



AN ACT GENERALLY REVISING SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM LAWS; CREATING THE NUTRITION INCENTIVES PROGRAM FOR SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM PARTICIPANTS TO BUY ELIGIBLE FRUITS AND VEGETABLES; UPDATING TERMINOLOGY TO MATCH FEDERAL ASSISTANCE PROGRAM LANGUAGE; PROVIDING AN APPROPRIATION; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 39-51-403, 39-51-2208, 39-71-118, 40-4-215, 45-6-312, 50-49-103, 53-2-108, 53-2-201, 53-2-211, 53-2-606, 53-2-901, 53-2-902, 53-2-903, 53-3-115, AND 53-4-717, MCA; REPEALING SECTION 53-2-904, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Short title. [Sections 1 through 5] may be cited as the "Nutrition Incentives Program Act".

Section 2. Purpose. The purpose of [sections 1 through 5] is to develop a nutrition incentives program to double the purchasing power of Montana residents with limited access to fresh fruits and vegetables, support Montana farmers, and invest in Montana's local economies.

Section 3. Definitions. For the purposes of [sections 1 through 5], the following definitions apply:

- (1) "Department" means the department of agriculture provided for in 2-15-3001.
- (2) "Eligible fruits and vegetables" means any fresh or frozen, whole or cut fruits and vegetables that do not contain added sugar, fat, oil, or salt.
- (3) "Eligible grocery store" means a small business whose principal office is located in the state and that has demonstrated a commitment to procuring state-grown foods, including fruits and vegetables.
- (4) "Supplemental nutrition assistance program" has the meaning provided in 53-2-902.

Section 4. Rulemaking authority. (1) The department shall adopt rules necessary for the administration of [sections 1 through 5].

(2) The rules may include but are not limited to:

(a) eligibility requirements for the qualified Montana nonprofit organization or agency;

(b) eligibility requirements for the participating nonprofits, farmer's markets, producer-to-consumer venues, and eligible grocery stores; and

(c) reporting requirements for the program.

Section 5. Nutrition incentives program -- grant -- reporting requirements. (1) The department shall make an annual grant to a qualified state nonprofit or agency from funds appropriated by the legislature for the purposes of this section.

(2) To receive the grant, the qualified state nonprofit or agency shall demonstrate that it:

(a) has prior experience in building a statewide network of organizations that work to alleviate hunger;

(b) has created a plan for designing and implementing a program to distribute funds to participating nonprofits, farmer's markets, producer-to-consumer venues, and eligible grocery stores for the purpose of providing matching dollar incentives to supplemental nutrition assistance program recipients purchasing eligible fruits and vegetables; and

(c) has created a plan for implementing processes for fund distribution and reporting.

(3) The qualified state nonprofit or agency that receives the grant shall submit a progress report to the department by the end of fiscal year 2022 and a final report at the end of fiscal year 2023 containing information requested by the department, including but not limited to:

(a) the impact of the program on increasing the quantity of fruits and vegetables consumed by supplemental nutrition assistance program recipients; and

(b) the impact of the program on state farmers and the agricultural economy in the state.

Section 6. Section 39-51-403, MCA, is amended to read:

"39-51-403. Money to be requisitioned from unemployment trust fund solely for payment of benefits. (1) Money may be requisitioned from this state's account in the unemployment trust fund solely for the

payment of benefits and in accordance with section 904 of the Social Security Act, 42 U.S.C. 1104, and with regulations prescribed by the department. Money withheld by the department from a benefits payment at the request of an individual, in accordance with the department's rules pertaining to deductions and withholding for federal income tax purposes pursuant to 39-51-2207, for repayment of an overissuance of ~~food stamp~~ supplemental nutrition assistance program benefits pursuant to 39-51-2208, or for repayment of child support obligations pursuant to 39-51-3106 must be considered benefits for the purposes of this subsection.

(2) The department shall from time to time requisition from the unemployment trust fund amounts, not exceeding the amounts in this state in the fund, that it considers necessary for the payment of benefits for a reasonable future period. Upon receipt of a requisition, the secretary of the treasury of the United States shall deposit the money in the benefit account. Upon receipt of the deposit, the department shall issue warrants for the payment of benefits solely from the benefit account.

(3) Expenditures of money in the benefit account and refunds from the clearing account are not subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody.

