AN ACT GENERALLY REVISING AND CLARIFYING THE MONTANA CODE ANNOTATED; DIRECTING THE CODE COMMISSIONER TO CORRECT ERRONEOUS REFERENCES CONTAINED IN MATERIAL ENACTED BY THE 62ND LEGISLATURE; AMENDING SECTIONS 7-3-4324, 7-6-2541, 10-3-1308, 10-4-311, 10-4-313, 15-30-2339, 15-35-108, 15-36-304, 15-66-102, 15-70-324, 16-2-203, 16-11-119, 17-1-511, 20-7-1201, 20-9-235, 25-9-608, 30-10-103, 30-10-104, 30-13-338, 32-2-406, 32-9-103, 33-2-1323, 35-16-303, 37-15-103, 46-6-412, 50-4-504, 50-15-114, 50-40-104, 50-40-201, 53-6-1001, 61-11-203, 69-3-111, 69-3-2004, 69-5-104, 70-27-111, 72-3-916, 75-1-207, 75-15-103, 75-20-104, 76-2-303, 82-11-111, 85-2-436, 87-2-101, 87-3-236, 87-5-714, AND 90-3-1301, MCA; AMENDING SECTION 8, CHAPTER 330, LAWS OF 2009; AND REPEALING SECTION 5-11-221, MCA.

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

Section 1. Section 7-3-4324, MCA, is amended to read:

"7-3-4324. Procedure to enact ordinance or resolution. (1) Each proposed ordinance or resolution ~~shall~~ must be introduced in written or printed form and ~~shall~~ may not contain more than one subject, which ~~shall~~ must be clearly stated in the title~~,~~; ~~but~~ however, general appropriation ordinances may contain the various subjects and accounts for which money is to be appropriated. ~~Every~~ Each ordinance or resolution passed by the commission ~~shall~~ must be signed by the mayor or two members of the commission and filed with the clerk within 2 days and ~~by him~~ must be recorded by the clerk.

(2) The enacting clause of all ordinances passed by the commission ~~shall~~ must be "Be it ordained by the commission of the (city or town) of (name of city or town)". The enacting clause of all ordinances submitted by ~~the~~ initiative ~~shall~~ must be "Be it ordained by the people of the (city or town) of (name of city or town)".

(3) ~~No~~ An ordinance, unless it ~~be~~ is declared an emergency, ~~shall~~ may not be passed on the day on which it ~~shall have been~~ is introduced unless ~~so~~ ordered by an affirmative vote of four-fifths of the members of the commission in cities with five commissioners and two-thirds of the members of the commission in all other cities and towns.

(4) ~~No~~ An ordinance or resolution or section ~~thereof shall~~ of an ordinance or resolution may not be revised or amended unless the new ordinance or resolution contains the entire ordinance or resolution or section being revised or amended.

(5) ~~Every~~ Each ordinance or resolution, upon its final passage, ~~shall~~ must be recorded in a book kept for that purpose and ~~shall~~ must be authenticated by the signature of the presiding officer and the clerk of the commission. At ~~least~~ a minimum, the number and title of ~~every~~ each ordinance or resolution ~~shall~~ must be published at least once within 10 days after its final passage in ~~such~~ the manner ~~as is~~ provided for in this part."

Section 2. Section 7-6-2541, MCA, is amended to read:

"7-6-2541. County detention center inmate medical costs. The board of county commissioners shall budget and expend funds for inmate medical care, including but not limited to costs of providing direct medical care, medication, medical services, hospitalization, insurance premiums, self-insured coverage, or contracted services for expenses that must be borne by the county for inmates confined in a county detention center as provided for in ~~7-32-2222~~ 7-32-2224."

Section 3. Section 10-3-1308, MCA, is amended to read:

"10-3-1308. Responsibilities of highway patrol -- monitoring of motor carriers -- billing. (1) After receiving notification from the disaster and emergency services division that a motor carrier will be transporting high-level radioactive waste or transuranic waste through the state, the highway patrol shall establish a plan for monitoring the shipment.

(2) Monitoring a shipment by motor carrier may include escorting the vehicle through the state, establishing checkpoints, shadowing the vehicle, electronically following the vehicle's movements, or any other method determined by the highway patrol to be effective and safe.

(3) The highway patrol shall coordinate inspection of the motor carrier with the department of transportation's motor carrier services division.

(4) The highway patrol shall determine the cost that it has incurred in monitoring each motor carrier and shall submit a bill for reimbursement to the disaster and emergency services division for payment out of the account established in 10-3-1304(1) ~~according to the priorities established in 10-3-1304(3)~~.

(5) The routing of the transport by motor carrier of high-level radioactive waste and transuranic waste

must be determined by the department of transportation and the appropriate regulating federal authority."

Section 4. Section 10-4-311, MCA, is amended to read:

"10-4-311. Distribution of enhanced 9-1-1 account by department. (1) The department shall make quarterly distributions of the entire enhanced 9-1-1 account for costs incurred during the preceding calendar quarter by each provider of telephone service in the state for:

(a) collection of the fee imposed by 10-4-201(1)(b); and

(b) modification of central office switching and trunking equipment necessary to provide service for an enhanced 9-1-1 system only.

(2) Payments under subsection (1) may be made only after application by the provider to the department for costs described in subsection (1). The department shall review all applications relevant to subsection (1) for appropriateness of costs claimed by the provider. If the provider contests the review, payment may not be made until the amount owed the provider is made certain.

(3) After all amounts under subsections (1) and (2) have been paid,~~:~~

~~(a) for each fiscal year through the fiscal year ending June 30, 2007:~~

~~(i) 84% of the balance of the account must be allocated to cities and counties on a per capita basis. However, each county must be allocated a minimum of 1% of the balance of the counties' share of the account.~~

~~(ii) the remaining 16% of the balance of the account must be distributed evenly to the counties with 1% or less than 1% of the total population of the state; and~~

~~(b) for fiscal years beginning after June 30, 2007,~~ 100% of the balance of the account must be allocated to cities and counties on a per capita basis. However, each county must be allocated a minimum of 1% of the balance of the counties' share of the account.

(4) An enhanced 9-1-1 jurisdiction whose enhanced 9-1-1 service area includes more than one city or county is eligible to receive operating funds from the allocation for each city or county involved. The department shall distribute to the accounting entity designated by an enhanced 9-1-1 jurisdiction with an approved final plan for enhanced 9-1-1 service the proportional amount for each city or county served by the enhanced 9-1-1 jurisdiction. The department shall, upon request, provide a report indicating the proportional share derived from the individual city's or county's allocation with each distribution to a 9-1-1 jurisdiction.

(5) If the department determines that an enhanced 9-1-1 jurisdiction is not adhering to an approved plan

for enhanced 9-1-1 service or is not using funds in the manner prescribed in 10-4-312, the department may, after giving notice to the jurisdiction and providing an opportunity for a representative of the jurisdiction to comment on the department's determination, suspend payment from the enhanced 9-1-1 account to the 9-1-1 jurisdiction. The jurisdiction is not eligible to receive funds from the enhanced 9-1-1 account until the department determines that the jurisdiction is complying with the approved plan for enhanced 9-1-1 and fund usage limitations."

Section 5. Section 10-4-313, MCA, is amended to read:

"10-4-313. Distribution of wireless enhanced 9-1-1 account by department. (1) The department shall make quarterly distribution of the portion of the wireless enhanced 9-1-1 account for allowable costs described in 10-4-301(1)(c)(ii) incurred by each wireless provider in each 9-1-1 jurisdiction as follows:

(a) For each fiscal year through the fiscal year ending June 30, 2011:

(i) 84% of the balance of the account must be allocated to the wireless providers providing wireless enhanced 9-1-1 in each county on a per capita basis. The wireless provider in each county must be allocated a minimum of 1% of the balance of the counties' share of the account.

(ii) the balance of the account must be allocated evenly to the wireless providers providing wireless enhanced 9-1-1 in counties with 1% or less of the total population of the state; and

(iii) prior to distribution, the amounts allocated under subsections (1)(a)(i) and (1)(a)(ii) must be adjusted to ensure that a wireless provider does not receive less than the amount allocated to wireless providers providing wireless enhanced 9-1-1 in counties with 1% or less of the total population of the state.

(b) For fiscal years beginning after June 30, 2011, 100% of the balance of the account must be allocated to the wireless providers providing wireless enhanced 9-1-1 in each county on a per capita basis. Each county must be allocated a minimum of 1% of the balance of the counties' share of the account.

(c) If the department is unable to fully reimburse a wireless provider under subsection (1)(a) in any quarter, the department shall in the subsequent quarter pay from the allocation under subsection (1)(a) to wireless providers any unpaid balances from the previous quarter. If the amount available is insufficient to pay all previous unpaid balances, the department shall repeat the process of paying unpaid balances that remain unpaid for as many quarters as necessary until all unpaid balances are fully paid. The department shall review all invoices for appropriateness of costs claimed by the wireless provider. If the wireless provider contests the review, payment may not be made until the amount owed to the wireless provider is determined.

(d) A wireless provider shall submit an invoice for cost recovery according to the allowable costs.

(e) The department shall determine the percentage of overall subscribers, based on billing addresses, within the 9-1-1 jurisdiction for each wireless provider seeking cost recovery by dividing the wireless provider's subscribers by the total number of subscribers in that 9-1-1 jurisdiction. The percentage must be applied to the total wireless provider funds for that 9-1-1 jurisdiction, and each wireless provider shall receive distribution based on the provider's percentage. To receive cost recovery, wireless providers shall submit subscriber counts to the department on a quarterly basis. The subscriber count must be provided for each 9-1-1 jurisdiction in which the wireless provider receives cost recovery within 30 calendar days following the end of each quarter. The department shall recalculate distribution percentages on a quarterly basis.

(f) If the department determines that a wireless provider has submitted costs that exceed allowable costs or are not submitted in the manner prescribed in 10-4-115, the department may, after giving notice to the wireless provider, suspend or withhold payment from the wireless enhanced 9-1-1 account.

(2) The department shall make quarterly distribution of the portion of the wireless enhanced 9-1-1 account described in 10-4-301(1)(c)(i) to each 9-1-1 jurisdiction ~~in accordance with 10-4-311(3)~~ as follows:

(a) for each fiscal year through the fiscal year ending June 30, 2011:

(i) 84% of the balance of the account must be allocated to cities and counties on a per capita basis. However, each county must be allocated a minimum of 1% of the balance of the counties' share of the account.

(ii) the balance of the account must be allocated evenly to the counties with 1% or less than 1% of the total population of the state; and

(iii) prior to distribution, the amounts allocated under subsections (2)(a)(i) and (2)(a)(ii) must be adjusted to ensure that a county does not receive less than the amount allocated to counties with 1% or less of the total population of the state; and

(b) for fiscal years beginning after June 30, 2011, 100% of the balance of the account must be allocated to cities and counties on a per capita basis. However, each county must be allocated a minimum of 1% of the balance of the counties' share of the account."

Section 6. Section 15-30-2339, MCA, is amended to read:

"15-30-2339. Residential property tax credit for elderly -- filing date. (1) Except as provided in subsection ~~(2)~~ (3), a claim for relief must be submitted at the same time the claimant's individual income tax return

is due. For an individual not required to file a tax return, the claim must be submitted on or before April 15 of the year following the year for which relief is sought.

(2) A receipt showing property tax billed or a receipt showing gross rent paid, whichever is appropriate, must be filed with each claim. In addition, each claimant shall, at the request of the department, supply all additional information necessary to support a claim.

(3) The department may grant a reasonable extension for filing a claim whenever, in its judgment, good cause exists.

(4) In the event that an individual who would have a claim under 15-30-2337 through 15-30-2341 dies before filing the claim, the personal representative of the estate of the decedent may file the claim.

(5) The department or an individual may revise a return and make a claim under 15-30-2337 through 15-30-2341 within 5 years from the last day prescribed for filing a claim for relief."

Section 7. Section 15-35-108, MCA, is amended to read:

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

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

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

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Beginning July 1, 2012, any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

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

described in 23-1-102.

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

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

(7) The amount of [5.8% through September 30, 2013, and beginning October 1, 2013, the amount of] 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

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

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

(b) The interest income from $140 million of the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:

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

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

(iii) $1.275 million to the research and commercialization state special revenue account created in 90-3-1002;

(iv) to the department of commerce:

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

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

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

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

(E) $300,000 for export trade enhancement. (Terminates June 30, 2013--sec. 5, Ch. 459, L. 2009.)

15-35-108. (Effective July 1, 2013) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX,

section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

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

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Beginning July 1, 2012, any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

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

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

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

(7) The amount of ~~[~~5.8% through September 30, 2013, and beginning October 1, 2013, the amount of~~]~~ 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

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

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

(b) The interest income from $140 million of the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:

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

(ii) $1.25 million for the growth through agriculture program provided for in Title 90, chapter 9;

(iii) $3.65 million to the research and commercialization state special revenue account created in 90-3-1002;

(iv) to the department of commerce:

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

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

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

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

(E) $300,000 for export trade enhancement. (Terminates June 30, 2019--secs. 2, 3, Ch. 459, L. 2009.)

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

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

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

(3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Beginning July 1, 2012, any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

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

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

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

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

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

(9) All other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state."

Section 8. Section 15-36-304, MCA, is amended to read:

"15-36-304. Production tax rates imposed on oil and natural gas -- exemption. (1) The production of oil and natural gas is taxed as provided in this section. The tax is distributed as provided in 15-36-331 and 15-36-332.

(2) Natural gas is taxed on the gross taxable value of production based on the type of well and type of production according to the following schedule for working interest and nonworking interest owners:

	Working Interest	Nonworking Interest
(a) (i) first 12 months of qualifying production	0.5%	14.8%
(ii) after 12 months:		
(A) pre-1999 wells	14.8%	14.8%
(B) post-1999 wells	9%	14.8%
(b) stripper natural gas pre-1999 wells	11%	14.8%
(c) horizontally completed well production:		
(i) first 18 months of qualifying production	0.5%	14.8%
(ii) after 18 months	9%	14.8%

(3) The reduced tax rates under subsection (2)(a)(i) on production for the first 12 months of natural gas production from a well begins following the last day of the calendar month immediately preceding the month in

which natural gas is placed in a natural gas distribution system, provided that notification has been given to the department.

(4) The reduced tax rate under subsection (2)(c)(i) on production from a horizontally completed well for the first 18 months of production begins following the last day of the calendar month immediately preceding the month in which natural gas is placed in a natural gas distribution system, provided that notification has been given to the department.

