

**LAWS AND RESOLUTIONS
OF THE STATE OF MONTANA
Volume I of III**

**Enacted or Adopted by the
SIXTY-SEVENTH LEGISLATURE
IN REGULAR SESSION**

**Held at Helena, the Seat of Government
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Table of Contents

Volume I

- Officers and Members of the Montana Senate
- Officers and Members of the Montana House of Representatives
- Title Contents of Bills and Resolutions
- Chapters 1-288

Volume II

- Chapters 289-502

Volume III

- Chapters 503-576
- House Joint Resolutions
- House Resolutions
- Senate Joint Resolutions
- Senate Resolutions
- Tables
 - Code Sections Affected
 - Session Laws Affected
 - Senate Bill to Chapter Number
 - House Bill to Chapter Number
 - Chapter Number to Bill Number
 - Effective Dates By Chapter Number
 - Effective Dates By Date
 - Session Law to Code
 - 2020 Ballot Issues to Code
 - Code Sections to 2020 Ballot Issues
- Index to Appropriations
- General Index

Volume I

- Officers and Members of the Montana Senate
- Officers and Members of the Montana House of Representatives
- Title Contents of Bills and Resolutions

House and Senate Bills	i
House Joint Resolutions	lxxxiii
House Resolutions	lxxxv
Senate Joint Resolutions	lxxxvi
Senate Resolutions	lxxxviii
2020 Ballot Issues	xcv
Chapters 1-288	1

OFFICERS AND MEMBERS OF THE MONTANA SENATE

2021

50 Members

31 Republicans

19 Democrats

OFFICERS

President Mark Blasdel
 President Pro Tempore Jason Ellsworth
 Majority Leader..... Cary Smith
 Majority Whips..... Doug Kary, Steve Fitzpatrick, Gordy Vance
 Minority Leader Jill Cohenour
 Minority Whips JP Pomnichowski, Pat Flowers, Diane Sands
 Secretary of the Senate..... Marilyn Miller
 Sergeant at Arms Carl Spencer

MEMBERS

Name	Party	District	Preferred Mailing Address
Ankney, Duane	R	20	PO Box 2138, Colstrip MT 59323-2138
*Bennett, Bryce	D	50	444 Washington St, Missoula MT 59802-4527
Blasdel, Mark	R	4	PO Box 1493, Kalispell MT 59903-1493
Bogner, Kenneth	R	19	1017 Pleasant St, Miles City MT 59301-3414
Boland, Carlie	D	12	1215 6th Ave N, Great Falls MT 59401-1601
Boldman, Ellie	D	45	1125 Helen Ave, Missoula MT 59801
Brown, Bob	R	7	PO Box 1907, Thompson Falls MT 59873-1907
Cohenour, Jill	D	42	2610 Colt Dr, East Helena MT 59635
Cuffe, Mike	R	1	PO Box 1685, Eureka MT 59917-1685
Ellis, Janet	D	41	PO Box 385, Helena MT 59624-0385
Ellsworth, Jason	R	43	1073 Golf Course Rd, Hamilton MT 59840-9530
Esp, John	R	30	PO Box 1024, Big Timber MT 59011-1024
Fitzpatrick, Steve	R	10	3203 15th Ave S, Great Falls MT 59405
Flowers, Pat	D	32	11832 Gee Norman Rd, Belgrade MT 59714-8416
Fox, Mike	D	16	233 Fox Dr, Hays MT 59527
Friedel, Chris	R	26	3302 2nd Ave N, Billings MT 59101-2005
Gauthier, Terry	R	40	PO Box 4939, Helena MT 59604-4939
Gillespie, Bruce	R	9	PO Box 275, Ethridge MT 59435-0275
Glimm, Carl	R	2	5107 Ashley Lake Rd, Kila MT 59920-9787
Gross, Jen	D	25	PO Box 30472, Billings MT 59101-0472
Hertz, Greg	R	6	PO Box 1747, Polson MT 59860-1747
Hinebauch, Steve	R	18	610 Rd 118, Wibaux MT 59353-9058
Hoven, Brian	R	13	1501 Meadowlark Dr, Great Falls MT 59404-3325
Howard, David	R	29	PO Box 10, Park City MT 59063-0010
Jacobson, Tom	D	11	PO Box 325, Cascade MT 59421-0325
Kary, Doug	R	22	1943 Lake Hills Dr, Billings MT 59105-3457
Keenan, Bob	R	5	PO Box 697, Bigfork MT 59911-0697
Lang, Mike	R	17	PO Box 104, Malta MT 59538-0104
Lynch, Ryan	D	37	PO Box 934, Butte MT 59703-0934
Manzella, Theresa	R	44	640 Gold Creek Loop, Hamilton MT 59840-9742
McClafferty, Edie	D	38	1311 Stuart, Butte MT 59701-5014
McGillvray, Tom	R	23	3642 Donna Dr, Billings MT 59102-1119
McNally, Mary	D	24	PO Box 20584, Billings MT 59104-0584
Molnar, Brad	R	28	PO Box 517, Laurel MT 59044-0517

