-6-134	amended	Ch. 532	SB 68
	amended	Ch. 584	HB 115
15-6-137	amended	Ch. 563	SB 115
15-6-138	amended	Ch. 3	HB 84
	amended	Ch. 531	SB 48
	amended	Ch. 532	SB 68
	amended	Ch. 542	SB 285
	amended	Ch. 584	HB 115
15-6-141	amended	Ch. 563	SB 115
15-6-156	amended	Ch. 563	SB 115
15-6-157	enacted	Ch. 563	SB 115
15-6-201	amended	Ch. 2	HB 38
	amended	Ch. 531	SB 48
	amended	Ch. 532	SB 68
	amended	Ch. 542	SB 285
	amended	Ch. 563	SB 115
	amended	Ch. 584	HB 115
15-6-204	amended	Ch. 532	SB 68
15-6-205	amended	Ch. 532	SB 68
15-6-207	amended	Ch. 532	SB 68

## CODE SECTIONS AFFECTED

15-6-208	amended	Ch. 559	SB 276
15-6-215	amended	Ch. 542	SB 285
15-6-218	amended	Ch. 318	HB 85
15-6-219	enacted and amended	Ch. 532	SB 68
15-6-220	amended	Ch. 532	SB 68
15-6-222	enacted	Ch. 532	SB 68
15-6-223	enacted	Ch. 532	SB 68
15-6-224	enacted	Ch. 532	SB 68
15-6-228	enacted	Ch. 532	SB 68
	amended	Ch. 542	SB 285
15-7-102	amended	Ch. 532	SB 68
	amended	Ch. 584	HB 115
15-7-104	repealed	Ch. 130	SB 24
15-7-111	amended	Ch. 554	SB 524
15-7-202	amended	Ch. 376	SB 74
	amended	Ch. 543	SB 296
15-7-305	amended	Ch. 70	HB 178
15-7-308	amended	Ch. 70	HB 178
15-8-111	amended	Ch. 379	SB 92
	amended	Ch. 532	SB 68
	amended	Ch. 584	HB 115
15-8-201	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
15-8-202	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
15-8-511	amended	Ch. 379	SB 92
15-8-512	amended	Ch. 379	SB 92
15-10-420	amended	Ch. 376	SB 74
	amended	Ch. 545	SB 345
15-15-103	amended	Ch. 533	SB 75
15-15-104	amended	Ch. 533	SB 75
15-15-201	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
15-16-101	amended	Ch. 453	SB 301
15-16-102	amended	Ch. 587	HB 227
15-16-115	repealed	Ch. 189	HB 607
15-16-117	repealed	Ch. 189	HB 607
	amended	Ch. 453	SB 301
15-16-202	amended	Ch. 542	SB 285
	repealed 1/1/2006	Ch. 596	HB 671
15-16-301	amended	Ch. 189	HB 607
15-16-403	amended	Ch. 392	SB 231
15-18-411	amended	Ch. 375	SB 70
15-23-101	amended	Ch. 559	SB 276
15-23-116	amended	Ch. 536	SB 87
15-23-214	amended	Ch. 594	HB 592
15-23-501	amended	Ch. 559	SB 276
15-23-502	amended	Ch. 559	SB 276
15-24-202	amended	Ch. 587	HB 227
15-24-210	amended	Ch. 189	HB 607
15-24-301	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
15-24-302	amended	Ch. 189	HB 607
	amended	Ch. 596	HB 671
15-24-925	amended	Ch. 12	HB 37
15-24-1402	amended	Ch. 597	HB 689
15-24-1501	amended	Ch. 597	HB 689
15-24-1502	amended	Ch. 597	HB 689
15-24-1802	amended	Ch. 597	HB 689
15-24-1902	amended	Ch. 597	HB 689
15-24-2002	amended	Ch. 597	HB 689
15-24-2404	amended	Ch. 597	HB 689
15-24-3004	enacted	Ch. 563	SB 115

15-24-3005	amended	Ch. 130	SB 24
	amended	Ch. 563	SB 115
15-24-3006	amended	Ch. 563	SB 115
15-24-3007	amended	Ch. 563	SB 115
15-30-111	amended	Ch. 130	SB 24
	amended	Ch. 595	HB 667
15-30-116	amended	Ch. 604	HB 761
15-30-121	amended	Ch. 542	SB 285
15-30-124	amended	Ch. 95	HB 439
15-30-142	amended	Ch. 594	HB 592
15-30-149	amended	Ch. 594	HB 592
15-30-166	amended	Ch. 4	HB 193
15-30-169	enacted	Ch. 535	SB 85
15-30-184	enacted	Ch. 537	SB 133
15-30-185	enacted	Ch. 595	HB 667
15-30-192	repealed	Ch. 163	HB 223
15-30-201	amended	Ch. 67	HB 158
15-30-202	amended	Ch. 67	HB 158
15-30-203	amended	Ch. 67	HB 158
15-30-204	amended	Ch. 67	HB 158
15-30-209	amended	Ch. 67	HB 158
	amended (Void. Sec. 41, Ch. 594)	Ch. 594	HB 592
15-30-210	amended	Ch. 67	HB 158
15-30-241	amended	Ch. 594	HB 592
15-30-248	amended	Ch. 67	HB 158
15-30-249	repealed	Ch. 67	HB 158
15-30-250	repealed	Ch. 67	HB 158
15-30-251	repealed	Ch. 67	HB 158
15-30-256	repealed	Ch. 67	HB 158
15-30-257	repealed	Ch. 67	HB 158
15-30-303	amended	Ch. 595	HB 667
15-30-313	amended	Ch. 30	HB 171
15-30-321	amended	Ch. 594	HB 592
15-30-323	amended	Ch. 594	HB 592
15-30-1112	amended	Ch. 594	HB 592
15-30-1114	amended	Ch. 318	HB 85
15-31-101	amended	Ch. 163	HB 223
15-31-102	amended	Ch. 163	HB 223
15-31-111	amended	Ch. 594	HB 592
15-31-115	amended	Ch. 130	SB 24
15-31-130	enacted	Ch. 595	HB 667
15-31-141	amended	Ch. 594	HB 592
15-31-152	enacted	Ch. 537	SB 133
15-31-161	amended	Ch. 4	HB 193
15-31-162	amended	Ch. 4	HB 193
15-31-503	amended	Ch. 594	HB 592
15-31-510	amended	Ch. 594	HB 592
15-31-511	amended	Ch. 595	HB 667
15-31-531	amended	Ch. 594	HB 592
15-31-543	amended	Ch. 594	HB 592
15-31-545	repealed	Ch. 594	HB 592
15-31-603	amended	Ch. 273	HB 167
15-31-801	repealed	Ch. 163	HB 223
15-31-802	repealed	Ch. 163	HB 223
15-31-803	repealed	Ch. 163	HB 223
15-31-804	repealed	Ch. 163	HB 223
15-31-805	repealed	Ch. 163	HB 223
15-31-806	repealed	Ch. 163	HB 223
15-31-807	repealed	Ch. 163	HB 223
15-31-808	repealed	Ch. 163	HB 223
15-31-901	enacted	Ch. 593	HB 584
15-31-902	enacted	Ch. 593	HB 584
15-31-903	enacted	Ch. 593	HB 584

15-31-904	enacted	Ch. 593	HB 584
15-31-905	enacted	Ch. 593	HB 584
15-31-906	enacted	Ch. 593	HB 584
15-31-907	enacted	Ch. 593	HB 584
15-31-908	enacted	Ch. 593	HB 584
15-31-909	enacted	Ch. 593	HB 584
15-31-910	enacted	Ch. 593	HB 584
15-31-911	enacted	Ch. 593	HB 584
15-32-108	repealed	Ch. 130	SB 24
15-32-115	amended	Ch. 455	SB 340
15-32-405	amended	Ch. 532	SB 68
	amended	Ch. 584	HB 115
15-32-701	enacted	Ch. 524	HB 756
15-32-702	enacted	Ch. 524	HB 756
15-32-703	enacted	Ch. 525	HB 776
15-35-103	amended	Ch. 415	SB 480
15-35-108	amended	Ch. 589	HB 482
	amended	Ch. 603	HB 758
15-35-112	amended	Ch. 594	HB 592
15-36-303	amended	Ch. 592	HB 535
15-36-304	amended	Ch. 592	HB 535
	amended	Ch. 603	HB 758
15-36-311	amended	Ch. 5	HB 194
15-36-314	amended	Ch. 594	HB 592
15-36-331	amended	Ch. 5	HB 194
	amended	Ch. 527	HB 790
	amended	Ch. 603	HB 758
15-36-332	amended	Ch. 603	HB 758
15-37-102	amended	Ch. 594	HB 592
15-37-105	amended	Ch. 594	HB 592
15-37-106	amended	Ch. 594	HB 592
15-37-108	amended	Ch. 594	HB 592
15-37-114	amended	Ch. 594	HB 592
15-37-117	amended	Ch. 598	HB 700
15-37-210	amended	Ch. 594	HB 592
15-38-106	amended	Ch. 594	HB 592
15-38-110	amended	Ch. 594	HB 592
15-38-111	amended	Ch. 594	HB 592
15-39-101	enacted	Ch. 559	SB 276
15-39-102	enacted	Ch. 559	SB 276
15-39-103	enacted	Ch. 559	SB 276
15-39-104	enacted	Ch. 559	SB 276
15-39-105	enacted	Ch. 559	SB 276
15-39-106	enacted	Ch. 559	SB 276
15-39-107	enacted	Ch. 559	SB 276
15-39-108	enacted	Ch. 559	SB 276
15-39-109	enacted	Ch. 559	SB 276
15-39-110	enacted	Ch. 559	SB 276
15-39-111	enacted	Ch. 559	SB 276
15-50-207	amended	Ch. 454	SB 323
	amended	Ch. 542	SB 285
15-50-308	amended	Ch. 594	HB 592
15-51-109	amended	Ch. 594	HB 592
15-53-145	amended	Ch. 594	HB 592
15-53-146	amended	Ch. 594	HB 592
15-59-112	amended	Ch. 594	HB 592
15-60-102	amended	Ch. 523	HB 749
15-60-206	amended	Ch. 594	HB 592
15-61-102	amended	Ch. 130	SB 24
15-62-103	amended	Ch. 549	SB 432
15-62-201	amended	Ch. 549	SB 432
15-62-203	amended	Ch. 549	SB 432
15-62-301	enacted	Ch. 549	SB 432

15-62-302	enacted	Ch. 549	SB 432
15-65-115	amended	Ch. 594	HB 592
15-65-121	amended	Ch. 130	SB 24
15-66-101	amended	Ch. 606	SB 120
15-66-102	amended	Ch. 606	SB 120
15-66-201	amended	Ch. 606	SB 120
15-66-206	amended	Ch. 594	HB 592
15-67-101	amended	Ch. 377	SB 82
15-67-102	amended	Ch. 377	SB 82
15-67-206	amended	Ch. 594	HB 592
15-68-101	amended	Ch. 542	SB 285
15-68-513	amended	Ch. 594	HB 592
15-70-201	amended	Ch. 452	SB 293
15-70-204	amended	Ch. 452	SB 293
15-70-233	amended	Ch. 366	SB 459
15-70-245	repealed	Ch. 452	SB 293
15-70-301	amended	Ch. 130	SB 24
	amended	Ch. 525	HB 776
15-70-302	amended	Ch. 384	SB 123
15-70-304	amended	Ch. 525	HB 776
15-70-311	amended	Ch. 397	SB 277
15-70-312	amended	Ch. 397	SB 277
15-70-321	amended	Ch. 384	SB 123
15-70-323	amended	Ch. 384	SB 123
15-70-325	amended	Ch. 384	SB 123
15-70-330	amended	Ch. 384	SB 123
15-70-341	amended	Ch. 525	HB 776
15-70-356	amended	Ch. 384	SB 123
15-70-357	amended	Ch. 366	SB 459
15-70-369	enacted	Ch. 525	HB 776
15-70-370	repealed	Ch. 525	HB 776
15-70-372	amended	Ch. 384	SB 123
15-70-503	amended	Ch. 452	SB 293
15-70-522	amended	Ch. 452	SB 293
15-70-601	enacted	Ch. 524	HB 756
15-72-114	amended	Ch. 594	HB 592
16-1-101	amended	Ch. 130	SB 24
16-1-404	amended	Ch. 591	HB 517
16-1-424	enacted	Ch. 591	HB 517
16-3-241	amended	Ch. 247	SB 325
16-3-321	enacted	Ch. 441	HB 348
16-3-322	enacted	Ch. 441	HB 348
16-3-323	enacted	Ch. 441	HB 348
16-3-324	enacted	Ch. 441	HB 348
16-4-103	amended	Ch. 143	SB 243
16-4-105	amended	Ch. 267	SB 497
16-4-201	amended	Ch. 267	SB 497
16-4-304	amended	Ch. 293	HB 528
16-4-310	enacted	Ch. 591	HB 517
16-4-311	enacted	Ch. 591	HB 517
16-4-312	enacted	Ch. 591	HB 517
16-4-401	amended	Ch. 591	HB 517
16-4-414	amended	Ch. 495	HB 502
16-4-501	amended	Ch. 293	HB 528
	amended	Ch. 591	HB 517
16-10-306	amended	Ch. 511	HB 687
16-11-102	amended	Ch. 511	HB 687
16-11-103	amended	Ch. 511	HB 687
16-11-104	amended	Ch. 511	HB 687
16-11-106	enacted	Ch. 511	HB 687
16-11-107	enacted	Ch. 511	HB 687
16-11-108	enacted	Ch. 511	HB 687
16-11-111	amended	Ch. 511	HB 687

16-11-114	amended	Ch. 511	HB 687
16-11-118	amended	Ch. 511	HB 687
16-11-119	amended	Ch. 511	HB 687
16-11-120	amended	Ch. 511	HB 687
16-11-122	amended	Ch. 511	HB 687
16-11-126	enacted	Ch. 511	HB 687
16-11-128	enacted	Ch. 511	HB 687
16-11-129	enacted	Ch. 511	HB 687
16-11-131	amended	Ch. 511	HB 687
16-11-132	amended	Ch. 511	HB 687
16-11-133	amended	Ch. 511	HB 687
16-11-141	amended	Ch. 511	HB 687
16-11-142	amended	Ch. 511	HB 687
16-11-143	amended	Ch. 511	HB 687
16-11-144	amended	Ch. 511	HB 687
16-11-145	amended	Ch. 511	HB 687
16-11-146	amended	Ch. 511	HB 687
16-11-147	amended	Ch. 511	HB 687
16-11-148	amended	Ch. 511	HB 687
16-11-149	amended	Ch. 511	HB 687
16-11-150	amended	Ch. 511	HB 687
16-11-155	amended	Ch. 511	HB 687
16-11-157	repealed	Ch. 511	HB 687
16-11-158	amended	Ch. 511	HB 687
16-11-159	enacted	Ch. 511	HB 687
16-11-201	repealed	Ch. 511	HB 687
16-11-202	repealed	Ch. 511	HB 687
16-11-203	repealed	Ch. 511	HB 687
16-11-204	repealed	Ch. 511	HB 687
16-11-205	repealed	Ch. 511	HB 687
16-11-206	repealed	Ch. 511	HB 687
16-11-402	amended	Ch. 324	HB 169
16-11-404	amended	Ch. 324	HB 169
16-11-502	amended	Ch. 324	HB 169
16-11-503	amended	Ch. 324	HB 169
16-11-507	amended	Ch. 324	HB 169
16-11-509	amended	Ch. 511	HB 687
16-11-511	amended	Ch. 324	HB 169
17-1-104	enacted	Ch. 121	SB 106
17-1-105	formerly 17-3-110	Ch. 121	SB 106
17-1-106	formerly 17-3-111	Ch. 121	SB 106
17-1-510	repealed	Ch. 121	SB 106
17-2-108	amended	Ch. 151	HB 44
17-2-131	amended	Ch. 130	SB 24
17-3-110	amended and renumbered 17-1-105	Ch. 121	SB 106
17-3-111	amended and renumbered 17-1-106	Ch. 121	SB 106
17-3-222	amended	Ch. 53	HB 86
17-3-240	amended	Ch. 568	SB 212
17-5-103	amended	Ch. 451	SB 292
17-5-111	enacted	Ch. 451	SB 292
17-5-205	amended	Ch. 9	HB 21
17-5-302	amended	Ch. 374	SB 58
17-5-304	amended	Ch. 374	SB 58
17-5-401	repealed	Ch. 374	SB 58
17-5-402	repealed	Ch. 374	SB 58
17-5-403	repealed	Ch. 374	SB 58
17-5-404	repealed	Ch. 374	SB 58
17-5-407	repealed	Ch. 374	SB 58
17-5-408	repealed	Ch. 374	SB 58
17-5-409	repealed	Ch. 374	SB 58
17-5-410	repealed	Ch. 374	SB 58
17-5-411	repealed	Ch. 374	SB 58

17-5-412	repealed	Ch. 374	SB	58
17-5-413	repealed	Ch. 374	SB	58
17-5-414	repealed	Ch. 374	SB	58
17-5-415	repealed	Ch. 374	SB	58
17-5-416	repealed	Ch. 374	SB	58
17-5-417	repealed	Ch. 374	SB	58
17-5-421	repealed	Ch. 374	SB	58
17-5-423	repealed	Ch. 374	SB	58
17-5-424	repealed	Ch. 374	SB	58
17-5-425	repealed	Ch. 374	SB	58
17-5-426	repealed	Ch. 374	SB	58
17-5-430	repealed	Ch. 374	SB	58
17-5-431	repealed	Ch. 374	SB	58
17-5-432	repealed	Ch. 374	SB	58
17-5-433	repealed	Ch. 374	SB	58
17-5-507	amended	Ch. 130	SB	24
17-5-601	repealed	Ch. 374	SB	58
17-5-602	repealed	Ch. 374	SB	58
17-5-603	repealed	Ch. 374	SB	58
17-5-604	repealed	Ch. 374	SB	58
17-5-605	repealed	Ch. 374	SB	58
17-5-606	repealed	Ch. 374	SB	58
17-5-607	repealed	Ch. 374	SB	58
17-5-608	repealed	Ch. 374	SB	58
17-5-609	repealed	Ch. 374	SB	58
17-5-610	repealed	Ch. 374	SB	58
17-5-611	repealed	Ch. 374	SB	58
17-5-612	repealed	Ch. 374	SB	58
17-5-613	repealed	Ch. 374	SB	58
17-5-614	repealed	Ch. 374	SB	58
17-5-615	repealed	Ch. 374	SB	58
17-5-616	repealed	Ch. 374	SB	58
17-5-617	repealed	Ch. 374	SB	58
17-5-618	repealed	Ch. 374	SB	58
17-5-619	repealed	Ch. 374	SB	58
17-5-620	repealed	Ch. 374	SB	58
17-5-703	amended	Ch. 588	HB	249
17-5-802	amended	Ch. 374	SB	58
17-5-803	amended	Ch. 374	SB	58
17-5-805	amended	Ch. 323	HB	142
	amended	Ch. 374	SB	58
17-5-820	amended	Ch. 590	HB	493
17-5-1612	enacted	Ch. 399	SB	288
17-5-2001	amended	Ch. 550	SB	442
17-6-317	amended	Ch. 26	HB	126
	amended	Ch. 452	SB	293
17-6-318	amended	Ch. 26	HB	126
17-6-407	amended	Ch. 130	SB	24
	amended	Ch. 204	SB	130
17-7-111	amended	Ch. 106	SB	23
17-7-138	amended	Ch. 58	HB	116
17-7-139	amended	Ch. 58	HB	116
17-7-160	enacted	Ch. 421	HB	35
17-7-304	amended	Ch. 565	SB	154
	amended	Ch. 581	HB	28
17-7-502	amended	Ch. 223	HB	301
	amended	Ch. 314	HB	53
	amended	Ch. 324	HB	169
	amended	Ch. 327	HB	204
	amended	Ch. 421	HB	35
	amended	Ch. 464	HB	102
	amended	Ch. 482	HB	414
	amended	Ch. 524	HB	756

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17-7-502 (continued)	amended	Ch. 525	HB 776
	amended	Ch. 581	HB 28
	amended	Ch. 588	HB 249
	amended	Ch. 593	HB 584
	amended	Ch. 600	HB 728
	amended	Ch. 602	HB 757
17-8-231	amended	Ch. 312	HB 40
	repealed	Ch. 465	HB 146
17-8-311	amended	Ch. 432	HB 220
17-8-401	enacted	Ch. 465	HB 146
17-8-402	enacted	Ch. 465	HB 146
17-8-403	enacted	Ch. 465	HB 146
17-8-404	enacted	Ch. 465	HB 146
17-8-405	enacted	Ch. 465	HB 146
17-8-406	enacted	Ch. 465	HB 146
17-8-407	enacted	Ch. 465	HB 146
17-8-408	enacted	Ch. 465	HB 146
17-8-409	enacted	Ch. 465	HB 146
17-8-410	enacted	Ch. 465	HB 146
17-8-411	enacted	Ch. 465	HB 146
17-8-412	enacted	Ch. 465	HB 146
18-1-102	amended	Ch. 574	SB 342
18-2-101	amended	Ch. 374	SB 58
18-2-103	amended	Ch. 574	SB 342
18-2-201	amended	Ch. 186	HB 559
18-2-411	amended	Ch. 538	SB 217
18-2-501	enacted	Ch. 574	SB 342
18-2-502	enacted	Ch. 574	SB 342
18-2-503	enacted	Ch. 574	SB 342
18-4-124	amended	Ch. 574	SB 342
18-4-126	amended	Ch. 289	HB 67
18-4-132	amended	Ch. 289	HB 67
	amended	Ch. 449	SB 146
18-4-301	amended	Ch. 289	HB 67
18-4-303	amended	Ch. 289	HB 67
18-4-304	amended	Ch. 289	HB 67
18-4-308	amended	Ch. 289	HB 67
18-4-312	amended	Ch. 289	HB 67
18-4-313	amended	Ch. 289	HB 67
18-5-402	amended	Ch. 249	SB 335
18-8-210	enacted	Ch. 162	HB 212
19-2-303	amended	Ch. 329	HB 213
19-2-502	amended	Ch. 329	HB 213
19-2-602	amended	Ch. 329	HB 213
19-2-703	amended	Ch. 329	HB 213
19-2-704	amended	Ch. 329	HB 213
19-2-706	amended	Ch. 329	HB 213
19-2-707	amended	Ch. 381	SB 118
19-2-803	amended	Ch. 369	HB 587
19-2-903	amended	Ch. 329	HB 213
19-2-907	amended	Ch. 329	HB 213
19-2-908	amended	Ch. 329	HB 213
19-2-909	amended	Ch. 329	HB 213
19-3-108	amended	Ch. 329	HB 213
19-3-112	amended	Ch. 329	HB 213
19-3-201	amended	Ch. 329	HB 213
19-3-316	amended	Ch. 329	HB 213
19-3-318	amended	Ch. 329	HB 213
19-3-319	amended	Ch. 329	HB 213
19-3-401	amended	Ch. 329	HB 213
19-3-403	amended	Ch. 329	HB 213
19-3-412	amended	Ch. 329	HB 213
19-3-505	amended	Ch. 329	HB 213

19-3-908	amended	Ch. 329	HB 213
19-3-1002	amended	Ch. 329	HB 213
19-3-1005	amended	Ch. 329	HB 213
19-3-1015	amended	Ch. 329	HB 213
19-3-1204	amended	Ch. 329	HB 213
19-3-1501	amended	Ch. 329	HB 213
19-3-2104	amended	Ch. 329	HB 213
19-3-2111	amended	Ch. 329	HB 213
19-3-2112	amended	Ch. 329	HB 213
19-3-2114	amended	Ch. 329	HB 213
19-3-2116	amended	Ch. 329	HB 213
19-3-2117	amended	Ch. 329	HB 213
19-3-2121	amended	Ch. 329	HB 213
19-3-2126	amended	Ch. 329	HB 213
19-5-103	amended	Ch. 329	HB 213
19-5-402	amended	Ch. 329	HB 213
19-5-404	amended	Ch. 329	HB 213
19-5-410	amended	Ch. 329	HB 213
19-5-701	amended	Ch. 329	HB 213
19-5-902	amended	Ch. 329	HB 213
19-6-301	amended	Ch. 329	HB 213
19-6-401	amended	Ch. 428	HB 192
	amended	Ch. 464	HB 102
19-6-402	amended	Ch. 329	HB 213
19-6-404	amended	Ch. 329	HB 213
	amended	Ch. 428	HB 192
	amended	Ch. 464	HB 102
19-6-410	enacted	Ch. 464	HB 102
19-6-505	amended	Ch. 329	HB 213
19-6-709	amended	Ch. 329	HB 213
	amended	Ch. 464	HB 102
	amended (Void. Sec. 8, Ch. 500)	Ch. 500	HB 541
	amended	Ch. 596	HB 671
19-7-101	amended	Ch. 259	SB 370
19-7-301	amended	Ch. 259	SB 370
	amended	Ch. 329	HB 213
19-7-302	amended	Ch. 259	SB 370
19-7-403	amended	Ch. 329	HB 213
19-7-404	amended	Ch. 329	HB 213
19-7-410	enacted	Ch. 271	HB 105
19-7-612	amended	Ch. 36	HB 226
19-7-801	amended	Ch. 36	HB 226
	amended	Ch. 329	HB 213
19-7-810	repealed	Ch. 271	HB 105
19-7-1001	amended	Ch. 329	HB 213
19-8-101	amended	Ch. 366	SB 459
19-8-301	amended	Ch. 329	HB 213
19-8-502	amended	Ch. 329	HB 213
19-8-504	amended	Ch. 329	HB 213
19-8-801	amended	Ch. 329	HB 213
19-9-301	amended	Ch. 329	HB 213
19-9-703	amended	Ch. 329	HB 213
19-9-710	amended	Ch. 329	HB 213
19-9-804	amended	Ch. 329	HB 213
19-9-902	amended	Ch. 329	HB 213
19-9-905	amended	Ch. 329	HB 213
19-9-1202	amended	Ch. 329	HB 213
19-9-1207	amended	Ch. 329	HB 213
19-9-1208	amended	Ch. 329	HB 213
19-13-104	amended	Ch. 305	SB 491
19-13-301	amended	Ch. 329	HB 213
19-13-605	amended	Ch. 329	HB 213
19-13-704	amended	Ch. 305	SB 491

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19-13-802	amended	Ch. 329	HB 213
19-13-803	amended	Ch. 305	SB 491
19-13-805	amended	Ch. 329	HB 213
19-13-902	amended	Ch. 305	SB 491
19-17-102	amended (Void. Sec. 4, Ch. 332)	Ch. 332	HB 346
19-17-108	amended	Ch. 212	SB 254
	amended	Ch. 329	HB 213
19-17-401	amended (Void. Sec. 4, Ch. 332)	Ch. 332	HB 346
	amended	Ch. 391	SB 197
19-17-404	amended	Ch. 391	SB 197
19-17-407	amended	Ch. 329	HB 213
19-18-501	amended	Ch. 193	HB 283
19-18-503	amended	Ch. 193	HB 283
19-18-504	amended	Ch. 193	HB 283
19-19-205	amended	Ch. 329	HB 213
19-20-208	amended	Ch. 320	HB 104
19-20-212	amended	Ch. 320	HB 104
19-20-302	amended	Ch. 320	HB 104
19-20-401	amended	Ch. 320	HB 104
19-20-407	amended	Ch. 320	HB 104
19-20-415	amended	Ch. 320	HB 104
19-20-426	enacted	Ch. 320	HB 104
19-20-427	enacted	Ch. 320	HB 104
19-20-602	amended	Ch. 320	HB 104
19-20-716	amended	Ch. 320	HB 104
19-20-718	amended	Ch. 320	HB 104
19-20-731	enacted	Ch. 320	HB 104
19-20-802	amended	Ch. 320	HB 104
19-20-804	amended	Ch. 320	HB 104
19-20-806	amended	Ch. 320	HB 104
19-20-1001	amended	Ch. 320	HB 104
19-50-103	amended	Ch. 329	HB 213
19-50-104	amended	Ch. 329	HB 213
20-1-101	amended	Ch. 138	SB 170
	amended	Ch. 208	SB 152
	amended	Ch. 215	SB 359
	amended	Ch. 570	SB 224
20-1-102	enacted	Ch. 208	SB 152
20-1-220	amended	Ch. 268	HB 643
20-1-301	amended	Ch. 138	SB 170
20-1-302	amended	Ch. 138	SB 170
20-1-304	amended	Ch. 138	SB 170
20-2-115	amended	Ch. 138	SB 170
	repealed	Ch. 208	SB 152
20-2-121	amended	Ch. 138	SB 170
20-3-205	amended	Ch. 463	HB 83
	amended	Ch. 510	HB 681
20-3-302	amended	Ch. 510	HB 681
20-3-312	amended	Ch. 510	HB 681
20-3-322	amended	Ch. 438	HB 317
20-3-324	amended	Ch. 138	SB 170
20-3-325	amended	Ch. 196	HB 660
20-3-351	amended	Ch. 91	HB 397
	amended (Void. Sec. 3, Ch. 91)	Ch. 130	SB 24
20-3-363	enacted	Ch. 462	HB 63
20-5-109	amended	Ch. 138	SB 170
20-5-321	amended	Ch. 463	HB 83
20-5-322	amended	Ch. 132	SB 57
	amended	Ch. 215	SB 359
20-5-323	amended	Ch. 462	HB 63
20-5-324	amended	Ch. 463	HB 83
20-5-403	amended	Ch. 156	HB 162
20-5-420	enacted	Ch. 306	HB 396

20-6-110	enacted	Ch. 521	HB 747
20-6-203	repealed	Ch. 510	HB 681
20-6-204	repealed	Ch. 510	HB 681
20-6-205	repealed	Ch. 510	HB 681
20-6-206	amended	Ch. 503	HB 574
	repealed	Ch. 510	HB 681
20-6-207	repealed	Ch. 510	HB 681
20-6-208	repealed	Ch. 510	HB 681
20-6-209	amended	Ch. 138	SB 170
	amended	Ch. 510	HB 681
20-6-210	repealed	Ch. 510	HB 681
20-6-211	repealed	Ch. 510	HB 681
20-6-212	repealed	Ch. 130	SB 24
20-6-301	amended	Ch. 91	HB 397
20-6-307	amended	Ch. 510	HB 681
20-6-315	repealed	Ch. 510	HB 681
20-6-316	repealed	Ch. 510	HB 681
20-6-317	repealed	Ch. 510	HB 681
20-6-318	amended	Ch. 503	HB 574
	repealed	Ch. 510	HB 681
20-6-319	repealed	Ch. 510	HB 681
20-6-321	repealed	Ch. 510	HB 681
20-6-421	enacted	Ch. 510	HB 681
20-6-422	enacted and amended	Ch. 510	HB 681
20-6-423	enacted and amended	Ch. 510	HB 681
20-6-424	enacted	Ch. 510	HB 681
20-6-606	amended	Ch. 574	SB 342
20-6-607	amended	Ch. 462	HB 63
20-6-704	amended	Ch. 510	HB 681
20-7-101	amended	Ch. 208	SB 152
20-7-102	amended	Ch. 462	HB 63
20-7-118	enacted	Ch. 570	SB 224
20-7-402	amended	Ch. 255	SB 363
20-7-403	amended	Ch. 255	SB 363
20-7-411	amended	Ch. 255	SB 363
20-7-412	repealed	Ch. 255	SB 363
20-7-414	amended	Ch. 255	SB 363
20-7-420	amended	Ch. 132	SB 57
	amended	Ch. 255	SB 363
	amended	Ch. 463	HB 83
20-7-431	amended	Ch. 255	SB 363
20-7-441	repealed	Ch. 255	SB 363
20-7-442	repealed	Ch. 255	SB 363
20-7-443	amended	Ch. 255	SB 363
20-7-461	amended	Ch. 255	SB 363
20-7-470	enacted	Ch. 490	HB 438
20-7-471	enacted	Ch. 490	HB 438
20-7-472	enacted	Ch. 490	HB 438
20-7-473	enacted	Ch. 490	HB 438
20-7-474	enacted	Ch. 490	HB 438
20-7-475	enacted	Ch. 490	HB 438
20-7-602	amended	Ch. 490	HB 438
20-8-104	amended	Ch. 41	HB 20
20-8-107	amended	Ch. 151	HB 44
20-9-130	amended	Ch. 462	HB 63
20-9-131	amended	Ch. 462	HB 63
20-9-141	amended	Ch. 130	SB 24
20-9-142	amended	Ch. 462	HB 63
20-9-151	amended	Ch. 462	HB 63
20-9-152	amended	Ch. 462	HB 63
20-9-204	amended	Ch. 162	HB 212
	amended	Ch. 574	SB 342