(5) Oil is taxed on the gross taxable value of production based on the type of well and type of production according to the following schedule for working interest and nonworking interest owners:

	Working Interest	Nonworking Interest
(a) primary recovery production:		
(i) first 12 months of qualifying production	0.5%	14.8%
(ii) after 12 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%
(b) stripper oil production:		
(i) first 1 through 10 barrels a day production	5.5%	14.8%
(ii) more than 10 barrels a day production	9.0%	14.8%
(c) (i) stripper well exemption production	0.5%	14.8%
(ii) stripper well bonus production	6.0%	14.8%
(d) horizontally completed well production:		
(i) first 18 months of qualifying production	0.5%	14.8%
(ii) after 18 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%
(e) incremental production:		
(i) new or expanded secondary recovery production	8.5%	14.8%
(ii) new or expanded tertiary production	5.8%	14.8%
(f) horizontally recompleted well:		

(i) first 18 months	5.5%	14.8%
(ii) after 18 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%

(6) (a) The reduced tax rates under subsection (5)(a)(i) for the first 12 months of oil production from a well begins following the last day of the calendar month immediately preceding the month in which oil is pumped or flows, provided that notification has been given to the department.

(b) (i) The reduced tax rates under subsection (5)(d)(i) on oil production from a horizontally completed well for the first 18 months of production begins following the last day of the calendar month immediately preceding the month in which oil is pumped or flows if the well has been certified as a horizontally completed well to the department by the board.

(ii) The reduced tax rate under subsection (5)(f)(i) on oil production from a horizontally recompleted well for the first 18 months of production begins following the last day of the calendar month immediately preceding the month in which oil is pumped or flows if the well has been certified as a horizontally recompleted well to the department by the board.

(c) Incremental production is taxed as provided in subsection (5)(e) only if the average price for each barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less than $30 a barrel. If the price of oil is equal to or greater than $30 a barrel in a calendar quarter as determined in subsection ~~(6)(d)~~ (6)(e), then incremental production from pre-1999 wells and from post-1999 wells is taxed at the rate imposed on primary recovery production under subsections (5)(a)(ii)(A) and (5)(a)(ii)(B), respectively, for production occurring in that quarter, other than exempt stripper well production.

(d) (i) Stripper well exemption production is taxed as provided in subsection (5)(c)(i) only if the average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is less than $38 a barrel. If the price of oil is equal to or greater than $38 a barrel, there is no stripper well exemption tax rate and oil produced from a well that produces 3 barrels a day or less is taxed as stripper well bonus production.

(ii) Stripper well bonus production is subject to taxation as provided in subsection (5)(c)(ii) only if the average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate crude oil during a calendar quarter is equal to or greater than $38 a barrel.

(e) For the purposes of subsections (6)(c) and (6)(d), the average price for each barrel must be computed by dividing the sum of the daily price for west Texas intermediate crude oil as reported in the Wall Street Journal for the calendar quarter by the number of days on which the price was reported in the quarter.

(7) (a) The tax rates imposed under subsections (2) and (5) on working interest owners and nonworking interest owners must be adjusted to include the total of the privilege and license tax adopted by the board of oil and gas conservation pursuant to 82-11-131 and the derived rate for the oil and gas natural resource distribution account as determined under subsection (7)(b).

(b) The total of the privilege and license tax and the tax for the oil and gas natural resource distribution account established in 90-6-1001(1) may not exceed 0.3%. The base rate for the tax for oil and gas natural resource distribution account funding is 0.08%, but when the rate adopted pursuant to 82-11-131 by the board of oil and gas conservation for the privilege and license tax:

(i) exceeds 0.22%, the rate for the tax to fund the oil and gas natural resource distribution account is equal to the difference between the rate adopted by the board of oil and gas conservation and 0.3%; or

(ii) is less than 0.18%, the rate for the tax to fund the oil and gas natural resource distribution account is equal to the difference between the rate adopted by the board of oil and gas conservation and 0.26%.

(c) The board of oil and gas conservation shall give the department at least 90 days' notice of any change in the rate adopted by the board. Any rate change of the tax to fund the oil and gas natural resource distribution account is effective at the same time that the board of oil and gas conservation rate is effective.

(8) Any interest in production owned by the state or a local government is exempt from taxation under this section."

Section 9. Section 15-66-102, MCA, is amended to read:

"15-66-102. (Temporary) Utilization fee for inpatient bed days. (1) Each hospital in the state shall pay to the department a utilization fee:

(a) in the amount of $48 for each inpatient bed day between January 1, 2009, and December 31, 2009; and

(b) beginning January 1, 2010, in the amount of $50 for each inpatient bed day.

(2) Subject to subsection (3), all proceeds from the collection of utilization fees, including penalties and interest, must, in accordance with the provisions of 17-2-124, be deposited to the credit of the department of

public health and human services in a state special revenue account as provided in 53-6-149.

(3) The following amounts must be deposited in the state general fund:

(a) for state fiscal year 2009, proceeds in excess of $16,232,795;

(b) for state fiscal year 2010, proceeds in excess of $18,505,269; and

(c) for state fiscal year 2011, proceeds in excess of $19,818,193. (Void on occurrence of contingency--sec. 18, Ch. 390, L. 2003--see chapter compiler's comment; sec. 79, Ch. 489, L. 2009. Terminates June 30, 2011--sec. 82, Ch. 489, L. 2009.)

15-66-102. (Effective July 1, 2011, or on occurrence of contingency) Utilization fee for inpatient bed days. (1) Each hospital in the state shall pay to the department a utilization fee~~:~~

~~(a) in the amount of $27.70 for each inpatient bed day between January 1, 2006, and June 30, 2007;~~

~~(b) in the amount of $47 for each inpatient bed day between July 1, 2007, and December 31, 2007;~~

~~(c) in the amount of $43 for each inpatient bed day between January 1, 2008, and December 31, 2008;~~

~~(d) in the amount of $48 for each inpatient bed day between January 1, 2009, and December 31, 2009; and~~

~~(e) beginning January 1, 2010,~~ in the amount of $50 for each inpatient bed day.

(2) All proceeds from the collection of utilization fees, including penalties and interest, must, in accordance with the provisions of 17-2-124, be deposited to the credit of the department of public health and human services in a state special revenue account as provided in 53-6-149. (Void on occurrence of contingency--sec. 18, Ch. 390, L. 2003--see chapter compiler's comment.)"

Section 10. Section 15-70-324, MCA, is amended to read:

"15-70-324. Examination of records -- enforcement of part. (1) The department shall enforce the provisions of this part.

(2) The department or its authorized representative may examine the books, papers, records, and equipment of any special fuel user or any person dealing in, transporting, or storing special fuel as defined in this part and may investigate the character of the disposition that any person makes of special fuel in order to ascertain and determine whether all excise taxes due are being properly reported and paid. If the books, papers, records, and equipment are not maintained in this state at the time of demand, they must be furnished at the direction of the department for review either in the offices of the department or at the business location of the

taxpayer and must be, if requested by the department, accompanied by the special fuel user.

(3) For the purpose of enforcing the provisions of this part, the fact that a special fuel user has placed or received special fuel into storage or dispensing equipment designed to fuel motor vehicles is prima facie evidence that all of the special fuel has been delivered by the special fuel user into the fuel supply tanks of motor vehicles and consumed in the operation of motor vehicles upon the highways unless the contrary is established by satisfactory evidence.

(4) The department may establish vehicle inspection sites and may stop, detain, and inspect vehicles. A person who purposely or knowingly refuses to permit an inspection authorized by this section is guilty of a misdemeanor punishable by a fine not to exceed $500 upon conviction for the first offense, not to exceed $1,000 upon conviction for the second offense, and not to exceed $2,000 for each subsequent conviction. Each refusal is a separate offense.

(5) The department shall, upon request from officials to whom ~~are~~ is entrusted the enforcement of the special fuel tax law of any other state, the District of Columbia, the United States, its territories and possessions, or the provinces of Canada, forward to the officials any information that it may have relative to the receipt, storage, delivery, sale, use, or other disposition of special fuel by any special fuel user~~, provided~~ if the other state or states furnish ~~like~~ similar information to this state."

Section 11. Section 16-2-203, MCA, is amended to read:

"16-2-203. ~~Department sales~~ Sales to licensees. ~~The department may sell through its stores~~ Agency liquor stores may sell to licensees licensed under this code all kinds of liquor and table wine at the posted price ~~thereof in the store in which the liquor and table wine are sold~~. All sales ~~shall~~ must be ~~upon~~ made on a cash basis."

Section 12. Section 16-11-119, MCA, is amended to read:

"16-11-119. (Temporary) Disposition of taxes. (1) Cigarette taxes collected under the provisions of 16-11-111 must, in accordance with the provisions of 17-2-124, be deposited as follows:

(a) 8.3% or $2 million, whichever is greater, in an account in the state special revenue fund to the credit of the department of public health and human services for the operation and maintenance of state veterans' nursing homes. The department of public health and human services may not expend more money from the

account than is appropriated by the legislature. Subject to subsection (2) of this section, the department may not transfer funds in the account or expenditure authority related to the account pursuant to 17-7-139, 17-7-301, or 17-8-101.

~~(b) for fiscal years ending June 30, 2010, and June 30, 2011, 1.2% in the state special revenue fund to the credit of the account established in section 2, Chapter 461, Laws of 2009, for the construction of the state veterans' home in southwestern Montana;~~

~~(c)~~(b) 2.6% in the long-range building program account provided for in 17-7-205;

~~(d)~~(c) 44% in the health and medicaid initiatives account provided for in 53-6-1201; and

~~(e)~~(d) the remainder to the state general fund.

(2) If money in the state special revenue account for the operation and maintenance of state veterans' nursing homes exceeds $2 million at the end of the fiscal year, the excess must be transferred to the state general fund.

(3) The taxes collected on tobacco products, other than cigarettes, must in accordance with the provisions of 17-2-124 be deposited as follows:

(a) one-half in the state general fund; and

(b) one-half in the state special revenue fund account for health and medicaid initiatives provided for in 53-6-1201. (Terminates June 30, 2011--sec. 35(1), Ch. 486, L. 2009.)

16-11-119. (Effective July 1, 2011) Disposition of taxes. (1) Cigarette taxes collected under the provisions of 16-11-111 must, in accordance with the provisions of 17-2-124, be deposited as follows:

(a) 8.3% or $2 million, whichever is greater, in the state special revenue fund to the credit of the department of public health and human services for the operation and maintenance of state veterans' nursing homes;

~~(b) for fiscal years ending June 30, 2010, and June 30, 2011, 1.2% in the state special revenue fund to the credit of the account established in section 2, Chapter 461, Laws of 2009, for the construction of the state veterans' home in southwestern Montana;~~

~~(c)~~(b) 2.6% in the long-range building program account provided for in 17-7-205;

~~(d)~~(c) 44% in the state special revenue fund to the credit of the health and medicaid initiatives account provided for in 53-6-1201; and

~~(e)~~(d) the remainder to the state general fund.

(2) If money in the state special revenue fund for the operation and maintenance of state veterans' nursing homes exceeds $2 million at the end of the fiscal year, the excess must be transferred to the state general fund.

(3) The taxes collected on tobacco products, other than cigarettes, must in accordance with the provisions of 17-2-124 be deposited as follows:

(a) one-half in the state general fund; and

(b) one-half in the state special revenue fund account for health and medicaid initiatives provided for in 53-6-1201."

Section 13. Section 17-1-511, MCA, is amended to read:

"17-1-511. General fund transfer. ~~(1) By November 1, 2008, the department of revenue shall determine the total amount of the tax credit claimed under 15-30-2369 through 15-30-2372 that was taken by physicians practicing in rural areas for tax years 2006 and 2007 and calculate the average of those amounts. The department of revenue shall report the average amount determined under this subsection to the state treasurer.~~

~~(2) (a) For the fiscal year beginning July 1, 2008, the state treasurer shall transfer 25% of the amount reported under subsection (1) from the general fund to the state special revenue account created in 20-26-1501. The transfer under this subsection (2)(a) may not occur until after the amount is reported by the department of revenue under subsection (1).~~

~~(b) For the fiscal year beginning July 1, 2009, the state treasurer shall transfer 50% of the amount reported under subsection (1) from the general fund to the state special revenue account created in 20-26-1501.~~

~~(c) For the fiscal year beginning July 1, 2010, the state treasurer shall transfer 75% of the amount reported under subsection (1) from the general fund to the state special revenue account created in 20-26-1501.~~

~~(d) For each~~ Each fiscal year beginning after June 30, 2011, the state treasurer shall transfer ~~100% of~~ the amount reported under ~~subsection (1)~~ section 2(1), Chapter 361, Laws of 2007, from the general fund to the state special revenue account created in 20-26-1501."

Section 14. Section 20-7-1201, MCA, is amended to read:

"20-7-1201. Montana ~~virtual~~ digital academy -- purposes -- governance. (1) There is a Montana ~~virtual~~ digital academy at a unit of the Montana university system.

(2) The purposes of the Montana ~~virtual~~ digital academy are to:

(a) make distance learning opportunities available to all school-age children through public school districts in the state of Montana;

(b) offer high-quality instructors who are licensed and endorsed in Montana and courses that are in compliance with all relevant education and distance learning rules, standards, and policies; and

(c) emphasize the core subject matters required under the accreditation standards, offer advanced courses for dual credit in collaboration with the Montana university system, and offer enrichment courses.

(3) The Montana ~~virtual~~ digital academy must be governed by a board with equal representation from:

(a) the commissioner of higher education or a designee;

(b) the superintendent of public instruction or a designee;

(c) a Montana-licensed and Montana-endorsed classroom teacher appointed by the board of public education;

(d) a Montana-licensed school district administrator appointed by the board of public education;

(e) a trustee of a Montana school district appointed by the board of public education;

(f) the dean of the school of education of the hosting unit of the Montana university system or a designee as a nonvoting member; and

(g) the two officers provided for in subsection (5) as nonvoting members.

(4) The governing board shall elect a presiding officer and vice presiding officer to 2-year terms without limitation on the number of terms.

(5) The governing board shall hire a program director and a curriculum director who shall serve as chief executive officer and vice chief executive officer respectively on the governing board in a nonvoting capacity. The program director shall develop and, upon approval of the governing board, implement policies and guidelines for the Montana ~~virtual~~ digital academy pertaining to:

(a) course offerings;

(b) software and hardware selection;

(c) instructor selection;

(d) partnering school agreements;

(e) instructor training and curriculum development;

(f) course evaluation;

(g) grant opportunities; and

(h) other activities that are essential to the success of a statewide distance learning program."

Section 15. Section 20-9-235, MCA, is amended to read:

"20-9-235. Authorization for school district investment account. (1) The trustees of a school district may establish investment accounts and may temporarily transfer into the accounts all or a portion of any of its budgeted or nonbudgeted funds.

(2) Money transferred into investment accounts established under this section may be expended from a subsidiary checking account under the conditions specified in subsection (3)(b).

(3) The district may either:

(a) establish and use the accounts as nonspending accounts to ensure that district funds remain in an interest-bearing status until money is reverted to the budgeted or nonbudgeted fund of original deposit as necessary for use by the county treasurer to pay claims against the district. The district shall ensure that sufficient money is reverted to the district's budgeted and nonbudgeted funds maintained by the county treasurer in sufficient time to pay all claims presented against the applicable funds of the district. The county treasurer shall accept all money that is reverted upon tendered transfer of the district.

(b) establish a subsidiary checking account for expenditures from the investment accounts. The district may write checks on or provide electronic payments from the account if:

(i) the payments made from the accounts representing budgeted funds are in compliance with the budget adopted by the trustees;

(ii) the accounts are subject to the audit of district finances completed for compliance with 2-7-503 and 20-9-503; and

(iii) the district complies with all accounting system requirements required by the superintendent of public instruction.