Morigeau, Shane	D	48	808 Polaris Way, Missoula MT 59803-1328
O'Brien, Shannon	D	46	1480 Clarkia Ln, Missoula MT 59802-3327
Osmundson, Ryan	R	15	1394 S Buffalo Canyon Rd, Buffalo MT 59418-8005
Pomnichowski, JP	D	33	222 Westridge Dr, Bozeman MT 59715-6025
Pope, Christopher	D	31	PO Box 6546, Bozeman MT 59771-6546
Regier, Keith	R	3	1078 Stillwater Rd, Kalispell MT 59901-6902
Sales, Walt	R	35	3900 Stagecoach Trail, Manhattan MT 59741-8223
Salomon, Daniel	R	47	42470 Salomon Rd, Ronan MT 59864-9272
Sands, Diane	D	49	4487 Nicole Ct, Missoula MT 59803-2791
Small, Jason	R	21	HC 42 Box 674, Busby MT 59016-9703
Smith, Cary	R	27	6133 Timbercove Dr, Billings MT 59106-8544
**Steenberg, Tom	D	50	4802 Aspen Dr, Missoula MT 59802-5218
Sweeney, Mark	D	39	PO Box 681, Philipsburg MT 59858-0681
Tempel, Russel	R	14	PO Box 131, Chester MT 59522-0131
Vance, Gordon	R	34	PO Box 1, Belgrade MT 59714-0001
Webber, Susan	D	8	PO Box 1011, Browning MT 59417-1011
Welborn, Jeff	R	36	PO Box 790, Dillon MT 59725-0790

*Resigned August 2, 2021

**Appointed to fill vacated SD 50 seat

**OFFICERS AND MEMBERS
OF THE MONTANA HOUSE OF REPRESENTATIVES**

2021

100 Members

67 Republicans

33 Democrats

OFFICERS

Speaker..... Wylie Galt
Speaker Pro Tempore..... Casey Knudsen
Majority Leader..... Sue Vinton
Majority Whips..... Seth Berglee, Dennis Lenz, Lola Sheldon-Galloway,
Derek Skees, Barry Usher
Minority Leader..... Kim Abbott
Minority Caucus Chair..... Marilyn Marler
Minority Whips..... Tyson Running Wolf, Laurie Bishop, Derek Harvey
Chief Clerk of the House..... Carolyn Tschida
Sergeant at Arms..... Brad Murfitt