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20-9-212	amended	Ch. 196	HB 660
	amended	Ch. 463	HB 83
20-9-303	amended	Ch. 208	SB 152
20-9-306	amended	Ch. 462	HB 63
20-9-307	repealed	Ch. 208	SB 152
20-9-308	amended	Ch. 190	HB 624
	amended	Ch. 462	HB 63
20-9-309	enacted	Ch. 208	SB 152
20-9-311	amended	Ch. 138	SB 170
	amended	Ch. 215	SB 359
	amended	Ch. 462	HB 63
	amended	Ch. 510	HB 681
20-9-314	amended	Ch. 462	HB 63
20-9-321	amended	Ch. 462	HB 63
20-9-331	amended	Ch. 542	SB 285
20-9-333	amended	Ch. 542	SB 285
20-9-335	amended	Ch. 463	HB 83
20-9-353	amended	Ch. 462	HB 63
20-9-360	amended	Ch. 542	SB 285
20-9-366	amended	Ch. 462	HB 63
20-9-375	repealed	Ch. 462	HB 63
20-9-406	amended	Ch. 462	HB 63
20-9-408	amended	Ch. 451	SB 292
20-9-410	amended	Ch. 451	SB 292
20-9-428	amended	Ch. 503	HB 574
20-9-443	amended	Ch. 462	HB 63
20-9-464	amended	Ch. 451	SB 292
20-9-501	amended	Ch. 130	SB 24
	amended	Ch. 405	SB 333
20-9-707	amended	Ch. 132	SB 57
20-9-801	amended	Ch. 138	SB 170
20-9-802	amended	Ch. 138	SB 170
20-9-805	amended	Ch. 138	SB 170
20-9-806	amended	Ch. 138	SB 170
20-10-105	amended	Ch. 132	SB 57
	amended	Ch. 463	HB 83
20-10-126	amended	Ch. 508	HB 652
20-10-144	amended	Ch. 130	SB 24
	amended	Ch. 255	SB 363
20-10-146	amended	Ch. 130	SB 24
20-15-104	amended	Ch. 162	HB 212
20-15-221	amended	Ch. 130	SB 24
20-20-303	amended	Ch. 130	SB 24
20-25-110	enacted	Ch. 521	HB 747
20-25-305	amended	Ch. 139	SB 171
20-25-308	amended	Ch. 130	SB 24
20-25-421	amended	Ch. 577	SB 445
20-25-428	amended	Ch. 147	HB 16
20-25-902	amended	Ch. 549	SB 432
20-26-601	enacted	Ch. 489	HB 435
20-26-602	enacted	Ch. 489	HB 435
20-26-603	enacted	Ch. 489	HB 435
20-26-611	enacted	Ch. 489	HB 435
20-26-612	enacted	Ch. 489	HB 435
20-26-613	enacted	Ch. 489	HB 435
22-1-103	amended	Ch. 73	HB 184
22-1-304	amended	Ch. 453	SB 301
22-1-326	amended	Ch. 203	SB 129
22-1-327	amended	Ch. 203	SB 129
22-1-330	amended	Ch. 203	SB 129
22-1-402	amended	Ch. 73	HB 184
22-1-403	repealed	Ch. 73	HB 184
22-1-404	amended	Ch. 73	HB 184

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22-1-702	amended	Ch. 203	SB 129
22-1-705	amended	Ch. 203	SB 129
22-1-707	amended	Ch. 203	SB 129
22-1-716	enacted	Ch. 203	SB 129
22-2-106	amended	Ch. 115	SB 69
22-3-107	amended	Ch. 148	HB 17
22-3-114	amended	Ch. 148	HB 17
22-3-603	amended	Ch. 10	HB 27
23-1-105	amended	Ch. 596	HB 671
23-1-109	amended	Ch. 98	HB 564
23-1-117	amended	Ch. 234	SB 76
23-1-128	amended	Ch. 542	SB 285
23-2-409	amended	Ch. 86	HB 312
23-2-502	amended	Ch. 130	SB 24
	amended	Ch. 237	SB 126
	amended	Ch. 596	HB 671
23-2-511	amended	Ch. 130	SB 24
	amended	Ch. 237	SB 126
	amended	Ch. 596	HB 671
23-2-512	amended	Ch. 237	SB 126
	amended	Ch. 542	SB 285
23-2-513	amended	Ch. 237	SB 126
	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
23-2-514	amended	Ch. 130	SB 24
23-2-515	amended	Ch. 130	SB 24
	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
23-2-516	repealed 1/1/2006	Ch. 542	SB 285
23-2-517	repealed 1/1/2006	Ch. 542	SB 285
23-2-518	repealed 1/1/2006	Ch. 542	SB 285
23-2-519	amended	Ch. 542	SB 285
23-2-521	amended	Ch. 130	SB 24
23-2-601	amended	Ch. 542	SB 285
23-2-614	amended	Ch. 130	SB 24
	amended	Ch. 542	SB 285
23-2-616	amended	Ch. 542	SB 285
	amended (Void. Sec. 132, Ch. 596)	Ch. 596	HB 671
23-2-619	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
23-2-626	repealed 1/1/2006	Ch. 542	SB 285
23-2-631	amended	Ch. 542	SB 285
23-2-634	amended	Ch. 542	SB 285
23-2-641	amended	Ch. 542	SB 285
23-2-642	amended	Ch. 542	SB 285
23-2-644	amended	Ch. 542	SB 285
23-2-803	repealed 1/1/2006	Ch. 542	SB 285
23-2-804	amended	Ch. 542	SB 285
23-2-809	amended	Ch. 542	SB 285
23-2-817	repealed 1/1/2006	Ch. 542	SB 285
23-2-818	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
23-3-405	amended	Ch. 202	SB 105
23-3-501	amended	Ch. 467	HB 182
23-4-105	amended	Ch. 314	HB 53
	amended	Ch. 467	HB 182
23-4-201	amended	Ch. 467	HB 182
23-4-202	amended	Ch. 314	HB 53
23-4-204	amended	Ch. 314	HB 53
23-4-302	amended	Ch. 314	HB 53
23-4-304	amended	Ch. 314	HB 53
23-5-112	amended	Ch. 134	SB 84
	amended	Ch. 201	SB 103

23-5-113	amended	Ch. 134	SB 84
23-5-123	amended	Ch. 134	SB 84
23-5-152	amended	Ch. 134	SB 84
23-5-153	amended	Ch. 134	SB 84
23-5-180	enacted	Ch. 134	SB 84
23-5-181	enacted	Ch. 134	SB 84
23-5-182	enacted	Ch. 134	SB 84
23-5-183	enacted	Ch. 134	SB 84
23-5-184	enacted	Ch. 134	SB 84
23-5-185	enacted	Ch. 134	SB 84
23-5-412	amended	Ch. 134	SB 84
23-5-602	amended	Ch. 134	SB 84
	amended	Ch. 319	HB 89
23-5-610	amended	Ch. 319	HB 89
23-5-611	amended	Ch. 319	HB 89
23-5-612	amended	Ch. 528	HB 802
23-5-621	amended	Ch. 134	SB 84
	amended	Ch. 319	HB 89
23-5-625	amended	Ch. 134	SB 84
23-5-631	amended	Ch. 327	HB 204
23-5-637	amended	Ch. 319	HB 89
23-5-638	repealed	Ch. 319	HB 89
25-1-201	amended (Void. Sec. 9, Ch. 493)	Ch. 114	SB 67
	amended	Ch. 408	SB 406
	amended	Ch. 493	HB 476
25-1-1101	amended	Ch. 392	SB 231
25-2-122	amended	Ch. 217	SB 375
25-3-301	amended	Ch. 392	SB 231
25-9-205	amended	Ch. 392	SB 231
25-9-506	amended	Ch. 163	HB 223
25-9-603	amended	Ch. 163	HB 223
25-9-609	amended	Ch. 163	HB 223
25-9-801	repealed	Ch. 163	HB 223
25-9-802	repealed	Ch. 163	HB 223
25-9-803	repealed	Ch. 163	HB 223
25-9-804	repealed	Ch. 163	HB 223
25-9-805	repealed	Ch. 163	HB 223
25-9-806	repealed	Ch. 163	HB 223
25-9-807	repealed	Ch. 163	HB 223
25-9-808	repealed	Ch. 163	HB 223
25-9-809	repealed	Ch. 163	HB 223
25-13-402	amended	Ch. 392	SB 231
25-33-301	amended	Ch. 557	HB 367
26-1-802	amended	Ch. 158	HB 191
26-1-814	enacted	Ch. 42	HB 24
26-2-501	amended	Ch. 449	SB 146
26-2-506	amended	Ch. 449	SB 146
26-2-508	amended	Ch. 449	SB 146
26-2-510	amended	Ch. 449	SB 146
26-2-601	enacted	Ch. 49	HB 64
27-1-306	amended	Ch. 130	SB 24
27-1-717	amended	Ch. 392	SB 231
27-1-738	enacted	Ch. 43	HB 25
27-1-739	enacted	Ch. 229	SB 21
27-1-746	enacted	Ch. 246	SB 322
27-2-209	amended	Ch. 412	SB 458
27-6-704	amended	Ch. 253	SB 352
27-12-104	amended	Ch. 199	HB 709
27-12-206	amended	Ch. 467	HB 182
27-12-402	amended	Ch. 199	HB 709
27-12-605	amended	Ch. 199	HB 709
28-1-1001	amended	Ch. 392	SB 231

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28-2-722	amended	Ch. 139	SB 171
	repealed	Ch. 166	HB 257
28-2-2104	amended	Ch. 244	SB 286
28-2-2110	amended	Ch. 244	SB 286
28-10-103	amended	Ch. 44	HB 26
30-1-101	amended	Ch. 575	SB 401
30-1-102	amended	Ch. 575	SB 401
30-1-105	repealed	Ch. 575	SB 401
30-1-107	amended	Ch. 575	SB 401
30-1-110	repealed	Ch. 575	SB 401
30-1-111	repealed	Ch. 575	SB 401
30-1-201	amended	Ch. 575	SB 401
30-1-204	amended	Ch. 575	SB 401
30-1-205	amended	Ch. 575	SB 401
30-1-206	repealed	Ch. 575	SB 401
30-1-208	amended	Ch. 575	SB 401
30-1-209	amended	Ch. 575	SB 401
30-1-210	enacted	Ch. 575	SB 401
30-1-211	enacted	Ch. 575	SB 401
30-1-212	enacted	Ch. 575	SB 401
30-1-301	enacted	Ch. 575	SB 401
30-1-302	enacted	Ch. 575	SB 401
30-2-104	amended	Ch. 575	SB 401
30-2-310	amended	Ch. 575	SB 401
30-2-323	amended	Ch. 575	SB 401
30-2-401	amended	Ch. 575	SB 401
30-2-503	amended	Ch. 575	SB 401
30-2-506	amended	Ch. 575	SB 401
30-2-509	amended	Ch. 575	SB 401
30-2-605	amended	Ch. 575	SB 401
30-2-705	amended	Ch. 575	SB 401
30-2A-103	amended	Ch. 575	SB 401
30-2A-514	amended	Ch. 575	SB 401
30-2A-518	amended	Ch. 575	SB 401
30-2A-519	amended	Ch. 575	SB 401
30-2A-526	amended	Ch. 575	SB 401
30-2A-527	amended	Ch. 575	SB 401
30-2A-528	amended	Ch. 575	SB 401
30-3-102	amended	Ch. 575	SB 401
30-4-104	amended	Ch. 575	SB 401
30-4A-105	amended	Ch. 575	SB 401
30-4A-106	amended	Ch. 575	SB 401
30-5-123	amended	Ch. 575	SB 401
30-7-102	amended	Ch. 575	SB 401
30-7-103	amended	Ch. 575	SB 401
30-7-104	amended	Ch. 575	SB 401
30-7-105	repealed	Ch. 575	SB 401
30-7-106	enacted	Ch. 575	SB 401
30-7-107	enacted	Ch. 575	SB 401
30-7-201	amended	Ch. 575	SB 401
30-7-202	amended	Ch. 575	SB 401
30-7-203	amended	Ch. 575	SB 401
30-7-204	amended	Ch. 575	SB 401
30-7-205	amended	Ch. 575	SB 401
30-7-206	amended	Ch. 575	SB 401
30-7-207	amended	Ch. 575	SB 401
30-7-208	amended	Ch. 575	SB 401
30-7-209	amended	Ch. 575	SB 401
30-7-210	amended	Ch. 575	SB 401
30-7-301	amended	Ch. 575	SB 401
30-7-302	amended	Ch. 575	SB 401
30-7-303	amended	Ch. 575	SB 401
30-7-304	amended	Ch. 575	SB 401

30-7-305	amended	Ch. 575	SB 401
30-7-307	amended	Ch. 575	SB 401
30-7-308	amended	Ch. 575	SB 401
30-7-309	amended	Ch. 575	SB 401
30-7-401	amended	Ch. 575	SB 401
30-7-402	amended	Ch. 575	SB 401
30-7-403	amended	Ch. 575	SB 401
30-7-404	amended	Ch. 575	SB 401
30-7-501	amended	Ch. 575	SB 401
30-7-502	amended	Ch. 575	SB 401
30-7-503	amended	Ch. 575	SB 401
30-7-504	amended	Ch. 575	SB 401
30-7-506	amended	Ch. 575	SB 401
30-7-507	amended	Ch. 575	SB 401
30-7-508	amended	Ch. 575	SB 401
30-7-509	amended	Ch. 575	SB 401
30-7-601	amended	Ch. 575	SB 401
30-7-602	amended	Ch. 575	SB 401
30-7-603	amended	Ch. 575	SB 401
30-7-701	repealed	Ch. 575	SB 401
30-7-702	repealed	Ch. 575	SB 401
30-7-703	repealed	Ch. 575	SB 401
30-7-704	repealed	Ch. 575	SB 401
30-7-705	repealed	Ch. 575	SB 401
30-7-706	repealed	Ch. 575	SB 401
30-8-113	amended	Ch. 575	SB 401
30-9A-102	amended	Ch. 575	SB 401
30-9A-109	amended	Ch. 416	SB 481
30-9A-203	amended	Ch. 575	SB 401
30-9A-207	amended	Ch. 575	SB 401
30-9A-208	amended	Ch. 575	SB 401
30-9A-301	amended	Ch. 575	SB 401
30-9A-302	amended	Ch. 207	SB 136
30-9A-310	amended	Ch. 575	SB 401
30-9A-312	amended	Ch. 575	SB 401
30-9A-313	amended	Ch. 575	SB 401
30-9A-314	amended	Ch. 575	SB 401
30-9A-317	amended	Ch. 575	SB 401
30-9A-338	amended	Ch. 575	SB 401
30-9A-501	amended	Ch. 207	SB 136
30-9A-601	amended	Ch. 575	SB 401
30-10-115	amended	Ch. 469	HB 188
30-10-209	amended	Ch. 469	HB 188
30-10-909	amended	Ch. 513	HB 701
30-11-701	amended	Ch. 542	SB 285
30-12-101	amended	Ch. 34	HB 195
30-12-203	amended	Ch. 34	HB 195
30-12-701	enacted	Ch. 279	HB 406
30-12-702	enacted	Ch. 279	HB 406
30-12-703	enacted	Ch. 279	HB 406
30-12-704	enacted	Ch. 279	HB 406
30-12-705	enacted	Ch. 279	HB 406
30-12-706	enacted	Ch. 279	HB 406
30-13-204	amended	Ch. 71	HB 180
30-13-208	amended	Ch. 71	HB 180
30-13-210	amended	Ch. 71	HB 180
30-13-212	amended	Ch. 71	HB 180
30-14-102	amended	Ch. 280	HB 425
	amended	Ch. 291	HB 295
30-14-108	enacted	Ch. 291	HB 295
30-14-121	amended	Ch. 280	HB 425
30-14-131	amended	Ch. 280	HB 425
30-14-143	amended	Ch. 280	HB 425

30-14-201	amended	Ch. 280	HB 425
30-14-202	amended	Ch. 280	HB 425
30-14-220	amended	Ch. 280	HB 425
30-14-222	amended	Ch. 130	SB 24
	amended	Ch. 280	HB 425
30-14-223	amended	Ch. 130	SB 24
30-14-226	amended	Ch. 280	HB 425
30-14-901	amended	Ch. 130	SB 24
30-14-1403	amended	Ch. 280	HB 425
30-14-1407	amended	Ch. 130	SB 24
	amended	Ch. 280	HB 425
30-14-1412	amended	Ch. 280	HB 425
30-14-1413	amended	Ch. 280	HB 425
30-14-1601	amended	Ch. 280	HB 425
30-14-1603	amended	Ch. 280	HB 425
30-14-1701	enacted	Ch. 518	HB 732
30-14-1702	enacted	Ch. 518	HB 732
30-14-1703	enacted	Ch. 518	HB 732
30-14-1704	enacted	Ch. 518	HB 732
30-14-1705	enacted	Ch. 518	HB 732
30-14-1721	enacted	Ch. 518	HB 732
30-14-1722	enacted	Ch. 518	HB 732
30-14-2001	enacted	Ch. 272	HB 140
30-14-2002	enacted	Ch. 272	HB 140
30-14-2003	enacted	Ch. 272	HB 140
30-14-2004	enacted	Ch. 272	HB 140
30-14-2010	enacted	Ch. 272	HB 140
30-14-2013	enacted	Ch. 272	HB 140
30-14-2015	enacted	Ch. 272	HB 140
30-16-201	amended	Ch. 427	HB 179
30-16-301	amended	Ch. 47	HB 54
30-16-302	amended	Ch. 427	HB 179
30-16-303	amended	Ch. 427	HB 179
30-17-101	enacted	Ch. 173	HB 306
30-17-102	enacted	Ch. 173	HB 306
30-18-103	amended	Ch. 575	SB 401
30-18-115	amended	Ch. 575	SB 401
31-1-104	amended	Ch. 125	SB 454
31-1-704	amended	Ch. 163	HB 223
31-1-705	amended	Ch. 119	SB 99
31-1-714	amended	Ch. 119	SB 99
31-1-715	amended	Ch. 210	SB 165
31-1-723	amended	Ch. 210	SB 165
31-1-802	amended	Ch. 163	HB 223
31-1-805	amended	Ch. 120	SB 100
31-1-816	amended	Ch. 210	SB 165
31-2-341	amended	Ch. 440	HB 345
31-3-115	amended	Ch. 518	HB 732
31-3-201	repealed	Ch. 272	HB 140
31-3-202	repealed	Ch. 272	HB 140
31-3-203	repealed	Ch. 272	HB 140
32-1-101	amended	Ch. 163	HB 223
32-1-102	amended	Ch. 163	HB 223
32-1-103	repealed	Ch. 15	HB 118
32-1-112	amended	Ch. 71	HB 180
32-1-202	amended	Ch. 163	HB 223
32-1-301	amended	Ch. 163	HB 223
32-1-371	amended	Ch. 15	HB 118
32-1-372	amended	Ch. 15	HB 118
32-1-446	amended	Ch. 163	HB 223
32-1-461	amended	Ch. 163	HB 223
32-1-462	amended	Ch. 163	HB 223
32-1-464	amended	Ch. 163	HB 223

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32-1-468	amended	Ch. 163	HB 223
32-1-473	amended	Ch. 163	HB 223
32-1-491	amended	Ch. 163	HB 223
32-1-492	amended	Ch. 163	HB 223
32-1-501	amended	Ch. 163	HB 223
32-1-1001	amended	Ch. 15	HB 118
32-5-103	amended	Ch. 125	SB 454
32-5-301	amended	Ch. 125	SB 454
32-5-306	amended	Ch. 97	HB 557
32-5-308	amended	Ch. 64	HB 154
32-6-102	amended	Ch. 77	HB 209
32-8-101	repealed	Ch. 163	HB 223
32-8-102	repealed	Ch. 163	HB 223
32-8-103	repealed	Ch. 163	HB 223
32-8-104	repealed	Ch. 163	HB 223
32-8-105	repealed	Ch. 163	HB 223
32-8-106	repealed	Ch. 163	HB 223
32-8-107	repealed	Ch. 163	HB 223
32-8-201	repealed	Ch. 163	HB 223
32-8-202	repealed	Ch. 163	HB 223
32-8-203	repealed	Ch. 163	HB 223
32-8-204	repealed	Ch. 163	HB 223
32-8-205	repealed	Ch. 163	HB 223
32-8-301	repealed	Ch. 163	HB 223
32-8-302	repealed	Ch. 163	HB 223
32-8-303	repealed	Ch. 163	HB 223
32-8-304	repealed	Ch. 163	HB 223
32-8-306	repealed	Ch. 163	HB 223
32-8-308	repealed	Ch. 163	HB 223
32-8-309	repealed	Ch. 163	HB 223
32-8-311	repealed	Ch. 163	HB 223
32-8-312	repealed	Ch. 163	HB 223
32-8-314	repealed	Ch. 163	HB 223
32-8-315	repealed	Ch. 163	HB 223
32-8-316	repealed	Ch. 163	HB 223
32-8-401	repealed	Ch. 163	HB 223
32-8-402	repealed	Ch. 163	HB 223
32-8-403	repealed	Ch. 163	HB 223
32-8-404	repealed	Ch. 163	HB 223
32-8-501	repealed	Ch. 163	HB 223
32-8-502	repealed	Ch. 163	HB 223
32-8-503	repealed	Ch. 163	HB 223
32-8-504	repealed	Ch. 163	HB 223
32-8-505	repealed	Ch. 163	HB 223
32-8-506	repealed	Ch. 163	HB 223
32-8-507	repealed	Ch. 163	HB 223
32-8-508	repealed	Ch. 163	HB 223
32-8-509	repealed	Ch. 163	HB 223
32-8-510	repealed	Ch. 163	HB 223
32-8-515	repealed	Ch. 163	HB 223
32-8-516	repealed	Ch. 163	HB 223
32-8-517	repealed	Ch. 163	HB 223
32-8-518	repealed	Ch. 163	HB 223
32-8-521	repealed	Ch. 163	HB 223
32-8-522	repealed	Ch. 163	HB 223
32-8-523	repealed	Ch. 163	HB 223
32-8-524	repealed	Ch. 163	HB 223
32-8-601	repealed	Ch. 163	HB 223
32-8-602	repealed	Ch. 163	HB 223
32-8-603	repealed	Ch. 163	HB 223
32-9-102	amended	Ch. 301	SB 274
32-9-103	amended	Ch. 136	SB 117
32-9-104	amended	Ch. 301	SB 274

32-9-109	amended	Ch. 301	SB 274
32-9-115	amended	Ch. 136	SB 117
32-9-117	amended	Ch. 368	HB 71
32-9-121	amended	Ch. 136	SB 117
32-9-122	amended	Ch. 368	HB 71
32-9-130	amended	Ch. 136	SB 117
33-1-107	repealed	Ch. 456	SB 380
33-1-318	amended	Ch. 456	SB 380
33-1-501	amended	Ch. 409	SB 434
33-1-1301	amended	Ch. 456	SB 380
33-1-1302	amended	Ch. 456	SB 380
33-2-101	amended	Ch. 562	SB 114
33-2-104	amended	Ch. 562	SB 114
33-2-302	amended	Ch. 191	HB 631
33-2-305	amended	Ch. 469	HB 188
33-2-523	amended	Ch. 469	HB 188
33-2-532	repealed	Ch. 469	HB 188
33-2-533	repealed	Ch. 469	HB 188
33-2-534	repealed	Ch. 469	HB 188
33-2-535	repealed	Ch. 469	HB 188
33-2-701	amended	Ch. 206	SB 135
	amended	Ch. 469	HB 188
33-2-705	amended	Ch. 537	SB 133
33-2-708	amended	Ch. 552	SB 486
33-2-712	amended	Ch. 396	SB 275
33-3-431	amended	Ch. 469	HB 188
33-4-101	amended	Ch. 469	HB 188
33-4-503	amended	Ch. 469	HB 188
33-10-105	amended	Ch. 29	HB 168
	amended	Ch. 195	HB 653
33-10-110	amended	Ch. 29	HB 168
33-10-203	amended	Ch. 469	HB 188
33-11-105	amended	Ch. 475	HB 331
33-12-107	amended	Ch. 469	HB 188
33-12-113	enacted	Ch. 109	SB 37
33-15-1103	amended	Ch. 263	SB 457
33-15-1105	amended	Ch. 263	SB 457
	amended	Ch. 498	HB 537
33-16-203	amended	Ch. 576	SB 443
33-16-222	amended	Ch. 469	HB 188
33-16-230	enacted	Ch. 576	SB 443
33-17-102	amended	Ch. 140	SB 188
	amended	Ch. 469	HB 188
33-17-211	amended	Ch. 469	HB 188
33-17-220	amended	Ch. 469	HB 188
33-17-301	amended	Ch. 469	HB 188
33-17-401	amended	Ch. 469	HB 188
33-17-503	amended	Ch. 469	HB 188
33-17-1201	amended	Ch. 38	HB 300
33-17-1202	amended	Ch. 38	HB 300
33-17-1203	amended	Ch. 38	HB 300
	amended	Ch. 469	HB 188
33-17-1204	amended	Ch. 38	HB 300
33-17-1205	amended	Ch. 38	HB 300
	amended	Ch. 469	HB 188
33-17-1502	amended	Ch. 469	HB 188
33-18-210	amended	Ch. 363	SB 311
33-18-224	amended	Ch. 407	SB 388
33-18-225	enacted	Ch. 251	SB 349
33-18-232	amended	Ch. 469	HB 188
33-18-401	amended	Ch. 562	SB 114
33-18-601	enacted	Ch. 363	SB 311
33-18-602	enacted	Ch. 363	SB 311

33-18-603	enacted	Ch. 363	SB 311
33-18-604	enacted	Ch. 363	SB 311
33-18-605	enacted	Ch. 363	SB 311
33-18-606	enacted	Ch. 363	SB 311
33-18-607	enacted	Ch. 363	SB 311
33-18-608	enacted	Ch. 363	SB 311
33-18-609	enacted	Ch. 363	SB 311
33-18-610	enacted	Ch. 363	SB 311
33-18-611	enacted	Ch. 363	SB 311
33-18-1006	amended	Ch. 407	SB 388
33-19-105	amended	Ch. 469	HB 188
33-19-321	enacted	Ch. 518	HB 732
33-20-105	amended	Ch. 469	HB 188
33-20-505	amended	Ch. 66	HB 157
33-20-704	amended	Ch. 469	HB 188
33-20-1101	amended	Ch. 469	HB 188
33-20-1303	amended	Ch. 552	SB 486
33-20-1313	amended	Ch. 552	SB 486
33-20-1315	amended	Ch. 552	SB 486
33-20-1401	enacted	Ch. 351	SB 122
33-20-1402	enacted	Ch. 351	SB 122
33-20-1403	enacted	Ch. 351	SB 122
33-20-1404	enacted	Ch. 351	SB 122
33-20-1405	enacted	Ch. 351	SB 122
33-20-1406	enacted	Ch. 351	SB 122
33-20-1407	enacted	Ch. 351	SB 122
33-20-1408	enacted	Ch. 351	SB 122
33-20-1409	enacted	Ch. 351	SB 122
33-20-1410	enacted	Ch. 351	SB 122
33-20-1411	enacted	Ch. 351	SB 122
33-20-1412	enacted	Ch. 351	SB 122
33-22-101	amended	Ch. 290	HB 156
	amended	Ch. 469	HB 188
33-22-111	amended	Ch. 519	HB 737
33-22-114	amended	Ch. 519	HB 737
33-22-136	amended (Void. Sec. 4, Ch. 332)	Ch. 332	HB 346
33-22-140	amended	Ch. 130	SB 24
	amended	Ch. 469	HB 188
33-22-150	enacted	Ch. 290	HB 156
33-22-151	enacted	Ch. 290	HB 156
33-22-262	amended	Ch. 174	HB 318
33-22-508	amended	Ch. 469	HB 188
33-22-1501	amended	Ch. 469	HB 188
33-22-1502	amended	Ch. 469	HB 188
33-22-1513	amended	Ch. 469	HB 188
33-22-1514	amended	Ch. 469	HB 188
33-22-1515	amended	Ch. 469	HB 188
33-22-1516	amended	Ch. 469	HB 188
33-22-1517	amended	Ch. 469	HB 188
33-22-1803	amended	Ch. 469	HB 188
33-22-1815	amended	Ch. 595	HB 667
33-22-2001	enacted	Ch. 595	HB 667
33-22-2002	enacted	Ch. 595	HB 667
33-22-2003	enacted	Ch. 595	HB 667
33-22-2004	enacted	Ch. 595	HB 667
33-22-2005	enacted	Ch. 595	HB 667
33-22-2006	enacted	Ch. 595	HB 667
33-22-2007	enacted	Ch. 595	HB 667
33-22-2008	enacted	Ch. 595	HB 667
33-22-2009	enacted	Ch. 595	HB 667
33-23-204	amended	Ch. 468	HB 186
	amended	Ch. 542	SB 285
33-23-310	enacted	Ch. 213	SB 316

33-23-401	amended	Ch. 263	SB 457
33-23-501	enacted	Ch. 475	HB 331
33-23-502	enacted	Ch. 475	HB 331
33-23-503	enacted	Ch. 475	HB 331
33-23-507	enacted	Ch. 475	HB 331
33-23-508	enacted	Ch. 475	HB 331
33-23-509	enacted	Ch. 475	HB 331
33-23-510	enacted	Ch. 475	HB 331
33-23-511	enacted	Ch. 475	HB 331
33-23-512	enacted	Ch. 475	HB 331
33-23-513	enacted	Ch. 475	HB 331
33-23-514	enacted	Ch. 475	HB 331
33-23-515	enacted	Ch. 475	HB 331
33-23-519	enacted	Ch. 475	HB 331
33-23-520	enacted	Ch. 475	HB 331
33-23-521	enacted	Ch. 475	HB 331
33-23-522	enacted	Ch. 475	HB 331
33-23-523	enacted	Ch. 475	HB 331
33-23-524	enacted	Ch. 475	HB 331
33-23-525	enacted	Ch. 475	HB 331
33-23-526	enacted	Ch. 475	HB 331
33-24-103	amended	Ch. 469	HB 188
33-28-105	amended	Ch. 205	SB 134
	amended	Ch. 469	HB 188
33-28-201	amended	Ch. 205	SB 134
33-28-202	amended	Ch. 469	HB 188
33-28-207	amended	Ch. 205	SB 134
33-30-1013	amended	Ch. 467	HB 182
33-31-301	amended	Ch. 409	SB 434
33-38-101	enacted	Ch. 456	SB 380
33-38-102	enacted	Ch. 456	SB 380
33-38-103	enacted	Ch. 456	SB 380
33-38-104	enacted	Ch. 456	SB 380
33-38-105	enacted	Ch. 456	SB 380
33-38-106	enacted	Ch. 456	SB 380
33-38-107	enacted	Ch. 456	SB 380
33-38-108	enacted	Ch. 456	SB 380
35-1-1207	repealed	Ch. 71	HB 180
35-1-1309	amended	Ch. 71	HB 180
35-2-119	amended	Ch. 71	HB 180
35-2-609	amended	Ch. 214	SB 317
35-2-617	amended	Ch. 214	SB 317
35-2-722	amended	Ch. 214	SB 317
35-2-1109	amended	Ch. 71	HB 180
35-8-205	amended	Ch. 71	HB 180
35-8-206	amended	Ch. 71	HB 180
35-8-212	amended	Ch. 71	HB 180
35-10-113	amended	Ch. 71	HB 180
35-10-622	amended	Ch. 71	HB 180
35-10-627	amended	Ch. 71	HB 180
35-12-606	amended	Ch. 71	HB 180
35-12-1302	amended	Ch. 71	HB 180
35-12-1304	amended	Ch. 71	HB 180
37-1-101	amended	Ch. 467	HB 182
37-1-104	amended	Ch. 467	HB 182
37-1-105	amended	Ch. 467	HB 182
37-1-121	amended	Ch. 467	HB 182
37-1-130	amended	Ch. 467	HB 182
37-1-131	amended	Ch. 416	SB 481
	amended	Ch. 467	HB 182
37-1-134	amended	Ch. 467	HB 182
37-1-141	amended	Ch. 467	HB 182
37-1-302	amended	Ch. 467	HB 182