(4) (a) A district that chooses to establish a school district investment account described in this section shall enter into a written agreement with the county treasurer. The agreement must:

(i) establish specific procedures and reporting dates to comply with the requirements of subsection (3);

(ii) be binding upon the district and the county treasurer for a negotiated period of time;

(iii) be signed by the presiding officer of the board of trustees and the county treasurer; and

(iv) ~~except as provided in subsection (4)(b),~~ coincide with fiscal years beginning on July 1 and ending on June 30.

~~(b) An agreement that establishes a school district investment account for fiscal year 2002 must be entered into no later than October 1, 2001.~~

~~(c)~~(b) The district and the county treasurer may renew an agreement, including terms and conditions on which they agree, provided that the terms and conditions comply with the provisions of this section.

(5) Except for debt service money that the county treasurer is required by law to collect and report to the districts, all other revenue may be sent directly to a participating district's investment account.

(6) The trustees shall implement an accounting system for the investment account pursuant to rules adopted by the superintendent of public instruction. The rules for the accounting system must include but are not limited to:

(a) providing for the internal control of deposits into and transfers between a district's investment accounts and budgeted and nonbudgeted funds of the district;

(b) requiring that the principal and interest earned on the principal is allocated to the budgeted or nonbudgeted fund from which the deposit was originally made; and

(c) ensuring that other proper accounting principles are followed.

(7) All interest earned on the district's general fund deposits must be allocated for district property tax reduction as required by 20-9-141.

(8) In making deposits to investment accounts under this section, a district shall comply with the requirements of Title 17, chapter 6, part 1, with respect to deposits in excess of the amount insured by the federal deposit insurance corporation or the national credit union administration, as applicable.

(9) A district establishing investment accounts under the section shall pay the automated clearinghouse system charges for all automated clearinghouse transfers made by the office of public instruction to the district's accounts."

Section 16. Section 25-9-608, MCA, is amended to read:

"25-9-608. Saving clause. This part does not prevent the recognition of a ~~foreign~~ foreign-country judgment in situations not covered by this part."

Section 17. Section 30-10-103, MCA, is amended to read:

"30-10-103. Definitions. When used in parts 1 through 3 of this chapter, unless the context requires otherwise, the following definitions apply:

(1) (a) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for the person's own account.

(b) The term does not include:

(i) a salesperson, issuer, bank, savings institution, trust company, or insurance company; or

(ii) a person who does not have a place of business in this state if the person effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions, other broker-dealers, or banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustee.

(2) "Commissioner" means the securities commissioner of this state.

(3) (a) "Commodity" means:

(i) any agricultural, grain, or livestock product or byproduct;

(ii) any metal or mineral, including a precious metal, or any gem or gem stone, whether characterized as precious, semiprecious, or otherwise;

(iii) any fuel, whether liquid, gaseous, or otherwise;

(iv) foreign currency; and

(v) all other goods, articles, products, or items of any kind.

(b) Commodity does not include:

(i) a numismatic coin with a fair market value at least 15% higher than the value of the metal it contains;

(ii) real property or any timber, agricultural, or livestock product grown or raised on real property and offered and sold by the owner or lessee of the real property; or

(iii) any work of art offered or sold by an art dealer at public auction or offered or sold through a private sale by the owner.

(4) "Commodity Exchange Act" means the federal statute of that name.

(5) "Commodity futures trading commission" means the independent regulatory agency established by congress to administer the Commodity Exchange Act.

(6) (a) "Commodity investment contract" means any account, agreement, or contract for the purchase or sale, primarily for speculation or investment purposes and not for use or consumption by the offeree or purchaser, of one or more commodities, whether for immediate or subsequent delivery or whether delivery is intended by the parties and whether characterized as a cash contract, deferred shipment or deferred delivery contract, forward contract, futures contract, installment or margin contract, leverage contract, or otherwise. Any commodity investment contract offered or sold, in the absence of evidence to the contrary, is presumed to be offered or sold for speculation or investment purposes.

(b) A commodity investment contract does not include a contract or agreement that requires, and under which the purchaser receives, within 28 calendar days after the payment in good funds of any portion of the purchase price, physical delivery of the total amount of each commodity to be purchased under the contract or agreement. The purchaser is not considered to have received physical delivery of the total amount of each commodity to be purchased under the contract or agreement when the commodity or commodities are held as collateral for a loan or are subject to a lien of any person when the loan or lien arises in connection with the purchase of each commodity or commodities.

(7) (a) "Commodity option" means any account, agreement, or contract giving a party to the account, agreement, or contract the right but not the obligation to purchase or sell one or more commodities or one or more commodity contracts, whether characterized as an option, privilege, indemnity, bid, offer, put, call, advance guaranty, decline guaranty, or otherwise.

(b) The term does not include an option traded on a national securities exchange registered with the U.S. securities and exchange commission.

(8) (a) "Federal covered adviser" means a person who is registered under section 203 of the Investment Advisers Act of 1940.

(b) The term does not include a person who would be exempt from the definition of investment adviser pursuant to subsection (11)(c)(i), (11)(c)(ii), (11)(c)(iii), (11)(c)(iv), (11)(c)(v), (11)(c)(vi), (11)(c)(vii), or (11)(c)(ix).

(9) "Federal covered security" means a security that is a covered security under section 18(b) of the Securities Act of 1933 or rules promulgated by the commissioner.

(10) "Guaranteed" means guaranteed as to payment of principal, interest, or dividends.

(11) (a) "Investment adviser" means a person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the

advisability of investing in, purchasing, or selling securities or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities.

(b) The term includes a financial planner or other person who:

(i) as an integral component of other financially related services, provides the investment advisory services described in subsection (11)(a) to others for compensation, as part of a business; or

(ii) represents to any person that the financial planner or other person provides the investment advisory services described in subsection (11)(a) to others for compensation.

(c) Investment adviser does not include:

(i) an investment adviser representative;

(ii) a bank, savings institution, trust company, or insurance company;

(iii) a lawyer or accountant whose performance of these services is solely incidental to the practice of the person's profession or who does not accept or receive, directly or indirectly, any commission, payment, referral, or other remuneration as a result of the purchase or sale of securities by a client, does not recommend the purchase or sale of specific securities, and does not have custody of client funds or securities for investment purposes;

(iv) a registered broker-dealer whose performance of services described in subsection (11)(a) is solely incidental to the conduct of business and for which the broker-dealer does not receive special compensation;

(v) a publisher of any newspaper, news column, newsletter, news magazine, or business or financial publication or service, whether communicated in hard copy form or by electronic means or otherwise, that does not consist of the rendering of advice on the basis of the specific investment situation of each client;

(vi) a person whose advice, analyses, or reports relate only to securities exempted by 30-10-104(1);

(vii) an engineer or teacher whose performance of the services described in subsection (11)(a) is solely incidental to the practice of the person's profession;

(viii) a federal covered adviser; or

(ix) other persons not within the intent of this subsection (11) as the commissioner may by rule or order designate.

(12) (a) "Investment adviser representative" means:

(i) any partner of, officer of, director of, or a person occupying a similar status or performing similar functions, or other individual, except clerical or ministerial personnel, employed by or associated with an

investment adviser who:

(A) makes any recommendation or otherwise renders advice regarding securities to clients;

(B) manages accounts or portfolios of clients;

(C) solicits, offers, or negotiates for the sale or sells investment advisory services; or

(D) supervises employees who perform any of the foregoing; and

(ii) with respect to a federal covered adviser, any person who is an investment adviser representative with a place of business in this state as those terms are defined by the securities and exchange commission under the Investment Advisers Act of 1940.

(b) The term does not include a salesperson registered pursuant to 30-10-201(1) whose performance of the services described in subsection (12)(a) of this section is solely incidental to the conduct of business as a salesperson and for which the salesperson does not receive special compensation other than fees relating to the solicitation or offering of investment advisory services of a registered investment adviser or of a federal covered adviser who has made a notice filing under parts 1 through 3 of this chapter.

(13) "Issuer" means any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting-trust certificates, or collateral-trust certificates or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors, or persons performing similar functions, or of the fixed, restricted management, or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued.

(14) "Nonissuer" means not directly or indirectly for the benefit of the issuer.

(15) "Offer" or "offer to sell" includes each attempt or offer to dispose of or solicitation of an offer to buy a security or interest in a security for value.

(16) "Person"~~, for the purpose of parts 1 through 3 of this chapter,~~ means an individual, a corporation, a partnership, an association, a joint-stock company, a trust in which the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.

(17) "Precious metal" means the following, in coin, bullion, or other form:

(a) silver;

(b) gold;

(c) platinum;

(d) palladium;

(e) copper; and

(f) other items as the commissioner may by rule or order specify.

(18) "Registered broker-dealer" means a broker-dealer registered pursuant to 30-10-201.

(19) "Sale" or "sell" includes each contract of sale of, contract to sell, or disposition of a security or interest in a security for value.

(20) (a) "Salesperson" means an individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect sales of securities. A partner, officer, or director of a broker-dealer or issuer is a salesperson only if the person otherwise comes within this definition.

(b) Salesperson does not include an individual who represents:

(i) an issuer in:

(A) effecting a transaction in a security exempted by 30-10-104(1), (2), (3), (8), (9), (10), or (11);

(B) effecting transactions exempted by 30-10-105, except when registration as a salesperson, pursuant to 30-10-201, is required by 30-10-105 or by any rule promulgated under 30-10-105;

(C) effecting transactions in a federal covered security described in section 18(b)(4)(D) of the Securities Act of 1933 if a commission or other remuneration is not paid or given directly or indirectly for soliciting a prospective buyer; or

(D) effecting transactions with existing employees, partners, or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state; or

(ii) a broker-dealer in effecting in this state solely those transactions described in section 15(h)(2) of the Securities Exchange Act of 1934.

(21) "Securities Act of 1933", "Securities Exchange Act of 1934", ~~"Public Utility Holding Company Act of 1935"~~ "Energy Policy Act of 2005", "Investment Advisors Act of 1940", and "Investment Company Act of 1940" mean the federal statutes of those names.

(22) (a) "Security" means any:

(i) note;

(ii) stock;

(iii) treasury stock;

(iv) bond;

(v) commodity investment contract;

(vi) commodity option;

(vii) debenture;

(viii) evidence of indebtedness;

(ix) certificate of interest or participation in any profit-sharing agreement;

(x) collateral-trust certificate;

(xi) preorganization certificate or subscription; transferable shares;

(xii) investment contract;

(xiii) voting-trust certificate;

(xiv) certificate of deposit for a security;

(xv) viatical settlement purchase agreement;

(xvi) certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under a title or lease; or~~,~~

(xvii) in general~~, any~~:

(A) interest or instrument commonly known as a security~~, any~~;

(B) put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities, including any interest in a security or based on the value of a security~~,~~; or

(C) ~~any~~ certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the ~~foregoing~~ items in this subsection (22)(a)(xvii).

(b) Security does not include an insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed sum of money either in a lump sum or periodically for life or some other specified period.

(23) "State" means any state, territory, or possession of the United States, as well as the District of Columbia and Puerto Rico.

(24) "Transact", "transact business", or "transaction" includes the meanings of the terms "sale", "sell", and "offer"."

Section 18. Section 30-10-104, MCA, is amended to read:

"30-10-104. Exempt securities. Sections 30-10-202 through 30-10-207 and 30-10-211 do not apply

to any of the following securities:

(1) any security, including a revenue obligation, issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporate or other instrumentality of one or more of ~~the foregoing; provided, however~~ those entities. However, 30-10-202 through 30-10-207 and 30-10-211 apply to a security issued by any of ~~the foregoing~~ those entities that is payable solely from payments to be received in respect ~~of~~ to property or money used under a lease, sale, or loan arrangement by or for a nongovernmental industrial or commercial enterprise~~,~~ unless the enterprise or any security of which it is the issuer is within any of the exemptions ~~enumerated~~ listed in subsections (2) through (15). ~~of this section;~~

(2) any security issued or guaranteed by Canada, a Canadian province, a political subdivision of a province, or an agency or corporate or other instrumentality of one or more of ~~the foregoing~~ those entities or any other foreign government with which the United States currently maintains diplomatic relations if the security is recognized as a valid obligation by the issuer or guarantor;

(3) any security issued by and representing an interest in or a debt of or guaranteed by a bank organized under the laws of the United States or a bank, savings institution, or trust company organized and supervised under the laws of any state;

(4) any security issued by and representing an interest in, or a debt of, or guaranteed by a federal savings and loan association or a building and loan or similar association organized under the laws of any state and authorized to do business in this state;

(5) any security issued or guaranteed by a federal credit union or a credit union, industrial loan association, or similar association organized and supervised under the laws of this state;

(6) any security issued or guaranteed by a railroad, other common carrier, public utility, or holding company that is:

(a) subject to the jurisdiction of the interstate commerce commission;

(b) a registered holding company under the ~~Public Utility Holding Company Act of 1935~~ Energy Policy Act of 2005 or a subsidiary of a registered holding company within the meaning of that act;

(c) regulated in respect of its rates and charges by a governmental authority of the United States or any state or municipality; or

(d) regulated in respect to the issuance or guarantee of the security by a governmental authority of the United States, any state, Canada, or any Canadian province~~;~~. ~~also~~ A security referred to under this subsection

(6)(d) includes equipment trust certificates in respect to equipment conditionally sold or leased to a railroad or public utility if other securities issued by the railroad or public utility would be exempt under this subsection~~;~~ (6)(d).

(7) any security that meets all of the following conditions:

(a) if the issuer is not organized under the laws of the United States or a state, it has appointed an authorized agent in the United States for service of process and has set forth the name and address of the agent in its prospectus;

(b) a class of the issuer's securities is required to be and is registered under section 12 of the Securities Exchange Act of 1934 and has been registered for the 3 years immediately preceding the offering date;

(c) the issuer or a significant subsidiary has not had a material default during the last 7 years, or during the issuer's existence if that period is less than 7 years, in the payment of:

(i) principal, interest, dividend, or sinking fund installment on preferred stock or indebtedness for borrowed money; or

(ii) rentals under leases with terms of 3 years or more;

(d) the issuer has had consolidated net income, before extraordinary items and the cumulative effect of accounting changes, of at least $1 million in 4 of its last 5 fiscal years, including its last fiscal year~~;~~, and if the offering is of interest-bearing securities, has had for its last fiscal year ~~such~~ consolidated net income, ~~but~~ before deduction for income taxes and depreciation, of at least 1 1/2 times the issuer's annual interest expense, giving effect to the proposed offering and the intended use of the proceeds. "Last fiscal year", as used in this subsection (7)(d), means the most recent year for which audited financial statements are available~~,~~ provided that the statements cover a fiscal period that ended not more than 15 months from the commencement of the offering.

