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Legal Services Office

DATE: March 12, 2024
TO: Legislative Council
FROM: Jaret Coles, Deputy Director of Legal Services
RE: Legal Office Update -- Session Law Amendments Simplification

OVERVIEW OF SESSION LAW:

A bill that has become a law is delivered to the Secretary of State, who assigns a chapter number to it in the order that the bill is received by that office. All laws that pass in any one legislative session are first published in the order of passage in a publication titled Laws of Montana (Year). This publication is referred to as the "Session Laws". All permanent new provisions are assigned MCA section numbers by the Code Commissioner's staff and are incorporated into the Montana Code Annotated. Session Laws are arranged by legislative session year and are divided into chapters (one chapter for each bill that is passed), which are further divided into sections. Session Laws may be cited as follows:

- Chapter 5, Laws of 2007,
- section 2, Chapter 5, Laws of 2007,
- sections 2, 3, and 4, Chapter 5, Laws of 2007, (do not use "through")
- section 5, Chapter 1, Special Laws of August 2010

A section of Session Law, such as a termination section from a previous session, may be reduced, extended, or repealed. For example, if substantive law was to terminate on a date certain, the Session Law can be amended to terminate the statute on a different date or be made permanent by repealing the Session Law termination section of the act. The Session Law must be amended because termination sections (and other housekeeping and appropriation sections) are not codified and assigned section numbers in the MCA.

SESSION LAW AMENDMENT COMPLEXITIES:

Bill drafters are instructed to amend all session laws that amended the underlying primary session law. The legal theory has been that all session laws need to match so that a conflict does not exist between the initial legislation that provided for the termination date, and all future legislation that amended the termination date. This creates complexities, increases the amount of staff time drafting and editing legislation, and creates the opportunity for errors in the bill drafting process when a bill's termination date has been revised more than once. The more times that a termination date is revised, the greater the complexities. As a way of example:

- The qualified endowment income tax credit was initially enacted in 1997 with a termination date of December 31, 2001 (See Chapter 537, Laws of 1997).
- The 2001 Legislature extended the termination date from 2001 to 2007 (See [Chapter 226, Laws of 2001](#)).
- The 2007 Legislature extended the termination date from 2007 to 2013 (See [Chapter 208, Laws of 2007](#)).
- The 2013 Legislature extended the termination date from 2013 to 2019 (See [Chapter 317, Laws of 2013](#)).

- The 2019 Legislature extended the termination date from 2019 to 2025 (See [Chapter 254, Laws of 2019](#)).
- The 2023 Legislature repealed the termination provision (See [Chapter 690, Laws of 2023](#)).

A copy of [Chapter 254, Laws of 2019](#), is attached for reference as Exhibit A to illustrate the complexity of amending Session Laws.

STAFF IDENTIFIED OPTION TO SIMPLIFY SESSION LAW AMENDMENT PROCESS:

The Legislative Council could request a provisional draft for consideration during a future Legislative Council meeting that would simplify the session law amendment process. The language could read as follows (subject to further revisions during preparation of the provisional draft):

NEW SECTION. Section 1. Revision of termination date -- conflicting amendments -- no revival of terminated amendment. (1) The termination date of a statute may be revised by amending the session law for the initial legislation that provided for the termination date. There is no limit on the number of times that a termination date may be revised pursuant to this section.

(2) In the event of conflicting revisions to a termination date during the same legislative session, the conflict may be resolved through a coordination instruction. If the conflict is not resolved through a coordination instruction, the revised termination date that falls latest chronologically becomes law and all earlier revised termination dates from the same legislative session are void.

(3) A termination date is not revised through an amendment of session law unless the legislation revising the termination date is effective before the later of the initial termination date or the amended termination date.

(4) Provided that the session law of the initial legislation that provided for a termination date is amended in the same enactment, this section does not invalidate the amendment of a termination date when the session law that previously revised the termination date of the initial legislation is also amended.

NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 1, chapter 2, part 2, and the provisions of Title 1, chapter 2, part 2, apply to [section 1].

NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 4. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to all legislation passed and approved after commencement of the 69th legislative session.



AN ACT EXTENDING THE TERMINATION DATE OF THE TAX CREDIT FOR CONTRIBUTIONS TO A QUALIFIED ENDOWMENT; AMENDING SECTION 9, CHAPTER 537, LAWS OF 1997; AMENDING SECTION 5, CHAPTER 226, LAWS OF 2001; AMENDING SECTION 7, CHAPTER 4, LAWS OF 2005; AMENDING SECTIONS 2, 3, 4, AND 7, CHAPTER 208, LAWS OF 2007; AND AMENDING SECTIONS 2, 3, 4, 5, 6, 7, 8, AND 11, CHAPTER 317, LAWS OF 2013.