## CODE SECTIONS AFFECTED

37-1-306	amended	Ch. 467	HB 182
37-1-307	amended	Ch. 467	HB 182
37-2-101	amended	Ch. 467	HB 182
37-2-107	enacted	Ch. 436	HB 254
37-2-315	enacted	Ch. 266	SB 479
37-3-103	amended	Ch. 126	HB 203
	amended	Ch. 519	HB 737
37-3-201	amended	Ch. 60	HB 138
	amended	Ch. 126	HB 203
37-3-203	amended	Ch. 467	HB 182
37-3-205	amended	Ch. 126	HB 203
37-3-211	amended	Ch. 467	HB 182
37-3-301	amended	Ch. 126	HB 203
	amended	Ch. 467	HB 182
37-3-302	repealed	Ch. 126	HB 203
37-3-303	amended	Ch. 126	HB 203
37-3-304	amended	Ch. 126	HB 203
37-3-305	amended	Ch. 467	HB 182
37-3-306	amended	Ch. 126	HB 203
	amended	Ch. 467	HB 182
37-3-307	amended	Ch. 126	HB 203
	amended	Ch. 467	HB 182
37-3-309	amended	Ch. 126	HB 203
	amended	Ch. 467	HB 182
37-3-311	amended	Ch. 467	HB 182
37-3-313	amended	Ch. 467	HB 182
37-3-315	amended	Ch. 126	HB 203
37-3-323	amended	Ch. 126	HB 203
37-3-341	amended	Ch. 467	HB 182
37-3-342	amended	Ch. 467	HB 182
37-3-343	amended	Ch. 126	HB 203
	amended	Ch. 467	HB 182
37-3-344	amended	Ch. 126	HB 203
	amended	Ch. 467	HB 182
37-3-345	amended	Ch. 126	HB 203
37-3-346	amended	Ch. 126	HB 203
	repealed	Ch. 467	HB 182
37-3-347	amended	Ch. 126	HB 203
	amended	Ch. 467	HB 182
37-3-348	amended	Ch. 126	HB 203
37-3-349	amended	Ch. 126	HB 203
37-4-103	amended	Ch. 126	HB 203
37-4-201	amended	Ch. 60	HB 138
37-4-203	repealed	Ch. 467	HB 182
37-4-301	amended	Ch. 467	HB 182
37-4-303	repealed	Ch. 467	HB 182
37-4-307	amended	Ch. 467	HB 182
37-4-327	amended	Ch. 126	HB 203
37-4-402	amended	Ch. 467	HB 182
37-4-403	repealed	Ch. 467	HB 182
37-4-406	amended	Ch. 467	HB 182
37-4-408	amended	Ch. 126	HB 203
37-6-303	repealed	Ch. 467	HB 182
37-6-304	amended	Ch. 467	HB 182
37-7-104	amended	Ch. 467	HB 182
37-7-302	amended	Ch. 467	HB 182
37-7-303	repealed	Ch. 467	HB 182
37-7-321	amended	Ch. 467	HB 182
37-7-401	amended	Ch. 126	HB 203
37-7-605	amended	Ch. 467	HB 182
37-7-606	amended	Ch. 467	HB 182
37-8-101	amended	Ch. 126	HB 203
37-8-102	amended	Ch. 467	HB 182

37-8-103	amended	Ch. 519	HB 737
37-8-202	amended	Ch. 467	HB 182
37-8-204	amended	Ch. 467	HB 182
37-8-418	amended	Ch. 126	HB 203
37-8-431	repealed	Ch. 467	HB 182
37-9-304	amended	Ch. 467	HB 182
37-9-305	amended	Ch. 467	HB 182
37-10-202	amended	Ch. 126	HB 203
37-10-301	amended	Ch. 126	HB 203
37-10-302	amended	Ch. 126	HB 203
37-10-304	amended	Ch. 467	HB 182
	amended	Ch. 126	HB 203
	amended	Ch. 130	SB 24
	amended	Ch. 467	HB 182
37-10-306	amended	Ch. 126	HB 203
37-10-307	repealed	Ch. 467	HB 182
37-10-313	amended	Ch. 126	HB 203
37-11-106	amended	Ch. 126	HB 203
37-11-201	amended	Ch. 467	HB 182
37-11-304	amended	Ch. 467	HB 182
37-11-305	repealed	Ch. 467	HB 182
37-11-308	repealed	Ch. 467	HB 182
37-11-309	repealed	Ch. 467	HB 182
37-12-201	amended	Ch. 467	HB 182
37-12-302	amended	Ch. 467	HB 182
37-12-307	repealed	Ch. 467	HB 182
37-13-302	amended	Ch. 467	HB 182
37-13-306	repealed	Ch. 467	HB 182
37-13-307	repealed	Ch. 467	HB 182
37-14-102	amended	Ch. 491	HB 457
37-14-301	amended	Ch. 126	HB 203
37-14-303	amended	Ch. 491	HB 457
	repealed	Ch. 467	HB 182
37-14-306	amended	Ch. 467	HB 182
37-14-309	repealed	Ch. 467	HB 182
37-14-310	repealed	Ch. 467	HB 182
37-14-313	amended	Ch. 491	HB 457
37-15-101	amended	Ch. 262	SB 451
37-15-102	amended	Ch. 262	SB 451
37-15-103	amended	Ch. 262	SB 451
37-15-303	amended	Ch. 262	SB 451
37-15-304	amended	Ch. 262	SB 451
37-15-306	repealed	Ch. 467	HB 182
	repealed	Ch. 467	HB 182
37-15-307	amended	Ch. 262	SB 451
37-15-308	repealed	Ch. 467	HB 182
37-15-312	repealed	Ch. 467	HB 182
37-15-313	amended	Ch. 262	SB 451
37-16-202	amended	Ch. 467	HB 182
37-16-403	repealed	Ch. 467	HB 182
37-16-404	repealed	Ch. 467	HB 182
37-16-405	amended	Ch. 467	HB 182
37-16-407	repealed	Ch. 467	HB 182
37-17-104	amended	Ch. 126	HB 203
37-17-302	amended	Ch. 467	HB 182
37-17-303	repealed	Ch. 467	HB 182
37-17-305	repealed	Ch. 467	HB 182
37-17-306	repealed	Ch. 467	HB 182
37-17-307	repealed	Ch. 467	HB 182
37-17-308	repealed	Ch. 467	HB 182
37-18-104	amended	Ch. 126	HB 203
37-18-202	amended	Ch. 467	HB 182
37-18-203	repealed	Ch. 467	HB 182

37-18-303	repealed	Ch. 467	HB 182
37-18-307	repealed	Ch. 467	HB 182
37-19-101	amended	Ch. 126	HB 203
37-19-306	repealed	Ch. 467	HB 182
37-19-401	amended	Ch. 467	HB 182
37-19-702	amended	Ch. 467	HB 182
37-19-807	amended	Ch. 467	HB 182
37-20-101	amended	Ch. 519	HB 737
37-20-103	amended	Ch. 519	HB 737
37-20-104	amended	Ch. 519	HB 737
37-20-201	repealed	Ch. 519	HB 737
37-20-202	amended	Ch. 519	HB 737
37-20-203	amended	Ch. 519	HB 737
37-20-301	amended	Ch. 467	HB 182
	amended	Ch. 519	HB 737
37-20-302	amended	Ch. 467	HB 182
	amended	Ch. 519	HB 737
37-20-303	amended	Ch. 519	HB 737
37-20-401	amended	Ch. 519	HB 737
37-20-402	amended	Ch. 519	HB 737
37-20-403	amended	Ch. 519	HB 737
37-20-404	amended	Ch. 519	HB 737
37-20-405	amended	Ch. 519	HB 737
37-20-406	amended	Ch. 519	HB 737
37-20-410	enacted	Ch. 519	HB 737
37-20-411	enacted	Ch. 519	HB 737
37-22-201	amended	Ch. 467	HB 182
37-22-301	amended	Ch. 467	HB 182
37-22-302	amended	Ch. 467	HB 182
37-22-303	repealed	Ch. 467	HB 182
37-22-304	repealed	Ch. 467	HB 182
37-23-101	amended	Ch. 467	HB 182
37-23-103	repealed	Ch. 467	HB 182
37-23-202	amended	Ch. 467	HB 182
37-23-203	amended	Ch. 467	HB 182
37-23-205	repealed	Ch. 467	HB 182
37-23-206	amended	Ch. 467	HB 182
37-24-202	amended	Ch. 467	HB 182
37-24-303	amended	Ch. 467	HB 182
37-24-304	repealed	Ch. 467	HB 182
37-24-308	repealed	Ch. 467	HB 182
37-24-310	amended	Ch. 467	HB 182
37-25-201	amended	Ch. 467	HB 182
37-25-307	repealed	Ch. 467	HB 182
37-26-201	amended	Ch. 467	HB 182
37-26-403	amended	Ch. 467	HB 182
37-27-105	amended	Ch. 467	HB 182
37-27-210	amended	Ch. 467	HB 182
37-28-104	amended	Ch. 467	HB 182
37-28-202	amended	Ch. 467	HB 182
37-28-203	repealed	Ch. 467	HB 182
37-29-304	repealed	Ch. 467	HB 182
37-29-305	repealed	Ch. 467	HB 182
37-29-306	amended	Ch. 467	HB 182
37-31-203	amended	Ch. 467	HB 182
37-31-302	amended	Ch. 194	HB 638
	amended	Ch. 467	HB 182
37-31-303	amended	Ch. 467	HB 182
37-31-304	amended	Ch. 467	HB 182
37-31-305	amended	Ch. 467	HB 182
37-31-308	amended	Ch. 467	HB 182
37-31-311	amended	Ch. 467	HB 182

37-31-312	amended	Ch. 194	HB 638
	amended	Ch. 467	HB 182
37-31-321	repealed	Ch. 467	HB 182
37-31-322	repealed	Ch. 467	HB 182
37-31-323	amended	Ch. 467	HB 182
37-34-201	amended	Ch. 467	HB 182
37-34-305	amended	Ch. 467	HB 182
37-35-103	amended	Ch. 467	HB 182
37-35-202	amended	Ch. 126	HB 203
37-35-203	repealed	Ch. 467	HB 182
37-40-302	amended	Ch. 467	HB 182
37-40-304	repealed	Ch. 467	HB 182
37-40-305	repealed	Ch. 467	HB 182
37-42-304	amended	Ch. 467	HB 182
37-42-308	amended	Ch. 467	HB 182
37-47-101	amended	Ch. 467	HB 182
37-47-201	amended	Ch. 467	HB 182
37-47-303	amended	Ch. 172	HB 281
37-47-304	amended	Ch. 467	HB 182
37-47-310	amended	Ch. 197	HB 702
37-47-311	amended	Ch. 197	HB 702
37-47-312	repealed	Ch. 467	HB 182
37-48-101	enacted	Ch. 294	HB 628
37-48-102	enacted	Ch. 294	HB 628
37-48-103	enacted	Ch. 294	HB 628
37-50-304	amended	Ch. 467	HB 182
37-50-308	repealed	Ch. 467	HB 182
37-50-317	repealed	Ch. 467	HB 182
37-50-323	enacted	Ch. 541	SB 278
37-50-324	enacted	Ch. 541	SB 278
37-51-204	amended	Ch. 467	HB 182
37-51-303	amended	Ch. 467	HB 182
37-51-305	amended	Ch. 467	HB 182
37-51-310	repealed	Ch. 467	HB 182
37-51-312	amended	Ch. 400	SB 289
37-51-313	amended	Ch. 389	SB 183
37-51-314	amended	Ch. 389	SB 183
37-51-321	amended	Ch. 389	SB 183
37-51-602	amended	Ch. 389	SB 183
37-51-603	amended	Ch. 467	HB 182
37-53-103	repealed	Ch. 467	HB 182
37-53-104	amended	Ch. 467	HB 182
37-54-210	repealed	Ch. 467	HB 182
37-54-211	repealed	Ch. 467	HB 182
37-54-311	repealed	Ch. 467	HB 182
37-60-202	amended	Ch. 126	HB 203
37-60-302	amended	Ch. 126	HB 203
37-60-303	amended	Ch. 126	HB 203
37-60-304	amended	Ch. 126	HB 203
	amended	Ch. 467	HB 182
37-60-312	repealed	Ch. 467	HB 182
37-61-211	amended	Ch. 420	SB 504
37-65-304	repealed	Ch. 467	HB 182
37-65-306	repealed	Ch. 467	HB 182
37-66-304	amended	Ch. 467	HB 182
37-66-307	repealed	Ch. 467	HB 182
37-67-303	amended	Ch. 467	HB 182
37-67-315	repealed	Ch. 467	HB 182
37-67-316	repealed	Ch. 467	HB 182
37-67-318	repealed	Ch. 467	HB 182
37-67-321	amended	Ch. 467	HB 182
37-68-201	amended	Ch. 467	HB 182
37-68-304	amended	Ch. 467	HB 182

37-68-305	amended	Ch. 467	HB 182
37-68-307	amended	Ch. 467	HB 182
37-68-310	amended	Ch. 467	HB 182
37-68-312	amended	Ch. 467	HB 182
37-69-304	amended	Ch. 467	HB 182
37-69-305	amended	Ch. 467	HB 182
37-69-306	amended	Ch. 467	HB 182
37-69-307	repealed	Ch. 467	HB 182
37-69-401	amended	Ch. 467	HB 182
37-72-101	amended	Ch. 542	SB 285
37-72-102	amended	Ch. 467	HB 182
37-72-202	amended	Ch. 467	HB 182
37-72-303	repealed	Ch. 467	HB 182
37-72-305	amended	Ch. 467	HB 182
37-72-306	repealed	Ch. 467	HB 182
37-73-101	enacted	Ch. 303	SB 412
37-73-102	enacted	Ch. 303	SB 412
37-73-201	enacted	Ch. 303	SB 412
37-73-202	enacted	Ch. 303	SB 412
37-73-203	enacted	Ch. 303	SB 412
37-73-204	enacted	Ch. 303	SB 412
37-73-208	enacted	Ch. 303	SB 412
37-73-212	enacted	Ch. 303	SB 412
37-73-216	enacted	Ch. 303	SB 412
37-73-220	enacted	Ch. 303	SB 412
37-73-221	enacted	Ch. 303	SB 412
37-73-225	enacted	Ch. 303	SB 412
37-73-226	enacted	Ch. 303	SB 412
37-73-227	enacted	Ch. 303	SB 412
37-76-109	amended	Ch. 467	HB 182
39-2-206	amended	Ch. 177	HB 409
39-2-207	amended	Ch. 177	HB 409
39-2-209	amended	Ch. 177	HB 409
39-3-213	amended	Ch. 14	HB 108
39-3-406	amended	Ch. 36	HB 226
39-6-101	amended	Ch. 538	SB 217
39-6-106	amended	Ch. 538	SB 217
39-6-108	enacted	Ch. 538	SB 217
39-8-102	amended	Ch. 260	SB 373
	amended	Ch. 448	SB 108
39-8-202	amended	Ch. 260	SB 373
39-8-204	amended	Ch. 260	SB 373
39-8-206	amended	Ch. 260	SB 373
39-8-207	amended	Ch. 260	SB 373
39-8-302	amended	Ch. 260	SB 373
39-9-201	amended	Ch. 133	SB 64
39-9-206	amended	Ch. 133	SB 64
39-11-103	amended	Ch. 26	HB 126
	amended	Ch. 169	HB 270
39-11-201	amended	Ch. 130	SB 24
	amended	Ch. 169	HB 270
39-11-202	amended	Ch. 26	HB 126
	amended	Ch. 169	HB 270
39-11-203	repealed	Ch. 169	HB 270
39-11-204	amended	Ch. 130	SB 24
	repealed	Ch. 169	HB 270
39-29-101	amended	Ch. 75	HB 198
39-30-103	amended	Ch. 75	HB 198
39-31-103	amended	Ch. 483	HB 418
39-31-501	enacted	Ch. 225	HB 483
39-31-502	enacted	Ch. 225	HB 483
39-31-503	enacted	Ch. 225	HB 483
39-31-504	enacted	Ch. 225	HB 483

39-31-505	enacted	Ch. 225	HB 483
39-51-201	amended	Ch. 448	SB 108
	amended	Ch. 466	HB 159
39-51-204	amended	Ch. 448	SB 108
	amended	Ch. 466	HB 159
39-51-301	amended	Ch. 466	HB 159
39-51-302	amended	Ch. 466	HB 159
39-51-409	amended	Ch. 466	HB 159
39-51-604	repealed	Ch. 122	SB 132
	repealed	Ch. 448	SB 108
39-51-1110	amended	Ch. 466	HB 159
39-51-1206	amended	Ch. 466	HB 159
39-51-1214	amended	Ch. 381	SB 118
39-51-1218	amended	Ch. 466	HB 159
39-51-1219	amended	Ch. 466	HB 159
39-51-1301	amended	Ch. 466	HB 159
39-51-1303	amended	Ch. 466	HB 159
39-51-2102	amended	Ch. 466	HB 159
39-51-2104	amended	Ch. 466	HB 159
39-51-2111	amended	Ch. 187	HB 567
39-51-2201	amended	Ch. 92	HB 400
39-51-2302	amended	Ch. 381	SB 118
39-51-2402	amended	Ch. 67	HB 158
	amended	Ch. 466	HB 159
39-71-105	amended	Ch. 103	SB 8
	amended	Ch. 416	SB 481
	amended	Ch. 448	SB 108
39-71-106	amended	Ch. 416	SB 481
39-71-107	amended	Ch. 103	SB 8
	amended	Ch. 140	SB 188
	amended	Ch. 416	SB 481
39-71-116	amended	Ch. 26	HB 126
39-71-116	amended	Ch. 140	SB 188
	amended	Ch. 416	SB 481
	amended	Ch. 519	HB 737
39-71-117	amended	Ch. 448	SB 108
39-71-118	amended	Ch. 26	HB 126
39-71-120	repealed	Ch. 448	SB 108
39-71-124	enacted	Ch. 416	SB 481
39-71-201	amended	Ch. 103	SB 8
	amended	Ch. 133	SB 64
	amended	Ch. 416	SB 481
39-71-204	amended	Ch. 103	SB 8
39-71-206	amended	Ch. 416	SB 481
39-71-211	amended	Ch. 416	SB 481
39-71-221	repealed	Ch. 26	HB 126
39-71-222	repealed	Ch. 26	HB 126
39-71-225	amended	Ch. 140	SB 188
39-71-226	renumbered 39-71-2370	Ch. 26	HB 126
39-71-302	repealed	Ch. 103	SB 8
39-71-303	repealed	Ch. 103	SB 8
39-71-306	amended	Ch. 69	HB 161
39-71-307	amended	Ch. 103	SB 8
	amended	Ch. 140	SB 188
39-71-308	repealed	Ch. 103	SB 8
39-71-315	amended	Ch. 69	HB 161
	amended	Ch. 416	SB 481
39-71-316	amended	Ch. 416	SB 481
39-71-317	amended	Ch. 416	SB 481
39-71-318	repealed	Ch. 103	SB 8
39-71-401	amended	Ch. 26	HB 126
	amended	Ch. 133	SB 64
	amended	Ch. 448	SB 108

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39-71-403	amended	Ch. 416	SB 481
39-71-407	amended	Ch. 103	SB 8
	amended	Ch. 416	SB 481
39-71-409	amended	Ch. 448	SB 108
39-71-415	amended	Ch. 448	SB 108
39-71-416	repealed	Ch. 26	HB 126
	amended (Void. Sec. 40, Ch. 416)	Ch. 416	SB 481
39-71-417	enacted	Ch. 448	SB 108
39-71-418	enacted	Ch. 448	SB 108
39-71-419	enacted	Ch. 448	SB 108
39-71-426	repealed	Ch. 26	HB 126
39-71-427	repealed	Ch. 26	HB 126
39-71-428	repealed	Ch. 26	HB 126
39-71-504	amended	Ch. 69	HB 161
39-71-525	amended	Ch. 416	SB 481
39-71-601	amended	Ch. 416	SB 481
39-71-603	amended	Ch. 416	SB 481
39-71-605	amended	Ch. 141	SB 189
39-71-608	amended	Ch. 103	SB 8
39-71-612	amended	Ch. 416	SB 481
39-71-703	amended	Ch. 103	SB 8
39-71-704	amended	Ch. 69	HB 161
	amended	Ch. 345	HB 772
39-71-711	amended	Ch. 141	SB 189
39-71-713	enacted	Ch. 416	SB 481
39-71-714	enacted	Ch. 416	SB 481
39-71-715	enacted	Ch. 416	SB 481
39-71-716	enacted	Ch. 416	SB 481
39-71-741	amended	Ch. 103	SB 8
39-71-743	amended	Ch. 31	HB 175
	amended	Ch. 103	SB 8
	amended	Ch. 416	SB 481
39-71-801	repealed	Ch. 26	HB 126
39-71-802	repealed	Ch. 26	HB 126
39-71-803	repealed	Ch. 26	HB 126
39-71-804	repealed	Ch. 26	HB 126
39-71-805	repealed	Ch. 26	HB 126
39-71-806	repealed	Ch. 26	HB 126
39-71-807	repealed	Ch. 26	HB 126
39-71-808	repealed	Ch. 26	HB 126
39-71-809	repealed	Ch. 26	HB 126
39-71-810	repealed	Ch. 26	HB 126
39-71-811	repealed	Ch. 26	HB 126
39-71-812	repealed	Ch. 26	HB 126
39-71-813	repealed	Ch. 26	HB 126
39-71-905	amended	Ch. 257	SB 368
39-71-906	repealed	Ch. 257	SB 368
39-71-915	amended	Ch. 69	HB 161
	amended	Ch. 416	SB 481
39-71-1006	amended	Ch. 103	SB 8
39-71-1011	amended	Ch. 130	SB 24
39-71-1014	amended	Ch. 130	SB 24
39-71-1105	amended	Ch. 416	SB 481
39-71-2105	amended	Ch. 69	HB 161
39-71-2108	amended	Ch. 69	HB 161
39-71-2203	amended	Ch. 69	HB 161
39-71-2204	amended	Ch. 69	HB 161
39-71-2205	amended	Ch. 69	HB 161
39-71-2208	enacted	Ch. 69	HB 161
39-71-2211	amended	Ch. 26	HB 126
39-71-2312	amended	Ch. 26	HB 126
39-71-2316	amended	Ch. 130	SB 24
39-71-2336	amended	Ch. 69	HB 161

39-71-2337	amended	Ch. 69	HB 161
39-71-2339	amended	Ch. 69	HB 161
39-71-2370	formerly 39-71-226	Ch. 26	HB 126
39-71-2401	amended	Ch. 416	SB 481
39-71-2406	amended	Ch. 416	SB 481
39-71-2408	amended	Ch. 416	SB 481
39-71-2410	amended	Ch. 39	HB 381
39-71-2411	amended	Ch. 39	HB 381
	amended	Ch. 416	SB 481
39-71-4001	enacted	Ch. 345	HB 772
39-71-4002	enacted	Ch. 345	HB 772
39-71-4003	enacted	Ch. 345	HB 772
39-71-4004	enacted	Ch. 345	HB 772
39-72-101	repealed	Ch. 416	SB 481
39-72-102	amended	Ch. 140	SB 188
	repealed	Ch. 416	SB 481
	amended	Ch. 448	SB 108
39-72-103	repealed	Ch. 416	SB 481
39-72-201	repealed	Ch. 416	SB 481
39-72-202	repealed	Ch. 416	SB 481
39-72-203	repealed	Ch. 416	SB 481
39-72-204	repealed	Ch. 416	SB 481
39-72-206	repealed	Ch. 416	SB 481
39-72-301	repealed	Ch. 416	SB 481
39-72-302	repealed	Ch. 416	SB 481
39-72-303	repealed	Ch. 416	SB 481
39-72-305	repealed	Ch. 416	SB 481
39-72-310	repealed	Ch. 416	SB 481
39-72-401	repealed	Ch. 416	SB 481
39-72-402	repealed	Ch. 416	SB 481
39-72-403	repealed	Ch. 416	SB 481
39-72-404	repealed	Ch. 416	SB 481
39-72-405	repealed	Ch. 416	SB 481
39-72-408	repealed	Ch. 416	SB 481
39-72-509	repealed	Ch. 416	SB 481
39-72-601	repealed	Ch. 416	SB 481
39-72-602	repealed	Ch. 416	SB 481
39-72-606	repealed	Ch. 416	SB 481
39-72-607	repealed	Ch. 416	SB 481
39-72-608	repealed	Ch. 416	SB 481
39-72-701	repealed	Ch. 416	SB 481
39-72-703	repealed	Ch. 416	SB 481
39-72-704	repealed	Ch. 416	SB 481
39-72-705	repealed	Ch. 416	SB 481
39-72-706	repealed	Ch. 416	SB 481
39-72-707	repealed	Ch. 416	SB 481
39-72-708	repealed	Ch. 416	SB 481
39-72-709	repealed	Ch. 416	SB 481
39-72-711	repealed	Ch. 416	SB 481
39-72-712	repealed	Ch. 416	SB 481
39-72-714	repealed	Ch. 416	SB 481
39-73-101	amended	Ch. 474	HB 327
39-73-103	amended	Ch. 474	HB 327
39-73-104	amended	Ch. 416	SB 481
	amended	Ch. 474	HB 327
39-73-107	amended	Ch. 416	SB 481
	amended	Ch. 474	HB 327
39-73-109	amended	Ch. 474	HB 327
40-1-202	amended (Void. Sec. 10, Ch. 493)	Ch. 114	SB 67
	amended	Ch. 493	HB 476
40-1-311	amended (Void. Sec. 11, Ch. 493)	Ch. 114	SB 67
	amended	Ch. 493	HB 476
40-4-204	amended	Ch. 564	SB 139

## CODE SECTIONS AFFECTED

40-5-201	amended	Ch. 21	HB 80
40-5-202	amended	Ch. 21	HB 80
40-5-203	amended	Ch. 21	HB 80
40-5-206	amended	Ch. 21	HB 80
	amended	Ch. 431	HB 216
40-5-208	amended	Ch. 431	HB 216
40-5-225	amended	Ch. 431	HB 216
40-5-226	amended	Ch. 21	HB 80
	amended	Ch. 431	HB 216
	amended	Ch. 564	SB 139
40-5-234	amended	Ch. 564	SB 139
40-5-236	amended	Ch. 449	SB 146
40-5-247	amended	Ch. 431	HB 216
40-5-248	amended	Ch. 564	SB 139
40-5-263	amended	Ch. 21	HB 80
40-5-271	amended	Ch. 21	HB 80
	amended	Ch. 564	SB 139
40-5-272	amended	Ch. 564	SB 139
40-5-273	amended	Ch. 564	SB 139
40-5-276	repealed	Ch. 564	SB 139
40-5-277	amended	Ch. 564	SB 139
40-5-403	amended	Ch. 21	HB 80
40-5-412	amended	Ch. 431	HB 216
40-5-431	amended	Ch. 21	HB 80
40-5-432	amended	Ch. 21	HB 80
40-5-433	amended	Ch. 21	HB 80
40-5-434	amended	Ch. 21	HB 80
40-5-601	amended	Ch. 21	HB 80
40-5-701	amended	Ch. 21	HB 80
40-5-810	amended	Ch. 431	HB 216
40-5-812	amended	Ch. 431	HB 216
40-5-813	amended	Ch. 431	HB 216
40-5-901	amended	Ch. 21	HB 80
40-5-906	amended	Ch. 21	HB 80
	amended	Ch. 130	SB 24
40-5-909	amended	Ch. 21	HB 80
40-5-923	amended	Ch. 21	HB 80
40-6-116	amended	Ch. 564	SB 139
40-6-119	amended	Ch. 449	SB 146
40-6-402	amended	Ch. 36	HB 226
40-6-405	amended	Ch. 102	SB 6
	amended (Void. Sec. 2, Ch. 102)	Ch. 130	SB 24
40-15-115	enacted	Ch. 83	HB 285
40-15-116	enacted	Ch. 83	HB 285
40-15-117	enacted	Ch. 83	HB 285
40-15-118	enacted	Ch. 83	HB 285
40-15-119	enacted	Ch. 83	HB 285
40-15-120	enacted	Ch. 83	HB 285
40-15-121	enacted	Ch. 83	HB 285
41-1-401	amended	Ch. 519	HB 737
41-3-102	amended	Ch. 349	SB 86
41-3-112	amended	Ch. 382	SB 119
41-3-115	amended	Ch. 382	SB 119
41-3-201	amended	Ch. 382	SB 119
41-3-202	amended	Ch. 382	SB 119
41-3-205	amended	Ch. 349	SB 86
	amended	Ch. 449	SB 146
41-3-301	amended	Ch. 422	SB 308
41-3-302	amended	Ch. 130	SB 24
41-3-422	amended	Ch. 118	SB 94
	amended	Ch. 449	SB 146
41-3-423	amended	Ch. 449	SB 146
41-3-425	enacted	Ch. 449	SB 146