(e) if the offering is of stock or shares, other than preferred stock or shares, the securities have voting rights and rights including the right to have at least as many votes per share and the right to vote on at least as many general corporate decisions as each of the issuer's outstanding classes of stock or shares~~,~~ except as otherwise required by law;

(f) if the offering is of stock or shares, other than preferred stock or shares, the securities are owned beneficially or of record on any date within 6 months prior to the commencement of the offering by at least 1,200 persons and on that date there are at least 750,000 of the shares outstanding with an aggregate market value, based on the average bid price for that day, of at least $3,750,000. In connection with the determination of the number of persons who are beneficial owners of the stock or shares of an issuer, the issuer or broker-dealer may

rely in good faith for the purposes of this section upon written information furnished by the record owners.

(8) any security issued by ~~any~~ a person organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, or reformatory purposes if the issuer pays a fee of $50 and files with the commissioner 20 days prior to the offering a written notice specifying the terms of the offer and the commissioner does not disallow the exemption in writing within the 20-day period;

(9) any commercial paper that arises out of a current transaction or the proceeds of which have been or are to be used for the current transaction and that evidences an obligation to pay cash within 9 months of the date of issuance, exclusive of days of grace, or any renewal of the paper that is likewise limited or any guarantee of the paper or of any renewal~~;~~ when the commercial paper is sold to banks or insurance companies;

(10) any investment contract issued in connection with an employee's stock purchase, savings, pension, profit-sharing, or similar benefit plan;

(11) any security for which the commissioner determines by order that an exemption would better serve the purposes of 30-10-102 than would registration. The fee for this exemption must be as prescribed in 30-10-209(4).

(12) any security listed or approved for listing upon notice of issuance on the New York stock exchange, the American stock exchange, the Pacific stock exchange, the Midwest stock exchange, the Chicago board of options exchange, the Philadelphia stock exchange, the Boston stock exchange, or any other stock exchange registered with the federal securities and exchange commission and approved by the commissioner~~;~~, any other security of the same issuer that is of senior or substantially equal rank~~;~~, any security called for by subscription rights or warrants ~~so~~ listed or approved~~;~~ for listing as provided in this subsection, or any warrant or right to purchase or subscribe to any of the ~~foregoing~~ securities listed in this subsection. The commissioner may by rule or order limit, restrict, or otherwise condition the terms under which any security may be exempt under this subsection.

(13) any national market system security listed or approved for listing upon notice of issuance on the national association of securities dealers automated quotation system or any other national quotation system approved by the commissioner~~;~~, any other security of the same issuer that is of senior or substantially equal rank~~;~~, any security called for by subscription rights or warrants ~~so~~ listed or approved~~;~~ for listing as provided in this subsection, or any warrant or right to purchase or subscribe to any of the securities listed in this subsection. The commissioner may by rule or order limit, restrict, or otherwise condition the terms under which any security may

be exempt under this subsection.

(14) any security issued by and representing an interest in, or a debt of, or any security guaranteed by any insurer organized and authorized to transact business under the laws of any state;

(15) any security for which an offer or sale is not directed to or received by a person in this state~~, and~~ when the issuer does not maintain a place of business in the state."

Section 19. Section 30-13-338, MCA, is amended to read:

"30-13-338. Trademark counterfeiting -- presumption -- penalties -- restitution -- forfeiture. (1) (a) A person commits the offense of trademark counterfeiting if the person knowingly manufactures, distributes, transports, offers for sale, sells, or possesses with intent to sell or distribute any goods, services, labels, patches, fabric, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, packaging, or any other components of any type or nature that are designed, marketed, or otherwise intended to be used on or in connection with any goods or services bearing a counterfeit mark.

(b) A person having possession, custody, or control of more than 25 ~~[items of]~~ items of goods, labels, patches, fabric, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, packaging, or any other components of any type or nature bearing a counterfeit mark must be presumed to possess the items with intent to offer for sale, sell, or distribute the items.

(2) (a) A person convicted of the offense of trademark counterfeiting shall be fined an amount not to exceed $1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both, if the offense involves less than 100 items bearing one or more counterfeit marks or the total retail value is less than $1,000. A person convicted of a second offense shall be fined $1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or subsequent offense shall be fined $1,000 and be imprisoned in the county jail for a term of not less than 30 days or more than 6 months.

(b) If the offense involves 100 items or more bearing one or more counterfeit marks and the retail value is $1,000 or more, the person shall be fined an amount not to exceed $10,000 or be imprisoned in the state prison for a term not to exceed 1 year, or both.

(3) When imposing sentence on a person convicted of a violation of this section, the court may order restitution as provided in 30-13-335 to any person harmed by the trademark counterfeiting.

(4) (a) Any items bearing a counterfeit mark and all personal property employed or used in connection

with counterfeiting, including but not limited to any items, objects, tools, machines, equipment, instruments, or vehicles of any kind, must be seized by law enforcement officials who have the opportunity to take possession of the items or personal property.

(b) All seized items and personal property referenced in this subsection (4) must be forfeited and may, upon request of the registrant, be released to the registrant for destruction or destroyed by an officer of the court as provided in 30-13-335 unless the registrant agrees to another disposition of the seized items or personal property."

Section 20. Section 32-2-406, MCA, is amended to read:

"32-2-406. Investments. (1) A building and loan association may invest the money of the association in:

(a) the bonds and securities of the United States, bonds and other obligations guaranteed as to interest and principal by the United States, and the stocks, bonds, debentures, and other securities and obligations of any federal home loan bank created under the laws of the United States, either directly or in the form of securities of or other interests in an open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 through 80a-64), as amended, if:

(i) the portfolio of the investment company or investment trust is limited to United States government obligations and repurchase agreements fully collateralized by United States government obligations; and

(ii) the investment company or investment trust takes delivery of the collateral for any repurchase agreement, either directly or through an authorized custodian;

(b) the bonds and warrants of any state and of any county, city, or school district of the state of Montana;

(c) the obligations of the federal deposit insurance corporation lawfully issued pursuant to ~~Title IV of the National Housing Act~~ 12 U.S.C. 1824;

(d) improved real estate that has been sold under contract, including suburban homes or farm lands but not including mining property. However, the total amount remaining invested in real estate, excluding real estate otherwise acquired, may not exceed 15% of its assets. The amount invested in real estate may not exceed 85% of the price stipulated in the contract of sale or 85% of the value of the property purchased, whichever is the lesser.

(e) other bonds, securities, and investments, not to exceed 10% of the association assets.

(2) Not ~~over~~ more than 10% of the assets of an association may be invested in home office buildings, furniture, and fixtures. Other real property acquired in any manner or for any purpose may not be held for more than 5 years, except by permission of the department.

(3) Notwithstanding other provisions of ~~the~~ law, it is lawful for a building and loan association or other financial institution operating under the laws of this state to invest the funds or money eligible for investment that is in its custody or possession~~, eligible for investment,~~ in debentures issued by the federal housing administrator and in obligations of national mortgage associations."

Section 21. Section 32-9-103, MCA, is amended to read:

"32-9-103. Definitions. As used in this part, the following definitions apply:

(1) "Administrative or clerical tasks" mean the receipt, collection, and distribution of information common for the processing or underwriting of a residential mortgage loan and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan to the extent that the communication does not include offering or negotiating loan rates or terms or counseling consumers about residential mortgage loan rates or terms.

(2) "Approved education course" means any course approved by the nationwide mortgage licensing system and registry.

(3) "Approved test provider" means any test provider approved by the nationwide mortgage licensing system and registry.

(4) "Bona fide third party" means a person that provides services relative to residential mortgage loan transactions. The term includes but is not limited to real estate appraisers and credit reporting agencies.

(5) "Borrower" means a person seeking a residential mortgage loan.

(6) "Branch office" means a location other than a licensee's principal place of business.

(7) (a) "Control" means the power, directly or indirectly, to direct the management or policies of an entity, whether through ownership of securities, by contract, or otherwise.

(b) A person is presumed to control an entity if that person:

(i) is a director, general partner, or executive officer;

(ii) directly or indirectly has the right to vote 10% or more of a class of a voting security or has the power to sell or direct the sale of 10% or more of a class of voting securities;

(iii) in the case of a limited liability company, is a managing member; or

(iv) in the case of a partnership, has the right to receive upon dissolution or has contributed 10% or more of the capital.

(8) "Department" means the department of administration provided for in 2-15-1001, acting through its division of banking and financial institutions.

(9) "Depository institution" has the meaning provided in section 3 of the Federal Deposit Insurance Act, 12 U.S.C. 1813(c), and includes any credit union.

(10) "Designated manager" means a mortgage loan originator with at least 3 years of experience as a mortgage loan originator or registered mortgage loan originator who is designated by an entity as the individual responsible for the operation of a particular location that is under the designated manager's full management, supervision, and control.

(11) "Entity" means a business organization, including a sole proprietorship.

(12) "Escrow account" means a depository account with a financial institution that provides deposit insurance and that is separate and distinct from any personal, business, or other account of the mortgage lender and is maintained solely for the holding and payment of escrow funds.

(13) "Escrow funds" means funds entrusted to a mortgage lender by a borrower for payment of taxes, insurance, or other payments to be made in connection with the servicing of a loan.

(14) "Federal banking agency" means the board of governors of the federal reserve system, the comptroller of the currency, the director of the office of thrift supervision, the national credit union administration, or the federal deposit insurance corporation.

(15) "Immediate family member" means a spouse, child, sibling, <u>parent,</u> grandparent, grandchild, stepchild, stepbrother, or stepsister and includes parent, grandparent, child, grandchild, and sibling relationships based upon adoptive relationships.

(16) "Individual" means a natural person.

(17) "Licensee" means a person authorized pursuant to this part to engage in activities regulated by this part. The term does not include an individual who is a registered mortgage loan originator.

(18) "Loan commitment" means a statement transmitted in writing or electronically by a mortgage lender setting forth the terms and conditions upon which the mortgage lender is willing to make a particular residential mortgage loan to a particular borrower.

(19) "Loan processor or underwriter" means an individual who performs administrative or clerical tasks as an employee, subsequent to the receipt of a residential mortgage loan application, at the direction of and subject to the supervision of a licensed mortgage loan originator or registered mortgage loan originator.

(20) "Mortgage" means a consensual interest in real property located in Montana, including improvements, securing a debt evidenced by a mortgage, trust indenture, deed of trust, or other lien on real property.

(21) (a) "Mortgage broker" means an entity that obtains, attempts to obtain, or assists in obtaining a mortgage loan for a borrower from a mortgage lender in return for consideration or in anticipation of consideration.

(b) For purposes of this subsection (21), attempting to or assisting in obtaining a mortgage loan includes referring a borrower to a mortgage lender or mortgage broker, soliciting or offering to solicit a mortgage loan on behalf of a borrower, or negotiating or offering to negotiate the terms or conditions of a mortgage loan with a mortgage lender on behalf of a borrower.

(22) "Mortgage lender" means an entity that closes a residential mortgage loan, advances funds, offers to advance funds, or commits to advancing funds for a mortgage loan applicant.

(23) (a) "Mortgage loan originator" means an individual who for compensation or gain or in the expectation of compensation or gain:

(i) takes a residential mortgage loan application; or

(ii) offers or negotiates terms of a residential mortgage loan.

(b) The term does not include an individual:

(i) engaged solely as a loan processor or underwriter, except as provided in 32-9-129; or

(ii) involved solely in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. 101(53D).

(24) "Mortgage servicer loss mitigation specialist" means a person who on behalf of the person making the residential mortgage loan works with a borrower who is in default or in a foreseeable likelihood of a default to modify or refinance either temporarily or permanently the borrower's obligations in order to avoid foreclosure or otherwise to finalize collection through the foreclosure process.

(25) "Nationwide mortgage licensing system and registry" means a mortgage licensing system developed and maintained by the conference of state bank supervisors and the American association of residential mortgage regulators for the registration of state-licensed mortgage brokers, state-licensed mortgage lenders, state-licensed

mortgage loan originators, and registered mortgage loan originators.

(26) "Nontraditional mortgage product" means any mortgage product other than a 30-year, fixed-rate mortgage.

(27) "Person" means an individual, sole proprietorship, corporation, company, limited liability company, partnership, limited liability partnership, trust, or association.

(28) "Real estate brokerage activities" means activities that involve offering or providing real estate brokerage services to the public, including:

(a) acting as a real estate salesperson or real estate broker for a buyer, seller, lessor, or lessee of real property;

(b) bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;

(c) negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property other than in connection with providing financing with respect to the transaction;

(d) engaging in any activity for which a person is required to be licensed as a real estate salesperson or real estate broker under Montana law; or

(e) offering to engage in any activity or act in any capacity described in subsections (28)(a) through (28)(d).

(29) "Registered mortgage loan originator" means an individual who:

(a) meets the definition of mortgage loan originator and is an employee of:

(i) a depository institution;

(ii) a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency; or

(iii) an institution regulated by the farm credit administration; and

(b) is registered with and maintains a unique identifier through the nationwide mortgage licensing system and registry.

(30) "Residential mortgage loan" means a loan primarily for personal, family, or household use secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling, as defined in section 103(v) of the Truth in Lending Act, 15 U.S.C. 1602(v), or on residential real estate located in Montana.

(31) "Residential real estate" means any real property located in the state of Montana upon which is

constructed a dwelling or upon which a dwelling is intended to be built within a 2-year period, subject to 24 CFR 3500.5(b)(4). The borrower's intent to construct a dwelling is presumed unless the borrower has submitted a written, signed statement to the contrary.

(32) "Trust account" means a depository account with a financial institution that provides deposit insurance that is separate and distinct from any personal, business, or other account of the mortgage broker or the mortgage lender and that is maintained solely for the holding and payment of bona fide third-party fees.

(33) "Ultimate equity owner" means an individual who, directly or indirectly, owns or controls an ownership interest in a corporation, a foreign corporation, an alien business organization, or any other form of business organization, regardless of whether the individual owns or controls an ownership interest, individually or in any combination, through one or more persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint-stock companies, or other entities or devices.

(34) "Unique identifier" means a number or other identifier assigned by protocols established by the nationwide mortgage licensing system and registry. (See compiler's comment regarding contingent suspension.)"

Section 22. Section 33-2-1323, MCA, is amended to read:

"33-2-1323. Confidentiality of proceedings. In all proceedings and judicial reviews under 33-2-1321 and 33-2-1322, all records of the insurer, all other documents, and all files and court records and papers of the commissioner, ~~so~~ as far as they pertain to or are a part of the record of the proceedings, remain confidential except as necessary to obtain compliance with the ~~records, documents, files, or papers,~~ proceedings unless the district court, after hearing arguments from the parties in chambers, orders otherwise or unless the insurer requests that the matter be made public. Until the court order, all papers filed with the clerk of the district court must be held in a confidential file."

Section 23. Section 35-16-303, MCA, is amended to read:

"35-16-303. Withdrawal of membership land -- procedure. (1) ~~Any~~ A person ~~holding~~ who holds title or evidence of title to membership land included in a corporation or district organized under the provisions of this chapter ~~desiring~~ and who desires to withdraw the person's land from the corporation or district may do so upon:

(a) presenting to the board of directors a verified petition stating that the person is the holder of title or evidence of title to membership land included in the corporation or district, particularly describing the land with

a map or plat, that the person wishes to withdraw from the corporation or district~~,~~; and

(b) tendering to the board the pro rata amount of liability of the person's land for all of the corporation's lawfully created and existing lien liabilities together with the person's pro rata amount of interest due and to become due upon any liabilities up to the maturity of the liabilities.