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

Section 1. Section 9, Chapter 537, Laws of 1997, is amended to read:

"Section 9. Termination. [This act] terminates December 31, ~~2004~~ 2025."

Section 2. Section 5, Chapter 226, Laws of 2001, is amended to read:

"Section 5. Section 9, Chapter 537, Laws of 1997, is amended to read:

"Section 9. Termination. [This act] terminates December 31, ~~2004~~ 2007 2025."

Section 3. Section 7, Chapter 4, Laws of 2005, is amended to read:

"Section 7. Termination. [This act] terminates December 31, ~~2007~~ 2025."

Section 4. Section 2, Chapter 208, Laws of 2007, is amended to read:

"Section 2. Section 9, Chapter 537, Laws of 1997, is amended to read:

"Section 9. Termination. [This act] terminates December 31, ~~2004~~ 2013 2025."

Section 5. Section 3, Chapter 208, Laws of 2007, is amended to read:

"Section 3. Section 5, Chapter 226, Laws of 2001, is amended to read:

"Section 5. Section 9, Chapter 537, Laws of 1997, is amended to read:

"Section 9. Termination. [This act] terminates December 31, ~~2004~~ 2007 2013 2025."

Section 6. Section 4, Chapter 208, Laws of 2007, is amended to read:

"**Section 4.** Section 7, Chapter 4, Laws of 2005, is amended to read:

"**Section 7. Termination.** [This act] terminates December 31, ~~2007~~ ~~2013~~ 2025.""

Section 7. Section 7, Chapter 208, Laws of 2007, is amended to read:

"**Section 7. Termination.** (1) [Section 1] terminates December 31, ~~2013~~ 2025.

(2) Sections 1 through 4, Chapter 226, Laws of 2001, terminate December 31, ~~2013~~ 2025.

(3) Section 7, Chapter 482, Laws of 2003, terminates December 31, ~~2013~~ 2025."

Section 8. Section 2, Chapter 317, Laws of 2013, is amended to read:

"**Section 2.** Section 9, Chapter 537, Laws of 1997, is amended to read:

"**Section 9. Termination.** [This act] terminates December 31, ~~2004~~ ~~2019~~ ~~2019~~ 2025.""

Section 9. Section 3, Chapter 317, Laws of 2013, is amended to read:

"**Section 3.** Section 5, Chapter 226, Laws of 2001, is amended to read:

"**Section 5.** Section 9, Chapter 537, Laws of 1997, is amended to read:

"**Section 9. Termination.** [This act] terminates December 31, ~~2004~~ ~~2007~~ ~~2019~~ 2025.""

Section 10. Section 4, Chapter 317, Laws of 2013, is amended to read:

"**Section 4.** Section 7, Chapter 4, Laws of 2005, is amended to read:

"**Section 7. Termination.** [This act] terminates December 31, ~~2007~~ ~~2019~~ 2025.""

Section 11. Section 5, Chapter 317, Laws of 2013, is amended to read:

"**Section 5.** Section 2, Chapter 208, Laws of 2007, is amended to read:

"**Section 2.** Section 9, Chapter 537, Laws of 1997, is amended to read:

"**Section 9. Termination.** [This act] terminates December 31, ~~2004~~ ~~2013~~ ~~2019~~ 2025.""

Section 12. Section 6, Chapter 317, Laws of 2013, is amended to read:

"Section 6. Section 3, Chapter 208, Laws of 2007, is amended to read:

"Section 3. Section 5, Chapter 226, Laws of 2001, is amended to read:

"Section 5. Section 9, Chapter 537, Laws of 1997, is amended to read:

"Section 9. Termination. [This act] terminates December 31, ~~2004~~ ~~2007~~ ~~2013~~ ~~2019~~ 2025."''''

Section 13. Section 7, Chapter 317, Laws of 2013, is amended to read:

"Section 7. Section 4, Chapter 208, Laws of 2007, is amended to read:

"Section 4. Section 7, Chapter 4, Laws of 2005, is amended to read:

"Section 7. Termination. [This act] terminates December 31, ~~2007~~ ~~2013~~ ~~2019~~ 2025."''''

Section 14. Section 8, Chapter 317, Laws of 2013, is amended to read:

"Section 8. Section 7, Chapter 208, Laws of 2007, is amended to read:

"Section 7. Termination. (1) [Section 1] terminates December 31, ~~2013~~ ~~2019~~ 2025.

(2) Sections 1 through 4, Chapter 226, Laws of 2001, terminate December 31, ~~2013~~ ~~2019~~ 2025.

(3) Section 7, Chapter 482, Laws of 2003, terminates December 31, ~~2013~~ ~~2019~~ 2025."''

Section 15. Section 11, Chapter 317, Laws of 2013, is amended to read:

"Section 11. Termination. [Section 1] terminates December 31, ~~2019~~ 2025."

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