(4) Any balance of money requisitioned from the unemployment trust fund that remains unclaimed or unpaid in the benefit account after the expiration of the period for which the sums were requisitioned must be deducted from estimates for and may be used for the payment of benefits during succeeding periods or, in the discretion of the department, must be redeposited with the secretary of the treasury of the United States to the credit of this state's account in the unemployment trust fund, as provided in 39-51-402."

Section 7. Section 39-51-2208, MCA, is amended to read:

"39-51-2208. Deduction and withholding of unemployment benefits to repay overissuance of food stamps-supplemental nutrition assistance program benefits -- definitions. (1) For the purposes of this section, the following definitions apply:

(a) "State ~~food stamp~~ supplemental nutrition assistance program agency" means any agency of a state or a political subdivision of a state that is responsible for enforcing the repayment of an obligation for overissuance of ~~food stamp~~ supplemental nutrition assistance program benefits.

(b) "Unemployment benefits" means benefits payable under the Montana unemployment insurance

law, including amounts payable by the department pursuant to an agreement under any federal law that provides for benefits, assistance, or allowances with respect to unemployment.

(2) An individual filing a new claim for unemployment benefits shall disclose at the time of filing the claim whether or not the individual owes for an uncollected overissuance of ~~food stamp-supplemental nutrition assistance program~~ benefits as defined in section 13(c)(1) of the Food Stamp Act of 1977, 7 U.S.C. 2022(c)(1). If an individual discloses that the individual has an uncollected obligation for overissuance of ~~food stamp-supplemental nutrition assistance program~~ benefits and if the department finds that the individual is eligible for unemployment benefits, the department shall notify the state ~~food stamp-supplemental nutrition assistance program~~ agency that the individual is eligible for unemployment benefits.

(3) Except as provided in subsection (7), the department shall deduct and withhold from any unemployment benefits payable to an individual who has an obligation for an uncollected overissuance of ~~food stamp-supplemental nutrition assistance program~~ benefits:

- (a) the amount specified by the individual to the department to be deducted and withheld, in which case subsections (3)(b) and (3)(c) are not applicable;
- (b) the amount, if any, determined by a state ~~food stamp-supplemental nutrition assistance program~~ agency for enforcing obligations for overissuance of ~~food stamp-supplemental nutrition assistance program~~ benefits, pursuant to an agreement submitted to the department under section 13(c)(3)(A) of the Food Stamp Act of 1977, 7 U.S.C. 2022(c)(3)(A), unless subsection (3)(c) is applicable; or
- (c) any amount otherwise required to be deducted and withheld from unemployment benefits pursuant to section 13(c)(3)(B) of the Food Stamp Act of 1977, 7 U.S.C. 2022 (c)(3)(B).

(4) The department shall pay any amount deducted and withheld under subsection (3) to the appropriate state ~~food stamp-supplemental nutrition assistance program~~ agency responsible for enforcing an obligation for overissuance of ~~food stamp-supplemental nutrition assistance program~~ benefits.

(5) Deductions may be made pursuant to this section only if appropriate arrangements have been made for reimbursement by the state ~~food stamp-supplemental nutrition assistance program~~ agency for the administrative costs incurred by the department under this section.

(6) Any amount deducted and withheld under subsection (3) must be treated as if it were paid to the individual as unemployment benefits and then paid by the individual to the state ~~food stamp-supplemental~~

nutrition assistance program agency in satisfaction of the individual's uncollected overissuance of ~~food stamp~~ supplemental nutrition assistance program benefits.

(7) The department may not deduct or withhold unemployment benefits in a case involving overissuance of ~~food stamps~~ supplemental nutrition assistance program that meets the provisions of 53-2-108(2)."

Section 8. Section 39-71-118, MCA, is amended to read:

"39-71-118. Employee, worker, volunteer, volunteer firefighter, and volunteer emergency care provider defined -- election of coverage. (1) As used in this chapter, the term "employee" or "worker" means:

(a) each person in this state, including a contractor other than an independent contractor, who is in the service of an employer, as defined by 39-71-117, under any appointment or contract of hire, expressed or implied, oral or written. The terms include aliens and minors, whether lawfully or unlawfully employed, and all of the elected and appointed paid public officers and officers and members of boards of directors of quasi-public or private corporations, except those officers identified in 39-71-401(2), while rendering actual service for the corporations for pay. Casual employees, as defined by 39-71-116, are included as employees if they are not otherwise covered by workers' compensation and if an employer has elected to be bound by the provisions of the compensation law for these casual employments, as provided in 39-71-401(2). Household or domestic employment is excluded.

