

1 SENATE BILL NO. 24

2 INTRODUCED BY B. CROMLEY

3 BY REQUEST OF THE CODE COMMISSIONER

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND CLARIFYING THE MONTANA CODE
 6 ANNOTATED; DIRECTING THE CODE COMMISSIONER TO CORRECT ERRONEOUS REFERENCES
 7 CONTAINED IN MATERIAL ENACTED BY THE 59TH LEGISLATURE; AMENDING SECTIONS 1-1-516,
 8 2-2-106, 2-15-1821, 2-15-1822, 2-18-1204, 3-10-301, 5-7-112, 7-1-2111, 7-2-2422, 7-2-2424, 7-3-173,
 9 7-35-2121, 13-13-211, 15-1-121, 15-1-122, 15-24-3005, 15-30-111, 15-31-115, 15-61-102, 15-65-121,
 10 15-70-301, 16-1-101, 17-2-131, 17-5-507, 17-6-407, 20-3-351, 20-9-141, 20-9-501, 20-10-144, 20-10-146,
 11 20-15-221, 20-20-303, 20-25-308, 23-2-502, 23-2-511, 23-2-514, 23-2-515, 23-2-521, 23-2-614, 27-1-306,
 12 30-14-222, 30-14-223, 30-14-901, 30-14-1407, 33-22-140, 37-10-304, 39-11-201, 39-11-204, 39-71-1011,
 13 39-71-1014, 39-71-2316, 40-5-906, 40-6-405, 41-3-302, 41-3-437, 41-3-445, 44-1-1102, 46-14-221, 46-14-222,
 14 46-19-202, 50-20-101, 50-60-203, 52-2-304, 53-6-703, 53-7-109, 61-3-403, 61-3-522, 61-3-722, 61-4-223,
 15 61-4-515, 61-4-520, 61-8-906, 61-8-913, 61-10-227, 61-10-233, 71-3-534, 72-1-103, 82-15-103, AND 85-7-304,
 16 MCA; AND REPEALING SECTIONS 15-7-104, 15-32-108, 20-6-212, AND 85-7-2141, MCA."

17
 18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19
 20 **Section 1.** Section 1-1-516, MCA, is amended to read:
 21 **"1-1-516. State Korean war veterans' memorial -- Butte.** (1) The Korean war veterans' memorial
 22 located in Stodden Park, Butte, Montana, dedicated to the men and women who served the United States in the
 23 Republic of Korea, is an official state Korean war veterans' memorial.
 24 (2) The department of commerce and the department of transportation are directed to reference the
 25 location of a state Korean war veterans' memorial on official state maps."

26
 27 **Section 2.** Section 2-2-106, MCA, is amended to read:
 28 **"2-2-106. Disclosure.** (1) (a) Prior to December 15 of each even-numbered year, each ~~elected official~~
 29 ~~or department director~~ state officer or holdover senator shall file with the commissioner of political practices a
 30 business disclosure statement on a form provided by the commissioner. An individual filing pursuant to

1 subsection (1)(b) or (1)(c) is not required to file under this subsection (1)(a) during the same period.

2 (b) Each candidate for a statewide or a state office elected from a district shall, within 5 days of the time
3 that the candidate files for office, file a business disclosure statement with the commissioner of political practices
4 on a form provided by the commissioner.

5 (c) An individual appointed to office who would be required to file under subsection (1)(a) or (1)(b) is
6 required to file the business disclosure statement at the earlier of the time of submission of the person's name
7 for confirmation or the assumption of the office.

8 (2) The statement must provide the following information:

9 (a) the name, address, and type of business of the individual;

10 (b) each present or past employing entity from which benefits, including retirement benefits, are
11 currently received by the individual;

12 (c) each business, firm, corporation, partnership, and other business or professional entity or trust in
13 which the individual holds an interest;

14 (d) each entity not listed under subsections (2)(a) through (2)(c) in which the individual is an officer or
15 director, regardless of whether or not the entity is organized for profit; and

16 (e) all real property, other than a personal residence, in which the individual holds an interest. Real
17 property may be described by general description.

18 (3) An individual may not assume or continue to exercise the powers and duties of the office to which
19 that individual has been elected or appointed until the statement has been filed as provided in subsection (1).

20 (4) The commissioner of political practices shall make the business disclosure statements available to
21 any individual upon request."

22

23 **Section 3.** Section 2-15-1821, MCA, is amended to read:

24 **"2-15-1821. Coal board -- allocation -- composition.** (1) There is a coal board composed of seven
25 members.

26 (2) The coal board is allocated to the department of commerce for administrative purposes only as
27 prescribed in 2-15-121.

28 (3) The governor shall appoint a seven-member coal board, as provided under 2-15-124.

29 (4) (a) The Subject to subsections (4)(b) and (4)(c), the members of the coal board are selected as
30 follows:

- 1 (i) two from the impact areas; and
 2 (ii) two with expertise in education; ~~and.~~
 3 ~~(iii)(b) at~~ At least two but not more than four members must be appointed from each district provided for
 4 in 5-1-102.
 5 ~~(b)(c) The~~ In making the appointments, the governor shall ~~further, in making these appointments,~~
 6 consider people from ~~these~~ the following fields:
 7 (i) business;
 8 (ii) engineering;
 9 (iii) public administration; and
 10 (iv) planning."
 11

12 **Section 4.** Section 2-15-1822, MCA, is amended to read:

13 **"2-15-1822. Hard-rock mining impact board.** (1) There is a hard-rock mining impact board.

14 (2) The hard-rock mining impact board is a five-member board.

15 (3) (a) The Subject to subsections (3)(b) and (3)(c), the hard-rock mining impact board shall must
 16 include among its members:

17 ~~(a) three persons who, when appointed to the board, reside in an area impacted or expected to be~~
 18 ~~impacted by large-scale mineral development;~~

19 ~~— (b) at least two persons from each district provided for in 5-1-102;~~

20 ~~(c)(i) a representative of the hard-rock mining industry;~~

21 ~~(d)(ii) a representative of a major financial institution in Montana;~~

22 ~~(e)(iii) a person who, when appointed to the board, is an elected school district trustee;~~

23 ~~(f)(iv) a person who, when appointed to the board, is an elected county commissioner;~~

24 ~~(g)(v) a member of the public-at-large.~~

25 (b) Three persons appointed to the board must reside in an area impacted or expected to be impacted
 26 by large-scale mineral development.

27 (c) At least two persons must be appointed from each district provided for in 5-1-102.

28 (4) The hard-rock mining impact board is a quasi-judicial board subject to the provisions of 2-15-124
 29 except that one of the members need not be an attorney licensed to practice law in this state; ~~and the.~~ The board
 30 shall elect a presiding officer from among its members."

1

2 **Section 5.** Section 2-18-1204, MCA, is amended to read:

3 **"2-18-1204. Salary and benefits protection -- employee transfer.** (1) An employee whose position
4 is eliminated as a result of privatization, reorganization of an agency, closure of or a reduction in force at an
5 agency, or other actions by the legislature and who is subsequently transferred to a different position in a state
6 agency is entitled to:

7 (a) the same hourly salary as previously received if the new position is at the same grade level or higher
8 as the one previously held;

9 (b) retain all accrued sick leave credits;

10 (c) retain, cash out, or use accrued vacation leave credits to extend the employee's effective layoff date;

11 and

12 (d) relocation expenses as provided in state policy.

13 (2) Relocation expenses must be paid by the hiring agency, and the funds expended by the hiring
14 agency must be reimbursed from the funds appropriated for this purpose, ~~including those funds subject to~~
15 ~~transfer under the provisions of section 6, Chapter 524, Laws of 1995."~~

16

17 **Section 6.** Section 3-10-301, MCA, is amended to read:

18 **"3-10-301. Civil jurisdiction.** (1) Except as provided in 3-11-103 and in subsection (2) of this section,
19 the justices' courts have jurisdiction:

20 (a) in actions arising on contract for the recovery of money only if the sum claimed does not exceed
21 \$7,000, exclusive of court costs;

22 (b) in actions for damages not exceeding \$7,000, exclusive of court costs, for taking, detaining, or
23 injuring personal property or for injury to real property when no issue is raised by the verified answer of the
24 defendant involving the title to or possession of the real property;

25 (c) in actions for damages not exceeding \$7,000, exclusive of court costs, for injury to the person,
26 except that, in actions for false imprisonment, libel, slander, criminal conversation, seduction, malicious
27 prosecution, determination of paternity, and abduction, the justice of the peace does not have jurisdiction;

28 (d) in actions to recover the possession of personal property if the value of the property does not exceed
29 \$7,000;

30 (e) in actions for a fine, penalty, or forfeiture not exceeding \$7,000 imposed by a statute or an ordinance

1 of an incorporated city or town when no issue is raised by the answer involving the legality of any tax, impost,
2 assessment, toll, or municipal fine;

3 (f) in actions for a fine, penalty, or forfeiture not exceeding \$7,000 imposed by a statute or assessed
4 by an order of a conservation district for violation of Title 75, chapter 7, part 1;

5 (g) in actions upon bonds or undertakings conditioned for the payment of money when the sum claimed
6 does not exceed \$7,000, though the penalty may exceed that sum;

7 (h) to take and enter judgment for the recovery of money on the confession of a defendant when the
8 amount confessed does not exceed \$7,000, exclusive of court costs;

9 (i) to issue temporary restraining orders, as provided in 40-4-121, and orders of protection, as provided
10 in Title 40, chapter 15;

11 (j) to issue orders to restore streams under Title 75, chapter 7, part 1, or to require payment of the actual
12 cost for restoration of a stream if the restoration does not exceed \$7,000.

13 (2) Justices' courts do not have jurisdiction in civil actions that might result in a judgment against the
14 state for the payment of money."

15

16 **Section 7.** Section 5-7-112, MCA, is amended to read:

17 **"5-7-112. Payment threshold -- inflation adjustment.** For calendar years ~~2002 through year~~ 2004,
18 the payment threshold referred to in 5-7-102, 5-7-103, and 5-7-208 is \$2,150. The commissioner shall adjust
19 the threshold amount following a general election by multiplying the threshold amount valid for the year in which
20 the general election was held by an inflation factor, adopted by the commissioner by rule. The rule must be
21 written to reflect the annual average change in the consumer price index from the prior year to the year in which
22 the general election is held. The resulting figure must be rounded up or down to the nearest \$50 increment. The
23 commissioner shall adopt the adjusted amount by rule."

24

25 **Section 8.** Section 7-1-2111, MCA, is amended to read:

26 **"7-1-2111. Classification of counties.** (1) For the purpose of regulating the compensation and salaries
27 of all county officers, not otherwise provided for, and for fixing the penalties of officers' bonds, the counties of
28 this state must be classified according to the taxable valuation of the property in the counties upon which the
29 tax levy is made as follows:

30 (a) first class--all counties having a taxable valuation of \$50 million or more;

- 1 (b) second class--all counties having a taxable valuation of \$30 million or more and less than \$50
2 million;
- 3 (c) third class--all counties having a taxable valuation of \$20 million or more and less than \$30 million;
- 4 (d) fourth class--all counties having a taxable valuation of \$15 million or more and less than \$20 million;
- 5 (e) fifth class--all counties having a taxable valuation of \$10 million or more and less than \$15 million;
- 6 (f) sixth class--all counties having a taxable valuation of \$5 million or more and less than \$10 million;
- 7 (g) seventh class--all counties having a taxable valuation of less than \$5 million.
- 8 (2) As used in this section, "taxable valuation" means the taxable value of taxable property in the county
9 as of the time of determination plus:
- 10 (a) that portion of the taxable value of the county on December 31, 1981, attributable to automobiles
11 and trucks having a rated capacity of three-quarters of a ton or less;
- 12 (b) that portion of the taxable value of the county on December 31, 1989, attributable to automobiles
13 and trucks having a manufacturer's rated capacity of more than three-quarters of a ton but less than or equal
14 to 1 ton;
- 15 (c) that portion of the taxable value of the county on December 31, 1997, attributable to buses, trucks
16 having a manufacturer's rated capacity of more than 1 ton, and truck tractors;
- 17 (d) that portion of the taxable value of the county on December 31, 1997, attributable to trailers, pole
18 trailers, and semitrailers with a declared weight of less than 26,000 pounds;
- 19 (e) the value provided by the department of revenue under 15-36-332(7);
- 20 (f) 50% of the taxable value of the county on December 31, 1999, attributable to telecommunications
21 property under 15-6-141;
- 22 (g) 50% of the taxable value in the county on December 31, 1999, attributable to electrical generation
23 property under 15-6-141;
- 24 (h) the value provided by the department of revenue under 15-24-3001; ~~and~~
- 25 (i) 6% of the taxable value of the county on January 1 of each tax year; and
- 26 (j) 45% of the contract sales price of the gross proceeds of coal in the county as provided in 15-23-703
27 and as reported under 15-23-702."
- 28

29 **Section 9.** Section 7-2-2422, MCA, is amended to read:

30 **"7-2-2422. Certification of list of names.** (1) The clerk of the district court of the county from which

1 ~~said a~~ new county ~~may be~~ is segregated or, ~~in the event of such~~ if a new county ~~being~~ is segregated from two
 2 or more counties, the clerks of district court of each of ~~such the~~ counties shall take the names of ~~such~~ persons
 3 ~~as that~~ appear upon the jury list for ~~such the~~ year, which may have been certified to ~~him or to them~~ the clerk or
 4 clerks of district court by the jury commission or commissions of ~~his or their~~ the respective county or counties
 5 to be residents of the territory embraced in ~~such the~~ new county, and shall certify the ~~same~~ names to the clerk
 6 of the district court of the new county.

7 (2) ~~Such~~ The names ~~shall then~~ constitute the jury list for ~~such the~~ new county for the ~~period as aforesaid~~
 8 year.

9 (3) ~~Such~~ The new list ~~shall~~ must be made and certified by ~~such the~~ clerk or clerks of district court of the
 10 existing county or counties as soon after the creation of ~~such the~~ new county as may be practicable and in any
 11 event within 5 days after ~~a request therefor shall be~~ for the list is made by the clerk of the district court of the new
 12 county."

13
 14 **Section 10.** Section 7-2-2424, MCA, is amended to read:

15 "**7-2-2424. Role of clerk of district court in new county.** The clerk of the district court of the new
 16 county shall ~~then~~ file and prepare ~~his~~ the jury list and boxes in accordance with the general law pertaining to the
 17 duties of clerks of district court with relation to jury lists and boxes."

18
 19 **Section 11.** Section 7-3-173, MCA, is amended to read:

20 "**7-3-173. Establishment of study commissions.** (1) A study commission may be established by an
 21 affirmative vote of the people. An election on the question of conducting a local government review and
 22 establishing a study commission ~~shall~~ must be held:

- 23 (a) whenever the governing body of the local government unit calls for an election by resolution;
 24 (b) whenever a petition signed by at least 15% of the electors of the local government calling for an
 25 election is submitted to the governing body; or
 26 (c) ~~in 1984 and thereafter~~ whenever 10 years have elapsed since the electors have voted on the
 27 question of conducting a local government review and establishing a study commission.

28 (2) The governing body shall call for an election, to be held on the primary election date, on the question
 29 of conducting a local government review and establishing a study commission.±

30 ~~(a) in 1984 to implement the provisions of~~ as required by Article XI, section 9(2), of the Montana

1 constitution, ~~as provided in section 2, Chapter 70, Laws of 1977;~~
 2 ~~——(b) within 1 year after the 10-year period referred to in subsection (1)(c)."~~

3

4 **Section 12.** Section 7-35-2121, MCA, is amended to read:

5 **"7-35-2121. District budget -- report.** (1) The board of cemetery trustees shall annually present a
 6 budget to the board of county commissioners at the regular budget meetings as prescribed by law.

7 (2) ~~Insofar as the same~~ As far as the county budget system can be made applicable, ~~the county budget~~
 8 ~~system, part 23 of chapter 6, shall govern~~ that system governs the operation of cemetery districts created under
 9 this part."

10

11 **Section 13.** Section 13-13-211, MCA, is amended to read:

12 **"13-13-211. Time period for application.** (1) Except as provided in 13-13-222, 13-21-210, and
 13 subsection (2) of this section, an application for an absentee ballot must be made during a period beginning 75
 14 days before the day of election and ending at noon on the day before the election.

15 (2) A qualified elector who is prevented from voting at the polls as a result of illness or health emergency
 16 occurring between 5 p.m. of the Friday preceding the election and noon on election day may request to vote by
 17 absentee ballot as provided in ~~13-13-212(3)~~ 13-13-212(2)."

18

19 **Section 14.** Section 15-1-121, MCA, is amended to read:

20 **"15-1-121. Entitlement share payment -- appropriation.** (1) The amount calculated pursuant to this
 21 subsection is each local government's base entitlement share. The department shall estimate the total amount
 22 of revenue that each local government received from the following sources for the fiscal year ending June 30,
 23 2001:

24 (a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter
 25 584, Laws of 1999;

26 (b) vehicle, and boat, and aircraft taxes and fees pursuant to:

27 (i) Title 23, chapter 2, part 5;

28 (ii) Title 23, chapter 2, part 6;

29 (iii) Title 23, chapter 2, part 8;

30 (iv) 61-3-317;

- 1 (v) 61-3-321;
- 2 (vi) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the amendment
3 of 61-3-509 in 2001;
- 4 (vii) Title 61, chapter 3, part 7;
- 5 (viii) 5% of the fees collected under 61-10-122;
- 6 (ix) 61-10-130;
- 7 (x) 61-10-148; and
- 8 (xi) 67-3-205;
- 9 (c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);
- 10 (d) district court fees pursuant to:
- 11 (i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);
- 12 (ii) 25-1-202;
- 13 (iii) 25-1-1103;
- 14 (iv) 25-9-506;
- 15 (v) 25-9-804; and
- 16 (vi) 27-9-103;
- 17 (e) certificate of title fees for manufactured homes pursuant to 15-1-116;
- 18 (f) financial institution taxes collected pursuant to the former provisions of Title 15, chapter 31, part 7;
- 19 ~~(g) coal severance taxes allocated for county land planning pursuant to 15-35-108;~~
- 20 ~~(h)(g)~~ all beer, liquor, and wine taxes pursuant to:
- 21 (i) 16-1-404;
- 22 (ii) 16-1-406; and
- 23 (iii) 16-1-411;
- 24 ~~(h)(h)~~ late filing fees pursuant to 61-3-220;
- 25 ~~(j)(i)~~ title and registration fees pursuant to 61-3-203;
- 26 ~~(k)(j)~~ veterans' cemetery license plate fees pursuant to 61-3-459;
- 27 ~~(h)(k)~~ county personalized license plate fees pursuant to 61-3-406;
- 28 ~~(m)(l)~~ special mobile equipment fees pursuant to 61-3-431;
- 29 ~~(n)(m)~~ single movement permit fees pursuant to 61-4-310;
- 30 ~~(o)(n)~~ state aeronautics fees pursuant to 67-3-101; and

1 ~~(p)~~(o) department of natural resources and conservation payments in lieu of taxes pursuant to Title 77,
2 chapter 1, part 5.

3 (2) (a) From the amounts estimated in subsection (1) for each county government, the department shall
4 deduct fiscal year 2001 county government expenditures for district courts, less reimbursements for district court
5 expenses, and fiscal year 2001 county government expenditures for public welfare programs to be assumed by
6 the state in fiscal year 2002.

7 (b) The amount estimated pursuant to subsections (1) and (2)(a) is each local government's base year
8 component. The sum of all local governments' base year components is the base year entitlement share pool.
9 For the purpose of calculating the sum of all local governments' base year components, the base year
10 component for a local government may not be less than zero.

11 (3) (a) ~~Beginning with fiscal year 2002 and in each succeeding fiscal year, the~~ The base year entitlement
12 share pool must be increased annually by a growth rate as provided for in this subsection (3). The amount
13 determined through the application of annual growth rates is the entitlement share pool for each fiscal year. ~~For~~
14 ~~fiscal year 2002, the growth rate is 3%. For fiscal year 2003, the growth rate is 3% for incorporated cities and~~
15 ~~towns, 1.61% for counties, and 2.3% for consolidated local governments. Beginning with calendar year 2002,~~
16 ~~by~~ By October 1 of each even-numbered year, the department shall calculate the growth rate of the entitlement
17 share pool for each year of the next biennium in the following manner:

18 (i) Before applying the growth rate for fiscal year 2004 to determine the fiscal year 2004 entitlement
19 share pool, the department shall add to the fiscal year 2003 entitlement share pool the fiscal year 2003 amount
20 of revenue actually distributed to the county from the 25-cent marriage license fee in 50-15-301 and the
21 ~~probation and parole~~ supervisory fee in 46-23-1031(2)(b).

22 (ii) The department shall calculate the average annual growth rate of the Montana gross state product,
23 as published by the bureau of economic analysis of the United States department of commerce, for the following
24 periods:

25 (A) the last 4 calendar years for which the information has been published; and

26 (B) the 4 calendar years beginning with the year before the first year in the period referred to in
27 subsection (3)(a)(ii)(A).

28 (iii) The department shall calculate the average annual growth rate of Montana personal income, as
29 published by the bureau of economic analysis of the United States department of commerce, for the following
30 periods:

1 (A) the last 4 calendar years for which the information has been published; and
2 (B) the 4 calendar years beginning with the year before the first year in the period referred to in
3 subsection (3)(a)(iii)(A).

4 (b) (i) For fiscal year 2004 and subsequent fiscal years, the entitlement share pool growth rate for the
5 first year of the biennium must be the following percentage of the average of the growth rates calculated in
6 subsections (3)(a)(ii)(B) and (3)(a)(iii)(B):

7 (A) for counties, 54%;
8 (B) for consolidated local governments, 62%; and
9 (C) for incorporated cities and towns, 70%.

10 (ii) The entitlement share pool growth rate for the second year of the biennium must be the following
11 percentage of the average of the growth rates calculated in subsections (3)(a)(ii)(A) and (3)(a)(iii)(A):

12 (A) for counties, 54%;
13 (B) for consolidated local governments, 62%; and
14 (C) for incorporated cities and towns, 70%.

15 (4) As used in this section, "local government" means a county, a consolidated local government, an
16 incorporated city, and an incorporated town. A local government does not include a tax increment financing
17 district provided for in subsection (6). For purposes of calculating the base year component for a county or
18 consolidated local government, the department shall include the revenue listed in subsection (1) for all special
19 districts within the county or consolidated local government. The county or consolidated local government is
20 responsible for making an allocation from the county's or consolidated local government's share of the
21 entitlement share pool to each special district within the county or consolidated local government in a manner
22 that reasonably reflects each special district's loss of revenue sources listed in subsection (1).

23 (5) (a) The entitlement share pools calculated in this section and the block grants provided for in
24 subsection (6) are statutorily appropriated, as provided in 17-7-502, from the general fund to the department for
25 distribution to local governments. Each local government is entitled to a pro rata share of each year's entitlement
26 share pool based on the local government's base component in relation to the base year entitlement share pool.
27 The distributions must be made on a quarterly basis ~~beginning September 15, 2004.~~

28 (b) (i) ~~For fiscal year 2002, the growth amount is the difference between the fiscal year 2002 entitlement~~
29 ~~share pool and the base year entitlement share pool. For fiscal year 2002, a county may have a negative base~~
30 ~~year component. For each fiscal year 2003 and each succeeding fiscal year, the growth amount is the difference~~

1 between the entitlement share pool in the current fiscal year and the entitlement share pool in the previous fiscal
2 year. For the purposes of subsection (5)(b)(ii)(A), a county with a negative base year component has a base year
3 component of zero. The growth factor in the entitlement share must be calculated separately for:

- 4 (A) counties;
- 5 (B) consolidated local governments; and
- 6 (C) incorporated cities and towns.

