

SENATE BILL NO. 210

INTRODUCED BY S. MALEK

1
2
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PUBLIC SERVICE COMMISSION LAWS; CHANGING
5 THE NAME OF THE PUBLIC SERVICE COMMISSION AND DEPARTMENT OF PUBLIC SERVICE
6 REGULATION TO PUBLIC UTILITY COMMISSION AND DEPARTMENT OF PUBLIC UTILITY REGULATION;
7 REQUIRING THE APPOINTMENT OF PUBLIC UTILITY COMMISSIONERS; ESTABLISHING QUALIFICATIONS
8 FOR PUBLIC UTILITY COMMISSIONERS; ESTABLISHING A METHOD FOR SETTING COMMISSION
9 SALARIES; AND AMENDING SECTIONS 2-4-102, 2-15-104, 2-15-1021, 2-15-2212, 2-15-2601, 2-15-2602,
10 2-16-405, 2-16-602, 2-18-101, 2-18-104, 5-5-230, 5-7-102, 7-2-4736, 7-3-4302, 7-7-4428, 7-10-215, 7-13-4107,
11 7-14-4401, 10-1-1010, 10-3-1306, 10-3-1309, 13-12-207, 13-37-216, 13-37-226, 13-37-240, 15-2-303, 15-6-138,
12 15-6-141, 15-23-101, 15-23-301, 15-31-114, 15-32-107, 18-4-302, 20-8-121, 27-19-203, 30-14-105, 30-14-1104,
13 30-14-1405, 30-14-1702, 30-16-303, 31-1-501, 35-18-104, 39-9-211, 53-1-704, 61-3-716, 61-3-722, 61-10-154,
14 69-1-101, 69-1-102, 69-1-103, 69-1-104, 69-1-105, 69-1-106, 69-1-107, 69-1-112, 69-1-201, 69-1-223, 69-1-224,
15 69-1-401, 69-1-403, 69-3-204, 69-3-307, 69-3-601, 69-3-701, 69-3-803, 69-3-901, 69-3-1003, 69-3-1004,
16 69-3-1006, 69-3-1007, 69-3-1205, 69-4-305, 69-4-314, 69-4-356, 69-5-121, 69-8-201, 69-8-215, 69-11-421,
17 69-11-422, 69-12-302, 69-12-408, 69-12-421, 69-12-423, 69-12-601, 69-14-604, 69-14-607, 69-14-701,
18 69-14-910, 75-1-201, 75-6-306, 75-10-404, 75-20-216, 76-3-622, 85-1-510, 85-1-511, 85-1-512, 85-1-513,
19 85-7-1419, 90-4-1202, AND 90-4-1210, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

20
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22
23 **Section 1.** Section 2-4-102, MCA, is amended to read:
24 **"2-4-102. Definitions.** For purposes of this chapter, the following definitions apply:
25 (1) "Administrative rule review committee" or "committee" means the appropriate committee assigned
26 subject matter jurisdiction in Title 5, chapter 5, part 2.
27 (2) (a) "Agency" means an agency, as defined in 2-3-102, of state government, except that the provisions
28 of this chapter do not apply to the following:
29 (i) the state board of pardons and parole, which is exempt from the contested case and judicial review
30 of contested cases provisions contained in this chapter. However, the board is subject to the remainder of the

1 provisions of this chapter.

2 (ii) the supervision and administration of a penal institution with regard to the institutional supervision,
3 custody, control, care, or treatment of youth or prisoners;

4 (iii) the board of regents and the Montana university system;

5 (iv) the financing, construction, and maintenance of public works;

6 (v) the public ~~service~~ utility commission when conducting arbitration proceedings pursuant to 47 U.S.C.
7 252 and 69-3-837.

8 (b) The term does not include a school district, a unit of local government, or any other political
9 subdivision of the state.

10 (3) "ARM" means the Administrative Rules of Montana.

11 (4) "Contested case" means a proceeding before an agency in which a determination of legal rights,
12 duties, or privileges of a party is required by law to be made after an opportunity for hearing. The term includes
13 but is not restricted to ratemaking, price fixing, and licensing.

14 (5) (a) "Interested person" means a person who has expressed to the agency an interest concerning
15 agency actions under this chapter and has requested to be placed on the agency's list of interested persons as
16 to matters of which the person desires to be given notice.

17 (b) The term does not extend to contested cases.

18 (6) "License" includes the whole or part of an agency permit, certificate, approval, registration, charter,
19 or other form of permission required by law but does not include a license required solely for revenue purposes.

20 (7) "Licensing" includes an agency process respecting the grant, denial, renewal, revocation,
21 suspension, annulment, withdrawal, limitation, transfer, or amendment of a license.

22 (8) "Party" means a person named or admitted as a party or properly seeking and entitled as of right to
23 be admitted as a party, but this chapter may not be construed to prevent an agency from admitting any person
24 as a party for limited purposes.

25 (9) "Person" means an individual, partnership, corporation, association, governmental subdivision,
26 agency, or public organization of any character.

27 (10) "Register" means the Montana Administrative Register.

28 (11) (a) "Rule" means each agency regulation, standard, or statement of general applicability that
29 implements, interprets, or prescribes law or policy or describes the organization, procedures, or practice
30 requirements of an agency. The term includes the amendment or repeal of a prior rule.

1 (b) The term does not include:

2 (i) statements concerning only the internal management of an agency or state government and not
3 affecting private rights or procedures available to the public, including rules implementing the state personnel
4 classification plan, the state wage and salary plan, or the statewide accounting, budgeting, and human resource
5 system;

6 (ii) formal opinions of the attorney general and declaratory rulings issued pursuant to 2-4-501;

7 (iii) rules relating to the use of public works, facilities, streets, and highways when the substance of the
8 rules is indicated to the public by means of signs or signals;

9 (iv) seasonal rules adopted annually or biennially relating to hunting, fishing, and trapping when there is
10 a statutory requirement for the publication of the rules and rules adopted annually or biennially relating to the
11 seasonal recreational use of lands and waters owned or controlled by the state when the substance of the rules
12 is indicated to the public by means of signs or signals; or

13 (v) uniform rules adopted pursuant to interstate compact, except that the rules must be filed in
14 accordance with 2-4-306 and must be published in the ARM.

15 (12) (a) "Significant interest to the public" means agency actions under this chapter regarding matters
16 that the agency knows to be of widespread citizen interest. These matters include issues involving a substantial
17 fiscal impact to or controversy involving a particular class or group of individuals.

18 (b) The term does not extend to contested cases.

19 (13) "Small business" means a business entity, including its affiliates, that is independently owned and
20 operated and that employs fewer than 50 full-time employees.

21 (14) "Substantive rules" are either:

22 (a) legislative rules, which if adopted in accordance with this chapter and under expressly delegated
23 authority to promulgate rules to implement a statute have the force of law and when not so adopted are invalid;
24 or

25 (b) adjective or interpretive rules, which may be adopted in accordance with this chapter and under
26 express or implied authority to codify an interpretation of a statute. The interpretation lacks the force of law."

27

28 **Section 2.** Section 2-15-104, MCA, is amended to read:

29 **"2-15-104. Structure of executive branch.** (1) In accordance with the constitution, all executive and
30 administrative offices, boards, commissions, agencies, and instrumentalities of the executive branch of state

1 government and their respective functions are allocated by this chapter among and within the following
2 departments or entities:

- 3 (a) department of administration;
- 4 (b) department of military affairs;
- 5 (c) department of revenue;
- 6 (d) state board of education;
- 7 (e) department of labor and industry;
- 8 (f) department of commerce;
- 9 (g) department of justice;
- 10 (h) department of public health and human services;
- 11 (i) department of corrections;
- 12 (j) department of transportation;
- 13 (k) department of public ~~service~~ utility regulation;
- 14 (l) department of agriculture;
- 15 (m) department of livestock;
- 16 (n) department of natural resources and conservation;
- 17 (o) department of fish, wildlife, and parks;
- 18 (p) department of environmental quality.

19 (2) For its internal structure, each department shall adhere to the following standard terms that establish
20 the principal unit of a:

- 21 (a) ~~The principal unit of a department is~~ as a division. Each division is headed by an administrator.
- 22 (b) ~~The principal unit of a division is~~ as a bureau. Each bureau is headed by a chief.
- 23 (c) ~~The principal unit of a bureau is~~ as a section. Each section is headed by a supervisor."

24
25 **Section 3.** Section 2-15-1021, MCA, is amended to read:
26 **"2-15-1021. Information technology board -- membership -- qualifications -- vacancies --**
27 **compensation.** (1) There is an information technology board. The board consists of 19 members who are
28 appointed as follows:

- 29 (a) the director of the department of administration, who serves as presiding officer of the board;
- 30 (b) the chief information officer provided for in 2-17-511;

- 1 (c) the director of the office of budget and program planning;
- 2 (d) six members who are directors of state agencies and who are appointed by the governor;
- 3 (e) two members representing local government, appointed by the governor;
- 4 (f) one member representing the public ~~service~~ utility commission, appointed by the public ~~service~~ utility
- 5 commission;
- 6 (g) one member representing the private sector, appointed by the governor;
- 7 (h) one member of the house of representatives, appointed by the speaker of the house of
- 8 representatives;
- 9 (i) one member of the senate, appointed by the president of the senate;
- 10 (j) one member representing the legislative branch, appointed by the legislative branch information
- 11 technology planning council;
- 12 (k) one member representing the judicial branch, appointed by the chief justice of the supreme court;
- 13 (l) one member representing the university system, appointed by the board of regents; and
- 14 (m) one member representing K-12 education, appointed by the superintendent of public instruction.
- 15 (2) Appointments must be made without regard to political affiliation and must be made solely for the
- 16 wise management of the information technology resources used by the state.
- 17 (3) A vacancy occurring on the board must be filled by the appointing authority in the same manner as
- 18 the original appointment.
- 19 (4) The board shall function in an advisory capacity as defined in 2-15-102.
- 20 (5) Members of the board must be reimbursed and compensated in the same manner as members of
- 21 quasi-judicial boards under 2-15-124(7), except that legislative members are reimbursed and compensated as
- 22 provided in 5-2-302."

23

24 **Section 4.** Section 2-15-2212, MCA, is amended to read:

25 **"2-15-2212. Committee on telecommunications access services for persons with disabilities --**

26 **composition -- allocation.** (1) There is a committee on Montana telecommunications access services for

27 persons with disabilities.

28 (2) The committee consists of 13 members appointed by the governor as follows:

29 (a) four members who are persons with disabilities, two of whom must be deaf or hard-of-hearing;

30 (b) two members who are not persons with disabilities, one of whom must be engaged in a business

1 other than a business in the telecommunications industry and one of whom must be a senior citizen;

2 (c) one member from the department of public health and human services;

3 (d) one member from the largest service provider in Montana;

4 (e) one member from an independent service provider;

5 (f) one member from an interLATA interexchange carrier;

6 (g) one member from the public ~~service~~ utility commission;

7 (h) one member who is a licensed audiologist; and

8 (i) one member from the department of administration.

9 (3) The committee is allocated to the department of public health and human services for administrative
10 purposes only as provided in 2-15-121."

11

12 **Section 5.** Section 2-15-2601, MCA, is amended to read:

13 **"2-15-2601. Department of public ~~service~~ utility regulation -- head.** There is a department of public
14 ~~service~~ utility regulation. The department head is the public ~~service~~ utility commission provided for in 2-15-2602."

15

16 **Section 6.** Section 2-15-2602, MCA, is amended to read:

17 **"2-15-2602. Public ~~service~~ utility commission -- composition.** (1) There is a public ~~service~~ utility
18 commission as provided in Title 69, chapter 1, part 1.

19 (2) The composition, method of selection, and terms of office of members of the commission are as
20 prescribed in Title 69, chapter 1, part 1."

21

22 **Section 7.** Section 2-16-405, MCA, is amended to read:

23 **"2-16-405. Salaries of certain elected state officials.** (1) The salaries paid to the following elected
24 officials are determined as provided in subsection (2):

25 (a) governor;

26 (b) lieutenant governor;

27 (c) attorney general;

28 (d) state auditor;

29 (e) superintendent of public instruction;

30 ~~(f) public service commission presiding officer;~~

1 ~~_____ (g) public service commissioners, other than presiding officer;~~

2 ~~(h)(f)~~ secretary of state;

3 ~~(i)(g)~~ clerk of the supreme court.

4 (2) Before June 30 of each even-numbered year, the department of administration shall conduct a salary
5 survey of executive branch officials with similar titles to the Montana officials listed in subsection (1) for the states
6 of North Dakota, South Dakota, Wyoming, and Idaho. The department shall include the salary for the Montana
7 official in determining the average salary for the officials with similar titles. If the average salary is greater than
8 the salary for the official in Montana, then beginning July 1 of the year following the year in which the survey is
9 conducted, the average salary is the new salary for the official."

10

11 **Section 8.** Section 2-16-602, MCA, is amended to read:

12 **"2-16-602. Definitions.** As used in this part, the following definitions apply:

13 (1) "Political subdivision" means a local government unit including but not limited to a county, city, or
14 town established under authority of Article XI, section 1, of The Constitution of the State of Montana or a school
15 district.

16 (2) "Public office" means a position of duty, trust, or authority created by the constitution or by the
17 legislature or by a political subdivision through authority conferred by the constitution or the legislature that meets
18 the following criteria:

19 (a) the position must possess a delegation of a portion of the sovereign power of government to be
20 exercised for the benefit of the public;

21 (b) the powers conferred and the duties to be discharged must be defined, directly or impliedly, by the
22 constitution, the legislature, or by a political subdivision through legislative authority;

23 (c) the duties must be performed independently and without control of a superior power other than the
24 law, unless the legislature has created the position and placed it under the general control of a superior office or
25 body; and

26 (d) the position must have some permanency and continuity and not be only temporary or occasional.

27 (3) "State-district" means ~~a public service commission district~~; a legislative representative or senatorial
28 district; or a judicial district."

29

30 **Section 9.** Section 2-18-101, MCA, is amended to read:

1 **"2-18-101. Definitions.** As used in parts 1 through 3 and part 10 of this chapter, the following definitions
2 apply:

3 (1) "Agency" means a department, board, commission, office, bureau, institution, or unit of state
4 government recognized in the state budget.

5 (2) "Base salary" means the amount of compensation paid to an employee, excluding:

6 (a) state contributions to group benefits provided in 2-18-703;

7 (b) overtime;

8 (c) fringe benefits as defined in 39-2-903; and

9 (d) the longevity allowance provided in 2-18-304.

10 (3) "Benchmark" means a representative position in a specific occupation that is used to illustrate the
11 application of the job evaluation factor used to determine the pay band for an occupation.

12 (4) "Board" means the board of personnel appeals established in 2-15-1705.

13 (5) "Broadband classification plan" means a job evaluation method that measures the difficulty of the
14 work and the knowledge or skills required to perform the work.

15 (6) "Broadband pay plan" means a pay plan using a pay hierarchy of broad pay bands based on the
16 broadband classification plan.

17 (7) "Compensation" means the annual or hourly wage or salary and includes the state contribution to
18 group benefits under the provisions of 2-18-703.

19 (8) "Competencies" means sets of measurable and observable knowledge, skills, and behaviors that
20 contribute to success in a position.

21 (9) "Competitive pay zone" means that portion of the pay range for a band level of an occupation that
22 is most consistent with the pay being offered by competing employers for fully competent employees within that
23 occupation.

24 (10) "Department" means the department of administration created in 2-15-1001.

25 (11) (a) Except in 2-18-306, "employee" means any state employee other than an employee excepted
26 under 2-18-103 or 2-18-104.

27 (b) The term does not include a student intern.

28 (12) "Job evaluation factor" means a measure of the complexities of the predominant duties of a position.

29 (13) "Job sharing" means the sharing by two or more persons of a position.

30 (14) "Market salary" means the median base salary that other employers pay to employees in comparable

1 occupations as determined by the department's salary survey of the relevant labor market.

2 (15) "Occupation" means a generalized family of positions having substantially similar duties and
3 requiring similar qualifications, education, and experience.

4 (16) "Pay band" means a wide salary range covering a number of different occupations.

5 (17) "Permanent employee" means an employee who is designated by an agency as permanent and who
6 has attained or is eligible to attain permanent status.

7 (18) "Permanent status" means the state an employee attains after satisfactorily completing an
8 appropriate probationary period.

9 (19) "Personal staff" means those positions occupied by employees appointed by the elected officials
10 enumerated in Article VI, section 1, of the Montana constitution ~~or by the public service commission as a whole.~~

11 (20) "Position" means a collection of duties and responsibilities currently assigned or delegated by
12 competent authority, requiring the full-time, part-time, or intermittent employment of one person.

13 (21) "Program" means a combination of planned efforts to provide a service.

14 (22) "Seasonal employee" means a permanent employee who is designated by an agency as seasonal,
15 who performs duties interrupted by the seasons, and who may be recalled without the loss of rights or benefits
16 accrued during the preceding season.

17 (23) "Short-term worker" means a person who:

18 (a) is hired by an agency for an hourly wage established by the agency;

19 (b) may not work for the agency for more than 90 days in a continuous 12-month period;

20 (c) is not eligible for permanent status;

21 (d) may not be hired into another position by the agency without a competitive selection process; and

22 (e) is not eligible to earn the leave and holiday benefits provided in part 6 of this chapter or the group
23 insurance benefits provided in part 7 of this chapter.

24 (24) "Student intern" means a person who:

25 (a) has been accepted in or is currently enrolled in an accredited school, college, or university and is
26 hired directly by an agency in a student intern position;

27 (b) is not eligible for permanent status;

28 (c) is not eligible to become a permanent employee without a competitive selection process;

29 (d) must be covered by the hiring agency's workers' compensation insurance;

30 (e) is not eligible to earn the leave and holiday benefits provided for in part 6 of this chapter or the group

1 insurance benefits provided in part 7 of this chapter; and

2 (f) may be discharged without cause.

3 (25) "Telework" means a flexible work arrangement where a designated employee may work from home
4 within the state of Montana or an alternative worksite within the state of Montana 1 or more days a week instead
5 of physically traveling to a central workplace.

6 (26) "Temporary employee" means an employee who:

7 (a) is designated as temporary by an agency for a definite period of time not to exceed 12 months;

8 (b) performs temporary duties or permanent duties on a temporary basis;

9 (c) is not eligible for permanent status;

10 (d) is terminated at the end of the employment period; and

11 (e) is not eligible to become a permanent employee without a competitive selection process."

12

13 **Section 10.** Section 2-18-104, MCA, is amended to read:

14 **"2-18-104. Exemption for personal staff -- limit.** (1) Subject to the limitations in ~~subsections (2) and~~
15 ~~(3)~~ subsection (2), members of a personal staff are exempt from parts 1 through 3 and 10.

16 (2) The personal staff ~~who are~~ exempted by subsection (1) may not exceed 10 unless otherwise
17 approved by the department according to criteria developed by the department. ~~Under no circumstances may~~
18 ~~the~~ The total number of exemptions of for each elected official may not exceed 15 under any circumstances.

19 ~~(3) The number of members of the personal staff of the public service commission who are exempted~~
20 ~~by subsection (1) may not exceed 10."~~

21

22 **Section 11.** Section 5-5-230, MCA, is amended to read:

23 **"5-5-230. Energy and telecommunications interim committee.** The energy and telecommunications
24 interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring
25 functions for the department of public ~~service~~ utility regulation and the public ~~service~~ utility commission."

26

27 **Section 12.** Section 5-7-102, MCA, is amended to read:

28 **"5-7-102. Definitions.** The following definitions apply in this chapter:

29 (1) "Appointed state official" means an individual who is appointed:

30 (a) to public office in state government by the governor or the chief justice of the Montana supreme court

1 and who is subject to confirmation by the Montana senate;

2 (b) by the board of regents of higher education to serve either as the commissioner of higher education
3 or as the chief executive officer of a campus of the Montana university system; or

4 (c) by the board of trustees of a community college to serve as president.

5 (2) "Business" means:

6 (a) a holding or interest whose fair market value is greater than \$1,000 in a corporation, partnership, sole
7 proprietorship, firm, enterprise, franchise, association, self-employed person, holding company, joint-stock
8 company, receivership, trust, or other entity or property held in anticipation of profit, but does not include nonprofit
9 organizations; and

10 (b) present or past employment from which benefits, including retirement allowances, are received.

11 (3) "Commissioner" means the commissioner of political practices.

12 (4) "Docket" means the register of lobbyists and principals maintained by the commissioner pursuant
13 to 5-7-201.

14 (5) "Elected federal official" means a person elected to a federal office, including but not limited to a
15 member of the United States senate or house of representatives. The term includes an individual appointed to
16 fill the unexpired term of an elected federal official and an individual who has been elected to a federal office but
17 who has not yet been sworn in.

18 (6) "Elected local official" means an elected officer of a county, a consolidated government, an
19 incorporated city or town, a school district, or a special district. The term includes an individual appointed to fill
20 the unexpired term of an elected local official and an individual who has been elected to a local office but who
21 has not yet been sworn in.

22 (7) (a) "Elected state official" means an individual holding a state office filled by a statewide vote of all
23 the electors of Montana or a state district office, including but not limited to ~~public service commissioners and~~
24 district court judges. The term includes an individual appointed to fill the unexpired term of an elected state official
25 and an individual who has been elected to a statewide office but who has not yet been sworn in.

26 (b) The term does not include a legislator.

27 (8) "Elected tribal official" means an elected member of a tribal council or other elected office filled by
28 a vote of tribal members. The term includes an individual appointed to fill the unexpired term of an elected tribal
29 official and an individual who has been elected to a tribal office but who has not yet been sworn in.

30 (9) "Individual" means a human being.

1 (10) "Legislator" means an individual holding public office as a representative or a senator in the Montana
2 legislature. The term includes an individual who has been elected to the legislature but who has not yet been
3 sworn in.

4 (11) (a) "Lobbying" means:

5 (i) the practice of promoting or opposing the introduction or enactment of legislation before the legislature
6 or legislators; and

7 (ii) the practice of promoting or opposing official action of any public official or the legislature.

8 (b) The term does not include actions described in subsections (11)(a)(i) and (11)(a)(ii) when performed
9 by a public official, an elected local official, an elected federal official, or an elected tribal official while acting in
10 an official governmental capacity.

11 (12) (a) "Lobbyist" means a person who engages in the practice of lobbying.

12 (b) Lobbyist does not include:

13 (i) an individual acting solely on the individual's own behalf;

14 (ii) an individual working for the same principal as a licensed lobbyist if the individual does not have
15 personal contact involving lobbying with a public official or the legislature on behalf of the lobbyist's principal; or

16 (iii) an individual who receives payments from one or more persons that total less than the amount
17 specified under 5-7-112 in a calendar year.

18 (c) Nothing in this chapter deprives an individual who is not a lobbyist of the constitutional right to
19 communicate with public officials or the legislature.

20 (13) (a) "Payment" means distribution, transfer, loan, advance, deposit, gift, or other rendering made or
21 to be made of money, property, or anything of value:

22 (i) to a lobbyist to influence legislation or official action by an elected local official, a public official, or the
23 legislature;

24 (ii) directly or indirectly to a lobbyist by a principal, such as salary, fee, compensation, or reimbursement
25 for lobbying expenses; or

26 (iii) in support of or for assistance to a lobbyist or a lobbying activity, including but not limited to the direct
27 payment of expenses incurred at the request or suggestion of the lobbyist.

28 (b) The term does not include payments or reimbursements for:

29 (i) personal and necessary living expenses; or

30 (ii) travel expenses, unless a principal is otherwise required to report expenses pursuant to 5-7-208.

1 (14) "Person" means an individual, corporation, association, firm, partnership, state or local government
2 or subdivision of state or local government, or other organization or group of persons.

