

HOUSE BILL NO. 4

INTRODUCED BY K. HOLMLUND

BY REQUEST OF THE GOVERNOR

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO FIRE ASSESSMENT FEES;
6 ASSESSING FIRE ASSESSMENT FEES TO LAND OUTSIDE OF MUNICIPALITIES AND CERTAIN
7 CONSOLIDATED GOVERNMENTS; DEFINING TERMS; PROVIDING RULEMAKING AUTHORITY; PROVIDING
8 AN APPROPRIATION; AMENDING SECTIONS 7-33-2202, 7-33-2210, 76-13-102, 76-13-103, 76-13-104,
9 76-13-105, 76-13-107, 76-13-108, 76-13-111, 76-13-115, 76-13-117, 76-13-121, 76-13-126, 76-13-140,
10 76-13-201, 76-13-202, 76-13-207, 76-13-209, 76-13-210, AND 76-13-212, MCA; REPEALING SECTIONS
11 76-13-203, 76-13-204, 76-13-205, 76-13-206, 76-13-208, AND 76-13-213, MCA; AND PROVIDING AN
12 IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."
13

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

15
16 **Section 1.** Section 7-33-2202, MCA, is amended to read:

17 **"7-33-2202. Functions of county governing body.** (1) The county governing body, with respect to rural
18 fire control, shall carry out the specific authorities and duties imposed in this section.

19 (2) The governing body shall:

20 (a) provide for the organization of volunteer rural fire control crews; and

21 (b) provide for the formation of county volunteer fire companies.

22 (3) The governing body shall appoint a county rural fire chief and as many district rural fire chiefs, subject
23 to the direction and supervision of the county rural fire chief, that it considers necessary.

24 (4) Pursuant to 76-13-105~~(3)~~, the county governing body shall, within the limitations of 7-33-2205,
25 7-33-2206, 7-33-2208, and 7-33-2209, either:

26 (a) directly protect from fire land and wildland in the county that is not in a ~~wildland fire protection district, as~~
27 ~~provided in 76-13-204,~~ under the protection of a recognized agency, or under the protection of a municipality,
28 state agency, or federal agency; or

29 (b) enter into an agreement for wildland fire protection with a recognized agency, as that term is defined
30 in 76-13-102.

- 1 (5) The county governing body may enter into mutual aid agreements for itself and for county volunteer
- 2 fire companies with:
- 3 (a) other fire districts;
- 4 (b) unincorporated municipalities;
- 5 (c) incorporated municipalities;
- 6 (d) state agencies;
- 7 (e) private fire prevention agencies;
- 8 (f) federal agencies;
- 9 (g) fire service areas;
- 10 (h) governing bodies of other political subdivisions in Montana; or
- 11 (i) governing bodies of fire protection services, emergency medical care providers, and local government
- 12 subdivisions of any other state or the United States pursuant to Title 10, chapter 3, part 11.

13 (6) If the county governing body has not concluded a mutual aid agreement, the county governing body,
 14 a representative of the county governing body, or an incident commander may request assistance pursuant to
 15 10-3-209."
 16

17 **Section 2.** Section 7-33-2210, MCA, is amended to read:

18 **"7-33-2210. State to be reimbursed for wildland fire suppression activities in noncooperating**
 19 **counties.** A county that has not entered into a cooperative or other written agreement with the state for wildland
 20 fire protection shall reimburse the state for costs incurred by the state in connection with state fire suppression
 21 activities resulting from a wildland fire emergency on ~~land~~ wildland in that county that is not ~~in a wildland fire~~
 22 ~~protection district, as provided in 76-13-204, or~~ protected through an agreement with a recognized agency, as
 23 provided in 7-33-2202(4)(b)."
 24

25 **Section 3.** Section 76-13-102, MCA, is amended to read:

26 **"76-13-102. Definitions.** Unless the context requires otherwise, in part 2 and this part, the following
 27 definitions apply:

28 (1) "Commercial structure" means property that is used or owned by a business, a trade, or a corporation
 29 as that term is defined in 35-2-114, or that is used for the production of income.

30 (a) A commercial structure may include industrial property, as defined in 15-1-101.