(b) any juvenile who is performing work under authorization of a district court judge in a delinquency prevention or rehabilitation program;

(c) a person who is receiving on-the-job vocational rehabilitation training or other on-the-job training under a state or federal vocational training program, whether or not under an appointment or contract of hire with an employer, as defined in 39-71-117, and, except as provided in subsection (9), whether or not receiving payment from a third party. However, this subsection (1)(c) does not apply to students enrolled in vocational training programs, as outlined in this subsection, while they are on the premises of a public school or community college.

(d) an aircrew member or other person who is employed as a volunteer under 67-2-105;

(e) a person, other than a juvenile as described in subsection (1)(b), who is performing community

service for a nonprofit organization or association or for a federal, state, or local government entity under a court order, or an order from a hearings officer as a result of a probation or parole violation, whether or not under appointment or contract of hire with an employer, as defined in 39-71-117, and whether or not receiving payment from a third party. For a person covered by the definition in this subsection (1)(e):

- (i) compensation benefits must be limited to medical expenses pursuant to 39-71-704 and an impairment award pursuant to 39-71-703 that is based upon the minimum wage established under Title 39, chapter 3, part 4, for a full-time employee at the time of the injury; and
 - (ii) premiums must be paid by the employer, as defined in 39-71-117(3), and must be based upon the minimum wage established under Title 39, chapter 3, part 4, for the number of hours of community service required under the order from the court or hearings officer.
- (f) an inmate working in a federally certified prison industries program authorized under 53-30-132;
 - (g) a volunteer firefighter as described in 7-33-4109 or a person who provides ambulance services under Title 7, chapter 34, part 1;
 - (h) a person placed at a public or private entity's worksite pursuant to 53-4-704. The person is considered an employee for workers' compensation purposes only. The department of public health and human services shall provide workers' compensation coverage for recipients of cash assistance, as defined in 53-4-201, or for participants in the ~~food stamp supplemental nutrition assistance~~ program, as defined in 53-2-902, who are placed at public or private worksites through an endorsement to the department of public health and human services' workers' compensation policy naming the public or private worksite entities as named insureds under the policy. The endorsement may cover only the entity's public assistance participants and may be only for the duration of each participant's training while receiving cash assistance or while participating in the ~~food stamp supplemental nutrition assistance~~ program under a written agreement between the department of public health and human services and each public or private entity. The department of public health and human services may not provide workers' compensation coverage for individuals who are covered for workers' compensation purposes by another state or federal employment training program. Premiums and benefits must be based upon the wage that a probationary employee is paid for work of a similar nature at the assigned worksite.

- (i) subject to subsection (11), a member of a religious corporation, religious organization, or religious

trust while performing services for the religious corporation, religious organization, or religious trust, as described in 39-71-117(1)(d).

(2) The terms defined in subsection (1) do not include a person who is:

(a) performing voluntary service at a recreational facility and who receives no compensation for those services other than meals, lodging, or the use of the recreational facilities;

(b) performing services as a volunteer, except for a person who is otherwise entitled to coverage under the laws of this state. As used in this subsection (2)(b), "volunteer" means a person who performs services on behalf of an employer, as defined in 39-71-117, but who does not receive wages as defined in 39-71-123.

(c) serving as a foster parent, licensed as a foster care provider in accordance with 52-2-621, and providing care without wage compensation to no more than six foster children in the provider's own residence. The person may receive reimbursement for providing room and board, obtaining training, respite care, leisure and recreational activities, and providing for other needs and activities arising in the provision of in-home foster care.

(d) performing temporary agricultural work for an employer if the person performing the work is otherwise exempt from the requirement to obtain workers' compensation coverage under 39-71-401(2)(r) with respect to a company that primarily performs agricultural work at a fixed business location or under 39-71-401(2)(d) and is not required to obtain an independent contractor's exemption certificate under 39-71-417 because the person does not regularly perform agricultural work away from the person's own fixed business location. For the purposes of this subsection, the term "agricultural" has the meaning provided in 15-1-101(1)(a).

(3) With the approval of the insurer, an employer may elect to include as an employee under the provisions of this chapter a volunteer as defined in subsection (2)(b) or a volunteer firefighter as defined in 7-33-4510.