7 (ii) In each fiscal year, the growth amount for counties must be allocated as follows:

8 (A) 50% of the growth amount must be allocated based upon each county's percentage of the base year
9 entitlement share pool for all counties; and

10 (B) 50% of the growth amount must be allocated based upon the percentage that each county's
11 population bears to the state population not residing within consolidated local governments as determined by
12 the latest interim year population estimates from the Montana department of commerce as supplied by the
13 United States bureau of the census.

14 (iii) In each fiscal year, the growth amount for consolidated local governments must be allocated as
15 follows:

16 (A) 50% of the growth amount must be allocated based upon each consolidated local government's
17 percentage of the base year entitlement share pool for all consolidated local governments; and

18 (B) 50% of the growth amount must be allocated based upon the percentage that each consolidated
19 local government's population bears to the state's total population residing within consolidated local governments
20 as determined by the latest interim year population estimates from the Montana department of commerce as
21 supplied by the United States bureau of the census.

22 (iv) In each fiscal year, the growth amount for incorporated cities and towns must be allocated as follows:

23 (A) 50% of the growth amount must be allocated based upon each incorporated city's or town's
24 percentage of the base year entitlement share pool for all incorporated cities and towns; and

25 (B) 50% of the growth amount must be allocated based upon the percentage that each city's or town's
26 population bears to the state's total population residing within incorporated cities and towns as determined by
27 the latest interim year population estimates from the Montana department of commerce as supplied by the
28 United States bureau of the census.

29 (v) In each fiscal year, the amount of the entitlement share pool not represented by the growth amount
30 is distributed to each local government in the same manner as the entitlement share pool was distributed in the

1 prior fiscal year.

2 ~~(vi) For fiscal year 2002, an amount equal to the district court costs identified in subsection (2) must be~~
 3 ~~added to each county government's distribution from the entitlement share pool.~~

4 ~~———(vii) For fiscal year 2002, an amount equal to the district court fees identified in subsection (1)(d) must~~
 5 ~~be subtracted from each county government's distribution from the entitlement share pool.~~

6 (6) (a) If a tax increment financing district was not in existence during the fiscal year ending June 30,
 7 2000, then the tax increment financing district is not entitled to any block grant. If a tax increment financing
 8 district referred to in subsection (6)(b) terminates, then the block grant provided for in subsection (6)(b)
 9 terminates.

10 (b) One-half of the payments provided for in this subsection (6)(b) must be made by November 30 and
 11 the other half by May 31 of each year. Subject to subsection (6)(a), the entitlement share for tax increment
 12 financing districts is as follows:

13 Cascade	Great Falls - downtown	\$468,966
14 Deer Lodge	TIF District 1	3,148
15 Deer Lodge	TIF District 2	3,126
16 Flathead	Kalispell - District 1	758,359
17 Flathead	Kalispell - District 2	5,153
18 Flathead	Kalispell - District 3	41,368
19 Flathead	Whitefish District	164,660
20 Gallatin	Bozeman - downtown	34,620
21 Lewis and Clark	Helena - # 2	731,614
22 Missoula	Missoula - 1-1B & 1-1C	1,100,507
23 Missoula	Missoula - 4-1C	33,343
24 Silver Bow	Butte - uptown	283,801
25 Yellowstone	Billings	436,815

26 (c) The entitlement share for industrial tax increment financing districts is as follows:

27 ~~(i) for fiscal years 2002 and 2003:~~

28 Missoula County	Airport Industrial	\$4,812
29 Silver Bow	Ramsay Industrial	597,594;

30 ~~(ii)(i) for fiscal years 2004 and year 2005:~~

1	Missoula County	Airport Industrial	\$2,406
2	Silver Bow	Ramsay Industrial	298,797; and

3 ~~(iii)~~(ii) \$0 for all succeeding fiscal years.

4 (d) The entitlement share for industrial tax increment financing districts referred to in subsection (6)(c)
5 may not be used to pay debt service on tax increment bonds to the extent that the bonds are secured by a
6 guaranty, a letter of credit, or a similar arrangement provided by or on behalf of an owner of property within the
7 tax increment financing industrial district.

8 (e) One-half of the payments provided for in subsection (6)(c) must be made by July 30, and the other
9 half must be made in December of each year.

10 (7) The estimated base year entitlement share pool and any subsequent entitlement share pool for local
11 governments do not include revenue received from countywide transportation block grants or from countywide
12 retirement block grants.

13 (8) The estimates for the base year entitlement share pool in subsection (1) must be calculated as if
14 the fees in Chapter 515, Laws of 1999, were in effect for all of fiscal year 2001.

15 (9) (a) If revenue that is included in the sources listed in subsections (1)(b) through ~~(1)(p)~~ (1)(o) is
16 significantly reduced, except through legislative action, the department shall deduct the amount of revenue loss
17 from the entitlement share pool beginning in the succeeding fiscal year and the department shall work with local
18 governments to propose legislation to adjust the entitlement share pool to reflect an allocation of the loss of
19 revenue.

20 (b) For the purposes of subsection (9)(a), a significant reduction is a loss that causes the amount of
21 revenue received in the current year to be less than 95% of the amount of revenue received in the base year.

22 (10) A three-fifths vote of each house is required to reduce the amount of the entitlement share
23 calculated pursuant to subsections (1) through (3).

24 (11) When there has been an underpayment of a local government's share of the entitlement share pool,
25 the department shall distribute the difference between the underpayment and the correct amount of the
26 entitlement share. When there has been an overpayment of a local government's entitlement share, the local
27 government shall remit the overpaid amount to the department.

28 (12) A local government may appeal the department's estimation of the base year component, the
29 entitlement share pool growth rate, or a local government's allocation of the entitlement share pool, according
30 to the uniform dispute review procedure in 15-1-211.

1 (13) A payment required pursuant to this section may not be offset by a debt owed to a state agency by
2 a local government in accordance with Title 17, chapter 4, part 1."

3

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

5 **"15-1-122. Fund transfers.** (1) There is transferred from the state general fund to the adoption services
6 account, provided for in 42-2-105, \$36,764 for fiscal year 2003. Beginning with fiscal year 2004, the amount of
7 the transfer must be increased by 10% in each succeeding fiscal year.

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

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

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

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

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

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

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

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

20 (ii) \$1 for each passenger car or truck under 8,001 pounds GVW that is registered for licensing pursuant
21 to Title 61, chapter 3, part 3, and \$5 for each permanently registered light vehicle. Fifteen cents of each dollar
22 must be used for the purpose of reimbursing the hired removal of abandoned vehicles during the calendar year
23 following the calendar year in which the fee was paid. Any portion of the 15 cents not used for abandoned
24 vehicle removal reimbursement during the calendar year following its payment must be used as provided in
25 75-10-532.

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

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

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

30 (A) \$1.50 for each registered light vehicle, truck or bus weighing less than 1 ton, logging truck, vehicle

1 weighing more than 1 ton, and motor home; and

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

3 and

4 (C) \$7.50 for each permanently registered light vehicle;

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

6 (i) \$2.50 in fiscal year 2006 and, in each subsequent year, \$14.50 for each motorboat, sailboat, or
7 personal watercraft receiving a certificate of number under 23-2-512, with 20% of the amount received to be
8 used to acquire and maintain pumpout equipment and other boat facilities;

9 (ii) \$5 in fiscal year 2006 and, in each subsequent year, \$19 for each snowmobile registered under
10 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,
11 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
12 23-2-644 and 50% of the amount designated for use in the development, maintenance, and operation of
13 snowmobile facilities;

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

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

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

22 (vi) an amount equal to 20% of the funds collected pursuant to 23-2-518 to be deposited in the
23 motorboat account to be used as provided in 23-2-533; and

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

28 (d) to the state veterans' cemetery account, provided for in 10-2-603, \$10 for each veteran's license
29 plate subject to the fee in 61-3-459;

30 (e) to the supplemental benefits for highway patrol officers' retirement account provided for in 19-6-709,

1 25 cents for each motor vehicle registered, other than:

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

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

5 (f) 25 cents a year for each registered vehicle and \$1.25 for each permanently registered vehicle subject
6 to the fee in 61-3-321(6) for deposit in the state special revenue fund to the credit of the senior citizens and
7 persons with disabilities transportation services account provided for in 7-14-112;

8 (g) to the search and rescue account provided for in 10-3-801:

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

10 (ii) \$2 a year for each snowmobile ~~[subject to the search and rescue surcharge]~~ subject to the fee in
11 23-2-615(1)(b) and 23-2-616(3); and

12 (iii) \$2 a year for each off-highway vehicle ~~[subject to the search and rescue surcharge]~~ subject to the
13 fee in 23-2-803; and

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

16 (4) For each fiscal year, the department of justice shall provide to the department of revenue a count
17 of the vehicles required for the calculations in subsection (3). The department of justice shall provide a separate
18 count of vehicles that are permanently registered pursuant to 61-3-562. A permanently registered vehicle may
19 be included in vehicle counts only in the year in which the vehicle is registered or reregistered. Transfer amounts
20 in each fiscal year must be based on vehicle counts in the most recent calendar year for which vehicle
21 information is available. Vehicles that are permanently registered may be included in vehicle counts only in the
22 year in which the vehicles are registered by new owners.

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

25

26 **Section 16.** Section 15-24-3005, MCA, is amended to read:

27 **"15-24-3005. Electrical generation facility impact fee for local governmental units and school**
28 **districts.** (1) (a) If an owner or operator of an electrical generation facility, as defined in 15-24-3001, is exempt
29 from property taxation pursuant to 15-24-3001, the owner or operator of the facility is subject to an initial local
30 government and local school impact fee. In the first 2 years of construction, the impact fee may not exceed

1 0.75% of the total cost of constructing the electrical generation facility.

2 (b) In the case of a generation facility powered by oil or gas turbines, the impact fee may not exceed
3 0.1% of the total construction cost in the remaining 3 years of the tax exemption period as provided in
4 15-24-3001.

5 (c) In the case of any other generation facility, the impact fee may not exceed 0.1% of the total
6 construction cost in the subsequent 4 years and may not exceed 0.08% of the total construction cost in the
7 remaining 4 years of the tax exemption period as provided in 15-24-3001.

8 (2) Except as provided in subsection (4), the jurisdictional area of a local governmental unit in which
9 an electrical generation facility is located is the local governmental unit that is authorized to assess the impact
10 fee pursuant to subsection (1).

11 (3) The impact fee must be distributed to the local governmental unit for local impacts and to the
12 impacted school districts.

13 (4) Subject to the conditions of 15-24-3006 and subsection (5) of this section, if the facility is located
14 within the jurisdictional areas of multiple local governmental units of the county or contiguous counties, the local
15 governmental units may enter into an interlocal agreement under Title 7, chapter 11, part 1, to determine how
16 the fee should be distributed among the various local governmental units and impacted school districts pursuant
17 to ~~the percentage allocation required in~~ subsection (3). The county in which the electrical generation facility is
18 located is authorized to assess the fee under the interlocal agreement.

19 (5) For purposes of this section, a "local governmental unit" means a county, city, or town. If an exempt
20 electrical generation facility is located within a tax increment financing district, the tax increment financing district
21 is considered a local governmental unit and is entitled to the distribution of impact fees under this section. A tax
22 increment financing district may not receive a distribution of impact fees if an exempt electrical generation facility
23 is not located within the district.

24 (6) Impact fees imposed under subsection (4) must be deposited in the county electrical energy
25 generation impact fee reserve account established in 15-24-3006 for the county in which the electrical generation
26 facility is located. Money in the account may not be expended until the multiple local governmental units have
27 entered into an interlocal agreement."

28

29 **Section 17.** Section 15-30-111, MCA, is amended to read:

30 **"15-30-111. Adjusted gross income.** (1) Adjusted gross income is the taxpayer's federal adjusted

1 gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62, and in addition includes the
2 following:

3 (a) (i) interest received on obligations of another state or territory or county, municipality, district, or other
4 political subdivision of another state, except to the extent that the interest is exempt from taxation by Montana
5 under federal law;

6 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C.
7 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);

8 (b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a
9 reduction of Montana income tax liability;

10 (c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue
11 Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the income;

12 (d) depreciation or amortization taken on a title plant as defined in 33-25-105~~(15)~~;

13 (e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the
14 amount recovered reduced the taxpayer's Montana income tax in the year deducted;

15 (f) if the state taxable distribution of an estate or trust is greater than the federal taxable distribution of
16 the same estate or trust, the difference between the state taxable distribution and the federal taxable distribution
17 of the same estate or trust for the same tax period; and

18 (g) except for exempt-interest dividends described in subsection (2)(a)(ii), for tax years commencing
19 after December 31, 2002, the amount of any dividend; to the extent that the dividend is not included in federal
20 adjusted gross income.

21 (2) Notwithstanding the provisions of the Internal Revenue Code, adjusted gross income does not
22 include the following, which are exempt from taxation under this chapter:

23 (a) (i) all interest income from obligations of the United States government, the state of Montana, or a
24 county, municipality, ~~or~~ district, or other political subdivision of the state and any other interest income that is
25 exempt from taxation by Montana under federal law;

26 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C.
27 852(b)(5), that are attributable to the interest referred to in subsection (2)(a)(i);

28 (b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and
29 including \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;

30 (c) (i) except as provided in subsection (2)(c)(ii), the first \$3,600 of all pension and annuity income

1 received as defined in 15-30-101;

2 (ii) for pension and annuity income described under subsection (2)(c)(i), as follows:

3 (A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total
4 amount of the exclusion provided in subsection (2)(c)(i) by \$2 for every \$1 of federal adjusted gross income in
5 excess of \$30,000 as shown on the taxpayer's return;

6 (B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity
7 income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in
8 subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of \$30,000
9 as shown on their joint return;

10 (d) all Montana income tax refunds or tax refund credits;

11 (e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

12 (f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by
13 section 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on
14 January 1, 1983, received by persons for services rendered by them to patrons of premises licensed to provide
15 food, beverage, or lodging;

16 (g) all benefits received under the workers' compensation laws;

17 (h) all health insurance premiums paid by an employer for an employee if attributed as income to the
18 employee under federal law;

19 (i) all money received because of a settlement agreement or judgment in a lawsuit brought against a
20 manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";

21 (j) principal and income in a medical care savings account established in accordance with 15-61-201
22 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, of the taxpayer or a
23 dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the taxpayer;

24 (k) principal and income in a first-time home buyer savings account established in accordance with
25 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time
26 purchase of a single-family residence;

27 (l) contributions withdrawn from a family education savings account or earnings withdrawn from a family
28 education savings account for qualified higher education expenses, as defined in 15-62-103, of a designated
29 beneficiary;

30 (m) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the

1 recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;

2 (n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of
3 the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution
4 of the same estate or trust for the same tax period;

5 (o) deposits, not exceeding the amount set forth in 15-30-603, deposited in a Montana farm and ranch
6 risk management account, as provided in 15-30-601 through 15-30-605, in any tax year for which a deduction
7 is not provided for federal income tax purposes;

8 (p) income of a dependent child that is included in the taxpayer's federal adjusted gross income
9 pursuant to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the
10 child and taxpayer meet the filing requirements in 15-30-142.

11 (q) principal and income deposited in a health care expense trust account, as defined in 2-18-1303, or
12 withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303.

13 (3) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(l) shall
14 include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same manner as
15 provided by section 995 of the Internal Revenue Code, 26 U.S.C. 995, for all periods for which the DISC election
16 is effective.

17 (4) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's business
18 deductions by an amount for wages and salaries for which a federal tax credit was elected under sections 38
19 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
20 and salaries paid regardless of the credit taken. The deduction must be made in the year that the wages and
21 salaries were used to compute the credit. In the case of a partnership or small business corporation, the
22 deduction must be made to determine the amount of income or loss of the partnership or small business
23 corporation.

24 (5) Married taxpayers filing a joint federal return who are required to include part of their social security
25 benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal
26 base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement
27 benefits when they file separate Montana income tax returns. The federal base must be split equally on the
28 Montana return.

29 (6) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the end
30 of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income

1 up to \$100 a week received as wages or payments in lieu of wages for a period during which the employee is
2 absent from work due to the disability. If the adjusted gross income before this exclusion exceeds \$15,000, the
3 excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the
4 taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the
5 limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined adjusted
6 gross income. For the purpose of this subsection, "permanently and totally disabled" means unable to engage
7 in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting
8 or expected to last at least 12 months.

9 (7) Married taxpayers who file a joint federal return and who make an election on the federal return to
10 defer income ratably for 4 tax years because of a conversion from an IRA other than a Roth IRA to a Roth IRA,
11 pursuant to section 408A(d)(3) of the Internal Revenue Code, 26 U.S.C. 408A(d)(3), may file separate Montana
12 income tax returns to defer the full taxable conversion amount from Montana adjusted gross income for the
13 same time period. The deferred amount must be attributed to the taxpayer making the conversion.

14 (8) An individual who contributes to one or more accounts established under the Montana family
15 education savings program may reduce adjusted gross income by the lesser of \$3,000 or the amount of the
16 contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not in excess of \$3,000,
17 for the spouses' contributions to the accounts. Spouses may jointly elect to treat half of the total contributions
18 made by the spouses as being made by each spouse. The reduction in adjusted gross income under this
19 subsection applies only with respect to contributions to an account of which the account owner, as defined in
20 15-62-103, is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or
21 stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with respect to withdrawals of
22 contributions that reduced adjusted gross income.

23 (9) (a) A taxpayer may exclude ~~up to~~ the amount of the loan payment received pursuant to subsection
24 (9)(a)(iv), not to exceed \$5,000, from the taxpayer's adjusted gross income if the taxpayer:

- 25 (i) is a health care professional licensed in Montana as provided in Title 37;
- 26 (ii) is serving a significant portion of a designated geographic area, special population, or facility
27 population in a federally designated health professional shortage area, a medically underserved area or
28 population, or a federal nursing shortage county as determined by the secretary of health and human services
29 or by the governor;
- 30 (iii) has had a student loan incurred as a result of health-related education; and

1 (iv) has received a loan payment during the tax year made on the taxpayer's behalf by a loan repayment
2 program described in subsection (9)(b) as an incentive to practice in Montana.

3 (b) For the purposes of subsection (9)(a), a loan repayment program includes a federal, state, or
4 qualified private program. A qualified private loan repayment program includes a licensed health care facility,
5 as defined in 50-5-101, that makes student loan payments on behalf of the person who is employed by the
6 facility as a licensed health care professional. (Subsection (2)(f) terminates on occurrence of contingency--sec.
7 3, Ch. 634, L. 1983; subsection (2)(o) terminates on occurrence of contingency--sec. 9, Ch. 262, L. 2001.)"

8

9 **Section 18.** Section 15-31-115, MCA, is amended to read:

10 **"15-31-115. Reaffirmation of bond income inclusion in definition of net income for corporation**
11 **license tax purposes.** Notwithstanding the provisions of any other law, the income from bonds or other
12 obligations issued by any state or political subdivision of a state are included in gross and net income for
13 purposes of the corporation license tax. ~~Further, such income has been included in gross and net income since~~
14 ~~the effective date of Chapter 634, Laws of 1979, which law repealed the exclusion of such income from the tax~~
15 ~~base of the corporation license tax."~~

16

17 **Section 19.** Section 15-61-102, MCA, is amended to read:

18 **"15-61-102. Definitions.** As used in this chapter, unless it clearly appears otherwise, the following
19 definitions apply:

20 (1) "Account administrator" means:

21 (a) a state or federally chartered bank, savings and loan association, credit union, or trust company;

22 (b) a health care insurer as defined in 33-22-125;

23 (c) a certified public accountant licensed to practice in this state pursuant to Title 37, chapter 50;

24 (d) an employer if the employer has a self-insured health plan under ERISA;

25 (e) the account holder or an employee for whose benefit the account in question is established;

26 (f) a broker, insurance producer, or investment adviser regulated by the commissioner of insurance;

27 (g) an attorney licensed to practice law in this state;

28 (h) a licensed public accountant or a person who is an enrolled agent allowed to practice before the
29 United States internal revenue service.

30 (2) "Account holder" means an individual who is a resident of this state and who establishes a medical

1 care savings account or for whose benefit the account is established.

2 (3) "Dependent" means the spouse of the employee or account holder or a child of the employee or
3 account holder if the child is:

4 (a) under 23 years of age and enrolled as a full-time student at an accredited college or university or
5 is under 19 years of age;

6 (b) legally entitled to the provision of proper or necessary subsistence, education, medical care, or other
7 care necessary for the health, guidance, or well-being of the child and is not otherwise emancipated,
8 self-supporting, married, or a member of the armed forces of the United States; or

9 (c) mentally or physically incapacitated to the extent that the child is not self-sufficient.

10 (4) "Eligible medical expense" means an expense paid by the employee or account holder for medical
11 care defined by 26 U.S.C. 213(d) for the employee or account holder or a dependent of the employee or account
12 holder.

13 (5) "Employee" means an employed individual for whose benefit or for the benefit of whose dependents
14 a medical care savings account is established. The term includes a self-employed individual.

15 (6) "ERISA" means the Employee Retirement Income Security Act of 1974, ~~Public Law 93-406~~ 29
16 U.S.C. 1001, et seq.

17 (7) "Medical care savings account" or "account" means an account established with an account
18 administrator in this state pursuant to 15-61-201."

19

20 **Section 20.** Section 15-65-121, MCA, is amended to read:

21 **"15-65-121. (Temporary) Distribution of tax proceeds.** (1) The proceeds of the tax imposed by
22 15-65-111 must, in accordance with the provisions of 15-1-501, be deposited in an account in the state special
23 revenue fund to the credit of the department. The department may spend from that account in accordance with
24 an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing
25 the proceeds of the tax. Before allocating the balance of the tax proceeds in accordance with the provisions of
26 15-1-501 and as provided in subsections (1)(a) through (1)(e) of this section, the department shall determine
27 the expenditures by state agencies for in-state lodging for each reporting period and deduct 4% of that amount
28 from the tax proceeds received each reporting period. The amount deducted must be deposited in the fund or
29 funds from which in-state lodging expenditures were paid by state agencies. The amount of \$400,000 each year
30 must be deposited in the Montana heritage preservation and development account provided for in 22-3-1004.

1 ~~For the fiscal year ending June 30, 2003, the amount of \$1.7 million must be deposited in the state general fund.~~

2 The balance of the tax proceeds received each reporting period and not deducted pursuant to the expenditure
3 appropriation, deposited in the fund or funds from which in-state lodging expenditures were paid by state
4 agencies, or deposited in the heritage preservation and development account is statutorily appropriated, as
5 provided in 17-7-502, and must be transferred to an account in the state special revenue fund to the credit of
6 the department of commerce for tourism promotion and promotion of the state as a location for the production
7 of motion pictures and television commercials, to the Montana historical society, to the university system, and
8 to the department of fish, wildlife, and parks, as follows:

9 (a) 1% to the Montana historical society to be used for the installation or maintenance of roadside
10 historical signs and historic sites;

11 (b) 2.5% to the university system for the establishment and maintenance of a Montana travel research
12 program;

13 (c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks that
14 have both resident and nonresident use;

15 (d) 67.5% to be used directly by the department of commerce, ~~except as provided in section 1, Chapter~~
16 ~~11, Special Laws of August 2002;~~ and

17 (e) (i) except as provided in subsection (1)(e)(ii), 22.5% to be distributed by the department to regional
18 nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds
19 collected statewide; and

20 (ii) if 22.5% of the proceeds collected annually within the limits of a city, consolidated city-county, resort
21 area, or resort area district exceeds \$35,000, 50% of the amount available for distribution to the regional
22 nonprofit tourism corporation in the region where the city, consolidated city-county, resort area, or resort area
23 district is located, to be distributed to the nonprofit convention and visitors bureau in that city, consolidated
24 city-county, resort area, or resort area district.