- 1 **(b) The following types of property are not commercial structures:**
- 2 **(i) agricultural land as defined in 15-7-202;**
- 3 **(ii) timberland and forest land;**
- 4 **(iii) single-family residences and ancillary improvements and improvements necessary to the function**
- 5 **of a bona fide farm, ranch, or stock operation;**
- 6 **(iv) a mobile home or a manufactured home used exclusively as a residence except when held by a**
- 7 **distributor or dealer as stock in trade; and**
- 8 **(v) all property described in 15-6-135.**

9 ~~(1)~~(2) "Conservation" means the protection and wise use of forest, range, water, and soil resources in
 10 keeping with the common welfare of the people of this state.

11 ~~(2)~~(3) "Department" means the department of natural resources and conservation provided for in Title
 12 2, chapter 15, part 33.

13 **(4) "Dwelling" means a commercial structure or a single-family residence.**

14 ~~(3)~~(5) "Forest land" means ~~land that has enough timber, standing or down, slash, or brush to constitute~~
 15 ~~in the judgment of the department a fire menace to life or property. Grassland and agricultural areas are included~~
 16 ~~when those areas are intermingled with or contiguous to and no further than one-half mile from areas of forest~~
 17 ~~land~~ has the meaning provided in 15-44-102.

18 ~~(4)~~(6) (a) "Forest practices" means the harvesting of trees, road construction or reconstruction
 19 associated with harvesting and accessing trees, site preparation for regeneration of a timber stand, reforestation,
 20 and the management of logging slash.

21 (b) The term does not include activities for the purpose of:

- 22 (i) the operation of a nursery or Christmas tree farm;
- 23 (ii) the harvest of Christmas trees;
- 24 (iii) the harvest of firewood; or
- 25 (iv) the cutting of trees for personal use by an owner or operator.

26 **(7) "Improvements" has the same meaning as provided in 15-1-101.**

27 ~~(5)~~(8) "Operator" means a person responsible for conducting forest practices. An operator may be the
 28 owner, the owner's agent, or a person who, through contractual agreement with the landowner, is obligated to
 29 or entitled to conduct forest practices or to carry out a timber sale.

30 ~~(6)~~(9) "Owner" means the person, firm, association, or corporation having the actual, beneficial

1 ownership of forest land or timber other than an easement, right-of-way, or mineral reservation the parcel.

2 (10) (a) "Parcel" means a tract or plot of land distinguishable by ownership boundaries.

3 (b) The term does not include state trust land as defined in 77-1-101.

4 ~~(7)~~(11) "Person" means an individual, corporation, partnership, or association of any kind.

5 ~~(8)~~(12) "Recognized agency" means an agency organized for the purpose of providing fire protection and
6 recognized by the department as giving adequate fire protection to lands in accordance with rules adopted by
7 the department.

8 (13) "Single-family residence" means a structure originally constructed or converted for use and
9 occupancy by a single-family unit and whose primary use is currently one of occupancy by a single-family unit.

10 ~~(9)~~(14) "Timber sale" means a series of forest practices designed to access, harvest, and regenerate
11 trees on a defined land area.

12 ~~(10)~~ "Wildfire" means an unplanned, unwanted fire burning uncontrolled on wildland and consuming
13 vegetative fuels.

14 ~~————(11)~~ "Wildfire season" means the period of each year beginning May 1 and ending September 30,
15 inclusive.

16 ~~(12)~~(15) "Wildland" means an area in which development is essentially nonexistent, except for roads,
17 railroads, powerlines, and similar facilities, and in which structures, if any, are widely scattered. land outside the
18 boundaries of a municipality or, in the case of a consolidated city-county government, land that is not subject to
19 a levy that supports full-time paid firefighters, including zones in which human development, however scattered,
20 meets or intermingles with undeveloped land or vegetative fuels.

21 ~~(13)~~(16) "Wildland fire" means ~~a fire burning uncontrolled on forest lands~~ an unplanned, unwanted fire
22 burning uncontrolled on wildland and consuming vegetative fuels.

23 ~~(14)~~(17) "Wildland fire protection" ~~means~~ includes but is not limited to the work of prevention, detection,
24 and suppression of wildland fires ~~and includes training required to perform those functions.~~

25 ~~(15)~~ "Wildland fire protection district" means a definite land area, the boundaries of which are fixed and
26 in which wildland fire protection is provided through the medium of an agency recognized by the department.