MEMBERS

Name	Party	District	Preferred Mailing Address
Abbott, Kim	D	83	PO Box 1752, Helena MT 59624-1752
Anderson, Fred	R	20	1609 39th St S, Great Falls MT 59405-5574
Bartel, Dan	R	29	PO Box 1181, Lewistown MT 59457-1181
Beard, Becky	R	80	PO Box 85, Elliston MT 59728-0085
Bedey, David	R	86	PO Box 692, Hamilton MT 59840-0692
Berglee, Seth	R	58	PO Box 340, Joliet MT 59041-0340
Bertoglio, Marta	R	75	PO Box 294, Clancy MT 59634-0294
Binkley, Michele	R	85	PO Box 1601, Hamilton MT 59840-1601
Bishop, Laurie	D	60	211 S Yellowstone St, Livingston MT 59047-3018
Brewster, Larry	R	44	1216 Babcock Blvd, Billings MT 59105-2220
Buckley, Alice	D	63	107 S 10th Ave, Bozeman MT 59715-4318
Buttrey, Edward	R	21	708 Central Ave, Great Falls MT 59401-3731
Caferro, Mary	D	81	PO Box 668, Helena MT 59624-0668
Carlson, Jennifer	R	69	110 Flying Eagle Way, Manhattan MT 59741-8488
Curdy, Willis	D	98	11280 Kona Ranch Rd, Missoula MT 59804-9790
Custer, Geraldine	R	39	PO Box 1075, Forsyth MT 59327-1075
Dooling, Julie	R	70	3855 Cedar Valley Rd, Helena MT 59602-8935
Dunwell, Mary Ann	D	84	2811 Alexis Ave, Helena MT 59601-8655
Duram, Neil	R	2	PO Box 1226, Eureka MT 59917-1226
**Essmann, Sherry	R	52	3130 McMasters Rd, Billings MT 59101-9403
Farris-Olsen, Robert	D	79	PO Box 418, Helena MT 59624-0418
Fern, Dave	D	5	211 Dakota Ave, Whitefish MT 59937-2205
Fieldler, Paul	R	13	PO Box 2558, Thompson Falls MT 59873-2558
Fitzgerald, Ross	R	17	451 1st Rd NE, Fairfield MT 59436-9205
Fleming, Frank	R	51	626 S 38th St W Unit 22, Billings MT 59102-7258
France, Tom	D	94	5900 Thornbird Ln, Missoula MT 59808-9010
Frazier, Gregory	R	78	210 4th St, Deer Lodge MT 59722-1018
Fuller, John	R	8	248 Eagle View Trail, Whitefish MT 59937
Funk, Moffie	D	82	PO Box 925, Helena MT 59624-0925
Galloway, Steven	R	24	202 Sun Prairie Rd, Great Falls MT 59404-6235
Galt, Wylie	R	30	106 71 Ranch Rd, Martinsdale MT 59053-8752
Garner, Frank	R	7	PO Box 151, Kalispell MT 59903-0151
Gillette, Jane	R	64	PO Box 1751, Bozeman MT 59771-1751
Gist, Steve	R	25	339 1st St N, Cascade MT 59421-8369
Greef, Sharon	R	88	PO Box 1327, Florence MT 59833-1327
Gunderson, Steve	R	1	310 Conifer Rd, Libby MT 59923-2965
Hamilton, Jim	D	61	PO Box 1768, Bozeman MT 59771-1768
Harvey, Derek	D	74	PO Box 3111, Butte MT 59701-3111
Hawk, Donavon	D	76	PO Box 3791, Butte MT 59702-3791