25 (2) If a city, consolidated city-county, resort area, or resort area district qualifies under this section for
26 funds but fails to either recognize a nonprofit convention and visitors bureau or submit and gain approval for an
27 annual marketing plan as required in 15-65-122, then those funds must be allocated to the regional nonprofit
28 tourism corporation in the region in which the city, consolidated city-county, resort area, or resort area district
29 is located.

30 (3) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing

1 plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation
2 may be used by the department of commerce for tourism promotion and promotion of the state as a location for
3 the production of motion pictures and television commercials. (Terminates July 1, 2007--sec. 3, Ch. 469, L.
4 2001.)

5 **15-65-121. (Effective July 1, 2007) Distribution of tax proceeds.** (1) The proceeds of the tax imposed
6 by 15-65-111 must, in accordance with the provisions of 15-1-501, be deposited in an account in the state
7 special revenue fund to the credit of the department. The department may spend from that account in
8 accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting
9 and disbursing the proceeds of the tax. Before allocating the balance of the tax proceeds in accordance with the
10 provisions of 15-1-501 and as provided in subsections (1)(a) through (1)(e) of this section, the department shall
11 determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 4% of
12 that amount from the tax proceeds received each reporting period. The amount deducted must be deposited in
13 the fund or funds from which in-state lodging expenditures were paid by state agencies. The balance of the tax
14 proceeds received each reporting period and not deducted pursuant to the expenditure appropriation or
15 deposited in the fund or funds from which in-state lodging expenditures were paid by state agencies is statutorily
16 appropriated, as provided in 17-7-502, and must be transferred to an account in the state special revenue fund
17 to the credit of the department of commerce for tourism promotion and promotion of the state as a location for
18 the production of motion pictures and television commercials, to the Montana historical society, to the university
19 system, and to the department of fish, wildlife, and parks, as follows:

20 (a) 1% to the Montana historical society to be used for the installation or maintenance of roadside
21 historical signs and historic sites;

22 (b) 2.5% to the university system for the establishment and maintenance of a Montana travel research
23 program;

24 (c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks that
25 have both resident and nonresident use;

26 (d) 67.5% to be used directly by the department of commerce; and

27 (e) (i) except as provided in subsection (1)(e)(ii), 22.5% to be distributed by the department to regional
28 nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds
29 collected statewide; and

30 (ii) if 22.5% of the proceeds collected annually within the limits of a city, consolidated city-county, resort

1 area, or resort area district exceeds \$35,000, 50% of the amount available for distribution to the regional
2 nonprofit tourism corporation in the region where the city, consolidated city-county, resort area, or resort area
3 district is located, to be distributed to the nonprofit convention and visitors bureau in that city, consolidated
4 city-county, resort area, or resort area district.

5 (2) If a city, consolidated city-county, resort area, or resort area district qualifies under this section for
6 funds but fails to either recognize a nonprofit convention and visitors bureau or submit and gain approval for an
7 annual marketing plan as required in 15-65-122, then those funds must be allocated to the regional nonprofit
8 tourism corporation in the region in which the city, consolidated city-county, resort area, or resort area district
9 is located.

10 (3) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing
11 plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation
12 may be used by the department of commerce for tourism promotion and promotion of the state as a location for
13 the production of motion pictures and television commercials."
14

15 **Section 21.** Section 15-70-301, MCA, is amended to read:

16 **"15-70-301. (Temporary) Definitions.** As used in this part, the following definitions apply:

17 (1) "Agricultural use" means use of special fuel by a person who earns income while engaging in the
18 business of farming or ranching and who files farm or income reports for tax purposes as required by the United
19 States internal revenue service.

20 (2) "Bond" means:

21 (a) a bond executed by a special fuel user as principal with a corporate surety qualified under the laws
22 of Montana, payable to the state of Montana, and conditioned upon faithful performance of all requirements of
23 this part, including the payment of all taxes, penalties, and other obligations of the special fuel user arising out
24 of this part; or

25 (b) a deposit with the department by the special fuel user, under terms and conditions that the
26 department may prescribe, of certificates of deposit or irrevocable letters of credit issued by a bank and insured
27 by the federal deposit insurance corporation.

28 (3) "Bulk delivery" means placing special fuel not intended for resale in storage or containers. The term
29 does not mean special fuel delivered into the supply tank of a motor vehicle.

30 (4) "Cardrol" or "keylock" means a unique device intended to allow access to a special fuel dealer's

1 unattended pump or dispensing unit for the purpose of delivery of special fuel to an authorized user of the unique
2 device.

3 (5) "Department" means the department of transportation.

4 (6) (a) "Distributed" means, at the time that special fuel is withdrawn, the withdrawal from a storage tank,
5 a refinery, or a terminal storage in this state for sale or use in this state or for the transportation other than by
6 pipeline to another refinery in this state or a pipeline terminal in this state of the following:

7 (i) special fuel refined, produced, manufactured, or compounded in this state and placed in storage
8 tanks in this state;

9 (ii) special fuel transferred from a refinery or pipeline terminal in this state and placed in tanks at the
10 refinery or terminal; or

11 (iii) special fuel imported into this state and placed in storage at a refinery or pipeline terminal.

12 (b) When withdrawn from the storage tanks, refinery, or terminal, the special fuel may be distributed
13 only by a person who is the holder of a valid distributor's license.

14 (c) Special fuel imported into this state, other than that special fuel placed in storage at a refinery or
15 pipeline terminal, is considered to be distributed after it has arrived in and is brought to rest in this state.

16 (7) "Distributor" means:

17 (a) a person who engages in the business in this state of producing, refining, manufacturing, or
18 compounding special fuel for sale, use, or distribution;

19 (b) an importer who imports special fuel for sale, use, or distribution;

20 (c) a person who engages in the wholesale distribution of special fuel in this state and chooses to
21 become licensed to assume the Montana state special fuel tax liability; and

22 (d) an exporter.

23 (8) "Export" means to transport out of Montana, by any means other than in the fuel supply tank of a
24 motor vehicle, special fuel received from a refinery or pipeline terminal within Montana.

25 (9) "Exporter" means a person who transports, other than in the fuel supply tank of a motor vehicle,
26 special fuel received from a refinery or pipeline terminal in Montana to a destination outside Montana for sale,
27 use, or consumption outside Montana.

28 (10) "Import" means to first receive special fuel into possession or custody after its arrival and coming
29 to rest at a destination within the state or to first receive any special fuel shipped or transported into this state
30 from a point of origin outside this state other than in the fuel supply tank of a motor vehicle.

1 (11) "Importer" means a person who transports or arranges for the transportation of special fuel into
2 Montana for sale, use, or distribution.

3 (12) "Improperly imported fuel" means special fuel that is:

4 (a) consigned to a Montana destination and imported into the state without the distributor first having
5 obtained a Montana special fuel distributor license as required in 15-70-341; or

6 (b) delivered, possessed, sold, or transferred in the state in any manner not authorized under Title 15,
7 chapter 70.

8 (13) "Motor vehicle" means all vehicles that are operated upon the public highways or streets of this state
9 and that are operated in whole or in part by the combustion of special fuel.

10 (14) "Person" includes any person, firm, association, joint-stock company, syndicate, partnership, or
11 corporation. Whenever the term is used in any clause prescribing and imposing a fine or imprisonment, or both,
12 as applied to a firm, association, syndicate, or partnership, it includes the partners or members and, as applied
13 to joint-stock companies and corporations, the officers.

14 (15) "Public roads and highways of this state" means all streets, roads, highways, and related structures:

15 (a) built and maintained with appropriated funds of the United States, the state of Montana, or any
16 political subdivision of the state;

17 (b) dedicated to public use;

18 (c) acquired by eminent domain, as provided in Title 60, chapter 4, or Title 70, chapter 30; or

19 (d) acquired by adverse use by the public, with jurisdiction having been assumed by the state or any
20 political subdivision of the state.

21 (16) "Special fuel" means those combustible gases and liquids commonly referred to as diesel fuel or
22 any other volatile liquid of less than 46 degrees A.P.I. (American petroleum institute) gravity test, except liquid
23 petroleum gas, when actually sold for use in motor vehicles operating upon the public roads and highways within
24 the state of Montana. The term special fuel includes all other types of additives when the additive is mixed or
25 blended into special fuel, regardless of the additive's classifications or uses.

26 (17) "Special fuel dealer" means:

27 (a) a person in the business of handling special fuel who delivers any part of the fuel into the fuel supply
28 tank or tanks of a motor vehicle not then owned or controlled by the person;

29 (b) a person who sells special fuel at a location unattended by the dealer through an unattended pump
30 by use of a cardrol, keylock, or similar device; or

1 (c) a person who provides a facility, with or without attended services, from which more than one special
2 fuel user obtains special fuel for use in the fuel supply tank of a motor vehicle not then controlled by the dealer.

3 (18) (a) "Special fuel user" means a person who consumes in this state special fuel for the operation
4 of motor vehicles owned or controlled by the person upon the highways of this state.

5 (b) The term does not include the U.S. government, a state, a county, an incorporated city or town, or
6 a school district of this state.

7 (19) "Use", when the term relates to a special fuel user, means the consumption by a special fuel user
8 of special fuels in the operation of a motor vehicle on the highways of this state.

9 **15-70-301. (Effective on occurrence of contingency) Definitions.** As used in this part, the following
10 definitions apply:

11 (1) "Agricultural use" means use of special fuel by a person who earns income while engaging in the
12 business of farming or ranching and who files farm or income reports for tax purposes as required by the United
13 States internal revenue service.

14 (2) "Biodiesel" means:

15 (a) (i) a fuel sold for use in motor vehicles operating upon the public roads and highways within the state
16 that contains at least 20% esterified vegetable oil, at least 10% alcohol, or an equivalent mixture of both oil and
17 alcohol, with the balance being diesel fuel or any other petroleum-based volatile liquid of less than 46 degrees
18 A.P.I. (American petroleum institute) gravity test and other additives; or

19 (ii) a monoalkyl ester that:

20 (A) is derived from domestically produced vegetable oils, renewable lipids, rendered animal fats, or any
21 combination of those ingredients; and

22 (B) meets the requirements of ASTM PS 121, also known as the Provisional Specification for Biodiesel
23 Fuel (B100) Blend Stock for Distillate Fuels, as adopted by the American society of ~~or~~ for testing and materials.

24 (b) Biodiesel is also known as "B-20".

25 (3) "Bond" means:

26 (a) a bond executed by a special fuel user as principal with a corporate surety qualified under the laws
27 of Montana, payable to the state of Montana, and conditioned upon faithful performance of all requirements of
28 this part, including the payment of all taxes, penalties, and other obligations of the special fuel user arising out
29 of this part; or

30 (b) a deposit with the department by the special fuel user, under terms and conditions that the

1 department may prescribe, of certificates of deposit or irrevocable letters of credit issued by a bank and insured
2 by the federal deposit insurance corporation.

3 (4) "Bulk delivery" means placing special fuel not intended for resale in storage or containers. The term
4 does not mean special fuel delivered into the supply tank of a motor vehicle.

5 (5) "Cardtrol" or "keylock" means a unique device intended to allow access to a special fuel dealer's
6 unattended pump or dispensing unit for the purpose of delivery of special fuel to an authorized user of the unique
7 device.

8 (6) "Department" means the department of transportation.

9 (7) (a) "Distributed" means, at the time that special fuel is withdrawn, the withdrawal from a storage tank,
10 a refinery, or a terminal storage in this state for sale or use in this state or for the transportation other than by
11 pipeline to another refinery in this state or a pipeline terminal in this state of the following:

12 (i) special fuel refined, produced, manufactured, or compounded in this state and placed in storage
13 tanks in this state;

14 (ii) special fuel transferred from a refinery or pipeline terminal in this state and placed in tanks at the
15 refinery or terminal; or

16 (iii) special fuel imported into this state and placed in storage at a refinery or pipeline terminal.

17 (b) When withdrawn from the storage tanks, refinery, or terminal, the special fuel may be distributed
18 only by a person who is the holder of a valid distributor's license.

19 (c) Special fuel imported into this state, other than that special fuel placed in storage at a refinery or
20 pipeline terminal, is considered to be distributed after it has arrived in and is brought to rest in this state.

21 (8) "Distributor" means:

22 (a) a person who engages in the business in this state of producing, refining, manufacturing, or
23 compounding special fuel for sale, use, or distribution;

24 (b) an importer who imports special fuel for sale, use, or distribution;

25 (c) a person who engages in the wholesale distribution of special fuel in this state and chooses to
26 become licensed to assume the Montana state special fuel tax liability; and

27 (d) an exporter.

28 (9) "Export" means to transport out of Montana, by any means other than in the fuel supply tank of a
29 motor vehicle, special fuel received from a refinery or pipeline terminal within Montana.

30 (10) "Exporter" means a person who transports, other than in the fuel supply tank of a motor vehicle,

1 special fuel received from a refinery or pipeline terminal in Montana to a destination outside Montana for sale,
2 use, or consumption outside Montana.

3 (11) "Import" means to first receive special fuel into possession or custody after its arrival and coming
4 to rest at a destination within the state or to first receive any special fuel shipped or transported into this state
5 from a point of origin outside this state other than in the fuel supply tank of a motor vehicle.

6 (12) "Importer" means a person who transports or arranges for the transportation of special fuel into
7 Montana for sale, use, or distribution.

8 (13) "Improperly imported fuel" means special fuel that is:

9 (a) consigned to a Montana destination and imported into the state without the distributor first having
10 obtained a Montana special fuel distributor license as required in 15-70-341; or

11 (b) delivered, possessed, sold, or transferred in the state in any manner not authorized under Title 15,
12 chapter 70.

13 (14) "Motor vehicle" means all vehicles that are operated upon the public highways or streets of this state
14 and that are operated in whole or in part by the combustion of special fuel.

15 (15) "Person" includes any person, firm, association, joint-stock company, syndicate, partnership, or
16 corporation. Whenever the term is used in any clause prescribing and imposing a fine or imprisonment, or both,
17 as applied to a firm, association, syndicate, or partnership, it includes the partners or members and, as applied
18 to joint-stock companies and corporations, the officers.

19 (16) "Public roads and highways of this state" means all streets, roads, highways, and related structures:

20 (a) built and maintained with appropriated funds of the United States, the state of Montana, or any
21 political subdivision of the state;

22 (b) dedicated to public use;

23 (c) acquired by eminent domain, as provided in Title 60, chapter 4, or Title 70, chapter 30; or

24 (d) acquired by adverse use by the public, with jurisdiction having been assumed by the state or any
25 political subdivision of the state.

26 (17) "Special fuel" means those combustible gases and liquids commonly referred to as diesel fuel or
27 any other volatile liquid of less than 46 degrees A.P.I. (American petroleum institute) gravity test, except liquid
28 petroleum gas, when actually sold for use in motor vehicles operating upon the public roads and highways within
29 the state of Montana. The term special fuel includes biodiesel and additives of all types when the additive is
30 mixed or blended into special fuel, regardless of the additive's classifications or uses.

1 (18) "Special fuel dealer" means:

2 (a) a person in the business of handling special fuel who delivers any part of the fuel into the fuel supply
3 tank or tanks of a motor vehicle not then owned or controlled by the person;

4 (b) a person who sells special fuel at a location unattended by the dealer through an unattended pump
5 by use of a cardtrol, keylock, or similar device; or

6 (c) a person who provides a facility, with or without attended services, from which more than one special
7 fuel user obtains special fuel for use in the fuel supply tank of a motor vehicle not then controlled by the dealer.

8 (19) (a) "Special fuel user" means a person who consumes in this state special fuel for the operation
9 of motor vehicles owned or controlled by the person upon the highways of this state.

10 (b) The term does not include the U.S. government, a state, a county, an incorporated city or town, or
11 a school district of this state.

12 (20) "Use", when the term relates to a special fuel user, means the consumption by a special fuel user
13 of special fuels in the operation of a motor vehicle on the highways of this state. (Terminates June 30 of fourth
14 year following date of occurrence of contingency--sec. 13, Ch. 568, L. 2001.)

15 **15-70-301. (Effective July 1 of fourth year following date of occurrence of contingency)**

16 **Definitions.** As used in this part, the following definitions apply:

17 (1) "Agricultural use" means use of special fuel by a person who earns income while engaging in the
18 business of farming or ranching and who files farm income reports for tax purposes as required by the United
19 States internal revenue service.

20 (2) "Bond" means:

21 (a) a bond executed by a special fuel user as principal with a corporate surety qualified under the laws
22 of Montana, payable to the state of Montana, and conditioned upon faithful performance of all requirements of
23 this part, including the payment of all taxes, penalties, and other obligations of the special fuel user arising out
24 of this part; or

25 (b) a deposit with the department by the special fuel user, under terms and conditions that the
26 department may prescribe, of certificates of deposit or irrevocable letters of credit issued by a bank and insured
27 by the federal deposit insurance corporation.

28 (3) "Bulk delivery" means placing special fuel not intended for resale in storage or containers. The term
29 does not mean special fuel delivered into the supply tank of a motor vehicle.

30 (4) "Cardtrol" or "keylock" means a unique device intended to allow access to a special fuel dealer's

1 unattended pump or dispensing unit for the purpose of delivery of special fuel to an authorized user of the unique
2 device.

3 (5) "Department" means the department of transportation.

4 (6) (a) "Distributed" means, at the time that special fuel is withdrawn, the withdrawal from a storage tank,
5 a refinery, or a terminal storage in this state for sale or use in this state or for the transportation other than by
6 pipeline to another refinery in this state or a pipeline terminal in this state of the following:

7 (i) special fuel refined, produced, manufactured, or compounded in this state and placed in storage
8 tanks in this state;

9 (ii) special fuel transferred from a refinery or pipeline terminal in this state and placed in tanks at the
10 refinery or terminal; or

11 (iii) special fuel imported into this state and placed in storage at a refinery or pipeline terminal.

12 (b) When withdrawn from the storage tanks, refinery, or terminal, the special fuel may be distributed
13 only by a person who is the holder of a valid distributor's license.

14 (c) Special fuel imported into this state, other than that special fuel placed in storage at a refinery or
15 pipeline terminal, is considered to be distributed after it has arrived in and is brought to rest in this state.

16 (7) "Distributor" means:

17 (a) a person who engages in the business in this state of producing, refining, manufacturing, or
18 compounding special fuel for sale, use, or distribution;

19 (b) an importer who imports special fuel for sale, use, or distribution;

20 (c) a person who engages in the wholesale distribution of special fuel in this state and chooses to
21 become licensed to assume the Montana state special fuel tax liability; and

22 (d) an exporter.

23 (8) "Export" means to transport out of Montana, by any means other than in the fuel supply tank of a
24 motor vehicle, special fuel received from a refinery or pipeline terminal within Montana.

25 (9) "Exporter" means a person who transports, other than in the fuel supply tank of a motor vehicle,
26 special fuel received from a refinery or pipeline terminal in Montana to a destination outside Montana for sale,
27 use, or consumption outside Montana.

28 (10) "Import" means to first receive special fuel into possession or custody after its arrival and coming
29 to rest at a destination within the state or to first receive any special fuel shipped or transported into this state
30 from a point of origin outside this state other than in the fuel supply tank of a motor vehicle.

1 (11) "Importer" means a person who transports or arranges for the transportation of special fuel into
2 Montana for sale, use, or distribution.

3 (12) "Improperly imported fuel" means special fuel that is:

4 (a) consigned to a Montana destination and imported into the state without the distributor first having
5 obtained a Montana special fuel distributor license as required in 15-70-341; or

6 (b) delivered, possessed, sold, or transferred in the state in any manner not authorized under Title 15,
7 chapter 70.

8 (13) "Motor vehicle" means all vehicles that are operated upon the public highways or streets of this state
9 and that are operated in whole or in part by the combustion of special fuel.

10 (14) "Person" includes any person, firm, association, joint-stock company, syndicate, partnership, or
11 corporation. Whenever the term is used in any clause prescribing and imposing a fine or imprisonment, or both,
12 as applied to a firm, association, syndicate, or partnership, it includes the partners or members and, as applied
13 to joint-stock companies and corporations, the officers.

14 (15) "Public roads and highways of this state" means all streets, roads, highways, and related structures:

15 (a) built and maintained with appropriated funds of the United States, the state of Montana, or any
16 political subdivision of the state;

17 (b) dedicated to public use;

18 (c) acquired by eminent domain, as provided in Title 60, chapter 4, or Title 70, chapter 30; or

19 (d) acquired by adverse use by the public, with jurisdiction having been assumed by the state or any
20 political subdivision of the state.

21 (16) "Special fuel" means those combustible gases and liquids commonly referred to as diesel fuel or
22 any other volatile liquid of less than 46 degrees A.P.I. (American petroleum institute) gravity test, except liquid
23 petroleum gas, when actually sold for use in motor vehicles operating upon the public roads and highways within
24 the state of Montana. The term special fuel includes all other types of additives when the additive is mixed or
25 blended into special fuel, regardless of the additive's classifications or uses.

26 (17) "Special fuel dealer" means:

27 (a) a person in the business of handling special fuel who delivers any part of the fuel into the fuel supply
28 tank or tanks of a motor vehicle not then owned or controlled by the person;

29 (b) a person who sells special fuel at a location unattended by the dealer through an unattended pump
30 by use of a cardrol, keylock, or similar device; or

1 (c) a person who provides a facility, with or without attended services, from which more than one special
2 fuel user obtains special fuel for use in the fuel supply tank of a motor vehicle not then controlled by the dealer.

3 (18) (a) "Special fuel user" means a person who consumes in this state special fuel for the operation
4 of motor vehicles owned or controlled by the person upon the highways of this state.

5 (b) The term does not include the U.S. government, a state, a county, an incorporated city or town, or
6 a school district of this state.

7 (19) "Use", when the term relates to a special fuel user, means the consumption by a special fuel user
8 of special fuels in the operation of a motor vehicle on the highways of this state."

9

10 **Section 22.** Section 16-1-101, MCA, is amended to read:

11 **"16-1-101. Citation -- declaration of policy -- subject matters of regulation.** (1) Chapters 1 through
12 4 and 6 of this title may be cited as the "Montana Alcoholic Beverage Code".

13 (2) It is ~~hereby declared to be~~ the policy of the state of Montana to effectuate and ensure the entire
14 control of the manufacture, sale, importation, and distribution of alcoholic beverages within the state of Montana,
15 ~~as that term is defined in this code~~, subject to the authority of the state of Montana acting through the Montana
16 department of revenue.

17 (3) This code is an exercise of the police power of the state, ~~in and~~ for the protection of the welfare,
18 health, peace, morals, and safety of the people of the state; and of the state's power under the 21st amendment
19 to the United States constitution to control the transportation and importation of alcoholic beverages into the
20 state. The provisions of this code must be broadly construed to accomplish these purposes."