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41-3-427	amended	Ch. 422	SB 308
41-3-428	amended	Ch. 118	SB 94
41-3-429	amended	Ch. 118	SB 94
41-3-432	amended	Ch. 349	SB 86
	amended	Ch. 449	SB 146
41-3-437	amended	Ch. 130	SB 24
	amended	Ch. 349	SB 86
41-3-438	amended	Ch. 178	HB 420
	amended	Ch. 382	SB 119
41-3-439	amended	Ch. 178	HB 420
41-3-443	amended	Ch. 382	SB 119
41-3-445	amended	Ch. 130	SB 24
	amended	Ch. 178	HB 420
	amended	Ch. 382	SB 119
41-3-607	amended	Ch. 449	SB 146
41-3-609	amended	Ch. 349	SB 86
41-3-1010	amended	Ch. 382	SB 119
	amended	Ch. 449	SB 146
41-3-1012	amended	Ch. 449	SB 146
41-5-102	amended	Ch. 512	HB 696
41-5-103	amended	Ch. 423	SB 426
41-5-111	amended	Ch. 449	SB 146
41-5-130	amended	Ch. 482	HB 414
41-5-206	amended	Ch. 277	HB 326
41-5-215	amended	Ch. 423	SB 426
41-5-216	amended	Ch. 423	SB 426
41-5-220	enacted	Ch. 423	SB 426
41-5-221	enacted	Ch. 423	SB 426
41-5-1413	amended	Ch. 449	SB 146
41-5-1524	amended	Ch. 423	SB 426
41-5-2011	enacted	Ch. 482	HB 414
41-5-2510	amended	Ch. 423	SB 426
42-2-405	amended	Ch. 449	SB 146
42-6-102	amended	Ch. 382	SB 119
44-1-504	enacted	Ch. 421	HB 35
44-1-515	amended	Ch. 329	HB 213
44-1-518	amended	Ch. 329	HB 213
44-1-1005	amended	Ch. 366	SB 459
	amended	Ch. 428	HB 192
44-1-1102	amended	Ch. 130	SB 24
44-2-117	amended	Ch. 243	SB 282
44-2-401	amended	Ch. 36	HB 226
44-4-301	amended	Ch. 366	SB 459
44-4-302	amended	Ch. 366	SB 459
44-4-310	enacted	Ch. 493	HB 476
44-4-311	enacted	Ch. 493	HB 476
44-4-312	enacted	Ch. 493	HB 476
44-4-313	enacted	Ch. 493	HB 476
44-4-1001	enacted	Ch. 572	SB 287
44-4-1002	enacted	Ch. 572	SB 287
44-4-1003	enacted	Ch. 572	SB 287
44-4-1004	enacted	Ch. 572	SB 287
44-4-1005	enacted	Ch. 572	SB 287
44-5-506	amended	Ch. 36	HB 226
44-6-101	amended	Ch. 155	HB 113
45-2-101	amended	Ch. 364	SB 381
45-5-106	enacted	Ch. 426	HB 46
45-5-205	amended	Ch. 542	SB 285
45-5-209	enacted	Ch. 411	SB 452
45-5-214	amended	Ch. 292	HB 363
45-5-623	amended	Ch. 386	SB 137
45-5-624	amended	Ch. 183	HB 520
	amended	Ch. 546	SB 407

45-5-625	amended	Ch. 364	SB 381
45-6-301	amended	Ch. 137	SB 166
	amended	Ch. 416	SB 481
	amended	Ch. 595	HB 667
45-6-313	amended	Ch. 185	HB 556
45-6-315	amended	Ch. 575	SB 401
45-6-341	enacted	Ch. 276	HB 307
45-7-210	amended	Ch. 312	HB 40
45-8-108	amended	Ch. 36	HB 226
45-8-110	enacted	Ch. 331	HB 324
45-8-213	amended	Ch. 435	HB 250
45-8-341	repealed	Ch. 45	HB 39
45-8-342	repealed	Ch. 45	HB 39
45-9-102	amended	Ch. 277	HB 326
45-9-107	amended	Ch. 137	SB 166
45-9-131	amended	Ch. 137	SB 166
45-9-202	amended	Ch. 473	HB 288
46-1-1101	enacted	Ch. 282	HB 721
46-1-1102	enacted	Ch. 282	HB 721
46-1-1103	enacted	Ch. 282	HB 721
46-1-1104	enacted	Ch. 282	HB 721
46-1-1110	enacted	Ch. 282	HB 721
46-1-1111	enacted	Ch. 282	HB 721
46-1-1112	enacted	Ch. 282	HB 721
46-1-1113	enacted	Ch. 282	HB 721
46-1-1114	enacted	Ch. 282	HB 721
46-4-114	amended	Ch. 519	HB 737
46-4-304	amended	Ch. 449	SB 146
46-5-228	amended	Ch. 153	HB 100
46-6-311	amended	Ch. 411	SB 452
46-6-420	enacted	Ch. 242	SB 264
46-8-101	amended	Ch. 449	SB 146
46-8-104	amended	Ch. 449	SB 146
46-8-111	repealed 7/1/2006	Ch. 449	SB 146
46-8-113	amended	Ch. 449	SB 146
46-8-114	amended	Ch. 449	SB 146
46-8-115	amended	Ch. 449	SB 146
46-8-201	repealed 7/1/2006	Ch. 449	SB 146
46-8-202	repealed 7/1/2006	Ch. 449	SB 146
46-8-210	repealed 7/1/2006	Ch. 449	SB 146
46-8-211	repealed 7/1/2006	Ch. 449	SB 146
46-8-212	repealed 7/1/2006	Ch. 449	SB 146
46-8-213	repealed 7/1/2006	Ch. 449	SB 146
46-9-108	amended	Ch. 411	SB 452
46-9-511	amended	Ch. 35	HB 205
46-12-201	amended	Ch. 222	HB 280
46-12-210	amended	Ch. 449	SB 146
46-12-211	amended	Ch. 222	HB 280
46-13-110	amended	Ch. 557	HB 367
46-14-202	amended	Ch. 449	SB 146
46-14-221	amended	Ch. 130	SB 24
	amended	Ch. 449	SB 146
46-14-222	amended	Ch. 130	SB 24
46-15-115	amended	Ch. 449	SB 146
46-15-116	amended	Ch. 449	SB 146
46-15-411	amended	Ch. 504	HB 577
46-16-105	amended	Ch. 222	HB 280
46-16-123	amended	Ch. 222	HB 280
46-17-203	amended	Ch. 449	SB 146
46-17-311	amended	Ch. 557	HB 367
46-17-402	amended	Ch. 232	SB 38
46-18-101	amended	Ch. 449	SB 146
46-18-102	amended	Ch. 222	HB 280

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46-18-111	amended	Ch. 517	HB 726
46-18-115	amended	Ch. 222	HB 280
46-18-201	amended	Ch. 449	SB 146
	amended	Ch. 517	HB 726
46-18-206	enacted	Ch. 360	SB 207
46-18-225	amended	Ch. 517	HB 726
46-18-235	amended	Ch. 232	SB 38
46-18-236	amended	Ch. 361	SB 208
46-18-403	amended	Ch. 13	HB 66
46-19-202	amended	Ch. 130	SB 24
46-21-201	amended	Ch. 449	SB 146
46-23-502	amended	Ch. 313	HB 49
46-23-504	amended	Ch. 313	HB 49
46-23-505	amended	Ch. 313	HB 49
46-23-506	amended	Ch. 313	HB 49
46-23-509	amended	Ch. 313	HB 49
46-23-1010	enacted	Ch. 360	SB 207
46-23-1015	amended	Ch. 517	HB 726
46-23-1031	amended	Ch. 360	SB 207
	amended	Ch. 473	HB 288
46-24-106	amended	Ch. 33	HB 190
46-24-220	enacted	Ch. 55	HB 110
47-1-101	enacted	Ch. 449	SB 146
47-1-102	enacted	Ch. 449	SB 146
47-1-103	enacted	Ch. 449	SB 146
47-1-104	enacted	Ch. 449	SB 146
47-1-105	enacted	Ch. 449	SB 146
47-1-110	enacted	Ch. 449	SB 146
47-1-111	enacted	Ch. 449	SB 146
47-1-201	enacted	Ch. 449	SB 146
47-1-202	enacted	Ch. 449	SB 146
47-1-205	enacted	Ch. 449	SB 146
47-1-210	enacted	Ch. 449	SB 146
47-1-215	enacted	Ch. 449	SB 146
47-1-216	enacted	Ch. 449	SB 146
49-4-301	amended	Ch. 507	HB 645
	amended	Ch. 596	HB 671
49-4-302	amended	Ch. 596	HB 671
49-4-303	amended	Ch. 596	HB 671
49-4-304	amended	Ch. 596	HB 671
49-4-305	amended	Ch. 596	HB 671
49-4-311	repealed	Ch. 233	SB 39
49-4-312	repealed	Ch. 233	SB 39
50-1-111	enacted	Ch. 601	HB 740
50-1-202	amended	Ch. 386	SB 137
50-1-211	enacted	Ch. 404	SB 328
50-2-111	amended	Ch. 453	SB 301
50-2-114	repealed	Ch. 453	SB 301
50-2-116	amended	Ch. 386	SB 137
50-2-130	amended	Ch. 386	SB 137
50-4-701	enacted	Ch. 214	SB 317
50-4-702	enacted	Ch. 214	SB 317
50-4-703	enacted	Ch. 214	SB 317
50-4-704	enacted	Ch. 214	SB 317
50-4-707	enacted	Ch. 214	SB 317
50-4-708	enacted	Ch. 214	SB 317
50-4-709	enacted	Ch. 214	SB 317
50-4-710	enacted	Ch. 214	SB 317
50-4-711	enacted	Ch. 214	SB 317
50-4-712	enacted	Ch. 214	SB 317
50-4-713	enacted	Ch. 214	SB 317
50-4-714	enacted	Ch. 214	SB 317
50-4-715	enacted	Ch. 214	SB 317

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50-4-716	enacted	Ch. 214	SB 317
50-4-717	enacted	Ch. 214	SB 317
50-4-718	enacted	Ch. 214	SB 317
50-4-719	enacted	Ch. 214	SB 317
50-4-720	enacted	Ch. 214	SB 317
50-5-101	amended	Ch. 365	SB 440
	amended	Ch. 519	HB 737
50-5-216	amended	Ch. 519	HB 737
50-5-233	amended	Ch. 7	SB 60
50-5-245	enacted	Ch. 365	SB 440
50-9-501	enacted	Ch. 447	HB 742
50-9-502	enacted	Ch. 447	HB 742
50-9-503	enacted	Ch. 447	HB 742
50-9-504	enacted	Ch. 447	HB 742
50-9-505	enacted	Ch. 447	HB 742
50-15-109	amended	Ch. 149	HB 32
50-15-223	amended	Ch. 149	HB 32
50-15-301	amended	Ch. 114	SB 67
50-15-304	amended	Ch. 149	HB 32
50-16-201	amended	Ch. 467	HB 182
	amended	Ch. 519	HB 737
50-19-101	amended	Ch. 519	HB 737
50-19-211	amended	Ch. 396	SB 275
50-19-212	enacted	Ch. 396	SB 275
50-20-101	amended	Ch. 130	SB 24
50-20-109	amended	Ch. 519	HB 737
50-20-212	amended	Ch. 449	SB 146
50-32-501	enacted	Ch. 572	SB 287
50-32-502	enacted	Ch. 572	SB 287
50-39-105	repealed	Ch. 467	HB 182
50-39-106	repealed	Ch. 467	HB 182
50-40-102	amended	Ch. 268	HB 643
50-40-103	amended	Ch. 268	HB 643
50-40-104	amended	Ch. 268	HB 643
50-40-105	repealed	Ch. 268	HB 643
50-40-106	repealed	Ch. 268	HB 643
50-40-107	repealed	Ch. 268	HB 643
50-40-108	amended	Ch. 268	HB 643
50-40-109	repealed	Ch. 268	HB 643
50-40-110	enacted	Ch. 268	HB 643
50-40-115	enacted	Ch. 268	HB 643
50-40-120	enacted	Ch. 268	HB 643
50-40-201	amended	Ch. 268	HB 643
50-40-202	repealed	Ch. 268	HB 643
50-40-203	repealed	Ch. 268	HB 643
50-40-207	repealed	Ch. 268	HB 643
50-44-103	enacted	Ch. 535	SB 85
50-48-101	enacted	Ch. 386	SB 137
50-48-102	enacted	Ch. 386	SB 137
50-48-103	enacted	Ch. 386	SB 137
50-48-106	enacted	Ch. 386	SB 137
50-48-107	enacted	Ch. 386	SB 137
50-48-108	enacted	Ch. 386	SB 137
50-48-109	enacted	Ch. 386	SB 137
50-48-110	enacted	Ch. 386	SB 137
50-48-201	enacted	Ch. 386	SB 137
50-48-202	enacted	Ch. 386	SB 137
50-48-203	enacted	Ch. 386	SB 137
50-48-204	enacted	Ch. 386	SB 137
50-48-205	enacted	Ch. 386	SB 137
50-48-206	enacted	Ch. 386	SB 137
50-48-209	enacted	Ch. 386	SB 137
50-50-207	amended	Ch. 34	HB 195

50-60-103	amended	Ch. 68	HB 160
50-60-105	amended	Ch. 68	HB 160
50-60-109	amended	Ch. 68	HB 160
50-60-110	amended	Ch. 68	HB 160
50-60-115	amended	Ch. 303	SB 412
50-60-203	amended	Ch. 130	SB 24
50-60-701	repealed	Ch. 303	SB 412
50-60-702	repealed	Ch. 303	SB 412
50-60-703	repealed	Ch. 303	SB 412
50-60-704	enacted	Ch. 303	SB 412
50-60-705	enacted	Ch. 303	SB 412
50-60-706	enacted	Ch. 303	SB 412
50-60-709	enacted	Ch. 303	SB 412
50-60-711	enacted	Ch. 303	SB 412
50-60-715	enacted	Ch. 303	SB 412
50-60-716	enacted	Ch. 303	SB 412
50-60-720	enacted	Ch. 303	SB 412
50-74-219	amended	Ch. 68	HB 160
50-74-309	repealed	Ch. 467	HB 182
50-74-312	amended	Ch. 467	HB 182
50-74-313	repealed	Ch. 467	HB 182
50-76-103	amended	Ch. 93	HB 401
50-76-105	repealed	Ch. 467	HB 182
50-76-109	amended	Ch. 93	HB 401
50-76-110	amended	Ch. 93	HB 401
50-76-112	amended	Ch. 93	HB 401
50-76-113	enacted	Ch. 93	HB 401
50-76-114	enacted	Ch. 93	HB 401
52-2-304	amended	Ch. 130	SB 24
	amended	Ch. 200	SB 42
52-2-736	enacted	Ch. 270	HB 68
52-3-825	amended	Ch. 429	HB 197
52-5-108	amended	Ch. 519	HB 737
53-1-203	amended	Ch. 87	HB 313
	amended	Ch. 277	HB 326
	amended	Ch. 517	HB 726
53-1-409	amended	Ch. 383	SB 121
53-1-501	amended	Ch. 517	HB 726
53-1-701	enacted	Ch. 548	SB 428
53-1-702	enacted	Ch. 548	SB 428
53-1-703	enacted	Ch. 548	SB 428
53-1-704	enacted	Ch. 548	SB 428
53-1-705	enacted	Ch. 548	SB 428
53-1-710	enacted	Ch. 548	SB 428
53-1-711	enacted	Ch. 548	SB 428
53-1-712	enacted	Ch. 548	SB 428
53-1-713	enacted	Ch. 548	SB 428
53-1-714	enacted	Ch. 548	SB 428
53-2-101	amended	Ch. 350	SB 110
53-2-215	enacted	Ch. 350	SB 110
53-2-216	enacted	Ch. 595	HB 667
53-2-217	enacted	Ch. 595	HB 667
53-2-608	amended	Ch. 94	HB 437
53-4-201	amended	Ch. 184	HB 555
53-4-209	enacted	Ch. 184	HB 555
53-4-212	amended	Ch. 184	HB 555
	amended	Ch. 230	SB 29
53-4-231	amended	Ch. 230	SB 29
53-4-260	enacted	Ch. 558	HB 529
53-4-601	amended	Ch. 350	SB 110
53-4-1006	repealed	Ch. 152	HB 88
53-4-1007	amended	Ch. 565	SB 154
53-4-1012	enacted	Ch. 565	SB 154

53-6-101	amended	Ch. 353	SB 127
	amended	Ch. 519	HB 737
	amended	Ch. 530	SB 41
53-6-109	amended	Ch. 514	HB 704
53-6-110	amended	Ch. 380	SB 93
53-6-113	amended	Ch. 502	HB 552
53-6-146	enacted	Ch. 128	HB 452
53-6-401	amended	Ch. 72	HB 183
	amended	Ch. 353	SB 127
53-6-402	amended	Ch. 72	HB 183
	amended	Ch. 353	SB 127
53-6-703	amended	Ch. 130	SB 24
53-6-803	amended	Ch. 406	SB 358
53-6-1001	amended	Ch. 287	SB 324
53-6-1002	amended	Ch. 287	SB 324
53-6-1003	amended	Ch. 287	SB 324
53-6-1004	enacted	Ch. 287	SB 324
53-6-1005	enacted	Ch. 287	SB 324
53-6-1006	enacted	Ch. 287	SB 324
53-6-1010	amended	Ch. 287	SB 324
53-6-1013	amended	Ch. 287	SB 324
53-6-1020	enacted	Ch. 287	SB 324
53-6-1201	amended	Ch. 287	SB 324
	amended	Ch. 511	HB 687
	amended	Ch. 595	HB 667
53-7-109	amended	Ch. 130	SB 24
53-9-104	amended	Ch. 449	SB 146
53-9-129	amended	Ch. 431	HB 216
53-10-201	enacted	Ch. 520	HB 738
53-10-202	enacted	Ch. 520	HB 738
53-10-203	enacted	Ch. 520	HB 738
53-10-204	enacted	Ch. 520	HB 738
53-10-211	enacted	Ch. 520	HB 738
53-10-212	enacted	Ch. 520	HB 738
53-20-102	amended	Ch. 27	HB 127
53-20-125	amended	Ch. 449	SB 146
53-20-202	amended	Ch. 78	HB 215
53-20-203	amended	Ch. 78	HB 215
53-20-205	amended	Ch. 78	HB 215
53-20-206	repealed	Ch. 78	HB 215
53-20-220	enacted	Ch. 304	SB 433
53-21-102	amended	Ch. 81	HB 255
53-21-112	amended	Ch. 449	SB 146
53-21-116	amended	Ch. 449	SB 146
53-21-122	amended	Ch. 449	SB 146
53-21-126	amended	Ch. 81	HB 255
53-21-132	amended	Ch. 480	HB 395
53-21-139	amended	Ch. 530	SB 41
53-21-1001	amended	Ch. 553	SB 499
53-21-1002	amended	Ch. 553	SB 499
53-21-1006	amended	Ch. 200	SB 42
	amended	Ch. 553	SB 499
53-21-1007	amended	Ch. 553	SB 499
53-21-1010	amended	Ch. 453	SB 301
53-21-1013	enacted	Ch. 553	SB 499
53-24-107	amended	Ch. 442	HB 349
53-24-302	amended	Ch. 449	SB 146
53-24-303	amended	Ch. 442	HB 349
53-30-110	amended	Ch. 449	SB 146
53-30-507	amended	Ch. 551	SB 477
60-1-207	amended	Ch. 74	HB 187
60-1-211	enacted	Ch. 216	HB 688
60-1-212	enacted	Ch. 388	SB 164

60-2-107	amended	Ch. 168	HB 269
	amended	Ch. 226	HB 492
60-2-127	amended	Ch. 336	HB 451
60-2-136	amended	Ch. 113	SB 56
60-2-140	enacted	Ch. 362	SB 304
60-2-220	amended	Ch. 497	HB 530
60-3-201	amended	Ch. 472	HB 266
60-4-201	amended	Ch. 226	HB 492
60-4-202	amended	Ch. 226	HB 492
60-4-203	amended	Ch. 226	HB 492
60-4-209	amended	Ch. 226	HB 492
60-4-213	enacted	Ch. 226	HB 492
60-4-214	enacted	Ch. 226	HB 492
60-4-215	enacted	Ch. 226	HB 492
60-4-216	enacted	Ch. 226	HB 492
60-4-217	enacted	Ch. 226	HB 492
60-4-218	enacted	Ch. 226	HB 492
60-11-111	amended	Ch. 496	HB 512
60-11-113	enacted	Ch. 602	HB 757
60-11-114	enacted	Ch. 602	HB 757
60-11-115	enacted	Ch. 602	HB 757
60-11-116	enacted	Ch. 602	HB 757
60-11-117	enacted	Ch. 602	HB 757
60-11-118	enacted	Ch. 602	HB 757
60-11-119	enacted	Ch. 602	HB 757
60-11-120	amended	Ch. 496	HB 512
	amended	Ch. 602	HB 757
61-1-101	amended	Ch. 233	SB 39
	amended	Ch. 241	SB 244
	amended	Ch. 428	HB 192
(10), (23), (38), (60), (64)	enacted	Ch. 458	SB 507
	amended	Ch. 468	HB 186
	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
(1), (2), (9), (50)	enacted	Ch. 596	HB 671
61-1-102	amended	Ch. 233	SB 39
	amended	Ch. 468	HB 186
	repealed 1/1/2006	Ch. 542	SB 285
61-1-103	amended	Ch. 233	SB 39
	repealed 1/1/2006	Ch. 542	SB 285
61-1-104	repealed 1/1/2006	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-1-105	amended	Ch. 468	HB 186
	repealed 1/1/2006	Ch. 542	SB 285
61-1-106	amended	Ch. 468	HB 186
	repealed 1/1/2006	Ch. 542	SB 285
61-1-107	repealed 1/1/2006	Ch. 542	SB 285
61-1-108	repealed 1/1/2006	Ch. 542	SB 285
61-1-109	repealed 1/1/2006	Ch. 542	SB 285
61-1-110	repealed 1/1/2006	Ch. 542	SB 285
61-1-111	repealed 1/1/2006	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-1-112	repealed 1/1/2006	Ch. 542	SB 285
61-1-113	repealed 1/1/2006	Ch. 542	SB 285
61-1-114	repealed 1/1/2006	Ch. 542	SB 285
61-1-115	repealed 1/1/2006	Ch. 542	SB 285
61-1-116	repealed 1/1/2006	Ch. 542	SB 285
61-1-117	repealed 1/1/2006	Ch. 542	SB 285
61-1-118	repealed 1/1/2006	Ch. 542	SB 285
61-1-119	repealed 1/1/2006	Ch. 542	SB 285
61-1-120	repealed 1/1/2006	Ch. 542	SB 285
61-1-121	repealed 1/1/2006	Ch. 542	SB 285
61-1-123	repealed 1/1/2006	Ch. 542	SB 285

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61-1-124	repealed 1/1/2006	Ch. 542	SB 285
61-1-125	repealed 1/1/2006	Ch. 542	SB 285
61-1-126	repealed 1/1/2006	Ch. 542	SB 285
61-1-127	repealed 1/1/2006	Ch. 542	SB 285
61-1-128	repealed 1/1/2006	Ch. 542	SB 285
61-1-129	amended	Ch. 241	SB 244
	repealed 1/1/2006	Ch. 542	SB 285
61-1-130	repealed 1/1/2006	Ch. 542	SB 285
61-1-131	amended	Ch. 241	SB 244
	repealed 1/1/2006	Ch. 542	SB 285
61-1-132	amended	Ch. 241	SB 244
	repealed 1/1/2006	Ch. 542	SB 285
61-1-133	repealed 1/1/2006	Ch. 542	SB 285
61-1-134	amended	Ch. 428	HB 192
	repealed 1/1/2006	Ch. 542	SB 285
61-1-135	repealed 1/1/2006	Ch. 542	SB 285
61-1-136	repealed 1/1/2006	Ch. 542	SB 285
61-1-137	amended	Ch. 428	HB 192
	repealed 1/1/2006	Ch. 542	SB 285
61-1-138	repealed 1/1/2006	Ch. 542	SB 285
61-1-139	repealed 1/1/2006	Ch. 542	SB 285
61-1-140	repealed 1/1/2006	Ch. 542	SB 285
61-1-141	repealed 1/1/2006	Ch. 542	SB 285
61-1-142	repealed 1/1/2006	Ch. 542	SB 285
61-1-201	repealed 1/1/2006	Ch. 542	SB 285
61-1-202	repealed 1/1/2006	Ch. 542	SB 285
61-1-203	repealed 1/1/2006	Ch. 542	SB 285
61-1-204	repealed 1/1/2006	Ch. 542	SB 285
61-1-205	repealed 1/1/2006	Ch. 542	SB 285
61-1-206	repealed 1/1/2006	Ch. 542	SB 285
61-1-207	repealed 1/1/2006	Ch. 542	SB 285
61-1-208	repealed 1/1/2006	Ch. 542	SB 285
61-1-209	repealed 1/1/2006	Ch. 542	SB 285
61-1-210	repealed 1/1/2006	Ch. 542	SB 285
61-1-211	repealed 1/1/2006	Ch. 542	SB 285
61-1-212	repealed 1/1/2006	Ch. 542	SB 285
61-1-301	repealed 1/1/2006	Ch. 542	SB 285
61-1-302	repealed 1/1/2006	Ch. 542	SB 285
61-1-303	repealed 1/1/2006	Ch. 542	SB 285
61-1-304	repealed 1/1/2006	Ch. 542	SB 285
61-1-305	repealed 1/1/2006	Ch. 542	SB 285
61-1-306	repealed 1/1/2006	Ch. 542	SB 285
61-1-307	repealed 1/1/2006	Ch. 542	SB 285
61-1-308	amended	Ch. 233	SB 39
	repealed 1/1/2006	Ch. 542	SB 285
61-1-309	repealed 1/1/2006	Ch. 542	SB 285
61-1-310	repealed 1/1/2006	Ch. 542	SB 285
61-1-311	repealed 1/1/2006	Ch. 542	SB 285
61-1-313	repealed 1/1/2006	Ch. 542	SB 285
61-1-314	repealed 1/1/2006	Ch. 542	SB 285
61-1-315	repealed 1/1/2006	Ch. 542	SB 285
61-1-316	repealed 1/1/2006	Ch. 542	SB 285
61-1-317	repealed 1/1/2006	Ch. 542	SB 285
61-1-318	repealed 1/1/2006	Ch. 542	SB 285
61-1-319	repealed 1/1/2006	Ch. 542	SB 285
61-1-320	repealed 1/1/2006	Ch. 542	SB 285
61-1-321	repealed 1/1/2006	Ch. 542	SB 285
61-1-401	repealed 1/1/2006	Ch. 542	SB 285
61-1-402	repealed 1/1/2006	Ch. 542	SB 285
61-1-403	repealed 1/1/2006	Ch. 542	SB 285
61-1-404	repealed 1/1/2006	Ch. 542	SB 285
61-1-405	repealed 1/1/2006	Ch. 542	SB 285
61-1-406	repealed 1/1/2006	Ch. 542	SB 285

61-1-407	repealed 1/1/2006	Ch. 542	SB 285
61-1-408	repealed 1/1/2006	Ch. 542	SB 285
61-1-409	repealed 1/1/2006	Ch. 542	SB 285
61-1-410	repealed 1/1/2006	Ch. 542	SB 285
61-1-411	repealed 1/1/2006	Ch. 542	SB 285
61-1-412	repealed 1/1/2006	Ch. 542	SB 285
61-1-413	repealed 1/1/2006	Ch. 542	SB 285
61-1-414	repealed 1/1/2006	Ch. 542	SB 285
61-1-415	repealed 1/1/2006	Ch. 542	SB 285
61-1-501	repealed 1/1/2006	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-1-502	repealed 1/1/2006	Ch. 542	SB 285
61-1-503	repealed 1/1/2006	Ch. 542	SB 285
61-1-504	repealed 1/1/2006	Ch. 542	SB 285
61-1-505	amended	Ch. 428	HB 192
	repealed 1/1/2006	Ch. 542	SB 285
61-1-506	repealed 1/1/2006	Ch. 542	SB 285
61-1-507	repealed 1/1/2006	Ch. 542	SB 285
61-1-508	repealed 1/1/2006	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-1-509	repealed 1/1/2006	Ch. 542	SB 285
61-1-510	repealed 1/1/2006	Ch. 542	SB 285
61-1-511	repealed 1/1/2006	Ch. 542	SB 285
61-1-512	repealed 1/1/2006	Ch. 542	SB 285
61-1-513	repealed 1/1/2006	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-1-514	repealed 1/1/2006	Ch. 542	SB 285
61-1-515	repealed 1/1/2006	Ch. 542	SB 285
61-1-601	repealed 1/1/2006	Ch. 542	SB 285
61-1-602	repealed 1/1/2006	Ch. 542	SB 285
61-1-603	repealed 1/1/2006	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-1-604	repealed 1/1/2006	Ch. 542	SB 285
61-2-102	amended	Ch. 576	SB 443
61-3-101	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-103	amended	Ch. 542	SB 285
61-3-106	amended	Ch. 542	SB 285
61-3-107	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-109	amended	Ch. 596	HB 671
61-3-110	amended	Ch. 542	SB 285
61-3-115	enacted	Ch. 596	HB 671
61-3-116	enacted	Ch. 596	HB 671
61-3-117	enacted	Ch. 596	HB 671
61-3-118	enacted	Ch. 596	HB 671
61-3-119	enacted	Ch. 596	HB 671
61-3-201	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-202	amended	Ch. 542	SB 285
61-3-203	amended	Ch. 596	HB 671
61-3-204	amended	Ch. 542	SB 285
61-3-205	amended	Ch. 542	SB 285
61-3-206	amended	Ch. 542	SB 285
61-3-207	repealed 1/1/2006	Ch. 596	HB 671
61-3-208	amended	Ch. 171	HB 275
	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-209	repealed 1/1/2006	Ch. 596	HB 671
61-3-210	amended	Ch. 542	SB 285
61-3-211	amended	Ch. 542	SB 285
61-3-212	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671

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61-3-213	enacted	Ch. 458	SB 507
61-3-216	amended	Ch. 542	SB 285
61-3-217	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-218	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-219	amended	Ch. 542	SB 285
61-3-220	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-221	amended	Ch. 542	SB 285
61-3-222	amended	Ch. 542	SB 285
61-3-223	amended	Ch. 542	SB 285
61-3-224	amended (Void. Sec. 138, Ch. 596)	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-301	amended	Ch. 458	SB 507
	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-302	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-303	amended (Void. Sec. 8, Ch. 500)	Ch. 500	HB 541
	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-311	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-312	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-313	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-314	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-315	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-316	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-317	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-318	amended	Ch. 344	HB 759
	amended	Ch. 542	SB 285
61-3-320	enacted	Ch. 458	SB 507
61-3-321	amended	Ch. 421	HB 35
	amended	Ch. 500	HB 541
	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-322	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-323	amended	Ch. 542	SB 285
61-3-324	amended	Ch. 22	HB 87
	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-325	amended	Ch. 22	HB 87
	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-331	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-332	amended	Ch. 500	HB 541
	amended	Ch. 507	HB 645
	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-333	amended (Void. Sec. 151, Ch. 596)	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-334	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671

61-3-335	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-337	enacted	Ch. 596	HB 671
61-3-342	amended	Ch. 542	SB 285
	repealed 1/1/2006	Ch. 596	HB 671
61-3-345	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-347	amended	Ch. 596	HB 671
61-3-401	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-402	amended	Ch. 596	HB 671
61-3-403	amended	Ch. 130	SB 24
	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-404	amended	Ch. 542	SB 285
61-3-407	amended	Ch. 596	HB 671
61-3-411	amended	Ch. 458	SB 507
	amended	Ch. 542	SB 285
61-3-412	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-413	amended	Ch. 542	SB 285
61-3-415	amended	Ch. 596	HB 671
61-3-421	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-422	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-423	amended	Ch. 542	SB 285
61-3-425	amended (Void. Sec. 153, Ch. 596)	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-426	amended	Ch. 596	HB 671
61-3-431	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-433	amended	Ch. 596	HB 671
61-3-446	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-448	amended	Ch. 542	SB 285
61-3-456	amended	Ch. 228	HB 746
	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-458	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-460	amended	Ch. 116	SB 79
	amended	Ch. 542	SB 285
61-3-463	amended	Ch. 596	HB 671
61-3-464	amended	Ch. 596	HB 671
61-3-465	amended	Ch. 542	SB 285
61-3-467	amended	Ch. 542	SB 285
61-3-468	amended	Ch. 542	SB 285
61-3-473	amended	Ch. 223	HB 301
61-3-474	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-476	amended	Ch. 223	HB 301
61-3-477	amended	Ch. 223	HB 301
61-3-479	amended (Void. Sec. 8, Ch. 500)	Ch. 500	HB 541
	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-480	amended	Ch. 223	HB 301
	amended	Ch. 542	SB 285
61-3-481	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-501	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671