3 (15) "Principal" means a person who employs a lobbyist or a person required to report pursuant to
4 5-7-208.

5 (16) (a) "Public official" means an elected state official or an appointed state official acting in an official
6 capacity for state government or a legislator.

7 (b) The term does not include those acting in a judicial or quasi-judicial capacity or performing ministerial
8 acts.

9 (17) "Unprofessional conduct" means:

10 (a) violating any of the provisions of this chapter;

11 (b) instigating action by a public official or the legislature for the purpose of obtaining employment;

12 (c) attempting to influence the action of a public official or the legislature on a measure pending or to be
13 proposed by:

14 (i) promising financial support; or

15 (ii) making public any unsubstantiated charges of improper conduct on the part of a lobbyist, a principal,
16 or a legislator; or

17 (d) attempting to knowingly deceive a public official or the legislature with regard to the pertinent facts
18 of an official matter or attempting to knowingly misrepresent pertinent facts of an official matter to a public official
19 or the legislature."

20

21 **Section 13.** Section 7-2-4736, MCA, is amended to read:

22 **"7-2-4736. Preservation of existing garbage or solid waste service in event of annexation.** A
23 municipality that annexes or incorporates additional area within the service area of a motor carrier authorized by
24 the public ~~service~~ utility commission to provide that service may not provide exclusive garbage and solid waste
25 disposal service or impose charges or assessments for services not provided to any person or business located
26 in the annexed or incorporated area except upon a proper showing to the public ~~service~~ utility commission that
27 the existing carrier is unable to or refuses to provide adequate service to the annexed or incorporated area."

28

29 **Section 14.** Section 7-3-4302, MCA, is amended to read:

30 **"7-3-4302. Construction.** (1) Except as otherwise provided in part 44 and this part, all acts, parts of

1 acts, and laws relative to municipal corporations are in force and are not repealed by part 44 and this part unless
 2 they conflict or are inconsistent with the provisions of part 44 and this part.

3 (2) Part 44 and this part do not repeal or modify Title 69, chapter 3, or 69-4-101, and part 44 and this
 4 part do not curtail or impair the power or authority of the public ~~service~~ utility commission."

5

6 **Section 15.** Section 7-7-4428, MCA, is amended to read:

7 **"7-7-4428. Covenants in resolution authorizing issuance of bonds.** Any A resolution or resolutions
 8 authorizing the issuance of bonds under this part may contain covenants ~~as to~~ establishing:

9 (1) the purpose or purposes to which the proceeds ~~of~~ from the sale of the bonds may be applied and the
 10 disposition of the proceeds;

11 (2) the use and disposition of ~~the~~ revenue of from the undertaking for which the bonds are to be issued,
 12 including the creation and maintenance of reserves and including the pledge or appropriation of all or a portion
 13 of the property and resort tax revenue referred to in 7-7-4424;

14 (3) the transfer, from the general fund of the municipality to the account or accounts of the undertaking,
 15 of an amount equal to the cost of furnishing the municipality or any of its departments, boards, or agencies with
 16 the services, facilities, or commodities of the undertaking;

17 (4) the issuance of other or additional bonds payable from the revenue of the undertaking;

18 (5) the operation and maintenance of the undertaking;

19 (6) the insurance to be carried on the undertaking and the use and disposition of insurance money;

20 (7) books of account and the inspection and audit of the books; and

21 (8) the terms and conditions ~~upon~~ under which the holders or trustees of the bonds or any proportion
 22 of the bonds are entitled to the appointment of a receiver by the district court having jurisdiction. The receiver
 23 may:

24 (a) enter and take possession of the undertaking;

25 (b) operate and maintain the undertaking;

26 (c) prescribe rates, fees, or charges, subject to the approval of the public ~~service~~ utility commission; and

27 (d) collect, receive, and apply all revenue ~~thereafter~~ after entering and taking possession of the
 28 undertaking arising from the undertaking in the same manner as the municipality ~~itself might do~~ would collect,
 29 receive, and apply revenue."

30

1 **Section 16.** Section 7-10-215, MCA, is amended to read:

2 **"7-10-215. Covenants in resolution authorizing issuance of bonds.** Any A resolution or resolutions
3 authorizing the issuance of bonds under this part may contain covenants ~~as to~~ establishing:

4 (1) the purpose or purposes to which the proceeds ~~of~~ from the sale of the bonds may be applied and the
5 disposition of the proceeds;

6 (2) the use and disposition of ~~the~~ revenue ~~of~~ from the project for which the bonds are ~~to be~~ issued,
7 including the creation and maintenance of reserves and including the pledge or appropriation of all or a portion
8 of the property tax revenue referred to in 7-10-115;

9 (3) the transfer from the general fund of the regional resource authority to the account or accounts of the
10 project of an amount equal to the cost of furnishing the regional resource authority or any of its departments or
11 boards with the services, facilities, or commodities of the project;

12 (4) the issuance of other or additional bonds payable from the revenue of the project;

13 (5) the operation and maintenance of the project;

14 (6) the insurance to be carried on the project and the use and disposition of insurance money;

15 (7) books of account and the inspection and audit of the books; and

16 (8) the terms and conditions ~~upon~~ under which the holders or trustees of the bonds or any proportion
17 of the bonds are entitled to the appointment of a receiver by the district court having jurisdiction. The receiver
18 may:

19 (a) enter and take possession of the project;

20 (b) operate and maintain the project;

21 (c) prescribe rates, fees, or charges, subject to the approval of the public ~~service~~ utility commission; and

22 (d) collect, receive, and apply all revenue ~~arising~~ from the project."
23

24 **Section 17.** Section 7-13-4107, MCA, is amended to read:

25 **"7-13-4107. Protection of private waste disposal service in municipality.** A municipality, as of
26 January 1, 1979, that receives garbage and solid waste disposal services from a private motor carrier authorized
27 by the public ~~service~~ utility commission to provide that service may not, by ordinance or otherwise, elect to provide
28 exclusive garbage and solid waste service until the municipality first fully compensates the private motor carrier
29 for the resulting damage to its business."
30

1 **Section 18.** Section 7-14-4401, MCA, is amended to read:

2 **"7-14-4401. Provision of bus service.** ~~Whenever~~ If a city or town is not being served by a bus company
3 or operator operating on a regular schedule and under the jurisdiction of the public ~~service~~ utility commission or
4 if ~~such~~ the service is likely to be discontinued in the immediate future, the city or town council of the incorporated
5 city or town may:

6 (1) ~~may contract an indebtedness of any such city or town upon the credit thereof by borrowing borrow~~
7 money or ~~issuing~~ issue bonds for the purchase, development, operation, or leasing of ~~motorbuses~~ buses and
8 buslines for the transportation of passengers within the corporate limits of ~~such~~ the cities and towns and to
9 operate the ~~same~~ buses or buslines to any point or points beyond these limits not to exceed 8 miles measured
10 along the route of the busline; and

11 (2) ~~shall have the power to~~ enter into a contract or contracts or ~~to~~ enter into a lease or a lease and
12 operating agreement with an independent carrier or independent carriers for the transportation of passengers by
13 bus within the corporate limits of ~~such~~ the city or town and to and from any point or points beyond ~~said~~ the limits
14 not to exceed 8 miles measured along the route of ~~said~~ the busline or buslines."

15

16 **Section 19.** Section 10-1-1010, MCA, is amended to read:

17 **"10-1-1010. Appointment of acting officials.** (1) When an elected official is ordered to military service,
18 an acting official must be appointed as provided in this section if:

19 (a) the elected official is precluded pursuant to federal law from performing the official duties of the office;

20 or

21 (b) the elected official requests the appointment of an acting official.

22 (2) If an acting official is appointed, the acting official shall take any oath of office required to assume
23 the office, shall exercise all the rights, powers, and duties vested in the office, and must be provided with all the
24 employment rights and benefits associated with the position until the elected official is restored to office pursuant
25 to 10-1-1008(5) or the elected official's term expires, whichever occurs first.

26 (3) (a) The governor shall appoint the acting official for any office elected by the state at large and for
27 the office of district judge, ~~public service commissioner~~, or any other elected regional or district office of the state.

28 (b) An acting official for a legislative district must be appointed using the procedures in 5-2-402.

29 (c) The board of county commissioners shall appoint the acting official for any elected office of a county.

30 (d) The city or town council shall appoint the acting official for any elected office of a city or town.

1 (4) For any elected office not covered under subsection (3), the governing body shall determine the
2 method by which an acting official may be appointed pursuant to this section.

3 (5) An appointment of an acting official pursuant to this section must be made for a period not to exceed
4 the unexpired term for the office and subject to the right of the elected official to be restored to the office upon
5 returning from the military service, as provided in 10-1-1008(5)."

6
7 **Section 20.** Section 10-3-1306, MCA, is amended to read:

8 **"10-3-1306. Transportation of radioactive waste through state -- notification -- responsibilities of**
9 **division.** (1) A person or entity may not ship high-level radioactive waste or transuranic waste through the state
10 by rail or motor carrier unless the person or entity first notifies the disaster and emergency services division and
11 the department of transportation, pays the appropriate fees, and obtains a permit.

12 (2) Upon receiving the notification required under subsection (1), the disaster and emergency services
13 division shall notify the highway patrol, the public ~~service~~ utility commission, or other agencies as appropriate.

14 (3) The disaster and emergency services division shall reimburse the highway patrol for expenses
15 incurred in monitoring or escorting motor carriers, as provided in 10-3-1308, from money collected in the
16 radioactive waste transportation monitoring, emergency response, and training account created in 10-3-1304."

17
18 **Section 21.** Section 10-3-1309, MCA, is amended to read:

19 **"10-3-1309. Responsibilities of public ~~service~~ utility commission -- inspection of rails and trains**
20 **-- agreements with neighboring states and provinces -- rulemaking.** (1) After receiving notification from the
21 disaster and emergency services division that high-level radioactive waste or transuranic waste will be shipped
22 by railroad through the state, the public ~~service~~ utility commission shall establish a plan for inspecting the rails
23 and the trains, as authorized in Title 69, chapter 14, that will be involved in the transportation of the waste. The
24 plan must include but is not limited to:

25 (a) coordination with the federal railroad administration on track and rolling stock inspections;
26 (b) inspection and approval by a federally certified inspector no later than 1 week prior to shipment; and
27 (c) a requirement that trains carrying radioactive waste or transuranic waste may not travel at greater
28 than the speed required by federal regulations.

29 (2) The public ~~service~~ utility commission may enter into reciprocal agreements with adjacent states and
30 bordering Canadian provinces that Montana's inspectors may inspect trains while they are stopped in those states

1 or provinces before they cross the Montana border.

2 (3) The public ~~service~~ utility commission shall, in cooperation with the department of transportation, the
3 disaster and emergency services division, and the highway patrol, establish rules to carry out the provisions of
4 this part. The rules must address:

5 (a) the process by which local authorities will be notified when a motor carrier or a train carrying
6 high-level radioactive waste or transuranic waste is approaching their jurisdictions;

7 (b) which local authorities will receive notification;

8 (c) the process by which local governments and local emergency response entities may apply for and
9 receive training and reimbursement money from the radioactive waste transportation monitoring, emergency
10 response, and training account, as provided in 10-3-1304;

11 (d) the criteria for qualifying to receive money from the account;

12 (e) acceptable means for monitoring a train that is carrying high-level radioactive waste or transuranic
13 waste; and

14 (f) other processes or procedures that the public ~~service~~ utility commission, the department of
15 transportation, the disaster and emergency services division, and the highway patrol determine are necessary
16 to efficiently carry out the provisions of this part and to ensure the safe transportation of high-level radioactive
17 waste or transuranic waste through Montana."

18

19 **Section 22.** Section 13-12-207, MCA, is amended to read:

20 **"13-12-207. Order of placement.** (1) The order on the ballot for state and federal offices must be as
21 follows:

22 (a) If the election is in a year in which a president of the United States is to be elected, in spaces
23 separated from the balance of the party tickets by a line must be the names and spaces for voting for candidates
24 for president and vice president. The names of candidates for president and vice president for each political party
25 must be grouped together.

26 (b) United States senator;

27 (c) United States representative;

28 (d) governor and lieutenant governor;

29 (e) secretary of state;

30 (f) attorney general;

- 1 (g) state auditor;
- 2 (h) state superintendent of public instruction;
- 3 ~~(i) public service commissioners;~~
- 4 ~~(j)(i)~~ clerk of the supreme court;
- 5 ~~(k)(j)~~ chief justice of the supreme court;
- 6 ~~(l)(k)~~ justices of the supreme court;
- 7 ~~(m)(l)~~ district court judges;
- 8 ~~(n)(m)~~ state senators;
- 9 ~~(o)(n)~~ members of the Montana house of representatives.

10 (2) The following order of placement must be observed for county offices:

- 11 (a) clerk of the district court;
- 12 (b) county commissioner;
- 13 (c) county clerk and recorder;
- 14 (d) sheriff;
- 15 (e) coroner;
- 16 (f) county attorney;
- 17 (g) county superintendent of schools;
- 18 (h) county auditor;
- 19 (i) public administrator;
- 20 (j) county assessor;
- 21 (k) county treasurer;
- 22 (l) surveyor;
- 23 (m) justice of the peace.

24 (3) The secretary of state shall designate the order for placement on the ballot of any offices not on the
 25 ~~above~~ lists in subsections (1) and (2), except that the election administrator shall designate the order of
 26 placement for municipal, charter, or consolidated local government offices and district offices when the district
 27 is part of only one county.

28 (4) Constitutional amendments must be placed before statewide referendum and initiative measures.
 29 Ballot issues for a county, municipality, school district, or other political subdivision must follow statewide
 30 measures in the order designated by the election administrator.

1 (5) If any offices are not to be elected they may not be listed, but the order of the offices to be filled must
2 be maintained.

3 (6) If there is a short-term and a long-term election for the same office, the long-term office must precede
4 the short-term."

5

6 **Section 23.** Section 13-37-216, MCA, is amended to read:

7 **"13-37-216. Limitations on contributions -- adjustment.** (1) (a) Subject to adjustment as provided for
8 in subsection (3) and subject to 13-35-227 and 13-37-219, aggregate contributions for each election in a
9 campaign by a political committee or by an individual, other than the candidate, to a candidate are limited as
10 follows:

11 (i) for candidates filed jointly for the office of governor and lieutenant governor, not to exceed \$500;

12 (ii) for a candidate to be elected for state office in a statewide election, other than the candidates for
13 governor and lieutenant governor, not to exceed \$250;

14 (iii) for a candidate for any other public office, not to exceed \$130.

15 (b) A contribution to a candidate includes contributions made to any political committee organized on
16 the candidate's behalf. A political committee that is not independent of the candidate is considered to be
17 organized on the candidate's behalf.

18 (2) All political committees except those of political party organizations are subject to the provisions of
19 subsection (1). Political party organizations may form political committees that are subject to the following
20 aggregate limitations, adjusted as provided for in subsection (3) and subject to 13-37-219, from all political party
21 committees:

22 (a) for candidates filed jointly for the offices of governor and lieutenant governor, not to exceed \$18,000;

23 (b) for a candidate to be elected for state office in a statewide election, other than the candidates for
24 governor and lieutenant governor, not to exceed \$6,500;

25 ~~(c) for a candidate for public service commissioner, not to exceed \$2,600;~~

26 ~~(d)~~(c) for a candidate for the state senate, not to exceed \$1,050;

27 ~~(e)~~(d) for a candidate for any other public office, not to exceed \$650.

28 (3) (a) The commissioner shall adjust the limitations in subsections (1) and (2) by multiplying each limit
29 by an inflation factor, which is determined by dividing the consumer price index for June of the year prior to the
30 year in which a general election is held by the consumer price index for June 2002.

- 1 (b) The resulting figure must be rounded up or down to the nearest:
 2 (i) \$10 increment for the limits established in subsection (1); and
 3 (ii) \$50 increment for the limits established in subsection (2).
 4 (c) The commissioner shall publish the revised limitations as a rule.
 5 (4) A candidate may not accept any contributions, including in-kind contributions, in excess of the limits
 6 in this section.
 7 (5) For purposes of this section, "election" means the general election or a primary election that involves
 8 two or more candidates for the same nomination. If there is not a contested primary, there is only one election
 9 to which the contribution limits apply. If there is a contested primary, then there are two elections to which the
 10 contribution limits apply."

11
 12 **Section 24.** Section 13-37-226, MCA, is amended to read:

13 **"13-37-226. Time for filing reports.** (1) Candidates for a state office filled by a statewide vote of all the
 14 electors of Montana, statewide ballot issue committees, and political committees that receive a contribution or
 15 make an expenditure supporting or opposing a candidate for statewide office or a statewide ballot issue shall file
 16 reports electronically as follows:

- 17 (a) quarterly, due on the 5th day following a calendar quarter, beginning with the calendar quarter in
 18 which:
 19 (i) funds are received or expended during the year or years prior to the election year that the candidate
 20 expects to be on the ballot; or
 21 (ii) an issue becomes a ballot issue, as defined in 13-1-101(6)(b);
 22 (b) on the 1st day of each month from March through November during a year in which an election is
 23 held;
 24 (c) on the 15th day preceding the date on which an election is held;
 25 (d) within 2 business days after receiving a contribution of \$200 or more if received between the 20th
 26 day before the election and the day of the election;
 27 (e) not more than 20 days after the date of the election; and
 28 (f) on the 10th day of March and September of each year following an election until the candidate or
 29 political committee files a closing report as specified in 13-37-228(3).
 30 (2) Candidates for a state district office, including but not limited to candidates for the legislature, ~~the~~

1 ~~public service commission~~, or a district court judge, and political committees that receive contributions or make
2 expenditures to support or oppose a particular state district candidate or issue, unless the political committee is
3 already reporting under the provisions of subsection (1), shall file reports as follows:

4 (a) on the 35th and 12th days preceding the date on which an election is held;

5 (b) within 2 business days after receiving a contribution of \$100 or more if received between the 17th
6 day before the election and the day of the election;

7 (c) not more than 20 days after the date of the election; and

8 (d) on the 10th day of March and September of each year following an election until the candidate or
9 political committee files a closing report as specified in 13-37-228(3).

10 (3) Candidates for any other public office and political committees that receive contributions or make
11 expenditures to support or oppose a particular local issue shall file the reports specified in subsection (2) only
12 if the total amount of contributions received or the total amount of funds expended for all elections in a campaign,
13 excluding the filing fee paid by the candidate, exceeds \$500, except as provided in 13-37-206.

14 (4) Independent and political party committees not required to report under subsection (1) or (2) shall
15 file:

16 (a) a report on the 90th, 35th, and 12th days preceding the date of an election in which they participate
17 by making an expenditure;

18 (b) a report within 2 business days of receiving a contribution of \$500 or more if received between the
19 17th day before the election and the day of the election;

20 (c) a report within 2 business days of making an expenditure of \$500 or more for an electioneering
21 communication if the expenditure is made between the 17th day before the election and the day of the election;

22 (d) a report not more than 20 days after the date of the election in which they participate by making an
23 expenditure; and

24 (e) a report on a date to be prescribed by the commissioner for a closing report at the close of each
25 calendar year.

26 (5) An incidental committee not required to report under subsection (1) or (2) shall file a report:

27 (a) on the 90th, 35th, and 12th days preceding the date of an election in which it participates by making
28 an expenditure;

29 (b) within 2 business days of receiving a contribution as provided in 13-37-232(1) of \$500 or more if
30 received between the 17th day before an election and the day of the election;

1 (c) within 2 business days of making an expenditure of \$500 or more for an electioneering
2 communication if the expenditure is made between the 17th day before the election and the day of the election;

3 (d) not more than 20 days after the date of the election in which it participated; and

4 (e) on a date to be prescribed by the commissioner for a closing report at the close of each calendar
5 year.

6 (6) The commissioner shall post on the commissioner's website:

7 (a) all reports filed under this section within 7 business days of filing; and

8 (b) for each election the calendar dates that correspond with the filing requirements of subsections (1),
9 (2), (4), and (5).

10 (7) The commissioner may require reports filed under this section to be submitted electronically.

11 (8) Except as provided in subsections (1)(d), (2)(b), (4)(b), (4)(c), (5)(b), and (5)(c), all reports required
12 by this section must be complete as of the 5th day before the date of filing as specified in 13-37-228(2) and this
13 section.

14 (9) A political committee may file a closing report prior to the date prescribed by rule or set in
15 13-37-228(3) and after the complete termination of its contribution and expenditure activity during an election
16 cycle."

17

18 **Section 25.** Section 13-37-240, MCA, is amended to read:

19 **"13-37-240. Surplus campaign funds.** (1) A candidate shall dispose of any surplus funds from the
20 candidate's campaign within 120 days after the time of filing the closing campaign report pursuant to 13-37-228.
21 In disposing of the surplus funds, a candidate may not contribute the funds to another campaign, including the
22 candidate's own future campaign, or use the funds for personal benefit. A successful candidate for a statewide
23 elected or legislative office ~~or for public service commissioner~~ may establish a constituent services account as
24 provided in 13-37-402. The candidate shall provide a supplement to the closing campaign report to the
25 commissioner showing the disposition of any surplus campaign funds.

26 (2) For purposes of this section, "personal benefit" means a use that will provide a direct or indirect
27 benefit of any kind to the candidate or any member of the candidate's immediate family."

28

29 **Section 26.** Section 15-2-303, MCA, is amended to read:

30 **"15-2-303. Judicial review.** (1) ~~Any~~ A party to an appeal before the state tax appeal board ~~who is~~

1 aggrieved by a final decision is entitled to judicial review under this part.

2 ~~(2) (a) Proceedings for review must be instituted by filing~~ Except as provided in subsection (2)(b), to
 3 request judicial review, a taxpayer shall file a petition in district court in the county ~~in which~~ where the taxable
 4 property or some portion of it is located, ~~except the,~~

5 (b) A taxpayer has the option to may file in the district court of the first judicial district.

6 (c) A petition for judicial review must be filed within 60 days after service of the final decision of the state
 7 tax appeal board or, if a rehearing is requested, within 60 days after service of the final decision. Copies of the
 8 petition must be promptly served on all parties of record.

9 (d) The department of revenue shall promptly notify the state tax appeal board, in writing, of ~~any a~~ a judicial
 10 review, but failure to ~~do so has no effect on~~ provide notification does not affect the judicial review.

11 (e) The department of revenue shall, ~~on request~~ if requested, submit to the state tax appeal board a copy
 12 of all pleadings and documents.

13 (3) (a) If the judicial review involves a taxpayer ~~who is~~ seeking a refund of taxes paid under protest, the
 14 appealing party shall provide a copy of the petition to the treasurer of the county ~~in which~~ where the taxable
 15 property or some portion of it is located, ~~but failure to do so has no effect on.~~

16 (b) Failure to provide a copy in accordance with subsection (3)(a) does not affect the judicial review.

17 (4) Proceedings for review of a decision by the state tax appeal board by a company under the
 18 jurisdiction of the public ~~service~~ utility commission must be instituted in the district court of the first judicial district.

19 (5) Notwithstanding the provisions of 2-4-704(1), the court may, for good cause shown, permit additional
 20 evidence to be introduced."