21

22 **Section 23.** Section 17-2-131, MCA, is amended to read:

23 **"17-2-131. Genetic engineering technology research and development account created.** There
24 is created in the current restricted subfund a restricted account for funds appropriated to Montana state
25 university-Bozeman for applied genetic engineering technology research and development. ~~Funds appropriated~~
26 ~~under section 2, Chapter 686, Laws of 1989, and money~~ Money contributed by the Montana agriculture industry
27 must be deposited in the account and ~~are~~ is restricted to genetic engineering technology research and
28 development only."

29

30 **Section 24.** Section 17-5-507, MCA, is amended to read:

1 **"17-5-507. State pledge of gasoline tax -- use.** (1) The state pledges, and appropriates, and directs
 2 to be credited as received to the debt service account, as herein defined in 17-5-401, that portion of the net
 3 proceeds from the collection of gasoline taxes ~~which~~ that may from time to time be needed to comply with the
 4 principal and interest and reserve requirements stated in subsection (2) of this section. The pledge and
 5 appropriation herein made ~~shall be and~~ in this section must remain at all times a first and prior charge upon all
 6 money received as net proceeds from the collection of gasoline ~~taxation taxes~~. The term "net proceeds", as used
 7 ~~herein in this section~~, means all funds ~~on hand~~ in the state treasury ~~of the state~~ as of any date, derived from the
 8 collection of the license tax imposed on gasoline distributors by 15-70-204, ~~enacted by section 3, Chapter 369,~~
 9 ~~Laws of 1969, as amended by section 1, Chapter 202, and by section 2, Chapter 204, Laws of 1971, and by~~
 10 ~~section 90, Chapter 516, Laws of 1973, or by any subsequent enactment~~, less the amount of all refunds of such
 11 those taxes for which applications have been made pursuant to law but ~~which~~ that have not yet been paid or
 12 rejected. The term "debt service account", as used ~~herein in this section~~, means a separate highway fund ~~which~~
 13 that is created within the debt service fund type established by 17-2-102 and ~~shall~~ must be segregated by the
 14 treasurer from all other money in that or any other fund in the treasury and used only to pay highway bonds and
 15 interest ~~thereon~~ on those bonds when due, so long as ~~any such~~ the bonds or interest remain unpaid.

16 (2) Money in the debt service account ~~shall~~ must be used to:

17 (a) first, to pay interest and principal when due on highway bonds;

18 (b) second, to accumulate a reserve, in the amount required below in subsection (2)(c), for the further
 19 security of such those payments; and

20 (c) and third, to maintain this a reserve in an amount at least equal, after each interest and principal
 21 payment, to the maximum amount of interest and principal which that will become due on all such bonds which
 22 that are then outstanding in any subsequent fiscal year.

23 (3) Money ~~at any time~~ received in the debt service account in excess of the principal, interest, and
 24 reserve requirements stated in subsection (2) ~~shall~~ must be transferred by the treasurer to the highway revenue
 25 account in the state special revenue fund, highway account. If the balance at any time on hand in the debt
 26 service account is not sufficient for compliance with subsection (2), the treasurer shall credit to ~~said that~~ said account
 27 an amount sufficient to restore ~~said the~~ said balance from the next receipts of net proceeds from the collection of
 28 gasoline taxes."

29

30 **Section 25.** Section 17-6-407, MCA, is amended to read:

1 **"17-6-407. Microbusiness development loan account and finance program administrative account**
2 **-- criteria -- limitations.** (1) There is in the state special revenue fund a microbusiness development loan
3 account into which ~~the funds appropriated pursuant to section 11, Chapter 602, Laws of 1991, money~~
4 ~~appropriated pursuant to section 3, Chapter 413, Laws of 1995, funds allocated for that purpose~~ and money
5 received in repayment of the principal of development loans must be deposited. The department may make
6 development loans from the account to a certified microbusiness development corporation.

7 (2) There is in the state special revenue fund a microbusiness finance program administrative account
8 into which must be deposited:

9 (a) all interest received on development loans received directly from microbusiness development
10 corporations;

11 (b) service charges or fees received from certified microbusiness development corporations; and

12 (c) grants, donations, and private or public income.

13 (3) Money in the administrative account may be transferred to the development loan account or be used
14 to pay the costs of the program, including personnel, travel, equipment, supplies, consulting costs, and other
15 operating expenses of the program.

16 (4) Subject to subsection (1), a certified microbusiness development corporation that receives a
17 development loan may apply for an additional loan if the applicant meets the performance criteria established
18 by the department.

19 (5) To establish the criteria for making development loans, the department shall consider:

20 (a) the plan for providing services to microbusinesses;

21 (b) the scope of services to be provided by the certified microbusiness development corporation;

22 (c) the geographic representation of all regions of the state, including urban, rural[, and tribal]
23 communities;

24 (d) the plan for providing service to minorities, women, and low-income persons;

25 (e) the ability of the corporation to provide business training and technical assistance to microbusiness
26 clients;

27 (f) the ability of the corporation, with its plan, to:

28 (i) monitor and provide financial oversight of recipients of microbusiness loans;

29 (ii) administer a revolving loan fund; and

30 (iii) investigate and qualify financing proposals and to service credit accounts;

1 (g) sources and sufficiency of operating funds for the certified microbusiness development corporation;
2 and

3 (h) the intent of the corporation, with its plan and written indications of local institutional support, to
4 provide services to a designated multicounty region of the state.

5 (6) Development loan funds may be used by a certified microbusiness development corporation to:

6 (a) satisfy matching fund requirements for other state, federal, or private funding only if funding is
7 intended and used for the purpose of providing or enhancing the certified microbusiness development
8 corporation's ability to provide and administer loans, technical assistance, or management training to
9 microbusinesses;

10 (b) establish a revolving loan fund from which the certified microbusiness development corporation may
11 make loans to qualified microbusinesses, provided that a single loan does not exceed \$35,000 and the
12 outstanding balance of all loans to a microbusiness or a project participated in by more than one microbusiness
13 or to two or more microbusinesses in which any one person holds more than a 20% equity share does not
14 exceed \$35,000;

15 (c) establish a guarantee fund from which the certified microbusiness development corporation may
16 guarantee loans made by financial institutions to qualified microbusinesses. However, a single guarantee may
17 not exceed \$35,000, and the aggregate of all guarantees to a microbusiness or a project participated in by more
18 than one microbusiness or to two or more microbusinesses in which any one person holds more than a 20%
19 equity share may not exceed \$35,000.

20 (7) Development loan funds may not be:

21 (a) loaned for relending or investment in stocks, bonds, or other securities or for property not intended
22 for use in production by the recipient of the loan; or

23 (b) used to:

24 (i) refinance a nonperforming loan held by a financial institution; or

25 (ii) pay the operating costs of a certified microbusiness development corporation. However, interest
26 income earned from the proceeds of a development loan may be used to pay operating expenses.

27 (8) Certified microbusiness development corporations are required to contribute cash from other
28 sources to leverage and secure development loans from the program. Contributions provided by the corporation
29 must be on a ratio of at least \$1 from other sources for each \$6 from the program. These contributions may
30 come from a public or private source other than the program and may be in the form of equity capital, loans, or

1 grants.

2 (9) Development loans must be made pursuant to a development loan agreement and may be
3 amortization or term loans, bear interest at less than the market rate, be renewable, be callable, and contain
4 other terms and conditions considered appropriate by the department that are consistent with the purposes of
5 and with rules promulgated to implement this part.

6 (10) Each certified microbusiness development corporation that receives a development loan under this
7 part shall provide the department with an annual audit from an independent certified public accountant. The audit
8 must cover all of the microbusiness development corporation's activities and must include verification of
9 compliance with requirements specific to the microbusiness program.

10 (11) A certified microbusiness development corporation that is in default for nonperformance under rules
11 established by the department may be required to refund the outstanding balance of development loans awarded
12 prior to the default declaration. A development loan is secured by a first lien on all funds and all receivables
13 administered under the authority of the microbusiness development act by the corporation receiving the loan.
14 (Bracketed language terminates June 30, 2005--sec. 5, Ch. 69, L. 2001.)"

15

16 **Section 26.** Section 20-3-351, MCA, is amended to read:

17 **"20-3-351. Number of trustee positions in high school districts.** (1) Except as provided in
18 20-3-352(3) and subsection (2) of this section, the trustees of a high school district must be composed of:

19 (a) the trustees of the elementary district in which the high school building is located ~~or, if there is more~~
20 ~~than one elementary district in which high school buildings are located, the trustees of the elementary district~~
21 ~~designated by the high school boundary commission;~~ and

22 (b) the additional trustee positions determined in accordance with 20-3-352(2).

23 (2) There must be seven trustee positions for each county high school."
24

25 **Section 27.** Section 20-9-141, MCA, is amended to read:

26 **"20-9-141. Computation of general fund net levy requirement by county superintendent.** (1) The
27 county superintendent shall compute the levy requirement for each district's general fund on the basis of the
28 following procedure:

29 (a) Determine the funding required for the district's final general fund budget less the sum of direct state
30 aid and the special education allowable cost payment for the district by totaling:

- 1 (i) the district's nonisolated school BASE budget requirement to be met by a district levy as provided
2 in 20-9-303; and
- 3 (ii) any general fund budget amount adopted by the trustees of the district under the provisions of
4 20-9-308 and 20-9-353, including any additional funding for a general fund budget that exceeds the maximum
5 general fund budget.
- 6 (b) Determine the money available for the reduction of the property tax on the district for the general
7 fund by totaling:
- 8 (i) the general fund balance reappropriated, as established under the provisions of 20-9-104;
9 (ii) amounts received in the last fiscal year for which revenue reporting was required for each of the
10 following:
- 11 (A) interest earned by the investment of general fund cash in accordance with the provisions of
12 20-9-213(4); and
- 13 (B) any other revenue received during the school fiscal year that may be used to finance the general
14 fund, excluding any guaranteed tax base aid;
- 15 (iii) anticipated oil and natural gas production taxes;
16 (iv) pursuant to subsection (4), anticipated revenue from coal gross proceeds under 15-23-703; and
17 (v) school district block grants distributed under ~~section 244, Chapter 574, Laws of 2001~~ 20-9-630.
- 18 (c) Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property
19 tax required to finance the general fund that has been determined in subsection (1)(b) from any general fund
20 budget amount adopted by the trustees of the district, up to the BASE budget amount, to determine the general
21 fund BASE budget levy requirement.
- 22 (d) Determine the sum of any amount remaining after the determination in subsection (1)(c) and any
23 tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through 20-5-324,
24 except the amount of tuition received for a pupil who is a child with a disability in excess of the amount received
25 for a pupil without disabilities, as calculated under 20-5-323(2).
- 26 (e) Subtract the amount determined in subsection (1)(d) from any additional funding requirement to be
27 met by an over-BASE budget amount, a district levy as provided in 20-9-303, and any additional financing as
28 provided in 20-9-353 to determine any additional general fund levy requirements.
- 29 (2) The county superintendent shall calculate the number of mills to be levied on the taxable property
30 in the district to finance the general fund levy requirement for any amount that does not exceed the BASE budget

1 amount for the district by dividing the amount determined in subsection (1)(c) by the sum of:

2 (a) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified
3 by the superintendent of public instruction; and

4 (b) the current total taxable valuation of the district, as certified by the department of revenue under
5 15-10-202, divided by 1,000.

6 (3) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be reported
7 to the county commissioners on the fourth Monday of August by the county superintendent as the general fund
8 net levy requirement for the district, and a levy must be set by the county commissioners in accordance with
9 20-9-142.

10 (4) For each school district, the department of revenue shall calculate and report to the county
11 superintendent the amount of revenue anticipated for the ensuing fiscal year from revenue from coal gross
12 proceeds under 15-23-703."

13

14 **Section 28.** Section 20-9-501, MCA, is amended to read:

15 **"20-9-501. Retirement costs and retirement fund.** (1) The trustees of a district or the management
16 board of a cooperative employing personnel who are members of the teachers' retirement system or the public
17 employees' retirement system or who are covered by unemployment insurance or who are covered by any
18 federal social security system requiring employer contributions shall establish a retirement fund for the purposes
19 of budgeting and paying the employer's contributions to the systems as provided in subsection (2)(a). The
20 district's or the cooperative's contribution for each employee who is a member of the teachers' retirement system
21 must be calculated in accordance with Title 19, chapter 20, part 6. The district's or the cooperative's contribution
22 for each employee who is a member of the public employees' retirement system must be calculated in
23 accordance with 19-3-316. The district's or the cooperative's contributions for each employee covered by any
24 federal social security system must be paid in accordance with federal law and regulation. The district's or the
25 cooperative's contribution for each employee who is covered by unemployment insurance must be paid in
26 accordance with Title 39, chapter 51, part 11.

27 (2) (a) The district or the cooperative shall pay the employer's contributions to the retirement, federal
28 social security, and unemployment insurance systems from the retirement fund for the following:

29 (i) a district employee whose salary and health-related benefits, if any health-related benefits are
30 provided to the employee, are paid from state or local funding sources;

1 (ii) a cooperative employee whose salary and health-related benefits, if any health-related benefits are
2 provided to the employee, are paid from the cooperative's interlocal agreement fund if the fund is supported
3 solely from districts' general funds and state special education allowable cost payments pursuant to 20-9-321;
4 and

5 (iii) a district employee whose salary and health-related benefits, if any health-related benefits are
6 provided to the employee, are paid from the district's school food services fund provided for in 20-10-204.

7 (b) For an employee whose benefits are not paid from the retirement fund, the district or the cooperative
8 shall pay the employer's contributions to the retirement, federal social security, and unemployment insurance
9 systems from the funding source that pays the employee's salary.

10 (3) The trustees of a district required to make a contribution to a system referred to in subsection (1)
11 shall include in the retirement fund of the final budget the estimated amount of the employer's contribution. After
12 the final retirement fund budget has been adopted, the trustees shall pay the employer contributions to the
13 systems in accordance with the financial administration provisions of this title.

14 (4) When the final retirement fund budget has been adopted, the county superintendent shall establish
15 the levy requirement by:

16 (a) determining the sum of the money available to reduce the retirement fund levy requirement by
17 adding:

18 (i) any anticipated money that may be realized in the retirement fund during the ensuing school fiscal
19 year;

20 (ii) oil and natural gas production taxes;

21 (iii) coal gross proceeds taxes under 15-23-703;

22 (iv) countywide school retirement block grants distributed under ~~section 245, Chapter 574, Laws of 2001~~
23 20-9-631;

24 (v) any fund balance available for reappropriation as determined by subtracting the amount of the
25 end-of-the-year fund balance earmarked as the retirement fund operating reserve for the ensuing school fiscal
26 year by the trustees from the end-of-the-year fund balance in the retirement fund. The retirement fund operating
27 reserve may not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and
28 must be used for the purpose of paying retirement fund warrants issued by the district under the final retirement
29 fund budget.

30 (vi) any other revenue anticipated that may be realized in the retirement fund during the ensuing school

1 fiscal year, excluding any guaranteed tax base aid.

2 (b) notwithstanding the provisions of subsection (9), subtracting the money available for reduction of
3 the levy requirement, as determined in subsection (4)(a), from the budgeted amount for expenditures in the final
4 retirement fund budget.

5 (5) The county superintendent shall:

6 (a) total the net retirement fund levy requirements separately for all elementary school districts, all high
7 school districts, and all community college districts of the county, including any prorated joint district or special
8 education cooperative agreement levy requirements; and

9 (b) report each levy requirement to the county commissioners on the fourth Monday of August as the
10 respective county levy requirements for elementary district, high school district, and community college district
11 retirement funds.

12 (6) The county commissioners shall fix and set the county levy or district levy in accordance with
13 20-9-142.

14 (7) The net retirement fund levy requirement for a joint elementary district or a joint high school district
15 must be prorated to each county in which a part of the district is located in the same proportion as the district
16 ANB of the joint district is distributed by pupil residence in each county. The county superintendents of the
17 counties affected shall jointly determine the net retirement fund levy requirement for each county as provided
18 in 20-9-151.

19 (8) The net retirement fund levy requirement for districts that are members of special education
20 cooperative agreements must be prorated to each county in which the district is located in the same proportion
21 as the special education cooperative budget is prorated to the member school districts. The county
22 superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each
23 county in the same manner as provided in 20-9-151, and the county commissioners shall fix and levy the net
24 retirement fund levy for each county in the same manner as provided in 20-9-152.

25 (9) The county superintendent shall calculate the number of mills to be levied on the taxable property
26 in the county to finance the retirement fund net levy requirement by dividing the amount determined in
27 subsection (5)(a) by the sum of:

28 (a) the amount of guaranteed tax base aid that the county will receive for each mill levied, as certified
29 by the superintendent of public instruction; and

30 (b) the taxable valuation of the district divided by 1,000.

1 (10) The levy for a community college district may be applied only to property within the district.

2 (11) The county superintendent of each county shall submit a report of the revenue amounts used to
3 establish the levy requirements for county school funds supporting elementary and high school district retirement
4 obligations to the superintendent of public instruction not later than the second Monday in September. The report
5 must be completed on forms supplied by the superintendent of public instruction."

6

7 **Section 29.** Section 20-10-144, MCA, is amended to read:

8 **"20-10-144. Computation of revenue and net tax levy requirements for district transportation fund**

9 **budget.** Before the second Monday of August, the county superintendent shall compute the revenue available
10 to finance the transportation fund budget of each district. The county superintendent shall compute the revenue
11 for each district on the following basis:

12 (1) The "schedule amount" of the budget expenditures that is derived from the rate schedules in
13 20-10-141 and 20-10-142 must be determined by adding the following amounts:

14 (a) the sum of the maximum reimbursable expenditures for all approved school bus routes maintained
15 by the district (to determine the maximum reimbursable expenditure, multiply the applicable rate for each bus
16 mile by the total number of miles to be traveled during the ensuing school fiscal year on each bus route approved
17 by the county transportation committee and maintained by the district); plus

18 (b) the total of all individual transportation per diem reimbursement rates for the district as determined
19 from the contracts submitted by the district multiplied by the number of pupil-instruction days scheduled for the
20 ensuing school attendance year; plus

21 (c) any estimated costs for supervised home study or supervised correspondence study for the ensuing
22 school fiscal year; plus

23 (d) the amount budgeted in the budget for the contingency amount permitted in 20-10-143, except if
24 the amount exceeds 10% of the total of subsections (1)(a), (1)(b), and (1)(c) or \$100, whichever is larger, the
25 contingency amount on the budget must be reduced to the limitation amount and used in this determination of
26 the schedule amount; plus

27 (e) any estimated costs for transporting a child out of district when the child has mandatory approval
28 to attend school in a district outside the district of residence.

29 (2) (a) The schedule amount determined in subsection (1) or the total transportation fund budget,
30 whichever is smaller, is divided by 2 and is used to determine the available state and county revenue to be

1 budgeted on the following basis:

2 (i) one-half is the budgeted state transportation reimbursement, except that the state transportation
3 reimbursement for the transportation of special education pupils under the provisions of 20-7-442 must be 50%
4 of the schedule amount attributed to the transportation of special education pupils; and

5 (ii) one-half is the budgeted county transportation fund reimbursement and must be financed in the
6 manner provided in 20-10-146.

7 (b) When the district has a sufficient amount of fund balance for reappropriation and other sources of
8 district revenue, as determined in subsection (3), to reduce the total district obligation for financing to zero, any
9 remaining amount of district revenue and fund balance reappropriated must be used to reduce the county
10 financing obligation in subsection (2)(a)(ii) and, if the county financing obligations are reduced to zero, to reduce
11 the state financial obligation in subsection (2)(a)(i).

12 (c) The county revenue requirement for a joint district, after the application of any district money under
13 subsection (2)(b), must be prorated to each county incorporated by the joint district in the same proportion as
14 the ANB of the joint district is distributed by pupil residence in each county.

15 (3) The total of the money available for the reduction of property tax on the district for the transportation
16 fund must be determined by totaling:

17 (a) anticipated federal money received under the provisions of 20 U.S.C. 7701, et seq., or other
18 anticipated federal money received in lieu of that federal act;

19 (b) anticipated payments from other districts for providing school bus transportation services for the
20 district;

21 (c) anticipated payments from a parent or guardian for providing school bus transportation services for
22 a child;

23 (d) anticipated or reappropriated interest to be earned by the investment of transportation fund cash in
24 accordance with the provisions of 20-9-213(4);

25 (e) anticipated revenue from coal gross proceeds under 15-23-703;

26 (f) anticipated oil and natural gas production taxes;

27 (g) anticipated local government severance tax payments for calendar year 1995 production;

28 (h) anticipated transportation payments for out-of-district pupils under the provisions of 20-5-320 through
29 20-5-324;

30 (i) school district block grants distributed under ~~section 244, Chapter 574, Laws of 2004~~ 20-9-630;

1 (j) any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year that
2 may be used to finance the transportation fund; and

3 (k) any fund balance available for reappropriation as determined by subtracting the amount of the
4 end-of-the-year fund balance earmarked as the transportation fund operating reserve for the ensuing school
5 fiscal year by the trustees from the end-of-the-year fund balance in the transportation fund. The operating
6 reserve may not be more than 20% of the final transportation fund budget for the ensuing school fiscal year and
7 is for the purpose of paying transportation fund warrants issued by the district under the final transportation fund
8 budget.

9 (4) The district levy requirement for each district's transportation fund must be computed by:

10 (a) subtracting the schedule amount calculated in subsection (1) from the total preliminary transportation
11 budget amount; and

12 (b) subtracting the amount of money available to reduce the property tax on the district, as determined
13 in subsection (3), from the amount determined in subsection (4)(a).

14 (5) The transportation fund levy requirements determined in subsection (4) for each district must be
15 reported to the county commissioners on the fourth Monday of August by the county superintendent as the
16 transportation fund levy requirements for the district, and the levy must be made by the county commissioners
17 in accordance with 20-9-142."
18

19 **Section 30.** Section 20-10-146, MCA, is amended to read:

20 **"20-10-146. County transportation reimbursement.** (1) The apportionment of the county
21 transportation reimbursement by the county superintendent for school bus transportation or individual
22 transportation that is actually rendered by a district in accordance with this title, board of public education
23 transportation policy, and the transportation rules of the superintendent of public instruction must be the same
24 as the state transportation reimbursement payment, except that:

25 (a) if any cash was used to reduce the budgeted county transportation reimbursement under the
26 provisions of 20-10-144(2)(b), the annual apportionment is limited to the budget amount;

27 (b) when the county transportation reimbursement for a school bus has been prorated between two or
28 more counties because the school bus is conveying pupils of more than one district located in the counties, the
29 apportionment of the county transportation reimbursement must be adjusted to pay the amount computed under
30 the proration; and

1 (c) when county transportation reimbursement is required under the mandatory attendance agreement
2 provisions of 20-5-321.

3 (2) The county transportation net levy requirement for the financing of the county transportation fund
4 reimbursements to districts is computed by:

5 (a) totaling the net requirement for all districts of the county, including reimbursements to a special
6 education cooperative or prorated reimbursements to joint districts or reimbursements under the mandatory
7 attendance agreement provisions of 20-5-321;

8 (b) determining the sum of the money available to reduce the county transportation net levy requirement
9 by adding:

10 (i) anticipated money that may be realized in the county transportation fund during the ensuing school
11 fiscal year;

12 (ii) oil and natural gas production taxes;

13 (iii) anticipated local government severance tax payments for calendar year 1995 production;

14 (iv) coal gross proceeds taxes under 15-23-703;

15 (v) countywide school transportation block grants distributed under ~~section 246, Chapter 574, Laws of~~
16 ~~2001~~ 20-9-632;

17 (vi) any fund balance available for reappropriation from the end-of-the-year fund balance in the county
18 transportation fund;

19 (vii) federal forest reserve funds allocated under the provisions of 17-3-213; and

20 (viii) other revenue anticipated that may be realized in the county transportation fund during the ensuing
21 school fiscal year; and

22 (c) subtracting the money available, as determined in subsection (2)(b), to reduce the levy requirement
23 from the county transportation net levy requirement.