(4) (a) If the employer is a partnership, limited liability partnership, sole proprietor, or a member-managed limited liability company, the employer may elect to include as an employee within the provisions of this chapter any member of the partnership or limited liability partnership, the owner of the sole proprietorship, or any member of the limited liability company devoting full time to the partnership, limited liability partnership,

proprietorship, or limited liability company business.

(b) In the event of an election, the employer shall serve upon the employer's insurer written notice naming the partners, sole proprietor, or members to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (4)(d). A partner, sole proprietor, or member is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) All weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection (4)(d). For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect an amount of not less than \$900 a month and not more than 1 1/2 times the state's average weekly wage.

(5) (a) If the employer is a quasi-public or a private corporation or a manager-managed limited liability company, the employer may elect to include as an employee within the provisions of this chapter any corporate officer or manager exempted under 39-71-401(2).

(b) In the event of an election, the employer shall serve upon the employer's insurer written notice naming the corporate officer or manager to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (5)(d). A corporate officer or manager is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) For the purposes of an election under this subsection (5), all weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection (5)(d). For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect an amount of not less than \$200 a week and not more than 1 1/2 times the state's average weekly wage.

(6) Except as provided in Title 39, chapter 8, an employee or worker in this state whose services are furnished by a person, association, contractor, firm, limited liability company, limited liability partnership, or

corporation, other than a temporary service contractor, to an employer, as defined in 39-71-117, is presumed to be under the control and employment of the employer. This presumption may be rebutted as provided in 39-71-117(3).

(7) A student currently enrolled in an elementary, secondary, or postsecondary educational institution who is participating in work-based learning activities and who is paid wages by the educational institution or business partner is the employee of the entity that pays the student's wages for all purposes under this chapter. A student who is not paid wages by the business partner or the educational institution is a volunteer and is subject to the provisions of this chapter.

(8) For purposes of this section, an "employee or worker in this state" means:

- (a) a resident of Montana who is employed by an employer and whose employment duties are primarily carried out or controlled within this state;
- (b) a nonresident of Montana whose principal employment duties are conducted within this state on a regular basis for an employer;
- (c) a nonresident employee of an employer from another state engaged in the construction industry, as defined in 39-71-116, within this state; or
- (d) a nonresident of Montana who does not meet the requirements of subsection (8)(b) and whose employer elects coverage with an insurer that allows an election for an employer whose:
 - (i) nonresident employees are hired in Montana;
 - (ii) nonresident employees' wages are paid in Montana;
 - (iii) nonresident employees are supervised in Montana; and
 - (iv) business records are maintained in Montana.

(9) An insurer may require coverage for all nonresident employees of a Montana employer who do not meet the requirements of subsection (8)(b) or (8)(d) as a condition of approving the election under subsection (8)(d).

(10) (a) An ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or county may elect to include as an employee within the provisions of this chapter a volunteer emergency care provider who serves public safety through the ambulance service not otherwise covered by subsection (1)(g) or the paid or volunteer

nontransporting medical unit. The ambulance service or nontransporting medical unit may purchase workers' compensation coverage from any entity authorized to provide workers' compensation coverage under plan No. 1, 2, or 3 as provided in this chapter.

(b) If there is an election under subsection (10)(a), the employer shall report payroll for all volunteer emergency care providers for premium and weekly benefit purposes based on the number of volunteer hours of each emergency care provider, but no more than 60 hours, times the state's average weekly wage divided by 40 hours.

(c) An ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, may make a separate election to provide benefits as described in this subsection (10) to a member who is either a self-employed sole proprietor or partner who has elected not to be covered under this chapter, but who is covered as a volunteer emergency care provider pursuant to subsection (10)(a). When injured in the course and scope of employment as a volunteer emergency care provider, a member may instead of the benefits described in subsection (10)(b) be eligible for benefits at an assumed wage of the minimum wage established under Title 39, chapter 3, part 4, for 2,080 hours a year. If the separate election is made as provided in this subsection (10), payroll information for those self-employed sole proprietors or partners must be reported and premiums must be assessed on the assumed weekly wage.

(d) A volunteer emergency care provider who receives workers' compensation coverage under this section may not receive disability benefits under Title 19, chapter 17, if the individual is also eligible as a volunteer firefighter.