27 ~~————(16)~~

28 (18) "Wildland fire protection preparedness" means activities in advance of fire occurrence to ensure
29 effective suppression action.

30 (a) The term includes but is not limited to training and placement of personnel, planning, procuring and

1 maintaining equipment, development of fire defense improvements, and maintaining cooperative arrangements
 2 with other agencies.

3 (b) The term does not include wildland fire suppression.

4 (19) "Wildland fire season" means those instances when the department determines that dangerous
 5 wildland fire conditions exist.

6 (20) "Wildland fire suppression" means all work and activities connected with control and
 7 fire-extinguishing operations, beginning with discovery and continuing until the fire is completely extinguished and
 8 the work of repairing damage caused by the fire suppression activities has been completed.

9 (21) "Wildland-urban interface" means the line, area, or zone where structures and other human
 10 development meet or intermingle with undeveloped wildland or vegetative fuels."

11

12 **Section 4.** Section 76-13-103, MCA, is amended to read:

13 **"76-13-103. Applicability.** Part 2 and this part apply to all state and private lands within this state that
 14 are susceptible to ~~wildfire~~ wildland fire, as determined by the department."

15

16 **Section 5.** Section 76-13-104, MCA, is amended to read:

17 **"76-13-104. Functions of department -- rulemaking.** (1) (a) The department has the duty to ensure
 18 the protection of land under state and private ownership and to suppress ~~wildfires~~ wildland fires on land under
 19 state and private ownership. Fees may not be collected for this purpose except fees provided for in 76-13-201
 20 and 76-13-207.

21 (b) The department may engage in ~~wildfire~~ wildland fire initial attack on all lands if the fire threatens to
 22 move onto state or private land.

23 (2) (a) The department shall adopt rules to protect the natural resources of the state, especially the
 24 natural resources owned by the state, from destruction by fire and for that purpose, in declared emergencies, may
 25 employ personnel and incur other expenses when necessary.

26 (b) The department may adopt and enforce reasonable rules for the purpose of enforcing and
 27 accomplishing the provisions and purposes of part 2 and this part.

28 (3) The duty imposed on the department under this section is not exclusive to the department and does
 29 not absolve private property owners or local governmental fire agencies organized under Title 7, chapter 33, from
 30 any fire protection or suppression responsibilities.

1 (4) The department may give technical and practical advice concerning forest, range, water, and soil
2 conservation and the establishment and maintenance of woodlots, windbreaks, shelterbelts, and fire protection.

3 (5) The department shall cooperate with all public and other agencies in the development, protection,
4 and conservation of the forest, range, and water resources in this state.

5 (6) The department shall establish and maintain wildland fire control training programs.

6 (7) The department shall appoint firewardens in the number and localities that it considers necessary
7 and shall adopt rules prescribing the qualifications and duties of firewardens that are in addition to those provided
8 in 76-13-116.

9 (8) The department shall adopt rules addressing development within the wildland-urban interface,
10 including but not limited to:

11 (a) best practices for development within the wildland-urban interface; and

12 (b) criteria for providing grant and loan assistance to local government entities to encourage adoption
13 of best practices for development within the wildland-urban interface.

14 (9) (a) The department shall establish a good neighbor policy that would allow the department to enter
15 into a cooperating and coordinating agreement or contract that authorizes the state forester to engage in forest
16 management and education activities to:

17 (i) reduce wildland fire risk and intensity on federal land designated as wildland-urban interface under
18 76-13-145; and

19 (ii) take advantage of federal authority that promotes sustainable forest management.

20 (b) Forest management activities to reduce wildland fire risk and intensity included in the good neighbor
21 policy must include the authority to:

22 (i) treat insect-infested trees;

23 (ii) reduce hazardous fuels; and

24 (iii) conduct any other activities to improve the overall diversity and vigor of forested landscapes.

25 (10) The department has the authority to intervene in litigation or appeals on federal forest management
26 projects that involve reduction of hazardous fuels or other activities to mitigate the risk of wildland fire in the
27 wildland-urban interface.

28 (11) The department shall notify the public when it determines that a wildland fire season has begun and
29 when it determines that the wildland fire season has ended."