24 (3) The net levy requirement determined in subsection (2)(c) must be reported to the county
25 commissioners on the fourth Monday of August by the county superintendent, and a levy must be set by the
26 county commissioners in accordance with 20-9-142.

27 (4) The county superintendent of each county shall submit a report of the revenue amounts used to
28 establish the levy requirements to the superintendent of public instruction not later than the second Monday in
29 September. The report must be completed on forms supplied by the superintendent of public instruction.

30 (5) The county superintendent shall apportion the county transportation reimbursement from the

1 proceeds of the county transportation fund. The county superintendent shall order the county treasurer to make
 2 the apportionments in accordance with 20-9-212(2) and after the receipt of the semiannual state transportation
 3 reimbursement payments."

4

5 **Section 31.** Section 20-15-221, MCA, is amended to read:

6 **"20-15-221. Election of trustees after organization of community college district.** (1) After
 7 organization, the registered electors of the community college district qualified to vote under the provisions of
 8 20-20-301 shall annually vote for trustees on the regular school election day provided for in 20-3-304. The
 9 election ~~shall~~ must be conducted in accordance with the election provisions of this title whenever ~~such the~~
 10 provisions are made applicable to community college districts. ~~Such elections shall~~ Elections must be conducted
 11 by the component elementary school districts within ~~such the~~ community college district upon the order of the
 12 board of trustees of the community college district. The order ~~shall~~ must be transmitted to the appropriate
 13 trustees not less than 40 days prior to the regular school election day.

14 (2) Notice of the community college district trustee election ~~shall~~ must be given by the board of trustees
 15 of the community college district by publication in one or more newspapers of general circulation within each
 16 county, not less than once a week for 2 consecutive weeks, with the last insertion to be no more than 1 week
 17 prior to the date of the election. This notice ~~shall be~~ is in addition to the election notice to be given by the trustees
 18 of the component elementary districts under the school election laws.

19 (3) ~~Should~~ If trustees ~~be~~ are elected other than at large throughout the entire district, then only those
 20 qualified voters within the area from which the trustee or trustees are to be elected ~~shall~~ may cast their ballots
 21 for the trustee or trustees from that area. In addition to the nominating petition required by 20-15-219(2), all
 22 candidates for the office of trustee shall file their declarations of candidacy with the secretary of the board of
 23 trustees of the community college district not less than 30 days prior to the date of election. If an electronic voting
 24 system ~~or voting machines are~~ is not used in the component elementary school district or districts ~~which that~~
 25 conduct the election, the board of trustees of the community college district shall cause ballots to be printed and
 26 distributed for the polling places in ~~such the~~ component districts at the expense of the community college district,
 27 but in all other respects ~~said the~~ elections ~~shall~~ must be conducted in accordance with the school election laws.
 28 All costs incident to election of the community college trustees ~~shall~~ must be borne by the community college
 29 district, including one-half of the compensation of the judges for the school elections; ~~provided that. However,~~
 30 if the election of the community college district trustees is the only election conducted, the community college

1 district shall compensate the district for the total cost of the election."

2

3 **Section 32.** Section 20-20-303, MCA, is amended to read:

4 **"20-20-303. Elector challenges.** (1) An elector may challenge the qualifications of another elector
5 under the provisions of ~~13-2-404~~ and 13-13-301(1). Any person offering to vote in a school election may be
6 challenged by any elector of the district on any of the grounds for challenge established in 13-13-301(2). The
7 challenge shall must be determined in the same manner, using the same oath as provided in Title 13, chapter
8 13, part 3.

9 (2) Any person who has been challenged under any of the provisions of this section and who swears
10 or affirms falsely before any school election judge is guilty of false swearing and is punishable as provided in
11 45-7-202."

12

13 **Section 33.** Section 20-25-308, MCA, is amended to read:

14 **"20-25-308. Prohibition on transfer to foundation.** ~~(1) Except as provided in subsection (2), in~~ In
15 order to implement the provisions of Article VIII, section 12, of the Montana constitution, ownership of the
16 following may not be transferred to a nonprofit corporation or foundation established for the benefit of a unit of
17 the university system unless full market value is received for the transfer and laws applicable to the disposition
18 of property are followed:

19 ~~(a)(1)~~ (1) money in the higher education funds provided for in 17-2-102;

20 ~~(b)(2)~~ (2) excess proceeds of money borrowed pursuant to 20-25-402; and

21 ~~(c)(3)~~ (3) real or personal property acquired with money listed in subsection (1)~~(a)~~ or proceeds listed in
22 subsection ~~(1)(b)~~ (2).

23 ~~(2) Subsection (1) does not apply to the lease for the athletic complex at Montana state~~
24 ~~university-Bozeman provided for in section 5, Chapter 478, Laws of 1995. The land lease for the athletic complex~~
25 ~~must be of a term not to exceed 7 years from the date of approval of the lease."~~

26

27 **Section 34.** Section 23-2-502, MCA, is amended to read:

28 **"23-2-502. Definitions.** As used in this part, unless the context clearly requires a different meaning,
29 the following definitions apply:

30 (1) "Certificate of number" means the certificate issued by the county treasurer to the owner of a

1 motorboat or sailboat or by the department of justice to dealers or manufacturers, assigning the motorboat or
2 sailboat an identifying number and containing other information as required by the department of justice.

3 (2) "Dealer" means a person who engages in whole or in part in the business of buying, selling, or
4 exchanging new and unused vessels or used vessels, or both, either outright or on conditional sale, bailment,
5 lease, chattel mortgage, or otherwise, and who has an established place of business for sale, trade, and display
6 of vessels. A yacht broker is a dealer.

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

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

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

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

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

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

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

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

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

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

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

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

29 (a) the owner or the owner's representative;

30 (b) the operator;

1 (c) bona fide members of the crew engaged in the business of the vessel who have not contributed any
2 consideration for their carriage and who are paid for their services; or

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

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

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

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

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

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

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

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

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

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

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

23 (20) "Waters of this state" means any waters within the territorial limits of this state."
24

25 **Section 35.** Section 23-2-511, MCA, is amended to read:

26 **"23-2-511. Operation of unnumbered motorboats or sailboats prohibited -- display of registration**
27 **decal.** (1) A motorboat on the waters of this state; that is propelled by a motor or an engine of any description;
28 or a sailboat on the waters of this state must be properly numbered and display a valid registration decal. A
29 person may not operate or give permission for the operation of any motorboat or sailboat on the waters of this
30 state unless the motorboat or sailboat is numbered and displays a valid registration decal in accordance with

1 this part and applicable federal law or with a federally approved numbering system of another state and unless:

2 (a) the certificate of number assigned to the motorboat or sailboat is in effect;

3 (b) the identifying number set forth in the certificate of number and the valid license decals are displayed
4 on the motorboat or sailboat; and

5 (c) a temporary permit has been obtained from the county in which ~~the boat~~ a motorboat is being
6 operated if that county requires a temporary permit for out-of-state motorboats, as provided in 7-16-2121.

7 (2) Upon transfer of ownership of a motorboat or sailboat from a registered ~~boat~~ dealer or manufacturer,
8 the transferred motorboat or sailboat may be operated on the waters of this state for 30 consecutive calendar
9 days immediately following the transfer of ownership without displaying the numbers and registration decal
10 required by subsection (1) if when the motorboat or sailboat is operated during those 30 consecutive calendar
11 days, a bill of sale or other evidence of transfer ~~reciting~~ showing the date of the transfer of ownership is retained
12 in the motorboat or sailboat and is ~~exhibited~~ shown to a warden or other officer upon request."
13

14 **Section 36.** Section 23-2-514, MCA, is amended to read:

15 **"23-2-514. Exemption from numbering provisions.** A motorboat or sailboat is not required to be
16 numbered under this part if it is:

17 (1) covered by a number in effect that has been assigned to it pursuant to federal law or a federally
18 approved numbering system of another state if the motorboat or sailboat has not been within this state for a
19 period in excess of 90 consecutive days. After 90 consecutive days within this state, this state becomes the
20 ~~motorboat's~~ state of principal use of the motorboat or sailboat and the owner ~~must~~ shall apply for a Montana
21 number, certificate of number, and registration decal.

22 (2) a motorboat or sailboat from a country other than the United States temporarily using the waters of
23 this state;

24 (3) a motorboat or sailboat whose owner is the United States, a state, or a subdivision of a state; or

25 (4) a ship's lifeboat."
26

27 **Section 37.** Section 23-2-515, MCA, is amended to read:

28 **"23-2-515. Registration decal to be displayed.** (1) A Montana motorboat, sailboat, or personal
29 watercraft numbered in accordance with the provisions of 23-2-512 or 23-2-513 must display a registration decal.

30 For this purpose, the county treasurer, upon proof of payment of the fee in lieu of tax as required by 15-16-202

1 for motorboats 10 feet in length or longer, sailboats 12 feet in length or longer, or personal watercraft, shall issue
 2 a registration decal prepared and furnished by the department of justice with all new certificates of number and,
 3 if applicable, all renewals of the certificates of number.

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

5 (b) The registration decal must be serially numbered.

6 (c) The registration decals issued for a motorboat, ~~or sailboat, or personal watercraft~~ do not expire while
 7 the motorboat, ~~or sailboat, or personal watercraft~~ remains in the same ownership.

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

10

11 **Section 38.** Section 23-2-521, MCA, is amended to read:

12 **"23-2-521. Equipment.** (1) Every motorboat or vessel must have aboard:

13 (a) one ~~personal flotation device that is approved by the~~ United States coast guard ~~approved personal~~
 14 ~~flotation device and that is~~ in good and serviceable condition for each person on board, provided that a person
 15 who has not reached his ~~12th birthday~~ 12 years of age must have a life preserver that is approved by the United
 16 States coast guard ~~approved life preserver and that is~~ properly fastened to ~~his~~ the person when occupying a
 17 motorboat or vessel under 26 feet in length while the motorboat or vessel is in motion;

18 (b) if carrying or using an inflammable or toxic fluid in an enclosure for any purpose and if the motorboat
 19 or vessel is not an entirely open one, an efficient natural or mechanical ventilation system prescribed by the
 20 department that must be used and be capable of removing resulting gases prior to and during the time the
 21 motorboat or vessel is occupied by a person;

22 (c) hand portable fire extinguishers approved by the United States coast guard, the number of which
 23 is to be determined by the department, or a fixed fire extinguishing system that is approved by the United States
 24 coast guard ~~approved fixed fire extinguishing system~~, except that motorboats less than 26 feet in length of
 25 entirely open construction, propelled by outboard motors, and not carrying passengers for hire need not carry
 26 the portable fire extinguishers or fire extinguishing systems.

27 (2) ~~Every motorboat or vessel must have the~~ The carburetor or carburetors of each of ~~its~~ the engines
 28 of a motorboat or vessel (except outboard motors) ~~using that use~~ gasoline as fuel must be equipped with an
 29 efficient flame arrester, backfire trap, or other similar device.

30 (3) (a) Except as provided in subsection (3)(b), the exhaust of an internal combustion engine used on

1 a motorboat or vessel must be muffled either by discharge underwater or by a functioning muffler capable of
2 muffling exhaust noise to 90 dbA or less when measured at a distance of 1 meter from the muffler at idle speed
3 in accordance with the stationary sound level measurement procedure for pleasure motorboats (SAE J2005).
4 The muffler may not be modified or altered, such as by a cutout. The department may require a test at dockside
5 to determine exhaust noise level.

6 (b) The provisions of subsection (3)(a) do not apply to a motorboat or vessel:

7 (i) competing in a state-sanctioned regatta or boat race while on trial runs between 9 a.m. and 5 p.m.
8 and during a period not more than 48 hours immediately preceding the regatta or boat race;

9 (ii) operating under a separate permit issued by the department for the purpose of tuning engines,
10 making test or trial runs, or competing in official trials for speed records other than in connection with regattas
11 or boat races; or

12 (iii) operated by an authorized agent of federal, state, or local government to carry out ~~his~~ the duty of
13 enforcement, search and rescue, firefighting, or research.

14 (4) (a) Except as provided in subsection (4)(b), a vessel may not be equipped with a siren, and a person
15 may not use or install a siren on a vessel.

16 (b) An authorized emergency vessel may be equipped with a siren capable of sound audible under
17 normal conditions from a distance of not less than 500 feet, but the siren may be used only when the vessel is
18 operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the
19 law, and the operator of the vessel ~~must~~ shall sound the siren when necessary to warn persons of the vessel's
20 approach.

21 (5) When in operation or at anchor or moored away from a docking facility between sunset and sunrise,
22 all vessels must display lights as prescribed by the department.

23 (6) The department may designate waters where and the time of year on these waters when all persons
24 aboard a motorboat or vessel shall wear approved life preservers at all times.

25 (7) Vessels, including houseboats and floating cabins, equipped with a galley or toilet must have a
26 wastewater holding system sealed to prevent the discharge of water-carried waste products, whether treated
27 or untreated, into the surrounding waters.

28 (8) The department may adopt rules modifying the equipment requirements contained in this section
29 to the extent necessary to keep these requirements in conformity with the provisions of the federal navigation
30 and safety laws or with the navigation and safety rules promulgated by the United States coast guard.

1 (9) A person may not operate or give permission for the operation of a vessel that is not equipped as
2 required by this section."

3

4 **Section 39.** Section 23-2-614, MCA, is amended to read:

5 **"23-2-614. Exemptions.** (1) (a) The provisions of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through
6 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
7 respect to registration, registration decals, certificates of title, and ~~certification~~ certificates of ownership; do not
8 apply to snowmobiles owned or used by the United States or another state or any agency or political subdivision
9 of the United States or another state.

10 (b) Snowmobiles owned by the state of Montana or any agency or political subdivision of this state are
11 exempt only from the payment of fees and must otherwise comply with all the requirements of 23-2-601,
12 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
13 23-2-641 through 23-2-644.

14 (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,
15 23-2-626, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644 with respect to registration, registration
16 decals, certificates of title, and ~~certification~~ certificates of ownership do not apply to unregistered snowmobiles
17 owned by nonresidents of Montana who either:

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

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

21

22 **Section 40.** Section 27-1-306, MCA, is amended to read:

23 **"27-1-306. When replacement value to be allowed.** The measure of damages in a case in which the
24 cost of repairing a motor vehicle exceeds its value is the actual replacement value of the motor vehicle rather
25 than its "book" value unless, after the damages arise, the parties agree to use the "book" value. "Book" value
26 must be determined by referring to the most recent volume of the Mountain States Edition of the National
27 Automobile Dealers Association (N.A.D.A.) Official Used Car Guide; or the National Edition of N.A.D.A. Appraisal
28 Guides Official Older Used Car Guide; ~~or another nationally published used vehicle or appraisal guide approved~~
29 ~~by the department of revenue~~. Actual replacement value is the actual cash value of the motor vehicle
30 immediately prior to the damage. "Book" value may be used to assist in determining the actual replacement

1 value of the motor vehicle."
2

3 **Section 41.** Section 30-14-222, MCA, is amended to read:

4 **"30-14-222. Injunctions -- damages -- production of evidence.** (1) Any person who is or will be
5 injured, the department, or the attorney general may maintain an action to enjoin an act that is in violation of
6 30-14-205 through 30-14-214 or 30-14-216 through 30-14-218 and for the recovery of damages. If the court finds
7 that the defendant is violating or has violated any of the provisions of 30-14-205; through 30-14-214; or
8 30-14-216 through 30-14-218, it shall enjoin the defendant. It is not necessary to allege or prove actual damages
9 to the plaintiff.

10 (2) (a) In addition to injunctive relief, the plaintiff is entitled to recover from the defendant the greater
11 of three times the amount of actual damages sustained or \$1,000.

12 (b) In addition to any amount recovered pursuant to subsection (2)(a), a plaintiff who proves a violation
13 of 30-14-209 is entitled to \$500 a day for each day that a violation of 30-14-209 occurred.

14 (3) A defendant in an action brought under this section may be required to testify under the Montana
15 Rules of Civil Procedure. In addition, the books and records of the defendant may be brought into court and
16 introduced into evidence by reference. Information obtained pursuant to this subsection may not be used against
17 the defendant as a basis for prosecution under 30-14-205 through 30-14-214, 30-14-216 through 30-14-218,
18 or 30-14-224.

19 (4) In an action brought by a party other than the state, the prevailing party is entitled to attorney fees
20 and costs."
21

22 **Section 42.** Section 30-14-223, MCA, is amended to read:

23 **"30-14-223. Department's institution of suit.** Upon the violation of any of the provisions of 30-14-205;
24 through 30-14-214; or 30-14-216 through 30-14-218 by any business, the department may institute a proceeding
25 in a court of competent jurisdiction for the forfeiture of the business's charter, rights, franchises or privileges, and
26 powers exercised by the business and to permanently enjoin it from transacting business in this state. If in the
27 proceeding the court finds that the business is violating or has violated any of the provisions of 30-14-205;
28 through 30-14-214; or 30-14-216 through 30-14-218, the court shall enjoin the business from doing business
29 in this state permanently or for a period of time that the court orders or the court shall annul the charter or revoke
30 the franchise of the business."

1

2 **Section 43.** Section 30-14-901, MCA, is amended to read:

3 **"30-14-901. Discrimination in price.** (1) It is unlawful for a business to discriminate, directly or
4 indirectly, in the price charged to different purchasers of commodities of like grade and quality if the effect of the
5 discrimination upon other businesses or customers is to substantially lessen competition, to create a monopoly
6 in any line of commerce, or to injure, destroy, or prevent competition with any business that grants or knowingly
7 receives the benefit of the discrimination.

8 (2) This section does not prohibit:

9 (a) price differentials that make due allowance for the costs of manufacture, sale, or delivery resulting
10 from the differing methods or quantities in which the commodities are sold or delivered to the purchasers;

11 (b) businesses engaged in selling commodities from selecting their own customers in bona fide
12 transactions and not in restraint of trade; or

13 (c) price changes from time to time made in response to changing conditions affecting the market for,
14 or the marketability of, the commodities, including but not limited to actual or imminent deterioration of perishable
15 goods, obsolescence of seasoned goods, distress sales under court process, or sales in good faith in
16 discontinuance of business in the goods concerned.

17 (3) It is unlawful for a business to discriminate in favor of one purchaser against another purchaser of
18 a processed or unprocessed commodity bought for resale by contracting to furnish, by furnishing, or by
19 contributing to the furnishing of any service or facility connected with the processing, handling, sale, or offering
20 for sale of the commodity purchased upon terms not accorded to all purchasers on proportionally equal terms.

21 (4) It is unlawful for a business to knowingly induce or receive a discrimination in price that is prohibited
22 by this section.

23 (5) This section does not apply to industry members regulated by Title 16, chapters 1 through 4 and 6."

24

25 **Section 44.** Section 30-14-1407, MCA, is amended to read:

26 **"30-14-1407. Authority of department, attorney general, and county attorney.** (1) The department,
27 the attorney general, and a county attorney have the same authority in enforcing and carrying out the provisions
28 of this part as they have under Title 30, chapter 14, part 1.

29 (2) All civil fines, costs, and fees received or recovered by the department pursuant to this section must
30 be deposited into the state special revenue account to the credit of the department and must be used to defray

1 the expenses of the department in discharging its administrative and regulatory powers and duties in relation
 2 to this section and to fund the telemarketing fraud consumer awareness program established in ~~30-14-1405~~
 3 30-14-1406. Any excess civil fines, costs, or fees must be deposited in the general fund.

4 (3) All civil fines, costs, and fees received or recovered by the attorney general pursuant to this section
 5 must be deposited into the state special revenue account to the credit of the attorney general and must be used
 6 to defray the expenses of the office of the attorney general in discharging its duties in relation to this section and
 7 to establish a telemarketing fraud consumer awareness program similar to the program authorized in ~~30-14-1405~~
 8 30-14-1406. Any excess civil fines, costs, or fees must be deposited in the general fund.

9 (4) All civil fines, costs, and fees received or recovered by a county attorney must be paid to the general
 10 fund of the county where the action was commenced."
 11

12 **Section 45.** Section 33-22-140, MCA, is amended to read:

13 **"33-22-140. Definitions.** As used in this chapter, unless the context requires otherwise, the following
 14 definitions apply:

15 (1) "Beneficiary" has the meaning given the term by 29 U.S.C. 1002(33).

16 (2) "Church plan" has the meaning given the term by 29 U.S.C. 1002(33).

17 (3) "COBRA continuation provision" means:

18 (a) section 4980B of the Internal Revenue Code, 26 U.S.C. 4980B, other than subsection (f)(1) of that
 19 section as it relates to pediatric vaccines;

20 (b) Title I, subtitle B, part 6, excluding section 609, of the Employee Retirement Income Security Act of
 21 1974, ~~Public Law 93-406~~ 29 U.S.C. 1001, et seq.; or

22 (c) Title XXII of the Public Health Service Act, 42 U.S.C. 300dd, et seq.

23 (4) (a) "Creditable coverage" means coverage of the individual under any of the following:

24 (i) a group health plan;

25 (ii) health insurance coverage;

26 (iii) Title XVIII, part A or B, of the Social Security Act, 42 U.S.C. 1395c through 1395i-4 or 42 U.S.C.
 27 1395j through 1395w-4;

28 (iv) Title XIX of the Social Security Act, 42 U.S.C. 1396a through 1396u, other than coverage consisting
 29 solely of a benefit under section 1928, 42 U.S.C. 1396s;

30 (v) Title 10, chapter 55, United States Code;

- 1 (vi) a medical care program of the Indian health service or of a tribal organization;
- 2 (vii) the Montana comprehensive health association provided for in 33-22-1503;
- 3 (viii) a health plan offered under Title 5, chapter 89, of the United States Code;
- 4 (ix) a public health plan;
- 5 (x) a health benefit plan under section 5(e) of the Peace Corps Act, 22 U.S.C. 2504(e).
- 6 (b) Creditable coverage does not include coverage consisting solely of coverage of excepted benefits.
- 7 (5) "Elimination rider" means a provision attached to a policy that excludes coverage for a specific
- 8 condition that would otherwise be covered under the policy.
- 9 (6) "Enrollment date" means, with respect to an individual covered under a group health plan or health
- 10 insurance coverage, the date of enrollment of the individual in the plan or coverage or, if earlier, the first day of
- 11 the waiting period for enrollment.
- 12 (7) "Excepted benefits" means:
- 13 (a) coverage only for accident or disability income insurance, or both;
- 14 (b) coverage issued as a supplement to liability insurance;
- 15 (c) liability insurance, including general liability insurance and automobile liability insurance;
- 16 (d) workers' compensation or similar insurance;
- 17 (e) automobile medical payment insurance;
- 18 (f) credit-only insurance;
- 19 (g) coverage for onsite medical clinics;
- 20 (h) other similar insurance coverage under which benefits for medical care are secondary or incidental
- 21 to other insurance benefits, as approved by the commissioner;
- 22 (i) if offered separately, any of the following:
- 23 (i) limited-scope dental or vision benefits;
- 24 (ii) benefits for long-term care, nursing home care, home health care, community-based care, or any
- 25 combination of these types of care; or
- 26 (iii) other similar, limited benefits as approved by the commissioner;
- 27 (j) if offered as independent, noncoordinated benefits, any of the following:
- 28 (i) coverage only for a specified disease or illness; or
- 29 (ii) hospital indemnity or other fixed indemnity insurance;
- 30 (k) if offered as a separate insurance policy:

- 1 (i) medicare supplement coverage;
- 2 (ii) coverage supplemental to the coverage provided under Title 10, chapter 55, of the United States
3 Code; and
- 4 (iii) similar supplemental coverage provided under a group health plan.
- 5 (8) "Federally defined eligible individual" means an individual:
- 6 (a) for whom, as of the date on which the individual seeks coverage in the group market or individual
7 market or under an association portability plan, as defined in 33-22-1501, the aggregate of the periods of
8 creditable coverage is 18 months or more;
- 9 (b) whose most recent prior creditable coverage was under a group health plan, governmental plan,
10 church plan, or health insurance coverage offered in connection with any of those plans;
- 11 (c) who is not eligible for coverage under:
- 12 (i) a group health plan;
- 13 (ii) Title XVIII, part A or B, of the Social Security Act, 42 U.S.C. 1395c through 1395i-4 or 42 U.S.C. 1395j
14 through 1395w-4; or
- 15 (iii) a state plan under Title XIX of the Social Security Act, 42 U.S.C. 1396a through 1396u, or a
16 successor program;
- 17 (d) who does not have other health insurance coverage;
- 18 (e) for whom the most recent coverage within the period of aggregate creditable coverage was not
19 terminated for factors relating to nonpayment of premiums or fraud;
- 20 (f) who, if offered the option of continuation coverage under a COBRA continuation provision or under
21 a similar state program, elected that coverage; and
- 22 (g) who has exhausted continuation coverage under the COBRA continuation provision or program
23 described in subsection (8)(f) if the individual elected the continuation coverage described in subsection (8)(f).
- 24 (9) "Group health insurance coverage" means health insurance coverage offered in connection with a
25 group health plan or health insurance coverage offered to an eligible group as described in 33-22-501.
- 26 (10) "Group health plan" means an employee welfare benefit plan, as defined in, 29 U.S.C. 1002(1), to
27 the extent that the plan provides medical care and items and services paid for as medical care to employees
28 or their dependents, directly or through insurance, reimbursement, or otherwise.
- 29 (11) "Health insurance coverage" means benefits consisting of medical care, including items and
30 services paid for as medical care, that are provided directly, through insurance, reimbursement, or otherwise,

1 under a policy, certificate, membership contract, or health care services agreement offered by a health insurance
2 issuer.