Hayman, Denise	D	66	PO Box 6115, Bozeman MT 59771-6115
Hill, Ed	R	28	PO Box 5, Havre MT 59501-0005
Hinkle, Caleb	R	68	PO Box 468, Belgrade MT 59714-0468
Hinkle, Jedediah	R	67	1700 Drummond Blvd, Belgrade MT 59714-3564
Holmlund, Kenneth	R	38	1612 Tompy St, Miles City MT 59301-4431
Hopkins, Mike	R	92	PO Box 848, Missoula MT 59806-0848
Jones, Llew	R	18	1102 4th Ave SW, Conrad MT 59425-1919
Karjala, Jessica	D	48	6125 Masters Blvd, Billings MT 59106-1036
Kassmier, Joshua	R	27	PO Box 876, Fort Benton MT 59442-0876
Keane, Jim	D	73	2131 Wall St, Butte MT 59701-5527
Kelker, Kathy	D	47	2438 Rimrock Rd, Billings MT 59102-0556
Keogh, Connie	D	91	PO Box 7542, Missoula MT 59807-7542
Kerns, Scot	R	23	900 34th St N, Great Falls MT 59401-2273
Kerr-Carpenter, Emma	D	49	425 Burlington Ave, Billings MT 59101-5938
Knudsen, Casey	R	33	PO Box 18, Malta MT 59538-0018
Knudsen, Rhonda	R	34	PO Box 734, Culbertson MT 59218-0734
Kortum, Kelly	D	65	PO Box 942, Bozeman MT 59771-0942
Lenz, Dennis	R	53	PO Box 20752, Billings MT 59104-0752
Ler, Brandon	R	35	11313 County Rd 338, Savage MT 59262-9460
Loge, Denley	R	14	1296 Four Mile Rd, St. Regis MT 59866-9610
Malone, Marty	R	59	PO Box 152, Pray MT 59065-0152
Marler, Marilyn	D	90	1750 S 8th St W, Missoula MT 59801-3445
Marshall, Ron	R	87	840 S 1st St, Hamilton MT 59840-3016
McKamey, Wendy	R	19	PO Box 333, Ulm MT 59485-0333
Mercer, Bill	R	46	PO Box 2118, Billings MT 59103-2118
Mitchell, Braxton	R	3	PO Box 1765, Columbia Falls MT 59912-1765
Moore, Terry	R	54	5414 Green Teal Dr, Billings MT 59106-3313
Nave, Fiona	R	57	38 Quinn Coulee Rd, Columbus MT 59019-7357
Noland, Mark	R	10	PO Box 1852, Bigfork MT 59911-1852
Novak, Sara	D	77	2136 N Cable Rd, Anaconda MT 59711-1972
Olsen, Andrea	D	100	622 Rollins, Missoula MT 59801-3719
*Patelis, Jimmy	R	52	6312 Gray Hawk Way, Billings MT 59106-2235
Phalen, Bob	R	36	444 Rd 222, Lindsay MT 59339-9505
Putnam, Brian	R	9	PO Box 5043, Kalispell MT 59903-5043
Read, Joe	R	93	35566 Terrace Lk Rd, Ronan MT 59864-2435
Regier, Amy	R	6	PO Box 10466, Kalispell MT 59904-3466
Regier, Matt	R	4	PO Box 9763, Kalispell MT 59904-9763
Reksten, Linda	R	12	118 Long Lake Dr, Polson MT 59860-6960
Ricci, Vince	R	55	1231 5th Ave, Laurel MT 59044-9602
Running Wolf, Tyson	D	16	PO Box 377, Browning MT 59417-0377
Schillinger, Jerry	R	37	PO Box 147, Circle MT 59215-0147
Seekins-Crowe, Kerri	R	43	480 Pinon Dr, Billings MT 59105-2742
Sheldon-Galloway, Lola	R	22	202 Sun Prairie Rd, Great Falls MT 59404-6235
Skees, Derek	R	11	PO Box 9134, Kalispell MT 59904-9134
Smith, Frank	D	31	PO Box 729, Poplar MT 59255-0729
Stafman, Ed	D	62	515 W Cleveland St, Bozeman MT 59715-5121
Stewart Peregoy, Sharon	D	42	PO Box 211, Crow Agency MT 59022-0211
Stromswold, Mallerie	R	50	4557 Pine Cove Rd, Billings MT 59106-1332
Sullivan, Katie	D	89	PO Box 7853, Missoula MT 59807-7853
Tenenbaum, Danny	D	95	PO Box 8612, Missoula MT 59807-8612
Thane, Mark	D	99	PO Box 692, Missoula MT 59806-0692
Trebas, Jeremy	R	26	PO Box 2364, Great Falls MT 59403-2364
Tschida, Brad	R	97	PO Box 6342, Helena MT 59604-6342
Usher, Barry	R	40	6900 S Frontage Rd, Billings MT 59101-6220
Vinton, Sue	R	56	5115 High Trail Rd, Billings MT 59101-9052
Walsh, Kenneth	R	71	PO Box 483, Twin Bridges MT 59754-0483
Weatherwax Jr, Marvin	D	15	PO Box 2828, Browning MT 59417-2828
Welch, Tom	R	72	607 Highland Ave, Dillon MT 59725-2977
Whiteman Pena, Rynalea	D	41	PO Box 655, Lame Deer MT 59043-0655
Whitman, Kathy	R	96	PO Box 16323, Missoula MT 59808-6323
Windy Boy, Jonathan	D	32	PO Box 250, Box Elder MT 59521-0250
Zolnikov, Katie	R	45	PO Box 51343, Billings MT 59105-1343