21

22 **Section 27.** Section 15-6-138, MCA, is amended to read:

23 **"15-6-138. Class eight property -- description -- taxable percentage.** (1) Class eight property
 24 includes:

25 (a) all agricultural implements and equipment that are not exempt under 15-6-207 or 15-6-220;

26 (b) all mining machinery, fixtures, equipment, tools that are not exempt under 15-6-219, and supplies
 27 except those included in class five under 15-6-135;

28 (c) for oil and gas production, all:

29 (i) machinery;

30 (ii) fixtures;

- 1 (iii) equipment, including flow lines and gathering lines, pumping units, oil field storage tanks, water
2 storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas
3 metering shacks, treaters, gas separators, water flood units, and gas boosters, together with equipment that is
4 skidable, portable, or movable;
- 5 (iv) tools that are not exempt under 15-6-219; and
- 6 (v) supplies except those included in class five;
- 7 (d) all manufacturing machinery, fixtures, equipment, tools, except a certain value of hand-held tools and
8 personal property related to space vehicles, ethanol manufacturing, and industrial dairies and milk processors
9 as provided in 15-6-220, and supplies except those included in class five;
- 10 (e) all goods and equipment that are intended for rent or lease, except goods and equipment that are
11 specifically included and taxed in another class or that are rented under a purchase incentive rental program as
12 defined in 15-6-202(4);
- 13 (f) special mobile equipment as defined in 61-1-101;
- 14 (g) furniture, fixtures, and equipment, except that specifically included in another class, used in
15 commercial establishments as defined in this section;
- 16 (h) x-ray and medical and dental equipment;
- 17 (i) citizens' band radios and mobile telephones;
- 18 (j) radio and television broadcasting and transmitting equipment;
- 19 (k) cable television systems;
- 20 (l) coal and ore haulers;
- 21 (m) theater projectors and sound equipment; and
- 22 (n) all other property that is not included in any other class in this part, except that property that is subject
23 to a fee in lieu of a property tax.
- 24 (2) As used in this section, the following definitions apply:
- 25 (a) "Coal and ore haulers" means nonhighway vehicles that exceed 18,000 pounds an axle and that are
26 primarily designed and used to transport coal, ore, or other earthen material in a mining or quarrying environment.
- 27 (b) "Commercial establishment" includes any hotel, motel, office, petroleum marketing station, or service,
28 wholesale, retail, or food-handling business.
- 29 (c) "Flow lines and gathering lines" means pipelines used to transport all or part of the oil or gas
30 production from an oil or gas well to an interconnection with a common carrier pipeline as defined in 69-13-101,

1 a pipeline carrier as defined in 49 U.S.C. 15102(2), or a rate-regulated natural gas transmission or oil
2 transmission pipeline regulated by the public ~~service~~ utility commission or the federal energy regulatory
3 commission.

4 (3) Except as provided in 15-24-1402, class eight property is taxed at:

5 (a) for the first \$6 million of taxable market value in excess of the exemption amount in subsection (4),
6 1.5%; and

7 (b) for all taxable market value in excess of \$6 million, 3%.

8 (4) The first \$100,000 of market value of class eight property of a person or business entity is exempt
9 from taxation.

10 (5) The gas gathering facilities of a stand-alone gas gathering company providing gas gathering services
11 to third parties on a contractual basis, owning more than 500 miles of gas gathering lines in Montana, and
12 centrally assessed in tax years prior to 2009 must be treated as a natural gas transmission pipeline subject to
13 central assessment under 15-23-101. For purposes of this subsection, the gas gathering line ownership of all
14 affiliated companies, as defined in section 1504(a) of the Internal Revenue Code, 26 U.S.C. 1504(a), must be
15 aggregated for purposes of determining the 500-mile threshold."

16

17 **Section 28.** Section 15-6-141, MCA, is amended to read:

18 **"15-6-141. Class nine property -- description -- taxable percentage.** (1) Class nine property includes:

19 (a) centrally assessed allocations of an electric power company or centrally assessed allocations of an
20 electric power company that owns or operates transmission or distribution facilities or both;

21 (b) if congress passes legislation that allows the state to tax property owned by an agency created by
22 congress to transmit or distribute electrical energy, allocations of properties constructed, owned, or operated by
23 a public agency created by congress to transmit or distribute electrical energy produced at privately owned
24 generating facilities, not including rural electric cooperatives;

25 (c) rural electric cooperatives' property, except wind generation facilities, biomass generation facilities,
26 and energy storage facilities classified under 15-6-157 and property used for headquarters, office, shop, or other
27 similar facilities, used for the sole purpose of serving customers representing less than 95% of the electric
28 consumers located within the incorporated limits of a city or town of more than 3,500 persons in which a centrally
29 assessed electric power company also owns property or serving an incorporated municipality with a population
30 that is greater than 3,500 persons formerly served by a public utility that after January 1, 1998, received service

1 from the facilities of an electric cooperative;

2 (d) allocations for centrally assessed natural gas distribution utilities, rate-regulated natural gas
3 transmission or oil transmission pipelines regulated by either the public ~~service~~ utility commission or the federal
4 energy regulatory commission, a common carrier pipeline as defined in 69-13-101, a pipeline carrier as defined
5 in 49 U.S.C. 15102(2), or the gas gathering facilities specified in 15-6-138(5); and

6 (e) centrally assessed companies' allocations except:

7 (i) electrical generation facilities classified under 15-6-156;

8 (ii) all property classified under 15-6-157;

9 (iii) all property classified under 15-6-158 and 15-6-159;

10 (iv) property owned by cooperative rural electric and cooperative rural telephone associations and
11 classified under 15-6-135;

12 (v) property owned by organizations providing telephone communications to rural areas and classified
13 under 15-6-135;

14 (vi) railroad transportation property included in 15-6-145;

15 (vii) airline transportation property included in 15-6-145; and

16 (viii) telecommunications property included in 15-6-156.

17 (2) Class nine property is taxed at 12% of market value."
18

19 **Section 29.** Section 15-23-101, MCA, is amended to read:

20 **"15-23-101. Properties centrally assessed.** The department shall centrally assess each year:

21 (1) the railroad transportation property of railroads and railroad car companies operating in more than
22 one county in the state or more than one state;

23 (2) property owned by a corporation or other person operating a single and continuous property operated
24 in more than one county or more than one state including but not limited to:

25 (a) telegraph, telephone, microwave, and electric power or transmission lines;

26 (b) rate-regulated natural gas transmission or oil transmission pipelines regulated by the public ~~service~~
27 utility commission or the federal energy regulatory commission;

28 (c) common carrier pipelines as defined in 69-13-101 or a pipeline carrier as defined in 49 U.S.C.
29 15102(2);

30 (d) natural gas distribution utilities;

- 1 (e) the gas gathering facilities specified in 15-6-138(5);
 2 (f) canals, ditches, flumes, or like properties; and
 3 (g) if congress passes legislation that allows the state to tax property owned by an agency created by
 4 congress to transmit or distribute electrical energy, property constructed, owned, or operated by a public agency
 5 created by congress to transmit or distribute electrical energy produced at privately owned generating facilities,
 6 not including rural electric cooperatives;
 7 (3) all property of scheduled airlines;
 8 (4) the net proceeds of mines, except bentonite mines;
 9 (5) the gross proceeds of coal mines; and
 10 (6) property described in subsections (1) and (2) that is subject to the provisions of Title 15, chapter 24,
 11 part 12."

12

13 **Section 30.** Section 15-23-301, MCA, is amended to read:

14 **"15-23-301. Officers of certain public utility companies to furnish statement to department.** The
 15 president, secretary, or managing agent of a corporation or any other officer that the department may designate
 16 and each person or association of persons owning or operating a telegraph, telephone, microwave, or electric
 17 power or transmission line, a natural gas distribution utility, a rate-regulated natural gas transmission or oil
 18 transmission pipeline regulated by the public ~~service~~ utility commission or the federal energy regulatory
 19 commission, a common carrier pipeline as defined in 69-13-101, a pipeline carrier as defined in 49 U.S.C.
 20 15102(2), or any canal, ditch, flume, or other property, other than real estate not included in a right-of-way, that
 21 constitutes a single and continuous property throughout more than one county or state, shall each year furnish
 22 the department with a statement, signed and sworn to by one of the officers or by the person or one of the
 23 persons forming the association, showing in detail for the year ending on December 31 immediately preceding:

24 (1) the whole number of miles of property in the state and, if the property is partly out of the state, the
 25 whole number of miles outside of the state and the whole number of miles within the state owned or operated by
 26 the corporation, person, or association;

27 (2) the total value of the entire property and plant, both within and outside of the state, and the total value
 28 of that portion of the property and plant within the state;

29 (3) a complete description of the property within the state, giving the points of entrance into and the
 30 points of exit from the state and the points of entrance into and the points of exit from each county, with a

1 statement of the total number of miles in each county in the state;

2 (4) other information regarding the property as may be required by the department."

3

4 **Section 31.** Section 15-31-114, MCA, is amended to read:

5 **"15-31-114. Deductions allowed in computing income.** (1) In computing the net income, the following
6 deductions are allowed from the gross income received by the corporation within the year from all sources:

7 (a) all the ordinary and necessary expenses paid or incurred during the taxable year in the maintenance
8 and operation of its business and properties, including reasonable allowance for salaries for personal services
9 actually rendered, subject to the limitation contained in this section, and rentals or other payments required to
10 be made as a condition to the continued use or possession of property to which the corporation has not taken
11 or is not taking title or in which it has no equity. A deduction is not allowed for salaries paid upon which the
12 recipient has not paid Montana state income tax. However, when domestic corporations are taxed on income
13 derived from outside the state, salaries of officers paid in connection with securing the income are deductible.

14 (b) (i) all losses actually sustained and charged off within the year and not compensated by insurance
15 or otherwise, including a reasonable allowance for the wear and tear and obsolescence of property used in the
16 trade or business. The allowance is determined according to the provisions of section 167 of the Internal Revenue
17 Code in effect with respect to the taxable year. All elections for depreciation must be the same as the elections
18 made for federal income tax purposes. A deduction is not allowed for any amount paid out for any buildings,
19 permanent improvements, or betterments made to increase the value of any property or estate, and a deduction
20 may not be made for any amount of expense of restoring property or making good the exhaustion of property for
21 which an allowance is or has been made. A depreciation or amortization deduction is not allowed on a title plant
22 as defined in 33-25-105(15).

23 (ii) There is allowed as a deduction for the taxable period a net operating loss deduction determined
24 according to the provisions of 15-31-119.

25 (c) in the case of mines, other natural deposits, oil and gas wells, and timber, a reasonable allowance
26 for depletion and for depreciation of improvements. The reasonable allowance must be determined according
27 to the provisions of the Internal Revenue Code in effect for the taxable year. All elections made under the Internal
28 Revenue Code with respect to capitalizing or expensing exploration and development costs and intangible drilling
29 expenses for corporate income tax purposes must be the same as the elections made for federal income tax
30 purposes.

1 (d) the amount of interest paid within the year on its indebtedness incurred in the operation of the
2 business from which its income is derived. Interest may not be allowed as a deduction if paid on an indebtedness
3 created for the purchase, maintenance, or improvement of property or for the conduct of business unless the
4 income from the property or business would be taxable under this part.

5 (e) (i) taxes paid within the year, except the following:

6 (A) taxes imposed by this part;

7 (B) taxes assessed against local benefits of a kind tending to increase the value of the property
8 assessed;

9 (C) taxes on or according to or measured by net income or profits imposed by authority of the
10 government of the United States;

11 (D) taxes imposed by any other state or country upon or measured by net income or profits.

12 (ii) Taxes deductible under this part must be construed to include taxes imposed by any county, school
13 district, or municipality of this state.

14 (f) that portion of an energy-related investment allowed as a deduction under 15-32-103;

15 (g) (i) except as provided in subsection (1)(g)(ii) or (1)(g)(iii), charitable contributions and gifts that qualify
16 for deduction under section 170 of the Internal Revenue Code, 26 U.S.C. 170, as amended.

17 (ii) The public ~~service~~ utility commission may not allow in the rate base of a regulated corporation the
18 inclusion of contributions made under this subsection.

19 (iii) A deduction is not allowed for a charitable contribution using a charitable gift annuity unless the
20 annuity is a qualified charitable gift annuity as defined in 33-20-701.

21 (h) per capita livestock fees imposed pursuant to 15-24-921, 15-24-922, 81-6-104, 81-6-204, 81-6-209,
22 81-7-118, or 81-7-201.

23 (2) In lieu of the deduction allowed under subsection (1)(g), the taxpayer may deduct the fair market
24 value, not to exceed 30% of the taxpayer's net income, of a computer or other sophisticated technological
25 equipment or apparatus intended for use with the computer donated to an elementary, secondary, or accredited
26 postsecondary school located in Montana if:

27 (a) the contribution is made no later than 5 years after the manufacture of the donated property is
28 substantially completed;

29 (b) the property is not transferred by the donee in exchange for money, other property, or services; and

30 (c) the taxpayer receives a written statement from the donee in which the donee agrees to accept the

1 property and representing that the use and disposition of the property will be in accordance with the provisions
2 of subsection (2)(b).

3 (3) In the case of a regulated investment company or a fund of a regulated investment company, as
4 defined in section 851(a) or 851(g) of the Internal Revenue Code of 1986, 26 U.S.C. 851(a) or 851(g), as that
5 section may be amended or renumbered, there is allowed a deduction for dividends paid, as defined in section
6 561 of the Internal Revenue Code of 1986, 26 U.S.C. 561, as that section may be amended or renumbered,
7 except that the deduction for dividends is not allowed with respect to dividends attributable to any income that
8 is not subject to tax under this chapter when earned by the regulated investment company. For the purposes of
9 computing the deduction for dividends paid, the provisions of sections 852(b)(7) and 855 of the Internal Revenue
10 Code of 1986, 26 U.S.C. 852(b)(7) and 855, as those sections may be amended or renumbered, apply. A
11 regulated investment company is not allowed a deduction for dividends received as defined in sections 243
12 through 245 of the Internal Revenue Code of 1986, 26 U.S.C. 243 through 245, as those sections may be
13 amended or renumbered."

14

15 **Section 32.** Section 15-32-107, MCA, is amended to read:

16 **"15-32-107. Loans by utilities and financial institutions -- tax credit for interest differential for**
17 **loans made prior to July 1, 1995.** (1) Except as provided in subsection (4), a public utility or a financial institution
18 that lent money or made qualifying installations under this section as it read prior to July 1, 1995, may compute
19 the difference between interest it actually receives on the transactions and the interest that would have been
20 received at the prevailing average interest rate for home improvement loans, as prescribed in rules made by the
21 public ~~service~~ utility commission. The utility may apply the difference so computed as a credit against its tax
22 liability for the electrical energy producer's license tax under 15-51-101 or for the corporate income tax under
23 chapter 31, part 1. The public ~~service~~ utility commission shall regulate rates in such a manner that a utility making
24 loans under this section may not make a profit as the result of this section. The financial institution may apply the
25 difference so computed as a credit against its tax liability for the corporate income tax under chapter 31, part 1.

26 (2) A utility may not claim a tax credit under this section exceeding \$750,000 in any tax year. A financial
27 institution may not claim a tax credit under this section exceeding \$2,000 in any tax year.

28 (3) The public ~~service~~ utility commission may make rules to implement this section as it applies to public
29 utilities only.

30 (4) A public utility whose purchases of or investments in conservation are placed in the rate base as

1 provided in Title 69, chapter 3, part 7, may not receive a tax credit under subsection (1)."

2

3 **Section 33.** Section 18-4-302, MCA, is amended to read:

4 **"18-4-302. Methods of source selection -- authorization for alternative procurement methods. (1)**

5 Unless otherwise authorized by law, all state contracts for supplies and services must be awarded by a source
6 selection method provided for in this title. Supplies or services offered for sale, lease, or rental by public utilities
7 are exempt from this requirement if the prices of the supplies or services are regulated by the public ~~service~~ utility
8 commission or other governmental authority.

9 (2) When the department or another agency opens bids or proposals, if a supplier's current publicly
10 advertised or established catalog price is received at or before the time that the bids or proposals are opened and
11 is less than the bid of the lowest responsible and responsive bidder or offeror or improves upon the conditions
12 for the best proposal received using the same factors and weights included in the proposal, the department or
13 agency may reject all bids and purchase the supply from that supplier without meeting the requirements of
14 18-4-303 through 18-4-306.

15 (3) An office supply procured by the department may be purchased by an agency, without meeting the
16 requirements of 18-4-303 through 18-4-306, from a supplier whose publicly advertised price, established catalog
17 price, or discount price offered to the agency is less than the price offered by the department if the office supply
18 conforms in all material respects to the terms, conditions, and quality offered by the department. A state office
19 supply term contract must include a provision by which the contracting parties acknowledge and agree to the
20 provisions of this subsection.

21 (4) (a) Under rules adopted by the department, an agency may request from the department
22 authorization for an alternative procurement method.

23 (b) A request for authorization must specify:

24 (i) the problem to be solved;

25 (ii) the proposed alternative procurement method;

26 (iii) the reasons why the alternative procurement method may be more appropriate than a method
27 authorized by law; and

28 (iv) how competition and fairness will be achieved by the alternative procurement method.

29 (c) Within 30 days after receiving the request, the department shall:

30 (i) evaluate the request;

- 1 (ii) approve or deny the request; and
 2 (iii) issue a written statement providing the reasons for its decision.
 3 (d) Whenever the department approves a request submitted under this section, the department:
 4 (i) may authorize the alternative procurement method on a trial basis; and
 5 (ii) if the alternative procurement method is employed, shall make a written determination as to the
 6 success of the method.
 7 (e) If the department determines that the alternative procurement method is successful and should be
 8 an alternative that is generally available, it shall promulgate rules that establish the use of the alternative
 9 procurement method as an additional source selection method. The rules promulgated by the department under
 10 this subsection must reflect the purposes described in 18-4-122."

11
 12 **Section 34.** Section 20-8-121, MCA, is amended to read:

13 **"20-8-121. Transportation of students at school.** (1) The school for the deaf and blind shall provide
 14 the transportation expenses allowed in subsection (4) for a residential student at the school for the deaf and blind
 15 who is a resident of the state of Montana if the student is conveyed to and from the student's residence by:

- 16 (a) a scheduled air carrier as defined in 67-1-101;
 17 (b) charter with a commercial air operator as defined in 67-1-101;
 18 (c) a parent or guardian of the student, under an individual transportation contract with the school for the
 19 deaf and blind; or
 20 (d) other transportation arrangements, provided that the transportation is by a carrier of passengers
 21 certified by the public ~~service~~ utility commission and approved by the superintendent of the school for the deaf
 22 and blind, pursuant to rules adopted by the board of public education.

23 (2) The superintendent of the school for the deaf and blind shall determine which method of
 24 transportation in subsection (1) is ~~to be~~ provided to a student, pursuant to rules adopted by the board of public
 25 education on transportation of residential and boarding students at the school.

26 (3) A parent or guardian who transports a student to or from the school under an individual transportation
 27 contract is entitled to reimbursement for transportation, pursuant to rules adopted by the board of public education
 28 on reimbursement.

29 (4) The transportation of a residential student provided in subsection (1) is limited to the number of round
 30 trips to the student's residence as specified in the school calendar approved by the board of public education.

1 The superintendent of the school for the deaf and blind may grant a variance from this provision, but ~~in no event~~
2 ~~may~~ a reimbursement for travel expenses may not be provided for travel in excess of the total number of trips
3 approved in any school fiscal year."
4

5 **Section 35.** Section 27-19-203, MCA, is amended to read:

6 **"27-19-203. Preliminary injunction pending action by public ~~service~~ utility commission.** When the
7 public ~~service~~ utility commission is conducting an adjudicatory proceeding or formal investigation relating to
8 continuation or interruption of service upon the motion of the consumer counsel or the interested person or the
9 interested person's legal representative, a district court may, upon the application of the consumer counsel or the
10 interested person or the interested person's legal representative, enter a restraining order against any person
11 respondent in the adjudicatory proceeding or investigation. The restraining order may prohibit the respondent and
12 the respondent's agents, employees, licensees, and assignees from acting in the manner complained of in the
13 proceeding before the commission until the commission has rendered its decision in the matter. The restraining
14 order may include an order to show cause why the order should not become an injunction for the duration of the
15 proceeding before the commission."
16

17 **Section 36.** Section 30-14-105, MCA, is amended to read:

18 **"30-14-105. Exemptions.** This part does not apply to:

19 (1) actions or transactions permitted under laws administered by the Montana public ~~service~~ utility
20 commission or the state auditor; or

21 (2) acts of a retail merchant, publisher, owner, agent, or employee of a newspaper, periodical, or radio
22 or television station or advertising agency in the publication or dissemination of an advertisement when the
23 merchant, publisher, owner, agent, or employee did not have knowledge of the false, misleading, or deceptive
24 character of the advertisement."
25

26 **Section 37.** Section 30-14-1104, MCA, is amended to read:

27 **"30-14-1104. Scope.** (1) Except as provided in subsection (2), 30-14-1103 applies to ~~any~~ an agreement
28 in connection with a consumer contract entered into in this state between a consumer who is a resident of this
29 state at the time of the transaction and a seller, lessor, or lender.

30 (2) Section 30-14-1103 does not apply to:

- 1 (a) consumer contracts, ~~in which~~ if the value of the money, property, or services bought, leased, or
 2 borrowed exceeds \$50,000 at the time of the contract;
- 3 (b) consumer contracts, ~~in which~~ if securities or commodities accounts are bought, leased, or borrowed;
- 4 (c) an insurance policy or contract ~~that is~~ subject to the provisions of Title 33;
- 5 (d) a seller, lessor, or lender, if it is a government agency or instrumentality;
- 6 (e) the provision of public utility service under tariffs approved by the public ~~service~~ utility commission;
- 7 or
- 8 (f) a transfer of real estate.
- 9 (3) The use of specific language expressly required or authorized by a court decision, state or federal
 10 statute or administrative rule, or governmental agency or in a legal description of real property is not a violation
 11 of this part; ~~nor is a legal description of real property a violation of this part."~~

12

13 **Section 38.** Section 30-14-1405, MCA, is amended to read:

14 **"30-14-1405. Exemptions from registration and bonding.** The registration and bonding requirements
 15 of 30-14-1404 do not apply to:

16 (1) ~~any~~ securities, commodities, or investment brokers, dealers, or investment advisers or ~~any~~ associates
 17 of securities, commodities, or investment brokers, dealers, or investment advisers ~~who are~~ subject to licensure
 18 or registration by the securities and exchange commission, the national association of securities dealers, or
 19 another self-regulatory organization, as defined by 15 U.S.C. 78(c), or by an agency of this state or any other
 20 state ~~and who are~~ soliciting within the scope of their license or registration;

21 (2) a person engaged in solicitation for a religious, charitable, political, educational, or other
 22 noncommercial purpose or a person soliciting for a domestic or foreign nonprofit corporation ~~that is~~ registered
 23 with the Montana secretary of state;

24 (3) a business-to-business sale;

25 (4) a person ~~that~~ who solicits sales by periodically publishing and delivering a catalog of the person's
 26 merchandise to prospective purchasers, if the catalog:

27 (a) contains a written description or illustration of each item offered for sale;

28 (b) includes the business or home address of the person soliciting the sale;

29 (c) includes at least 20 pages of written material and illustrations;

30 (d) is distributed in more than one state; and

- 1 (e) has a circulation by mailing of not less than 150,000;
- 2 (5) a person who solicits contracts for maintenance or repair of goods previously purchased from that
3 person or from the person on whose behalf the solicitation is made;
- 4 (6) a person soliciting a transaction regulated by the commodity futures trading commission if the person
5 is registered or temporarily licensed with the commodity futures trading commission under the Commodity
6 Exchange Act, Title 7, chapter 1, of the United States Code, and the person's registration or license is not expired,
7 suspended, or revoked;
- 8 (7) a supervised financial organization or parent, subsidiary, or affiliate of a supervised financial
9 organization;
- 10 (8) an insurer authorized to transact insurance under Title 33, chapter 2, part 1, a person licensed as
11 an insurance producer under Title 33, chapter 17, part 2, or staff members, licensed or unlicensed, of the
12 producer;
- 13 (9) a person soliciting the sale of services provided by a satellite or cable television system or a radio
14 or television station authorized by the federal government or this state to provide services in this state;
- 15 (10) a telephone company or its subsidiary or agent or other business regulated by the Montana public
16 ~~service~~ utility commission, the federal communications commission, a rural telephone cooperative or its subsidiary
17 or agent, or a federally licensed cellular telephone or radio telecommunication service provider;
- 18 (11) a person soliciting business from consumers ~~that~~ who have an existing business relationship with
19 or have previously purchased from the business enterprise for which the person is soliciting;
- 20 (12) a person operating a retail business establishment under the same name as that used in the
21 solicitation and:
- 22 (a) the products or services are displayed and offered for sale at the business establishment; and
23 (b) a majority of the person's business involves the consumer obtaining the products or services at the
24 business establishment;
- 25 (13) a person soliciting for the sale of a magazine or newspaper of general circulation;
- 26 (14) an issuer or a subsidiary of an issuer that is authorized to offer securities for sale in this state;
- 27 (15) a book, video, record, or multimedia club, contractual plan, or arrangement:
- 28 (a) under which the seller provides the consumer with a form that the consumer may use to instruct the
29 seller not to ship the offered merchandise;
- 30 (b) ~~that is~~ regulated by the federal trade commission regulation, 16 CFR 425, concerning the use of

1 negative option plans by sellers in commerce; or

2 (c) that provides for the sale of books, videos, records, multimedia products, or other goods ~~that are~~ not
3 covered by subsection (15)(a) or (15)(b), including continuity plans, subscription arrangements, standing order
4 arrangements, single sales, supplements, or series arrangements under which the seller periodically ships
5 merchandise to a consumer who has consented in advance to receive the merchandise on a periodic basis;

6 (16) a real estate salesperson or broker licensed by this state;

7 (17) a person ~~that has~~ who provided telemarketing sales services under the same name and derives 50%
8 of gross telemarketing sales revenue from contracts with persons exempted under this section from registration
9 requirements; or

10 (18) a person soliciting the sale of food or food products if the solicitation is not intended to and does not
11 result in a sale in excess of \$100 to a single address."