(2) If the matters and things set forth in the petition are true and the petitioner deposits with the board the petitioner's pro rata amount of the liabilities or furnishes a receipt for the amount from the mortgage holders or lienholders holding liens against the ~~lands~~ land, the proper officers of the corporation or district shall make, execute, acknowledge, and deliver a release of the ~~lands~~ land from the corporation or district and its liabilities.

(3) Upon presentation of the release to the mortgage holder or lienholder claiming a right against the membership ~~lands~~ land, ~~they~~ the mortgage holder or lienholder shall furnish ~~their~~ a release, which may be filed and recorded in any county or counties in which the land is located.

(4) The board of directors and corporate assets of the corporation must be responsible to any mortgage holder or lienholder and to the ~~withdrawee~~ person withdrawing the land for the ~~payments~~ payment of funds on ~~their~~ the debt or liability."

Section 24. Section 37-15-103, MCA, is amended to read:

"37-15-103. Exemptions. (1) This chapter does not prevent a person licensed in this state under any other law from engaging in the profession or business for which that person is licensed.

(2) This chapter does not restrict or prevent activities of a speech-language pathology or audiology nature or the use of the official title of the position for which the activities were performed on the part of a speech-language pathologist or audiologist employed by federal agencies.

(3) Those persons performing activities described in subsection (2) who are not licensed under this chapter may perform those activities only within the confines of or under the jurisdiction of the organization in which they are employed and may not offer speech-language pathology or audiology services to the public for compensation over and above the salary they receive for performance of their official duties with organizations by which they are employed. However, without obtaining a license under this chapter, these persons may consult or disseminate their research findings and scientific information to other accredited academic institutions or governmental agencies. They also may offer lectures to the public for a fee without being licensed under this chapter.

(4) This chapter does not restrict the activities and services of a student in speech-language pathology or audiology from pursuing a course of study in speech-language pathology or audiology at an accredited or approved college or university or an approved clinical training facility. However, these activities and services must constitute a part of a supervised course of study, and a fee may not accrue directly or indirectly to the student. These students must be designated by the title "speech-language pathology or audiology intern", "speech-language pathology or audiology trainee", or a title clearly indicating the training status appropriate to the level of training.

(5) This chapter does not restrict a person from another state from offering speech-language pathology or audiology services in this state if the services are performed for not more than 5 days in any calendar year and if the services are performed in cooperation with a speech-language pathologist or audiologist licensed under this chapter. However, by securing a temporary license from the board subject to limitations that the board may impose, a person not a resident of this state who is not licensed under this chapter but who is licensed under the law of another state that has established licensure requirements at least equivalent to those established by this chapter may offer speech-language pathology or audiology services in this state for not more than 30 days in any calendar year if the services are performed in cooperation with a speech-language pathologist or audiologist licensed under this chapter.

(6) This chapter does not restrict a person holding a class A certificate issued by the conference of executives of American schools of the deaf from performing the functions for which the person qualifies.

(7) This chapter does not restrict a person who ~~holds a certificate of registration~~ is licensed in this state as a hearing aid ~~dealer~~ dispenser from performing the functions for which the person qualifies and that are described in Title 37, chapter 16.

(8) This chapter does not exempt an audiologist who sells, dispenses, or fits hearing aids from the licensing requirements or other provisions of Title 37, chapter 16."

Section 25. Section 46-6-412, MCA, is amended to read:

"46-6-412. Arrest by ~~officer of~~ United States customs ~~service~~ and border protection officer or immigration and ~~naturalization service~~ customs enforcement officer. ~~An officer of the~~ A United States customs ~~service~~ and border protection officer or immigration and ~~naturalization service~~ customs enforcement officer may make an arrest without a warrant if the officer is on duty and one or more of the following situations

exist:

(1) A person commits or attempts to commit an offense in the officer's presence.

(2) The officer believes on reasonable grounds that the person is committing an offense or that the person committed an offense and the circumstances require the person's immediate arrest.

(3) The officer believes on reasonable grounds that a warrant for the person's arrest has been issued in this state.

(4) The officer believes on reasonable grounds that a felony warrant for the person's arrest has been issued in another jurisdiction."

Section 26. Section 50-4-504, MCA, is amended to read:

"50-4-504. Definitions. As used in this part, the following definitions apply:

~~(1) "Department" means the department of public health and human services provided for in Title 2, chapter 15, part 22.~~

~~(2)~~(1) "Health care" includes both physical health care and mental health care.

~~(3) "Health care facility" means all facilities and institutions, whether public or private, proprietary or nonprofit, that offer diagnosis, treatment, and inpatient or ambulatory care to two or more unrelated persons. The term includes all facilities and institutions included in the definition of health care facility contained in 50-5-101. The term does not apply to a facility operated by religious groups relying solely on spiritual means, through prayer, for healing.~~

~~(4)~~(2) "Health care provider" or "provider" means a person who is licensed, certified, or otherwise authorized by the laws of this state to provide health care in the ordinary course of business or practice of a profession.

~~(5)~~(3) "Health insurer" means any health insurance company, health service corporation, health maintenance organization, insurer providing disability insurance as described in 33-1-207, and~~,~~ to the extent permitted under federal law, any administrator of an insured, self-insured, or publicly funded health care benefit plan offered by public and private entities."

Section 27. Section 50-15-114, MCA, is amended to read:

"50-15-114. Unlawful acts and penalties. (1) It is unlawful to disclose data in the vital statistics records

of the department, local registrars, or county clerk and recorder unless disclosure is authorized by law.

(2) A person shall be fined not more than $1,000 or be imprisoned for not more than 1 year, or both, if:

(a) the person willfully and knowingly makes any false statement in a report, record, or certificate required to be filed by law or in an application for an amendment of a report, record, or certificate or willfully and knowingly supplies false information intending that the information be used in the preparation of any report, record, or certificate or amendment;

(b) without lawful authority and with the intent to deceive, the person makes, alters, amends, or mutilates any report, record, or certificate required to be filed under law or a certified copy of the report, record, or certificate;

(c) the person willfully and knowingly uses or attempts to use or furnish to another for use, for any purpose of deception, any certificate, record, report, or certified copy made, altered, amended, or mutilated;

(d) with the intention to deceive, the person willfully uses or attempts to use any birth certificate or certified copy of a birth record knowing that the certificate or certified copy was issued upon a record that is false in whole or in part or that relates to the birth of another person;

(e) the person willfully and knowingly furnishes a birth certificate or certified copy of a birth record with the intention that it be used by a person other than the person to whom the birth record relates.

(3) A person shall be fined not less than $25 or more than $500, imprisoned for not more than 30 days, or both, if the person:

(a) knowingly transports or accepts for transportation, interment, or other disposition a dead body without an accompanying permit as provided by law;

(b) refuses to provide information required by law;

(c) willfully neglects or violates any of the provisions of law or refuses to perform any of the duties imposed upon ~~him~~ the person by law."

Section 28. Section 50-40-104, MCA, is amended to read:

"50-40-104. Smoking in enclosed public places prohibited -- notice to public -- places where prohibition inapplicable. (1) Except as otherwise provided in this section, smoking in an enclosed public place is prohibited.

(2) The proprietor or manager of an establishment containing enclosed public places shall post a sign

in a conspicuous place at all public entrances to the establishment stating, in a manner that can be easily read and understood, that smoking in the enclosed public place is prohibited.

(3) The proprietor or manager of an intrastate bus that is not chartered shall prohibit smoking in all parts of the bus.

~~(4) The proprietor or manager of a business licensed under 23-5-611(1)(a) or (1)(c) may not allow any member of the public who is under 18 years of age to be present in any area of the establishment in which smoking is permitted.~~

~~(5)~~(4) The prohibition in subsection (1) does not apply to the following places, whether or not the public is allowed access to those places:

~~(a) until September 30, 2009, bars, provided that smoke from the bar does not infiltrate into areas where smoking is prohibited under this section;~~

~~(b)~~(a) a private residence~~,~~ unless it is used for any of the following purposes, in which case the prohibition in subsection (1) applies:

(i) a family day-care home or group day-care home, as defined in 52-2-703 and licensed pursuant to Title 52, chapter 2, part 7;

(ii) an adult foster care home, as defined in 50-5-101 and licensed pursuant to Title 50, chapter 5; or

(iii) a health care facility, as defined in 50-5-101 and licensed pursuant to Title 50, chapter 5;

~~(c)~~(b) a private motor vehicle;

~~(d)~~(c) school property in which smoking is allowed pursuant to the exception in 20-1-220;

~~(e)~~(d) a hotel or motel room designated as a smoking room and rented to a guest; however, not more than 35% of the rooms available to rent to guests may be designated as smoking rooms; and

~~(f)~~(e) a site that is being used in connection with the practice of cultural activities by American Indians that is in accordance with the American Indian Religious Freedom Act, 42 U.S.C. 1996 and 1996a."

Section 29. Section 50-40-201, MCA, is amended to read:

"50-40-201. Local government buildings -- smoking prohibited. (1) In all parts of buildings maintained by a political subdivision, smoking is prohibited as provided in this section.

(2) Buildings owned and occupied by a political subdivision only ~~must be smoke-free on January 1, 2006. Buildings~~ and buildings leased and occupied by a political subdivision only must be smoke-free ~~as soon as~~

~~practicable on or after January 1, 2006, but no later than July 1, 2006~~. In a building leased and occupied by a political subdivision and another entity, the on-the-scene manager of the political subdivision activity located in the building shall make the portions of the building occupied by the political subdivision activity smoke-free ~~as soon as practicable after January 1, 2006, but no later than July 1, 2006,~~ and is encouraged to work with the building owner or other tenants to make the building smoke-free.

(3) Restrictions contained in this section and imposed by the governing body apply uniformly to the employees of the political subdivision and the public."

Section 30. Section 53-6-1001, MCA, is amended to read:

"53-6-1001. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

~~(1) "Average wholesale price" means the wholesale price charged on a specific drug that is assigned by the drug manufacturer and is listed in a nationally recognized drug pricing file.~~

~~(2)~~(1) "Department" means the department of public health and human services provided for in Title 2, chapter 15, part 22.

~~(3)~~(2) "Discounted price" means a price set by the department by rule pursuant to 53-6-1002.

~~(4) "Gross household income" has the meaning provided in 15-30-2337.~~

~~(5)~~(3) "Manufacturer" means a manufacturer of prescription drugs and includes a subsidiary or affiliate of a manufacturer.

~~(6)~~(4) "Participating retail pharmacy" means a retail pharmacy located in this state or another business licensed to dispense prescription drugs in this state that is medicaid-approved.

~~(7)~~(5) "Program" means the prescription drug plus discount program provided for in 53-6-1002.

~~(8)~~(6) "Secondary discounted price" means the discounted price less any further discounts funded by manufacturer rebates for medication purchased by participants in the program."

Section 31. Section 61-11-203, MCA, is amended to read:

"61-11-203. Definitions -- habitual traffic offenders -- point schedule. (1) As used in this part, the following definitions apply:

~~(1)~~(a) "Conviction" has the meaning provided in 61-5-213.

~~(2)~~(b) "Habitual traffic offender" means any person who within a 3-year period accumulates 30 or more conviction points according to the schedule specified in ~~this subsection:~~ subsection (2).

~~(a) deliberate homicide resulting from the operation of a motor vehicle, 15 points;~~

~~(b) mitigated deliberate homicide, negligent homicide resulting from operation of a motor vehicle, or negligent vehicular assault, 12 points;~~

~~(c) any offense punishable as a felony under the motor vehicle laws of Montana or any felony in the commission of which a motor vehicle is used, 12 points;~~

~~(d) driving while under the influence of intoxicating liquor or narcotics or drugs of any kind or operation of a motor vehicle by a person with alcohol concentration of 0.08 or more, 10 points;~~

~~(e) operating a motor vehicle while the license to do so has been suspended or revoked, 6 points;~~

~~(f) failure of the driver of a motor vehicle involved in an accident resulting in death or injury to any person to stop at the scene of the accident and give the required information and assistance, as described in 61-7-105, 8 points;~~

~~(g) willful failure of the driver involved in an accident resulting in property damage of $250 to stop at the scene of the accident and give the required information or failure to otherwise report an accident in violation of the law, 4 points;~~

~~(h) reckless driving, 5 points;~~

~~(i) illegal drag racing or engaging in a speed contest in violation of the law, 5 points;~~

~~(j) any of the mandatory motor vehicle liability protection offenses under 61-6-301 and 61-6-302, 5 points;~~

~~(k) operating a motor vehicle without a license to do so, 2 points. However, this subsection (2)(k) does not apply to operating a motor vehicle within a period of 180 days from the date the license expired.~~

~~(l) speeding, except as provided in 61-8-725(2), 3 points;~~

~~(m) all other moving violations, 2 points.~~

~~(3) There may not be multiple application of cumulative points when two or more charges are filed involving a single occurrence. If there are two or more convictions involving a single occurrence, only the number of points for the specific conviction carrying the highest points is chargeable against that defendant.~~

~~(4)~~(c) "License" means any type of license or permit to operate a motor vehicle.

~~(5)~~(d) "Moving violation" means a violation of a traffic regulation of this state or another jurisdiction by a person while operating a motor vehicle or in actual physical control of a motor vehicle upon a highway.

~~(6)~~(e) ~~A traffic regulation~~ "Traffic regulation" includes any provision governing motor vehicle operation, equipment, safety, or driver licensing. A traffic regulation does not include provisions governing vehicle registration or local parking.

(2) Subject to subsection (3), the point schedule used to determine whether an individual is a habitual traffic offender is as follows:

(a) deliberate homicide resulting from the operation of a motor vehicle, 15 points;

(b) mitigated deliberate homicide, negligent homicide resulting from operation of a motor vehicle, or negligent vehicular assault, 12 points;

(c) any offense punishable as a felony under the motor vehicle laws of Montana or any felony in the commission of which a motor vehicle is used, 12 points;

(d) driving while under the influence of intoxicating liquor or narcotics or drugs of any kind or operation of a motor vehicle by a person with alcohol concentration of 0.08 or more, 10 points;

(e) operating a motor vehicle while the license to do so has been suspended or revoked, 6 points;

(f) failure of the driver of a motor vehicle involved in an accident resulting in death or injury to any person to stop at the scene of the accident and give the required information and assistance, as described in 61-7-105, 8 points;

(g) willful failure of the driver involved in an accident resulting in property damage of $250 to stop at the scene of the accident and give the required information or failure to otherwise report an accident in violation of the law, 4 points;

(h) reckless driving, 5 points;

(i) illegal drag racing or engaging in a speed contest in violation of the law, 5 points;

(j) any of the mandatory motor vehicle liability protection offenses under 61-6-301 and 61-6-302, 5 points;

(k) operating a motor vehicle without a license to do so, 2 points. However, this subsection (2)(k) does not apply to operating a motor vehicle within a period of 180 days from the date the license expired.