*Resigned May 15, 2021

**Appointed to fill vacated HD 52 seat

TITLE CONTENTS

HOUSE AND SENATE BILLS

<u>Chapter</u>	<u>Page</u>
1 (<i>House Bill No. 1; L. Jones</i>) APPROPRIATING MONEY FOR THE OPERATION OF THE CURRENT AND SUBSEQUENT LEGISLATURE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	1
2 (<i>Senate Bill No. 65; S. Fitzpatrick</i>) REVISING CIVIL LIABILITY LAWS; SETTING CONDITIONS ON CIVIL ACTIONS FOR EXPOSURE TO COVID-19; LIMITING LIABILITY OF PREMISES OWNERS; PROVIDING AFFIRMATIVE DEFENSE FOR THOSE WHO COMPLY WITH CERTAIN TYPES OF REGULATIONS; LIMITING LIABILITY OF HEALTH CARE PROVIDERS; LIMITING PRODUCTS LIABILITY CLAIMS IN RESPONSE TO COVID-19; PROVIDING DEFINITIONS; AMENDING SECTION 27-1-719 AND 70-24-303, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.....	1
3 (<i>House Bill No. 102; S. Berglee</i>) GENERALLY REVISING GUN LAWS; PROVIDING A LEGISLATIVE PURPOSE, INTENT, AND FINDINGS; PROVIDING LOCATIONS WHERE CONCEALED WEAPONS MAY BE CARRIED AND EXCEPTIONS; PROHIBITING THE MONTANA UNIVERSITY SYSTEM AND BOARD OF REGENTS FROM INFRINGING ON CONSTITUTIONAL RIGHTS AND PROVIDING EXCEPTIONS; PROVIDING A SEPARATE CIVIL CAUSE OF ACTION FOR VIOLATIONS OF THIS ACT; AMENDING SECTIONS 45-3-111, 45-8-316, 45-8-328, AND 45-8-351, MCA; REPEALING SECTIONS 45-8-317 AND 45-8-339, MCA; AND PROVIDING EFFECTIVE DATES.....	7
4 (<i>House Bill No. 3; D. Bedey</i>) APPROPRIATING MONEY TO VARIOUS STATE AGENCIES FOR THE FISCAL YEAR ENDING JUNE 30, 2021; APPROPRIATING FEDERAL FUNDS FOR COVID-19 RELIEF FOR THE FISCAL YEAR ENDING JUNE 30, 2021; ALLOWING COVID-19 RELIEF APPROPRIATIONS TO CONTINUE INTO THE 2023 BIENNIUM; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	11
5 (<i>Senate Bill No. 19; K. Regier</i>) GENERALLY REVISING THE STRUCTURE AND STAFFING OF THE BOARD OF CRIME CONTROL; PROVIDING THAT THE BOARD IS ALLOCATED TO THE DEPARTMENT OF JUSTICE FOR ADMINISTRATIVE PURPOSES ONLY; ALLOWING THE BOARD TO HIRE ITS OWN PERSONNEL; ELIMINATING THE CRIME CONTROL BUREAU IN THE DEPARTMENT OF CORRECTIONS; AMENDING SECTION 2-15-2306, MCA; REPEALING SECTION 2-15-2307, MCA; AND PROVIDING EFFECTIVE DATES.....	12
6 (<i>Senate Bill No. 1; D. Kary</i>) GENERALLY REVISING LOBBYING LAWS; REVISING THE DEFINITION OF LOBBYING; CLARIFYING THAT LOBBYING AND REPORTING REQUIREMENTS RELATE TO PROMOTING OR OPPOSING OFFICIAL ACTION BY A LEGISLATOR OR THE LEGISLATURE; REVISING OUTDATED TERMINOLOGY; REVISING HOW LONG LOBBYING REPORTS MUST BE RETAINED; AND AMENDING SECTIONS 5-7-101, 5-7-102, 5-7-112, 5-7-120, 5-7-208, 5-7-209, 5-7-210, AND 5-7-305, MCA.....	14
7 (<i>Senate Bill No. 5; R. Tempel</i>) ESTABLISHING THE OTTO FOSSEN MEMORIAL HIGHWAY IN LIBERTY COUNTY; DIRECTING THE DEPARTMENT OF TRANSPORTATION TO INSTALL SIGNS AT THE	