3 (12) "Health insurance issuer" means an insurer, a health service corporation, or a health maintenance
4 organization.

5 (13) "Individual health insurance coverage" means health insurance coverage offered to individuals in
6 the individual market, but does not include short-term limited duration insurance.

7 (14) "Individual market" means the market for health insurance coverage offered to individuals other than
8 in connection with group health insurance coverage.

9 (15) "Large employer" means, in connection with a group health plan, with respect to a calendar year
10 and a plan year, an employer who employed an average of at least 51 employees on business days during the
11 preceding calendar year and who employs at least 2 employees on the first day of the plan year.

12 (16) "Large group market" means the health insurance market under which individuals obtain health
13 insurance coverage directly or through any arrangement on behalf of themselves and their dependents through
14 a group health plan or group health insurance coverage issued to a large employer.

15 (17) "Late enrollee" means an eligible employee or dependent, other than a special enrollee under
16 33-22-523, who requests enrollment in a group health plan following the initial enrollment period during which
17 the individual was entitled to enroll under the terms of the group health plan if the initial enrollment period was
18 a period of at least 30 days. However, an eligible employee or dependent is not considered a late enrollee if a
19 court has ordered that coverage be provided for a spouse, minor, or dependent child under a covered
20 employee's health benefit plan and a request for enrollment is made within 30 days after issuance of the court
21 order.

22 (18) "Medical care" means:

23 (a) the diagnosis, cure, mitigation, treatment, or prevention of disease or amounts paid for the purpose
24 of affecting any structure or function of the body;

25 (b) transportation primarily for and essential to medical care referred to in subsection (18)(a); or

26 (c) insurance covering medical care referred to in subsections (18)(a) and (18)(b).

27 (19) "Network plan" means health insurance coverage offered by a health insurance issuer under which
28 the financing and delivery of medical care, including items and services paid for as medical care, are provided,
29 in whole or in part, through a defined set of providers under contract with the issuer.

30 (20) "Plan sponsor" has the meaning provided under section 3(16)(B) of the Employee Retirement

1 Income Security Act of 1974, 29 U.S.C. 1002(16)(B).

2 (21) "Preexisting condition exclusion" means, with respect to coverage, a limitation or exclusion of
3 benefits relating to a condition based on presence of a condition before the enrollment date coverage, whether
4 or not any medical advice, diagnosis, care, or treatment was recommended or received before the enrollment
5 date.

6 (22) "Small group market" means the health insurance market under which individuals obtain health
7 insurance coverage directly or through an arrangement, on behalf of themselves and their dependents, through
8 a group health plan or group health insurance coverage maintained by a small employer as defined in
9 33-22-1803.

10 (23) "Waiting period" means, with respect to a group health plan and an individual who is a potential
11 participant or beneficiary in the group health plan, the period that must pass with respect to the individual before
12 the individual is eligible to be covered for benefits under the terms of the group health plan."

13

14 **Section 46.** Section 37-10-304, MCA, is amended to read:

15 **"37-10-304. Course in use of diagnostic and therapeutic drugs required.** (1) (a) In addition to the
16 requirements of 37-10-302, each person desiring to commence the practice of optometry shall satisfactorily
17 complete a course prescribed by the board of medical examiners with consultation and approval by the board
18 of ~~optometrists~~ optometry with particular emphasis on the topical application of diagnostic agents to the eye for
19 the purpose of examination of the human eye and the analysis of ocular functions.

20 (b) A person presently licensed to practice optometry who wishes to employ diagnostic agents ~~must~~
21 shall satisfactorily complete a course referred to in subsection (1)(a) and ~~must~~ pass an examination as provided
22 in subsection (1)(d).

23 (c) The course referred to in subsection (1)(a) must be conducted by an institution accredited by a
24 regional or professional accreditation organization ~~which~~ that is recognized or approved by the national
25 commission on accrediting or the United States commissioner of education. The course must also be approved
26 by the board.

27 (d) The board shall provide for an examination in competency in the use of diagnostic drugs and shall
28 issue a certificate to those applicants who pass the examination.

29 (2) (a) Each person desiring to commence the practice of optometry shall:

30 (i) pass an examination; of the international association of boards of examiners in optometry; on the

1 diagnosis, treatment, and management of ocular disease; or

2 (ii) take a course and pass an examination in the diagnosis, treatment, and management of ocular
3 diseases. The course and examination must be conducted by an institution accredited by a regional or
4 professional accreditation organization ~~which~~ that is recognized or approved by the national commission on
5 accrediting or the United States commissioner of education. The course and examination must also be approved
6 by the board.

7 (b) A person presently licensed to practice optometry who wishes to employ therapeutic pharmaceutical
8 agents must meet the requirements of subsection (2)(a).

9 (c) The board shall:

10 (i) provide for an examination in competency in the diagnosis, treatment, and management of
11 therapeutic pharmaceutical agents; and

12 (ii) issue a certificate to an applicant who passes the examination."
13

14 **Section 47.** Section 39-11-201, MCA, is amended to read:

15 **"39-11-201. (Temporary) Grant review committee -- appointment -- powers and duties --**
16 **rulemaking authority.** (1) There is a seven-member ~~board~~ grant review committee, as follows:

17 (a) two representatives from the private sector representing economic development, appointed by the
18 governor;

19 (b) two representatives from the business community, one appointed by the president of the senate and
20 one appointed by the speaker of the house, one of whom serves on a local workforce investment board;

21 (c) one representative from the governor's office, appointed by the governor;

22 (d) one representative from the department of revenue, appointed by the governor; and

23 (e) one representative from the department of labor and industry, appointed by the governor.

24 (2) The committee shall award training grants to a primary sector business qualified under 39-11-202
25 after a determination that the primary sector business:

26 (a) has prospects for achieving commercial success and for creating new jobs in the state;

27 (b) has prospects for collaboration between the public and private sectors of the state's economy;

28 (c) has potential for commercial success related to the specific product, process, or business
29 development methodology proposed;

30 (d) can provide matching funds; and

- 1 (e) can be reasonably expected to provide an economic return within a reasonable period of time.
- 2 (3) A committee member may not personally apply for or receive a primary sector business workforce
3 training grant. If an organization with which a member is affiliated applies for a grant, the member shall disclose
4 the nature of the affiliation and, if the committee member is a board member or officer of the organization, may
5 not participate in the decision of the committee regarding the grant application.
- 6 (4) The committee shall adopt rules to:
- 7 (a) provide for grant application procedures;
- 8 (b) develop procedures for awarding grants pursuant to the criteria provided in 39-11-202; and
- 9 (c) develop independent review and audit procedures to ensure that grants made are used for the
10 purposes identified in the grant contracts.
- 11 (5) All decisions of the committee are final and are not subject to the contested case provisions of Title
12 2, chapter 4.
- 13 (6) The committee is allocated to the office of economic development for administrative purposes only
14 as provided in 2-15-121. (Terminates June 30, 2007--sec. 10, Ch. 567, L. 2003.)"

15

16 **Section 48.** Section 39-11-204, MCA, is amended to read:

17 **"39-11-204. (Temporary) Board of investment loans.** The office of economic development may obtain
18 a maximum of \$10 million in outstanding loans from the board of investments issued pursuant to the Municipal
19 Finance Consolidation Act of 1983 authorized in Title 17, chapter 5, part 16, to provide financial assistance for
20 primary sector business workforce training grants authorized by the ~~loan~~ grant review committee pursuant to
21 criteria outlined in 39-11-202. (Terminates June 30, 2007--sec. 10, Ch. 567, L. 2003.)"

22

23 **Section 49.** Section 39-71-1011, MCA, is amended to read:

24 **"39-71-1011. Definitions.** As used in this chapter, the following definitions apply:

25 (1) ~~"Board of rehabilitation certification"~~ **"Commission on rehabilitation counselor certification"** means
26 the nonprofit, independent, fee-structured organization that is a member of the national commission for health
27 certifying agencies and that is established to certify rehabilitation practitioners.

28 (2) "Disabled worker" means a worker who has a permanent impairment, established by objective
29 medical findings, resulting from a work-related injury that precludes the worker from returning to the job the
30 worker held at the time of the injury or to a job with similar physical requirements and who has an actual wage

1 loss as a result of the injury.

2 (3) "Rehabilitation benefits" means benefits provided in 39-71-1006 and 39-71-1025.

3 (4) "Rehabilitation plan" means a written individualized plan that assists a disabled worker in acquiring
4 skills or aptitudes to return to work through job placement, on-the-job training, education, training, or specialized
5 job modification and that reasonably reduces the worker's actual wage loss.

6 (5) "Rehabilitation provider" means a rehabilitation counselor certified by the ~~board for rehabilitation~~
7 ~~certification~~ commission on rehabilitation counselor certification and designated by the insurer.

8 (6) "Rehabilitation services" means a program of evaluation, planning, and implementation of a
9 rehabilitation plan to assist a disabled worker to return to work."
10

11 **Section 50.** Section 39-71-1014, MCA, is amended to read:

12 **"39-71-1014. Rehabilitation services -- required and provided by insurers.** (1) Rehabilitation
13 services are required for disabled workers and may be initiated by:

14 (a) an insurer by designating a rehabilitation provider; or

15 (b) a disabled worker through a request to the department. The department shall then require the
16 insurer to designate a rehabilitation provider.

17 (2) Rehabilitation services provided under this part must be delivered through a rehabilitation counselor
18 certified by the ~~board of rehabilitation certification~~ commission on rehabilitation counselor certification."
19

20 **Section 51.** Section 39-71-2316, MCA, is amended to read:

21 **"39-71-2316. Powers of state fund.** (1) For the purposes of carrying out its functions, the state fund
22 may:

23 (a) insure any employer for workers' compensation and occupational disease liability as the coverage
24 is required by the laws of this state and, as part of the coverage, provide related employers' liability insurance
25 upon approval of the board;

26 (b) sue and be sued;

27 (c) ~~except as provided in section 21, Chapter 4, Special Laws of May 1990,~~ enter into contracts relating
28 to the administration of the state fund, including claims management, servicing, and payment;

29 (d) collect and disburse money received;

30 (e) adopt classifications and charge premiums for the classifications so that the state fund will be neither

1 more nor less than self-supporting. Premium rates for classifications may ~~only~~ be adopted and changed only
2 by using a process, a procedure, formulas, and factors set forth in rules adopted under Title 2, chapter 4, parts
3 2 through 4. After the rules have been adopted, the state fund need not follow the rulemaking provisions of Title
4 2, chapter 4, when changing classifications and premium rates. The contested case rights and provisions of Title
5 2, chapter 4, do not apply to an employer's classification or premium rate. The state fund is required to belong
6 to a licensed workers' compensation advisory organization or a licensed workers' compensation rating
7 organization under Title 33, chapter 16, part 4, and may use the classifications of employment adopted by the
8 designated workers' compensation advisory organization, as provided in Title 33, chapter 16, part 10, and
9 corresponding rates as a basis for setting its own rates. Except as provided in Title 33, chapter 16, part 10, a
10 workers' compensation advisory organization or a licensed workers' compensation rating organization under Title
11 33, chapter 16, part 4, or other person may not, without first obtaining the written permission of the employer,
12 use, sell, or distribute an employer's specific payroll or loss information, including but not limited to experience
13 modification factors.

14 (f) pay the amounts determined to be due under a policy of insurance issued by the state fund;

15 (g) hire personnel;

16 (h) declare dividends if there is an excess of assets over liabilities. However, dividends may not be paid
17 until adequate actuarially determined reserves are set aside.

18 (i) adopt and implement one or more alternative personal leave plans pursuant to 39-71-2328;

19 (j) upon approval of the board, contract with licensed resident insurance producers;

20 (k) upon approval of the board, enter into agreements with licensed workers' compensation insurers,
21 insurance associations, or insurance producers to provide workers' compensation coverage in other states to
22 Montana-domiciled employers insured with the state fund;

23 (l) upon approval of the board, expend funds for scholarship, educational, or charitable purposes;

24 (m) upon approval of the board, including terms and conditions, provide employers coverage under the
25 federal Longshore and Harbor Workers' Compensation Act, {33 U.S.C. 901, et seq.}, the federal Merchant
26 Marine Act, 1920 (Jones Act), 46 U.S.C. 688}, and the federal Employers' Liability Act {45 U.S.C. 51, et seq.};

27 (n) perform all functions and exercise all powers of a private insurance carrier that are necessary,
28 appropriate, or convenient for the administration of the state fund.

29 (2) The state fund shall include a provision in every policy of insurance issued pursuant to this part that
30 incorporates the restriction on the use and transfer of money collected by the state fund as provided for in

1 39-71-2320."

2

3 **Section 52.** Section 40-5-906, MCA, is amended to read:

4 **"40-5-906. Child support information and processing unit.** (1) The department shall establish and
5 maintain a centralized child support case registry and payment processing unit. The purpose of this unit is to
6 facilitate mass case processing by utilizing computer technology to identify parents and their income and to
7 initiate automated procedures to collect child support as it becomes due and payable.

8 (2) The case registry must include a database of information concerning child support orders, all cases
9 receiving IV-D services, and all district court and administrative cases with support orders entered or modified
10 after October 1, 1998.

11 (3) The case registry must use automated systems to obtain information from federal, state, and local
12 databases with regard to the location of obligors and their income and assets. This information must be shared
13 with the courts of this state and, upon request, may be shared with child support enforcement agencies of this
14 and other states for the purpose of establishing paternity and establishing and enforcing child support
15 obligations.

16 (4) To assist creditors, credit managers, and others who need timely verification of the existence of child
17 support liens in IV-D cases, the case registry must include a directory of liens, which must include liens against
18 an obligor's real and personal property filed by the department with other agencies and lien registries.
19 Information in the lien registry may be made available through automated systems, which may include voice
20 response units.

21 (5) Each IV-D case with a child support order must be electronically monitored so that when a timely
22 payment of support is not made, enforcement action may be taken. To accomplish this purpose, payments due
23 under a child support order must be paid to the department for processing and disbursement.

24 (6) In either a IV-D income-withholding case in this state or a state non IV-D case, if immediate income
25 withholding is authorized after January 1, 1994, an employer or other payor of income shall pay all support
26 withheld from an obligor's income to one centralized location as specified by the department.

27 (7) To facilitate automated disbursement of support payments, automated enforcement actions, and
28 service of notice when required, an obligor or obligee must be directed to provide, and update as necessary,
29 information sufficient to locate the obligor and obligee and to locate the obligor's income and assets.

30 [(8) An employer or labor organization shall report a newly hired or rehired employee. Information

1 reported by an employer must be electronically compared to the information database to align an obligor who
2 owes a duty of support with a source of income. When a match is revealed in a IV-D case, a notice must, if
3 appropriate to the case, be promptly transmitted to the employer directing the employer to commence
4 withholding for the payment of the obligor's support obligation.]

5 (9) The department may enter into contracts or cooperative agreements with any person, business, firm,
6 corporation, or state agency to establish, operate, or maintain the case registry and payment processing unit or
7 any function or service afforded by the unit, provided that:

8 (a) the department is ultimately responsible for operation of the case registry and payment processing
9 unit, including any function or service afforded by the unit;

10 (b) there is a board to act in an advisory capacity to the case registry and payment processing unit. The
11 board shall advise the department in the policy, direction, control, and management of the case registry and
12 payment processing unit and in determining forms, data processing needs, terms of contracts and cooperative
13 agreements, and other similar technical requirements. Board members who are not employed by the department
14 shall serve without pay, but are entitled to reimbursement for travel, meals, and lodging while engaged in board
15 business, as provided in 2-18-501 through 2-18-503. Except for members who represent the department,
16 appointed board members shall serve for ~~a term~~ terms of 2 years. The board consists of ~~five~~ six members as
17 follows:

18 (i) a district court judge nominated by the district court judges' association;

19 (ii) a clerk of court nominated by the association of clerks of the district courts;

20 (iii) the supreme court administrator or the administrator's designee;

21 (iv) two members, appointed by the department director, one from the child support enforcement division
22 and one from the operations and technology division; and

23 (v) a representative of a county data processing unit, nominated by the association of clerks of the
24 district courts, ~~and~~

25 (c) the costs charged to the department under the contract or cooperative agreement may not exceed
26 the actual costs that the department would have incurred without the contract or cooperative agreement.

27 (10) The department may adopt rules to implement 19-2-909, 19-20-306, 40-5-157, 40-5-291, and this
28 part. Rules must be drafted, adopted, and applied in a manner that:

29 (a) minimizes the personal intrusiveness on the employer or employee of any requested information;

30 (b) minimizes the costs to the department and any employer or employee with respect to obtaining and

1 submitting any requested information; and

2 (c) maximizes the confidentiality and security of any employer or employee information that the
3 department gathers under 19-2-909, 19-20-306, 40-5-157, 40-5-291, and this part. (Bracketed language
4 terminates on occurrence of contingency--sec. 1, Ch. 27, L. 1999.)"

5

6 **Section 53.** Section 40-6-405, MCA, is amended to read:

7 **"40-6-405. Surrender of newborn to emergency services provider -- temporary protective**
8 **custody.** (1) If a parent surrenders an infant who may be a newborn to an emergency services provider, the
9 emergency services provider shall comply with the requirements of this section under the assumption that the
10 infant is a newborn. The emergency services provider shall, without a court order, immediately accept the
11 newborn, taking the newborn into temporary protective custody, and shall take action necessary to protect the
12 physical health and safety of the newborn.

13 (2) The emergency services provider shall make a reasonable effort to do all of the following:

14 (a) if possible, inform the parent that by surrendering the newborn, the parent is releasing the newborn
15 to the department to be placed for adoption according to law;

16 (b) if possible, inform the parent that the parent has 60 days to petition the court to regain custody of
17 the newborn;

18 (c) if possible, ascertain whether the newborn has a tribal affiliation, and if so, ascertain relevant
19 information pertaining to any Indian heritage of the newborn;

20 (d) provide the parent with written material approved by or produced by the department, which includes
21 but is not limited to all of the following statements:

22 (i) by surrendering the newborn, the parent is releasing the newborn to the department to be placed for
23 adoption and the department shall initiate court proceedings according to law to place the newborn for adoption,
24 including proceedings to terminate parental rights;

25 (ii) the parent has 60 days after surrendering the newborn to petition the court to regain custody of the
26 newborn;

27 (iii) the parent may not receive personal notice of the court proceedings begun by the department;

28 (iv) information that the parent provides to an emergency services provider will not be made public; and

29 ~~(v) a parent may contact the safe delivery line established under 40-6-415 for more information and~~
30 ~~counseling; and~~

1 ~~(vi)~~(v) any Indian heritage of the newborn brings the newborn within the jurisdiction of the Indian Child
2 Welfare Act, 25 U.S.C. 1901, et seq.

3 (3) After providing a parent with the information described in subsection (1), if possible, an emergency
4 services provider shall make a reasonable effort to:

5 (a) encourage the parent to provide any relevant family or medical information, including information
6 regarding any tribal affiliation;

7 ~~(b) provide the parent with the pamphlet produced under 40-6-415 and inform the parent that the parent
8 may receive counseling or medical attention;~~

9 ~~(c)~~(b) inform the parent that information that the parent provides will not be made public;

10 ~~(d)~~(c) ask the parent for the parent's name;

11 ~~(e)~~(d) inform the parent that in order to place the newborn for adoption, the state is required to make
12 a reasonable attempt to identify the other parent and to obtain relevant medical family history and then ask the
13 parent to identify the other parent;

14 ~~(f)~~(e) inform the parent that the department can provide confidential services to the parent; and

15 ~~(g)~~(f) inform the parent that the parent may sign a relinquishment for the newborn to be used at a
16 hearing to terminate parental rights."

17

18 **Section 54.** Section 41-3-302, MCA, is amended to read:

19 **"41-3-302. Responsibility of providing protective services -- voluntary protective services**
20 **agreement.** (1) The department of public health and human services has the primary responsibility to provide
21 the protective services authorized by this chapter and has the authority pursuant to this chapter to take
22 temporary or permanent custody of a child when ordered to do so by the court, including the right to give consent
23 to adoption.

24 (2) The department shall respond to emergency reports of known or suspected child abuse or neglect
25 24 hours a day, 7 days a week.

26 (3) (a) The department may provide voluntary protective services by entering into a written voluntary
27 protective services agreement with a parent or other person responsible for a child's welfare for the purpose of
28 keeping the child safely in the home.

29 (b) The department shall inform a parent or other person responsible for a child's welfare who is
30 considering entering into a voluntary protective services agreement that the parent or other person may have

1 another person of the parent's or responsible person's choice present whenever the terms of the voluntary
2 protective services agreement are under discussion by the parent or other person responsible for the child's
3 welfare and the department. Reasonable accommodations must be made regarding the time and place of
4 meetings at which a voluntary protective services agreement is discussed.

5 (4) A voluntary protective services agreement may include provisions for:

6 (a) a family group decisionmaking meeting and implementation of safety plans developed during the
7 conference meeting;

8 (b) a professional evaluation and treatment of a parent or child, or both;

9 (c) a safety plan for the child;

10 (d) in-home services aimed at permitting the child to remain safely in the home;

11 (e) temporary relocation of a parent in order to permit the child to remain safely in the home;

12 (f) a 30-day temporary out-of-home protective placement; or

13 (g) any other terms or conditions agreed upon by the parties that would allow the child to remain safely
14 in the home or allow the child to safely return to the home within the 30-day period, including referrals to other
15 service providers.