(e) An ambulance service not otherwise covered by subsection (1)(g) or a nontransporting medical unit, as defined in 50-6-302, that does not elect to purchase workers' compensation coverage for its volunteer emergency care providers under the provisions of this section shall annually notify its volunteer emergency care providers that coverage is not provided.

(f) (i) The term "volunteer emergency care provider" means a person who is licensed by the board of medical examiners as provided in Title 50, chapter 6, part 2, and who serves the public through an ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or county.

(ii) The term does not include a volunteer emergency care provider who serves an employer as

defined in 7-33-4510.

(g) The term "volunteer hours" means the time spent by a volunteer emergency care provider in the service of an employer or as a volunteer for a town, city, or county, including but not limited to training time, response time, and time spent at the employer's premises.

(11) The definition of "employee" or "worker" in subsection (1)(i) is limited to implementing the administrative purposes of this chapter and may not be interpreted or construed to create an employment relationship in any other context."

Section 9. Section 40-4-215, MCA, is amended to read:

"40-4-215. Investigations and reports. (1) If a parent or a court-appointed third party requests, or if the court finds that a parenting proceeding is contested, the court may order an investigation and report concerning parenting arrangements for the child. The investigator may be the child's guardian ad litem or other professional considered appropriate by the court. The department of public health and human services may not be ordered to conduct the investigation or draft a report unless the person requesting the investigation is a recipient of cash assistance, as defined in 53-4-201, or a participant in the ~~food stamp supplemental nutrition assistance program~~, as defined in 53-2-902, and all reasonable options for payment of the investigation, if conducted by a person not employed by the department, are exhausted. The department may consult with any investigator and share information relevant to the child's best interests. The cost of the investigation and report must be paid according to the final order. The cost of the educational evaluation under subsection (2)(a) must be paid by the state as provided in 3-5-901.

(2) The court shall determine, if appropriate, the level of evaluation necessary for adequate investigation and preparation of the report, which may include one or more of the following:

- (a) parenting education;
- (b) mediation pursuant to 40-4-301;
- (c) factfinding by the investigator; and
- (d) psychological evaluation of the parties.

(3) In preparing a report concerning a child, the investigator may consult any person who has information about the child and the child's potential parenting arrangements. Upon order of the court, the

investigator may refer the child to professional personnel for diagnosis. Except as required for children 16 years of age or older, the investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the persons or entities authorized by law to grant or withhold access to the records. The child's consent must be obtained if the child is 16 years of age or older unless the court finds that the child lacks mental capacity to consent. If the requirements of subsection (4) are fulfilled, the investigator's report may be received in evidence at the hearing.

(4) The investigator shall mail the investigator's report to counsel and to any party not represented by counsel at least 10 days prior to the hearing. When consistent with state and federal law, the investigator shall make available to counsel and to any party not represented by counsel the investigator's file of underlying data and reports, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subsection (3), and the names and addresses of all persons whom the investigator has consulted. Any party to the proceeding may call the investigator and any person the investigator has consulted for cross-examination. A party may not waive the right of cross-examination prior to the hearing. The results of the investigation must be included in the court record and may, without objection, be sealed."

Section 10. Section 45-6-312, MCA, is amended to read:

"45-6-312. Unauthorized acquisition or transfer of ~~food stamps~~ supplemental nutrition assistance program benefits. (1) A person commits the offense of unauthorized acquisition or transfer of ~~food stamp~~ supplemental nutrition assistance program benefits if the person knowingly:

- (a) acquires, purchases, possesses, or uses any ~~food stamp~~ supplemental nutrition assistance program benefit that the person is not entitled to; or
- (b) transfers, sells, trades, gives, or otherwise disposes of any ~~food stamp~~ supplemental nutrition assistance program benefit to another person not entitled to receive or use it.

(2) A person convicted of an offense under this section shall be fined not more than \$1,500 or be imprisoned in the county jail for not more than 6 months, or both. A person convicted of an offense under this section, which offense is part of a common scheme or in which the value of the ~~food stamp~~ supplemental nutrition assistance program benefits exceeds \$1,500, shall be fined not more than \$50,000 or be imprisoned in the state prison for not more than 10 years, or both.

(3) As used in this section, "~~food stamp supplemental nutrition assistance program~~ benefits" means any stamp, coupon, electronic benefit transfer, or type of certification provided for the purchase of eligible food pursuant to the Food Stamp Act of 1977, 7 U.S.C. 2011 through 2029, or any similar public assistance program."