12

13 **Section 39.** Section 30-14-1702, MCA, is amended to read:

14 **"30-14-1702. Definitions.** As used in 30-14-1701 through 30-14-1705, 30-14-1712, and 30-14-1713,
15 unless the context requires otherwise, the following definitions apply:

16 (1) (a) "Business" means a sole proprietorship, partnership, corporation, association, or other group,
17 however organized and whether or not organized to operate at a profit, including a financial institution organized,
18 chartered, or holding a license or authorization certificate under the law of this state, any other state, the United
19 States, or any other country or the parent or the subsidiary of a financial institution. The term includes an entity
20 that destroys records. The term also includes industries regulated by the public ~~service~~ utility commission or
21 under Title 30, chapter 10.

22 (b) The term does not include industries regulated under Title 33.

23 (2) "Customer" means an individual who provides personal information to a business for the purpose of
24 purchasing or leasing a product or obtaining a service from the business.

25 (3) "Electronic mail message" means a message sent to a unique destination, commonly expressed as
26 a string of characters, consisting of a unique user name or electronic mailbox and a reference to an internet
27 domain, whether or not displayed, to which an electronic message can be sent or delivered.

28 (4) "Individual" means a natural person.

29 (5) "Internet" has the meaning provided in 2-17-551.

30 (6) "Internet services provider" has the meaning provided in 2-17-602.

1 (7) "Personal information" means an individual's name, signature, address, or telephone number, in
2 combination with one or more additional pieces of information about the individual, consisting of the individual's
3 passport number, driver's license or state identification number, insurance policy number, bank account number,
4 credit card number, debit card number, passwords or personal identification numbers required to obtain access
5 to the individual's finances, or any other financial information as provided by rule. A social security number, in and
6 of itself, constitutes personal information.

7 (8) (a) "Records" means any material, regardless of the physical form, on which personal information
8 is recorded.

9 (b) The term does not include publicly available directories containing personal information that an
10 individual has voluntarily consented to have publicly disseminated or listed, such as name, address, or telephone
11 number.

12 (9) "Website" means an electronic location that has a single uniform resource locator or other single
13 location with respect to the internet."
14

15 **Section 40.** Section 30-16-303, MCA, is amended to read:

16 **"30-16-303. Participation of state agencies.** (1) The legislature directs full participation in the
17 implementation of this chapter by:

18 (a) the departments of agriculture, environmental quality, revenue, justice, labor and industry, and public
19 health and human services;

20 (b) the public ~~service~~ utility commission; and

21 (c) other agencies as directed by the governor.

22 (2) The board of review may include licenses not specified in 30-16-301 in a plan for streamlined
23 registration and licensing if:

24 (a) the agency administering the license requests that the license be included in the plan;

25 (b) the board of review approves including the license by a majority vote of a quorum of the board of
26 review; and

27 (c) licensees affected by the license's inclusion in the plan are given 60 days' notice of the plan's
28 implementation and the notice sets forth in detail the changes in the licensing procedures.

29 (3) If a license is included in a streamlined registration and licensing plan pursuant to subsection (2):

30 (a) the agency administering the license may provide for a variance in the timing of the payment of the

1 license fee and a variance in the application form, filing date, and penalty provisions in order to conform with the
2 plan's criteria;

3 (b) the board of review shall provide for the equitable proration to the agency administering the license
4 of any fees paid by a licensee prior to the plan's implementation; and

5 (c) the license must be processed and issued by the department of revenue as provided in this chapter.

6 (4) (a) In order to defray the costs associated with administering a streamlined registration and licensing
7 plan, the department may require a transfer of funds from the participating agencies in an amount equal to no
8 more than one-half of the total cost of processing and issuing a license.

9 (b) The amount remaining of the total cost of processing and issuing a license may be charged to the
10 license applicant.

11 (c) The amount of funds transferred by an agency must be based on the number of licenses processed
12 and issued on behalf of that agency versus the total number of licenses processed and issued under the
13 streamlined registration and licensing plan."
14

15 **Section 41.** Section 31-1-501, MCA, is amended to read:

16 **"31-1-501. Late payment charges -- accounts receivable for merchandise sold at retail.** (1)
17 Notwithstanding 31-1-106 or 31-1-107, a person who sells goods, as defined in 31-1-202, at retail to a retail buyer
18 who promises to pay for ~~such the goods upon presentation of the bill therefor,~~ when presented with a bill for the
19 goods may charge and collect a late payment charge not greater than 1 1/2% per month on all money due on
20 all accounts from 30 days after the date ~~on which~~ when the obligation of the buyer to pay is incurred.

21 (2) The late payment charge provided in this section may be charged only if at the time the obligation
22 was incurred the seller did not intend to extend any credit beyond 30 days and any late payment of the obligation
23 was unintended.

24 (3) The provisions of this section do not apply to money due for intangible services, for services regulated
25 by the public ~~service~~ utility commission, for real property, for health care services, or for retail installment sales
26 contracts or retail charge account agreements regulated under Title 31, chapter 1, part 2."
27

28 **Section 42.** Section 35-18-104, MCA, is amended to read:

29 **"35-18-104. Exemption from jurisdiction of public ~~service~~ utility commission.** Cooperatives and
30 foreign corporations transacting business in this state pursuant to this chapter are exempt in all respects from

1 the jurisdiction and control of the public ~~service~~ utility commission of this state."

2

3 **Section 43.** Section 39-9-211, MCA, is amended to read:

4 **"39-9-211. Exemptions.** This chapter does not apply to:

5 (1) ~~to~~ an authorized representative of the United States government, the state of Montana, or any
6 incorporated municipality, county, alternative form of local government, irrigation district, reclamation district, or
7 other municipal or political corporation or subdivision of this state;

8 (2) ~~to~~ an officer of a court acting within the scope of office;

9 (3) ~~to~~ a public utility operating under the regulations of the public ~~service~~ utility commission or to a rural
10 cooperative utility operating under Title 35, chapter 18, in construction, maintenance, or development work
11 incidental to its own business;

12 (4) ~~to~~ the repair or operation incidental to the discovery or production of oil or gas or incidental to the
13 drilling, testing, abandoning, or other operation of an oil or gas well or a surface or underground mine or mineral
14 deposit;

15 (5) ~~to~~ the sale or installation of finished products, materials, or articles of merchandise that are not
16 actually fabricated into and do not become a permanent fixed part of a structure;

17 (6) ~~to~~ the construction, alteration, improvement, or repair carried on within the limits and boundaries of
18 a site or reservation under the exclusive legal jurisdiction of the federal government;

19 (7) ~~to~~ a person who only furnished materials, supplies, or equipment without fabricating them into or
20 consuming them in the performance of the work of the construction contractor;

21 (8) ~~to~~ work or operation on one undertaking or project considered of a casual, minor, or inconsequential
22 nature, by one or more contracts, the aggregate contract price of which, for labor and materials and all other
23 items, is less than \$2,500 a job. The exemption prescribed in this subsection does not apply when the work or
24 construction is only a part of a larger or major operation, whether undertaken by the same or a different
25 construction contractor, or ~~in which~~ if a division of the operation is made into contracts of amounts of less than
26 \$2,500 a job for the purpose of evasion of this chapter or otherwise.

27 (9) ~~to~~ a farmer or rancher while engaged in a farming, dairying, agriculture, viticulture, horticulture, or
28 stock or poultry operation;

29 (10) ~~to~~ an irrigation district or reclamation district;

30 (11) ~~to~~ an operation related to clearing or other work upon land in rural districts for fire prevention

1 purposes;

2 (12) ~~to~~ an owner who contracts for work to be performed by a registered construction contractor, ~~but this,~~
 3 This exemption does not apply to an owner who is otherwise covered by this chapter who constructs a residence
 4 on the owner's property with the intention and for the purpose of promptly selling the improved property;_

5 (13) ~~to~~ an owner working on the owner's property, whether occupied by the owner or not, ~~but this.~~ This
 6 exemption does not apply to an owner who is otherwise covered by this chapter who constructs an improvement
 7 on the owner's property with the intention and for the purpose of promptly selling the improved property, unless
 8 the owner has continuously occupied the property as the owner's primary residence for at least the last 12
 9 months;_

10 (14) ~~to~~ owners of commercial properties who use their own employees to do maintenance, repair, and
 11 alteration work in or upon their own properties;

12 (15) ~~to~~ an architect, civil or professional engineer, or professional land surveyor, licensed in Montana and
 13 acting solely in a professional capacity;

14 (16) ~~to~~ an electrician or plumber, licensed in Montana, operating within the scope of the license;

15 (17) ~~to~~ a contract security company, licensed under Title 37, chapter 60, operating within the scope of
 16 the license;

17 (18) ~~to~~ a person ~~who engages~~ engaged in the activities regulated as an employee of a registered
 18 construction contractor with wages as the sole compensation or as an employee with wages as the sole
 19 compensation;

20 (19) ~~to~~ a person or entity licensed under Title 50, chapter 39, to sell, install, or service fire suppression
 21 or fire protection equipment;

22 (20) ~~to~~ a water well contractor licensed under Title 37, chapter 43, performing the work of a water well
 23 contractor;

24 (21) ~~to~~ an enrolled tribal member or an association, business, corporation, or other entity, at least 51%
 25 of which is owned by an enrolled tribal member or members and whose business is conducted solely within the
 26 exterior boundaries of an Indian reservation;

27 (22) ~~to~~ a contractor engaged in the logging industry who builds forest access roads for the purpose of
 28 harvesting and transporting logs from forest to mill;

29 (23) ~~to~~ a person working on the person's own residence, if the residence is owned by a person other than
 30 the resident; or

1 (24) ~~to~~ an independent contractor who ~~has no~~ does not have employees. However, an independent
 2 contractor may voluntarily elect to register under this chapter."

3

4 **Section 44.** Section 53-1-704, MCA, is amended to read:

5 **"53-1-704. Montana 2-1-1 community coalition -- advisory capacity.** (1) There is a Montana 2-1-1
 6 community coalition that will serve in an advisory capacity, as defined in 2-15-102, to the department. The
 7 coalition shall assist the department in the development of a strategic plan for implementation, operation,
 8 supervision, and evaluation of 2-1-1 calling statewide.

9 (2) The coalition is composed of up to 20 members appointed by the governor, including:

- 10 (a) one representative from county government;
- 11 (b) one representative from local or county law enforcement;
- 12 (c) one representative from the Montana public ~~service~~ utility commission;
- 13 (d) representatives from each approved call center;
- 14 (e) one representative from a united way agency;
- 15 (f) one representative from the department;
- 16 (g) one representative from the department of military affairs, disaster and emergency services division;
- 17 (h) one representative from an organization or agency working with Indian health services;
- 18 (i) one representative from an organization or agency working with domestic violence and sexual assault;
- 19 (j) one representative from an organization or agency on aging;
- 20 (k) one representative from an organization or agency working in the mental health field;
- 21 (l) one representative from an organization or agency working with persons with disabilities;
- 22 (m) one representative from an organization that coordinates disaster relief delivery; and
- 23 (n) other representatives suggested by the department.

24 (3) A vacancy on the commission must be filled in the same manner as the original appointment and in
 25 a timely manner.

26 (4) Members shall serve staggered 3-year terms."

27

28 **Section 45.** Section 61-3-716, MCA, is amended to read:

29 **"61-3-716. Proportional registration of fleet motor vehicles.** (1) If a jurisdiction permits or requires
 30 the licensing of fleets of motor vehicles, trailers, semitrailer, or pole trailers in interstate or combined interstate

1 and intrastate commerce and payment of registration fees, license fees, taxes, or other fixed fees on those motor
2 vehicles, trailers, semitrailers, or pole trailers on an apportionment basis commensurate with and determined by
3 the miles traveled on and the use made of the jurisdiction's highways as compared with the miles traveled on and
4 the use made of other jurisdiction's highways or any other equitable basis of apportionment and if the jurisdiction
5 exempts motor vehicles, trailers, semitrailers, or pole trailers registered in any other jurisdiction under this
6 apportionment basis from the requirements of full payment of its own registration, license fees, taxes, or other
7 fixed fees, then the department may, by agreement, adopt exemptions with respect to motor vehicles, trailers,
8 semitrailers, or pole trailers of these fleets, whether owned by residents or nonresidents of this state and
9 regardless of where they are based. An agreement, under the terms, conditions, or restrictions that the
10 department considers proper, may provide that owners of motor vehicles, trailers, semitrailers, or pole trailers
11 operated in interstate or combined interstate and intrastate commerce in this state be permitted to pay
12 registration, license fees, taxes, or other fixed fees on an apportionment basis commensurate with and
13 determined by the miles traveled on and the use made of the highways of this state as compared with the use
14 made of the highways of other jurisdictions or any other equitable basis of apportionment. This agreement may
15 not authorize or be construed to authorize a motor vehicle, trailer, semitrailer, or pole trailer so registered to be
16 operated in intrastate commerce in this state unless the owner of the motor vehicle, trailer, semitrailer, or pole
17 trailer has been granted intrastate authority or rights by the public ~~service~~ utility commission if a grant is otherwise
18 required by law.

19 (2) The department of transportation may adopt rules that it considers necessary to carry out and
20 administer this section, and the registration of fleet motor vehicles, trailers, semitrailers, or pole trailers under
21 61-3-711 through 61-3-733 is subject to the rights, terms, and conditions granted by or contained in any
22 applicable agreement, arrangement, or declaration made by the department. The department of transportation
23 shall adopt rules providing for a change of registration period for a fleet in a case in which the owner of the fleet
24 requests that the registration period be changed to coincide with the registration period of one or more other fleets
25 in the same ownership."
26

27 **Section 46.** Section 61-3-722, MCA, is amended to read:

28 **"61-3-722. Registration and identification of proportionally registered motor vehicles -- fees --**
29 **effect of registration.** (1) The department shall register each proportionally registered motor vehicle, trailer,
30 semitrailer, or pole trailer and issue a license plate or plates, a distinctive registration decal, or other suitable

1 identification device for each motor vehicle, trailer, semitrailer, or pole trailer described in the application upon
 2 payment of the appropriate fees and property taxes, as provided by law, for the application and for the license
 3 plates, registration decals, or devices issued. A fee of \$2 must be paid for each license plate, each registration
 4 decal, and each device issued for each proportionally registered motor vehicle, trailer, semitrailer, or pole trailer.
 5 A fee of \$5 must be paid for each motor vehicle, trailer, semitrailer, or pole trailer receiving temporary registration
 6 as authorized by section 704 of the international registration plan of the American association of motor vehicle
 7 administrators, adopted in April 1988. A registration card must be issued for each proportionally registered motor
 8 vehicle, trailer, semitrailer, or pole trailer. The registration card must, in addition to other information required by
 9 chapter 3, show the number of the license, registration decal, or other device issued for the proportionally
 10 registered motor vehicle, trailer, semitrailer, or pole trailer and must be carried in the motor vehicle, trailer,
 11 semitrailer, or pole trailer at all times.

12 (2) Fleet motor vehicles, trailers, semitrailers, or pole trailers registered and identified as fleet motor
 13 vehicles are considered fully licensed and registered in this state for any type of movement or operation, except
 14 that, in those instances in which a grant of authority is required for intrastate movement or operation, the motor
 15 vehicle, trailer, semitrailer, or pole trailer may not be operated in intrastate commerce in this state unless the
 16 owner has been granted intrastate authority by the public ~~service~~ utility commission and unless the motor vehicle,
 17 trailer, semitrailer, or pole trailer is being operated in conformity with that authority."

18

19 **Section 47.** Section 61-10-154, MCA, is amended to read:

20 **"61-10-154. Department of transportation to adopt motor carrier safety standards -- enforcement**
 21 **-- designation of peace officers -- duties -- violations.** (1) As used in this section, the terms "for-hire motor
 22 carrier", "private motor carrier", "gross vehicle weight rating", and "gross combination weight rating" have the
 23 same meaning as provided in 49 CFR 390.5.

24 (2) The department of transportation shall adopt, by rule, standards for safety of operations of:

25 (a) any for-hire motor carrier or any private motor carrier;

26 (b) any motor vehicle or vehicle combination used in interstate commerce that has a gross vehicle weight
 27 rating, gross combination weight rating, gross vehicle weight, or gross combination weight, whichever is greater,
 28 of 10,001 pounds or more;

29 (c) any motor vehicle or vehicle combination used in intrastate commerce that has a gross vehicle weight
 30 rating, gross combination weight rating, gross vehicle weight, or gross combination weight, whichever is greater,

1 of 26,001 pounds or more and that is not a farm vehicle operating solely in Montana;

2 (d) any motor vehicle that is designed or used to transport at least 16 passengers, including the driver,
3 and that is not used to transport passengers for compensation;

4 (e) any motor vehicle that is designed or used to transport at least nine passengers, including the driver,
5 for compensation; or

6 (f) any motor vehicle that is used to transport hazardous materials of a type or quantity that requires the
7 vehicle to be marked or placarded in accordance with federal hazardous materials regulations in 49 CFR, part
8 172.

9 (3) Standards of safety adopted under this section must substantially comply, within allowed tolerance
10 guidelines, to the federal motor carrier safety regulations and the federal hazardous material regulations as
11 applied to motor carriers and vehicles transporting passengers or property in commerce.

12 (4) The department of transportation shall work with the highway patrol in the enforcement of safety
13 standards adopted pursuant to this section. The highway patrol and the department of transportation shall
14 cooperate to ensure minimum duplication and maximum coordination of enforcement efforts.

15 (5) In order to enforce compliance with safety standards adopted pursuant to this section, the department
16 of transportation shall designate employees as peace officers. The designated employees must be employed in
17 the administration of the motor carrier services functions of the department of transportation. Each employee
18 designated as a peace officer may:

19 (a) issue citations and make arrests in connection with violations of safety standards adopted under this
20 section;

21 (b) issue summonses;

22 (c) accept bail;

23 (d) serve warrants for arrest;

24 (e) make reasonable inspections of cargo carried by commercial motor vehicles;

25 (f) enforce the provisions of Title 49 of the United States Code and regulations that have been adopted
26 under Title 49 and make reasonable safety inspections of commercial motor vehicles used by motor carriers; and

27 (g) require production of documents relating to the cargo, driver, routing, or ownership of commercial
28 motor vehicles.

29 (6) In addition to other enforcement duties assigned under 61-10-141 and this section, an employee of
30 the department of transportation who is appointed as a peace officer pursuant to 61-12-201 or this section has:

1 (a) the same authority to enforce provisions of the motor carriers law as that granted to the public ~~service~~
2 utility commission under 69-12-203;

3 (b) the duty to secure or make copies, or both, of all bills of lading or other evidence of delivery for
4 shipment of agricultural seeds, as defined in 80-5-120, that have been sold or are intended for sale in Montana
5 and to forward the copies to the department of agriculture within 24 hours of the date that the bill of lading was
6 obtained; and

7 (c) the authority, if probable cause exists, to stop and inspect a supply tank connected to the engine of
8 any diesel-powered motor vehicle operating on the public highways of this state in order to determine compliance
9 with Title 15, chapter 70, part 4.

10 (7) A violation of the standards adopted pursuant to this section is punishable as provided in 61-9-512,
11 and the court, upon conviction, as defined in 61-5-213, shall forward a record of conviction to the department
12 within 5 days in accordance with 61-11-101.

13 (8) The department of transportation shall report to the revenue and transportation interim committee
14 biennially on its enforcement of the provisions of Title 15, chapter 70, part 4, pursuant to the authority provided
15 in subsection (6)(c) and on any impacts that enforcement has had on the state special revenue fund."
16

17 **Section 48.** Section 69-1-101, MCA, is amended to read:

18 **"69-1-101. Definition of commission.** As used in this title, the term "commission" means the public
19 ~~service~~ utility commission provided for in 2-15-2602."
20

21 **Section 49.** Section 69-1-102, MCA, is amended to read:

22 **"69-1-102. Creation of public ~~service~~ utility commission.** A public ~~service~~ utility commission is ~~hereby~~
23 ~~created, whose~~ established. It is the duty ~~it is~~ of the commission to supervise and regulate the operations of public
24 utilities, common carriers, railroads, and other regulated industries ~~listed~~ in this title. ~~Such~~ The supervision and
25 regulation ~~shall be in conformity~~ must be in accordance with this title."
26

27 **Section 50.** Section 69-1-103, MCA, is amended to read:

28 **"69-1-103. Composition of commission.** (1) The commission ~~shall consist~~ consists of five members,
29 who ~~shall~~ must be qualified electors ~~of the district from which they are elected, with each such member elected~~
30 ~~from a separate district of the state,~~ meet the qualifications in subsection (3), and be appointed from districts in

1 accordance with 69-1-104.

2 (2) The members of the commission must be appointed by the governor and confirmed by the senate.

3 Not more than three of the members may be members of the same political party.

4 (3) (a) When appointing commissioners, the governor shall give consideration to persons who are
 5 licensed to practice law in Montana or persons who have engaged in the profession of engineering, public
 6 accounting, or property and utility valuation and finance, as well as being representative of the general public and
 7 having a general knowledge of the laws governing and administering the department of public utility regulation
 8 and the purpose of the public utility commission.

9 (b) A person is not eligible to be appointed if the person has been employed with an entity or an affiliated
 10 company of an entity that is subject to regulation by the commission within 1 year from the date when the person's
 11 term on the commission begins.

12 (c) A person is not eligible for appointment unless the person has resided in the district to which the
 13 person is being appointed 2 years immediately before appointment."