16 (5) A voluntary protective services agreement is subject to termination by either party at any time.
17 Termination of a voluntary protective services agreement does not preclude the department from filing a petition
18 pursuant to 41-3-422 in any case in which the department determines that there is a risk of harm to a child.

19 (6) If a voluntary protective services agreement is terminated by a party to the agreement, a child who
20 has been placed in a temporary out-of-home placement pursuant to the agreement must be returned to the
21 parents within 2 working days of termination of the agreement unless an abuse and neglect petition is filed by
22 the department."

23

24 **Section 55.** Section 41-3-437, MCA, is amended to read:

25 **"41-3-437. Adjudication -- temporary disposition -- findings -- order.** (1) Upon the filing of an
26 appropriate petition, an adjudicatory hearing must be held within 90 days of a show cause hearing under
27 41-3-432. Adjudication may take place at the show cause hearing if the requirements of subsection (2) are met
28 or may be made by prior stipulation of the parties pursuant to 41-3-434 and order of the court. Exceptions to the
29 time limit may be allowed only in cases involving newly discovered evidence, unavoidable delays, stipulation
30 by the parties pursuant to 41-3-434, and unforeseen personal emergencies.

1 (2) The court may make an adjudication on a petition under 41-3-422 if the court determines by a
2 preponderance of the evidence, except as provided in the federal Indian Child Welfare Act, if applicable, that
3 the child is a youth in need of care. Except as otherwise provided in this part, the Montana Rules of Civil
4 Procedure and the Montana Rules of Evidence apply to adjudication and to an adjudicatory hearing. Adjudication
5 must determine the nature of the abuse and neglect and establish facts that resulted in state intervention and
6 upon which disposition, case work, court review, and possible termination are based.

7 (3) The court shall hear evidence regarding the residence of the child, paternity, if in question, the
8 whereabouts of the parents, guardian, or nearest adult relative, and any other matters the court considers
9 relevant in determining the status of the child. Hearsay evidence of statements made by the affected youth is
10 admissible according to the Montana Rules of Evidence.

11 (4) In a case in which abandonment has been alleged by the county attorney, the attorney general, or
12 an attorney hired by the county, the court shall hear offered evidence, including evidence offered by a person
13 appearing pursuant to 41-3-422(9)(a) or (9)(b), regarding any of the following subjects:

14 (a) the extent to which the child has been cared for, nurtured, or supported by a person other than the
15 child's parents; and

16 (b) whether the child was placed or allowed to remain by the parents with another person for the care
17 of the child, and, if so, then the court shall accept evidence regarding:

18 (i) the intent of the parents in placing the child or allowing the child to remain with that person; and

19 (ii) the circumstances under which the child was placed or allowed to remain with that other person,
20 including:

21 (A) whether a parent requesting return of the child was previously prevented from doing so as a result
22 of an order issued pursuant to Title 40, chapter 15, part 2, or of a conviction pursuant to 45-5-206; and

23 (B) whether the child was originally placed with the other person to allow the parent to seek employment
24 or attend school.

25 (5) In all civil and criminal proceedings relating to abuse or neglect, the privileges related to the
26 examination or treatment of the child do not apply, except the attorney-client privilege granted by 26-1-803 and
27 the mediation privilege granted by 26-1-813.

28 (6) (a) If the court determines that the child is not an abused or neglected child, the petition must be
29 dismissed and any order made pursuant to 41-3-427 or 41-3-432 must be vacated.

30 (b) If the child is adjudicated a youth in need of care, the court shall set a date for a dispositional hearing

1 to be conducted within 20 days, as provided in ~~41-3-438(2)~~ 41-3-438(1), and order any necessary or required
2 investigations. The court may issue a temporary dispositional order pending the dispositional hearing. The
3 temporary dispositional order may provide for any of the forms of relief listed in 41-3-427(2).

4 (7) (a) Before making an adjudication, the court may make oral findings, and following the adjudicatory
5 hearing, the court shall make written findings on issues, including but not limited to the following:

6 (i) which allegations of the petition have been proved or admitted, if any;

7 (ii) whether there is a legal basis for continued court and department intervention; and

8 (iii) whether the department has made reasonable efforts to avoid protective placement of the child or
9 to make it possible to safely return the child to the child's home.

10 (b) The court may order:

11 (i) terms for visitation, support, and other intrafamily communication pending disposition if the child is
12 to be placed or to remain in temporary out-of-home care prior to disposition;

13 (ii) examinations, evaluations, or counseling of the child or parents in preparation for the disposition
14 hearing that does not require an expenditure of money by the department unless the court finds after notice and
15 a hearing that the expenditure is reasonable and that resources are available for payment. The department is
16 the payor of last resort after all family, insurance, and other resources have been examined.

17 (iii) the department to evaluate the noncustodial parent or relatives as possible caretakers, if not already
18 done;

19 (iv) the perpetrator of the alleged child abuse or neglect to be removed from the home to allow the child
20 to remain in the home; and

21 (v) the department to continue efforts to notify noncustodial parents."
22

23 **Section 56.** Section 41-3-445, MCA, is amended to read:

24 **"41-3-445. Permanency plan hearing.** (1) (a) (i) Subject to subsection (1)(b), a permanency plan
25 hearing must be held by the court:

26 (A) within 30 days of a determination that reasonable efforts to provide preservation or reunification
27 services are not necessary under 41-3-423, 41-3-438(6), or 41-3-442(1); and

28 (B) no later than 12 months after the initial court finding that the child has been subjected to abuse or
29 neglect or 12 months after the child's first 60 days of removal from the home, whichever comes first.

30 (ii) Within 12 months of a hearing under subsection (1)(a)(i)(B) and every 12 months thereafter until the

1 child is permanently placed in either an adoptive or a guardianship placement, the court shall conduct a hearing
2 and make a finding as to whether the department has made reasonable efforts to finalize the permanency plan
3 for the child.

4 (b) A permanency plan hearing is not required if the proceeding has been dismissed, the child was not
5 removed from the home, or the child has been returned to the child's parent or guardian.

6 (c) The permanency plan hearing may be combined with a hearing that is required in other sections of
7 this part if held within the time limits of that section. If a permanency plan hearing is combined with another
8 hearing, the requirements of the court related to the disposition of the other hearing must be met in addition to
9 the requirements of this section.

10 (2) At least 3 working days prior to the permanency plan hearing, the department and the guardian ad
11 litem shall each submit a report regarding the child to the court for review. The report must address the
12 department's efforts to effectuate the permanency plan for the child, address the options for the child's
13 permanent placement, examine the reasons for excluding higher priority options, and set forth the proposed plan
14 to carry out the placement decision, including specific times for achieving the plan.

15 (3) At least 3 working days prior to the permanency plan hearing, an attorney or advocate for a parent
16 or guardian may submit an informational report to the court for review.

17 (4) The court's order must be issued within a reasonable time after the permanency plan hearing. The
18 court shall make findings on whether the permanency plan is in the best interests of the child and whether the
19 department has made reasonable efforts to finalize the plan. The court shall order the department to take
20 whatever additional steps are necessary to effectuate the terms of the plan.

21 (5) In its discretion, the court may enter any other order that it determines to be in the best interests of
22 the child that does not conflict with the options provided in subsection (6) and that does not require an
23 expenditure of money by the department unless the court finds after notice and a hearing that the expenditures
24 are reasonable and that resources are available for payment. The department is the payor of last resort after
25 all family, insurance, and other resources have been examined.

26 (6) Permanency options include:

27 (a) reunification of the child with the child's parent or guardian;

28 (b) adoption;

29 (c) appointment of a guardian pursuant to 41-3-444; or

30 (d) long-term custody if the child is in a planned permanent living arrangement and if it is established

- 1 by a preponderance of the evidence, which is reflected in specific findings by the court, that:
- 2 (i) the child is being cared for by a fit and willing relative;
- 3 (ii) the child has an emotional or mental handicap that is so severe that the child cannot function in a
4 family setting and the best interests of the child are served by placement in a residential or group setting;
- 5 (iii) the child is at least 16 years of age and is participating in an independent living program and that
6 termination of parental rights is not in the best interests of the child;
- 7 (iv) the child's parent is incarcerated and circumstances, including placement of the child and continued,
8 frequent contact with the parent, indicate that it would not be in the best interests of the child to terminate
9 parental rights of that parent; or
- 10 (v) the child meets the following criteria:
- 11 (A) the child has been adjudicated a youth in need of care;
- 12 (B) the department has made reasonable efforts to reunite the parent and child, further efforts by the
13 department would likely be unproductive, and reunification of the child with the parent or guardian would be
14 contrary to the best interests of the child;
- 15 (C) there is a judicial finding that other more permanent placement options for the child have been
16 considered and found to be inappropriate or not to be in the ~~child's~~ best interests of the child; and
- 17 (D) the child has been in a placement in which the foster parent or relative has committed to the
18 long-term care and to a relationship with the child, and it is in the best interests of the child to remain in that
19 placement.
- 20 (7) The court may terminate a planned permanent living arrangement upon petition of the birth parents
21 or the department if the court finds that the circumstances of the child or family have substantially changed and
22 the best interests of the child are no longer being served."

23

24 **Section 57.** Section 44-1-1102, MCA, is amended to read:

25 **"44-1-1102. Procedure when patrol officer accepts bail or driver's license in lieu of bail.** (1) If the
26 patrol officer accepts bail, the patrol officer shall give a signed receipt to the offender, setting forth the amount
27 received. The patrol officer shall then deliver the bail money to the justice of the peace before whom the offender
28 is to appear, and the justice of the peace shall give a receipt to the patrol officer for the amount of bail money
29 delivered. After the filing of the complaint and the appearance of the defendant, the justice of the peace shall
30 assume jurisdiction and may set and accept further bail bond.

1 (2) If the patrol officer accepts an unexpired driver's license in lieu of bail, the patrol officer shall give
2 the offender a signed driving permit, in a form prescribed by the department. The permit must acknowledge the
3 officer's acceptance of the offender's driver's license and serves as a valid temporary driving permit authorizing
4 the operation of a motor vehicle by the offender. The permit is effective as of the date the permit is signed and
5 remains in effect through the date of the appearance listed on the permit. The patrol officer shall deliver the
6 driver's license to the justice of the peace before whom the offender is to appear, and the justice of the peace
7 shall give a receipt to the patrol officer acknowledging delivery of the offender's driver's license to the court. After
8 the filing of the complaint and the appearance of the defendant, the justice of the peace shall assume jurisdiction
9 and may extend the date of the driving permit for a period up to 6 months from the defendant's initial appearance
10 date.

11 (3) The ~~judge~~ justice of the peace shall return a driver's license that has been accepted in lieu of bail
12 to a defendant:

- 13 (a) after the required bail has been posted or there has been a final determination of the charge; and
14 (b) if the defendant pleaded guilty or was convicted, after a \$25 administrative fee has been paid to the
15 court."

16

17 **Section 58.** Section 46-14-221, MCA, is amended to read:

18 **"46-14-221. Determination of fitness to proceed -- effect of finding of unfitness -- expenses.** (1)

19 The issue of the defendant's fitness to proceed may be raised by the court, by the defendant or the defendant's
20 counsel, or by the prosecutor. When the issue is raised, it must be determined by the court. If neither the
21 prosecutor nor the defendant's counsel contests the finding of the report filed under 46-14-206, the court may
22 make the determination on the basis of the report. If the finding is contested, the court shall hold a hearing on
23 the issue. If the report is received in evidence upon the hearing, the parties have the right to subpoena and
24 cross-examine the psychiatrists or licensed clinical psychologists who joined in the report and to offer evidence
25 upon the issue.

26 (2) (a) If the court determines that the defendant lacks fitness to proceed, the proceeding against the
27 defendant must be suspended, except as provided in subsection (4), and the court shall commit the defendant
28 to the custody of the director of the department of public health and human services to be placed in an
29 appropriate mental health facility, as defined in 53-21-102, or residential facility, as defined in 53-20-102, of the
30 department of public health and human services for so long as the unfitness endures or until disposition of the

1 defendant is made pursuant to this section, whichever occurs first.

2 (b) The facility shall develop an individualized treatment plan to assist the defendant to gain fitness to
3 proceed. The treatment plan may include a physician's prescription of reasonable and appropriate medication
4 that is consistent with accepted medical standards. If the defendant refuses to comply with the treatment plan,
5 the facility may petition the court for an order requiring compliance. The defendant has a right to a hearing on
6 the petition. The court shall enter into the record a detailed statement of the facts upon which an order is made,
7 and if compliance with the individualized treatment plan is ordered, the court shall also enter into the record
8 specific findings that the state has proved an overriding justification for the order and that the treatment being
9 ordered is medically appropriate.

10 (3) (a) The committing court shall, within 90 days of commitment, review the defendant's fitness to
11 proceed. If the court finds that the defendant is still unfit to proceed and that it does not appear that the
12 defendant will become fit to proceed within the reasonably foreseeable future, the proceeding against the
13 defendant must be dismissed, except as provided in subsection (4).

14 (b) If the court determines that the defendant lacks fitness to proceed because the defendant has a
15 mental disorder, the proceeding against the defendant must be dismissed and the prosecutor shall petition the
16 court in the manner provided in Title 53, chapter 21, to determine the disposition of the defendant pursuant to
17 those provisions.

18 (c) If the court determines that the defendant lacks fitness to proceed because the defendant has a
19 developmental disability as defined in 53-20-102, the proceeding against the defendant must be dismissed and
20 the prosecutor shall petition the court in the manner provided in Title 53, chapter 20, to determine the disposition
21 of the defendant pursuant to those provisions.

22 (4) The fact that the defendant is unfit to proceed does not preclude any legal objection to the
23 prosecution that is susceptible to fair determination prior to trial and that is made without the personal
24 participation of the defendant.

25 (5) The expenses of sending the defendant to the custody of the director of the department of public
26 health and human services to be placed in an appropriate ~~institution~~ facility of the department of public health
27 and human services, of keeping the defendant there, and of bringing the defendant back are payable by the
28 state as a district court expense."

29

30 **Section 59.** Section 46-14-222, MCA, is amended to read:

1 **"46-14-222. Proceedings if fitness regained.** When the court, on its own motion or upon the
 2 application of the director of the department of public health and human services, the prosecution, or the
 3 defendant or the defendant's legal representative, determines, after a hearing if a hearing is requested, that the
 4 defendant has regained fitness to proceed, the proceeding must be resumed. If, however, the court is of the view
 5 that so much time has elapsed since the commitment of the defendant that it would be unjust to resume the
 6 criminal proceedings, the court may dismiss the charge and may order the defendant to be discharged or,
 7 subject to the law governing the civil commitment of persons suffering from serious mental illness, order the
 8 defendant committed to an appropriate ~~institution~~ facility of the department of public health and human services."

9

10 **Section 60.** Section 46-19-202, MCA, is amended to read:

11 **"46-19-202. Proceedings following determination regarding fitness.** (1) If it is found that defendant
 12 is mentally fit as provided in 46-19-201, the warden of the Montana state prison shall execute the judgment.

13 (2) If it is found that the defendant lacks fitness, the execution of judgment must be suspended and the
 14 court shall commit the defendant to the custody of the superintendent of the Montana state hospital to be placed
 15 in an appropriate ~~institution~~ facility of the department of public health and human services for as long as the lack
 16 of fitness endures.

17 (3) When the court, on its own motion or upon application of the superintendent of the Montana state
 18 hospital, the county prosecuting officer, or the defendant or the defendant's legal representative, determines after
 19 a hearing, if a hearing is requested, that the defendant has regained fitness to proceed, the warden must be
 20 directed by the court to carry out the execution. If, however, the court is of the view that so much time has
 21 elapsed since the commitment of the defendant that it would be unjust to proceed with execution of the
 22 sentence, the court may suspend the execution of the sentence and may order the defendant to be discharged."

23

24 **Section 61.** Section 50-20-101, MCA, is amended to read:

25 **"50-20-101. Short title.** This ~~chapter shall be known and part~~ may be cited as the "Montana Abortion
 26 Control Act".

27

28 **Section 62.** Section 50-60-203, MCA, is amended to read:

29 **"50-60-203. Department to adopt state building code by rule.** (1) (a) The department shall adopt
 30 rules relating to the construction of, the installation of equipment in, and standards for materials to be used in

1 all buildings or classes of buildings, including provisions dealing with safety, accessibility to persons with
2 disabilities, sanitation, and conservation of energy. The adoption, amendment, or repeal of a rule is of significant
3 public interest for purposes of 2-3-103.

4 (b) Rules concerning the conservation of energy must conform to the policy established in 50-60-801
5 and to relevant policies developed under the provisions of Title 90, chapter 4, part 10.

6 (2) The department may adopt by reference nationally recognized building codes in whole or in part and
7 may adopt rules more stringent than those contained in national codes.

8 (3) The rules, when adopted as provided in parts 1 through 4, constitute the "state building code" and
9 are acceptable for the buildings to which they are applicable.

10 (4) The department shall adopt rules that permit the installation of below-grade liquefied petroleum
11 gas-burning appliances.

12 (5) (a) The department shall, by rule, adopt by reference the most recently published edition of the
13 national fire protection association's publication NFPA 99C for the installation of medical gas piping systems.
14 The department may, by rule, issue plumbing permits for medical gas piping systems and require inspections
15 of medical gas piping systems.

16 (b) A state, ~~or local government~~ county, city, or town building code compliance officer shall, as part of
17 any inspection, request proof of a medical gas piping installation endorsement from any person who is required
18 to hold an endorsement or who, in the inspector's judgment, appears to be involved with onsite medical gas
19 piping activity. The inspector shall report any instance of endorsement violation to the inspector's employing
20 agency, and the employing agency shall report the violation to the board of plumbers."
21

22 **Section 63.** Section 52-2-304, MCA, is amended to read:

23 **"52-2-304. Committee duties.** (1) The committee established in 52-2-303 shall, to the extent possible
24 within existing resources:

25 (a) develop policies aimed at eliminating or reducing barriers to the implementation of a system of care;

26 (b) promote the development of an in-state quality array of core services in order to assist in returning
27 high-risk children with multiagency service needs from out-of-state placements, limiting and preventing the
28 placement of high-risk children with multiagency service needs out of state, and maintaining high-risk children
29 with multiagency service needs within the least restrictive and most appropriate setting;

30 (c) advise local agencies to ensure that the agencies comply with applicable statutes, administrative

1 rules, and department policy in committing funds and resources for the implementation of unified plans of care
2 for high-risk children with multiagency service needs and in making any determination that a high-risk child with
3 multiagency service needs cannot be served by an in-state provider;

4 (d) encourage the development of local interagency teams with participation from representatives from
5 child serving agencies who are authorized to commit resources and make decisions on behalf of the agency
6 represented;

7 (e) specify outcome indicators and measures to evaluate the effectiveness of the system of care; and

8 (f) develop mechanisms to elicit meaningful participation from parents, family members, and youth who
9 are currently being served or who have been served in the children's system of care ~~in the initiative~~.

10 (2) The committee shall coordinate responsibility for the development of a stable system of care for
11 high-risk children with multiagency service needs that may include, as appropriate within existing resources:

12 (a) pooling funding from federal, state, and local sources to maximize the most cost-effective use of
13 funds to provide services in the least restrictive and most appropriate setting to high-risk children with
14 multiagency service needs;

15 (b) applying for federal waivers and grants to improve the delivery of integrated services to high-risk
16 children with multiagency service needs;

17 (c) providing for multiagency data collection and for analysis relevant to the creation of an accurate
18 profile of the state's high-risk children with multiagency service needs in order to provide for the use of services
19 based on client needs and outcomes and use of the analysis in the decisionmaking process;

20 (d) developing mechanisms for the pooling of human and fiscal resources; and

21 (e) providing training and technical assistance, as funds permit, at the local level regarding governance,
22 development of a system of care, and delivery of integrated multiagency children's services.

23 (3) (a) In order to maximize integration and minimize duplication, the local interagency team, provided
24 for in subsection (1)(d), may be facilitated in conjunction with an existing statutory team for providing youth
25 services, including:

26 (i) a child protective team as provided for in 41-3-108;

27 (ii) a youth placement committee as provided for in 41-5-121 and 41-5-122;

28 (iii) a county interdisciplinary child information team or an auxiliary team as provided for in 52-2-211;

29 (iv) a foster care review committee as provided for in 41-3-115; and

30 (v) a local citizen review board as provided for in 41-3-1003.

1 (b) If the local interagency team decides to coordinate and consolidate statutory teams, it shall ensure
2 that all state and federal rules, laws, and policies required of the individual statutory teams are fulfilled."
3

4 **Section 64.** Section 53-6-703, MCA, is amended to read:

5 **"53-6-703. Managed care community network.** (1) A managed care community network shall comply
6 with the federal requirements for prepaid health plans as provided in 42 CFR, part 434.

7 (2) A managed care community network may contract with the department to provide any combination
8 of medicaid-covered health care services that is acceptable to the department.

9 (3) The department, prior to entering into a contract, shall require that a managed care community
10 network demonstrate to the department its ability to bear the level of financial risk being assumed by servicing
11 enrollees under a contract for comprehensive physical or mental health care services. The department shall by
12 rule adopt criteria for assessing the financial solvency of a network. The rules must consider risk-bearing and
13 management techniques and protections against financial insolvency; if a managed care community network
14 is declared insolvent or bankrupt, as determined appropriate by the department. The rules must also consider
15 whether a network has sufficiently demonstrated its financial solvency and net worth. The department's criteria
16 must be based on sound actuarial, financial, and accounting principles. The department is responsible for
17 monitoring compliance with the rules. The department shall provide for independent review of any contract
18 provisions and contract compliance with the financial solvency rules.

19 (4) A managed care community network may not begin operation before ~~the effective date of rules~~
20 ~~adopted by the department to implement the changes made by Chapter 466, Laws of 2001, under this part, the~~
21 approval of any necessary federal waivers; and the completion of the review of an application submitted to the
22 department. The department may charge the applicant an application review fee for the department's actual cost
23 of review of the application. The fee must be adopted by rule by the department. Fees collected by the
24 department must be deposited in an account in the special revenue fund and are statutorily appropriated, as
25 provided in 17-7-502, to the department to defray the cost of application review.

26 (5) A health care delivery system that contracts with the department under the program may not be
27 required to provide or arrange for any health care or medical service, procedure, or product that violates religious
28 or moral teachings and beliefs if that health care delivery system is owned, controlled, or sponsored by or
29 affiliated with a religious institution or religious organization but must comply with the notice requirements of
30 53-6-705(4)(c)."

1

2 **Section 65.** Section 53-7-109, MCA, is amended to read:

3 **"53-7-109. Administration of vocational rehabilitation programs -- applicability.** (1) Those divisions
4 of the department that have programs for the provision of vocational rehabilitation services may share
5 administrative personnel, operations, and policies ~~so as to assure~~ in order to ensure uniform administration
6 necessary under the federal Rehabilitation Act of 1973, (29 U.S.C. 701, et seq.), as may be amended. ~~Within~~
7 ~~the department, the vocational rehabilitation services provided under the federal act must be administered in~~
8 ~~such a way that they are kept separate and independent from other programs, except as provided in section 15,~~
9 ~~Chapter 396, Laws of 1989.~~

10 (2) This section applies to all programs and services in Title 53, chapter 7, administered by the
11 department with funds provided under the federal Rehabilitation Act of 1973, (29 U.S.C. 701, et seq.), as may
12 be amended."