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61-3-503	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-506	amended	Ch. 542	SB 285
61-3-507	amended	Ch. 542	SB 285
61-3-509	amended	Ch. 542	SB 285
61-3-520	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-521	repealed 1/1/2006	Ch. 542	SB 285
61-3-522	amended	Ch. 130	SB 24
	amended (Void. Sec. 8, Ch. 500)	Ch. 500	HB 541
	repealed 1/1/2006	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-523	repealed 1/1/2006	Ch. 542	SB 285
61-3-526	amended	Ch. 542	SB 285
	repealed 1/1/2006	Ch. 596	HB 671
61-3-527	amended	Ch. 464	HB 102
	repealed 1/1/2006	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-528	repealed 1/1/2006	Ch. 542	SB 285
61-3-529	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-530	amended	Ch. 464	HB 102
	repealed 1/1/2006	Ch. 542	SB 285
61-3-535	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-537	amended	Ch. 542	SB 285
61-3-560	amended	Ch. 532	SB 68
	repealed 1/1/2006	Ch. 542	SB 285
	amended	Ch. 584	HB 115
	amended	Ch. 596	HB 671
61-3-561	repealed 1/1/2006	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-562	amended	Ch. 464	HB 102
	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-603	amended	Ch. 542	SB 285
61-3-604	amended	Ch. 542	SB 285
61-3-607	amended	Ch. 542	SB 285
61-3-701	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-702	amended	Ch. 542	SB 285
61-3-703	amended	Ch. 542	SB 285
61-3-704	amended	Ch. 542	SB 285
61-3-707	amended (Void. Sec. 158, Ch. 596)	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-708	amended	Ch. 542	SB 285
61-3-709	amended	Ch. 542	SB 285
61-3-711	amended	Ch. 542	SB 285
61-3-712	amended	Ch. 542	SB 285
61-3-714	amended	Ch. 542	SB 285
61-3-715	amended	Ch. 542	SB 285
61-3-716	amended	Ch. 542	SB 285
61-3-717	amended	Ch. 542	SB 285
61-3-718	amended	Ch. 542	SB 285
61-3-719	amended	Ch. 542	SB 285
61-3-720	amended	Ch. 542	SB 285
61-3-721	amended	Ch. 315	HB 55
	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-3-722	amended	Ch. 130	SB 24
	amended	Ch. 542	SB 285
61-3-723	amended	Ch. 542	SB 285
61-3-724	amended	Ch. 542	SB 285

61-3-725	amended	Ch. 542	SB 285
61-3-727	amended	Ch. 542	SB 285
61-3-728	amended	Ch. 542	SB 285
61-3-729	amended	Ch. 542	SB 285
61-3-730	amended	Ch. 542	SB 285
61-3-732	amended	Ch. 542	SB 285
61-3-733	amended	Ch. 542	SB 285
61-3-736	amended	Ch. 542	SB 285
61-3-737	amended	Ch. 542	SB 285
61-4-101	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-4-102	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-4-104	amended	Ch. 542	SB 285
61-4-109	amended	Ch. 542	SB 285
61-4-110	amended	Ch. 542	SB 285
61-4-111	amended (Void. Sec. 160, Ch. 596)	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-4-112	amended (Void. Sec. 161, Ch. 596)	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-4-113	amended	Ch. 542	SB 285
61-4-120	amended	Ch. 542	SB 285
61-4-121	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-4-122	amended	Ch. 542	SB 285
61-4-123	amended	Ch. 542	SB 285
61-4-125	amended	Ch. 542	SB 285
61-4-129	amended	Ch. 258	SB 369
	amended	Ch. 542	SB 285
61-4-131	amended	Ch. 542	SB 285
61-4-141	amended	Ch. 542	SB 285
61-4-143	amended	Ch. 542	SB 285
61-4-202	amended	Ch. 542	SB 285
61-4-204	amended	Ch. 542	SB 285
61-4-208	amended	Ch. 542	SB 285
61-4-222	amended	Ch. 596	HB 671
61-4-223	amended	Ch. 130	SB 24
	amended	Ch. 596	HB 671
61-4-301	amended	Ch. 542	SB 285
61-4-302	amended	Ch. 542	SB 285
61-4-306	amended	Ch. 542	SB 285
61-4-307	amended	Ch. 542	SB 285
61-4-310	amended (Void. Sec. 162, Ch. 596)	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-4-404	amended	Ch. 542	SB 285
61-4-501	amended	Ch. 542	SB 285
61-4-503	amended	Ch. 542	SB 285
61-4-504	amended	Ch. 542	SB 285
61-4-505	amended	Ch. 542	SB 285
61-4-506	amended	Ch. 542	SB 285
61-4-507	amended	Ch. 280	HB 425
61-4-511	amended	Ch. 280	HB 425
	amended	Ch. 542	SB 285
61-4-512	amended	Ch. 280	HB 425
61-4-515	amended	Ch. 130	SB 24
	amended	Ch. 280	HB 425
61-4-516	amended	Ch. 280	HB 425
61-4-517	amended	Ch. 280	HB 425
61-4-518	amended	Ch. 280	HB 425
61-4-519	amended	Ch. 280	HB 425
	amended	Ch. 542	SB 285
61-4-520	amended	Ch. 130	SB 24
	amended	Ch. 280	HB 425

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61-4-525	amended	Ch. 280	HB 425
	amended	Ch. 542	SB 285
61-4-526	amended	Ch. 280	HB 425
61-4-532	amended	Ch. 280	HB 425
61-5-101	amended	Ch. 358	SB 174
61-5-102	amended	Ch. 79	HB 224
61-5-103	amended	Ch. 428	HB 192
	amended	Ch. 596	HB 671
61-5-104	amended	Ch. 428	HB 192
	amended	Ch. 542	SB 285
61-5-105	amended	Ch. 428	HB 192
	amended	Ch. 478	HB 385
61-5-106	amended	Ch. 297	SB 104
61-5-107	amended	Ch. 180	HB 478
	amended	Ch. 428	HB 192
	amended	Ch. 478	HB 385
61-5-110	amended	Ch. 79	HB 224
	amended	Ch. 428	HB 192
61-5-111	amended	Ch. 104	SB 9
	amended	Ch. 297	SB 104
	amended	Ch. 428	HB 192
	amended	Ch. 478	HB 385
	amended	Ch. 596	HB 671
61-5-112	amended	Ch. 428	HB 192
	amended	Ch. 542	SB 285
61-5-114	amended	Ch. 428	HB 192
	amended	Ch. 596	HB 671
61-5-115	amended	Ch. 596	HB 671
61-5-119	amended	Ch. 428	HB 192
	amended	Ch. 542	SB 285
61-5-121	amended (Void. Sec. 164, Ch. 596)	Ch. 428	HB 192
	amended	Ch. 464	HB 102
	amended (Void. Sec. 164, Ch. 596)	Ch. 542	SB 285
	amended	Ch. 596	HB 671
61-5-125	amended	Ch. 428	HB 192
	amended	Ch. 478	HB 385
61-5-131	enacted	Ch. 297	SB 104
61-5-132	enacted	Ch. 297	SB 104
61-5-133	enacted	Ch. 297	SB 104
61-5-134	enacted	Ch. 297	SB 104
61-5-135	enacted	Ch. 297	SB 104
61-5-201	amended	Ch. 428	HB 192
61-5-206	amended	Ch. 596	HB 671
61-5-208	amended (Void. Sec. 166, Ch. 596)	Ch. 542	SB 285
	amended	Ch. 547	SB 423
	amended	Ch. 596	HB 671
61-5-212	amended	Ch. 583	HB 99
61-5-213	amended	Ch. 428	HB 192
61-5-220	enacted	Ch. 428	HB 192
61-5-221	enacted and amended	Ch. 428	HB 192
61-5-301	amended	Ch. 296	SB 1
61-6-102	amended	Ch. 542	SB 285
61-6-301	amended	Ch. 542	SB 285
61-6-304	amended	Ch. 394	SB 248
61-8-102	amended	Ch. 233	SB 39
	amended	Ch. 542	SB 285
61-8-201	amended	Ch. 542	SB 285
61-8-210	amended	Ch. 542	SB 285
61-8-310	amended	Ch. 542	SB 285
61-8-336	amended	Ch. 542	SB 285
61-8-341	amended	Ch. 542	SB 285
61-8-351	amended	Ch. 417	SB 487
61-8-354	amended	Ch. 542	SB 285

61-8-371	amended	Ch. 542	SB 285
61-8-375	enacted	Ch. 468	HB 186
61-8-376	enacted and amended	Ch. 468	HB 186
61-8-379	enacted	Ch. 542	SB 285
61-8-380	amended	Ch. 542	SB 285
61-8-383	amended	Ch. 542	SB 285
61-8-384	amended	Ch. 542	SB 285
61-8-401	amended	Ch. 542	SB 285
61-8-441	amended	Ch. 547	SB 423
61-8-442	amended	Ch. 547	SB 423
	amended	Ch. 596	HB 671
61-8-460	enacted	Ch. 348	SB 80
61-8-461	enacted	Ch. 348	SB 80
61-8-501	amended	Ch. 233	SB 39
61-8-506	amended	Ch. 233	SB 39
61-8-605	amended	Ch. 542	SB 285
61-8-704	amended	Ch. 542	SB 285
61-8-713	amended	Ch. 542	SB 285
61-8-714	amended	Ch. 426	HB 46
	amended	Ch. 477	HB 374
61-8-715	amended	Ch. 417	SB 487
61-8-722	amended	Ch. 426	HB 46
	amended	Ch. 477	HB 374
61-8-725	amended	Ch. 428	HB 192
61-8-726	enacted	Ch. 232	SB 38
61-8-731	amended	Ch. 54	HB 97
	amended	Ch. 426	HB 46
	amended	Ch. 449	SB 146
61-8-733	amended	Ch. 583	HB 99
61-8-734	amended	Ch. 54	HB 97
61-8-801	amended	Ch. 542	SB 285
61-8-802	amended	Ch. 428	HB 192
61-8-803	amended	Ch. 428	HB 192
61-8-807	amended	Ch. 428	HB 192
61-8-809	repealed	Ch. 428	HB 192
61-8-810	repealed	Ch. 428	HB 192
61-8-811	repealed	Ch. 428	HB 192
61-8-812	amended	Ch. 428	HB 192
61-8-815	enacted	Ch. 428	HB 192
61-8-816	enacted	Ch. 428	HB 192
61-8-817	enacted	Ch. 428	HB 192
61-8-906	amended	Ch. 130	SB 24
61-8-913	amended	Ch. 130	SB 24
61-9-102	amended	Ch. 542	SB 285
61-9-103	amended	Ch. 542	SB 285
61-9-204	amended	Ch. 458	SB 507
61-9-226	amended	Ch. 542	SB 285
61-9-302	amended	Ch. 542	SB 285
61-9-304	amended	Ch. 542	SB 285
61-9-321	amended	Ch. 542	SB 285
61-9-402	amended	Ch. 542	SB 285
61-9-405	amended	Ch. 542	SB 285
61-9-406	amended	Ch. 542	SB 285
61-9-407	amended	Ch. 458	SB 507
61-9-412	amended	Ch. 542	SB 285
61-9-415	amended	Ch. 542	SB 285
61-9-426	amended	Ch. 542	SB 285
61-9-430	amended	Ch. 458	SB 507
61-9-512	amended	Ch. 366	SB 459
61-10-102	amended	Ch. 241	SB 244
	amended	Ch. 542	SB 285
61-10-104	amended	Ch. 542	SB 285
61-10-107	amended	Ch. 342	HB 684

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61-10-123	amended	Ch. 542	SB 285
61-10-124	amended	Ch. 509	HB 678
61-10-125	amended	Ch. 24	HB 101
61-10-141	amended	Ch. 366	SB 459
	amended	Ch. 542	SB 285
61-10-148	amended	Ch. 542	SB 285
61-10-154	enacted	Ch. 366	SB 459
	amended	Ch. 428	HB 192
61-10-206	amended	Ch. 542	SB 285
61-10-214	amended	Ch. 532	SB 68
	amended	Ch. 584	HB 115
61-10-222	amended	Ch. 596	HB 671
61-10-225	amended	Ch. 542	SB 285
61-10-227	amended	Ch. 130	SB 24
61-10-233	amended	Ch. 130	SB 24
61-11-101	amended	Ch. 428	HB 192
61-11-102	amended	Ch. 428	HB 192
	amended	Ch. 596	HB 671
61-11-105	amended	Ch. 596	HB 671
61-11-203	amended	Ch. 428	HB 192
	amended	Ch. 542	SB 285
61-11-204	amended	Ch. 596	HB 671
61-11-210	amended	Ch. 596	HB 671
61-12-101	amended	Ch. 468	HB 186
	amended	Ch. 542	SB 285
61-12-102	amended	Ch. 542	SB 285
61-12-205	amended	Ch. 366	SB 459
61-12-206	amended	Ch. 366	SB 459
61-12-208	amended	Ch. 366	SB 459
61-13-103	amended	Ch. 542	SB 285
67-1-101	amended	Ch. 300	SB 255
67-4-101	repealed	Ch. 300	SB 255
67-4-102	repealed	Ch. 300	SB 255
67-4-201	repealed	Ch. 300	SB 255
67-4-202	repealed	Ch. 300	SB 255
67-4-203	repealed	Ch. 300	SB 255
67-4-204	repealed	Ch. 300	SB 255
67-4-211	repealed	Ch. 300	SB 255
67-4-301	repealed	Ch. 300	SB 255
67-4-302	repealed	Ch. 300	SB 255
67-4-303	repealed	Ch. 300	SB 255
67-4-304	repealed	Ch. 300	SB 255
67-4-311	repealed	Ch. 300	SB 255
67-4-312	repealed	Ch. 300	SB 255
67-4-313	repealed	Ch. 300	SB 255
67-4-314	repealed	Ch. 300	SB 255
67-4-401	repealed	Ch. 300	SB 255
67-4-402	repealed	Ch. 300	SB 255
67-5-101	repealed	Ch. 300	SB 255
67-5-102	repealed	Ch. 300	SB 255
67-5-201	repealed	Ch. 300	SB 255
67-5-202	repealed	Ch. 300	SB 255
67-5-203	repealed	Ch. 300	SB 255
67-5-204	repealed	Ch. 300	SB 255
67-5-211	repealed	Ch. 300	SB 255
67-5-212	repealed	Ch. 300	SB 255
67-6-101	repealed	Ch. 300	SB 255
67-6-102	repealed	Ch. 300	SB 255
67-6-103	repealed	Ch. 300	SB 255
67-6-201	repealed	Ch. 300	SB 255
67-6-202	repealed	Ch. 300	SB 255
67-6-203	repealed	Ch. 300	SB 255
67-6-204	repealed	Ch. 300	SB 255

67-6-205	repealed	Ch. 300	SB 255
67-6-206	repealed	Ch. 300	SB 255
67-6-207	repealed	Ch. 300	SB 255
67-6-211	repealed	Ch. 300	SB 255
67-6-301	repealed	Ch. 300	SB 255
67-7-101	enacted	Ch. 300	SB 255
67-7-102	enacted	Ch. 300	SB 255
67-7-103	enacted	Ch. 300	SB 255
67-7-201	enacted	Ch. 300	SB 255
67-7-202	enacted	Ch. 300	SB 255
67-7-203	enacted	Ch. 300	SB 255
67-7-204	enacted	Ch. 300	SB 255
67-7-208	enacted	Ch. 300	SB 255
67-7-209	enacted	Ch. 300	SB 255
67-7-210	enacted	Ch. 300	SB 255
67-7-211	enacted	Ch. 300	SB 255
67-7-212	enacted	Ch. 300	SB 255
67-7-301	enacted	Ch. 300	SB 255
67-7-302	enacted	Ch. 300	SB 255
67-7-303	enacted	Ch. 300	SB 255
67-7-304	enacted	Ch. 300	SB 255
67-7-305	enacted	Ch. 300	SB 255
67-10-102	amended	Ch. 300	SB 255
67-10-202	amended	Ch. 300	SB 255
67-10-231	amended	Ch. 300	SB 255
67-10-402	amended	Ch. 300	SB 255
	amended	Ch. 453	SB 301
67-10-902	amended	Ch. 300	SB 255
67-11-103	amended	Ch. 300	SB 255
67-11-201	amended	Ch. 300	SB 255
	amended	Ch. 574	SB 342
67-11-241	amended	Ch. 300	SB 255
69-1-114	amended	Ch. 224	HB 316
69-1-402	amended	Ch. 224	HB 316
69-3-105	amended	Ch. 144	SB 356
69-3-207	amended	Ch. 124	SB 169
69-3-1409	repealed	Ch. 107	SB 26
69-3-1501	enacted	Ch. 220	HB 153
69-3-1502	enacted	Ch. 220	HB 153
69-3-1503	enacted	Ch. 220	HB 153
69-4-501	amended	Ch. 544	SB 326
69-4-505	amended	Ch. 544	SB 326
69-4-512	enacted	Ch. 544	SB 326
69-4-513	enacted	Ch. 544	SB 326
69-4-514	enacted	Ch. 544	SB 326
69-8-402	amended	Ch. 256	SB 365
69-8-1001	enacted	Ch. 457	SB 415
69-8-1002	enacted	Ch. 457	SB 415
69-8-1003	enacted	Ch. 457	SB 415
69-8-1004	enacted	Ch. 457	SB 415
69-8-1005	enacted	Ch. 457	SB 415
69-8-1006	enacted	Ch. 457	SB 415
69-8-1007	enacted	Ch. 457	SB 415
69-8-1008	enacted	Ch. 457	SB 415
69-12-102	amended	Ch. 82	HB 273
70-1-106	amended	Ch. 450	SB 261
70-9-701	repealed	Ch. 163	HB 223
70-16-107	amended	Ch. 239	SB 214
70-16-108	repealed	Ch. 239	SB 214
70-24-432	amended	Ch. 90	HB 354
70-30-102	amended	Ch. 300	SB 255
71-1-303	amended	Ch. 413	SB 466
71-1-307	amended	Ch. 413	SB 466

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71-1-308	enacted	Ch. 413	SB 466
71-1-309	enacted	Ch. 413	SB 466
71-1-310	enacted	Ch. 413	SB 466
71-3-125	amended	Ch. 575	SB 401
71-3-534	amended	Ch. 130	SB 24
71-3-1118	amended	Ch. 416	SB 481
71-3-1506	enacted	Ch. 545	SB 345
72-1-103	amended	Ch. 130	SB 24
72-3-203	amended	Ch. 410	SB 435
72-3-212	amended	Ch. 410	SB 435
72-3-220	enacted	Ch. 410	SB 435
72-3-301	amended	Ch. 410	SB 435
72-3-320	enacted	Ch. 410	SB 435
72-3-1101	amended	Ch. 513	HB 701
72-4-303	amended	Ch. 513	HB 701
72-5-225	amended	Ch. 449	SB 146
72-5-234	amended	Ch. 449	SB 146
72-5-315	amended	Ch. 449	SB 146
72-5-322	amended	Ch. 449	SB 146
72-5-408	amended	Ch. 449	SB 146
72-6-301	amended	Ch. 76	HB 207
72-16-906	amended	Ch. 513	HB 701
72-31-201	amended	Ch. 159	HB 196
72-34-442	amended	Ch. 513	HB 701
75-1-202	amended	Ch. 337	HB 470
75-1-205	amended	Ch. 337	HB 470
75-1-207	amended	Ch. 337	HB 470
75-1-208	amended	Ch. 337	HB 470
75-1-1001	enacted	Ch. 487	HB 429
75-1-1002	enacted	Ch. 487	HB 429
75-2-103	amended	Ch. 236	SB 95
75-2-104	amended	Ch. 337	HB 470
75-2-211	amended	Ch. 188	HB 581
	amended	Ch. 236	SB 95
	amended	Ch. 337	HB 470
75-2-218	amended	Ch. 236	SB 95
75-2-225	amended	Ch. 129	HB 463
75-2-226	amended	Ch. 129	HB 463
75-2-401	amended	Ch. 487	HB 429
75-2-413	amended	Ch. 487	HB 429
75-2-514	amended	Ch. 487	HB 429
75-2-515	amended	Ch. 487	HB 429
75-5-611	amended	Ch. 487	HB 429
75-5-631	amended	Ch. 487	HB 429
75-5-801	enacted	Ch. 403	SB 320
75-5-802	enacted	Ch. 403	SB 320
75-5-803	enacted	Ch. 403	SB 320
75-5-1122	amended	Ch. 323	HB 142
75-6-109	amended	Ch. 487	HB 429
75-6-114	amended	Ch. 487	HB 429
75-6-226	amended	Ch. 323	HB 142
75-6-227	amended	Ch. 323	HB 142
75-10-227	amended	Ch. 443	HB 453
75-10-228	amended	Ch. 443	HB 453
	amended (Void. Sec. 9, Ch. 443)	Ch. 487	HB 429
75-10-417	amended	Ch. 487	HB 429
75-10-424	amended	Ch. 487	HB 429
75-10-532	amended	Ch. 542	SB 285
75-10-540	amended	Ch. 443	HB 453
75-10-542	amended	Ch. 443	HB 453
	amended (Void. Sec. 10, Ch. 443)	Ch. 487	HB 429
75-10-621	amended	Ch. 425	SB 489

75-10-704	amended	Ch. 355	SB 143
	amended	Ch. 425	SB 489
75-10-743	amended	Ch. 278	HB 379
	amended	Ch. 355	SB 143
	amended	Ch. 425	SB 489
75-10-802	amended	Ch. 62	HB 144
75-10-803	amended	Ch. 62	HB 144
75-10-804	amended	Ch. 62	HB 144
75-10-805	amended	Ch. 62	HB 144
75-10-807	amended	Ch. 62	HB 144
75-10-922	amended	Ch. 337	HB 470
75-10-1203	amended	Ch. 18	HB 77
75-10-1212	amended	Ch. 18	HB 77
75-10-1222	amended	Ch. 487	HB 429
75-10-1223	amended	Ch. 487	HB 429
75-10-1301	enacted	Ch. 461	HB 60
75-10-1302	enacted	Ch. 461	HB 60
75-10-1303	enacted	Ch. 461	HB 60
75-10-1304	enacted	Ch. 461	HB 60
75-10-1305	enacted	Ch. 461	HB 60
75-10-1306	enacted	Ch. 461	HB 60
75-11-218	amended	Ch. 443	HB 453
75-11-223	amended	Ch. 443	HB 453
	amended	Ch. 487	HB 429
75-11-308	amended	Ch. 356	SB 145
75-11-309	amended	Ch. 356	SB 145
75-11-312	amended	Ch. 356	SB 145
75-11-318	amended	Ch. 356	SB 145
75-11-509	amended	Ch. 20	HB 78
75-11-516	amended	Ch. 487	HB 429
75-11-525	amended	Ch. 487	HB 429
75-20-104	amended	Ch. 142	SB 235
75-20-201	amended	Ch. 337	HB 470
75-20-216	amended	Ch. 337	HB 470
75-20-401	amended	Ch. 337	HB 470
75-20-406	amended	Ch. 337	HB 470
75-20-408	amended	Ch. 487	HB 429
75-25-101	amended	Ch. 110	SB 50
75-25-102	amended	Ch. 110	SB 50
76-2-202	amended	Ch. 542	SB 285
	amended	Ch. 596	HB 671
76-2-209	amended	Ch. 340	HB 591
76-2-302	amended	Ch. 542	SB 285
	amended (Void. Sec. 167, Ch. 596)	Ch. 596	HB 671
76-3-103	amended	Ch. 298	SB 116
76-3-207	amended	Ch. 252	SB 350
76-3-501	amended	Ch. 298	SB 116
76-3-504	amended	Ch. 298	SB 116
	amended	Ch. 302	SB 290
76-3-505	repealed	Ch. 298	SB 116
76-3-511	amended	Ch. 302	SB 290
76-3-601	amended	Ch. 298	SB 116
	amended	Ch. 302	SB 290
76-3-602	amended	Ch. 298	SB 116
76-3-603	amended	Ch. 298	SB 116
76-3-604	amended	Ch. 298	SB 116
	amended	Ch. 302	SB 290
76-3-605	amended	Ch. 298	SB 116
76-3-608	amended	Ch. 298	SB 116
	amended	Ch. 302	SB 290
76-3-609	amended	Ch. 298	SB 116
76-3-610	amended	Ch. 298	SB 116
76-3-615	enacted	Ch. 298	SB 116

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76-3-620	amended	Ch. 298	SB 116
76-3-621	amended	Ch. 333	HB 436
76-3-622	enacted	Ch. 302	SB 290
76-3-625	amended	Ch. 298	SB 116
76-4-104	amended	Ch. 302	SB 290
76-4-108	amended	Ch. 443	HB 453
76-4-109	amended	Ch. 443	HB 453
	amended	Ch. 487	HB 429
76-4-125	amended	Ch. 302	SB 290
	amended	Ch. 337	HB 470
76-4-127	amended	Ch. 298	SB 116
	amended	Ch. 433	HB 230
76-4-1001	enacted	Ch. 487	HB 429
76-4-1002	enacted	Ch. 487	HB 429
76-6-107	amended	Ch. 88	HB 347
76-13-601	amended	Ch. 366	SB 459
77-1-130	amended	Ch. 57	HB 114
77-1-202	amended	Ch. 335	HB 450
77-1-904	amended	Ch. 335	HB 450
77-2-310	amended	Ch. 335	HB 450
77-5-212	amended	Ch. 101	HB 612
77-6-203	amended	Ch. 89	HB 350
77-6-302	amended	Ch. 476	HB 351
77-6-306	amended	Ch. 476	HB 351
80-4-421	amended	Ch. 131	SB 51
80-4-606	amended	Ch. 131	SB 51
80-7-508	amended	Ch. 472	HB 266
80-7-801	amended	Ch. 472	HB 266
80-7-811	amended	Ch. 472	HB 266
80-7-814	amended	Ch. 472	HB 266
80-7-815	amended	Ch. 472	HB 266
80-8-207	amended	Ch. 467	HB 182
80-9-101	amended	Ch. 37	HB 274
80-9-201	amended	Ch. 37	HB 274
80-9-202	amended	Ch. 37	HB 274
80-9-206	amended	Ch. 37	HB 274
80-9-301	amended	Ch. 37	HB 274
80-10-503	amended	Ch. 334	HB 440
80-10-510	enacted	Ch. 334	HB 440
80-15-212	amended	Ch. 561	SB 107
80-15-213	amended	Ch. 561	SB 107
81-7-303	amended	Ch. 12	HB 37
	amended	Ch. 176	HB 371
81-7-603	amended	Ch. 12	HB 37
	amended	Ch. 176	HB 371
81-8-504	amended	Ch. 453	SB 301
81-9-201	amended	Ch. 494	HB 484
81-9-217	amended	Ch. 494	HB 484
81-9-220	amended	Ch. 494	HB 484
81-9-227	amended	Ch. 494	HB 484
81-9-228	amended	Ch. 494	HB 484
82-4-122	amended	Ch. 337	HB 470
82-4-141	amended	Ch. 487	HB 429
82-4-206	amended	Ch. 127	HB 370
82-4-223	amended	Ch. 127	HB 370
82-4-225	amended	Ch. 127	HB 370
82-4-226	amended	Ch. 127	HB 370
82-4-227	amended	Ch. 127	HB 370
82-4-231	amended	Ch. 127	HB 370
	amended	Ch. 337	HB 470
82-4-232	amended	Ch. 127	HB 370
82-4-233	amended	Ch. 127	HB 370
82-4-235	amended	Ch. 127	HB 370

82-4-251	amended	Ch. 127	HB 370
82-4-254	amended	Ch. 486	HB 428
	amended	Ch. 487	HB 429
82-4-303	amended	Ch. 63	HB 147
82-4-305	amended	Ch. 63	HB 147
	amended	Ch. 505	HB 606
82-4-335	amended	Ch. 63	HB 147
82-4-337	amended	Ch. 63	HB 147
	amended	Ch. 337	HB 470
82-4-338	amended	Ch. 32	HB 185
82-4-339	amended	Ch. 63	HB 147
82-4-349	amended	Ch. 337	HB 470
82-4-361	amended	Ch. 486	HB 428
	amended	Ch. 487	HB 429
82-4-367	enacted	Ch. 278	HB 379
82-4-427	amended	Ch. 337	HB 470
82-4-433	amended	Ch. 32	HB 185
82-4-436	amended	Ch. 337	HB 470
82-4-441	amended	Ch. 486	HB 428
	amended (Void. Sec. 4, Ch. 486)	Ch. 487	HB 429
82-4-1001	enacted	Ch. 487	HB 429
82-4-1002	enacted	Ch. 487	HB 429
82-10-104	amended	Ch. 19	HB 43
82-15-101	amended	Ch. 452	SB 293
82-15-102	amended	Ch. 385	SB 131
	amended	Ch. 452	SB 293
82-15-103	amended	Ch. 130	SB 24
	amended	Ch. 452	SB 293
82-15-104	amended	Ch. 385	SB 131
	amended	Ch. 452	SB 293
82-15-106	amended	Ch. 385	SB 131
	amended	Ch. 452	SB 293
82-15-110	amended	Ch. 385	SB 131
	amended	Ch. 452	SB 293
82-15-111	amended	Ch. 385	SB 131
	amended	Ch. 452	SB 293
82-15-120	enacted	Ch. 385	SB 131
82-15-121	enacted	Ch. 452	SB 293
82-15-122	enacted	Ch. 452	SB 293
82-15-123	enacted	Ch. 452	SB 293
85-1-602	amended	Ch. 117	SB 83
85-1-604	amended	Ch. 307	HB 6
85-1-613	amended	Ch. 418	SB 498
85-2-102	amended	Ch. 70	HB 178
	amended	Ch. 85	HB 308
85-2-113	amended	Ch. 161	HB 206
85-2-117	amended	Ch. 70	HB 178
85-2-124	amended	Ch. 337	HB 470
85-2-125	amended	Ch. 100	HB 609
85-2-227	amended	Ch. 17	SB 20
85-2-231	amended	Ch. 288	HB 22
85-2-232	amended	Ch. 526	HB 782
85-2-233	amended	Ch. 526	HB 782
85-2-234	amended	Ch. 526	HB 782
85-2-235	amended	Ch. 526	HB 782
85-2-237	amended	Ch. 288	HB 22
85-2-247	enacted	Ch. 526	HB 782
85-2-248	enacted	Ch. 526	HB 782
85-2-249	enacted	Ch. 526	HB 782
85-2-250	enacted	Ch. 526	HB 782
85-2-270	enacted	Ch. 288	HB 22
85-2-271	enacted	Ch. 288	HB 22
85-2-272	enacted	Ch. 288	HB 22