Section 11. Section 50-49-103, MCA, is amended to read:

"50-49-103. Definitions. For purposes of this part, unless the context requires otherwise, the following definitions apply:

(1) "Department" means the department of public health and human services provided for in 2-15-2201.

(2) "Food programs and nutrition services" means public or private programs to provide food and nutrition assistance to persons who have need. The term includes but is not limited to the ~~food stamp supplemental nutrition assistance program~~, food programs for the elderly, and supplemental food programs for women, infants, and children."

Section 12. Section 53-2-108, MCA, is amended to read:

"53-2-108. Overpayment of assistance -- department errors involving ~~food stamps~~ supplemental nutrition assistance program benefits-- civil penalty when fraud. (1) If, because of department or recipient error, a recipient receives public assistance for which the recipient is not eligible, the portion of payment that the recipient is not entitled to receive may be returned at the discretion of the department.

(2) (a) Except as provided in subsection (3), a recipient who receives an overpayment of ~~food stamp supplemental nutrition assistance program~~ benefits because of a department error in processing or administering the recipient's case is not required to repay the department for the overpayment if:

(i) the recipient notifies the department of the potential error; and
(ii) the department informs the recipient that no error occurred or fails to respond to the notification within 30 days.

(b) If a federal agency seeks repayment of an overpayment of ~~food stamps~~ supplemental nutrition

assistance program benefits in a case meeting the provisions of subsection (2)(a):

- (i) the department is considered a person connected to the household for purposes of 7 CFR 273.18 and is liable for reimbursing the federal claim for the overpayment; and
 - (ii) the recipient is exempt from the unemployment withholding requirements of 39-51-2208.
- (3) If a person obtains any part of an assistance payment through fraudulent means as specified in 53-2-107, 125% of the amount of assistance to which the person was not entitled must be repaid and, until fully paid, is a debt due the state."

Section 13. Section 53-2-201, MCA, is amended to read:

"53-2-201. Powers and duties of department. (1) The department shall:

- (a) administer and supervise public assistance, including the provision of ~~food stamps~~ supplemental nutrition assistance program benefits, food commodities, cash assistance and nonfinancial assistance, as defined in 53-2-902, energy assistance, weatherization, vocational rehabilitation, services for persons with severe disabilities, developmental disability services, medical care payments in behalf of recipients of public assistance, employment and training services for recipients of public assistance, and other programs as necessary to strengthen and preserve families;
- (b) give consultant service to private institutions providing care for adults who are needy, indigent, or dependent or who have disabilities;
- (c) cooperate with other state agencies and develop provisions for services to the blind, including the prevention of blindness, the location of blind persons, medical services for eye conditions, and vocational guidance and training of the blind;
- (d) organize and supervise the local offices of public assistance in an efficient and economical manner;
- (e) assist and cooperate with other state and federal departments, bureaus, agencies, and institutions, when requested, by performing services in conformity with public assistance purposes;
- (f) administer all state and federal funds allocated to the department for public assistance and do all things necessary, in conformity with federal and state law, for the proper fulfillment of public assistance purposes;

- (g) make rules governing payment for services and supplies provided to recipients of public assistance; and
 - (h) adopt rules regarding assignment of monetary and medical support upon application for cash assistance, as defined in 53-2-902, and related medical assistance.
- (2) The department may:
- (a) purchase, exchange, condemn, as provided in Title 70, chapter 30, or receive by gift either real or personal property that is necessary to carry out its public assistance functions. Title to property obtained under this subsection must be taken in the name of the state of Montana for the use and benefit of the department.
 - (b) contract with the federal government to carry out its public assistance functions and comply with requirements for receiving federal aid and assistance; and
 - (c) make rules, consistent with state and federal law, establishing the amount, scope, and duration of services to be provided to recipients of public assistance."

Section 14. Section 53-2-211, MCA, is amended to read:

"53-2-211. Department to share eligibility data. (1) The department shall make available to the unemployment compensation program of the department of labor and industry all information contained in its files and records pertaining to eligibility of persons for medicaid, cash assistance and nonfinancial assistance, as defined in 53-2-902, and ~~food stamps benefits provided through the supplemental nutrition assistance program as defined in 53-2-902~~. The information made available must include information on the amount and source of an applicant's income. The information received from the department must be used by the department of labor and industry for the purpose of determining fraud, abuse, or eligibility for benefits under the unemployment compensation program of the state and for no other purpose.