	LOCATION AND TO INCLUDE THE MEMORIAL HIGHWAY ON THE NEXT PUBLICATION OF THE STATE HIGHWAY MAP; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	19
8	(<i>Senate Bill No. 6; J. Cohenour</i>) REVISING DISTRIBUTION DATES FOR THE SALES TAX ON LODGING; AND AMENDING SECTIONS 15-68-820 AND 22-3-1303, MCA.	20
9	(<i>Senate Bill No. 23; D. Salomon</i>) REVISING SCHOOL FUNDING LAWS RELATED TO THE STATE SPECIAL REVENUE SCHOOL FLEXIBILITY ACCOUNT; ELIMINATING THE STATE SPECIAL REVENUE SCHOOL FLEXIBILITY ACCOUNT, DEFINITIONS RELATED TO THE ACCOUNT'S DISTRIBUTION FORMULA, AND THE LOCAL LEVY DEPENDENT ON THE STATE DISTRIBUTION; AMENDING SECTION 20-9-543, MCA; AND REPEALING SECTIONS 20-9-541, 20-9-542, AND 20-9-544, MCA.	21
10	(<i>Senate Bill No. 25; D. Salomon</i>) REVISING THE EDUCATION INTERIM COMMITTEE; REMOVING CERTAIN DUTIES REGARDING THE BOARD OF REGENTS; AND AMENDING SECTION 5-5-224, MCA.....	23
11	(<i>Senate Bill No. 30; M. Blasdel</i>) REPEALING THE CREDIT FOR INTEREST DIFFERENTIALS FOR LOANS MADE BY UTILITIES AND FINANCIAL INSTITUTIONS; AMENDING SECTIONS 15-32-101 AND 69-3-1209, MCA; AND REPEALING SECTIONS 15-32-107 AND 69-3-713, MCA.....	24
12	(<i>Senate Bill No. 34; J. Cohenour</i>) REVISING REPORTING REQUIREMENTS FOR THE BIODIESEL BLENDING AND STORAGE TAX CREDIT; AND AMENDING SECTION 15-32-703, MCA	25
13	(<i>Senate Bill No. 35; B. Hoven</i>) REPEALING THE EXPIRED PROPERTY TAX EXEMPTION FOR ELECTRICAL GENERATION AND DELIVERY FACILITIES; AMENDING SECTIONS 15-24-3004, 15-24-3005, 15-24-3006, 15-24-3007, 75-20-104, 75-20-201, 75-20-207, 75-20-208, 75-20-211, 75-20-301, 75-20-303, 75-20-304, AND 75-20-1202, MCA; AND REPEALING SECTIONS 15-24-3001 AND 15-24-3002, MCA.....	26
14	(<i>Senate Bill No. 36; G. Hertz</i>) REVISING AND CLARIFYING THE MONTANA CODE ANNOTATED; DIRECTING THE CODE COMMISSIONER TO CORRECT ERRONEOUS REFERENCES CONTAINED IN MATERIAL ENACTED BY THE 67TH LEGISLATURE AND PREVIOUS LEGISLATURES; AND AMENDING SECTIONS 5-5-227, 10-4-107, 10-4-108, 13-2-221, 15-24-202, 20-3-336, 39-71-118, 40-1-203, 44-4-1501, 50-15-101, 69-3-308, 80-8-209, AND 90-9-502, MCA.....	37
15	(<i>Senate Bill No. 45; M. Blasdel</i>) REPEALING THE NEW OR EXPANDED INDUSTRY CREDIT FOR CORPORATE INCOME TAXES; AMENDING SECTIONS 15-30-2303 AND 15-32-405, MCA; AND REPEALING SECTIONS 15-31-124, 15-31-125, 15-31-126, AND 15-31-127, MCA.....	49
16	(<i>Senate Bill No. 61; P. Flowers</i>) ADDING MOTHER'S DAY WEEKEND AS A FREE FISHING WEEKEND; AMENDING SECTION 87-2-311, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	51
17	(<i>House Bill No. 23; B. Beard</i>) GENERALLY REVISING THE TAX LIEN AND TAX DEED PROCESS LAWS; PROVIDING THAT PROPERTY WITH A RESIDENCE IS SUBJECT TO A TAX DEED AUCTION ONLY IF THE OWNER OCCUPIES THE RESIDENCE; CLARIFYING TIMELINES FOR NOTIFICATION REQUIREMENTS; REQUIRING THE HIGH	