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85-2-273	enacted	Ch. 288	HB 22
85-2-276	enacted	Ch. 288	HB 22
85-2-279	enacted	Ch. 288	HB 22
85-2-280	enacted	Ch. 288	HB 22
85-2-281	enacted	Ch. 288	HB 22
85-2-282	enacted	Ch. 288	HB 22
85-2-283	enacted	Ch. 288	HB 22
85-2-306	amended	Ch. 161	HB 206
85-2-307	amended	Ch. 70	HB 178
85-2-308	amended	Ch. 70	HB 178
85-2-310	amended	Ch. 70	HB 178
	amended	Ch. 337	HB 470
85-2-314	amended	Ch. 70	HB 178
85-2-316	amended	Ch. 70	HB 178
85-2-322	amended	Ch. 161	HB 206
85-2-338	amended	Ch. 85	HB 308
85-2-350	amended	Ch. 434	HB 236
85-2-355	enacted	Ch. 161	HB 206
85-2-402	amended	Ch. 85	HB 308
85-2-404	amended	Ch. 85	HB 308
85-2-407	amended	Ch. 85	HB 308
85-2-408	amended	Ch. 85	HB 308
85-2-409	repealed	Ch. 85	HB 308
85-2-419	amended	Ch. 85	HB 308
85-2-421	amended	Ch. 70	HB 178
85-2-423	amended	Ch. 70	HB 178
85-2-424	amended	Ch. 70	HB 178
85-2-426	amended	Ch. 70	HB 178
85-2-431	amended	Ch. 70	HB 178
85-2-436	amended	Ch. 85	HB 308
85-2-439	repealed	Ch. 85	HB 308
85-2-440	repealed	Ch. 85	HB 308
85-2-507	amended	Ch. 161	HB 206
85-2-508	amended	Ch. 161	HB 206
85-5-101	amended	Ch. 416	SB 481
85-7-304	amended	Ch. 130	SB 24
85-7-1501	amended	Ch. 402	SB 314
85-7-2141	repealed	Ch. 130	SB 24
87-1-102	amended	Ch. 59	HB 131
87-1-111	amended	Ch. 227	HB 514
87-1-115	amended	Ch. 227	HB 514
87-1-209	amended	Ch. 430	HB 208
	amended	Ch. 560	HB 5
87-1-228	amended	Ch. 146	SB 187
87-1-266	amended	Ch. 471	HB 235
87-1-267	amended	Ch. 471	HB 235
87-1-269	amended	Ch. 48	HB 56
	amended	Ch. 235	SB 77
	amended	Ch. 471	HB 235
87-1-271	enacted	Ch. 471	HB 235
87-1-274	enacted	Ch. 84	HB 298
87-1-301	amended	Ch. 430	HB 208
87-1-601	amended	Ch. 326	HB 173
	amended	Ch. 560	HB 5
87-2-104	amended	Ch. 470	HB 214
87-2-105	amended	Ch. 80	HB 242
87-2-113	amended	Ch. 585	HB 172
87-2-121	enacted	Ch. 164	HB 225
87-2-202	amended	Ch. 573	SB 339
	amended	Ch. 585	HB 172
87-2-301	amended	Ch. 585	HB 172
87-2-306	amended	Ch. 585	HB 172
87-2-401	amended	Ch. 585	HB 172

87-2-403	amended	Ch. 150	HB 34
	amended	Ch. 585	HB 172
87-2-411	amended	Ch. 585	HB 172
87-2-501	amended	Ch. 585	HB 172
87-2-505	amended	Ch. 585	HB 172
87-2-506	amended	Ch. 556	HB 272
87-2-508	amended	Ch. 585	HB 172
87-2-510	amended	Ch. 585	HB 172
87-2-511	amended	Ch. 470	HB 214
87-2-514	enacted	Ch. 484	HB 421
87-2-515	enacted	Ch. 484	HB 421
87-2-522	enacted	Ch. 470	HB 214
87-2-701	amended	Ch. 585	HB 172
87-2-702	amended	Ch. 471	HB 235
87-2-704	amended	Ch. 585	HB 172
87-2-706	amended	Ch. 556	HB 272
87-2-708	amended	Ch. 585	HB 172
87-2-711	amended	Ch. 573	SB 339
	amended	Ch. 585	HB 172
87-2-725	enacted	Ch. 40	HB 14
87-2-731	enacted	Ch. 378	SB 91
87-2-801	amended	Ch. 585	HB 172
87-2-803	amended	Ch. 542	SB 285
	amended	Ch. 556	HB 272
	amended	Ch. 573	SB 339
	amended	Ch. 585	HB 172
87-2-805	amended	Ch. 80	HB 242
	amended	Ch. 585	HB 172
87-2-809	enacted	Ch. 585	HB 172
87-2-903	amended	Ch. 515	HB 707
87-3-101	amended	Ch. 542	SB 285
87-3-111	amended	Ch. 59	HB 131
87-3-112	amended	Ch. 59	HB 131
87-3-113	repealed	Ch. 59	HB 131
87-3-115	amended	Ch. 59	HB 131
87-3-117	amended	Ch. 59	HB 131
87-3-118	amended	Ch. 59	HB 131
87-3-126	amended	Ch. 211	SB 178
87-3-235	amended	Ch. 245	SB 298
87-3-236	amended	Ch. 245	SB 298
87-3-237	enacted	Ch. 343	HB 698
87-3-305	amended	Ch. 261	SB 410
87-3-307	amended	Ch. 424	SB 186
87-4-606	amended	Ch. 157	HB 174
87-5-107	amended	Ch. 46	HB 50
87-5-132	enacted	Ch. 578	SB 461
87-5-405	repealed	Ch. 419	SB 503
87-5-703	amended	Ch. 281	HB 668
87-5-704	amended	Ch. 281	HB 668
87-5-709	amended	Ch. 281	HB 668
87-5-712	amended	Ch. 281	HB 668
87-5-721	amended	Ch. 281	HB 668
90-1-105	amended	Ch. 248	SB 329
90-1-112	amended	Ch. 537	SB 133
90-1-115	enacted	Ch. 223	HB 301
90-1-131	amended	Ch. 460	HB 18
90-1-151	enacted	Ch. 181	HB 481
90-1-201	enacted	Ch. 588	HB 249
90-1-202	enacted	Ch. 588	HB 249
90-1-203	enacted	Ch. 588	HB 249
90-1-204	enacted	Ch. 588	HB 249
90-1-205	enacted	Ch. 588	HB 249
90-1-401	enacted	Ch. 135	SB 98

## CODE SECTIONS AFFECTED

90-1-402.	enacted	Ch. 135	SB 98
90-1-403.	enacted	Ch. 135	SB 98
90-1-404.	enacted	Ch. 135	SB 98
90-1-405.	enacted	Ch. 135	SB 98
90-1-406.	enacted	Ch. 135	SB 98
90-1-409.	enacted	Ch. 135	SB 98
90-1-410.	enacted	Ch. 135	SB 98
90-1-411.	enacted	Ch. 135	SB 98
90-1-413.	enacted	Ch. 135	SB 98
90-2-1104	amended	Ch. 308	HB 7
90-4-605	amended	Ch. 310	HB 12
90-4-1002	amended	Ch. 221	HB 199
90-4-1003	amended	Ch. 221	HB 199
90-4-1101	enacted	Ch. 162	HB 212
90-4-1102	enacted	Ch. 162	HB 212
90-4-1103	enacted	Ch. 162	HB 212
90-4-1104	enacted	Ch. 162	HB 212
90-4-1105	enacted	Ch. 162	HB 212
90-4-1106	enacted	Ch. 162	HB 212
90-4-1107	enacted	Ch. 162	HB 212
90-4-1108	enacted	Ch. 162	HB 212
90-4-1109	enacted	Ch. 162	HB 212
90-6-304	amended	Ch. 598	HB 700
90-6-331	amended	Ch. 598	HB 700
90-6-703	amended	Ch. 580	HB 11
90-6-710	amended	Ch. 580	HB 11
90-6-715	amended	Ch. 352	SB 124
	amended	Ch. 580	HB 11
90-6-1001	enacted	Ch. 603	HB 758
90-10-101	enacted	Ch. 537	SB 133
90-10-102	enacted	Ch. 537	SB 133
90-10-103	enacted	Ch. 537	SB 133
90-10-201	enacted	Ch. 537	SB 133
90-10-202	enacted	Ch. 537	SB 133
90-10-301	enacted	Ch. 537	SB 133
90-10-302	enacted	Ch. 537	SB 133
90-10-303	enacted	Ch. 537	SB 133
90-10-304	enacted	Ch. 537	SB 133
90-10-305	enacted	Ch. 537	SB 133
90-10-306	enacted	Ch. 537	SB 133
90-10-307	enacted	Ch. 537	SB 133
90-10-308	enacted	Ch. 537	SB 133
90-10-309	enacted	Ch. 537	SB 133
90-10-310	enacted	Ch. 537	SB 133

## SESSION LAWS AFFECTED

<u>Laws Affected</u>	<u>Action</u>	<u>Chapter</u>	<u>Bill Number</u>
Laws of 1987			
Ch. 598, sec. 12 . . . . .	repealed	50	HB 79
Laws of 1991			
Ch. 319, sec. 3 . . . . .	repealed	50	HB 79
Ch. 712, sec. 9 . . . . .	amended	569	SB 213
Laws of 1993			
Ch. 241, secs. 1, 2 . . . . .	repealed	50	HB 79
Ch. 511, sec. 6 . . . . .	repealed	322	HB 119
Laws of 1995			
Ch. 322, sec. 6 . . . . .	repealed	85	HB 308
Ch. 459, sec. 18 . . . . .	amended	235	SB 77
Ch. 476, secs. 9, 10 . . . . .	repealed	322	HB 119
Ch. 487, sec. 14 . . . . .	repealed	85	HB 308
Ch. 542, secs. 4, 5 . . . . .	amended	569	SB 213
Laws of 1997			
Ch. 195, sec. 8 . . . . .	repealed	406	SB 358
Ch. 411, sec. 1 . . . . .	amended	569	SB 213
Ch. 461, sec. 5 . . . . .	amended	57	HB 114
Laws of 1999			
Ch. 111, sec. 29 . . . . .	amended	320	HB 104
Ch. 285, secs. 27, 31 . . . . .	amended	531	SB 48
Ch. 424, sec. 10 . . . . .	repealed	319	HB 89
Ch. 512, sec. 19 . . . . .	amended	460	HB 18
Ch. 544, sec. 6 . . . . .	amended	235	SB 77
sec. 8 . . . . .	repealed	235	SB 77
Ch. 557, sec. 2 . . . . .	amended	560	HB 5
Laws of 2001			
Ch. 69, sec. 5 . . . . .	amended	460	HB 18
Ch. 95, secs. 2, 3, 4 . . . . .	repealed	322	HB 119
Ch. 181, sec. 29 . . . . .	repealed	289	HB 67
Ch. 196, sec. 6 . . . . .	repealed	48	HB 56
Ch. 216, sec. 9 . . . . .	repealed	235	SB 77
Ch. 270, sec. 6 . . . . .	amended	57	HB 114
Ch. 398, secs. 4, 5, 6, 7 . . . . .	amended	569	SB 213
Ch. 407, sec. 29 . . . . .	repealed	235	SB 77
Ch. 414, sec. 17 . . . . .	repealed	223	HB 301
Ch. 433, sec. 3 . . . . .	repealed	85	HB 308
Ch. 435, sec. 1 . . . . .	amended	580	HB 11
Ch. 447, sec. 6 . . . . .	repealed	434	HB 236
Ch. 516, sec. 8 . . . . .	amended	129	HB 463
Ch. 519, sec. 4 . . . . .	repealed	52	HB 82
Ch. 568, secs. 12, 13 . . . . .	amended	452	SB 293
amended . . . . .		525	HB 776
secs. 7, 9 . . . . .	repealed	525	HB 776
Ch. 573, sec. 2 . . . . .	amended	560	HB 5
Ch. 590, sec. 4 . . . . .	repealed	51	HB 81
Laws of 2003			
Ch. 81, sec. 4 . . . . .	amended	23	HB 90
Ch. 114, sec. 135 . . . . .	repealed	223	HB 301
Ch. 122, sec. 3 . . . . .	repealed	85	HB 308
Ch. 390, sec. 20 . . . . .	amended	606	SB 120

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Ch. 441, secs. 9, 10.....	amended	99	HB 598
Ch. 498, sec. 5.....	repealed	445	HB 536
Ch. 537, sec. 4.....	repealed	387	SB 138
Ch. 551, sec. 13.....	repealed	287	SB 324
Ch. 567, sec. 10.....	amended	169	HB 270
Ch. 577, sec. 5.....	amended	531	SB 48
Ch. 590, sec. 6.....	amended	338	HB 513
Ch. 592, sec. 50.....	amended	325	HB 170
Laws of 2005			
Ch. 125, sec. 5.....	amended	272	HB 140

**SENATE BILL TO CHAPTER NUMBER**

<u>Bill Number</u>	<u>Chapter Number</u>	<u>Bill Number</u>	<u>Chapter Number</u>
SB 1	296	SB 93	380
SB 2	372	SB 94	118
SB 6	102	SB 95	236
SB 8	103	SB 98	135
SB 9	104	SB 99	119
SB 14	16	SB 100	120
SB 16	145	SB 103	201
SB 17	105	SB 104	297
SB 18	373	SB 105	202
SB 20	17	SB 106	121
SB 21	229	SB 107	561
SB 23	106	SB 108	448
SB 24	130	SB 110	350
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07/01/2005	Ch.	355	SB	143
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07/01/2005	Ch.	360	SB	207
07/01/2005	Ch.	383	SB	121
07/01/2005	Ch.	394	SB	248
07/01/2005	Ch.	395	SB	259
07/01/2005	Ch.	397	SB	277
07/01/2005	Ch.	401	SB	294
07/01/2005	Ch.	404	SB	328
07/01/2005	Ch.	410	SB	435
07/01/2005	Ch.	416	SB	481
07/01/2005	Ch.	425	SB	489
07/01/2005	Ch.	428	HB	192
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		§ 10		
07/01/2005	Ch.	463	HB	83
07/01/2005	Ch.	464	HB	102
07/01/2005	Ch.	467	HB	182
07/01/2005	Ch.	469	HB	188
		§ 22		
07/01/2005	Ch.	472	HB	266
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07/01/2005	Ch.	474	HB	327
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		§§ 1 and 4-6		
07/01/2005	Ch.	480	HB	395
07/01/2005	Ch.	485	HB	423
07/01/2005	Ch.	490	HB	438
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07/01/2005	Ch.	494	HB	484
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07/01/2005	Ch.	506	HB	615
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07/01/2005	Ch.	514	HB	704
07/01/2005	Ch.	515	HB	707
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		§§ 1 and 7		
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	§§ 4 and 246	
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07/01/2005 . . . . .	Ch. 550 . . . . .	SB 442
07/01/2005 . . . . .	Ch. 557 . . . . .	HB 367
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10/01/2005	Ch.	90	HB	354
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10/01/2005	Ch.	94	HB	437
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10/01/2005	Ch.	101	HB	612
10/01/2005	Ch.	104	SB	9
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10/01/2005	Ch.	113	SB	56
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10/01/2005	Ch.	120	SB	100
10/01/2005	Ch.	123	SB	141
10/01/2005	Ch.	124	SB	169
10/01/2005	Ch.	130	SB	24
10/01/2005	Ch.	136	SB	117
10/01/2005	Ch.	139	SB	171
10/01/2005	Ch.	144	SB	356
10/01/2005	Ch.	145	SB	16
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10/01/2005	Ch.	210	SB	165
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10/01/2005	Ch.	412	SB	458
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10/01/2005	Ch.	418	SB	498
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10/01/2005	Ch.	423	SB	426
10/01/2005	Ch.	427	HB	179
10/01/2005	Ch.	428	HB	192
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10/01/2005	Ch.	465	HB	146
10/01/2005	Ch.	469	HB	188
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		§ 2		
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		§ 9		
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01/01/2006 . . . . .	Ch.	500 . . . . .	HB	541
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01/01/2006 . . . . .	Ch.	596 . . . . .	HB	671
		§§ 7-167		
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03/01/2006 . . . . .	Ch.	484 . . . . .	HB	421
03/01/2006 . . . . .	Ch.	518 . . . . .	HB	732
		§§ 2-9 and 12		
03/01/2006 . . . . .	Ch.	585 . . . . .	HB	172
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07/01/2006 . . . . .	Ch.	19 . . . . .	HB	43
07/01/2006 . . . . .	Ch.	184 . . . . .	HB	555
07/01/2006 . . . . .	Ch.	286 . . . . .	SB	302
		§§ 1 and 3-6		
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		§ 11		
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		§ 2 and 3		
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07/01/2006 . . . . .	Ch.	517 . . . . .	HB	726
		§§ 2-6		
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		§§ 1, 2, 3(2)-(5), and 4-8		
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		§§ 1-5 and 10		
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		§ 3		
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		§ 4		
? . . . . .	Ch.	365 . . . . .	SB	440

Contingent upon certification by the director of public health and human services to the secretary of state that the moratorium on referrals by medical doctors to specialty hospitals provided for in section 507 of the Medicare Prescription Drug,

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Improvement, and Modernization Act of 2003, Public Law 108-173 (42 U.S.C. 1395nn), has expired and not been continued.

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1	1	Appropriations	3	40-5-203	
	2	Effective date	4	40-5-206	
2	1	15-6-201	5	40-5-226	
	2	Effective date	6	40-5-263	
	3	Retroactive applicability	7	40-5-271	
3	1	15-6-138	8	40-5-403	
	2	Effective date	9	40-5-431	
	3	Retroactive applicability	10	40-5-432	
4	1	15-1-230	11	40-5-433	
	2	15-30-166	12	40-5-434	
	3	15-31-161	13	40-5-601	
	4	15-31-162	14	40-5-701	
	5	Effective date	15	40-5-901	
	6	Retroactive applicability	16	40-5-906	
	7	Termination	17	40-5-909	
5	1	15-36-311	18	40-5-923	
	2	15-36-331	19	Notification to tribal governments	
	3	Effective date	20	Effective date	
	4	Retroactive applicability	22	1	61-3-324
6	1	2-18-301	2	61-3-325	
	2	2-18-303 (Replaced by sec. 7, Ch. 421)	3	Effective date	
	3	2-18-304	23	1	Sec. 4, Ch. 81, L. 2003
	4	2-18-312	24	1	61-10-125
	5	2-18-703	25	1	2-17-804
	6	Appropriation (Replaced by sec. 8, Ch. 421)	2	2-17-807	
	7	Repealer	3	2-17-808	
	8	Effective date	4	2-17-813	
7	1	50-5-233	5	Repealer	
	2	Effective date	26	1	17-6-317
8	1	Loan reauthorization	2	17-6-318	
	2	Two-thirds vote required	3	39-11-103	
	3	Remedial nature	4	39-11-202	
	4	Saving clause	5	39-71-116	
	5	Effective date	6	39-71-118	
9	1	17-5-205	7	39-71-401	
	2	Effective date	8	39-71-2211	
10	1	22-3-603	9	39-71-2312	
	2	Effective date	10	Repealer	
11	1	2-18-601	11	Directions to code commissioner	
	2	2-18-611	12	Effective date — applicability	
12	1	15-24-925	13	Termination date	
	2	81-7-303	27	1	53-20-102
	3	81-7-603	28	1	10-1-205
	4	Effective date	29	1	33-10-105
13	1	46-18-403	2	33-10-110	
14	1	39-3-213	3	Effective date	
	2	Effective date	30	1	15-30-313
15	1	32-1-371	2	Effective date	
	2	32-1-372	3	Retroactive applicability	
	3	32-1-1001	31	1	39-71-743
	4	Repealer	2	Effective date — applicability	
16	1	Repealer	32	1	82-4-338
17	1	85-2-227	2	82-4-433	
18	1	75-10-1203	3	Effective date	
	2	75-10-1212	33	1	46-24-106
	3	Saving clause	2	Effective date	
	4	Effective date	3	Retroactive applicability	
19	1	82-10-104	34	1	30-12-101
	2	Effective date	2	30-12-203	
20	1	75-11-509	3	50-50-207	
	2	Effective date	4	Effective date — applicability	
21	1	40-5-201	35	1	46-9-511
	2	40-5-202	2	Effective date	
			36	1	2-15-1781

2	7-3-1344	54	1	61-8-731 (Replaced by sec. 5, Ch. 426)
3	7-4-2503		2	61-8-734
4	7-4-2508	55	1	46-24-220
5	7-4-2509		2	Codification instruction
6	7-4-2510	56	1	2-18-120
7	7-4-3001		2	2-18-101
8	7-32-2102		3	Codification instruction
9	7-32-2126		4	Effective date
10	10-4-102	57	1	77-1-130
11	19-7-612		2	Sec. 5, Ch. 461, L. 1997
12	19-7-801		3	Sec. 6, Ch. 270, L. 2001
13	39-3-406		4	Termination
14	40-6-402	58	1	17-7-138
15	44-2-401		2	17-7-139
16	44-5-506		3	Effective date
17	45-8-108	59	1	87-1-102
18	Name change — directions to code commissioner		2	87-3-111
37	1		3	87-3-112
	2		4	87-3-115
	3		5	87-3-117
	4		6	87-3-118
	5		7	Repealer
	6	60	1	37-3-201
38	1		2	37-4-201
	2	61	1	10-1-104
	3		2	10-1-105
	4	62	1	75-10-802
	5		2	75-10-803
39	1		3	75-10-804
	2		4	75-10-805
40	1		5	75-10-807
	2		6	Effective date
	3	63	1	82-4-303
41	1		2	82-4-305
	2		3	82-4-335
42	1		4	82-4-337
	2		5	82-4-339
	3		6	Effective date
	4	64	1	32-5-308
	5	65	1	2-2-131
43	1	66	1	33-20-505
	2		2	Saving clause
	3		3	Effective date — applicability
	4	67	1	15-2-302
	5		2	15-30-201
44	1		3	15-30-202
	2		4	15-30-203
	3		5	15-30-204
	4		6	15-30-209
45	1		7	15-30-210
46	1		8	15-30-248
	2		9	39-51-2402
47	1		10	Repealer
	2		11	Saving clause
48	1		12	Effective date
	2		13	Retroactive applicability
	3	68	1	50-60-103
49	1		2	50-60-105
	2		3	50-60-109
	3		4	50-60-110
	4		5	50-74-219
50	1		6	Effective date — applicability
	2	69	1	39-71-2208
51	1		2	39-71-306
	2		3	39-71-315
52	1		4	39-71-504
	2		5	39-71-704
53	1		6	39-71-915
	2		7	39-71-2105

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	8	39-71-2108		2	2-15-1870
	9	39-71-2203		3	53-20-202
	10	39-71-2204		4	53-20-203
	11	39-71-2205		5	53-20-205
	12	39-71-2336		6	Repealer
	13	39-71-2337		7	Effective date
	14	39-71-2339	79	1	61-5-102
	15	Repealer		2	61-5-110
	16	Codification instruction	80	1	87-2-105
	17	Effective dates — applicability		2	87-2-805
70	1	15-7-305		3	Effective date
	2	15-7-308	81	1	53-21-102
	3	85-2-102		2	53-21-126
	4	85-2-117	82	1	69-12-102
	5	85-2-307		2	Effective date
	6	85-2-308	83	1	40-15-115
	7	85-2-310		2	40-15-116
	8	85-2-314		3	40-15-117
	9	85-2-316		4	40-15-118
	10	85-2-421		5	40-15-119
	11	85-2-423		6	40-15-120
	12	85-2-424		7	40-15-121
	13	85-2-426		8	Codification instruction
	14	85-2-431	84	1	87-1-274
	15	Saving clause		2	Codification instruction
	16	Effective date		3	Effective date
71	1	30-13-204	85	1	85-2-102
	2	30-13-208		2	85-2-338
	3	30-13-210		3	85-2-402
	4	30-13-212		4	85-2-404
	5	32-1-112		5	85-2-407
	6	35-1-1309		6	85-2-408
	7	35-2-119		7	85-2-419
	8	35-2-1109		8	85-2-436
	9	35-8-205		9	Repealer
	10	35-8-206		10	Effective date
	11	35-8-212	86	1	23-2-409
	12	35-10-113		2	Saving clause
	13	35-10-622		3	Effective date
	14	35-10-627	87	1	53-1-203
	15	35-12-606	88	1	76-6-107
	16	35-12-1302		2	Effective date
	17	35-12-1304	89	1	77-6-203
	18	Repealer		2	Effective date
72	1	53-6-401	90	1	70-24-432
	2	53-6-402	91	1	20-3-351
73	1	1-11-301		2	20-6-301
	2	22-1-103		3	Coordination instruction
	3	22-1-402		4	Effective date
	4	22-1-404	92	1	39-51-2201
	5	Repealer		2	Effective date
74	1	60-1-207	93	1	50-76-103
	2	Effective date		2	50-76-113
75	1	2-18-101		3	50-76-114
	2	2-18-111		4	50-76-109
	3	2-18-601		5	50-76-110
	4	2-18-611		6	50-76-112
	5	2-18-701		7	Codification instruction
	6	2-18-809	94	1	53-2-608
	7	2-18-1101	95	1	15-30-124
	8	2-18-1202		2	Applicability
	9	2-18-1303	96	1	2-18-1303
	10	39-29-101	97	1	32-5-306
	11	39-30-103		2	Saving clause
	12	Effective date	98	1	23-1-109
76	1	72-6-301		2	Effective date
	2	Effective date	99	1	Sec. 9, Ch. 441, L. 2003
77	1	32-6-102		2	Sec. 10, Ch. 441, L. 2003
	2	Effective date		3	Effective date
78	1	2-15-1869	100	1	85-2-125

	2	Saving clause		2	Effective date
	3	Effective date	123	1	1-5-416
101	1	77-5-212	124	1	69-3-207
102	1	40-6-405	125	1	31-1-104
	2	Coordination instruction		2	32-5-103
	3	Effective date		3	32-5-301
103	1	39-71-105		4	Effective date
	2	39-71-107		5	Retroactive applicability
	3	39-71-201	126	1	2-15-1731
	4	39-71-204		2	2-15-1734
	5	39-71-307		3	2-15-1751
	6	39-71-407		4	2-15-1756
	7	39-71-608		5	2-15-1772
	8	39-71-703		6	37-3-103
	9	39-71-741		7	37-3-201
	10	39-71-743		8	37-3-205
	11	39-71-1006		9	37-3-301
	12	Repealer		10	37-3-303
	13	Effective date — applicability		11	37-3-304
104	1	61-5-111		12	37-3-306
105	1	2-15-1007		13	37-3-307
	2	Effective date		14	37-3-309
106	1	2-17-526		15	37-3-315
	2	17-7-111		16	37-3-323
107	1	Repealer		17	37-3-343
	2	Effective date		18	37-3-344
108	1	1-11-204		19	37-3-345
109	1	33-12-113		20	37-3-346
	2	Codification instruction		21	37-3-347
110	1	75-25-101		22	37-3-348
	2	75-25-102		23	37-3-349
	3	Effective date		24	37-4-103
111	1	2-18-1204		25	37-4-327
	2	Effective date		26	37-4-408
112	1	2-18-503		27	37-7-401
	2	Effective date		28	37-8-101
113	1	60-2-136		29	37-8-418
114	1	3-2-714		30	37-10-202
	2	15-1-121		31	37-10-301
	3	25-1-201 (Voided and replaced by sec. 9, Ch. 493)		32	37-10-302
	4	40-1-202 (Voided and replaced by sec. 10, Ch. 493)		33	37-10-304
	5	40-1-311 (Voided and replaced by sec. 11, Ch. 493)		34	37-10-306
	6	50-15-301		35	37-10-313
	7	Effective date		36	37-11-106
115	1	2-15-242		37	37-14-301
	2	22-2-106		38	37-17-104
	3	Implementation		39	37-18-104
	4	Codification instruction		40	37-19-101
	5	Effective date		41	37-35-202
116	1	61-3-460		42	37-60-202
	2	Effective date		43	37-60-302
117	1	85-1-602		44	37-60-303
	2	Effective date		45	37-60-304
118	1	41-3-422	127	1	Repealer
	2	41-3-428		47	Effective date
	3	41-3-429		1	82-4-206
119	1	31-1-705		2	82-4-223
	2	31-1-714		3	82-4-225
120	1	31-1-805		4	82-4-226
121	1	17-1-104		5	82-4-227
	2	17-3-110 (Renumbered 17-1-105)		6	82-4-231
	3	17-3-111 (Renumbered 17-1-106)		7	82-4-232
	4	Repealer		8	82-4-233
	5	Directions to code commissioner		9	82-4-235
	6	Codification instruction		10	82-4-251
	7	Effective date		11	Saving clause
122	1	Repealer	128	12	Effective date
				1	53-6-146
				2	Notification to tribal governments
				3	Codification instruction

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	4	Effective date	64	53-6-703
129	1	75-2-225	65	53-7-109
	2	75-2-226	66	61-3-403
	3	Sec. 8, Ch. 516, L. 2001	67	61-3-522
	4	Effective date	68	61-3-722
	5	Termination	69	61-4-223
130	1	1-1-516	70	61-4-515
	2	2-2-106	71	61-4-520
	3	2-15-1821	72	61-8-906
	4	2-15-1822	73	61-8-913
	5	2-18-1204	74	61-10-227
	6	3-10-301	75	61-10-233
	7	5-7-112	76	71-3-534
	8	7-1-2111	77	72-1-103
	9	7-2-2422	78	82-15-103
	10	7-2-2424	79	85-7-304
	11	7-3-173	80	Repealer
	12	7-35-2121	81	Directions to code commissioner
	13	13-13-211	131	1 80-4-421
	14	15-1-121		2 80-4-606
	15	15-1-122		3 Effective date
	16	15-24-3005		4 Applicability
	17	15-30-111	132	1 20-5-322
	18	15-31-115		2 20-7-420
	19	15-61-102		3 20-9-707
	20	15-65-121		4 20-10-105
	21	15-70-301		5 Effective date
	22	16-1-101	133	1 39-9-201
	23	17-2-131		2 39-9-206
	24	17-5-507		3 39-71-201
	25	17-6-407		4 39-71-401
	26	20-3-351 (Voided by sec. 3, Ch. 91)		5 Effective date
	27	20-9-141	134	1 23-5-180
	28	20-9-501		2 23-5-181
	29	20-10-144		3 23-5-182
	30	20-10-146		4 23-5-183
	31	20-15-221		5 23-5-184
	32	20-20-303		6 23-5-185
	33	20-25-308		7 23-5-112
	34	23-2-502		8 23-5-113
	35	23-2-511		9 23-5-123
	36	23-2-514		10 23-5-152
	37	23-2-515		11 23-5-153
	38	23-2-521		12 23-5-412
	39	23-2-614		13 23-5-602
	40	27-1-306		14 23-5-621
	41	30-14-222		15 23-5-625
	42	30-14-223		16 Codification instruction
	43	30-14-901		17 Effective date
	44	30-14-1407	135	1 90-1-401
	45	33-22-140		2 90-1-402
	46	37-10-304		3 90-1-403
	47	39-11-201		4 90-1-404
	48	39-11-204		5 90-1-405
	49	39-71-1011		6 90-1-406
	50	39-71-1014		7 90-1-409
	51	39-71-2316		8 90-1-410
	52	40-5-906		9 90-1-411
	53	40-6-405 (Voided by sec. 2, Ch. 102)		10 90-1-413
				11 7-6-2230
	54	41-3-302		12 7-4-2632
	55	41-3-437		13 7-4-2637
	56	41-3-445		14 Notification to tribal governments
	57	44-1-1102		15 Codification instruction
	58	46-14-221		16 Effective date
	59	46-14-222	136	1 32-9-103
	60	46-19-202		2 32-9-115
	61	50-20-101		3 32-9-121
	62	50-60-203		4 32-9-130
	63	52-2-304	137	1 45-6-301