30

1 **Section 6.** Section 76-13-105, MCA, is amended to read:

2 **"76-13-105. Protection of lands and improvements from fire.** (1) ~~Nonforest lands~~ Wildland and
3 improvements may be protected by the department ~~when requested by the landowner at rates determined by the~~
4 ~~department in those areas where a recognized agency is available~~ directly, indirectly, or through contract.

5 ~~(2) Land classified as forest land under 76-13-107 that is within a wildland fire protection district, as~~
6 ~~provided in 76-13-204, or that is otherwise under contract for fire protection by a recognized agency must be~~
7 ~~protected as provided in 76-13-201 and 76-13-207.~~

8 ~~(3)(2) Private and public land, whether classified as forest land or otherwise, that is not within a wildland~~
9 ~~fire protection district or~~ wildland that is not under the protection of a recognized agency or a municipality must
10 be protected by a county as provided in 7-33-2202. The county governing body shall either provide direct
11 protection, as provided in 7-33-2202(4), or it shall enter into an agreement for protection with a recognized
12 agency."

13

14 **Section 7.** Section 76-13-107, MCA, is amended to read:

15 **"76-13-107. Classification of forest lands.** The department ~~may~~ shall classify the as forest land areas
16 ~~of the state for which conservation and fire protection measures are reasonably required and change or modify~~
17 ~~the classification from time to time as in its judgment is proper~~ any land that is classified as forest land by the
18 department of revenue under Title 15."

19

20 **Section 8.** Section 76-13-108, MCA, is amended to read:

21 **"76-13-108. Person responsible for performance of duties.** (1) If the owner does not appear upon
22 the public records as the holder of the legal title to the land or timber, the owner is nevertheless primarily
23 responsible for the performance of the acts and duties imposed ~~upon~~ on the owner by part 2 and this part.

24 (2) When the owner of the timber is not the owner of the land, the primary responsibility for the
25 performance of the acts and duties imposed by part 2 and this part is ~~upon~~ on the owner of the timber.

26 (3) When the state has title to ~~forest lands within an organized forest protection district~~ wildland, it must
27 be considered as an owner and it ~~shall list its lands and pay the assessments to the recognized agencies~~
28 ~~responsible for lands in organized forest protection districts~~ is primarily responsible for the performance of the
29 acts and duties imposed on the owner by part 2 and this part."

30

1 **Section 9.** Section 76-13-111, MCA, is amended to read:

2 **"76-13-111. Permissible expenditures.** (1) The following funds may be expended as directed by the
3 department for ~~fire prevention, detection, and suppression~~ wildland fire protection, wildland fire protection
4 preparedness, and wildland fire suppression and for forest range, water, and soil conservation:

5 (a) ~~all moneys subject to 76-13-209, money collected by county treasurers~~ as assessments on forest
6 lands ~~for forest protection~~;

7 (b) ~~moneys~~ money collected for the abatement of public nuisances;

8 (c) all fines collected, except those collected in a justice's court, for violations of this part or part 2;

9 (d) the state's share of the cooperative fire protection funds allocated by the federal government;

10 (e) any other funds provided for the purposes herein indicated.

11 (2) All other cooperative funds collected, appropriated, or allocated for the use of the department,
12 including funds for the removal of slash hazards resulting from logging or other wood operations on state and
13 private forest lands, those provided for the purpose of helping to maintain the maximum productivity of the forests
14 of the state, those provided for purposes designed to assist the farmers of the state in the establishment of
15 windbreaks and woodlots in localities where those forest plantings are helpful, and funds for other cooperative
16 work, may not be expended except for the specific purposes for which they were collected, appropriated, or
17 allocated."