14

15 **Section 51.** Section 69-1-104, MCA, is amended to read:

16 **"69-1-104. Public ~~service~~ utility commission districts.** In this state there are five public ~~service~~ utility
 17 commission districts, with one commissioner ~~elected~~ appointed from each district, distributed as follows:

18 (1) first district: Blaine, Cascade, Chouteau, Daniels, Dawson, Fergus, Garfield, Hill, Judith Basin,
 19 Liberty, McCone, Petroleum, Phillips, Richland, Roosevelt, Sheridan, Toole, Valley, and Wibaux Counties;

20 (2) second district: Big Horn, Carbon, Carter, Custer, Fallon, Powder River, Prairie, Rosebud, Treasure,
 21 and Yellowstone Counties;

22 (3) third district: Beaverhead, Broadwater, Deer Lodge, Gallatin, Golden Valley, Jefferson, Madison,
 23 Meagher, Musselshell, Park, Silver Bow, Stillwater, Sweet Grass, and Wheatland Counties;

24 (4) fourth district: Granite, Lincoln, Mineral, Missoula, Powell, Ravalli, and Sanders Counties;

25 (5) fifth district: Flathead, Glacier, Lake, Lewis and Clark, Pondera, and Teton Counties."
 26

26

27 **Section 52.** Section 69-1-105, MCA, is amended to read:

28 **"69-1-105. Term of office -- term limits.** (1) A term is for a period of 4 years. ~~A commissioner~~ The
 29 commissioners when ~~elected~~ appointed shall qualify at the time and in the manner provided by law ~~for other state~~
 30 ~~officers~~ and shall take office on the first Monday ~~of January~~ after ~~the election~~ their appointment.

1 (2) A commissioner shall serve until a successor is ~~elected and qualified~~ appointed and takes office.

2 (3) ~~The secretary of state or other authorized official may not certify a candidate's nomination or election~~

3 ~~to the public service commission or print or cause to be printed on any ballot the name of a candidate for the~~

4 ~~public service commission if, at the end of the current term of that office, the candidate will have served in that~~

5 ~~office or, had the candidate not resigned or been recalled, would have served in that office for 8 or more years~~

6 ~~in a 16-year period.~~

7 ~~————(4) When computing the time served for the purposes of subsection (3), the provisions of subsection (3)~~

8 ~~do not apply to time served in terms that ended during or prior to January 1995."~~

9

10 **Section 53.** Section 69-1-106, MCA, is amended to read:

11 **"69-1-106. Vacancies.** (1) Any vacancy occurring in the commission must be filled by appointment by

12 the governor as provided in this section. ~~The appointee shall hold office until the next general election and until~~

13 ~~a successor is elected and qualified. At the biennial election following the occurrence of any vacancy in the~~

14 ~~commission, there must be elected one member to fill out the unexpired term for which the vacancy exists.~~

15 ~~————(2) (a) When a vacancy occurs, if the former incumbent represented a party eligible for primary election~~

16 ~~under 13-10-601, the person appointed by the governor must be a member of the same political party and must~~

17 ~~be selected by the governor as provided in subsections (3) and (4).~~

18 ~~————(b) If the former incumbent was an independent or was originally nominated from a party that does not~~

19 ~~meet the requirements of 13-10-601, the governor shall appoint an individual to the vacant position within 45 days~~

20 ~~of receiving notification from the secretary of state of the vacancy.~~

21 ~~————(3) Within 7 days of being notified of a vacancy as described in 2-16-501, the secretary of state shall~~

22 ~~notify the governor and, if the former incumbent represented a party eligible for primary election under 13-10-601,~~

23 ~~the state party that was represented by the former incumbent.~~

24 ~~————(4) (a) Upon receipt of a notification of a vacancy, the state party central committee notified pursuant to~~

25 ~~subsection (3) has 30 days to forward to the governor a list of three prospective appointees, each of whom must~~

26 ~~be a resident of the district represented by the former incumbent.~~

27 ~~(b) If the governor does not select an appointee from the list forwarded pursuant to subsection (4)(a)~~

28 ~~within 15 days, the central committee shall, within 15 days, forward a second list of three prospective appointees,~~

29 ~~each of whom must be a resident of the district represented by the former incumbent. The second list may not~~

30 ~~contain a name submitted on the first list. Within 15 days of receipt of the second list, the governor shall select~~

1 an appointee from either list.

2 (2) If the senate is not in session, the appointment is subject to confirmation during the next session. An
3 appointment to fill a vacancy is for the unexpired term for which the vacancy exists."

4

5 **Section 54.** Section 69-1-107, MCA, is amended to read:

6 **"69-1-107. Presiding officer of commission.** A presiding officer must be selected by the commission
7 from its membership at the first meeting of each odd-numbered year ~~after a general election.~~"

8

9 **Section 55.** Section 69-1-112, MCA, is amended to read:

10 **"69-1-112. Prohibition on acceptance of favors from railroads.** (1) Public ~~service~~ utility
11 commissioners or their staff may not, directly or indirectly, solicit or request from or recommend to any railroad
12 corporation or any officer, attorney, or agent the appointment of any person to any place or position, and any
13 railroad corporation or its attorney or agent may not offer any place, appointment, or position or other
14 consideration to commissioners or their staff. Commissioners and their staff may not accept, receive, or request
15 any pass from any railroad in this state for themselves or for any other person, except as otherwise provided in
16 69-1-111, or any present, gift, or gratuity of any kind from any railroad corporation.

17 (2) A request or acceptance, except as specified in 69-1-111, of any place or position, pass, present,
18 gift, or other gratuity referred to in subsection (1) results in forfeiture of the office of the commissioner or the staff
19 requesting or accepting the same. A person violating any of the provisions of this section is guilty of a
20 misdemeanor."

21

22 NEW SECTION. **Section 56. Salaries of public utility commissioners.** Before June 30 of each
23 even-numbered year, the department of public utility regulation shall conduct a salary survey of public utility
24 commissioners or officials with similar titles for the states of North Dakota, South Dakota, Wyoming, and Idaho.
25 The department shall consider the current salary for the Montana commissioners in determining the average
26 salary for the commissioners or officials with similar titles. If the average salary is greater than the salary for the
27 commissioners in Montana, then beginning July 1 of the year following the year in which the survey is conducted,
28 the average salary is the new salary for the commissioners.

29

30 **Section 57.** Section 69-1-201, MCA, is amended to read:

1 **"69-1-201. Definitions.** As used in Title 69, chapter 2, part 2, and this part and part 2 of chapter 2, the
 2 following definitions apply:

3 (1) "Committee" means the legislative consumer committee provided for in Title 5, chapter 15, part 1.

4 (2) "Consumer counsel" means the consumer counsel provided for in Title 5, chapter 15, part 2.

5 (3) "Regulated companies" means ~~all those~~ organizations, corporations, associations, or other public
 6 or private entities ~~which now that~~ are or may ~~hereafter~~ in the future become subject to regulation in any manner
 7 by the department of public ~~service~~ utility regulation or the public ~~service~~ utility commission or ~~any a~~ successor
 8 agency."

9

10 **Section 58.** Section 69-1-223, MCA, is amended to read:

11 **"69-1-223. Funding of office of consumer counsel.** (1) There is an account in the state special
 12 revenue fund ~~to~~ into which all fees collected under this section must be deposited and from which all
 13 appropriations to the office of the consumer counsel must be paid. An appropriation to the office of the consumer
 14 counsel may consist of a base appropriation for regular operating expenses and a contingency appropriation for
 15 expenses due to an unanticipated caseload.

16 (2) In addition to all other licenses, fees, and taxes imposed by law, all regulated companies shall:

17 (a) within 30 days after the close of each calendar quarter, file with the department of public ~~service~~ utility
 18 regulation and the department of revenue a statement, in a form that the commission and department may
 19 determine, showing the gross operating revenue from all activities regulated by the commission within the state
 20 for that calendar quarter of operation or portion of a quarter, separately stating gross revenue from sales to other
 21 regulated companies for resale; and

22 (b) at that time pay to the department of revenue a fee based on a percentage of the gross operating
 23 revenue reported, as determined by the department of revenue under 69-1-224.

24 (3) The amount of money ~~which may be~~ raised by the fee on the regulated companies during a fiscal
 25 year may not be increased, except as provided in 69-1-224(1)(c), from the amount appropriated, including both
 26 base and contingency appropriations, by the legislature for that fiscal year. Any additional money required for
 27 operation of the office of the consumer counsel must be obtained from other sources in a manner authorized by
 28 the legislature."

29

30 **Section 59.** Section 69-1-224, MCA, is amended to read:

1 **"69-1-224. Determination of fee.** (1) On or before August 31 of each year, the department of revenue
2 shall:

3 (a) determine the total gross operating revenue generated by all regulated activities within this state for
4 all regulated companies for the previous fiscal year;

5 (b) compute the percentage, subject to revision as provided in subsection (2), of the amount determined
6 in subsection (1)(a) that will produce an amount equal to the current appropriation to the office of the consumer
7 counsel, except that a regulated company owned and operated by ~~any~~ a municipal corporation within this state
8 may not be required to pay a sum in excess of 0.06 of 1% of its gross operating revenue;

9 (c) adjust the percentage multiplier computed in subsection (1)(b) to ensure that sufficient funds are
10 generated to meet the appropriation and that excess funds are not generated or retained by:

11 (i) determining the appropriation to the office of the consumer counsel for the previous fiscal year and
12 comparing it to the fees collected from the previous fiscal year;

13 (ii) reducing or increasing the percentage determined in subsection (1)(b) for the current year ~~in order~~
14 to account for any difference determined in subsection (1)(c)(i); and

15 (iii) if necessary, reducing the revenue ~~to be~~ collected for the current year by any funds remaining unspent
16 at the close of the prior fiscal year; and

17 (d) give notice by mail to each regulated company of the percentage to be applied to the gross operating
18 revenue reported under 69-1-223(2) to determine the amount of the fee to be paid.

19 (2) (a) The department of revenue shall adjust the percentage multiplier if the department considers a
20 change necessary to meet or to not exceed the amount ~~to be~~ raised by the fee because of:

21 (i) fluctuations in the actual gross operating revenue subject to the fee; or

22 (ii) submission and approval of a budget amendment authorizing the spending of money from a
23 contingency appropriation included in the appropriation measure for the office of the consumer counsel and
24 authorized to be raised by ~~means of~~ the fee.

25 (b) Adjustments of the percentage multiplier are subject to the exception provided in subsection (1)(b)
26 for municipally owned and operated regulated companies.

27 (c) Regulated companies must ~~be given~~ receive at least 30 days' notice of ~~any~~ a change in the
28 percentage multiplier.

29 (d) ~~Any~~ A change in the percentage multiplier is effective at the beginning of the next calendar quarter.

30 (3) ~~In the event that~~ If the fee charged in 1 year is in excess of the amount actually expended in that year,

1 the excess must be deducted from the amount required to be raised by the fee for the next year before the
 2 determination required by subsection (1) is made. Money remaining unspent at the close of the fiscal year must
 3 be used to reduce the percentage calculated in subsection (1) in the subsequent fiscal year.

4 (4) All fees paid by a regulated company pursuant to this section are immediately recoverable by the
 5 regulated company in its rates and charges. Within 30 days after the issuance by the department of revenue of
 6 the notice required by subsection (1), the public ~~service utility~~ commission shall by separate order authorize each
 7 regulated company to fully recover in its rates and charges, on an annual basis, the fees levied by this part."

8

9 **Section 60.** Section 69-1-401, MCA, is amended to read:

10 **"69-1-401. Definitions.** As used in this part, the following definitions apply:

11 (1) "Department" means the department of public ~~service utility~~ regulation provided for in Title 2, chapter
 12 15, part 26.

13 (2) "Regulated companies" means ~~all~~ organizations, corporations, associations, or other public or private
 14 entities ~~which now that~~ are or may ~~hereafter~~ in the future become subject to regulation in any manner by the
 15 department of public ~~service utility~~ regulation, the public ~~service utility~~ commission, or ~~any a~~ successor agency.
 16 The term does not include motor carriers regulated pursuant to Title 69, chapter 12."

17

18 **Section 61.** Section 69-1-403, MCA, is amended to read:

19 **"69-1-403. Determination and collection of fee.** (1) The fee provided for in 69-1-402 ~~to be~~ paid by
 20 regulated companies must be determined in ~~the manner set forth in~~ accordance with 69-1-224 ~~for determining~~
 21 to determine the consumer counsel fee, except that gross revenues from sales to other regulated companies for
 22 resale, as calculated by the public ~~service utility~~ commission, must be excluded from the determination of the total
 23 gross operating revenue pursuant to 69-1-224.

24 (2) The department of revenue shall give notice ~~by mail to each regulated company~~ of the percentage
 25 determined pursuant to 69-1-224 and this section to be applied to gross operating revenues reported under
 26 69-1-223, excluding gross revenues from sales to other regulated companies for resale, to a regulated company.
 27 Notice must be provided by mail.

28 (3) The fee provided for in 69-1-402 may be computed and collected ~~in the manner~~ as provided in
 29 69-1-225 through 69-1-227.

30 (4) ~~All fees~~ Fees paid by a regulated company pursuant to this section are immediately recoverable by

1 the regulated company in its rates and charges. Within 30 days after the issuance by the department of revenue
 2 of the notice required by 69-1-224(1), the public ~~service utility~~ commission shall by separate order authorize ~~each~~
 3 a regulated company to fully recover in its rates and charges, on an annual basis, the fees levied by this part."

4

5 **Section 62.** Section 69-3-204, MCA, is amended to read:

6 **"69-3-204. Fees to be charged by commission.** (1) The public ~~service utility~~ commission may, except
 7 as otherwise provided by law, require and receive fees before the filing of annual reports, schedules, and
 8 supplements not provided by law to be furnished free of charge.

9 (2) The commission shall require and receive an additional ~~sum to be fee,~~ set by the commission, to pay
 10 the cost of publishing notice ~~as~~ required by this chapter.

11 (3) This section does not require or authorize the public ~~service utility~~ commission to collect fees for the
 12 filing of annual reports, schedules, and supplements ~~of these which relate~~ related solely to interstate commerce."

13

14 **Section 63.** Section 69-3-307, MCA, is amended to read:

15 **"69-3-307. Treatment of advertisement costs and contributions.** (1) Costs Except as provided in
 16 subsections (2) and (3), costs or expenses incurred by public utilities for advertising, transfers of funds without
 17 full and adequate consideration, contributions, donations, and gifts may not be treated as expenses deductible
 18 from income or from capital assets or in any other manner by the public ~~service utility~~ commission in setting or
 19 regulating rates ~~that may be charged by the public utilities pursuant to this chapter.~~

20 (2) This section does not apply to advertising that encourages the conservation of energy, ~~or encourages~~
 21 product safety, ~~or~~ informs the public of the availability of alternative forms of energy, ~~or recommends usage at~~
 22 times of lower rates or lower demand. ~~Furthermore, for communications public utilities, the~~

23 (3) The provisions of this section do not apply to advertising by communications public utilities that
 24 relates to:

25 (a) special equipment ~~that is~~ available to aid persons with disabilities; ~~or to~~

26 (b) special services ~~that are~~ designed to protect the public health, welfare, and safety; ~~to promote;~~

27 (c) the promotion of more efficient use of a communications system; ~~or to promote; or~~

28 (d) the promotion of the increased use of regulated communications services."

29

30 **Section 64.** Section 69-3-601, MCA, is amended to read:

1 **"69-3-601. (Temporary) Definitions.** As used in this part, the following definitions apply:

2 (1) "Commission" means the Montana public ~~service~~ utility commission.

3 (2) "Electric cooperative" means a rural electric cooperative organized under the laws of Montana, or
4 a foreign corporation admitted to do business in Montana.

5 (3) "Qualifying small power production facility" means a facility that:

6 (a) produces electricity by the use, as a primary energy source, of biomass, waste, water, wind, or other
7 renewable resource, or any combination of those sources; or

8 (b) produces electricity and useful forms of thermal energy, ~~such as~~ including heat or steam, used for
9 industrial, commercial, heating, or cooling purposes through the sequential use of energy known as cogeneration;
10 and

11 (c) has a power production capacity that together with any other facilities located at the same site is not
12 greater than 80 megawatts; and

13 (d) is owned by a person not primarily engaged in the generation or sale of electricity other than electric
14 power from a small power production facility.

15 (4) "Utility" means ~~any a~~ public utility supplying electricity and regulated by the commission. (Repealed
16 on occurrence of contingency--secs. 1, 3, Ch. 284, L. 2003--see part compiler's comment.)"

17

18 **Section 65.** Section 69-3-701, MCA, is amended to read:

19 **"69-3-701. Definitions.** As used in this part, the following definitions apply:

20 (1) "Commission" means the Montana public ~~service~~ utility commission ~~created~~ established in 2-15-2602.

21 (2) "Conservation" means ~~any a~~ reduction in electric power or natural gas consumption as a result of an
22 investment in measures that increase the efficiency of electricity or gas use in building shells, space heating or
23 cooling equipment, water heating equipment, or refrigeration equipment or other cost-effective measures ~~which,~~
24 ~~over its~~ that over their economic life meet the criteria of 69-3-702."

25

26 **Section 66.** Section 69-3-803, MCA, is amended to read:

27 **"69-3-803. Definitions.** As used in this part, the following definitions apply:

28 (1) "Commercial mobile radio service" means commercial mobile radio service as defined in 47 CFR
29 20.9.

30 (2) "Commission" means the public ~~service~~ utility commission.

1 (3) "Eligible telecommunications carrier" means a telecommunications provider designated by the
2 commission under 69-3-840.

3 (4) "Fund" means the universal service fund established in 69-3-842.

4 (5) "Incumbent local exchange carrier" means, with respect to an area, the local exchange carrier that:

5 (a) on February 8, 1996, provided telephone exchange service in the area; and

6 (b) on February 8, 1996, was considered to be a member of the exchange carrier association pursuant
7 to 47 CFR 69.601(b) or is a person or entity that, after that date, became a successor or assign of a member of
8 the exchange carrier association.

9 (6) "Local telecommunications" means:

10 (a) telecommunications originating in a wireline local calling area, including extended area service areas,
11 and terminating in the same wireline local calling area or extended area service area; or

12 (b) commercial mobile radio service that originates from or terminates to a commercial mobile radio
13 service provider within the same major trading area as defined in 47 CFR 24.202(a).

14 (7) "Nonlocal telecommunications" means:

15 (a) wireline telecommunications traffic carried by either an interlocal access transport area carrier or an
16 intralocal access transport area toll provider that originates in one wireline local calling area and terminates in
17 another wireline local calling area; or

18 (b) commercial mobile radio service that originates in a major trading area and terminates in a different
19 major trading area as defined in 47 CFR 24.202(a).

20 (8) "Originating carrier" means a telecommunications carrier from whose network a customer originates
21 telecommunications traffic.

22 (9) "Private telecommunications service" means a system, including the construction, maintenance, or
23 operation of the system, for the provision of telecommunications service or any portion of the service, by a person
24 or entity for the sole and exclusive use of that person or entity and not for resale, directly or indirectly. For
25 purposes of this definition, the term "person or entity" includes a corporation and all of its affiliates and
26 subsidiaries if the corporation, affiliates, and subsidiaries have a common ownership or control of 80% of the
27 outstanding voting shares.

28 (10) (a) "Regulated telecommunications service" means two-way switched, voice-grade access and
29 transport of communications originating and terminating in this state and nonvoice-grade access and transport
30 if intended to be converted to or from voice-grade access and transport.

1 (b) Except as provided in 69-3-815, the term does not include the provision of terminal equipment used
2 to originate or terminate the regulated service, private telecommunications service, one-way transmission of
3 television signals, cellular communication, or provision of radio paging or mobile radio services.

4 (11) "Retail revenue" means the gross Montana revenue from telecommunications services that originate
5 or terminate in Montana and are billed for a service address in Montana, excluding revenue from the resale of
6 telecommunications services to another telecommunications services provider that uses the telecommunications
7 services to provide telecommunications services to the ultimate retail consumer who originates or terminates the
8 transmission.

9 (12) "Rural telephone company" means a local exchange carrier operating entity to the extent that the
10 entity:

11 (a) provides common carrier service to any local exchange carrier study area that does not include
12 either:

13 (i) all or any part of an incorporated place of 10,000 inhabitants or more based on the most recently
14 available population statistics of the United States bureau of the census; or

15 (ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the United
16 States bureau of the census as of August 10, 1993;

17 (b) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

18 (c) provides telephone exchange service to any local exchange carrier study area with fewer than
19 100,000 access lines; or

20 (d) has less than 15% of its access lines in communities of more than 50,000 on February 8, 1996.

21 (13) "Telecommunications" means the transmission, between or among points specified by the user, of
22 information of the user's choosing without a change in the form or content of the information upon receipt.

23 (14) (a) "Telecommunications carrier" or "carrier" means any provider of telecommunications services.
24 A person providing other products and services in addition to telecommunications services is considered a
25 telecommunications carrier only to the extent that it is engaged in providing telecommunications services.

26 (b) The term does not mean aggregators of telecommunications services as defined in 47 U.S.C. 226.

27 (15) "Terminating carrier" means a telecommunications carrier upon whose network telecommunications
28 traffic terminates.

29 (16) (a) "Transit traffic" means telecommunications traffic that an originating carrier delivers to a transiting
30 carrier or carriers for delivery to a terminating carrier.

1 (b) The term does not mean traffic carried by interlocal access transport area carriers or providers of
2 intralocal access transport area toll services.

3 (17) "Transiting carrier" means a telecommunications carrier or carriers that transport transit traffic from
4 an originating carrier to a terminating carrier and that do not originate or terminate telecommunications traffic."
5

6 **Section 67.** Section 69-3-901, MCA, is amended to read:

7 **"69-3-901. Definitions.** As used in this part, the following definitions apply:

8 (1) "Commission" means the Montana public ~~service~~ utility commission.

9 (2) "Rate" means a charge by a small telecommunications provider to a subscriber for the initiation or
10 continued provision of regulated telecommunications service. The term includes but is not limited to charges for
11 installations, local service, toll service, directory assistance, and late payment.

12 (3) "Rate increase" means an increase in the rates for regulated telecommunications services provided
13 by a small telecommunications provider and the creation of new rates.

14 (4) "Regulated telecommunications service" is as defined in 69-3-803.

15 (5) "Small telecommunications provider" means a person, partnership, corporation, or other entity
16 providing regulated telecommunications service to less than 12,000 subscribers in Montana. Rural telephone
17 cooperatives organized under Title 35, chapter 18, are not small telecommunications providers.

18 (6) "Subscriber" means a person, partnership, corporation, or other entity acquiring regulated
19 telecommunications service from a small telecommunications provider. There is one subscriber for each billed
20 line of a small telecommunications provider."
21

22 **Section 68.** Section 69-3-1003, MCA, is amended to read:

23 **"69-3-1003. Reimbursement for discounts.** (1) The public ~~service~~ utility commission shall authorize
24 an additional monthly charge for each residential access line to fully reimburse providers of local
25 telecommunications services for discounts given to eligible subscribers.

26 (2) The additional monthly charge for local exchange service applies to residential subscribers of
27 providers of local telecommunications services that participate in the low-income telephone assistance program.

28 (3) Participation of each provider in the low-income telephone assistance program must be administered
29 separately by the public ~~service~~ utility commission."
30

1 **Section 69.** Section 69-3-1004, MCA, is amended to read:

2 **"69-3-1004. Administration -- rules.** (1) The public ~~service~~ utility commission shall monitor the
3 effectiveness of the low-income telephone assistance program and issue annual reports as provided in
4 69-3-1005.

5 (2) The commission may adopt rules necessary to administer and implement the low-income telephone
6 assistance program and to receive matching federal low-income telephone assistance."