	2	45-9-107	160	1	Extension of natural resource
	3	45-9-131			damage program appropriation
	4	Effective date		2	Loan agreement
138	1	2-2-302		3	Three-fourths vote required
	2	20-1-101		4	Effective dates
	3	20-1-301	161	1	85-2-355
	4	20-1-302		2	85-2-113
	5	20-1-304		3	85-2-306
	6	20-2-115		4	85-2-322
	7	20-2-121		5	85-2-507
	8	20-3-324		6	85-2-508
	9	20-5-109		7	Codification instruction
	10	20-6-209		8	Effective date
	11	20-9-311	162	1	90-4-1101
	12	20-9-801		2	90-4-1102
	13	20-9-802		3	90-4-1103
	14	20-9-805		4	90-4-1104
	15	20-9-806		5	90-4-1105
	16	Effective date		6	90-4-1106
139	1	20-25-305		7	90-4-1107
	2	28-2-722		8	90-4-1108
140	1	33-17-102		9	90-4-1109
	2	39-71-107		10	20-9-204
	3	39-71-116		11	20-15-104
	4	39-71-225		12	7-5-2315
	5	39-71-307			7-5-4315
	6	39-72-102			7-12-2198
	7	Effective date			7-12-4198
141	1	39-71-605			18-8-210
	2	39-71-711		13	Codification instruction
	3	Effective date — applicability		14	Effective date
142	1	75-20-104	163	1	15-1-501
	2	Effective date		2	15-1-121
143	1	16-4-103		3	15-31-101
	2	Effective date		4	15-31-102
144	1	69-3-105		5	25-9-506
145	1	2-2-121		6	25-9-603
146	1	87-1-228		7	25-9-609
	2	Notification to tribal government		8	31-1-704
	3	Effective date		9	31-1-802
147	1	20-25-428		10	32-1-101
	2	Notification to tribal governments		11	32-1-102
	3	Effective date		12	32-1-202
148	1	22-3-107		13	32-1-301
	2	22-3-114		14	32-1-446
	3	Effective date		15	32-1-461
149	1	50-15-109		16	32-1-462
	2	50-15-223		17	32-1-464
	3	50-15-304		18	32-1-468
	4	Effective date		19	32-1-473
150	1	87-2-403		20	32-1-491
	2	Effective date		21	32-1-492
151	1	17-2-108		22	32-1-501
	2	20-8-107		23	Repealer
	3	Effective date	164	1	87-2-121
152	1	Repealer		2	Codification instruction
	2	Effective date		3	Effective date
153	1	46-5-228	165	1	7-4-2614
154	1	7-4-4604		2	Effective date
155	1	44-6-101	166	1	Repealer
	2	Effective date	167	1	3-6-106
	3	Retroactive applicability		2	3-6-201
156	1	20-5-403		3	3-6-204
157	1	87-4-606	168	1	7-14-2615
	2	Effective date		2	60-2-107
	3	Applicability		3	Effective date
158	1	26-1-802	169	1	39-11-103
	2	Effective date		2	39-11-201
159	1	72-31-201		3	39-11-202
				4	Sec. 10, Ch. 567, L. 2003

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5	Repealer	198	1	7-1-2105
6	Effective date		2	7-1-4105
170	1 Appropriation		3	Repealer
	2 Effective date		4	Codification instruction
171	1 61-3-208	199	1	27-12-104
172	1 37-47-303		2	27-12-402
173	1 30-17-101		3	27-12-605
	2 30-17-102		4	Effective date
	3 2-2-121	200	1	52-2-304
	4 Codification instruction		2	53-21-1006
174	1 33-22-262	201	1	23-5-112
	2 Effective date	202	1	23-3-405
	3 Applicability		2	Effective date
175	1 7-16-2401	203	1	22-1-326
	2 7-16-2423		2	22-1-327
	3 7-16-2433		3	22-1-330
176	1 81-7-303		4	22-1-702
	2 81-7-603		5	22-1-705
	3 Effective date		6	22-1-707
177	1 39-2-206		7	22-1-716(1)
	2 39-2-207		8	22-1-716(2)
	3 39-2-209		9	22-1-716(3)
178	1 41-3-438		10	Codification instruction
	2 41-3-439	204	1	17-6-407
	3 41-3-445		2	Effective date
179	1 7-32-4122	205	1	33-28-105
180	1 61-5-107		2	33-28-201
181	1 90-1-151		3	33-28-207
	2 Codification instruction	206	1	33-2-701
	3 Effective date		2	Effective date — applicability
182	1 7-4-2503	207	1	2-15-401
183	1 45-5-624		2	30-9A-302
	2 Effective date		3	30-9A-501
184	1 53-4-209	208	1	20-1-102
	2 53-4-201		2	20-9-309
	3 53-4-212		3	20-1-101
	4 Notification to tribal governments		4	20-7-101
	5 Codification instruction		5	20-9-303
	6 Effective date		6	Repealer
185	1 45-6-313		7	Codification instruction
186	1 18-2-201		8	Severability
187	1 39-51-2111		9	Effective date
188	1 75-2-211	209	1	2-9-501
	2 Effective date		2	2-9-701
189	1 15-16-301		3	2-9-703
	2 15-24-210		4	2-9-803
	3 15-24-302		5	2-9-804
	4 Repealer		6	7-6-4005
	5 Effective date		7	Repealer
190	1 20-9-308		8	Effective date
	2 Effective date — applicability	210	1	31-1-715
	3 Termination		2	31-1-723
191	1 2-9-211		3	31-1-816
	2 33-2-302	211	1	87-3-126
	3 Effective date		2	Codification instruction
192	1 7-5-4302		3	Effective date
	2 7-5-4310	212	1	19-17-108
193	1 19-18-501	213	1	33-23-310
	2 19-18-503		2	Codification instruction
	3 19-18-504		3	Effective date
	4 Effective date	214	1	50-4-701
194	1 37-31-302		2	50-4-702
	2 37-31-312		3	50-4-703
	3 Effective date		4	50-4-704
195	1 33-10-105		5	50-4-707
	2 Applicability		6	50-4-708
196	1 20-3-325		7	50-4-709
	2 20-9-212		8	50-4-710
197	1 37-47-310		9	50-4-711
	2 37-47-311		10	50-4-712

11	50-4-713	226	1	60-4-213
12	50-4-714	2	2	60-4-214
13	50-4-715	3	3	60-4-215
14	50-4-716	4	4	60-4-216
15	50-4-717	5	5	60-4-217
16	50-4-718	6	6	60-4-218
17	50-4-719	7	7	60-2-107
18	50-4-720	8	8	60-4-201
19	35-2-609	9	9	60-4-202
20	35-2-617	10	10	60-4-203
21	35-2-722	11	11	60-4-209
22	Codification instruction	12	12	Codification instruction
23	Effective date	13	13	Effective date
24	Applicability	227	1	87-1-111
215	1 20-1-101	2	2	87-1-115
2	20-5-322	3	3	Effective date
3	20-9-311	228	1	61-3-456
4	Effective date — applicability	229	1	27-1-739
216	1 60-1-211	2	2	Effective date
2	Codification instruction	3	3	Applicability
3	Effective date	230	1	53-4-212
217	1 25-2-122	2	2	53-4-231
2	Effective date	3	3	Effective date
3	Applicability	231	1	7-12-4401
218	1 2-3-203	232	1	61-8-726
2	Effective date	2	2	3-10-601
219	1 2-16-107	3	3	46-17-402
2	Codification instruction	4	4	46-18-235
220	1 69-3-1501	5	5	Codification instruction
2	69-3-1502	233	1	61-1-102
3	69-3-1503	2	2	61-1-103
4	Codification instruction	3	3	61-1-308
5	Effective date	4	4	61-8-501
221	1 5-5-230	5	5	61-8-506
2	90-4-1002	6	6	Repealer
3	90-4-1003	7	7	Coordination instruction
4	Effective date	234	1	23-1-117
222	1 46-12-201	2	2	Effective date
2	46-12-211	235	1	87-1-269
3	46-16-105	2	2	Sec. 18, Ch. 459, L. 1995
4	46-16-123	3	3	Sec. 6, Ch. 544, L. 1999
5	46-18-102	4	4	Repealer
6	46-18-115	5	5	Coordination instruction
7	Effective date	6	6	Effective date
223	1 2-15-150	236	1	75-2-103
2	2-15-151	2	2	75-2-211
3	90-1-115	3	3	75-2-218
4	2-17-808	4	4	Effective date
5	17-7-502	237	1	23-2-502
6	61-3-473	2	2	23-2-511
7	61-3-476	3	3	23-2-512
8	61-3-477	4	4	23-2-513
9	61-3-480	5	5	Effective date
10	Repealer	238	1	2-18-303
11	Performance of administration	2	2	Effective date
12	Codification instruction	3	3	Retroactive applicability
13	Effective dates	239	1	70-16-107
224	1 69-1-114	2	2	Repealer
2	69-1-402	240	1	7-6-206
3	Saving clause	2	2	Effective date
4	Effective date	241	1	61-1-129
225	1 39-31-501	2	2	61-1-131
2	39-31-502	3	3	61-1-132
3	39-31-503	4	4	61-10-102
4	39-31-504	5	5	Coordination instruction
5	39-31-505	6	6	Effective date
6	7-32-4114	242	1	46-6-420
7	Codification instruction	2	2	Codification instruction
8	Saving clause	3	3	Effective date
9	Effective date	243	1	44-2-117

244	2	Notification to tribal governments	2	2-4-405
	1	28-2-2104	3	Effective date
	2	28-2-2110	266	1 37-2-315
245	1	87-3-235	2	Codification instruction
	2	87-3-236	3	Applicability
	3	Effective date	267	1 16-4-105
246	1	27-1-746	2	16-4-201
	2	Codification instruction	3	Effective date
	3	Effective date	268	1 20-1-220
	4	Applicability	2	50-40-102
247	1	16-3-241	3	50-40-103
248	1	90-1-105	4	50-40-104
249	1	18-5-402	5	50-40-108
250	1	5-7-208	6	50-40-201
251	1	33-18-225	7	50-40-120
	2	Codification instruction	8	50-40-115
252	1	76-3-207	9	50-40-110
253	1	27-6-704	10	Repealer
	2	Effective date	11	Notification to tribal governments
	3	Applicability	12	Codification instruction
254	1	3-5-604	13	Nonseverability
	2	Effective date	14	Termination
255	1	20-7-402	269	1 Art. IV, sec. 8, Mont. Const
	2	20-7-403	2	Art. VI, sec. 1, Mont. Const
	3	20-7-411	3	Art. VI, sec. 2, Mont. Const
	4	20-7-414	4	Art. VI, sec. 3, Mont. Const
	5	20-7-420	5	Art. VI, sec. 4, Mont. Const
	6	20-7-431	6	Art. VI, sec. 6, Mont. Const
	7	20-7-443	7	Art. VI, sec. 7, Mont. Const
	8	20-7-461	8	Art. X, sec. 4, Mont. Const
	9	20-10-144	9	Submission to electorate
	10	Repealer	270	1 52-2-736
	11	Effective date	2	Codification instruction
256	1	69-8-402	271	1 7-32-2113
	2	Effective date	2	7-32-2114
257	1	39-71-905	3	19-7-410
	2	Repealer	4	Repealer
	3	Effective date	5	Codification instruction
	4	Retroactive applicability	272	1 30-14-2001
258	1	61-4-129	2	30-14-2002
	2	Coordination instruction	3	30-14-2003
259	1	19-7-101	4	30-14-2004
	2	19-7-301	5	30-14-2010
	3	19-7-302	6	30-14-2013
	4	Effective date	7	30-14-2015
260	1	39-8-102	8	Sec. 5, Ch. 125, L. 2005
	2	39-8-202	9	Severability
	3	39-8-204	10	Repealer
	4	39-8-206	11	Codification instruction
	5	39-8-207	12	Effective date
	6	39-8-302	273	1 15-31-603
	7	Effective date	274	1 1-1-526
261	1	7-3-1105	2	Codification instruction
	2	7-3-1222	275	1 13-17-103
	3	7-31-4110	2	Coordination instruction
	4	87-3-305	276	1 45-6-341
	5	Effective date	2	Codification instruction
262	1	37-15-101	277	1 41-5-206
	2	37-15-102	2	45-9-102
	3	37-15-103	3	53-1-203
	4	37-15-303	278	1 82-4-367
	5	37-15-304	2	75-10-743
	6	37-15-307	3	Codification instruction
	7	37-15-313	4	Notification to tribal government
263	1	33-15-1103	5	Effective date
	2	33-15-1105	279	1 30-12-701
	3	33-23-401	2	30-12-702
264	1	13-19-104	3	30-12-703
	2	Effective date	3	30-12-704
265	1	2-4-303	4	30-12-705

5	30-12-706	7	13-13-201
6	Codification instruction	8	13-13-205
7	Severability	9	13-13-212
8	Contingent voidness	10	13-13-213
9	Effective dates	11	13-13-232
280	1 30-14-102	12	13-13-233
2	30-14-121	13	13-13-241
3	30-14-131	14	13-13-243 (Renumbered 13-15-108)
4	30-14-143	15	13-15-107
5	30-14-201	16	13-15-201
6	30-14-202	17	13-17-103
7	30-14-220	18	13-17-212
8	30-14-222	19	Repealer
9	30-14-226	20	Instruction to code commissioner
10	30-14-1403	21	Effective dates
11	30-14-1407	287	1 53-6-1004
12	30-14-1412	2	53-6-1005
13	30-14-1413	3	53-6-1006
14	30-14-1601	4	53-6-1001
15	30-14-1603	5	53-6-1002
16	61-4-507	6	53-6-1003
17	61-4-511	7	53-6-1010
18	61-4-512	8	53-6-1013
19	61-4-515	9	53-6-1201 (Replaced by sec. 13, Ch. 287)
20	61-4-516	10	53-6-1020
21	61-4-517	11	Repealer
22	61-4-518	12	Codification instruction
23	61-4-519	13	Coordination instruction
24	61-4-520	14	Effective date
25	61-4-525	288	1 85-2-270
26	61-4-526	2	85-2-271
27	61-4-532	3	85-2-272
28	Transition	4	85-2-273
29	Notification to tribal governments	5	85-2-276
30	Code commissioner instruction	6	85-2-279
31	Effective date	7	85-2-280
281	1 87-5-703	8	85-2-281
2	87-5-704	9	85-2-282
3	87-5-709	10	85-2-283
4	87-5-712	11	15-1-216
5	87-5-721	12	85-2-231
6	Effective date	13	85-2-237
282	1 46-1-1101	14	Codification instruction
2	46-1-1102	15	Contingent voidness
3	46-1-1103	16	Notification to tribal governments
4	46-1-1104	17	Effective date
5	46-1-1110	18	Termination
6	46-1-1111	289	1 18-4-126
7	46-1-1112	2	18-4-132
8	46-1-1113	3	18-4-301
9	46-1-1114	4	18-4-303
10	Codification instruction	5	18-4-304
11	Severability	6	18-4-308
12	Saving clause	7	18-4-312
13	Effective date	8	18-4-313
283	1 2-15-1019	9	Repealer
2	Effective date — applicability	10	Effective date
284	1 13-13-212	290	1 33-22-150
2	13-13-214	2	33-22-151
3	Effective date	3	33-22-101
285	1 2-8-301	4	Codification instruction
2	2-8-302	5	Effective date — applicability
3	2-8-303	291	1 30-14-108
4	5-13-203	2	30-14-102
286	1 13-2-304	3	Codification instruction
2	13-2-108	4	Saving clause
3	13-2-110	292	1 45-5-214
4	13-2-115	293	1 16-4-304
5	13-2-301	2	16-4-501
6	13-2-514		

	3	Effective date	20	67-10-102
294	1	2-15-1745	21	67-10-202
	2	37-48-101	22	67-10-231
	3	37-48-102	23	67-10-402
	4	37-48-103	24	67-10-902
	5	Codification instruction	25	67-11-103
	6	Effective date	26	67-11-201
295	1	Time limits	27	67-11-241
	2	Appropriations — authorization to expend money	28	70-30-102
	3	Effective date	29	Repealer
296	1	61-5-301	30	Codification instruction
297	1	61-5-131	31	Effective date
	2	61-5-132	32	Applicability
	3	61-5-133	301	1 32-9-102
	4	61-5-134	2	32-9-104
	5	61-5-135	3	32-9-109
	6	61-5-106	302	1 76-3-504
	7	61-5-111	2	76-3-511
	8	Codification instruction	3	76-3-601
	9	Effective date	4	76-3-622
	10	Applicability	5	76-3-604
298	1	76-3-103	6	76-3-608
	2	76-3-501	7	76-4-104
	3	76-3-504	8	76-4-125
	4	76-3-601	9	Codification instruction
	5	76-3-602	303	1 37-73-101
	6	76-3-603	2	37-73-102
	7	76-3-604	3	37-73-201
	8	76-3-605	4	37-73-202
	9	76-3-615	5	37-73-203
	10	76-3-608	6	37-73-204
	11	76-3-609	7	37-73-208
	12	76-3-610	8	37-73-212
	13	76-3-620	9	37-73-216
	14	76-3-625	10	37-73-220
	15	76-4-127 (Replaced by sec. 2, Ch. 433)	11	37-73-221
	16	Repealer	12	37-73-225
	17	Codification instruction	13	37-73-226
	18	Effective date	14	37-73-227
	19	Applicability	15	50-60-704
299	1	7-6-1601	16	50-60-705
	2	7-6-1602	17	50-60-706
	3	7-6-1603	18	50-60-709
	4	7-6-1604	19	50-60-711
	5	Transition	20	50-60-715
	6	Codification instruction	21	50-60-716
	7	Saving clause	22	50-60-720
	8	Effective date	23	50-60-115
	9	Applicability	24	Repealer
300	1	7-14-4801	25	Codification instruction
	2	67-1-101	26	Effective dates
	3	67-7-101	304	1 53-20-220
	4	67-7-102	2	Codification instruction
	5	67-7-103	3	Effective date
	6	67-7-201	4	Termination
	7	67-7-202	305	1 19-13-104
	8	67-7-203	2	19-13-704
	9	67-7-204	3	19-13-803
	10	67-7-208	4	19-13-902
	11	67-7-209	5	Effective date
	12	67-7-210	6	Applicability
	13	67-7-211	306	1 20-5-420
	14	67-7-212	2	Codification instruction
	15	67-7-301	3	Two-thirds vote required
	16	67-7-302	4	Effective date
	17	67-7-303	307	1 Appropriations from renewable resource grant and loan program state special revenue account
	18	67-7-304	2	Conditions of grants
	19	67-7-305	3	Conditions for grants

4	Appropriations established	317	1	Prevention program voted levy
5	Review of previously authorized grants		2	(Voided by sec. 3, Ch. 317) Codification instruction
6	Fund transfer		3	Coordination instruction
7	85-1-604		4	Effective date
8	Severability	318	1	15-6-218
9	Notification to tribal governments		2	15-30-1114
10	Effective dates		3	Effective date
11	Termination	319	1	23-5-602
308	1 Appropriations for reclamation and development grants		2	23-5-610
			3	23-5-611
2	Approved grants and projects		4	23-5-621
3	Coordination of fund sources for grants program projects		5	23-5-637
4	Condition of grants		6	Repealer
5	Other appropriations	320	7	Effective date
6	Fund transfers		1	19-20-208
7	90-2-1104		2	19-20-212
8	Severability		3	19-20-302
9	Effective date		4	19-20-401
10	Termination		5	19-20-407
309	1 Approval of renewable resource projects and authorization to provide loans		6	19-20-415
			7	19-20-426
2	Projects not completing requirements — projects reauthorized		8	19-20-602
			9	19-20-427
3	Coal severance tax bonds authorized		10	19-20-716
			11	19-20-718
4	Conditions of loans		12	19-20-802
5	Private and discount purchase of loans		13	19-20-804
			14	19-20-731
6	Appropriation established		15	19-20-806
7	Creation of state debt — appropriation of coal severance tax — bonding provisions		16	19-20-1001
			17	Sec. 29, Ch. 111, L. 1999
8	Severability		18	Codification instruction
9	Effective date		19	Effective date
310	1 90-4-605		20	Retroactive applicability
		321	1	2-17-803
2	Bond authorization — appropriation		2	2-17-804
			3	2-17-805
3	Approval of energy conservation projects		4	2-17-811
			5	2-17-812
4	Appropriation of bond proceeds		6	2-17-817
5	Two-thirds vote required		7	Effective date
6	Effective date	322	1	Repealer
311	1 5-2-203		2	Effective date
			3	17-5-805
2	Effective date		2	75-5-1122
3	Retroactive applicability		3	75-6-226
			4	75-6-227
312	1 17-8-231		5	Two-thirds vote required
			6	Coordination instruction
2	45-7-210		7	Effective date
3	Effective date	324	1	16-11-402
313	1 46-23-502		2	16-11-404
			3	16-11-502
2	46-23-504		4	16-11-503
3	46-23-505		5	16-11-507
4	46-23-506		6	16-11-509
5	46-23-509		7	16-11-511
314	1 17-7-502		8	17-7-502
			9	17-7-502
2	23-4-105		10	Effective dates
3	23-4-202		11	Contingent voidness
4	23-4-204		1	15-1-122
5	23-4-302		2	Sec. 50, Ch. 592, L. 2003
6	23-4-304		3	Effective date
7	Effective date		4	Retroactive applicability
315	1 61-3-721 (Replaced by sec. 159, Ch. 596)		1	87-1-601
		326	2	Effective date
2	Coordination instruction (Voided by sec. 159, Ch. 596)		1	17-7-502
3	Effective date	327	2	23-5-631
316	1 2-2-302			

	3	Effective date		68	19-17-108
328	1	3-2-303		69	19-17-407
	2	Effective date		70	19-19-205
329	1	19-2-303		71	19-50-103
	2	19-2-502		72	19-50-104
	3	19-2-602		73	44-1-515
	4	19-2-703		74	44-1-518
	5	19-2-704		75	Effective date
	6	19-2-706	330	1	Definitions
	7	19-2-903		2	Appropriation of bond proceeds and other funds
	8	19-2-907		3	Authorization of bonds
	9	19-2-908		4	Agreement with department of transportation
	10	19-2-909		5	Planning and design
	11	19-3-108		6	Capital projects — contingent funds
	12	19-3-112		7	Legislative consent
	13	19-3-201		8	Requirement for approval of state debt
	14	19-3-316		9	Severability
	15	19-3-318		10	Effective date
	16	19-3-319	331	1	45-8-110
	17	19-3-401		2	Codification instruction
	18	19-3-403	332	1	19-17-102 (Voided by sec. 4, Ch. 332)
	19	19-3-412		2	19-17-401 (Voided by sec. 4, Ch. 332)
	20	19-3-505		3	33-22-136 (Voided by sec. 4, Ch. 332)
	21	19-3-908		4	Coordination instruction
	22	19-3-1002		5	Effective date
	23	19-3-1005	333	1	7-16-2324
	24	19-3-1015		2	76-3-621
	25	19-3-1204	334	1	80-10-503
	26	19-3-1501		2	80-10-510
	27	19-3-2104		3	Appropriation
	28	19-3-2111		4	Codification instruction
	29	19-3-2112		5	Effective date
	30	19-3-2114		6	Termination
	31	19-3-2116	335	1	77-1-202
	32	19-3-2117		2	77-1-904
	33	19-3-2121		3	77-2-310
	34	19-3-2126		4	Effective date
	35	19-5-103	336	1	7-7-110
	36	19-5-402		2	60-2-127
	37	19-5-404		3	Codification instruction
	38	19-5-410		4	Effective date
	39	19-5-701	337	1	75-1-202
	40	19-5-902		2	75-1-205
	41	19-6-301		3	75-1-207
	42	19-6-402		4	75-1-208
	43	19-6-404		5	75-2-104
	44	19-6-505		6	75-2-211
	45	19-6-709		7	75-10-922
	46	19-7-301		8	75-20-201
	47	19-7-403		9	75-20-216
	48	19-7-404		10	75-20-401
	49	19-7-801		11	75-20-406
	50	19-7-1001		12	76-4-125
	51	19-8-301		13	82-4-122
	52	19-8-502		14	82-4-231
	53	19-8-504		15	82-4-337
	54	19-8-801		16	82-4-349
	55	19-9-301		17	82-4-427
	56	19-9-703		18	82-4-436
	57	19-9-710		19	85-2-124
	58	19-9-804		20	85-2-310
	59	19-9-902		21	Effective date
	60	19-9-905		22	Applicability
	61	19-9-1202			
	62	19-9-1207			
	63	19-9-1208			
	64	19-13-301			
	65	19-13-605			
	66	19-13-802			
	67	19-13-805			

338	1	Sec. 6, Ch. 590, L. 2003	2	Effective date
339	1	Appropriation for dental school feasibility study	353	1 53-6-101
				2 53-6-401
340	1	76-2-209		3 53-6-402
	2	Effective date		4 Directions to code commissioner
341	1	7-13-2204		5 Severability
	2	7-13-2208		6 Effective date
	3	7-13-2212	354	1 10-3-901
	4	7-13-2215		2 10-3-902
	5	7-13-2231		3 10-3-903
	6	7-13-2282		4 10-3-904
	7	7-13-2302		5 10-3-905
	8	7-13-2321		6 10-3-906
	9	7-13-2328		7 10-3-907
	10	7-13-2329		8 10-3-908
	11	7-13-2290		9 10-3-909
	12	7-13-2333		10 10-3-910
	13	7-13-2349		11 10-3-911
	14	Severability		12 10-3-912
	15	Codification instruction		13 10-3-1204
	16	Effective date		14 Codification instruction
342	1	61-10-107		15 Two-thirds vote required — contingent voidness
	2	Contingent voidness		16 Notification to tribal governments
343	1	87-3-237		17 Saving clause
	2	Codification instruction		18 Severability
	3	Effective date		19 Effective date
344	1	61-3-318		20 Applicability
345	1	39-71-4001		21 Transition
	2	39-71-4002	355	1 75-10-704
	3	39-71-4003		2 75-10-743
	4	39-71-4004		3 Contingent transfer of orphan share funds — appropriation
	5	39-71-704		4 Effective date
	6	Appropriation		356
	7	Codification instruction		1 2-15-2108
	8	Effective date — applicability		2 75-11-308
346	1	2-15-225		3 75-11-309
347	1	2-4-603		4 75-11-312
	2	2-4-614		5 75-11-318
	3	2-4-623		6 Saving clause
	4	2-4-702		7 Effective date
348	1	61-8-460		357
	2	61-8-461		1 Repealer
	3	Codification instruction	358	1 61-5-101
349	1	41-3-102	359	1 13-13-204
	2	41-3-205		2 13-13-243
	3	41-3-432	360	1 46-18-206
	4	41-3-437		2 46-23-1010
	5	41-3-609		3 46-23-1031 (Voided by sec. 6, Ch. 360)
	6	Notification to tribal governments		4 Interim report to legislature
350	1	53-2-101		5 Codification instruction
	2	53-4-601		6 Coordination instruction
	3	53-2-215		7 Severability
	4	Codification instruction		8 Effective date (Replaced by sec. 3, Ch. 473)
	5	Coordination instruction	361	1 46-18-236
	6	Severability	362	1 60-2-140
	7	Effective date		2 Notification to tribal governments
351	1	33-20-1401		3 Codification instruction
	2	33-20-1402	363	1 33-18-601
	3	33-20-1403		2 33-18-602
	4	33-20-1404		3 33-18-603
	5	33-20-1405		4 33-18-604
	6	33-20-1406		5 33-18-605
	7	33-20-1407		6 33-18-606
	8	33-20-1408		7 33-18-607
	9	33-20-1409		8 33-18-608
	10	33-20-1410		9 33-18-609
	11	33-20-1411		10 33-18-610
	12	33-20-1412		11 33-18-611
	13	Applicability		
352	1	90-6-715		

12	33-18-210	378	1	87-2-731
13	Codification instruction		2	Notification to tribal governments
14	Severability		3	Codification instruction
15	Applicability		4	Effective date
364	1 45-2-101		5	Termination
	2 45-5-625	379	1	15-8-111
365	1 50-5-101		2	15-8-511
	2 50-5-245		3	15-8-512
	3 Codification instruction		4	Effective date
	4 Contingent effective date		5	Retroactive applicability
	5 Applicability	380	1	53-6-110
	6 Termination		2	Effective date
366	1 15-70-233	381	1	10-1-1001
	2 15-70-357		2	10-1-1002
	3 19-8-101		3	10-1-1003
	4 44-1-1005		4	10-1-1004
	5 44-4-301		5	10-1-1005
	6 44-4-302		6	10-1-1006
	7 61-9-512		7	10-1-1007
	8 61-10-154		8	10-1-1008
	9 61-10-141		9	10-1-1010
	10 61-12-205		10	10-1-1015
	11 61-12-206		11	10-1-1016
	12 61-12-208		12	10-1-1017
	13 76-13-601		13	10-1-1018
	14 Codification instruction		14	10-1-1019
	15 Contingent voidness		15	10-1-1020
367	1 13-1-116		16	10-1-1021
	2 13-3-205		17	10-1-1022
	3 13-13-114		18	10-1-1027
	4 13-13-119		19	2-16-112
	5 13-13-213		20	2-16-501
	6 13-13-214		21	7-4-2208
	7 Codification instruction		22	10-1-604 (Renumbered 10-1-1009)
368	1 32-9-117		23	10-1-615
	2 32-9-122		24	19-2-707
	3 Effective date		25	39-51-1214
369	1 19-2-803		26	39-51-2302
	2 Effective date		27	Repealer
370	1 2-4-306		28	Instructions to code commissioner
	2 2-15-401		29	Codification instruction
371	1 Quality schools interim committee		30	Effective date
	— duties	382	1	41-3-112
	2 Effective date		2	41-3-115
372	1 1-1-520		3	41-3-201
	2 Codification instruction		4	41-3-202
	3 Effective date		5	41-3-438
373	1 3-5-102		6	41-3-443
	2 Provisional appointment —		7	41-3-445
	election		8	41-3-1010
	3 Effective date		9	42-6-102
374	1 17-5-302		10	Effective date
	2 17-5-304	383	1	53-1-409
	3 17-5-802		2	Effective date
	4 17-5-803	384	1	15-70-302
	5 17-5-805		2	15-70-321
	6 18-2-101		3	15-70-323
	7 Repealer		4	15-70-325
	8 Saving clause		5	15-70-330
	9 Effective date		6	15-70-356
375	1 15-18-411		7	15-70-372
376	1 15-6-133	385	1	82-15-102
	2 15-7-202		2	82-15-104
	3 15-10-420		3	82-15-106
	4 Coordination instruction		4	82-15-110
	5 Applicability		5	82-15-111
377	1 15-67-101		6	82-15-120
	2 15-67-102		7	Codification instruction
	3 Effective date		8	Effective date
	4 Retroactive applicability	386	1	50-48-101

2	50-48-102	403	1	75-5-801
3	50-48-103	2	75-5-802	
4	50-48-203	3	75-5-803	
5	50-48-106	4	Codification instruction	
6	50-48-107	5	Effective date	
7	50-48-108	6	Retroactive applicability	
8	50-48-109	404	1	50-1-211
9	50-48-110	2	Codification instruction	
10	50-48-201	3	Effective date	
11	50-48-202	4	Termination	
12	50-48-204	405	1	20-9-501
13	50-48-205	2	Effective date — retroactive	
14	50-48-206			applicability
15	50-48-209	406	1	53-6-803
16	45-5-623	2	Repealer	
17	50-1-202	407	1	33-18-224
18	50-2-116	2	33-18-1006	
19	50-2-130	408	1	3-2-714
20	Codification instruction	2	25-1-201	
21	Effective date	409	1	33-1-501
387	1	2	33-31-301	
2	Repealer	3	Effective date	
3	Effective date	4	Applicability	
388	1	410	1	72-3-220
2	Codification instruction			72-3-320
389	1	2	72-3-203	
2	37-51-313	3	72-3-212	
3	37-51-314	4	72-3-301	
4	37-51-321	5	Codification instruction	
390	1	6	Effective date	
2	2-6-112	7	Retroactive applicability	
3	Codification instruction	411	1	45-5-209
4	Effective date	2	46-6-311	
391	1	3	46-9-108	
2	19-17-401	4	Codification instruction	
3	19-17-404	412	1	27-2-209
392	1	413	1	71-1-303
2	15-16-403	2	71-1-308	
3	25-1-1101	3	71-1-309	
4	25-3-301	4	71-1-310	
5	25-9-205	5	71-1-307	
6	25-13-402	6	Codification instruction	
7	27-1-717	7	Applicability	
393	1	414	1	7-32-2226
2	28-1-1001	2	Effective date	
3	7-6-1541	415	1	15-35-103
4	7-6-1544	2	Effective date	
394	1	416	1	39-71-124
2	7-6-1546	2	39-71-713	
395	1	3	39-71-714	
2	61-6-304	4	39-71-715	
3	Effective date	5	39-71-716	
396	1	6	2-15-2015	
2	7-22-2154	7	30-9A-109	
3	Codification instruction	8	37-1-131	
4	Effective date	9	39-71-105	
397	1	10	39-71-106	
2	15-70-311	11	39-71-107	
3	15-70-312	12	39-71-116	
398	1	13	39-71-201	
2	7-1-4150	14	39-71-206	
399	1	15	39-71-211	
2	Coordination instruction	16	39-71-315	
3	17-5-1612	17	39-71-316	
400	1	18	39-71-317	
401	1	19	39-71-403	
2	7-12-2109	20	39-71-407	
3	7-12-4110	21	39-71-416 (Voided by sec. 40, Ch.	
4	7-12-4114		416)	
402	1	22	39-71-525	
2	Effective date			