(2) The department shall make available to the unemployment compensation and workers' compensation programs of the department of labor and industry all information contained in its files and records pertaining to eligibility of persons for low-income energy assistance and weatherization. The information made available must include information on the amount and source of an applicant's income. The information received from the department must be used by the department of labor and industry for the purpose of determining fraud, abuse, or eligibility for benefits under the unemployment compensation and workers'

compensation programs of the state and for no other purpose.

(3) (a) Subject to federal restrictions, the department may request information from the department of labor and industry pertaining to unemployment, workers' compensation, and occupational disease benefits. If the department of labor and industry discovers evidence relating to fraud or abuse for unemployment, workers' compensation, or occupational benefits, the department of labor and industry may request information from the department of revenue pertaining to income as provided in 15-30-2618(9)(c).

(b) The information must be used by the department for the purpose of determining fraud, abuse, or eligibility for benefits.

(4) The department may, to the extent permitted by federal law, make available to an agency of the state or to any other organization information contained in its files and records pertaining to the eligibility of persons for medicaid, cash assistance and nonfinancial assistance, as defined in 53-2-902, ~~food stamps supplemental nutrition assistance program benefits~~, low-income energy assistance, weatherization, or other public assistance."

Section 15. Section 53-2-606, MCA, is amended to read:

"53-2-606. Right of appeal. (1) If an application for assistance for ~~food stamps supplemental nutrition assistance program benefits~~, cash assistance or nonfinancial assistance, as defined in 53-2-902, or medicaid is not acted upon promptly or if a decision is made by which the applicant or recipient is aggrieved, the applicant or recipient may appeal to the board of public assistance for a fair hearing by addressing a request for a hearing to the department. The board of public assistance shall, upon receipt of a request for a hearing, give the applicant or recipient prompt notice and opportunity for a fair hearing.

(2) The department may upon its own motion review any decision of a local office of public assistance and may consider any application upon which a decision has not been made within a reasonable time from the filing of the decision. The department may have an additional eligibility determination made and shall determine whether and in what amount assistance is to be granted under the provisions of this title.

(3) If the department reviews a decision on its own motion, applicants or recipients affected by the decisions of the department must upon request be given reasonable notice and an opportunity for a fair hearing by the board of public assistance."

Section 16. Section 53-2-901, MCA, is amended to read:

"53-2-901. Administration of ~~food stamp~~ supplemental nutrition assistance program -- rulemaking authority.

(1) The department is authorized to administer the ~~food stamp~~ supplemental nutrition assistance program in compliance with all federal laws and requirements.

(2) The department shall adopt rules that are necessary and desirable for the administration of the ~~food stamp~~ supplemental nutrition assistance program.

(3) The department shall adopt rules that may include but are not limited to rules concerning:

(a) eligibility for assistance, including income and resource limitations, income and resource exclusions, and transfers of resources;

(b) amounts of assistance and methods for determining benefit amount;

(c) periodic redetermination of eligibility;

(d) reporting requirements;

(e) work registration, employment, and training requirements and exemptions from those requirements;

(f) procedures and policies of the employment and training program;

(g) disqualification because of intentional program violations, for voluntarily quitting a job without good cause, or for any other violation of program rules; and

(h) penalties applicable to recipients of cash assistance who have been sanctioned because of failure to meet any requirement of that program.

(4) The department may adopt rules that include but are not limited to rules concerning:

(a) requirements for recipients to assign the right of support;

(b) requirements for recipients to cooperate with the state agency administering the child support enforcement program established under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq.; and

(c) disqualification for failure to perform actions required by other means-tested programs, for failure to cooperate with the state agency administering the child support enforcement program under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq., or for failure to pay court-ordered child support as provided in sections 819, 822, and 823 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 7

U.S.C. 2015."

Section 17. Section 53-2-902, MCA, is amended to read:

"53-2-902. Definitions. As used in this part, the following definitions apply:

(1) "Cash assistance" means the programs designed to provide families with monthly cash grants and opportunities leading to self-support and funded, in part, with temporary assistance for needy families block grant funds as provided in 45 CFR 260.31(a).

(2) "Department" means the department of public health and human services provided for in 2-15-2201.

(3) ~~"Food stamp program" means the provision of food stamp benefits that can be used to purchase food to low-income persons pursuant to the Food Stamp Act Amendments of 1980, 7 U.S.C. 2011, et seq.~~

(4)(3) "Nonfinancial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(b).