7

8 **Section 70.** Section 69-3-1006, MCA, is amended to read:

9 **"69-3-1006. Federal requirements.** The public ~~service~~ utility commission, the department of public
10 health and human services, and participating providers of local telecommunications services shall comply with
11 federal requirements for the receipt of matching federal low-income telephone assistance."

12

13 **Section 71.** Section 69-3-1007, MCA, is amended to read:

14 **"69-3-1007. Applicability -- voluntary participation or withdrawal.** (1) Sections 69-3-1001 through
15 69-3-1006 apply to providers of regulated local telecommunications services with more than 50,000 subscribers.

16 (2) Regulated providers of local telecommunications services with fewer than 50,000 subscribers may
17 petition the public ~~service~~ utility commission to participate in or to withdraw from the low-income telephone
18 assistance program. The public ~~service~~ utility commission shall grant a petition to participate in or to withdraw
19 from the low-income telephone assistance program unless federal requirements for obtaining matching federal
20 low-income telephone assistance require otherwise."

21

22 **Section 72.** Section 69-3-1205, MCA, is amended to read:

23 **"69-3-1205. Public comment.** (1) The commission shall conduct a public meeting for the purpose of
24 receiving comment on a plan. The commission or the department of public ~~service~~ utility regulation may comment
25 on the plan. A comment by the commission or the department may not be construed as preapproval by the
26 commission of rate treatment for any proposed resource.

27 (2) The department of environmental quality:

28 (a) shall review a plan and comment on the need for new resources, the alternatives evaluated to meet
29 the need, the environmental implications of the resource choices, and other related issues that it considers
30 important. The department shall coordinate and deliver all comments from other executive branch agencies.

1 (b) may use a plan in the development of studies for a specific energy facility for which an application
2 for a certificate of compliance is submitted under Title 75, chapter 20.

3 (3) The consumer counsel shall review and may comment on a plan."
4

5 **Section 73.** Section 69-4-305, MCA, is amended to read:

6 "**69-4-305. ~~Effect on authority~~ Authority of public service utility commission.** Nothing contained in
7 this part ~~shall~~ may be construed to vest ~~any~~ jurisdiction over ~~any~~ a public utility in the governing body. The public
8 ~~service utility~~ commission ~~shall retain~~ retains all jurisdiction ~~now or hereafter~~ conferred ~~upon~~ on it by law."
9

10 **Section 74.** Section 69-4-314, MCA, is amended to read:

11 "**69-4-314. Determination of conversion costs.** ~~In~~ (1) (a) Except as provided in subsection (1)(b), in
12 determining the conversion costs included in the cost and feasibility report required by 69-4-313, the a public
13 utility is entitled to amounts sufficient to repay it for the following; costs provided for in subsection (2) as computed
14 and reflected by the uniform system of accounts approved by the Montana public service utility commission, the
15 federal communications commission, or federal power commission ~~or if.~~

16 (b) If the public utility is not subject to regulation by any of the above governmental agencies the Montana
17 public utility commission, the federal communications commission, or federal power commission, a public utility
18 is entitled to amounts sufficient to repay it for costs provided for in subsection (2) as computed and reflected by
19 the public utility's system of accounts then in use used by the public utility and in accordance with standard
20 accounting procedures of the public utility.

21 (2) Costs included in subsection (1) are:

22 ~~(1)(a)~~ (1)(a) the original costs, less depreciation taken of the existing overhead electric and communication
23 facilities to be removed;

24 ~~(2)(b)~~ (2)(b) the estimated costs of removing the overhead electric and communication facilities, less the
25 salvage value of the facilities removed;

26 ~~(3)(c)~~ (3)(c) if the estimated cost of constructing new underground facilities exceeds the estimated cost of
27 constructing new aerial facilities, ~~then~~ the cost difference between the two;

28 ~~(4)(d)~~ (4)(d) the cost of obtaining new easements when technical considerations make it reasonably necessary
29 to ~~utilize~~ use easements for the underground facilities different from those used for above ground facilities or
30 where the preexisting easements are insufficient for the underground facilities."

1

2 **Section 75.** Section 69-4-356, MCA, is amended to read:

3 **"69-4-356. Payment of public utility.** (1) ~~Upon completion of the~~ When a conversion contemplated by
4 this part ~~is complete~~, the public utility shall present the governing body with ~~its~~ a verified bill for conversion costs
5 ~~as~~ computed pursuant to 69-4-314, but based ~~upon~~ on the actual cost of constructing the underground facility
6 rather than the estimated cost of the facility. ~~In the event the~~ If the conversion costs are less than the estimated
7 conversion costs, each assessed owner within the improvement district shall receive the benefit, prorated in ~~such~~
8 a form and at ~~such time or times as~~ a time determined by the governing body ~~may determine~~. The bill of the public
9 utility ~~shall~~ must be paid within 30 days by the governing body from the improvement district funds or ~~such~~ other
10 ~~source as is~~ sources properly designated by the governing body.

11 (2) In determining the actual cost of constructing the underground facility, the public utility shall use its
12 standard accounting procedures, ~~such as including~~ the uniform system of accounts ~~as~~ defined by the federal
13 communications commission, federal power commission, or Montana public ~~service utility~~ utility commission ~~and as~~
14 ~~is~~ in use at the time of the conversion by the public utility involved."

15

16 **Section 76.** Section 69-5-121, MCA, is amended to read:

17 **"69-5-121. Definitions.** As used in 69-5-122 and this section, the following definitions apply:

18 (1) "Electric utility" means a public utility regulated by the public ~~service utility~~ utility commission pursuant to
19 Title 69, chapter 3, that provides electrical service for heat, light, or power to a small customer.

20 (2) "Extension" means any works or improvements necessary to connect a residential structure of a small
21 customer to an electric utility's distribution or transmission system.

22 (3) "Residential structure" means a single-family house, trailer, manufactured home, or mobile home,
23 excluding any outbuildings, improvements, irrigation pumps, facilities, or other structures located on the property.

24 (4) "Small customer" has the meaning provided in 69-3-2003."

25

26 **Section 77.** Section 69-8-201, MCA, is amended to read:

27 **"69-8-201. Public utility -- customer electricity supply service options and requirements --**
28 **exemption.** (1) (a) Except as provided in subsections (1)(b) and (1)(c), a retail customer that has an individual
29 load with an average monthly demand of greater than or equal to 5,000 kilowatts and that is not purchasing
30 electricity supply service from a public utility on October 1, 2007, may not purchase electricity supply service from

1 a public utility.

2 (b) A retail customer referred to in subsection (1)(a) may request electricity supply service from the public
3 utility, and the public utility shall provide electricity supply service if the retail customer demonstrates that the
4 provision of electricity supply service to the retail customer will not adversely impact the public utility's other
5 customers over the long term as determined by the commission.

6 (c) If a public utility provides electricity supply service to a retail customer as provided in subsection
7 (1)(b), that service is regulated by the commission and the customer may not, at a later date, purchase electricity
8 supply service from another provider of electricity supply service.

9 (2) (a) A retail customer that has an individual load with an average monthly demand of less than 5,000
10 kilowatts that is not purchasing electricity from a public utility on October 1, 2007, may continue to purchase
11 electricity from an electricity supplier. The retail customer may subsequently purchase electricity from a public
12 utility subject to commission rule or order, but the customer may not, at a later date, choose to purchase electricity
13 from another source.

14 (b) A retail customer that has an individual load with an average monthly demand of less than 5,000
15 kilowatts and that is currently purchasing electricity from a public utility may not choose to purchase electricity
16 from another source after October 1, 2007.

17 (3) Nothing in this section affects a retail customer's rights and obligations with respect to net metering,
18 cogeneration, self-generation, or ancillary sales of electricity related to deviations from scheduled energy
19 deliveries from nonutility suppliers, as may be provided for in law, commission rule or order, or a tariff approved
20 by the public ~~service~~ utility commission or the federal energy regulatory commission.

21 (4) (a) Except as provided in 69-5-101, 69-5-102, 69-5-104(2), 69-5-105 through 69-5-112, 69-8-402,
22 and subsection (4)(b) of this section, a public utility currently doing business in Montana as part of a single
23 integrated multistate operation, no portion of which lies within the basin of the Columbia River, is exempt from
24 the requirements of this chapter.

25 (b) To the extent that a public utility described in subsection (4)(a) becomes the successor in interest
26 of another public utility that has restructured in accordance with this chapter before October 1, 2007, it is subject
27 to the requirements of this chapter with respect to the service area of the acquired public utility."
28

29 **Section 78.** Section 69-8-215, MCA, is amended to read:

30 **"69-8-215. Ratepayer and shareholder protection.** (1) Rates established pursuant to Title 69, chapter

1 3, part 3, may not allow for the recovery of any portion of a civil judgment in a lawsuit arising out of litigation
2 brought by the shareholders of a predecessor in interest against:

3 (a) the predecessor in interest;

4 (b) the officers or directors of the predecessor in interest;

5 (c) the legal advisers or consultants to the predecessor in interest; or

6 (d) any successor of the predecessor in interest, including a successor in interest.

7 (2) (a) Subject to subsection (3), an entity subject to regulation under Title 69, including the entity's
8 subsidiaries and affiliates, may not be made a party to litigation brought by the shareholders of a predecessor
9 in interest against:

10 (i) the predecessor in interest;

11 (ii) the officers or directors of the predecessor in interest;

12 (iii) the legal advisers or consultants to the predecessor in interest; or

13 (iv) any successor of the predecessor in interest that is not a successor in interest.

14 (b) Except as provided in subsection (3), an entity subject to regulation under Title 69 may not be held
15 liable for a civil judgment entered against:

16 (i) a predecessor in interest;

17 (ii) the officers or directors of a predecessor in interest;

18 (iii) the legal advisers or consultants to a predecessor in interest; or

19 (iv) any successor of a predecessor in interest that is not a successor in interest.

20 (3) Subsection (2) does not apply:

21 (a) to a successor of a public utility regulated by the public ~~service~~ utility commission pursuant to Title
22 69, chapter 3, on May 2, 1997, whose shareholders received stock as a result of the sale of a public utility; or

23 (b) if the liabilities resulting from, related to, or arising out of a reorganization, restructuring, or plan of
24 merger were explicitly assumed by written contract to be the liabilities of the successor to the predecessor in
25 interest.

26 (4) For the purposes of this section:

27 (a) "predecessor in interest" means a public utility regulated by the commission pursuant to Title 69,
28 chapter 3, on May 2, 1997, in which an interest was purchased through an arm's-length transaction in which the
29 market value of the public utility property purchased was paid for in cash, debt assumption, or a combination of
30 cash and debt assumption; and

1 (b) "successor in interest" means the purchaser of all or a portion of a public utility regulated by the
2 commission pursuant to Title 69, chapter 3, on May 2, 1997, through an arm's-length transaction in which the
3 market value of the public utility property purchased was paid for in cash, debt assumption, or a combination of
4 cash and debt assumption."

5

6 **Section 79.** Section 69-11-421, MCA, is amended to read:

7 **"69-11-421. Liability of inland carriers for loss.** (1) Any common carrier, railroad, or transportation
8 company subject to the provisions of 69-11-421 through 69-11-427, receiving property for transportation from a
9 point in Montana to any other point in Montana, shall issue a receipt or bill of lading for the property and is liable
10 to the lawful holder of the bill of lading for any loss, damage, or injury to the property caused by it or by any
11 common carrier, railroad, or transportation company to which the property may be delivered or over whose line
12 or lines the property may pass within the state when transported on a through bill of lading. A contract, receipt,
13 rule, or other limitation of any character may not exempt the common carrier, railroad, or transportation company
14 from the liability imposed by this section.

15 (2) Except as provided in 69-11-422, a common carrier, railroad, or transportation company receiving
16 property for transportation from a point in Montana to a point in Montana or any common carrier, railroad, or
17 transportation company delivering property so received and transported is liable to the lawful holder of the receipt
18 or bill of lading or to any party entitled to recover on the receipt or bill of lading, whether the receipt or bill of lading
19 has been issued or not, for the full actual loss, damage, or injury to the property caused by it or by any common
20 carrier, railroad, or transportation company to which the property may be delivered or over whose line or lines
21 the property may pass within the state when transported on a through bill of lading, notwithstanding any limitation
22 of liability or limitation of the amount of recovery or representation or agreement as to value in any receipt or bill
23 of lading or in any contract or rule or in any tariff filed with the public ~~service~~ utility commission. Any limitation,
24 without respect to the manner or form in which it is sought to be made, is unlawful and void, except:

25 (a) an inherent defect, vice, or weakness or a spontaneous action of the property itself;

26 (b) the act of a public enemy of the United States or of this state;

27 (c) the act of the law;

28 (d) an irresistible superhuman cause;

29 (e) the act or default of the shipper or owner; or

30 (f) for natural shrinkage.

1 (3) Nothing in 69-11-421 through 69-11-426 deprives any holder of a receipt or bill of lading of any
2 remedy or right of action.

3 (4) The liability imposed by this section also applies in the case of property reconsigned or diverted in
4 accordance with the applicable tariffs filed as provided in this part.

5 (5) A common carrier is liable, even in the cases excepted by subsection (2), if the carrier's ordinary
6 negligence exposes the property to the cause of the loss."

7

8 **Section 80.** Section 69-11-422, MCA, is amended to read:

9 **"69-11-422. Permissible limitations on liability.** (1) The provisions of 69-11-421 ~~respecting regarding~~
10 liability for full actual loss, damage, or injury, notwithstanding any limitation of liability, ~~or recovery, or~~
11 representation, ~~or agreement, or release as to value, and declaring any such limitation to be unlawful and that~~
12 is declared void, shall not do not apply to:

13 (a) baggage carried on passenger trains or buses; or

14 (b) property, except ordinary livestock, received for transportation, ~~concerning which if the carrier shall~~
15 ~~have been or shall hereafter be~~ is expressly authorized or is required by order of the public service utility
16 commission to establish and maintain rates dependent ~~upon~~ on the value declared in writing by the shipper or
17 agreed upon in writing, as the released value of the property.

18 (2) (a) ~~In the case listed in~~ If a limitation is allowed in accordance with subsection (1)(b), ~~such a~~
19 declaration or agreement ~~shall have~~ has no other effect other than ~~to limit~~ limiting liability and recovery to an
20 amount not exceeding the value ~~so~~ declared or released, ~~and shall not, so far as related, as it relates~~ to values,
21 ~~be held to be a violation of~~ the limitation does not violate 69-11-421 through 69-11-427. ~~Any A~~ tariff schedule
22 ~~which may be filed with the commission pursuant to the order referred to in subsection (1)(b) shall must~~ contain
23 specific reference ~~thereto~~ to the limitation and may establish rates varying with the value ~~so~~ declared and agreed
24 ~~upon~~ on. The commission ~~is hereby empowered to~~ may make ~~such an~~ order in cases ~~where~~ in which rates
25 dependent upon and varying with declared or agreed values would, in its opinion, be just and reasonable under
26 the circumstances and conditions surrounding the transportation.

27 (b) The term "ordinary livestock" ~~shall include all~~ includes cattle, swine, sheep, goats, horses, and mules,
28 ~~except such as~~ unless the cattle, swine, sheep, goats, horses, or mules are chiefly valuable for breeding, racing,
29 show purposes, or other special uses."

30

1 **Section 81.** Section 69-12-302, MCA, is amended to read:

2 **"69-12-302. Class C contract requirements.** (1) A Class C motor carrier may operate under no more
3 than six contracts that are effective at any given time, ~~and each.~~ Each contract must be effective for a minimum
4 of 180 days. Before transportation service ~~may commence~~ commences, pertinent contract information must be
5 ~~furnished~~ provided to the commission for each contract on forms prescribed by the commission. The commission
6 shall retain a duplicate of the information in its files, and a copy of the form, confirmed by the commission, must
7 be kept in the cab of the motor carrier when operating under that contract.

8 (2) ~~All~~ Class C motor carriers shall annually submit to the commission the names and addresses of all
9 persons, corporations, or other legal entities with whom the Class C carrier has executed a contract, charter,
10 agreement, or undertaking for the distribution, delivery, or collection of wares, merchandise, or commodities or
11 for transporting persons.

12 (3) The provisions of this section do not apply to solid waste contractors, transportation of recyclables,
13 household goods carriers, or house movers, as defined by the department of public ~~service~~ utility regulation, or
14 any carrier whose authority is limited to the pickup and delivery of property and is confined by certificate to
15 transportation within a distance of 50 miles or less from a particular location. A carrier whose property authority
16 is incidental to the transportation of persons is not included in the exemption under this subsection."
17

18 **Section 82.** Section 69-12-408, MCA, is amended to read:

19 **"69-12-408. Identification of ownership of certain large motor vehicles.** (1) (a) Except as provided
20 in subsection (2), a person may not operate a motor vehicle or combination of vehicles having a gross weight of
21 more than 10,000 pounds on the highways of the state unless the name or trade name, city, and state or the
22 name or trade name and the public ~~service~~ utility commission or department of transportation number is displayed
23 on both sides of each vehicle operated under its own power, either alone or in combination. If a number is
24 displayed, it must be the number of the person or corporation under whose jurisdiction the vehicle or vehicles are
25 being operated.

26 (b) The display must be in letters in sharp contrast to the background and in a size, shape, and color
27 readily legible in daylight from a distance of 50 feet while the vehicle is not in motion. The display must be
28 maintained so that it remains legible. The display may be accomplished either by painting the information on the
29 vehicle or through the use of a decal or a removable device prepared so that it meets the identification and
30 legibility requirements of this section.

- 1 (2) This section does not apply to:
 2 (a) farm vehicles; or
 3 (b) motor vehicles being:
 4 (i) transported to dealers from point of manufacture;
 5 (ii) transported from one dealer to another;
 6 (iii) demonstrated to a prospective buyer; or
 7 (iv) delivered to a buyer from a dealer or a manufacturer."
 8

9 **Section 83.** Section 69-12-421, MCA, is amended to read:

10 **"69-12-421. Annual fee for motor carriers.** (1) Except as provided in subsection (2), in addition to all
 11 of the licenses, fees, or taxes imposed ~~upon~~ on motor vehicles in this state and in consideration of the use of the
 12 public highways of this state, ~~every~~ a motor carrier shall, at the time of the issuance of a certificate and annually
 13 ~~thereafter~~ after issuance, on or between October 1 and the following January 31, pay to the public ~~service~~ utility
 14 commission of Montana a fee set by rule of the commission for every motor vehicle operated by the carrier over
 15 or ~~upon~~ on the public highways of this state.

16 (2) (a) A motor carrier engaged in seasonal operations only, ~~where~~ when its operations do not extend
 17 continuously over a period ~~of~~ not to exceed 6 months in any calendar year, shall only ~~be required to~~ pay
 18 compensation and fees in a sum equal to one-half of the compensation and fees ~~herein provided~~ required in this
 19 section.

20 (b) The compensation and fees ~~herein~~ imposed by this section ~~shall do~~ not apply to motor vehicles
 21 maintained and used by a motor carrier as standby or emergency equipment. The commission ~~shall have the~~
 22 ~~power and it is hereby made its duty to~~ may determine what motor vehicles ~~shall be classed as~~ are standby or
 23 emergency equipment."
 24

25 **Section 84.** Section 69-12-423, MCA, is amended to read:

26 **"69-12-423. Fees to be charged by commission.** (1) The public ~~service~~ utility commission may, except
 27 as otherwise provided by law, require and receive fees before filing annual reports, tariffs, schedules,
 28 applications, and supplements not provided by law to be furnished free of charge.

29 (2) The commission shall require and receive an additional sum ~~to be~~ set by the commission to pay the
 30 cost of publishing ~~such~~ notice ~~as may be~~ required by this chapter.

1 (3) This section does not require or authorize the public ~~service utility~~ commission to collect fees for the
 2 filing of annual reports, tariffs, schedules, and supplements of these ~~which relate~~ related solely to interstate
 3 commerce."

4

5 **Section 85.** Section 69-12-601, MCA, is amended to read:

6 **"69-12-601. Carrier agreements.** (1) ~~Any A carrier, as defined in 69-12-101, which that~~ is a party to an
 7 agreement between or among two or more carriers relating to rates, fares, classifications, divisions, allowances,
 8 or charges ~~(including charges between carriers and compensation paid or received for the use of facilities and~~
 9 ~~equipment) or,~~ rules pertaining ~~thereto~~ to an agreement, or procedures for the joint consideration, initiation, or
 10 establishment ~~thereof~~ of the agreement may, ~~under such rules as the~~ in accordance with commission ~~prescribes~~
 11 rule, apply to the public ~~service utility~~ commission for approval of the agreement. The commission shall by order
 12 approve ~~any an~~ an agreement if approval ~~thereof~~ is not prohibited by 69-12-602. ~~The approval of the commission~~
 13 ~~shall be~~ Approval may be granted only upon such only based on terms and conditions ~~as the~~ prescribed by the
 14 commission ~~may prescribe as necessary~~ to enable it to grant its approval in accordance with this subsection.

15 (2) Each conference, bureau, committee, or other organization established or continued pursuant to ~~any~~
 16 an agreement approved by the commission and the provisions of this section shall maintain ~~such~~ accounts,
 17 records, files, and memoranda and shall submit to the commission ~~such reports as may be~~ prescribed by the
 18 commission. ~~All such accounts,~~ Accounts, records, files, and memoranda ~~shall be~~ are subject to inspection by
 19 the commission or its duly authorized representative."

20

21 **Section 86.** Section 69-14-604, MCA, is amended to read:

22 **"69-14-604. Procedure to order construction of crossing.** If a board of county commissioners orders
 23 the construction of a railroad crossing, the board shall enter an order ~~upon in~~ its minutes, specifying the place
 24 of the crossing. A copy of the order must be served upon the railroad company, and a copy must be immediately
 25 mailed to the public ~~service utility~~ commission."

26

27 **Section 87.** Section 69-14-607, MCA, is amended to read:

28 **"69-14-607. Overhead or underground crossings.** (1) ~~No A~~ railroad crossing, other than a grade
 29 crossing, ~~shall may not~~ be ordered by ~~any a~~ board of county commissioners.

30 (2) (a) The public ~~service utility~~ commission may, ~~however,~~ upon petition or request in writing of ~~any a~~

1 board of county commissioners, order an overhead or underground crossing at any place where a railroad
 2 crossing has not been constructed and is required by ~~the provisions of 69-14-601 through 69-14-611; provided,~~
 3 ~~in its, if, in the commission's~~ judgment, the safety, necessity, and convenience of the traveling public ~~require such~~
 4 requires the crossing.

5 (b) When ~~any such a~~ petition or request is presented, the commission shall ~~fix a date for~~ hold a hearing
 6 ~~the same and shall give and provide~~ at least 10 days' written notice to the board of county commissioners and
 7 the owner or operator of the railroad ~~to be affected by such the~~ order. The notice must include ~~of the time fixed~~
 8 ~~for of~~ the hearing. At ~~such the~~ hearing, the commission shall ~~hear all~~ accept testimony ~~offered as to about~~ the
 9 safety, necessity, and convenience of the traveling public ~~requiring such, how~~ a crossing will address those
 10 needs, and the expense of constructing and maintaining the ~~same and shall~~ crossing. The commission shall make
 11 ~~such investigation and inspection of~~ investigate and inspect the conditions at the place of crossing as ~~may be~~
 12 ~~deemed~~ necessary or advisable ~~and shall thereupon~~. Based on the hearing, investigation, and inspection, the
 13 commission shall determine ~~whether such if an~~ order should be made.