(l) speeding, except as provided in 61-8-725(2), 3 points;

(m) all other moving violations, 2 points.

(3) There may not be multiple application of cumulative points when two or more charges are filed involving a single occurrence. If there are two or more convictions involving a single occurrence, only the number of points for the specific conviction carrying the highest points is chargeable against that defendant."

Section 32. Section 69-3-111, MCA, is amended to read:

"69-3-111. Persons with interest in property leased or to be sold to public utility -- exemption. (1) Upon application, the commission may, by order, ~~may~~ determine that any person not otherwise a public utility is not a public utility subject to the jurisdiction, control, or regulation of the commission under this title~~,~~ solely because ~~such~~ the person owns or controls any plant or equipment, any part of or undivided interest in a plant or equipment, or any water right described in 69-3-101:

(a) ~~which~~ that is leased or sold or held for lease or sale to any public utility or other lessee; ~~or~~

(b) the operation and use of which is vested by lease or other contract in a public utility or other lessee; or

(c) for a period of not more than 90 days after termination of any lease or contract described in subsection (1)(a) or (1)(b) or after ~~such~~ the person gains possession of ~~such~~ the property following a breach of ~~such~~ a lease or contract.

(2) ~~Any~~ An order ~~once issued~~ may not be revoked or modified by the commission unless there is a material change in the lease or contract terms forming the basis of ~~such~~ the order.

(3) The commission may, upon application by a public utility, issue its order approving the terms of any lease or contract described in subsection (1)(a) or (1)(b) for the purpose of qualifying any party ~~thereto~~ to the lease or contract for an exemption by the United States securities and exchange commission, or its successor, from the federal ~~Public Utility Holding Company Act of 1935~~ Energy Policy Act of 2005.

(4) A public utility, as lessee of any plant or equipment, any part of~~,~~ or undivided interest in~~,~~ a plant or equipment, or any water right described in 69-3-101, ~~which~~ that is subject to any lease or contract described in this section~~,~~ shall comply with this title~~,~~ regarding ~~such~~ the plant, equipment, or water right.

(5) Nothing in this section may be construed to alter or modify the authority of the commission to regulate the rates and services of a public utility that is subject to the provisions of this title."

Section 33. Section 69-3-2004, MCA, is amended to read:

"69-3-2004. Renewable resource standard -- administrative penalty -- waiver. (1) Except as provided in 69-3-2007 and subsections (11) and (12) of this section, a graduated renewable energy standard is established for public utilities and competitive electricity suppliers as provided in subsections (2) through (4) of this section.

(2) In each compliance year beginning January 1, 2008, through December 31, 2009, each public utility and competitive electricity supplier shall procure a minimum of 5% of its retail sales of electrical energy in Montana from eligible renewable resources.

(3) (a) In each compliance year beginning January 1, 2010, through December 31, 2014, each public utility and competitive electricity supplier shall procure a minimum of 10% of its retail sales of electrical energy in Montana from eligible renewable resources.

(b) Beginning January 1, 2012, as part of their compliance with subsection (3)(a), public utilities shall purchase both the renewable energy credits and the electricity output from community renewable energy projects that total at least 50 megawatts in nameplate capacity.

(c) Public utilities shall proportionately allocate the purchase required under subsection (3)(b) based on each public utility's retail sales of electrical energy in Montana in the calendar year 2011.

(4) (a) In the compliance year beginning January 1, 2015, and in each succeeding compliance year, each public utility and competitive electricity supplier shall procure a minimum of 15% of its retail sales of electrical energy in Montana from eligible renewable resources.

(b) (i) As part of their compliance with subsection (4)(a), public utilities shall purchase both the renewable energy credits and the electricity output from community renewable energy projects that total at least 75 megawatts in nameplate capacity.

(ii) In meeting the standard in subsection (4)(b)(i), a public utility may include purchases made under subsection (3)(b).

(c) Public utilities shall proportionately allocate the purchase required under subsection (4)(b) based on each public utility's retail sales of electrical energy in Montana in the calendar year 2014.

(5) (a) In complying with the standards required under subsections (2) through (4), a public utility or competitive electricity supplier shall, for any given compliance year, calculate its procurement requirement based on the public utility's or competitive electricity supplier's previous year's sales of electrical energy to retail customers in Montana.

(b) The ~~standard~~ standards in subsections (2) through (4) must be calculated on a delivered-energy basis after accounting for any line losses.

(6) A public utility or competitive electricity supplier has until 3 months following the end of each compliance year to purchase renewable energy credits for that compliance year.

(7) (a) In order to meet the ~~standard~~ standards established in subsections (2) through (4), a public utility or competitive electricity supplier may only use:

(i) electricity from an eligible renewable resource in which the associated renewable energy credits have not been sold separately;

(ii) renewable energy credits created by an eligible renewable resource purchased separately from the associated electricity; or

(iii) any combination of subsections (7)(a)(i) and (7)(a)(ii).

(b) A public utility or competitive electricity supplier may not resell renewable energy credits and count those sold credits against the public utility's or the competitive electricity supplier's obligation to meet the standards established in subsections (2) through (4).

(c) Renewable energy credits sold through a voluntary service such as the one provided for in 69-8-210(2) may not be applied against a public utility's or competitive electricity supplier's obligation to meet the standards established in subsections (2) through (4).

(8) Nothing in this part limits a public utility or competitive electricity supplier from exceeding the standards established in subsections (2) through (4).

(9) If a public utility or competitive electricity supplier exceeds a standard established in subsections (2) through (4) in any compliance year, the public utility or competitive electricity supplier may carry forward the amount by which the standard was exceeded to comply with the standard in either or both of the 2 subsequent compliance years. The carryforward may not be double-counted.

(10) Except as provided in subsections (11) and (12), if a public utility or competitive electricity supplier is unable to meet the standards established in subsections (2) through (4) in any compliance year, that public utility or competitive electricity supplier shall pay an administrative penalty, assessed by the commission, of $10 for each megawatt hour of renewable energy credits that the public utility or competitive electricity supplier failed to procure. A public utility may not recover this penalty in electricity rates. Money generated from these penalties must be deposited in the universal low-income energy assistance fund established in ~~69-8-412(1)(a)~~ 69-8-412(1)(b).

(11) A public utility or competitive electricity supplier may petition the commission for a short-term waiver from full compliance with the standards in subsections (2) through (4) and the penalties levied under subsection (10). The petition must demonstrate that the:

(a) public utility or competitive electricity supplier has undertaken all reasonable steps to procure renewable energy credits under long-term contract, but full compliance cannot be achieved either because renewable energy credits cannot be procured or for other legitimate reasons that are outside the control of the public utility or competitive electricity supplier; or

(b) integration of additional eligible renewable resources into the electrical grid will clearly and demonstrably jeopardize the reliability of the electrical system and that the public utility or competitive electricity supplier has undertaken all reasonable steps to mitigate the reliability concerns.

(12) (a) Retail sales made by a competitive electricity supplier according to prices, terms, and conditions of a written contract executed prior to April 25, 2007, are exempt from the standards in subsections (2) through (4).

(b) The exemption provided for in subsection (12)(a) is terminated upon modification after April 25, 2007, of the prices, terms, or conditions in a written contract."

Section 34. Section 69-5-104, MCA, is amended to read:

"69-5-104. Continuation of electric service facilities to existing consumers. Each electric ~~service~~ facilities provider has the right to provide electric service facilities to all premises being served by it or to which any of its facilities are attached on May 2, 1997."

Section 35. Section 70-27-111, MCA, is amended to read:

"70-27-111. Parties defendant. (1) A person, other than the tenant of the premises and a subtenant, if there is one, ~~in the actual occupation of~~ occupying the premises when the complaint is filed need not be made ~~parties~~ a party defendant in the proceeding, ~~nor shall any~~ and a proceeding may not abate or the plaintiff be nonsuited for the nonjoinder of any person who might have been made a party defendant. However, when it appears that any of the parties served with process or appearing in the proceeding is guilty of the offense charged, judgment must be rendered against that party.

(2) If a defendant has become a subtenant of the premises in controversy after the service of the notice provided for by 70-27-108(2) upon the tenant of the premises, the fact that the notice was not served on each subtenant does not constitute a defense to the action.

(3) If a married person is a tenant or subtenant, failure to join the person's spouse does not constitute

a defense. However, if the spouse is not joined, an execution issued upon a personal judgment against the tenant or subtenant may be enforced only against property on the premises at the commencement of the action or against property that is owned solely by the tenant or subtenant and not by the tenant's or subtenant's spouse.

(4) All persons who enter the premises ~~under the tenant~~ after the commencement of the action are bound by the judgment in the same manner as if they had been made party to the action."

Section 36. Section 72-3-916, MCA, is amended to read:

"72-3-916. Distribution to trustee -- registration -- bond. (1) Before ~~distributing~~ making a distribution to a trustee, the personal representative may require that the trust be registered~~,~~ if the state in which it is to be administered provides for registration~~,~~ and may require that the trustee inform in writing the current beneficiaries and, if possible, one or more persons who under 72-1-303 may represent beneficiaries with future interests of the trustee's name and address and provide each with a copy of the terms of the trust that describe or affect the interest of the beneficiaries and with relevant information about the assets of the trust and the particulars relating to the administration.

(2) If the trust instrument does not excuse the trustee from ~~giving~~ posting bond, the personal representative may petition the appropriate court to require that the trustee post bond if the ~~trustee~~ personal representative believes that distribution might jeopardize the interests of persons who are not able to protect themselves~~,~~ and the ~~trustee~~ personal representative may withhold distribution until the court has acted.

(3) An inference of negligence on the part of the personal representative may not be drawn from the personal representative's failure to exercise the authority conferred by subsections (1) and (2)."

Section 37. Section 75-1-207, MCA, is amended to read:

"75-1-207. Major facility siting applications excepted. (1) Except as provided in subsection (2), a fee as prescribed by this part may not be assessed against any person, corporation, partnership, firm, association, or other private entity filing an application for a certificate under the provisions of the Montana Major Facility Siting Act, Title 75, chapter 20.

(2) The department of environmental quality may require payment of costs under 75-1-205(1)(a) by a person who files a petition under 75-20-201(5)."

Section 38. Section 75-15-103, MCA, is amended to read:

"75-15-103. Definitions. As used in this part, the following definitions apply:

(1) "Commercial or industrial activities" means ~~for purposes of subsection (14)~~ those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following activities are considered commercial or industrial:

(a) agricultural, forestry, grazing, farming, and related activities, including wayside fresh produce stands;

(b) transient or temporary activities;

(c) activities not visible from the main-traveled way;

(d) activities conducted in a building principally used as a residence;

(e) railroad tracks and minor sidings;

(f) activities more than 660 feet from the nearest edge of the right-of-way.

(2) "Commercial or industrial zone" means an area that is used or reserved for business, commerce, or trade pursuant to comprehensive local zoning ordinances, regulations, or enabling state legislation, including highway service areas lawfully zoned as highway service zones, where the primary use of the land is or is reserved for commercial and roadside services, other than outdoor advertising, to serve the traveling public. Areas temporarily zoned as commercial or industrial by an interim zoning district or interim regulation ~~or map~~ adopted as an emergency measure pursuant to 76-2-206 are not covered by this definition.

(3) "Commission" means the transportation commission of Montana.

(4) "Department" means the department of transportation.

(5) "Information center" means an area or site established or maintained at safety rest areas for the purpose of informing the public of places of interest within the state and providing other information that the commission may consider desirable.

(6) "Interchange" or "intersection" means those areas and their approaches where traffic is channeled off or onto an interstate route, including the deceleration lanes or acceleration lanes from or to another federal, state, county, city, or other route.

(7) "Interstate system" means that portion of the national system of interstate and defense highways located within this state as officially designated or as may be designated by the commission and approved by the secretary pursuant to the provisions of Title 23, United States Code, "Highways".

(8) "Maintain" means to allow to exist, subject to the provisions of this part.

(9) "Maintenance" means to repair, refurbish, repaint, or otherwise keep an existing sign structure in a state suitable for use.

(10) "Outdoor advertising" means any outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard, or other structure that is designed, intended, or used to advertise or inform and that is visible from any place on the main-traveled way of the interstate or primary systems.

(11) "Primary system" means that portion of connected main highways as officially designated or as may be designated by the commission and approved by the secretary pursuant to the provisions of Title 23, United States Code, "Highways".

(12) "Safety rest area" means an area or site established and maintained within or adjacent to the right-of-way, by or under public supervision or control, for the convenience of the traveling public.

(13) "Secretary" means the secretary of the United States department of transportation.

(14) "Unzoned commercial or industrial area" means an area not zoned by state or local law, regulation, or ordinance that is occupied by one or more commercial or industrial activities, other than outdoor advertising, on the lands along the highway for a distance of 600 feet immediately adjacent to the activities.

(15) "Urban area" means an urbanized area or place, as designated by the United States bureau of the census, that has a population of 5,000 or more and that is within boundaries fixed by the department. The boundaries must at a minimum encompass the entire urban place designated by the bureau of the census.

(16) "Visible" means capable of being seen and legible without visual aid by a person of normal visual acuity."

Section 39. Section 75-20-104, MCA, is amended to read:

"75-20-104. Definitions. In this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Addition thereto" means the installation of new machinery and equipment that would significantly change the conditions under which the facility is operated.

(2) "Application" means an application for a certificate submitted in accordance with this chapter and the rules adopted under this chapter.

(3) (a) "Associated facilities" includes but is not limited to transportation links of any kind, aqueducts, diversion dams, pipelines, storage ponds, reservoirs, and any other device or equipment associated with the

delivery of the energy form or product produced by a facility.

(b) The term does not include a transmission substation, a switchyard, voltage support, or other control equipment or a facility or a natural gas or crude oil gathering line 25 inches or less in inside diameter.

(4) "Board" means the board of environmental review provided for in 2-15-3502.

(5) "Certificate" means the certificate of compliance issued by the department under this chapter that is required for the construction or operation of a facility.

(6) "Commence to construct" means:

(a) any clearing of land, excavation, construction, or other action that would affect the environment of the site or route of a facility but does not mean changes needed for temporary use of sites or routes for nonutility purposes or uses in securing geological data, including necessary borings to ascertain foundation conditions;

(b) the fracturing of underground formations by any means if the activity is related to the possible future development of a gasification facility or a facility employing geothermal resources but does not include the gathering of geological data by boring of test holes or other underground exploration, investigation, or experimentation;

(c) the commencement of eminent domain proceedings under Title 70, chapter 30, for land or rights-of-way upon or over which a facility may be constructed;

(d) the relocation or upgrading of an existing facility defined by subsection (8)(a) or (8)(b), including upgrading to a design capacity covered by subsection (8)(a), except that the term does not include normal maintenance or repair of an existing facility.

(7) "Department" means the department of environmental quality provided for in 2-15-3501.