18

19 **Section 10.** Section 76-13-115, MCA, is amended to read:

20 **"76-13-115. State fire policy.** The legislature finds and declares that:

21 (1) the safety of the public and of firefighters is paramount in all ~~wildfire~~ wildland fire suppression
22 activities;

23 (2) it is a priority to minimize property and resource loss resulting from ~~wildfire~~ wildland fire and to
24 minimize expense to Montana taxpayers, which is generally accomplished through an aggressive and rapid initial
25 attack effort;

26 (3) interagency cooperation and coordination among local, state, and federal agencies are intended and
27 encouraged, including cooperation when restricting activity or closing areas to access becomes necessary;

28 (4) fire prevention, hazard reduction, and loss mitigation are fundamental components of this policy;

29 (5) all property in Montana has ~~wildfire~~ wildland fire protection from a recognized fire protection entity;

30 (6) all private property owners and federal and state public land management agencies have a

1 responsibility to manage resources, mitigate fire hazards, and otherwise prevent fires on their property;

2 (7) sound forest management activities to reduce fire risk, such as thinning, prescribed burning, and
3 insect and disease treatments, improve the overall diversity and vigor of forested landscapes and improve the
4 condition of related water, wildlife, recreation, and aesthetic resources;

5 (8) development of fire protection guidelines for the wildland-urban interface is critical to improving public
6 safety and for reducing risk and loss; and

7 (9) catastrophic wildland fire in wildland-urban interface areas resulting from inadequate federal land
8 management activities to reduce fire risk has the potential to jeopardize Montanans' inalienable right to a clean
9 and healthful environment guaranteed in Article II, section 3, of the Montana constitution."
10

11 **Section 11.** Section 76-13-117, MCA, is amended to read:

12 **"76-13-117. (Temporary) State assistance to local governments as consultant for federal land**
13 **management proposals -- rulemaking.** (1) The department of natural resources and conservation, at the
14 request of and in coordination with a local government as defined in 7-11-1002, may serve as a consulting subject
15 matter expert on federal vegetation management projects.

16 (2) The department may provide the assistance to local governments listed in subsection (1) on projects
17 that address forest health or ~~wildfire~~ wildland fire risk.

18 (3) The department may establish a minimal procedure for local governments to request state assistance
19 pursuant to 76-13-118 and this section.

20 (4) The department shall give priority to requests and services pursuant to this section that will:

21 (a) reduce excessive ~~wildfire~~ wildland fire fuels that endanger communities, infrastructure, or municipal
22 watersheds;

23 (b) enhance economic productivity in economically depressed counties; and

24 (c) not exceed available staff time and resources.

25 (5) The department may adopt rules to implement this section. (Terminates June 30, 2020--sec. 6, Ch.
26 425, L. 2015.)"
27

28 **Section 12.** Section 76-13-121, MCA, is amended to read:

29 **"76-13-121. Permit for burning required.** (1) During ~~the wildfire~~ a wildland fire season ~~or an expansion~~
30 ~~of the wildfire season~~, a person may not ignite or set a fire, including a slash-burning fire, land-clearing fire,

1 debris-burning fire, or, except as provided in subsection (2), an open fire without an official written permit to ignite
2 or set the fire from the recognized agency for that protection area.

3 (2) (a) If no restrictions are in place, a permit is not needed for recreational fires measuring less than 48
4 inches in diameter that are surrounded by a nonflammable area or structure and for which a suitable source of
5 extinguishing the fire is available.

6 (b) A recreational fire may not be ignited if special restrictions prohibiting recreational fires have been
7 established by an authority having jurisdiction."
8

9 **Section 13.** Section 76-13-126, MCA, is amended to read:

10 **"76-13-126. Restrictions on mill waste.** (1) Before each ~~wildfire~~ wildland fire season, all persons, firms,
11 or corporations creating or responsible for mill waste within forest areas shall treat, dispose of, remove, or reduce
12 the hazards created so that the accumulation of the waste does not constitute a fire hazard.

13 (2) A sawmill located within or contiguous to forest lands may not accumulate in one pile sawdust in
14 excess of an amount resulting from the sawing of 500,000 feet log scale of sawlogs. However, a larger sawdust
15 pile may be accumulated when there is no reasonable danger of fire from the sawdust pile and a permit for the
16 additional accumulation is granted by the department. If burning is the disposal method elected, each sawdust
17 pile must be prepared for burning by cribbing the base of each pile with slabs and must be burned in accordance
18 with rules adopted by the department."
19

20 **Section 14.** Section 76-13-140, MCA, is amended to read:

21 **"76-13-140. Legal representation for state firefighters.** (1) The department shall pay reasonable
22 attorney fees and costs for outside legal counsel to defend a firefighter employed by the department against a
23 criminal prosecution for a good faith act or omission by the firefighter arising from the firefighter's performance
24 of duties during a ~~wildfire~~ wildland fire. The department may determine whether the firefighter's act or omission
25 was in good faith and arising from the performance of the firefighter's duties during a ~~wildfire~~ wildland fire. The
26 requirement to pay attorney fees and costs does not apply to any postconviction legal proceedings.