14 (3) ~~In the event~~ If an overhead or underground crossing is ordered, the commission may in its discretion
 15 require the ~~same~~ crossing to be constructed and maintained ~~by and~~ at the expense of the railroad company or
 16 may apportion the expense between the railroad company and the county ~~in which said~~ where the crossing is
 17 located. The part of the expense apportioned to ~~said the~~ county, if any, ~~shall~~ must be paid to the railroad company
 18 from ~~the funds of said county funds properly applicable to the payment of such~~ designated for the expense."
 19

20 **Section 88.** Section 69-14-701, MCA, is amended to read:

21 **"69-14-701. Maintenance of fences -- exception -- penalty.** (1) (a) Railroad Except as provided in
 22 subsection (1)(b), railroad corporations shall build and maintain a legal fence on both sides of their track and
 23 property and maintain cattle guards at all crossings over which cattle or other domestic animals cannot pass;
 24 ~~except that a.~~

25 (b) A fence is not required in places where water ditches, embankments, terrain, or other sufficient
 26 protection prevents domestic animals from straying onto the right-of-way.

27 (c) An affected landowner or lessee may construct, maintain, or repair a fence subject to approval and
 28 reimbursement by the railroad corporation.

29 (2) If a railroad corporation does not build and maintain ~~the a~~ fence and guards and its engines or cars,
 30 because of the lack of a fence or maintenance of a fence, kill or maim cattle or other domestic animals upon its

1 line of road, it the railroad corporation must pay to the owner of the cattle or other domestic animals, in all cases,
 2 a fair market price for the animal, unless it the incident occurred through the neglect or fault of the owner of the
 3 animal killed or maimed; ~~however, nothing.~~ Nothing in this section may be construed to prevent a person from
 4 recovering damages from a railroad corporation for its negligent killing or injury to cattle or other domestic animals
 5 at spurs, sidings, Ys, crossings, and turntables.

6 (3) (a) An affected landowner or lessee may file a complaint with the public ~~service utility~~ utility commission
 7 when a fence is in disrepair or in need of maintenance. The public ~~service utility~~ utility commission shall certify that the
 8 fence is in need of repair and notify the railroad corporation responsible for the fence. The public ~~service utility~~ utility
 9 commission shall forward a copy of the complaint, a certification that the fence is in need of repair, and a
 10 verification that the railroad corporation was notified to the county attorney of the county ~~within which~~ where the
 11 site of the fence in disrepair is located.

12 (b) Upon notice, the railroad corporation responsible for the fence shall repair the fence within 30 days,
 13 weather permitting. A railroad corporation failing to repair the fence within 30 days of notification shall pay a fine
 14 of \$100 plus \$50 a day each day after the 30th day of notification, for failure to repair the fence. The fine must
 15 be recovered in a civil action and deposited in the county general fund. It is the duty of the county attorney of the
 16 county ~~within which~~ where the site of the fence in disrepair is located to prosecute the action."
 17

18 **Section 89.** Section 69-14-910, MCA, is amended to read:

19 **"69-14-910. Connection of railroad to elevator or warehouse.** (1) ~~Every~~ A railroad company or
 20 corporation organized under the laws of this state or doing business ~~therein~~ in this state shall, upon application
 21 in writing, provide reasonable sidetrack facilities and running connections between its main track and elevators
 22 and warehouses upon or contiguous to its right-of-way at stations. ~~Every such~~ A railroad corporation shall permit
 23 connections to be made and maintained in a reasonable manner with its sidetracks to and from any warehouse
 24 or elevator, without reference to its size, cost, or capacity, where grain is or may be stored. ~~Such~~ The railroad
 25 company ~~shall not be~~ is not required to construct or furnish any sidetracks, except upon its own land or
 26 right-of-way. The reasonable cost of the construction of ~~such~~ the sidetracks and connections, except the cost of
 27 the rails and fastenings, ~~shall~~ must be paid by the person or persons ~~for whose benefit such~~ benefiting from the
 28 sidetracks ~~are provided~~ or connections ~~made~~.

29 (2) Where stations are 10 miles or more apart, the railroad company, when required to do so by the
 30 public ~~service utility~~ utility commission, shall construct and maintain a sidetrack for the use of shippers between ~~such~~

1 stations."

2

3 **Section 90.** Section 75-1-201, MCA, is amended to read:

4 **"75-1-201. (Temporary) General directions -- environmental impact statements.** (1) The legislature
5 authorizes and directs that, to the fullest extent possible:

6 (a) the policies, regulations, and laws of the state must be interpreted and administered in accordance
7 with the policies set forth in parts 1 through 3;

8 (b) under this part, all agencies of the state, except the legislature and except as provided in subsections
9 (2) and (3), shall:

10 (i) use a systematic, interdisciplinary approach that will ensure:

11 (A) the integrated use of the natural and social sciences and the environmental design arts in planning
12 and in decisionmaking for a state-sponsored project that may have an impact on the Montana human
13 environment by projects in Montana; and

14 (B) that in any environmental review that is not subject to subsection (1)(b)(iv), when an agency
15 considers alternatives, the alternative analysis will be in compliance with the provisions of subsections
16 (1)(b)(iv)(C)(I) and (1)(b)(iv)(C)(II) and, if requested by the project sponsor or if determined by the agency to be
17 necessary, subsection (1)(b)(iv)(C)(III);

18 (ii) identify and develop methods and procedures that will ensure that presently unquantified
19 environmental amenities and values may be given appropriate consideration in decisionmaking for
20 state-sponsored projects, along with economic and technical considerations;

21 (iii) identify and develop methods and procedures that will ensure that state government actions that may
22 impact the human environment in Montana are evaluated for regulatory restrictions on private property, as
23 provided in subsection (1)(b)(iv)(D);

24 (iv) include in each recommendation or report on proposals for projects, programs, and other major
25 actions of state government significantly affecting the quality of the human environment in Montana a detailed
26 statement on:

27 (A) the environmental impact of the proposed action;

28 (B) any adverse effects on Montana's environment that cannot be avoided if the proposal is
29 implemented;

30 (C) alternatives to the proposed action. An analysis of any alternative included in the environmental

1 review must comply with the following criteria:

2 (I) any alternative proposed must be reasonable, in that the alternative must be achievable under current
3 technology and the alternative must be economically feasible as determined solely by the economic viability for
4 similar projects having similar conditions and physical locations and determined without regard to the economic
5 strength of the specific project sponsor;

6 (II) the agency proposing the alternative shall consult with the project sponsor regarding any proposed
7 alternative, and the agency shall give due weight and consideration to the project sponsor's comments regarding
8 the proposed alternative;

9 (III) the agency shall complete a meaningful no-action alternative analysis. The no-action alternative
10 analysis must include the projected beneficial and adverse environmental, social, and economic impact of the
11 project's noncompletion.

12 (D) any regulatory impacts on private property rights, including whether alternatives that reduce,
13 minimize, or eliminate the regulation of private property rights have been analyzed. The analysis in this
14 subsection (1)(b)(iv)(D) need not be prepared if the proposed action does not involve the regulation of private
15 property.

16 (E) the relationship between local short-term uses of the Montana human environment and the
17 maintenance and enhancement of long-term productivity;

18 (F) any irreversible and irretrievable commitments of resources that would be involved in the proposed
19 action if it is implemented;

20 (G) the customer fiscal impact analysis, if required by 69-2-216; and

21 (H) the details of the beneficial aspects of the proposed project, both short-term and long-term, and the
22 economic advantages and disadvantages of the proposal;

23 (v) in accordance with the criteria set forth in subsection (1)(b)(iv)(C), study, develop, and describe
24 appropriate alternatives to recommend courses of action in any proposal that involves unresolved conflicts
25 concerning alternative uses of available resources. If the alternatives analysis is conducted for a project that is
26 not a state-sponsored project and alternatives are recommended, the project sponsor may volunteer to implement
27 the alternative. Neither the alternatives analysis nor the resulting recommendations bind the project sponsor to
28 take a recommended course of action, but the project sponsor may agree pursuant to subsection (4)(b) to a
29 specific course of action.

30 (vi) recognize the potential long-range character of environmental impacts in Montana and, when

1 consistent with the policies of the state, lend appropriate support to initiatives, resolutions, and programs
2 designed to maximize cooperation in anticipating and preventing a decline in the quality of Montana's
3 environment;

4 (vii) make available to counties, municipalities, institutions, and individuals advice and information useful
5 in restoring, maintaining, and enhancing the quality of Montana's environment;

6 (viii) initiate and use ecological information in the planning and development of resource-oriented
7 projects; and

8 (ix) assist the legislature and the environmental quality council established by 5-16-101;

9 (c) prior to making any detailed statement as provided in subsection (1)(b)(iv), the responsible state
10 official shall consult with and obtain the comments of any state agency that has jurisdiction by law or special
11 expertise with respect to any environmental impact involved in Montana and with any Montana local government,
12 as defined in 7-12-1103, that may be directly impacted by the project. The responsible state official shall also
13 consult with and obtain comments from any state agency in Montana with respect to any regulation of private
14 property involved. Copies of the statement and the comments and views of the appropriate state, federal, and
15 local agencies that are authorized to develop and enforce environmental standards must be made available to
16 the governor, the environmental quality council, and the public and must accompany the proposal through the
17 existing agency review processes.

18 (d) a transfer of an ownership interest in a lease, permit, license, certificate, or other entitlement for use
19 or permission to act by an agency, either singly or in combination with other state agencies, does not trigger
20 review under subsection (1)(b)(iv) if there is not a material change in terms or conditions of the entitlement or
21 unless otherwise provided by law.

22 (2) (a) Except as provided in subsection (2)(b), an environmental review conducted pursuant to
23 subsection (1) may not include a review of actual or potential impacts beyond Montana's borders. It may not
24 include actual or potential impacts that are regional, national, or global in nature.

25 (b) An environmental review conducted pursuant to subsection (1) may include a review of actual or
26 potential impacts beyond Montana's borders if it is conducted by:

27 (i) the department of fish, wildlife, and parks for the management of wildlife and fish;

28 (ii) an agency reviewing an application for a project that is not a state-sponsored project to the extent that
29 the review is required by law, rule, or regulation; or

30 (iii) a state agency and a federal agency to the extent the review is required by the federal agency.

1 (3) The department of public ~~service~~ utility regulation, in the exercise of its regulatory authority over rates
2 and charges of railroads, motor carriers, and public utilities, is exempt from the provisions of parts 1 through 3.

3 (4) (a) The agency may not withhold, deny, or impose conditions on any permit or other authority to act
4 based on parts 1 through 3 of this chapter.

5 (b) Nothing in this subsection (4) prevents a project sponsor and an agency from mutually developing
6 measures that may, at the request of a project sponsor, be incorporated into a permit or other authority to act.

7 (c) Parts 1 through 3 of this chapter do not confer authority to an agency that is a project sponsor to
8 modify a proposed project or action.

9 (5) (a) (i) A challenge to an agency action under this part may only be brought against a final agency
10 action and may only be brought in district court or in federal court, whichever is appropriate.

11 (ii) Any action or proceeding challenging a final agency action alleging failure to comply with or
12 inadequate compliance with a requirement under this part must be brought within 60 days of the action that is
13 the subject of the challenge.

14 (iii) For an action taken by the board of land commissioners or the department of natural resources and
15 conservation under Title 77, "final agency action" means the date that the board of land commissioners or the
16 department of natural resources and conservation issues a final environmental review document under this part
17 or the date that the board approves the action that is subject to this part, whichever is later.

18 (b) Any action or proceeding under subsection (5)(a)(ii) must take precedence over other cases or
19 matters in the district court unless otherwise provided by law.

20 (c) Any judicial action or proceeding brought in district court under subsection (5)(a) involving an equine
21 slaughter or processing facility must comply with 81-9-240 and 81-9-241.

22 (6) (a) (i) In an action alleging noncompliance or inadequate compliance with a requirement of parts 1
23 through 3, including a challenge to an agency's decision that an environmental review is not required or a claim
24 that the environmental review is inadequate, the agency shall compile and submit to the court the certified record
25 of its decision at issue, and except as provided in subsection (6)(b), the person challenging the decision has the
26 burden of proving the claim by clear and convincing evidence contained in the record.

27 (ii) Except as provided in subsection (6)(b), in a challenge to the agency's decision or the adequacy of
28 an environmental review, a court may not consider any information, including but not limited to an issue,
29 comment, argument, proposed alternative, analysis, or evidence, that was not first presented to the agency for
30 the agency's consideration prior to the agency's decision or within the time allowed for comments to be submitted.

1 (iii) Except as provided in subsection (6)(b), the court shall confine its review to the record certified by
2 the agency. The court shall affirm the agency's decision or the environmental review unless the court specifically
3 finds that the agency's decision was arbitrary and capricious or was otherwise not in accordance with law.

4 (iv) A customer fiscal impact analysis pursuant to 69-2-216 or an allegation that the customer fiscal
5 impact analysis is inadequate may not be used as the basis of an action challenging or seeking review of the
6 agency's decision.

7 (b) (i) When a party challenging the decision or the adequacy of the environmental review or decision
8 presents information not in the record certified by the agency, the challenging party shall certify under oath in an
9 affidavit that the information is new, material, and significant evidence that was not publicly available before the
10 agency's decision and that is relevant to the decision or the adequacy of the agency's environmental review.

11 (ii) If upon reviewing the affidavit the court finds that the proffered information is new, material, and
12 significant evidence that was not publicly available before the agency's decision and that is relevant to the
13 decision or to the adequacy of the agency's environmental review, the court shall remand the new evidence to
14 the agency for the agency's consideration and an opportunity to modify its decision or environmental review
15 before the court considers the evidence as a part of the administrative record under review.

16 (iii) If the court finds that the information in the affidavit does not meet the requirements of subsection
17 (6)(b)(i), the court may not remand the matter to the agency or consider the proffered information in making its
18 decision.

19 (c) The remedy in any action brought for failure to comply with or for inadequate compliance with a
20 requirement of parts 1 through 3 of this chapter is limited to remand to the agency to correct deficiencies in the
21 environmental review conducted pursuant to subsection (1).

22 (d) A permit, license, lease, or other authorization issued by an agency is valid and may not be enjoined,
23 voided, nullified, revoked, modified, or suspended pending the completion of an environmental review that may
24 be remanded by a court.

25 (e) An individual or entity seeking a lease, permit, license, certificate, or other entitlement or authority
26 to act may intervene in a lawsuit in court challenging a decision or statement by a department or agency of the
27 state as a matter of right if the individual or entity has not been named as a defendant.

28 (f) Attorney fees or costs may not be awarded to the prevailing party in an action alleging noncompliance
29 or inadequate compliance with a requirement of parts 1 through 3.

30 (7) For purposes of judicial review, to the extent that the requirements of this section are inconsistent

1 with the provisions of the National Environmental Policy Act, the requirements of this section apply to an
 2 environmental review or any severable portion of an environmental review within the state's jurisdiction that is
 3 being prepared by a state agency pursuant to this part in conjunction with a federal agency proceeding pursuant
 4 to the National Environmental Policy Act.

5 (8) The director of the agency responsible for the determination or recommendation shall endorse in
 6 writing any determination of significance made under subsection (1)(b)(iv) or any recommendation that a
 7 determination of significance be made.

8 (9) A project sponsor may request a review of the significance determination or recommendation made
 9 under subsection (8) by the appropriate board, if any. The appropriate board may, at its discretion, submit an
 10 advisory recommendation to the agency regarding the issue. The period of time between the request for a review
 11 and completion of a review under this subsection may not be included for the purposes of determining compliance
 12 with the time limits established for environmental review in 75-1-208. (Terminates on occurrence of
 13 contingency--sec. 11, Ch. 396, L. 2011.)

14 **75-1-201. (Effective on occurrence of contingency) General directions -- environmental impact**
 15 **statements.** (1) The legislature authorizes and directs that, to the fullest extent possible:

16 (a) the policies, regulations, and laws of the state must be interpreted and administered in accordance
 17 with the policies set forth in parts 1 through 3;

18 (b) under this part, all agencies of the state, except the legislature and except as provided in subsections
 19 (2) and (3), shall:

20 (i) use a systematic, interdisciplinary approach that will ensure:

21 (A) the integrated use of the natural and social sciences and the environmental design arts in planning
 22 and in decisionmaking for a state-sponsored project that may have an impact on the Montana human
 23 environment by projects in Montana; and

24 (B) that in any environmental review that is not subject to subsection (1)(b)(iv), when an agency
 25 considers alternatives, the alternative analysis will be in compliance with the provisions of subsections
 26 (1)(b)(iv)(C)(I) and (1)(b)(iv)(C)(II) and, if requested by the project sponsor or if determined by the agency to be
 27 necessary, subsection (1)(b)(iv)(C)(III);

28 (ii) identify and develop methods and procedures that will ensure that presently unquantified
 29 environmental amenities and values may be given appropriate consideration in decisionmaking for
 30 state-sponsored projects, along with economic and technical considerations;

1 (iii) identify and develop methods and procedures that will ensure that state government actions that may
2 impact the human environment in Montana are evaluated for regulatory restrictions on private property, as
3 provided in subsection (1)(b)(iv)(D);

4 (iv) include in each recommendation or report on proposals for projects, programs, and other major
5 actions of state government significantly affecting the quality of the human environment in Montana a detailed
6 statement on:

7 (A) the environmental impact of the proposed action;

8 (B) any adverse effects on Montana's environment that cannot be avoided if the proposal is
9 implemented;

10 (C) alternatives to the proposed action. An analysis of any alternative included in the environmental
11 review must comply with the following criteria:

12 (I) any alternative proposed must be reasonable, in that the alternative must be achievable under current
13 technology and the alternative must be economically feasible as determined solely by the economic viability for
14 similar projects having similar conditions and physical locations and determined without regard to the economic
15 strength of the specific project sponsor;

16 (II) the agency proposing the alternative shall consult with the project sponsor regarding any proposed
17 alternative, and the agency shall give due weight and consideration to the project sponsor's comments regarding
18 the proposed alternative;

19 (III) the agency shall complete a meaningful no-action alternative analysis. The no-action alternative
20 analysis must include the projected beneficial and adverse environmental, social, and economic impact of the
21 project's noncompletion.

22 (D) any regulatory impacts on private property rights, including whether alternatives that reduce,
23 minimize, or eliminate the regulation of private property rights have been analyzed. The analysis in this
24 subsection (1)(b)(iv)(D) need not be prepared if the proposed action does not involve the regulation of private
25 property.

26 (E) the relationship between local short-term uses of the Montana human environment and the
27 maintenance and enhancement of long-term productivity;

28 (F) any irreversible and irretrievable commitments of resources that would be involved in the proposed
29 action if it is implemented;

30 (G) the customer fiscal impact analysis, if required by 69-2-216; and

1 (H) the details of the beneficial aspects of the proposed project, both short-term and long-term, and the
2 economic advantages and disadvantages of the proposal;

3 (v) in accordance with the criteria set forth in subsection (1)(b)(iv)(C), study, develop, and describe
4 appropriate alternatives to recommend courses of action in any proposal that involves unresolved conflicts
5 concerning alternative uses of available resources. If the alternatives analysis is conducted for a project that is
6 not a state-sponsored project and alternatives are recommended, the project sponsor may volunteer to implement
7 the alternative. Neither the alternatives analysis nor the resulting recommendations bind the project sponsor to
8 take a recommended course of action, but the project sponsor may agree pursuant to subsection (4)(b) to a
9 specific course of action.

10 (vi) recognize the potential long-range character of environmental impacts in Montana and, when
11 consistent with the policies of the state, lend appropriate support to initiatives, resolutions, and programs
12 designed to maximize cooperation in anticipating and preventing a decline in the quality of Montana's
13 environment;

14 (vii) make available to counties, municipalities, institutions, and individuals advice and information useful
15 in restoring, maintaining, and enhancing the quality of Montana's environment;

16 (viii) initiate and use ecological information in the planning and development of resource-oriented
17 projects; and

18 (ix) assist the legislature and the environmental quality council established by 5-16-101;

19 (c) prior to making any detailed statement as provided in subsection (1)(b)(iv), the responsible state
20 official shall consult with and obtain the comments of any state agency that has jurisdiction by law or special
21 expertise with respect to any environmental impact involved in Montana and with any Montana local government,
22 as defined in 7-12-1103, that may be directly impacted by the project. The responsible state official shall also
23 consult with and obtain comments from any state agency in Montana with respect to any regulation of private
24 property involved. Copies of the statement and the comments and views of the appropriate state, federal, and
25 local agencies that are authorized to develop and enforce environmental standards must be made available to
26 the governor, the environmental quality council, and the public and must accompany the proposal through the
27 existing agency review processes.

28 (d) a transfer of an ownership interest in a lease, permit, license, certificate, or other entitlement for use
29 or permission to act by an agency, either singly or in combination with other state agencies, does not trigger
30 review under subsection (1)(b)(iv) if there is not a material change in terms or conditions of the entitlement or

1 unless otherwise provided by law.

2 (2) (a) Except as provided in subsection (2)(b), an environmental review conducted pursuant to
3 subsection (1) may not include a review of actual or potential impacts beyond Montana's borders. It may not
4 include actual or potential impacts that are regional, national, or global in nature.

5 (b) An environmental review conducted pursuant to subsection (1) may include a review of actual or
6 potential impacts beyond Montana's borders if it is conducted by:

7 (i) the department of fish, wildlife, and parks for the management of wildlife and fish;

8 (ii) an agency reviewing an application for a project that is not a state-sponsored project to the extent that
9 the review is required by law, rule, or regulation; or

10 (iii) a state agency and a federal agency to the extent the review is required by the federal agency.

11 (3) The department of public ~~service~~ utility regulation, in the exercise of its regulatory authority over rates
12 and charges of railroads, motor carriers, and public utilities, is exempt from the provisions of parts 1 through 3.

13 (4) (a) The agency may not withhold, deny, or impose conditions on any permit or other authority to act
14 based on parts 1 through 3 of this chapter.

15 (b) Nothing in this subsection (4) prevents a project sponsor and an agency from mutually developing
16 measures that may, at the request of a project sponsor, be incorporated into a permit or other authority to act.

17 (c) Parts 1 through 3 of this chapter do not confer authority to an agency that is a project sponsor to
18 modify a proposed project or action.

19 (5) (a) (i) A challenge to an agency action under this part may only be brought against a final agency
20 action and may only be brought in district court or in federal court, whichever is appropriate.

21 (ii) Any action or proceeding challenging a final agency action alleging failure to comply with or
22 inadequate compliance with a requirement under this part must be brought within 60 days of the action that is
23 the subject of the challenge.

24 (iii) For an action taken by the board of land commissioners or the department of natural resources and
25 conservation under Title 77, "final agency action" means the date that the board of land commissioners or the
26 department of natural resources and conservation issues a final environmental review document under this part
27 or the date that the board approves the action that is subject to this part, whichever is later.

28 (b) Any action or proceeding under subsection (5)(a)(ii) must take precedence over other cases or
29 matters in the district court unless otherwise provided by law.

30 (c) Any judicial action or proceeding brought in district court under subsection (5)(a) involving an equine

1 slaughter or processing facility must comply with 81-9-240 and 81-9-241.

2 (6) (a) (i) In an action alleging noncompliance or inadequate compliance with a requirement of parts 1
3 through 3, including a challenge to an agency's decision that an environmental review is not required or a claim
4 that the environmental review is inadequate, the agency shall compile and submit to the court the certified record
5 of its decision at issue, and except as provided in subsection (6)(b), the person challenging the decision has the
6 burden of proving the claim by clear and convincing evidence contained in the record.

7 (ii) Except as provided in subsection (6)(b), in a challenge to the agency's decision or the adequacy of
8 an environmental review, a court may not consider any information, including but not limited to an issue,
9 comment, argument, proposed alternative, analysis, or evidence, that was not first presented to the agency for
10 the agency's consideration prior to the agency's decision or within the time allowed for comments to be submitted.

11 (iii) Except as provided in subsection (6)(b), the court shall confine its review to the record certified by
12 the agency. The court shall affirm the agency's decision or the environmental review unless the court specifically
13 finds that the agency's decision was arbitrary and capricious or was otherwise not in accordance with law.