13

14 **Section 66.** Section 61-3-403, MCA, is amended to read:

15 **"61-3-403. Color and design of personalized license plates -- exception -- county designation.**

16 (1) Except as provided in 61-3-466, the personalized license plates must be the same color and design as
17 regular passenger motor vehicle license plates and must consist of numbers or letters, or any combination
18 ~~thereof of numbers and letters~~, not exceeding eight positions and not less than two positions, provided that there
19 are no conflicts with existing passenger, commercial, trailer, motorcycle, quadricycle, or special license plate
20 series under this title.

21 (2) Upon the issuance of personalized license plates or upon the reregistration of any motor vehicle
22 assigned personalized license plates that do not bear a county designation or no longer bear the correct county
23 designation, the department shall provide ~~nonremovable stickers~~ registration decals bearing the appropriate
24 county designation, which must be affixed to the license plates in use in accordance with instructions by the
25 department."

26

27 **Section 67.** Section 61-3-522, MCA, is amended to read:

28 **"61-3-522. Schedule of fees for motor homes.** (1) The owner of a motor home shall pay a fee based
29 on the age of the motor home according to the following schedule:

30 less than 2 years old

\$250

1	2 years old and less than 3 years old	230
2	3 years old and less than 4 years old	195
3	4 years old and less than 5 years old	150
4	5 years old and less than 6 years old	125
5	6 years old and less than 7 years old	100
6	7 years old and less than 8 years old	75
7	8 years old and older	65

8 (2) (a) Except as provided in subsection (2)(b), the age of a motor home is determined by subtracting
9 the manufacturer's designated model year from the current calendar year.

10 (b) If the purchase year of a motor home precedes the designated model year of the motor home and
11 the motor home is originally titled in Montana, then the purchase year is considered the model year for the
12 purposes of calculating the fee ~~in lieu of tax.~~"

13

14 **Section 68.** Section 61-3-722, MCA, is amended to read:

15 **"61-3-722. Registration and identification of proportionally registered vehicles -- fees -- effect of**

16 **registration.** (1) The department shall register each proportionally registered vehicle and issue a license plate
17 or plates, a distinctive ~~sticker~~ registration decal, or other suitable identification device for each vehicle described
18 in the application upon payment of the appropriate fees and property taxes, as provided by law, for the
19 application and for the license plates, ~~stickers~~ registration decals, or devices issued. A fee of \$2 must be paid
20 for each license plate, each ~~sticker~~ registration decal, and each device issued for each proportionally registered
21 vehicle. A fee of \$5 must be paid for each vehicle receiving temporary registration as authorized by section 704
22 of the international registration plan of the American association of motor vehicle administrators, adopted in April
23 1988. A registration card must be issued for each proportionally registered vehicle. The registration card must,
24 in addition to other information required by chapter 3, show the number of the license, ~~sticker~~ registration decal,
25 or other device issued for the proportionally registered vehicle and must be carried in the vehicle at all times.

26 (2) Fleet vehicles registered and identified as fleet vehicles are considered fully licensed and registered
27 in this state for any type of movement or operation, except that, in those instances in which a grant of authority
28 is required for intrastate movement or operation, the vehicle may not be operated in intrastate commerce in this
29 state unless the owner has been granted intrastate authority by the public service commission and unless the
30 vehicle is being operated in conformity with that authority."

1

2 **Section 69.** Section 61-4-223, MCA, is amended to read:

3 **"61-4-223. Assignment of numbers.** (1) Upon the licensing of a manufacturer under 61-4-202, the
4 department shall assign to the manufacturer a distinctive serial number and, after payment of fees provided for
5 in 61-4-222, furnish every qualified manufacturer's representative of that manufacturer with one set of number
6 plates. Assigned number plates must be similar to number plates furnished to owners of motor vehicles but must
7 bear, in addition to the serial number assigned to the manufacturer, the letters "MFG".

8 (2) The department shall cause to be placed on each set of license plates issued to a manufacturer a
9 serial number assigned to the manufacturer and the actual number of license plates issued to the manufacturer.
10 The department shall provide ~~nonremovable stickers~~ registration decals bearing the appropriate county
11 designation. The ~~stickers~~ registration decals must be affixed to the license plates in use in accordance with
12 instructions by the department.

13 (3) A manufacturer's representative who qualifies as provided in 61-4-221(1) may display
14 manufacturer's license plates on a motor vehicle held for bona fide sale or used solely in the conduct of the
15 manufacturer's business and operated by or under the control of the manufacturer's representative.

16 (4) When the department has reasonable cause to believe, from an investigation made by it or
17 information furnished to it by a sheriff or any other law enforcement officer, that a manufacturer has been
18 improperly licensed, has used the manufacturer's license other than as authorized in this section, or is not
19 qualified as a manufacturer under the requirements of this part, the department may revoke the manufacturer's
20 license."

21

22 **Section 70.** Section 61-4-515, MCA, is amended to read:

23 **"61-4-515. Arbitration procedure.** (1) The department of administration shall provide an independent
24 forum and arbitration procedure for the settlement of disputes between consumers and manufacturers of motor
25 vehicles that do not conform to all applicable warranties under the provisions of this part. The procedure must
26 conform to Title 27, chapter 5. All arbitration must take place in Montana at a place reasonably convenient to
27 the consumer.

28 (2) Except as provided in 61-4-520, a consumer owning a motor vehicle that fails to conform to all
29 applicable warranties may bring a grievance before an ~~arbitration panel~~ arbitrator only if the manufacturer of the
30 motor vehicle has not established an informal dispute settlement procedure that has been certified by the

1 department of administration under 61-4-511."

2

3 **Section 71.** Section 61-4-520, MCA, is amended to read:

4 **"61-4-520. Nonconforming procedure -- arbitration de novo.** A consumer injured by the operation
5 of any procedure that does not conform with procedures established by a manufacturer pursuant to 61-4-511
6 and the provisions of Title 16, Code of Federal Regulations, part 703, as in effect on October 1, 1983, may
7 appeal any decision rendered as the result of the procedure by requesting arbitration de novo of the dispute by
8 a department of administration ~~panel~~ arbitrator. Filing procedures and fees for appeals must be the same as
9 those required in 61-4-515 through 61-4-517. The findings of the manufacturer's informal dispute settlement
10 procedure are admissible in evidence at the department of administration arbitration ~~panel~~ hearing and in any
11 civil action arising out of any warranty obligation or matter related to the dispute."
12

12

13 **Section 72.** Section 61-8-906, MCA, is amended to read:

14 **"61-8-906. Liability insurance -- storage requirements.** (1) Notwithstanding the provisions of
15 61-6-301, a commercial tow truck operator shall continuously provide:

16 (a) insurance against loss resulting from liability imposed by law for bodily injury or death or damage
17 to property caused by the maintenance or use of a commercial tow truck, as defined in 61-9-416, or occurring
18 on the business premises of a commercial tow truck operator in an amount not less than:

19 (i) \$300,000 for class A tow trucks;

20 (ii) \$500,000 for class B tow trucks; and

21 (iii) \$750,000 for class C tow trucks;

22 (b) insurance in an amount not less than \$20,000 to cover the damage to cargo or other property
23 entrusted to the care of the commercial tow truck operator; and

24 (c) garage keepers legal liability insurance or on-hook liability insurance in an amount not less than
25 \$50,000.

26 (2) A commercial tow truck operator shall provide proof of the insurance required in subsection (1) to
27 the public service commission.

28 (3) A qualified tow truck operator shall provide a storage facility, either a fenced lot or a building, that
29 is:

30 (a) adequate for the secure storage and safekeeping of stored vehicles;

- 1 (b) located in a place that is reasonably convenient for public access;
- 2 (c) available to public access between 8 a.m. and 5 p.m., Monday through Friday, excluding legal
3 holidays;
- 4 (d) large enough to store all the vehicles towed for law enforcement agencies; and
- 5 (e) if a fenced lot, constructed of chain link at least 6 feet high or constructed of materials and in a
6 manner sufficient to deter trespassing or vandalism."

7

8 **Section 73.** Section 61-8-913, MCA, is amended to read:

9 **"61-8-913. Notice to owner -- payment of removal and storage costs -- request for reissuance of**
10 **certificate of ownership title.** (1) Within 15 days after the date that a wrecked or disabled vehicle is removed
11 from a public roadway by a qualified tow truck operator at the request of a law enforcement officer under
12 61-8-908, the qualified tow truck operator shall send a certified letter to the vehicle owner or lienholder, as shown
13 in the department's records, notifying the owner or lienholder that the vehicle has been towed and is being stored
14 by the qualified tow truck operator. The certified letter must be sent return receipt requested and postage prepaid
15 to the owner or lienholder at the latest address shown in the department's records.

16 (2) The owner or lienholder of the vehicle may not reclaim the vehicle until the owner, the lienholder,
17 or the owner's or lienholder's insurance provider has paid the costs incurred by the qualified tow truck operator
18 in removing and storing the vehicle.

19 (3) If the removal and storage costs have not been paid within 60 days after the date that the notice
20 provided for in subsection (1) was postmarked, the qualified tow truck operator may request, on a form provided
21 by the department, that the department cancel the vehicle's certificate of ownership title, remove any perfected
22 security interest, and reissue the certificate of ownership title to the qualified tow truck operator. In the request,
23 the qualified tow truck operator shall certify that the notice required in subsection (1) was sent and that the owner
24 or lienholder has not made payment as required in subsection (2). A copy of the notice required in subsection
25 (1) must be attached to the request.

26 (4) Upon receipt of a valid request as provided in subsection (3), the department shall cancel the
27 certificate of ownership title to the vehicle and reissue the certificate of ownership title to the qualified tow truck
28 operator. The qualified tow truck operator shall pay all required fees on the vehicle. After the department has
29 reissued the certificate of ownership title, the former owner or lienholder has no further right, title, claim, or
30 interest in or to the vehicle."

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Section 74. Section 61-10-227, MCA, is amended to read:

"61-10-227. Blank forms furnished to county treasurers. The department shall furnish all county treasurers with the following:

- (1) blank application forms and affidavit forms outlining and providing for the information needed in each classification of license required;
- (2) GVW licenses in a form determined most suitable by the department;
- (3) the other forms, ~~stickers~~ registration decals, certificates, or blanks that the department considers necessary to carry out this part."

Section 75. Section 61-10-233, MCA, is amended to read:

"61-10-233. Excess weight -- penalties. (1) The operator is subject to the penalties stated in 61-10-232 whenever the gross loaded weight of any trucks, truck tractor, trailer, or semitrailer operated upon any highway in this state exceeds the gross vehicle weight shown on:

- (a) the owner's certificate of registration and ~~payment~~ registration receipt issued under 61-3-322; or
- (b) the gross vehicle weight ~~receipt~~ license issued under ~~61-10-227~~ this part.

(2) In addition, the operator shall immediately pay to the nearest county treasurer or to the department the difference between the fee already paid and that applicable to the gross weight of ~~his~~ the vehicle before unloading the excess, provided that it does not exceed the legal axle weight."

Section 76. Section 71-3-534, MCA, is amended to read:

"71-3-534. Filing with county clerk -- notification of owner. (1) The county clerk ~~must~~ shall endorse upon every lien the day of its filing and make an abstract ~~thereof of the lien~~ in a book by him to be kept for that purpose and properly indexed, containing the date of the filing, the name of the person holding the lien, the amount ~~thereof of the lien~~, the name of the person against whose property the lien is filed, and the description of the property to be charged with ~~same~~ the lien.

(2) The clerk ~~shall~~ may not file the lien unless ~~there is attached thereto~~ it is accompanied by a certification by the lien claimant or ~~his~~ the claimant's agent that a copy of the lien has been served upon each owner of record of the property named in the lien. Service ~~shall~~ must be made by personal service on each owner or by mailing a copy of the lien by certified ~~or registered~~ mail with return receipt requested to each owner's

1 ~~last known~~ last-known address. The certification ~~shall~~ must state ~~whether that~~ service was made by delivery of
 2 certified ~~or registered~~ mail."
 3

4 **Section 77.** Section 72-1-103, MCA, is amended to read:

5 **"72-1-103. General definitions.** Subject to additional definitions contained in the subsequent chapters
 6 that are applicable to specific chapters, parts, or sections and unless the context otherwise requires, in chapters
 7 1 through 5, the following definitions apply:

8 (1) "Agent" includes an attorney-in-fact under a durable or nondurable power of attorney, an individual
 9 authorized to make decisions concerning another's health care, and an individual authorized to make decisions
 10 for another under a natural death act.

11 (2) "Application" means a written request to the clerk for an order of informal probate or appointment
 12 under chapter 3, part 2.

13 (3) "Beneficiary", as it relates to:

14 (a) a trust beneficiary, includes a person who has any present or future interest, vested or contingent,
 15 and also includes the owner of an interest by assignment or other transfer;

16 (b) a charitable trust, includes any person entitled to enforce the trust;

17 (c) a beneficiary of a beneficiary designation, refers to a beneficiary of:

18 (i) an account with POD designation or a security registered in beneficiary form (TOD); or

19 (ii) any other nonprobate transfer at death; and

20 (d) a beneficiary designated in a governing instrument, includes a grantee of a deed¹, a devisee¹, a trust
 21 beneficiary¹, a beneficiary of a beneficiary designation¹, a donee¹, and a person in whose favor a power of
 22 attorney or a power held in any individual, fiduciary, or representative capacity is exercised.

23 (4) "Beneficiary designation" refers to a governing instrument naming a beneficiary of:

24 (a) an account with POD designation or a security registered in beneficiary form (TOD); or

25 (b) any other nonprobate transfer at death.

26 (5) "Child" includes an individual entitled to take as a child under chapters 1 through 5 by intestate
 27 succession from the parent whose relationship is involved and excludes a person who is only a stepchild, a
 28 foster child, a grandchild, or any more remote descendant.

29 (6) (a) "Claims", in respect to estates of decedents and protected persons, includes liabilities of the
 30 decedent or protected person, whether arising in contract, in tort, or otherwise, and liabilities of the estate that

1 arise at or after the death of the decedent or after the appointment of a conservator, including funeral expenses
2 and expenses of administration.

3 (b) The term does not include estate taxes or demands or disputes regarding title of a decedent or
4 protected person to specific assets alleged to be included in the estate.

5 (7) "Clerk" or "clerk of court" means the clerk of the district court.

6 (8) "Conservator" means a person who is appointed by a court to manage the estate of a protected
7 person.

8 (9) "Court" means the district court in this state having jurisdiction in matters relating to the affairs of
9 decedents.

10 (10) "Descendant" of an individual means all of the individual's descendants of all generations, with the
11 relationship of parent and child at each generation being determined by the definition of child and parent
12 contained in this section.

13 (11) "Devise" when used as a noun means a testamentary disposition of real or personal property and
14 when used as a verb means to dispose of real or personal property by will.

15 (12) "Devisee" means a person designated in a will to receive a devise. For purposes of chapter 3, in
16 the case of a devise to an existing trust or trustee or to a trustee ~~on~~ or trust described by will, the trust or trustee
17 is the devisee and the beneficiaries are not devisees.

18 (13) "Disability" means cause for a protective order as described by 72-5-409.

19 (14) "Distributee" means any person who has received property of a decedent from the decedent's
20 personal representative other than as a creditor or purchaser. A testamentary trustee is a distributee only to the
21 extent of distributed assets or increment to distributed assets remaining in the trustee's hands. A beneficiary of
22 a testamentary trust to whom the trustee has distributed property received from a personal representative is a
23 distributee of the personal representative. For purposes of this provision, "testamentary trustee" includes a
24 trustee to whom assets are transferred by will, to the extent of the devised assets.

25 (15) "Estate" includes the property of the decedent, trust, or other person whose affairs are subject to
26 chapters 1 through 5 as originally constituted and as it exists from time to time during administration.

27 (16) "Exempt property" means that property of a decedent's estate that is described in 72-2-413.

28 (17) "Fiduciary" includes a personal representative, guardian, conservator, and trustee.

29 (18) "Foreign personal representative" means a personal representative appointed by another
30 jurisdiction.

1 (19) "Formal proceedings" means proceedings conducted before a judge with notice to interested
2 persons.

3 (20) "Governing instrument" means a deed; will; trust; insurance or annuity policy; account with POD
4 designation; security registered in beneficiary form (TOD); pension, profit-sharing, retirement, or similar benefit
5 plan; instrument creating or exercising a power of appointment or a power of attorney; or dispositive, appointive,
6 or nominative instrument of any similar type.

7 (21) "Guardian" means a person who has qualified as a guardian of a minor or incapacitated person
8 pursuant to testamentary or court appointment but excludes one who is merely a guardian ad litem.

9 (22) "Heirs", except as controlled by 72-2-721, means persons, including the surviving spouse and the
10 state, who are entitled under the statutes of intestate succession to the property of a decedent.

11 (23) "Incapacitated person" has the meaning provided in 72-5-101.

12 (24) "Informal proceedings" means proceedings conducted without notice to interested persons by the
13 clerk of court for probate of a will or appointment of a personal representative.

14 (25) "Interested person" includes heirs, devisees, children, spouses, creditors, beneficiaries, and any
15 others having a property right in or claim against a trust estate or the estate of a decedent, ward, or protected
16 person. The term also includes persons having priority for appointment as personal representative and other
17 fiduciaries representing interested persons. The meaning as it relates to particular persons may vary from time
18 to time and must be determined according to the particular purposes of and matter involved in any proceeding.

19 (26) "Issue" of a person means a descendant.

20 (27) "Joint tenants with the right of survivorship" includes co-owners of property held under
21 circumstances that entitle one or more to the whole of the property on the death of the other or others but
22 excludes forms of co-ownership registration in which the underlying ownership of each party is in proportion to
23 that party's contribution.

24 (28) "Lease" includes an oil, gas, coal, or other mineral lease.

25 (29) "Letters" includes letters testamentary, letters of guardianship, letters of administration, and letters
26 of conservatorship.

27 (30) "Minor" means a person who is under 18 years of age.

28 (31) "Mortgage" means any conveyance, agreement, or arrangement in which property is used as
29 security.

30 (32) "Nonresident decedent" means a decedent who was domiciled in another jurisdiction at the time

1 of death.

2 (33) "Organization" means a corporation, business trust, estate, trust, partnership, joint venture,
3 association, government or governmental subdivision or agency, or any other legal or commercial entity.

4 (34) "Parent" includes any person entitled to take, or who would be entitled to take if the child died
5 without a will, as a parent under chapters 1 through 5 by intestate succession from the child whose relationship
6 is in question and excludes any person who is only a stepparent, foster parent, or grandparent.

7 (35) "Payor" means a trustee, insurer, business entity, employer, government, governmental agency or
8 subdivision, or any other person authorized or obligated by law or a governing instrument to make payments.

9 (36) "Person" means an individual, a corporation, an organization, or other legal entity.

10 (37) "Personal representative" includes executor, administrator, successor personal representative,
11 special administrator, and persons who perform substantially the same function under the law governing their
12 status. "General personal representative" excludes special administrator.

13 (38) "Petition" means a written request to the court for an order after notice.

14 (39) "Proceeding" includes action at law and suit in equity.

15 (40) "Property" includes both real and personal property or any interest in that property and means
16 anything that may be the subject of ownership.

17 (41) "Protected person" has the meaning provided in 72-5-101.

18 (42) "Protective proceeding" has the meaning provided in 72-5-101.

19 (43) "Security" includes any note; stock; treasury stock; bond; debenture; evidence of indebtedness;
20 certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under
21 such a title or lease; collateral trust certificate; transferable share; voting trust certificate; in general, any interest
22 or instrument commonly known as a security; any certificate of interest or participation; or any temporary or
23 interim certificate, receipt, or certificate of deposit for or any warrant or right to subscribe to or purchase any of
24 the foregoing.

25 (44) "Settlement", in reference to a decedent's estate, includes the full process of administration,
26 distribution, and closing.

27 (45) "Special administrator" means a personal representative as described by chapter 3, part 7.

28 (46) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto
29 Rico, or any territory or insular possession subject to the jurisdiction of the United States.

30 (47) "Successor personal representative" means a personal representative, other than a special

1 administrator, who is appointed to succeed a previously appointed personal representative.

2 (48) "Successors" means persons, other than creditors, who are entitled to property of a decedent under
3 the decedent's will or chapters 1 through 5.

4 (49) "Supervised administration" refers to the proceedings described in chapter 3, part 4.

5 (50) "Survive" means that an individual has neither predeceased an event, including the death of another
6 individual, nor is considered to have predeceased an event under 72-2-114 or 72-2-712. The term includes its
7 derivatives, such as "survives", "survived", "survivor", and "surviving".

8 (51) "Testacy proceeding" means a proceeding to establish a will or determine intestacy.

9 (52) "Testator" includes an individual of either sex.

10 (53) "Trust" includes an express trust, private or charitable, with additions to the trust, wherever and
11 however created. The term also includes a trust created or determined by judgment or decree under which the
12 trust is to be administered in the manner of an express trust. The term excludes other constructive trusts and
13 excludes resulting trusts; conservatorships; personal representatives; trust accounts as defined in 72-6-111 and
14 Title 72, chapter 6, parts 2 and 3; custodial arrangements pursuant to chapter 26; business trusts providing for
15 certificates to be issued to beneficiaries; common trust funds; voting trusts; security arrangements; liquidation
16 trusts; trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or
17 employee benefits of any kind; and any arrangement under which a person is nominee or escrowee for another.

18 (54) "Trustee" includes an original, additional, or successor trustee, whether or not appointed or
19 confirmed by court.

20 (55) "Ward" means an individual described in 72-5-101.

21 (56) "Will" includes codicil and any testamentary instrument that merely appoints an executor, revokes
22 or revises another will, nominates a guardian, or expressly excludes or limits the right of an individual or class
23 to succeed to property of the decedent passing by intestate succession."
24

25 **Section 78.** Section 82-15-103, MCA, is amended to read:

26 **"82-15-103. Standards and specifications for petroleum products.** The standards and specifications
27 for petroleum products, including but not limited to gasoline, fuel oils, diesel fuel, kerosene, and liquefied
28 petroleum gases, ~~shall~~ must be determined by the department and ~~shall~~ must be based upon nationally
29 recognized standards and specifications such as the standards and specifications that are published from time
30 ~~to time~~ by the American society for testing and materials. When ~~so~~ the standards and specifications are

1 determined by the department and adopted as rules, ~~such~~ those standards and specifications are the standards
2 and specifications for ~~such~~ products sold in this state and official tests of ~~such~~ the products ~~shall~~ must be based
3 upon ~~them~~ the standards and specifications."

4

5 **Section 79.** Section 85-7-304, MCA, is amended to read:

6 **"85-7-304. Sections not applicable.** The provisions of 85-7-1911(1) and (2), 85-7-1934, 85-7-1935,
7 85-7-1941 through 85-7-1943, 85-7-2001, 85-7-2011 through 85-7-2027, 85-7-2031, and 85-7-2032, ~~and~~
8 ~~85-7-2141 shall have no application~~ do not apply to the organization of irrigation districts under this part."

9

10 NEW SECTION. **Section 80. Repealer.** Sections 15-7-104, 15-32-108, 20-6-212, and 85-7-2141, MCA,
11 are repealed.

12

13 NEW SECTION. **Section 81. Directions to code commissioner.** The code commissioner is directed
14 to implement 1-11-101(2)(g)(ii) by correcting any clearly inaccurate references to other sections of the Montana
15 Code Annotated contained in material enacted by the 59th legislature.

16

- END -