23	39-71-601	6	15-1-501
24	39-71-603	7	19-6-401
25	39-71-612	8	19-6-404
26	39-71-743	9	44-1-1005
27	39-71-915	10	61-1-134
28	39-71-1105	11	61-1-137
29	39-71-2401	12	61-1-505
30	39-71-2406	13	61-5-103
31	39-71-2408	14	61-5-104
32	39-71-2411	15	61-5-105
33	39-73-104	16	61-5-107
34	39-73-107	17	61-5-110
35	45-6-301	18	61-5-111
36	71-3-1118	19	61-5-112
37	85-5-101	20	61-5-114 (Replaced by sec. 163, Ch. 596)
38	Repealer	21	61-5-119
39	Codification instruction	22	61-5-121 (Voided by sec. 164, Ch. 596)
40	Coordination instruction	23	61-5-125
41	Direction to code commissioner	24	61-5-201
42	Severability	25	61-5-213
43	Effective date — applicability	26	61-8-725
417	1 61-8-351	27	61-8-802
	2 61-8-715	28	61-8-803
	3 Effective date	29	61-8-807
418	1 85-1-613	30	61-8-812
	2 Termination	31	61-11-101
419	1 Repealer	32	61-11-102
420	1 37-61-211	33	61-11-203
	2 Effective date	34	Repealer
421	1 2-18-303 (Replaced by sec. 7, Ch. 421)	35	Codification instruction
	2 17-7-502	36	Coordination instruction
	3 61-3-321	37	Coordination instruction
	4 44-1-504	38	Coordination instruction
	5 17-7-160	39	Severability
	6 Codification instruction	40	Effective dates
	7 Coordination instruction	41	Retroactive applicability
	8 Coordination instruction	429	1 52-3-825
	9 Coordination instruction	430	1 87-1-209
	10 Effective dates	2	87-1-301
422	1 41-3-301	3	Effective date
	2 41-3-427	431	1 40-5-206
423	1 41-5-103	2	40-5-208
	2 41-5-215	3	40-5-225
	3 41-5-216	4	40-5-226
	4 41-5-220	5	40-5-247
	5 41-5-221	6	40-5-412
	6 41-5-1524	7	40-5-810
	7 41-5-2510	8	40-5-812
	8 Codification instruction	9	40-5-813
424	1 87-3-307	10	53-9-129
	2 Effective date	11	Effective date
425	1 75-10-621	432	1 7-6-2601
	2 75-10-704	2	7-6-4501
	3 75-10-743	3	17-8-311
	4 Effective date	4	Effective date
426	1 45-5-106	433	1 76-4-127 (Replaced by sec. 2, Ch. 433)
	2 61-8-714	2	Coordination instruction
	3 61-8-722	434	1 85-2-350
	4 Codification instruction	2	Repealer
	5 Coordination instruction	3	Effective date
	6 Effective date	435	1 45-8-213
427	1 30-16-201	436	1 37-2-107
	2 30-16-302	2	Time for adopting rules
	3 30-16-303	3	Codification instruction
428	1 61-5-220	4	Applicability
	2 61-5-221	437	1 2-2-121
	3 61-8-815	2	13-35-226
	4 61-8-816		
	5 61-8-817		

	3	Effective date	12	47-1-216
438	1	20-3-322	13	47-1-110
439	1	Appropriation	14	47-1-111
	2	Effective date	15	41-3-425
440	1	31-2-341	16	2-18-103
	2	Effective date	17	3-5-511
441	1	16-3-321	18	3-5-604
	2	16-3-322	19	3-5-901
	3	16-3-323	20	7-6-2426
	4	16-3-324	21	15-1-121
	5	Codification instruction	22	18-4-132
442	1	53-24-107	23	26-2-501
	2	53-24-303	24	26-2-506
	3	Effective date	25	26-2-508
443	1	75-10-227	26	26-2-510
	2	75-10-228 (Voided and replaced by sec. 9, Ch. 443)	27	40-5-236
	3	75-10-540	28	40-6-119
	4	75-10-542 (Voided and replaced by sec. 10, Ch. 443)	29	41-3-205
	5	75-11-218	30	41-3-422
	6	75-11-223	31	41-3-423
	7	76-4-108	32	41-3-432
	8	76-4-109	33	41-3-607
	9	Coordination instruction	34	41-3-1010
	10	Coordination instruction	35	41-3-1012
	11	Coordination instruction	36	41-5-111
	12	Saving clause	37	41-5-1413
	13	Effective date	38	42-2-405
444	1	7-1-2121	39	46-4-304
445	1	3-1-317	40	46-8-101
	2	3-1-702	41	46-8-104
	3	Repealer	42	46-8-113
	4	Effective date	43	46-8-114
446	1	13-2-222	44	46-8-115
	2	13-2-512	45	46-12-210
447	1	50-9-501	46	46-14-202
	2	50-9-502	47	46-14-221
	3	50-9-503	48	46-15-115
	4	50-9-504	49	46-15-116
	5	50-9-505	50	46-17-203
	6	Appropriation	51	46-18-101
	7	Codification instruction	52	46-18-201
	8	Effective date	53	46-21-201
448	1	39-71-417	54	50-20-212
	2	39-71-418	55	53-9-104
	3	39-71-419	56	53-20-125
	4	39-8-102	57	53-21-112
	5	39-51-201	58	53-21-116
	6	39-51-204	59	53-21-122
	7	39-71-105	60	53-24-302
	8	39-71-117	61	53-30-110
	9	39-71-401	62	61-8-731
	10	39-71-409	63	72-5-225
	11	39-71-415	64	72-5-234
	12	39-72-102	65	72-5-315
	13	Repealer	66	72-5-322
	14	Codification instruction	67	72-5-408
	15	Effective date — applicability	68	Implementation
449	1	47-1-101	69	Transition — transfer of county and city employees to state employment — rights
	2	47-1-103	70	Transition of appellate defender commission and office
	3	47-1-102		
	4	47-1-104	71	Rights to property
	5	2-15-1028	72	Implementation — determination of actual costs — legislative audit — report
	6	47-1-105		
	7	47-1-201		
	8	47-1-202	73	Interim report
	9	47-1-205	74	Repealer
	10	47-1-210	75	Codification instruction
	11	47-1-215	76	Directions to code commissioner

	77	Coordination instruction		16	22-1-304
	78	Saving clause		17	50-2-111
	79	Three-fifths vote required		18	53-21-1010
	80	Effective dates		19	67-10-402
450	1	15-1-116		20	81-8-504
	2	15-1-118		21	Repealer
	3	70-1-106		22	Codification instruction
	4	Repealer		23	Effective date
	5	Codification instruction	454	1	15-50-207
451	1	7-7-104		2	Effective date
	2	7-7-109		3	Retroactive applicability
	3	7-7-2206	455	1	15-32-115
	4	7-7-2207		2	Effective date
	5	7-7-2211		3	Applicability
	6	7-7-2304	456	1	33-1-318
	7	7-7-4206		2	33-1-1301
	8	7-7-4210		3	33-1-1302
	9	7-7-4304		4	33-38-101
	10	7-7-4502		5	33-38-102
	11	7-12-2113		6	33-38-103
	12	7-12-2193		7	33-38-104
	13	7-12-4194		8	33-38-105
	14	7-13-4309		9	33-38-106
	15	7-14-4109		10	33-38-107
	16	7-16-2443		11	33-38-108
	17	17-5-103		12	Repealer
	18	20-9-408		13	Codification instruction
	19	20-9-410		14	Applicability
	20	20-9-464	457	1	69-8-1001
	21	17-5-111		2	69-8-1002
	22	7-12-4195		3	69-8-1003
	23	Codification instruction		4	69-8-1004
	24	Effective date		5	69-8-1005
452	1	82-15-121		6	69-8-1006
	2	82-15-122		7	69-8-1007
	3	15-70-201		8	69-8-1008
	4	15-70-204		9	Saving clause
	5	15-70-503		10	Severability
	6	15-70-522		11	Codification instruction
	7	17-6-317		12	Effective date
	8	82-15-101	458	1	61-1-101(10), (23), (38), (60), (64)
	9	82-15-102		2	61-3-213
	10	82-15-103		3	61-3-320
	11	82-15-104		4	61-3-301
	12	82-15-106		5	61-3-411
	13	82-15-110		6	61-9-204
	14	82-15-123		7	61-9-407
	15	82-15-111		8	61-9-430
	16	Sec. 12, Ch. 568, L. 2001		9	Codification instruction
	17	Sec. 13, Ch. 568, L. 2001		10	Coordination instruction
	18	Repealer		11	Effective date
	19	Codification instruction	459	1	Time limits
	20	Effective date		2	Appropriations
	21	Contingent termination		3	Effective date
453	1	7-1-2103	460	1	90-1-131
	2	7-1-4123		2	Appropriation
	3	7-6-2501		3	Sec. 19, Ch. 512, L. 1999
	4	7-6-2521		4	Sec. 5, Ch. 69, L. 2001
	5	7-6-2522		5	Notification to tribal governments
	6	7-6-2524		6	Effective date
	7	7-6-2527 (Replaced by sec. 3, Ch. 317)	461	1	75-10-1301
	8	7-6-4401		2	75-10-1302
	9	7-6-4421		3	75-10-1303
	10	7-7-4104		4	75-10-1304
	11	7-13-144		5	75-10-1305
	12	7-13-3027		6	75-10-1306
	13	7-21-3410		7	Codification instruction
	14	15-16-101	462	1	20-5-323
	15	15-16-117		2	20-6-607
				3	20-7-102

4	20-7-102	10	39-51-1301
5	20-9-130	11	39-51-1303
6	20-9-131	12	39-51-2102
7	20-9-142	13	39-51-2104
8	20-9-151	14	39-51-2402
9	20-9-152	15	Coordination instruction
10	20-9-306	16	Effective dates
11	20-9-306	467 1	23-3-501
12	20-9-308	2	23-4-105
13	20-9-311	3	23-4-201
14	20-9-314	4	27-12-206
15	20-9-321	5	33-30-1013
16	20-9-353	6	37-1-101
17	20-9-366	7	37-1-104
18	20-9-406	8	37-1-105
19	20-9-443	9	37-1-121
20	Extension of school election deadlines	10	37-1-130
21	20-3-363	11	37-1-131
22	Repealer	12	37-1-134
23	Codification instruction	13	37-1-141
24	Effective dates — applicability	14	37-1-302
25	Termination	15	37-1-306
463 1	20-3-205	16	37-1-307
2	20-5-321	17	37-2-101
3	20-5-324	18	37-3-203
4	20-7-420	19	37-3-211
5	20-9-212	20	37-3-301
6	20-9-335	21	37-3-305
7	20-10-105	22	37-3-306
8	Appropriation	23	37-3-307
9	Effective date	24	37-3-309
464 1	19-6-410	25	37-3-311
2	15-1-122	26	37-3-313
3	17-7-502	27	37-3-341
4	19-6-401	28	37-3-342
5	19-6-404	29	37-3-343
6	19-6-709	30	37-3-344
7	61-3-527	31	37-3-347
8	61-3-530	32	37-4-301
9	61-3-562	33	37-4-307
10	61-5-121 (Replaced by sec. 164, Ch. 596)	34	37-4-402
11	Transfer of funds	35	37-4-406
12	Codification instruction	36	37-6-304
13	Effective date	37	37-7-104
14	Termination	38	37-7-302
465 1	17-8-401	39	37-7-321
2	17-8-402	40	37-7-605
3	17-8-403	41	37-7-606
4	17-8-404	42	37-8-102
5	17-8-405	43	37-8-202
6	17-8-406	44	37-8-204
7	17-8-407	45	37-9-304
8	17-8-408	46	37-9-305
9	17-8-409	47	37-10-302
10	17-8-410	48	37-10-304
11	17-8-411	49	37-11-201
12	17-8-412	50	37-11-304
13	Repealer	51	37-12-201
14	Applicability	52	37-12-302
466 1	39-51-201	53	37-13-302
2	39-51-204	54	37-14-306
3	39-51-301	55	37-16-202
4	39-51-302	56	37-16-405
5	39-51-409	57	37-17-302
6	39-51-1110	58	37-18-202
7	39-51-1206	59	37-19-401
8	39-51-1218	60	37-19-702
9	39-51-1219	61	37-19-807
		62	37-20-301
		63	37-20-302

64	37-22-201		
65	37-22-301		
66	37-22-302		
67	37-23-101		
68	37-23-202		
69	37-23-203		
70	37-23-206		
71	37-24-202		
72	37-24-303		
73	37-24-310		
74	37-25-201		
75	37-26-201		
76	37-26-403		
77	37-27-105		
78	37-27-210		
79	37-28-104		
80	37-28-202		
81	37-29-306		
82	37-31-203		
83	37-31-302		
84	37-31-303		
85	37-31-304		
86	37-31-305		
87	37-31-308		
88	37-31-311		
89	37-31-312		
90	37-31-323		
91	37-34-201		
92	37-34-305		
93	37-35-103		
94	37-40-302		
95	37-42-304		
96	37-42-308		
97	37-47-101		
98	37-47-201		
99	37-47-304		
100	37-50-304		
101	37-51-204		
102	37-51-303		
103	37-51-305		
104	37-51-603		
105	37-53-104		
106	37-60-304		
107	37-66-304		
108	37-67-303		
109	37-67-321		
110	37-68-201		
111	37-68-304		
112	37-68-305		
113	37-68-307		
114	37-68-310		
115	37-68-312		
116	37-69-304		
117	37-69-305		
118	37-69-306		
119	37-69-401		
120	37-72-102		
121	37-72-202		
122	37-72-305		
123	37-76-109		
124	50-16-201		
125	50-74-312		
126	80-8-207		
127	Repealer		
128	Effective date		
468	1	Motorized nonstandard vehicle (Voided by sec. 11, Ch. 468) (Enacted as 61-1-101(34))	
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6	Codification instruction	2	17-7-502		
7	Coordination instruction	3	41-5-130		
8	Effective dates	4	Codification instruction		
9	Termination (Voided by sec. 7(2), Ch. 471)	5	Effective date		
472	1 60-3-201	6	Retroactive applicability		
	2 80-7-508	483	1 39-31-103		
	3 80-7-801		2 Effective date		
	4 80-7-811	484	1 87-2-514		
	5 80-7-814		2 87-2-515		
	6 80-7-815		3 Codification instruction		
	7 Effective dates		4 Coordination instruction		
473	1 45-9-202		5 Effective date		
	2 46-23-1031 (Replaced by sec. 6, Ch. 360)	485	1 Appropriation		
	3 Coordination instruction		2 Effective date		
474	1 39-73-101	486	1 82-4-254		
	2 39-73-103		2 82-4-361		
	3 39-73-104		3 82-4-441 (Voided and replaced by sec. 4, Ch. 486)		
	4 39-73-107		4 Coordination instruction		
	5 39-73-109		5 Saving clause		
	6 Appropriation		6 Contingent voidness		
	7 Effective date	487	1 75-1-1001		
475	1 33-23-501		2 76-4-1001		
	2 33-23-502		3 75-1-1002		
	3 33-23-503		4 76-4-1002		
	4 33-23-507		5 82-4-1001		
	5 33-23-508		6 82-4-1002		
	6 33-23-509		7 75-2-401		
	7 33-23-510		8 75-2-413		
	8 33-23-511		9 75-2-514		
	9 33-23-512		10 75-2-515		
	10 33-23-513		11 75-5-611		
	11 33-23-514		12 75-5-631		
	12 33-23-515		13 75-6-109		
	13 33-23-519		14 75-6-114		
	14 33-23-520		15 75-10-228 (Voided and replaced by sec. 9, Ch. 443)		
	15 33-23-521		16 75-10-417		
	16 33-23-522		17 75-10-424		
	17 33-23-523		18 75-10-542 (Voided and replaced by sec. 10, Ch. 443)		
	18 33-23-524		19 75-10-1222		
	19 33-23-525		20 75-10-1223		
	20 33-23-526		21 75-11-223		
	21 33-11-105		22 75-11-516		
	22 Codification instruction		23 75-11-525		
476	1 77-6-302		24 75-20-408		
	2 77-6-306		25 76-4-109		
	3 Effective date		26 82-4-141		
477	1 61-8-714		27 82-4-254		
	2 61-8-722		28 82-4-361		
478	1 61-5-105		29 82-4-441 (Voided and replaced by sec. 4, Ch. 486)		
	2 61-5-107		30 Codification instruction		
	3 61-5-111		31 Saving clause		
	4 61-5-125		32 Contingent voidness		
	5 Effective dates		33 Effective date		
	6 Applicability		488	1 7-12-2103	
479	1 13-37-107			2 7-12-2105	
	2 13-37-108			3 7-12-2109	
	3 13-27-111			4 7-12-2112	
	4 13-37-101			489	1 20-26-601
	5 13-37-102				2 20-26-602
	6 13-37-103				3 20-26-603
	7 13-37-111				4 2-15-1524
	8 Codification instruction				5 20-26-611
480	1 53-21-132				6 20-26-612
	2 Cost study				7 20-26-613
	3 Effective date				8 Notification to tribal governments
481	1 10-2-417				9 Implementation
	2 Effective date				
482	1 41-5-2011				

	10	Codification instruction	6	61-3-479 (Voided by sec. 8, Ch. 500)
	11	Effective date — applicability		
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	2	20-7-471		
	3	20-7-472	8	Coordination instruction
	4	20-7-473	9	Effective date
	5	20-7-474	501	1 Appropriation
	6	20-7-475	2	Notification to tribal governments
	7	20-7-602	502	1 53-6-113
	8	Appropriation	2	Appropriation
	9	Codification instruction	3	Effective date
	10	Effective date	503	1 20-6-206
491	1	37-14-102	2	20-6-318
	2	37-14-301	3	20-9-428
	3	37-14-313	4	Effective date — applicability
	4	Effective date	504	1 Appropriation
492	1	7-33-2205	2	2-15-2014
	2	7-33-2206	3	46-15-411
493	1	44-4-310	4	Effective date
	2	44-4-311	505	1 82-4-305
	3	44-4-312	2	Effective date
	4	44-4-313	506	1 2-15-2025
	5	25-1-201 (Voided and replaced by sec. 9, Ch. 493)	2	Codification instruction
	6	40-1-202 (Voided and replaced by sec. 10, Ch. 493)	3	Effective date
	7	40-1-311 (Voided and replaced by sec. 11, Ch. 493)	507	1 49-4-301 (Replaced by sec. 3, Ch. 507)
	8	Codification instruction	2	61-3-332
	9	Coordination instruction	3	Coordination instruction
	10	Coordination instruction	4	Coordination instruction
	11	Coordination instruction	5	Effective date
	12	Effective date	508	1 20-10-126
494	1	81-9-201	2	Effective date
	2	81-9-217	509	1 61-10-124
	3	81-9-220	510	1 20-6-421
	4	81-9-227	2	20-6-422 (Replaced by sec. 14, Ch. 510)
	5	81-9-228	3	20-6-423 (Replaced by sec. 14, Ch. 510)
	6	Restricted appropriation	4	20-6-424
	7	Effective date	5	20-3-205
495	1	16-4-414	6	20-3-302
	2	Effective date	7	20-3-312
496	1	Appropriation	8	20-6-209
	2	60-11-111	9	20-6-307
	3	60-11-120	10	20-6-704
	4	Effective date	11	20-9-311
497	1	60-2-220	12	Repealer
	2	Effective date	13	Codification instruction
498	1	33-15-1105	14	Coordination instruction
	2	Effective date	15	Effective date
499	1	Definitions	511	1 16-11-106
	2	Appropriation of bond proceeds	2	16-11-107
	3	Authorization of bonds — condition	3	16-11-108
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	5	Review by department of environmental quality	5	16-11-128
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	7	Requirement for approval of state debt	7	16-10-306
	8	Severability	8	16-11-102
	9	Effective date	9	16-11-103
500	1	15-1-122 (Voided by sec. 8, Ch. 500)	10	16-11-104
	2	19-6-709 (Voided by sec. 8, Ch. 500)	11	16-11-111
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			15	16-11-120
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23	16-11-144	18	37-20-405
24	16-11-145	19	37-20-406
25	16-11-146	20	39-71-116
26	16-11-147	21	41-1-401
27	16-11-148	22	46-4-114
28	16-11-149	23	50-5-101
29	16-11-150	24	50-5-216
30	16-11-155	25	50-16-201
31	16-11-158	26	50-19-101
32	16-11-507	27	50-20-109
33	53-6-1201	28	52-5-108
34	16-11-129	29	53-6-101
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36	Codification instruction	31	37-20-410
37	Effective date	32	Repealer
512	1 41-5-102	33	Name change — directions to code commissioner
	2 Effective date		
513	1 30-10-909	34	Codification instruction
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	3 72-4-303		2 53-10-202
	4 72-16-906		3 53-10-203
	5 72-34-442		4 53-10-204
	6 Effective date		5 53-10-211
	7 Retroactive applicability		6 53-10-212
514	1 53-6-109		7 Codification instruction
	2 No appropriation	521	1 20-6-110
	3 Effective date		20-25-110
515	1 87-2-903		2 Codification instruction
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	3 Effective date		4 Effective date
516	1 7-21-1001		5 Applicability
	2 7-21-1002	522	1 Appropriation of bond proceeds
	3 7-21-1003		2 Authorization of bonds
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	3 46-18-225		6 Requirement for approval of state debt
	4 46-23-1015		7 Effective date
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518	1 31-3-115	524	1 15-32-701
	2 30-14-1721		2 15-32-702
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	9 33-19-321		2 15-70-369
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	12 Effective date		5 15-70-341
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	3 33-22-114		8 Sec. 13, Ch. 568, L. 2001
	4 37-3-103		9 Repealer
	5 37-8-103		10 Codification instruction
	6 37-20-101		11 Effective date
	7 37-20-103		12 Applicability
	8 37-20-104	526	1 85-2-247
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8	85-2-235	8	90-10-303
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11	Effective date	11	90-10-306
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	6 Termination	17	15-31-152
528	1 23-5-612	18	33-2-705
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529	1 7-12-2102	21	Severability
	2 7-12-2105	22	Effective date
	3 7-12-2109	538	1 39-6-108
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531	1 15-6-138		5 Repealer
	2 15-6-201		6 Codification instruction
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	15	Effective date	4	40-5-248
558	1	53-4-260	5	40-5-271
	2	Codification instruction	6	40-5-272
	3	Effective date	7	40-5-273
559	1	15-39-101	8	40-5-277
	2	15-39-102	9	40-6-116
	3	15-39-103	10	Repealer
	4	15-39-104	11	Effective date
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	6	15-39-106	2	53-4-1007
	7	15-39-107	3	53-4-1012
	8	15-39-108	4	Codification instruction
	9	15-39-109	5	Effective date
	10	15-39-110	6	Applicability
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	13	15-6-208	2	7-15-4282
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	15	15-23-501	4	7-15-4284
	16	15-23-502	5	7-15-4285
	17	Transition	6	7-15-4286
	18	Codification instruction	7	7-15-4288
	19	Saving clause	8	7-15-4290
	20	Effective date	9	7-15-4292
	21	Retroactive applicability	10	7-15-4293
560	1	Definitions	11	7-15-4301
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	3	Fund transfer	13	Codification instruction
	4	Capital improvements	14	Effective date
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	4	Sec. 1, Ch. 411, L. 1997	33	30-4A-106
	5	Sec. 4, Ch. 398, L. 2001	34	30-5-123
	6	Sec. 5, Ch. 398, L. 2001	35	30-7-102
	7	Sec. 6, Ch. 398, L. 2001	36	30-7-103
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570	1	20-7-118	39	30-7-107
	2	20-1-101	40	30-7-201
	3	Codification instruction	41	30-7-202
	4	Effective date — applicability	42	30-7-203
571	1	2-4-623	43	30-7-204
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	3	Applicability	45	30-7-206
572	1	50-32-501	46	30-7-207
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	6	44-4-1004	51	30-7-302
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	8	Codification instruction	53	30-7-304
	9	Effective date	54	30-7-305
573	1	87-2-202	55	30-7-307
	2	87-2-711	56	30-7-308
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	4	Effective date	58	30-7-401
574	1	18-2-501	59	30-7-402
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575	1	30-1-101	71	30-7-602
	2	30-1-102	72	30-7-603
	3	30-1-107	73	30-8-113
	4	30-1-201	74	30-9A-102
	5	30-1-204	75	30-9A-203
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	13	30-1-302	83	30-9A-317
	14	30-2-104	84	30-9A-338
	15	30-2-310	85	30-9A-601
	16	30-2-323	86	30-18-103
	17	30-2-401	87	30-18-115
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	19	30-2-506	89	71-3-125
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	4	Effective date — applicability	5	87-2-306
	5	Termination	6	87-2-401
578	1	87-5-132	7	87-2-403
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580	1	Appropriations from treasure state endowment state special revenue account	19	87-2-805
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	14	Notification to tribal governments		3
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	15	Effective date		1
			588	1
				17-5-703
581	1	5-11-407		2
				90-1-201
	2	17-7-304		3
				90-1-202
	3	17-7-502		4
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	4	Codification instruction		5
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	5	Effective date		6
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	6	Retroactive applicability		7
				17-7-502
582	1	2-18-601		8
				Fund transfer
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				Codification instruction
	3	Effective date		10
				Effective date
583	1	61-5-212		589
				1
				15-35-108
	2	61-8-733		2
				Effective date
584	1	15-6-134		590
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				17-5-820
	2	15-6-138		2
				Effective date
	3	15-6-201		591
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				16-4-310
	4	15-7-102		2
				16-4-311
	5	15-8-111		3
				16-4-312
	6	15-32-405		4
				16-1-404
	7	61-3-560		5
				16-4-401
	8	61-10-214		6
				16-4-501
	9	Effective date		7
				16-1-424
	10	Retroactive applicability		8
				Codification instruction
585	1	87-2-809		9
				Effective date

592	1	15-36-303	6	33-22-2006
	2	15-36-304	7	33-22-2007
	3	Effective date	8	33-22-2008
	4	Applicability	9	33-22-2009
593	1	15-31-901	10	53-2-216
	2	15-31-902	11	15-30-185
	3	15-31-903	12	15-31-130
	4	15-31-904	13	15-30-111
	5	15-31-905	14	15-30-303
	6	15-31-906	15	15-31-511
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	8	15-31-908	17	45-6-301
	9	15-31-909	18	53-6-1201 (Replaced by sec. 13, Ch. 287)
	10	15-31-910	19	53-2-217
	11	15-31-911	20	Codification instruction
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	14	Severability	596	1
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	16	Applicability	3	61-1-101(1), (2), (9)
	17	Termination — carryforward	4	61-3-116
594	1	15-1-206	5	61-3-117
	2	15-1-216	6	61-3-118
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	4	15-23-214	8	7-14-112
	5	15-30-142	9	10-3-1307
	6	15-30-149	10	15-1-101
	7	15-30-209 (Voided by sec. 41, Ch. 594)	11	15-1-116 (Voided by sec. 130, Ch. 596)
	8	15-30-241	12	15-1-117
	9	15-30-321	13	15-1-121
	10	15-30-323	14	15-1-122 (Voided by sec. 131, Ch. 596)
	11	15-30-1112	15	15-8-201
	12	15-31-111	16	15-8-202
	13	15-31-141	17	15-15-201
	14	15-31-503	18	15-24-301
	15	15-31-510	19	15-24-302
	16	15-31-531	20	19-6-709
	17	15-31-543	21	23-1-105
	18	15-35-112	22	23-2-502
	19	15-36-314	23	23-2-511
	20	15-37-102	24	23-2-513
	21	15-37-105	25	23-2-515
	22	15-37-106	26	23-2-616 (Voided by sec. 132, Ch. 596)
	23	15-37-108	27	23-2-619
	24	15-37-114	28	23-2-818
	25	15-37-210	29	49-4-301 (Replaced by sec. 3, Ch. 507)
	26	15-38-106	30	49-4-302
	27	15-38-110	31	49-4-303
	28	15-38-111	32	49-4-304
	29	15-50-308	33	49-4-305
	30	15-51-109	34	61-1-104
	31	15-53-145	35	61-1-111
	32	15-53-146	36	61-1-501
	33	15-59-112	37	61-1-508
	34	15-60-206	38	61-1-513
	35	15-65-115	39	61-1-603
	36	15-66-206	40	61-3-107
	37	15-67-206	41	61-3-109
	38	15-68-513	42	61-3-201
	39	15-72-114	43	61-3-203
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	41	Coordination instruction	45	61-3-217
	42	Effective dates	46	61-3-218
	43	Applicability	47	61-3-220
595	1	33-22-2001		61-3-224 (Replaced by sec. 138, Ch. 596)
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	3	33-22-2003		
	4	33-22-2004		
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48	61-3-301	106	61-4-121
49	61-3-302 (Replaced by sec. 140, Ch. 596)	107	61-4-222
50	61-3-303 (Replaced by sec. 142, Ch. 596)	108	61-4-223
51	61-3-311 (Replaced by sec. 143, Ch. 596)	109	61-4-310
52	61-3-312 (Replaced by sec. 144, Ch. 596)	110	61-5-103
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54	61-3-314 (Replaced by sec. 146, Ch. 596)	112	61-5-114 (Replaced by sec. 163, Ch. 596)
55	61-3-315	113	61-5-115
56	61-3-316	114	61-5-121 (Voided by sec. 164, Ch. 596)
57	61-3-317 (Replaced by sec. 147, Ch. 596)	115	61-5-206
58	61-3-321	116	61-5-208
59	61-3-322	117	61-8-442
60	61-3-324	118	61-10-222
61	61-3-325	119	61-11-102
62	61-3-331	120	61-11-105
63	61-3-332	121	61-11-204
64	61-3-333	122	61-11-210
65	61-3-334 (Replaced by sec. 152, Ch. 596)	123	76-2-202
66	61-3-335	124	76-2-302 (Voided by sec. 167, Ch. 596)
67	61-3-345	125	Repealer
68	61-3-347	126	Coordination instruction
69	61-3-401	127	Coordination instruction
70	61-3-402	128	Codification instruction
71	61-3-403	129	Coordination instruction
72	61-3-407	130	Coordination instruction
73	61-3-412	131	Coordination instruction
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81	61-3-446	139	Coordination instruction
82	61-3-456	140	Coordination instruction
83	61-3-458	141	Coordination instruction
84	61-3-463	142	Coordination instruction
85	61-3-464	143	Coordination instruction
86	61-3-474	144	Coordination instruction
87	61-3-479	145	Coordination instruction
88	61-3-481	146	Coordination instruction
89	61-3-501	147	Coordination instruction
90	61-3-503	148	Coordination instruction
91	61-3-520	149	Coordination instruction
92	61-3-522	150	Coordination instruction
93	61-3-527	151	Coordination instruction
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97	61-3-561	155	Coordination instruction (Enacts 61-3-337)
98	61-3-562	156	Coordination instruction
99	61-3-701 (Replaced by sec. 157, Ch. 596)	157	Coordination instruction
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