(8) "Facility" means, subject to 75-20-1202:

(a) each electric transmission line and associated facilities of a design capacity of more than 69 kilovolts, except that the term:

(i) does not include an electric transmission line and associated facilities of a design capacity of 230 kilovolts or less and 10 miles or less in length;

(ii) does not include an electric transmission line with a design capacity of more than 69 kilovolts but less than 230 kilovolts for which the person planning to construct the line has obtained right-of-way agreements or options for a right-of-way from more than 75% of the owners who collectively own more than 75% of the property along the centerline;

(iii) does not include an electric transmission line that is less than 150 miles in length and extends from an electrical generation facility, as defined in 15-24-3001(4), or a wind generation facility or biomass generation facility, as defined in 15-6-157, to the point at which the transmission line connects to a regional transmission grid at an existing transmission substation or other facility for which the person planning to construct the line has obtained right-of-way agreements or options for a right-of-way from more than 75% of the owners who collectively own more than 75% of the property along the centerline;

(iv) does not include an upgrade to an existing transmission line to increase that line's capacity to less than or equal to 230 kilovolts, including construction outside the existing easement or right-of-way. Except for a newly acquired easement or right-of-way necessary to comply with electromagnetic field standards, a newly acquired easement or right-of-way outside the existing easement or right-of-way as described in this subsection (8)(a)(iv) may not exceed a total of 10 miles in length or be more than 10% of the existing transmission right-of-way, whichever is greater, and the purpose of the easement must be to avoid sensitive areas or inhabited areas.

(v) does not include a transmission substation, a switchyard, voltage support, or other control equipment;

(b) (i) each pipeline, whether partially or wholly within the state, greater than 25 inches in inside diameter and 50 miles in length, and associated facilities, except that the term does not include:

(A) a pipeline within the boundaries of the state that is used exclusively for the irrigation of agricultural crops or for drinking water; or

(B) a pipeline greater than 25 inches in inside diameter and 50 miles in length for which the person planning to construct the pipeline has obtained right-of-way agreements or options for a right-of-way from more than 75% of the owners who collectively own more than 75% of the property along the centerline;

(ii) each pipeline, whether partially or wholly within the state, greater than 17 inches in inside diameter and 30 miles in length, and associated facilities used to transport coal suspended in water;

(c) any use of geothermal resources, including the use of underground space in existence or to be created, for the creation, use, or conversion of energy, designed for or capable of producing geothermally derived power equivalent to 50 megawatts or more or any addition thereto, except pollution control facilities approved by the department and added to an existing plant; or

(d) for the purposes of 75-20-204 only, a plant, unit, or other facility capable of generating 50 megawatts of hydroelectric power or more or any addition thereto.

(9) "Person" means any individual, group, firm, partnership, corporation, limited liability company, cooperative, association, government subdivision, government agency, local government, or other organization or entity.

(10) "Sensitive areas" means government-designated areas that have been recognized for their importance to Montana's wildlife, wilderness, culture, and historic heritage, including but not limited to national wildlife refuges, state wildlife management areas, federal areas of critical environmental concern, state parks and historic sites, designated wilderness areas, wilderness study areas, designated wild and scenic rivers, or national parks, monuments, or historic sites.

(11) "Transmission substation" means any structure, device, or equipment assemblage, commonly located and designed for voltage regulation, circuit protection, or switching necessary for the construction or operation of a proposed transmission line.

(12) "Upgrade" means to increase the electrical carrying capacity of a transmission line by actions including but not limited to:

(a) installing larger conductors;

(b) replacing insulators;

(c) replacing pole or tower structures; or

(d) changing structure spacing, design, or guying.

(13) "Utility" means any person engaged in any aspect of the production, storage, sale, delivery, or furnishing of heat, electricity, gas, hydrocarbon products, or energy in any form for ultimate public use."

Section 40. Section 76-2-303, MCA, is amended to read:

"76-2-303. Procedure to administer certain annexations and zoning laws -- hearing and notice. (1) The city or town council or other legislative body of a municipality shall provide for the manner in which regulations and restrictions and the boundaries of districts are determined, established, enforced, and changed, subject to the requirements of subsection (2).

(2) A regulation, restriction, or boundary may not become effective until after a public hearing in relation to the regulation, restriction, or boundary at which parties in interest and citizens have an opportunity to be heard has been held. At least 15 days' notice of the time and place of the hearing must be published in an official paper or a paper of general circulation in the municipality.

(3) (a) For municipal annexations, a municipality may conduct a hearing on the annexation in conjunction with a hearing on the zoning of the proposed annexation~~, provided that~~ if the proposed municipal zoning regulations for the annexed property:

(i) authorize land uses comparable to the land uses authorized by county zoning;

(ii) authorize land uses that are consistent with land uses approved by the board of county commissioners or the board of adjustment pursuant to Title 76, chapter 2, part 1 or 2 ~~of this chapter~~; or

(iii) are consistent with zoning requirements recommended in a growth policy adopted pursuant to Title 76, chapter 1, ~~of this title or in a master plan, as provided for in 76-2-304(3),~~ for the annexed property.

(b) A joint hearing authorized under this subsection (3) fulfills a municipality's obligation regarding zoning notice and public hearing for a proposed annexation."

Section 41. Section 82-11-111, MCA, is amended to read:

"82-11-111. (Temporary) Powers and duties of board. (1) The board shall make investigations that it considers proper to determine whether waste exists or is imminent or whether other facts exist that justify any action by the board under the authority granted by this chapter.

(2) Subject to the administrative control of the department under 2-15-121, the board shall:

(a) require measures to be taken to prevent contamination of or damage to surrounding land or underground strata caused by drilling operations and production, including but not limited to regulating the disposal or injection of water and disposal of oil field wastes;

(b) classify wells as oil or gas wells or class II injection wells for purposes material to the interpretation or enforcement of this chapter;

(c) adopt and enforce rules and orders to implement this chapter.

(3) The board shall determine and prescribe which producing wells are defined as "stripper wells" and which wells are defined as "wildcat wells" and make orders that in its judgment are required to protect those wells and provide that stripper wells may be produced to capacity if that is considered necessary in the interest of conservation.

(4) With respect to any pool from which gas was being produced by a gas well on or prior to April 1, 1953, this chapter does not authorize the board to limit or restrain the rate, daily or otherwise, of production of gas from that pool by any existing well or a well drilled after that date and producing from that pool to less than

the rate at which the well can be produced without adversely affecting the quantity of gas ultimately recoverable by the well.

(5) The board has exclusive jurisdiction over all class II injection wells and all pits and ponds in relation to those injection wells. The board may:

(a) issue, suspend, revoke, modify, or deny permits to operate class II injection wells~~,~~ consistent with rules made by it;

(b) examine plans and other information needed to determine whether a permit should be issued or require changes in plans as a condition to the issuance of a permit;

(c) clearly specify in a permit any limitations imposed as to the volume and characteristics of the fluids to be injected and the operation of the well;

(d) authorize its staff to enter upon any public or private property at reasonable times to:

(i) investigate conditions relating to violations of permit conditions;

(ii) have access to and copy records required under this chapter;

(iii) inspect monitoring equipment or methods; and

(iv) sample fluids that the operator is required to sample; and

(e) adopt standards for the design, construction, testing, and operation of class II injection wells.

(6) The board shall determine, for the purposes of using the oil and gas production damage mitigation account established in 82-11-161:

(a) when the person responsible for an abandoned well, sump, or hole cannot be identified or located~~,~~ or, if the person is identified or located, when the person does not have sufficient financial resources to properly plug the well, sump, or hole; or

(b) when a previously abandoned well, sump, or hole is the cause of potential environmental problems and no responsible party can be identified or located or, if a responsible party can be identified and located, when the person does not have sufficient financial resources to correct the problems.

(7) The board may take measures to demonstrate to the general public the importance of the state's oil and gas exploration and production industry, to encourage and promote the wise and efficient use of energy, to promote environmentally sound exploration and production methods and technologies, to develop the state's oil and gas resources, and to support research and educational activities concerning the oil and natural gas exploration and production industry. The board may:

(a) make grants or loans and provide other forms of financial assistance as necessary or appropriate from available funds to qualified persons for research, development, marketing, educational projects, and processes or activities directly related to the state's oil and gas exploration and production industry;

(b) enter into contracts or agreements to carry out the purposes of this subsection (7), including the authority to contract for the administration of an oil and gas research, development, marketing, and educational program;

(c) cooperate with any private, local, state, or national commission, organization, agent, or group and enter into contracts and agreements for programs benefiting the oil and gas exploration and production industry;

(d) coordinate with the Montana university system, including Montana tech of the university of Montana or any of its affiliated research programs;

(e) accept donations, grants, contributions, and gifts from any public or private source for deposit in the oil and gas education and research account established in 82-11-110;

(f) distribute funds from the oil and gas education and research account to carry out the provisions of this subsection (7); and

(g) make orders and rules to implement the provisions of this subsection (7).

82-11-111. (Effective on occurrence of contingency) Powers and duties of board. (1) The board shall investigate matters it considers proper to determine whether waste exists or is imminent or whether other facts exist that justify any action by the board under the authority granted by this chapter.

(2) Subject to the administrative control of the department under 2-15-121, the board shall:

(a) require measures to be taken to prevent contamination of or damage to surrounding land or underground strata caused by drilling operations and production, including but not limited to regulating the disposal or injection of water or carbon dioxide and disposal of oil field wastes;

(b) classify wells as oil or gas wells, carbon dioxide injection wells, or class II injection wells for purposes material to the interpretation or enforcement of this chapter;

(c) adopt and enforce rules and orders to implement this chapter.

(3) The board shall determine and prescribe which producing wells are defined as "stripper wells" and which wells are defined as "wildcat wells" and make orders that in its judgment are required to protect those wells and provide that stripper wells may be produced to capacity if that is considered necessary in the interest of conservation.

(4) With respect to any pool with gas being produced by a gas well on or prior to April 1, 1953, this chapter does not authorize the board to limit or restrain the rate, daily or otherwise, of production of gas from that pool by any existing well or a well drilled after that date and producing from that pool to less than the rate at which the well can be produced without adversely affecting the quantity of gas ultimately recoverable by the well.

(5) Subject to subsection (8), the board has exclusive jurisdiction over carbon dioxide injection wells, geologic storage reservoirs, all class II injection wells, and all pits and ponds in relation to those injection wells. The board may:

(a) issue, suspend, revoke, modify, or deny permits to operate carbon dioxide injection wells and class II injection wells, consistent with rules made by it and pursuant to 82-11-123. If a permit for a carbon dioxide injection well is revoked, an operator may not seek a refund of application or permitting fees or fees paid pursuant to 82-11-181 or 82-11-184(2)(b).

(b) examine plans and other information needed to determine whether a permit should be issued or require changes in plans as a condition to the issuance of a permit;

(c) clearly specify in a permit any limitations imposed as to the volume and characteristics of the fluids to be injected and the operation of the well;

(d) authorize its staff to enter upon any public or private property at reasonable times to:

(i) investigate conditions relating to violations of permit conditions;

(ii) have access to and copy records required under this chapter;

(iii) inspect monitoring equipment or methods; and

(iv) sample fluids that the operator or geologic storage operator is required to sample; and

(e) adopt standards for the design, construction, testing, and operation of carbon dioxide injection wells and class II injection wells.

(6) The board shall determine, for the purposes of using the oil and gas production damage mitigation account established in 82-11-161 or the geologic storage reservoir program account established in ~~85-11-181~~ 82-11-181:

(a) when the person responsible for an abandoned well, sump, or hole cannot be identified or located~~,~~ or, if the person is identified or located, when the person does not have sufficient financial resources to properly plug the well, sump, or hole; or

(b) when a previously abandoned well, sump, or hole is the cause of potential environmental problems

and a responsible party cannot be identified or located or, if a responsible party can be identified and located, when the person does not have sufficient financial resources to correct the problems.

(7) The board may take measures to demonstrate to the general public the importance of the state's oil and gas exploration and production industry, to encourage and promote the wise and efficient use of energy, to promote environmentally sound exploration and production methods and technologies, to develop the state's oil and gas resources, and to support research and educational activities concerning the oil and natural gas exploration and production industry. The board may:

(a) make grants or loans and provide other forms of financial assistance as necessary or appropriate from available funds to qualified persons for research, development, marketing, educational projects, and processes or activities directly related to the state's oil and gas exploration and production industry;

(b) enter into contracts or agreements to carry out the purposes of this subsection (7), including the authority to contract for the administration of an oil and gas research, development, marketing, and educational program;

(c) cooperate with any private, local, state, or national commission, organization, agent, or group and enter into contracts and agreements for programs benefiting the oil and gas exploration and production industry;

(d) coordinate with the Montana university system, including Montana tech of the university of Montana or any of its affiliated research programs;

(e) accept donations, grants, contributions, and gifts from any public or private source for deposit in the oil and gas education and research account established in 82-11-110;

(f) distribute funds from the oil and gas education and research account to carry out the provisions of this subsection (7); and

(g) make orders and rules to implement the provisions of this subsection (7).

(8) (a) Before holding a hearing on a proposed permit for a carbon dioxide injection well, the board shall solicit, document, consider, and address comments from the department of environmental quality on the proposal.

(b) Notwithstanding the provisions of subsection (8)(a), the board makes the final decision on issuance of a permit.

(9) Solely for the purposes of administering carbon dioxide injection wells under this part, carbon dioxide within a geologic storage reservoir is not a pollutant, a nuisance, or a hazardous or deleterious substance."

Section 42. Section 85-2-436, MCA, is amended to read:

"85-2-436. Instream flow to protect, maintain, or enhance streamflows to benefit fishery resource -- change in appropriation rights by department of fish, wildlife, and parks until June 30, 2019. (1) The department of fish, wildlife, and parks may change an appropriation right, which it either holds in fee simple or leases, to an instream flow purpose of use and a defined place of use to protect, maintain, or enhance streamflows to benefit the fishery resource.

(2) The change in purpose of use or place of use must meet all the criteria and process of 85-2-307 through 85-2-309, 85-2-401, and 85-2-402 and the additional criteria and process in subsection (3) of this section to protect the rights of other appropriators from adverse impacts.

(3) (a) The department of fish, wildlife, and parks, with the consent of the commission, may lease existing rights for the purpose of protecting, maintaining, or enhancing streamflows to benefit the fishery resource.

(b) Upon receipt of a correct and complete application for a change in purpose of use or place of use from the department of fish, wildlife, and parks, the department shall publish notice of the application as provided in 85-2-307. Parties who believe that they may be adversely affected by the proposed change in appropriation right may file an objection as provided in 85-2-308. A change in appropriation right may not be approved until all objections are resolved. After resolving all objections filed under 85-2-308, the department shall authorize a change of an existing appropriation right for the purpose of protecting, maintaining, or enhancing streamflows to benefit the fishery resource if the applicant submits a correct and complete application and meets the requirements of 85-2-402.

(c) The application for a change in appropriation right authorization must include specific information on the length and location of the stream reach in which the streamflow is to be protected, maintained, or enhanced and must provide a detailed streamflow measuring plan that describes the points where and the manner in which the streamflow must be measured.