27 (2) The department shall adopt rules to implement this section."
28

29 **Section 15.** Section 76-13-201, MCA, is amended to read:

30 **"76-13-201. ~~Costs~~ Fees for wildland fire protection from fire preparedness. (1) ~~An owner of land~~**

1 classified as forest land that is within a wildland fire protection district or that is otherwise under contract for fire
2 protection by a recognized agency is subject to the fees for fire protection provided in this section.

3 ~~———(2) The department shall provide fire protection to the land described in subsection (1) at a cost to the
4 landowner of not more than \$50 for each landowner in the protection district and of not more than an additional
5 30 cents per acre per year for each acre in excess of 20 acres owned by each landowner in each protection
6 district, as necessary to yield the amount of money provided for in 76-13-207. Assessment, payment, and
7 collection of the fire protection costs must be in accordance with 76-13-207.~~

8 ~~———(3)(1) A parcel owner whose land is located wholly or partly within wildland is subject to the fees for
9 wildland fire protection preparedness provided for in this section.~~

10 ~~(a) There is a base fire fee assessed to each owner of a parcel.~~

11 ~~(b) If there is a dwelling on the parcel, there is an additional dwelling fire fee assessed.~~

12 ~~(c) For parcels classified as forest land, there is a forest land fire fee assessed.~~

13 ~~(2) A person who owns a share of a residential or commercial condominium unit on a parcel may be
14 assessed only the base fire fee.~~

15 ~~(3) A parcel owner is subject to assessment under this section for each parcel owned, but may not be
16 assessed more than three fire fees in a year for each parcel owned.~~

17 ~~(4) Other charges may not be assessed to a participating landowner parcel owner except in cases of
18 proved negligence on the part of the landowner parcel owner or the landowner's parcel owner's agent or in the
19 event of a violation of 50-63-103."~~

20

21 **Section 16.** Section 76-13-202, MCA, is amended to read:

22 **"76-13-202. Means by which department may provide protection.** ~~The~~ As provided in 76-13-105, the
23 department may provide for ~~wildfire~~ wildland fire protection of any wildlands through the department directly,
24 indirectly, or by contract or any other feasible means, in cooperation with any federal, state, or other recognized
25 agency."

26

27 **Section 17.** Section 76-13-207, MCA, is amended to read:

28 **"76-13-207. Determination and collection of costs of fees for wildland fire protection**
29 **preparedness.** ~~(1) The department shall prepare an annual operation assessment plan in which fire protection
30 costs are determined. The department shall request the legislature to appropriate the state's portion of the cost.~~

1 After the appropriation is made by the legislature, the department shall cause an assessment to be made on the
2 owners of land, as specified in 76-13-105 and 76-13-201, sufficient to bring the total amount received from the
3 landowners to no greater than one-third of the amount specified in the appropriation.

4 ~~_____~~(2)(1) On or before the first Tuesday in September of each year, the department shall certify in writing
5 to the department of revenue the names of these owners of lands in each county, together with a description of
6 their lands and a statement of the amount found to be due and owing by each of the owners to the department
7 for wildland fire protection. amount of the legislative appropriation and any unspent funds remaining in the
8 account provided for in 76-13-209.

9 (3)(2) Upon receiving the certificate from the department showing the amount due, the department of
10 revenue shall extend the amounts upon the county tax rolls covering the lands, and the sums become obligations
11 of the owner, to be paid and collected in the same manner and at the same time and subject to the same
12 penalties as general state and county taxes upon the same property are collected. appropriation and remaining
13 fund balance, the department of revenue shall determine the fees per parcel, dwelling, and forest land necessary
14 to generate the revenue to fund the account.

15 (3) The department of revenue shall include in the property tax record the fee or fees to be paid by the
16 owners of parcels, dwellings, and forest land. The sums are obligations of the owners, to be paid and collected
17 in the same manner and at the same time and subject to the same penalties as general state and county taxes
18 upon the same property are collected.