14 (iv) A customer fiscal impact analysis pursuant to 69-2-216 or an allegation that the customer fiscal
15 impact analysis is inadequate may not be used as the basis of an action challenging or seeking review of the
16 agency's decision.

17 (b) (i) When a party challenging the decision or the adequacy of the environmental review or decision
18 presents information not in the record certified by the agency, the challenging party shall certify under oath in an
19 affidavit that the information is new, material, and significant evidence that was not publicly available before the
20 agency's decision and that is relevant to the decision or the adequacy of the agency's environmental review.

21 (ii) If upon reviewing the affidavit the court finds that the proffered information is new, material, and
22 significant evidence that was not publicly available before the agency's decision and that is relevant to the
23 decision or to the adequacy of the agency's environmental review, the court shall remand the new evidence to
24 the agency for the agency's consideration and an opportunity to modify its decision or environmental review
25 before the court considers the evidence as a part of the administrative record under review.

26 (iii) If the court finds that the information in the affidavit does not meet the requirements of subsection
27 (6)(b)(i), the court may not remand the matter to the agency or consider the proffered information in making its
28 decision.

29 (c) (i) The remedies provided in this section for successful challenges to a decision of the agency or the
30 adequacy of the statement are exclusive.

1 (ii) Notwithstanding the provisions of 27-19-201 and 27-19-314, a court having considered the pleadings
2 of parties and intervenors opposing a request for a temporary restraining order, preliminary injunction, permanent
3 injunction, or other equitable relief may not enjoin the issuance or effectiveness of a license or permit or a part
4 of a license or permit issued pursuant to Title 75 or Title 82 unless the court specifically finds that the party
5 requesting the relief is more likely than not to prevail on the merits of its complaint given the uncontroverted facts
6 in the record and applicable law and, in the absence of a temporary restraining order, a preliminary injunction,
7 a permanent injunction, or other equitable relief, that the:

8 (A) party requesting the relief will suffer irreparable harm in the absence of the relief;

9 (B) issuance of the relief is in the public interest. In determining whether the grant of the relief is in the
10 public interest, a court:

11 (I) may not consider the legal nature or character of any party; and

12 (II) shall consider the implications of the relief on the local and state economy and make written findings
13 with respect to both.

14 (C) relief is as narrowly tailored as the facts allow to address both the alleged noncompliance and the
15 irreparable harm the party asking for the relief will suffer. In tailoring the relief, the court shall ensure, to the extent
16 possible, that the project or as much of the project as possible can go forward while also providing the relief to
17 which the applicant has been determined to be entitled.

18 (d) The court may issue a temporary restraining order, preliminary injunction, permanent injunction, or
19 other injunctive relief only if the party seeking the relief provides a written undertaking to the court in an amount
20 reasonably calculated by the court as adequate to pay the costs and damages sustained by any party that may
21 be found to have been wrongfully enjoined or restrained by a court through a subsequent judicial decision in the
22 case. If the party seeking an injunction or a temporary restraining order objects to the amount of the written
23 undertaking for any reason, including but not limited to its asserted inability to pay, that party shall file an affidavit
24 with the court that states the party's income, assets, and liabilities in order to facilitate the court's consideration
25 of the amount of the written undertaking that is required. The affidavit must be served on the party enjoined.

26 (e) An individual or entity seeking a lease, permit, license, certificate, or other entitlement or authority
27 to act may intervene in a lawsuit in court challenging a decision or statement by a department or agency of the
28 state as a matter of right if the individual or entity has not been named as a defendant.

29 (f) Attorney fees or costs may not be awarded to the prevailing party in an action alleging noncompliance
30 or inadequate compliance with a requirement of parts 1 through 3.

1 (7) For purposes of judicial review, to the extent that the requirements of this section are inconsistent
2 with the provisions of the National Environmental Policy Act, the requirements of this section apply to an
3 environmental review or any severable portion of an environmental review within the state's jurisdiction that is
4 being prepared by a state agency pursuant to this part in conjunction with a federal agency proceeding pursuant
5 to the National Environmental Policy Act.

6 (8) The director of the agency responsible for the determination or recommendation shall endorse in
7 writing any determination of significance made under subsection (1)(b)(iv) or any recommendation that a
8 determination of significance be made.

9 (9) A project sponsor may request a review of the significance determination or recommendation made
10 under subsection (8) by the appropriate board, if any. The appropriate board may, at its discretion, submit an
11 advisory recommendation to the agency regarding the issue. The period of time between the request for a review
12 and completion of a review under this subsection may not be included for the purposes of determining compliance
13 with the time limits established for environmental review in 75-1-208."
14

15 **Section 91.** Section 75-6-306, MCA, is amended to read:

16 **"75-6-306. Furnishing of funds, personnel, or services by certain public agencies -- agreements**
17 **for purchase, sale, distribution, transmission, transportation, and treatment of water or wastewater --**
18 **terms and conditions.** A public agency entering into an agreement pursuant to this part may appropriate funds
19 and may sell, lease, give, or otherwise supply to the authority personnel or services for the operation of the
20 authority as may be within its legal power to furnish. A public agency, whether or not a party to an agreement
21 pursuant to this part, and a publicly or privately owned water distribution company may enter into contracts with
22 an authority, created pursuant to this part, for the purchase of water from the authority or the sale of water to the
23 authority, for the treatment of water by either party, and for the distribution or transmission of water by either party.
24 The authority may enter into the contracts. A public agency, whether or not a party to an agreement pursuant to
25 this part, and a publicly or privately owned wastewater transportation or treatment system may enter into
26 contracts with an authority, created pursuant to this part, for the transportation and treatment of wastewater by
27 either party. The authority may enter into the contracts, subject to the prior approval of the public ~~service~~ utility
28 commission, if the privately owned wastewater transportation or treatment system is subject to the jurisdiction
29 of the public ~~service~~ utility commission. However, if the public ~~service~~ utility commission has not acted on a
30 proposed contract within 90 days of its filing, approval is considered to have been granted. A contract may include

1 an agreement for the purchase of water not actually received or the treatment of wastewater not actually treated.
 2 A contract may not be for a period in excess of 40 years, but renewal options may be included in the contract.
 3 The obligations of a public agency under a contract must be payable solely from the revenue produced from the
 4 public agency's water or wastewater system, and the public ~~service~~ utility commission, in the case of a water
 5 system whose rates are subject to its jurisdiction, shall permit the water system to recover through its rates
 6 revenue sufficient to meet its obligations under the agreement."

7

8 **Section 92.** Section 75-10-404, MCA, is amended to read:

9 **"75-10-404. Powers of department.** (1) The department may:

10 (a) administer and enforce the provisions of this part, rules implementing this part, and orders and
 11 permits issued pursuant to this part;

12 (b) conduct and publish studies on hazardous wastes and hazardous waste management;

13 (c) initiate, conduct, and support research, demonstration projects, and investigation, as its resources
 14 may allow, and coordinate state agency research programs pertaining to hazardous waste management;

15 (d) accept and administer grants from the federal government and from other sources, public and private;

16 and

17 (e) abate public nuisances that affect the public health and welfare or the environment and that arise
 18 from or in connection with the past or present handling or disposal of any hazardous waste.

19 (2) The department shall integrate all provisions of this part with other laws administered by the
 20 department to avoid unnecessary duplication. Furthermore, the department shall coordinate its activities under
 21 this part with the program administered by the department of agriculture under the Montana Pesticides Act, the
 22 programs administered by the department of environmental quality related to mining and mine reclamation, the
 23 program administered by the department of public ~~service~~ utility regulation related to hazardous material
 24 transportation, and provisions of the Montana Major Facility Siting Act. The integration and coordination must be
 25 effected only to the extent that it can be done in a manner consistent with the goals and policies of this part and
 26 the other laws referred to in this section."

27

28 **Section 93.** Section 75-20-216, MCA, is amended to read:

29 **"75-20-216. Study, evaluation, and report on proposed facility -- assistance by other agencies.**

30 (1) After receipt of an application, the department shall within 30 days notify the applicant in writing that:

- 1 (a) the application is in compliance and is accepted as complete; or
- 2 (b) the application is not in compliance and shall list the deficiencies. Upon correction of these
3 deficiencies and resubmission by the applicant, the department shall within 15 days notify the applicant in writing
4 that the application is in compliance and is accepted as complete.
- 5 (2) Upon receipt of an application complying with 75-20-211 through 75-20-213, 75-20-215, and this
6 section, the department shall commence an evaluation of the proposed facility and its effects, considering all
7 applicable criteria listed in 75-20-301, and shall issue a decision, opinion, order, certification, or permit as
8 provided in subsection (3). The department shall use, to the extent that it considers applicable, valid and useful
9 existing studies and reports submitted by the applicant or compiled by a state or federal agency.
- 10 (3) Except as provided in 75-1-205(4), 75-1-208(4)(b), and 75-20-231, the department shall issue, within
11 9 months following the date of acceptance of an application, any decision, opinion, order, certification, or permit
12 required under the laws, other than those contained in this chapter, administered by the department. A decision,
13 opinion, order, certification, or permit, with or without conditions, must be made under those laws. Nevertheless,
14 the department retains authority to make the determination required under 75-20-301(1)(c) or (3). The decision,
15 opinion, order, certification, or permit must be used in the final site selection process. Prior to the issuance of a
16 preliminary decision by the board and pursuant to rules adopted by the department, the department shall provide
17 an opportunity for public review and comment.
- 18 (4) Except as provided in 75-1-205(4), 75-1-208(4)(b), and 75-20-231, within 9 months following
19 acceptance of an application for a facility, the department shall issue a report that must contain the department's
20 studies, evaluations, recommendations, customer fiscal impact analysis, if required pursuant to 69-2-216, and
21 other pertinent documents resulting from its study and evaluation. An environmental impact statement or analysis
22 prepared pursuant to the Montana Environmental Policy Act may be included in the department findings if
23 compelling evidence indicates that adverse environmental impacts are likely to result due to the construction and
24 operation of a proposed facility. If the application is for a combination of two or more facilities, the department
25 shall issue its report within the greater of the lengths of time provided for in this subsection for either of the
26 facilities.
- 27 (5) For projects subject to joint review by the department and a federal land management agency, the
28 department's certification decision may be timed to correspond to the record of decision issued by the
29 participating federal agency.
- 30 (6) The departments of transportation; fish, wildlife, and parks; natural resources and conservation;

1 revenue; and public ~~service~~ utility regulation and the consumer counsel shall report to the department information
 2 relating to the impact of the proposed site on each department's area of expertise. The report may include
 3 opinions as to the advisability of granting, denying, or modifying the certificate. The department shall allocate
 4 funds obtained from filing fees to the departments making reports and to the office of consumer counsel to
 5 reimburse them for the costs of compiling information and issuing the required report."

6

7 **Section 94.** Section 76-3-622, MCA, is amended to read:

8 **"76-3-622. Water and sanitation information to accompany preliminary plat.** (1) Except as provided
 9 in subsection (2), the subdivider shall submit to the governing body or to the agent or agency designated by the
 10 governing body the information listed in this section for proposed subdivisions that will include new water supply
 11 or wastewater facilities. The information must include:

12 (a) a vicinity map or plan that shows:

13 (i) the location, within 100 feet outside of the exterior property line of the subdivision and on the proposed
 14 lots, of:

15 (A) flood plains;

16 (B) surface water features;

17 (C) springs;

18 (D) irrigation ditches;

19 (E) existing, previously approved, and, for parcels less than 20 acres, proposed water wells and
 20 wastewater treatment systems;

21 (F) for parcels less than 20 acres, mixing zones identified as provided in subsection (1)(g); and

22 (G) the representative drainfield site used for the soil profile description as required under subsection
 23 (1)(d); and

24 (ii) the location, within 500 feet outside of the exterior property line of the subdivision, of public water and
 25 sewer facilities;

26 (b) a description of the proposed subdivision's water supply systems, storm water systems, solid waste
 27 disposal systems, and wastewater treatment systems, including:

28 (i) whether the water supply and wastewater treatment systems are individual, shared, multiple user, or
 29 public as those systems are defined in rules published by the department of environmental quality; and

30 (ii) if the water supply and wastewater treatment systems are shared, multiple user, or public, a statement

1 of whether the systems will be public utilities as defined in 69-3-101 and subject to the jurisdiction of the public
2 ~~service utility~~ commission or exempt from public ~~service utility~~ commission jurisdiction and, if exempt, an
3 explanation for the exemption;

4 (c) a drawing of the conceptual lot layout at a scale no smaller than 1 inch equal to 200 feet that shows
5 all information required for a lot layout document in rules adopted by the department of environmental quality
6 pursuant to 76-4-104;

7 (d) evidence of suitability for new onsite wastewater treatment systems that, at a minimum, includes:

8 (i) a soil profile description from a representative drainfield site identified on the vicinity map, as provided
9 in subsection (1)(a)(i)(G), that complies with standards published by the department of environmental quality;

10 (ii) demonstration that the soil profile contains a minimum of 4 feet of vertical separation distance between
11 the bottom of the permeable surface of the proposed wastewater treatment system and a limiting layer; and

12 (iii) in cases in which the soil profile or other information indicates that ground water is within 7 feet of the
13 natural ground surface, evidence that the ground water will not exceed the minimum vertical separation distance
14 provided in subsection (1)(d)(ii);

15 (e) for new water supply systems, unless cisterns are proposed, evidence of adequate water availability:

16 (i) obtained from well logs or testing of onsite or nearby wells;

17 (ii) obtained from information contained in published hydrogeological reports; or

18 (iii) as otherwise specified by rules adopted by the department of environmental quality pursuant to
19 76-4-104;

20 (f) evidence of sufficient water quality in accordance with rules adopted by the department of
21 environmental quality pursuant to 76-4-104;

22 (g) a preliminary analysis of potential impacts to ground water quality from new wastewater treatment
23 systems, using as guidance rules adopted by the board of environmental review pursuant to 75-5-301 and
24 75-5-303 related to standard mixing zones for ground water, source specific mixing zones, and nonsignificant
25 changes in water quality. The preliminary analysis may be based on currently available information and must
26 consider the effects of overlapping mixing zones from proposed and existing wastewater treatment systems within
27 and directly adjacent to the subdivision. Instead of performing the preliminary analysis required under this
28 subsection (1)(g), the subdivider may perform a complete nondegradation analysis in the same manner as is
29 required for an application that is reviewed under Title 76, chapter 4.

30 (2) A subdivider whose land division is excluded from review under 76-4-125(2) is not required to submit

1 the information required in this section.

2 (3) A governing body may not, through adoption of regulations, require water and sanitation information
3 in addition to the information required under this section unless the governing body complies with the procedures
4 provided in 76-3-511."

5

6 **Section 95.** Section 85-1-510, MCA, is amended to read:

7 **"85-1-510. Sale of power and allocation of revenue.** (1) If the operator of a small-scale hydroelectric
8 generation facility under this chapter and a public utility or an electric cooperative are unable to mutually agree
9 to a contract for the sale of electricity or a price for the electricity purchased by the utility or electric cooperative,
10 the public ~~service~~ utility commission shall require the utility or electric cooperative to purchase the power under
11 rates and terms established as provided in 85-1-511 through 85-1-513.

12 (2) The revenue derived from hydroelectric power generation under this part must be deposited in the
13 state water project hydroelectric power generation special revenue account ~~created under~~ established in
14 85-1-220. The funds in the account must be used to repair and rehabilitate state-owned water projects and works
15 and to pay the cost of financing those activities."

16

17 **Section 96.** Section 85-1-511, MCA, is amended to read:

18 **"85-1-511. Determination by the public ~~service~~ utility commission.** A determination of the rates and
19 terms under which the power must be purchased ~~shall~~ must be made by the public ~~service~~ utility commission
20 upon petition of the facility operator or a public utility or electric cooperative or during a rate proceeding involving
21 the review of rates paid for electricity purchased from the facility. The commission shall ~~render~~ make a decision
22 within 120 days from receipt of the petition or before the completion of the rate review proceeding. The rate and
23 terms of the determination must be according to the standards specified in 85-1-512."

24

25 **Section 97.** Section 85-1-512, MCA, is amended to read:

26 **"85-1-512. Standards for the determination.** (1) The standards for ~~the a~~ a determination ~~provided for~~
27 in pursuant to 85-1-511 by the public ~~service~~ utility commission ~~shall~~ must ~~include the following:~~

28 (a) ~~Long-term~~ encourage long-term contracts for the purchase of electricity by the utility or electric
29 cooperative from a small-scale hydroelectric facility under this chapter ~~shall be encouraged in order~~ to enhance
30 the economic feasibility of ~~such~~ facilities;:

1 (b) ~~The~~ include rates paid by a utility or electric cooperative to a small-scale hydroelectric facility ~~may~~
 2 that do not exceed, over the term of the purchase contract, the incremental cost to the utility or electric
 3 cooperative of the electricity that, but for the purchase from the small-scale hydroelectric facility, the utility or
 4 electric cooperative would generate or purchase from another source; and

5 (c) ~~The~~ establish rates to be paid by a utility or an electric cooperative for power purchased from a
 6 small-scale hydroelectric facility ~~shall be established~~ with consideration of the availability and reliability of the
 7 power produced.

8 (2) The commission may set these rates by use of ~~any of the following methods:~~

9 (a) the levelized avoided cost over the term of the contract;

10 (b) the cost of production for the small-scale hydroelectric facility plus a just and reasonable return; or

11 (c) any other method that will promote the development of small-scale hydroelectric facilities."
 12

13 **Section 98.** Section 85-1-513, MCA, is amended to read:

14 **"85-1-513. Purchase of power by electric cooperative not agreeing to be bound by public service**
 15 **utility commission determination.** If ~~any an~~ an electric cooperative wishing to purchase power from a small-scale
 16 hydroelectric facility under this chapter refuses to submit to the ratemaking authority of the public ~~service utility~~
 17 commission established in 85-1-511, then the rate for ~~such the~~ the cooperative may be determined by the federal
 18 energy regulatory commission upon proper petition. The facility shall sell power in accordance with ~~such the~~
 19 federal energy regulatory commission determination, so long as the rates and terms ~~so~~ established will allow the
 20 facility a reasonable return."
 21

22 **Section 99.** Section 85-7-1419, MCA, is amended to read:

23 **"85-7-1419. Covenants in resolution authorizing issuance of bonds.** A resolution authorizing the
 24 issuance of bonds under this part may contain covenants relating to:

25 (1) the purposes for which the proceeds of sale of the bonds may be applied and the use and disposition
 26 of the proceeds;

27 (2) the use and disposition of the revenue of the undertaking for which the bonds are to be issued,
 28 including the creation and maintenance of reserves;

29 (3) the issuance of other or additional bonds payable from the revenue of the undertaking;

30 (4) the operation and maintenance of the undertaking;

- 1 (5) the insurance to be carried on the undertaking and the use and disposition of insurance money;
- 2 (6) books of account and the inspection and audit of the books; and
- 3 (7) the terms and conditions ~~upon~~ under which the holders of the bonds or any portion of ~~them~~ the bonds
- 4 or any trustee is entitled to the appointment of a receiver by the district court, ~~which~~. If a receiver is appointed,
- 5 the court shall have has jurisdiction in such the proceedings, and which the receiver may:
- 6 (a) enter and take possession of the undertaking;
- 7 (b) operate and maintain the undertaking;
- 8 (c) prescribe fees, subject to the approval of the public ~~service~~ utility commission if ~~such~~ approval is
- 9 required; and
- 10 (d) collect, receive, and apply all revenues in the same manner as the issuer ~~itself might do~~."
- 11

12 **Section 100.** Section 90-4-1202, MCA, is amended to read:

13 **"90-4-1202. Definitions.** Unless the context requires otherwise, in this part, the following definitions

14 apply:

- 15 (1) "Ancillary services" has the meaning provided in 69-3-2003.
- 16 (2) "Bond" means bond, note, or other obligation.
- 17 (3) "Clean renewable energy bonds" means one or more bonds issued by a governmental body pursuant
- 18 to section 54 of the Internal Revenue Code, 26 U.S.C. 54, and this part.
- 19 (4) "Commission" means the public ~~service~~ utility commission provided for in 69-1-102.
- 20 (5) "Governing authority" means a council, board, or other body governing the affairs of the governmental
- 21 body.
- 22 (6) "Governmental body" means a city, town, county, school district, consolidated city-county, Indian
- 23 tribal government, or any other political subdivision of the state, however organized.
- 24 (7) "Intermittent generation resource" means a generator that operates on a limited and irregular basis
- 25 due to the inconsistent nature of its fuel supply, which is primarily wind or solar power.
- 26 (8) "Internal Revenue Code" has the meaning provided in 15-30-2101.
- 27 (9) "Project" means:
- 28 (a) a facility qualifying as a "qualified project" within the meaning of section 54(d)(2) of the Internal
- 29 Revenue Code, 26 U.S.C. 54(d)(2);
- 30 (b) a community renewable energy project as defined in 69-3-2003(4)(a); or

1 (c) an alternative renewable energy source as defined in 15-6-225."

2

3 **Section 101.** Section 90-4-1210, MCA, is amended to read:

4 **"90-4-1210. Covenants in resolution of authorizing issuance of bonds.** (1) A resolution authorizing
5 the issuance of bonds under this part or a contract entered into under this part may contain covenants as to:

6 (a) the purpose or purposes to which the proceeds of sale of the bonds or amounts payable under the
7 contract may be applied and the disposition of the proceeds or amounts;

8 (b) the use and disposition of the revenue of the project, including the creation and maintenance of
9 reserves;

10 (c) the transfer, from the general fund of the governmental body to the account or accounts of the project,
11 of an amount equal to the cost of furnishing the municipality or any of its departments, boards, or agencies with
12 the services, facilities, or commodities of the project;

13 (d) the issuance of other bonds or the incurrence of other contractual obligations payable from the
14 revenue of the project;

15 (e) the operation and maintenance of the project;

16 (f) the insurance to be carried on the project and the use and disposition of insurance proceeds;

17 (g) books of account and the inspection and audit of the books; and

18 (h) the terms and conditions upon which the holders or trustees of the bonds or any portion of the bonds
19 or the contracting party are entitled to the appointment of a receiver by the district court having jurisdiction.

20 (2) If a receiver is appointed, the receiver may:

21 (a) enter and take possession of the project;

22 (b) operate and maintain the project;

23 (c) prescribe rates, fees, or charges, subject to any required approval of the public ~~service~~ utility
24 commission; and

25 (d) collect, receive, and apply all revenue arising from the project in the same manner as the
26 governmental body itself might do."

27

28 **NEW SECTION. Section 102. Transition.** In order to implement the transition to an appointed
29 commission, the terms of office of all current commissioners continue until expiration of their term.

30

1 **NEW SECTION. Section 103. Notification to tribal governments.** The secretary of state shall send
2 a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
3 Chippewa tribe.

4

5 **NEW SECTION. Section 104. Name change -- directions to code commissioner.** Whenever a
6 reference to the public service commission or department of public service regulation appears in legislation
7 enacted by the 2017 legislature, the code commissioner is directed to change it to an appropriate reference to
8 the public utility commission or the department of public utility regulation.

9

10 **NEW SECTION. Section 105. Codification instruction.** [Section 56] is intended to be codified as an
11 integral part of Title 69, chapter 1, part 1, and the provisions of Title 69, chapter 1, part 1, apply to [section 56].

12

13 **NEW SECTION. Section 106. Severability.** If a part of [this act] is invalid, all valid parts that are
14 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
15 the part remains in effect in all valid applications that are severable from the invalid applications.

16

17 **NEW SECTION. Section 107. Effective date.** [This act] is effective on passage and approval.

18

- END -