(4) "Supplemental nutrition assistance program" means the program established pursuant to 7 U.S.C. 2011, et seq.

(5) "Temporary assistance for needy families" means the block grant established pursuant to 42 U.S.C. 601, et seq."

Section 18. Section 53-2-903, MCA, is amended to read:

"53-2-903. Employment and training program. The department shall establish and administer an employment and training program for ~~food stamp~~ supplemental nutrition assistance program recipients that is in compliance with federal requirements."

Section 19. Section 53-3-115, MCA, is amended to read:

"53-3-115. Legislative findings. (1) The legislature finds that in order to use the limited resources of the state for the purposes of providing public assistance to persons whom it has determined are in need, certain programs must be eliminated and the provision of public assistance programs must be reorganized for more efficient delivery of services.

(2) The legislature finds that county governments are in the best position to efficiently and effectively deliver services for those in need who are not otherwise eligible for similar services provided by the department of public health and human services.

(3) (a) The legislature finds that the needs of persons who are aged, infirm, or misfortunate are adequately and appropriately provided for through the following programs:

- (i) medicaid;
- (ii) cash assistance, as defined in 53-2-902;
- (iii) ~~food stamps~~ the supplemental nutrition assistance program as defined in 53-2-902;
- (iv) commodities; and
- (v) low-income energy assistance.

(b) The legislature further finds that the counties may in their discretion provide other programs of public assistance that they determine are appropriate and that may be funded with money derived from a county mill levy.

(4) The legislature finds that the effects of eliminating the state program of general relief are not known and that the administration and financing of public assistance programs by each county may not provide uniform assistance throughout the state."

Section 20. Section 53-4-717, MCA, is amended to read:

"53-4-717. Sanctions. If an individual receiving cash assistance is required to participate in an employment and training program as a condition of an individual responsibility plan and fails without good cause to participate, the individual must be sanctioned in accordance with rules established by the department. Except as required by federal law, a sanction may not include any restriction or termination of ~~food stamps~~ supplemental nutrition assistance program benefits or medicaid coverage, and child-care benefits may only be continued for employment-related activities required by the individual responsibility plan that the participant has signed that are to be performed during the sanction period. The department may establish rules to ensure that individuals who participate in good faith are sanctioned properly and obtain additional case management services to ensure compliance with the individual responsibility plan."

Section 21. Repealer. The following section of the Montana Code Annotated is repealed:

53-2-904. Income and resource exclusions -- FAIM participants.

Section 22. Appropriation. (1) There is appropriated \$95,000 from the state general fund to the department of agriculture for use during the biennium beginning July 1, 2021, for the purposes of [section 5], of which:

- (a) a maximum of \$45,000 must be available for use during the fiscal year beginning July 1, 2021; and
 - (b) the remainder may be used in the fiscal year beginning July 1, 2022.
- (2) Money from the appropriation remaining unexpended and unencumbered on June 30, 2023, if any, must revert to the state general fund.

Section 23. Codification instruction. [Sections 1 through 5] are intended to be codified as an integral part of Title 50, chapter 49, and the provisions of Title 50, chapter 49, apply to [sections 1 through 5].

Section 24. Effective date. [This act] is effective July 1, 2021.

Section 25. Termination. [Sections 1 through 5] terminate June 30, 2023.

- END -

I hereby certify that the within bill,
HB 235, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2021.

President of the Senate

Signed this _____ day
of _____, 2021.

HOUSE BILL NO. 235

INTRODUCED BY T. WELCH, D. SALOMON, F. GARNER

AN ACT GENERALLY REVISING SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM LAWS; CREATING THE NUTRITION INCENTIVES PROGRAM FOR SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM PARTICIPANTS TO BUY ELIGIBLE FRUITS AND VEGETABLES; UPDATING TERMINOLOGY TO MATCH FEDERAL ASSISTANCE PROGRAM LANGUAGE; PROVIDING AN APPROPRIATION; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 39-51-403, 39-51-2208, 39-71-118, 40-4-215, 45-6-312, 50-49-103, 53-2-108, 53-2-201, 53-2-211, 53-2-606, 53-2-901, 53-2-902, 53-2-903, 53-3-115, AND 53-4-717, MCA; REPEALING SECTION 53-2-904, MCA; AND PROVIDING AN EFFECTIVE DATE.