19 (4) The department of revenue shall:

20 (a) compute the fire fees that will produce an amount equal to the appropriation certified in subsection
21 (1); and

22 (b) annually adjust the fire fee amounts to ensure that sufficient funds are generated to meet the
23 appropriation and that excess funds are not generated or retained.

24 (5) For purposes of determining the base fire fee, dwelling fire fee, and forest land fire fee, the
25 department of revenue shall take the total wildland protection preparedness appropriation less any unspent
26 funding plus any uncollected fees from prior years divided by the total of statewide parcels, dwellings, and forest
27 lands.

28 (6) (a) The department of revenue shall adopt rules to implement the calculation of the fire fees and
29 determination of parcels, dwellings, and forest lands that are subject to the fire fees.

30 (b) For the purposes of calculating the fees, the rules may include adjustments for the percentage of

1 owners who fail to pay the fees."

2

3 **Section 18.** Section 76-13-209, MCA, is amended to read:

4 **"76-13-209. Disposition of assessments.** (1) Money collected by the county treasurer pursuant to
5 76-13-207 must be remitted to the state for deposit in an account in the state special revenue fund.

6 (2) Funds may be used as appropriated by the legislature for purposes consistent with the goals and
7 objectives of the forestry division of the department. Funds may also be used to pay for services provided to the
8 forestry division by the director's office.

9 (3) Funds may be used during a biennium for wildland fire suppression provided the account is
10 reimbursed from another funding source before the end of a fiscal year."

11

12 **Section 19.** Section 76-13-210, MCA, is amended to read:

13 **"76-13-210. Payment under protest.** An owner who is required to pay to the county treasurer any sum
14 for wildland fire protection preparedness as required by part 1 or this part and who contends that the owner is
15 not legally obligated to pay the sum fees or a part of the sum fees shall pay it to the county treasurer under written
16 protest, stating the reasons for the protest. The payment under protest and all proceedings subsequent to the
17 payment must conform with the law of this state providing for the payment of taxes under protest and action to
18 recover the payment. In the hearing and determination of any action to recover the payment under protest, all
19 questions of the legality and reasonableness of the proceedings of the department may be reviewed and
20 decided."

21

22 **Section 20.** Section 76-13-212, MCA, is amended to read:

23 **"76-13-212. Duty of landowner parcel owner to protect against fire.** ~~(1) An owner of land~~ A parcel
24 owner shall protect against the starting or existence of fire and shall suppress the spread of fire on that ~~land~~
25 parcel. This protection and suppression must be in conformity with reasonable rules and standards for adequate
26 fire protection adopted by the department.

27 ~~———— (2) (a) The provisions of 76-13-201 apply to an owner of land that is classified as forest land under~~
28 ~~76-13-107 and that is within a wildland fire protection district.~~

29 ~~———— (b) If an owner of land does not provide for protection against the starting or existence of fire and for fire~~
30 ~~suppression and the land does not meet the criteria in subsection (2)(a), the owner may request that the~~

1 ~~department provide protection as provided in 76-13-105."~~

2

3 **NEW SECTION. Section 21. Repealer.** The following sections of the Montana Code Annotated are

4 repealed:

5 76-13-203. Extension of wildfire season.

6 76-13-204. Creation, annexation of land into, and dissolution of wildland fire protection districts.

7 76-13-205. Determination of boundaries of district.

8 76-13-206. What constitutes compliance with duty to protect against fire.

9 76-13-208. Nature of assessments for wildland fire protection.

10 76-13-213. Formula to set landowner assessments for fire protection.

11

12 **NEW SECTION. Section 22. Appropriation.** (1) There is appropriated to the department of natural
13 resources and conservation from the account provided for in [section 18] \$13 million in fiscal year 2019.

14 (2) For the biennium beginning July 1, 2019, the appropriation is intended to be part of the base budget
15 as defined in 17-7-102.

16 (3) For fiscal year 2019, general fund appropriation authority of \$13 million for the forestry division or the
17 director's office of the department must remain unspent on the state accounting system.

18

19 **NEW SECTION. Section 23. Effective date.** [This act] is effective on passage and approval.

20

21 **NEW SECTION. Section 24. Applicability.** [This act] applies to tax years beginning after December
22 31, 2017.

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