(d) The maximum quantity of water that may be changed to instream flow is the amount historically diverted. However, only the amount historically consumed, or a smaller amount if specified by the department in the change in appropriation right authorization, may be used to protect, maintain, or enhance streamflows below the point of diversion that existed prior to the change in appropriation right.

(e) A lease for instream flow purposes may be entered for a term of up to 10 years, except that a lease of water made available from the development of a water conservation or storage project may be for a term equal

to the expected life of the project but not more than 30 years. All leases may be renewed an indefinite number of times but not for more than 10 years for each term. Upon receiving notice of a lease renewal, the department shall notify other appropriators potentially affected by the lease and shall allow 90 days for submission of new evidence of adverse effects to other water rights. A change in appropriation right authorization is not required for a renewal unless an appropriator other than an appropriator described in subsection (3)(i) submits evidence of adverse effects to the appropriator's rights that has not been considered previously. If new evidence is submitted, a change in appropriation right authorization must be obtained according to the requirements of 85-2-402.

(f) The department may modify or revoke the change in appropriation right authorization up to 10 years after it is approved if an appropriator other than an appropriator described in subsection (3)(i) submits new evidence not available at the time the change in appropriation right was approved that proves by a preponderance of evidence that the appropriator's water right is adversely affected.

(g) The priority of appropriation for a lease or change in appropriation right under this section is the same as the priority of appropriation of the right that is changed to an instream flow purpose.

(h) Neither a change in appropriation right nor any other authorization is required for the reversion of a leased appropriation right to the lessor's previous use.

(i) A person issued a water use permit with a priority of appropriation after the date of filing of an application for a change in appropriation right authorization under this section may not object to the exercise of the changed water right according to its terms or the reversion of a leased appropriation right to the lessor according to the lessor's previous use.

(j) The department of fish, wildlife, and parks shall pay all costs associated with installing devices or providing personnel to measure streamflows according to the measuring plan required under this section.

(4) (a) The department of fish, wildlife, and parks shall complete and submit to the department, commission, and environmental quality council a biennial progress report by December 1 of odd-numbered years. This report must include a summary of all appropriation rights changed to an instream flow purpose in the last 2 years.

(b) For each change in appropriation right to an instream flow purpose, the report must include a copy of the change authorization issued by the department and must address:

(i) the length of the stream reach and how it is determined;

(ii) critical streamflow or volume needed to protect, maintain, or enhance streamflow to benefit the fishery

resource;

(iii) the amount of water available for instream flow as a result of the change in appropriation right;

(iv) contractual parameters, conditions, and other steps taken to ensure that each change in appropriation right does not harm other appropriators, particularly if the stream is one that experiences natural dewatering; and

(v) methods used to monitor use of water under each change in appropriation right.

(5) This section does not create the right for a person to bring suit to compel the renewal of a lease that has expired.

(6) (a) From May 8, 2007, through June 30, 2019, the department of fish, wildlife, and parks may change, pursuant to this section, the appropriation rights that it holds in fee simple to instream flow purposes on no more than 12 stream reaches.

(b) After June 30, 2019, the department of fish, wildlife, and parks may not change the appropriation rights that it holds in fee simple to instream flow purposes on any stream reaches.

(7) After June 30, 2019, the department of fish, wildlife, and parks may not enter into any new lease agreements pursuant to this section or renew any leases that expire after that date."

Section 43. Section 87-2-101, MCA, is amended to read:

"87-2-101. Definitions. As used in 87-1-102, Title 87, chapter 3, and this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Angling" or "fishing" means to take or the act of a person possessing any instrument, article, or substance for the purpose of taking fish in any location that a fish might inhabit.

(2) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area inhabited by wildlife for the purpose of attracting game animals or game birds.

(b) The term does not include:

(i) decoys, silhouettes, or other replicas of wildlife body forms;

(ii) scents used only to mask human odor; or

(iii) types of scents that are approved by the commission for attracting game animals or game birds.

(3) "Closed season" means the time during which game birds, game fish, ~~and~~ game animals, and fur-bearing animals may not be lawfully taken.

(4) "Commission" means the state fish, wildlife, and parks commission.

(5) "Fur-bearing animals" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox, and beaver.

(6) "Game animals" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, mountain lion, bear, and wild buffalo.

(7) "Game fish" means all species of the family ~~salmonidae~~ Salmonidae (chars, trout, salmon, grayling, and whitefish); all species of the genus ~~stizostedion~~ Sander (sandpike or sauger and walleyed pike or yellowpike perch); all species of the genus ~~esox~~ Esox (northern pike, pickerel, and muskellunge); all species of the genus ~~micropterus~~ Micropterus (bass); all species of the genus ~~polyodon~~ Polyodon (paddlefish); all species of the family ~~acipenseridae~~ Acipenseridae (sturgeon); all species of the genus ~~lota~~ Lota (burbot or ling); the species ~~perca~~ Perca flavescens (yellow perch); all species of the genus ~~pomoxis~~ Pomoxis (crappie); and the species ~~ictalurus~~ Ictalurus punctatus (channel catfish).

(8) "Hunt" means to pursue, shoot, wound, kill, chase, lure, possess, or capture or the act of a person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of shooting, wounding, killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take by any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing.

(9) "Migratory game birds" means:

(a) waterfowl, including wild ducks, wild geese, brant, and swans;

(b) cranes, including little brown and sandhill;

(c) rails, including coots;

(d) ~~wilson's~~ Wilson's snipes or jacksnipes; and

(e) mourning doves.

(10) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other animal not otherwise legally classified by statute or regulation of this state.

(11) "Open season" means the time during which game birds, game fish, ~~and~~ game animals, and fur-bearing animals may be lawfully taken.

(12) "Person" means ~~individuals, associations, partnerships, and corporations~~ an individual, association, partnership, or corporation.

(13) "Predatory animals" means coyote, weasel, skunk, and civet cat.

(14) "Trap" means to take or participate in the taking of any wildlife protected by the laws of the state by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove wildlife from any of these devices.

(15) "Upland game birds" means ~~sharptailed~~ sharp-tailed grouse, blue grouse, spruce (Franklin) grouse, prairie chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild turkey, and chukar partridge.

(16) "Wild buffalo" means buffalo or bison that have not been reduced to captivity."

Section 44. Section 87-3-236, MCA, is amended to read:

"87-3-236. (Temporary) Warm water game fish surcharge and stamp -- warm water game fish defined -- accounts established -- dedication of revenue to Fort Peck multispecies fish hatchery. (1) A person who is required to be licensed in order to fish in Montana and who desires to fish in waters listed pursuant to subsection (9) shall, upon purchase of a Class A, Class B, Class B-4, Class B-5, or Class A-8 fishing license, pay a warm water game fish surcharge of $5. The surcharge is in addition to the license fee established for each class of license and entitles the holder to fish in the waters listed pursuant to subsection (9) as authorized by the department. Payment of the surcharge must be indicated by placement of a warm water game fish stamp on the fishing license.

(2) A warm water game fish stamp is valid for the license year in which it is purchased.

(3) Revenue from the warm water game fish surcharge must be placed in the account created in subsection (5) and may be used only for the purposes set out in subsection (7).

(4) As used in this section, "warm water game fish" includes but is not limited to all species of the genera ~~Stizostedion~~ Sander, Esox, Micropterus, and Lota and includes largemouth bass (Micropterus salmoides), smallmouth bass (Micropterus dolomieui), walleye ~~(Stizostedion vitreum)~~ (Sander vitreus), sauger ~~(Stizostedion canadense)~~ (Sander canadensis), black crappie (Pomoxis nigromaculatus), white crappie (Pomoxis annularis), channel catfish (Ictalurus punctatus), yellow perch (Perca flavescens), northern pike (Esox lucius), pallid sturgeon (Scaphirhynchus albus), paddlefish (Polyodon spathula), ~~other warm water species classified as species of special concern, threatened, or endangered,~~ chinook salmon (Oncorhynchus tshawytscha), ~~and~~ tiger muskellunge, and other warm water species classified as species of special concern, threatened, or endangered.

(5) There is an account into which must be deposited:

(a) all proceeds from the warm water game fish surcharge established in subsection (1); and

(b) money received by the department in the form of gifts, grants, reimbursements, or appropriations from any source intended to be used for the Fort Peck multispecies fish hatchery.

(6) The department shall administer the account within the state special revenue fund established in 17-2-102.

(7) Subject to the provisions of subsection (8), revenue collected under subsection (5) must be used by the department for the operation, maintenance, and personnel costs of the Fort Peck multispecies fish hatchery established in 87-3-235, which may include the costs incurred in eradicating illegally introduced warm water species from Montana waters. No more than 15% of available revenue may be dedicated to eradication efforts.

(8) The department may not use any nonfederal funds for the hatchery authorized in 87-3-235 other than those in the account provided for in subsection (5). There is an account in the federal special revenue fund into which must be deposited all federal money received for purposes of the Fort Peck multispecies fish hatchery and from which the department may use funds for the hatchery authorized in 87-3-235.

(9) The department shall prepare a list of all waters into which fish from the Fort Peck multispecies fish hatchery will be planted. All waters listed in the Montana fishing regulations that require a warm water stamp and waters planted or waters that will be planted with fish from the Fort Peck multispecies fish hatchery must be permanently included on the list. The waters designated in the list are the only waters for which a warm water game fish stamp is required. (Repealed effective March 1, 2012--secs. 3, 4(2), Ch. 431, L. 2009.)"

Section 45. Section 87-5-714, MCA, is amended to read:

"87-5-714. Wildlife species authorized for introduction or transplantation. (1) The following wildlife species may be introduced or transplanted by the department based upon scientific investigation and upon approval of the commission:

(a) gray (Hungarian) partridge (Perdix perdix);

(b) chukar partridge (Alectoris chukar);

(c) ring-necked pheasant (Phasianus colchicus);

(d) turkey (Meleagris gallopavo);

(e) rainbow trout (Salmo gairdneri);

(f) golden trout (Salmo aquabonita);

(g) brown trout (Salmo trutta);

(h) brook trout (Salvelinus fontinalis);

(i) lake trout (Salvelinus namaycush);

(j) northern pike (Esox lucius);

(k) black bullhead (Ictalurus melas);

(l) yellow bullhead (Ictalurus natalis);

(m) largemouth bass (Micropterus salmoides);

(n) smallmouth bass (Micropterus dolomieui);

(o) pumpkinseed sunfish (Lepomis gibbosus);

(p) bluegill (Lepomis macrochirus);

(q) green sunfish (Lepomis cyanellus);

(r) rock bass (Ambloplites rupestris);

(s) black crappie (Pomoxis nigromaculatus);

(t) white crappie (Pomoxis annularis);

(u) yellow perch (Perca flavescens);

(v) walleye ~~(Stizostedion vitreum)~~ (Sander vitreus);

(w) cisco (tulibee) (Coregonus artedii);

(x) spottail shiner (Notropis hudsonius);

(y) kokanee salmon (Oncorhynchus nerka);

(z) chinook salmon (Oncorhynchus tshawytscha);

(aa) lake whitefish (Coregonus clupeaformis);

(bb) golden shiner (Notemigonus crysoleucas).

(2) The commission may by rule and subject to the provisions of 87-5-711 authorize the department to transplant or introduce species of wildlife not listed in subsection (1)."

Section 46. Section 90-3-1301, MCA, is amended to read:

"90-3-1301. Geothermal research. (1) Subject to subsection (2), the Montana bureau of mines and geology may conduct geothermal research that:

(a) characterizes the geothermal resource base in Montana;

(b) tests high-temperature and high-pressure drilling technologies benefiting geothermal well construction; and

(c) determines reservoir characterization, monitoring, and modeling necessary for commercial application in Montana.

(2) If the research is conducted on private property, the bureau must have written agreements with:

(a) the surface property owner and any owners of the geothermal resource for access and use of the site for research purposes; and

(b) subject to subsections (3) and (4), the utility, as defined in 69-5-102, with a service area nearest the research site if the utility intends to commercially develop the site.

(3) If the utility with a service area nearest the research site intends to develop the site for future commercial use, the utility shall:

(a) contribute, at a minimum, 25% of the research costs as determined by the bureau for research at the site; and

(b) have an agreement in place with the surface property owner and any owners of the geothermal resource where the research site is located for future development of the geothermal resource.

(4) If the utility with a service area nearest the research site does not intend to develop the site for commercial use, the utility with a service area next nearest the site may enter into a written agreement pursuant to subsection (2)(b). If a utility does not intend to develop the site for future commercial use, the agreement pursuant to subsection (2)(b) is not required.

(5) In determining the utility with a service area nearest the site, all measurements must be made on the shortest vector that can be drawn from the line nearest the service area to the nearest portion of the geothermal site.

(6) Prior to September 1 of each even-numbered year, the bureau shall update the energy and telecommunications interim committee on research conducted pursuant to this section and funding received pursuant to 90-3-1302.

~~[(a) a ranking of the top five locations in Montana that offer the best opportunity for near-term development of geothermal energy; and~~

~~(b) an estimate of the cost associated with development of each site.]~~"

Section 47. Section 8, Chapter 330, Laws of 2009, is amended to read:

"**Section 8. Termination.** ~~[Section 3] terminates~~ [Sections 1 and 3] terminate June 30, 2013."

Section 48. Repealer. The following section of the Montana Code Annotated is repealed:

5-11-221. Distribution of proceedings of 1972 constitutional convention.

Section 49. Directions to code commissioner. The code commissioner is directed to implement 1-11-101(2)(g)(ii) by correcting any clearly inaccurate references to other sections of the Montana Code Annotated contained in material enacted by the 62nd legislature.

- END -

I hereby certify that the within bill,

SB 0031, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day

of _____, 2011.

Speaker of the House

Signed this _____ day

of _____, 2011.

SENATE BILL NO. 31

INTRODUCED BY D. WANZENRIED

BY REQUEST OF THE CODE COMMISSIONER

AN ACT GENERALLY REVISING AND CLARIFYING THE MONTANA CODE ANNOTATED; DIRECTING THE CODE COMMISSIONER TO CORRECT ERRONEOUS REFERENCES CONTAINED IN MATERIAL ENACTED BY THE 62ND LEGISLATURE; AMENDING SECTIONS 7-3-4324, 7-6-2541, 10-3-1308, 10-4-311, 10-4-313, 15-30-2339, 15-35-108, 15-36-304, 15-66-102, 15-70-324, 16-2-203, 16-11-119, 17-1-511, 20-7-1201, 20-9-235, 25-9-608, 30-10-103, 30-10-104, 30-13-338, 32-2-406, 32-9-103, 33-2-1323, 35-16-303, 37-15-103, 46-6-412, 50-4-504, 50-15-114, 50-40-104, 50-40-201, 53-6-1001, 61-11-203, 69-3-111, 69-3-2004, 69-5-104, 70-27-111, 72-3-916, 75-1-207, 75-15-103, 75-20-104, 76-2-303, 82-11-111, 85-2-436, 87-2-101, 87-3-236, 87-5-714, AND 90-3-1301, MCA; AMENDING SECTION 8, CHAPTER 330, LAWS OF 2009; AND REPEALING SECTION 5-11-221, MCA.