	BIDDER TO PAY AUCTION COSTS; PROVIDING FOR CANCELLATION OF AN ASSIGNMENT IF THE AUCTION DOES NOT RESULT IN PURCHASE OF THE TAX DEED; PROVIDING THAT THE COUNTY TREASURER DISTRIBUTES SURPLUS AUCTION PROCEEDS TO THE LEGAL TITLEHOLDER; AMENDING SECTIONS 15-18-112, 15-18-212, 15-18-215, 15-18-216, 15-18-217, 15-18-219, 15-18-220, 15-18-221, AND 70-9-803, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.	52
18	(<i>House Bill No. 26; M. Funk</i>) REVISING SCHOOL LAWS TO SIMPLIFY THE DEFINITION OF PUPIL AND ENSURE THAT OLDER STUDENTS ADMITTED AT THE DISCRETION OF TRUSTEES ARE CONSIDERED PUPILS; RELOCATING AND CLARIFYING THE PROHIBITION ON PUPILS 19 YEARS OF AGE OR OLDER BEING INCLUDED IN AN CALCULATIONS; AMENDING SECTIONS 20-1-101 AND 20-9-311, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	63
19	(<i>House Bill No. 60; D. Lenz</i>) TO ALIGN PROTECTIVE SERVICES TERMINOLOGY WITH THE FAMILIES FIRST PREVENTION SERVICES ACT; AMENDING SECTIONS 41-3-102, 41-3-202, 41-3-205, 41-3-209, 41-3-301, 41-3-302, 41-3-422, AND 41-3-423, MCA; AND PROVIDING AN EFFECTIVE DATE.	69
20	(<i>House Bill No. 68; M. Bertoglio</i>) REVISING LAWS RELATED TO SCHOOL ADMISSION; REQUIRING TRUSTEES TO ALLOW CHILDREN OF MILITARY FAMILIES THAT ARE RELOCATING TO MONTANA UNDER MILITARY ORDERS TO PRELIMINARILY ENROLL IN CLASSES PRIOR TO ESTABLISHING RESIDENCY; AMENDING SECTION 20-5-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	86
21	(<i>House Bill No. 74; J. Gillette</i>) REPEALING THE MEDICAL MALPRACTICE INSURANCE JOINT UNDERWRITING ASSOCIATION; AMENDING SECTION 33-11-105, MCA; REPEALING SECTIONS 33-23-501, 33-23-502, 33-23-503, 33-23-507, 33-23-508, 33-23-509, 33-23-510, 33-23-511, 33-23-512, 33-23-513, 33-23-514, 33-23-515, 33-23-519, 33-23-520, 33-23-521, 33-23-522, 33-23-523, 33-23-524, 33-23-525, AND 33-23-526, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	87
22	(<i>House Bill No. 153; R. Fitzgerald</i>) REVISING PROFESSIONAL LIABILITY INSURANCE REQUIREMENTS FOR REAL ESTATE LICENSEES; LIMITING SOME REQUIREMENTS TO REAL ESTATE BROKERS OR SALESPERSONS WITH ACTIVE LICENSES; AND AMENDING SECTION 37-51-325, MCA.	88
23	(<i>House Bill No. 15; F. Anderson</i>) APPLYING INFLATIONARY ADJUSTMENTS TO SCHOOL FUNDING FORMULA COMPONENTS; AMENDING SECTION 20-9-306, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.	90
24	(<i>House Bill No. 45; B. Putnam</i>) REQUIRING A NONRESIDENT TO HAVE BOTH TAKEN A MONTANA HUNTER SAFETY COURSE AND PREVIOUSLY PURCHASED A RESIDENT HUNTING LICENSE TO OBTAIN A LICENSE TO HUNT WITH A RESIDENT SPONSOR OR FAMILY MEMBER AT A DISCOUNT; AMENDING SECTION 87-2-526, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.	93
25	(<i>House Bill No. 79; M. Noland</i>) REVISING THE DEFINITION OF “MALT BEVERAGE” TO INCLUDE ALCOHOLIC BEVERAGES MADE WITH MALT SUBSTITUTES; AMENDING SECTION 16-1-106, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	94

- 26 (*Senate Bill No. 21; E. McClafferty*) REVISING THE LOBBYIST LICENSING FEE AND THE ASSOCIATED SPECIAL REVENUE ACCOUNT FOR STATE GOVERNMENT BROADCASTING SERVICES; DEPOSITING ALL REVENUE FROM THE LOBBYIST LICENSING FEE IN THE STATE GENERAL FUND; REPEALING THE SPECIAL REVENUE ACCOUNT FOR STATE GOVERNMENT BROADCASTING SERVICES; AMENDING SECTION 5-7-103, MCA; REPEALING SECTION 5-11-1112, MCA; AND PROVIDING AN EFFECTIVE DATE..... 97
- 27 (*Senate Bill No. 24; D. Salomon*) REVISING SCHOOL FUNDING LAWS TO ALLOW NONOPERATING SCHOOL DISTRICTS TO RETAIN A PORTION OF OIL AND NATURAL GAS PRODUCTION TAXES; AMENDING SECTION 20-9-310, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.98
- 28 (*House Bill No. 41; M. Funk*) GENERALLY REVISING THE SECURITIES ACT; REVISING LAWS RELATING TO PLACE OF BUSINESS FOR INVESTMENT ADVISERS AND BROKER-DEALERS; AMENDING SECTION 30-10-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.100
- 29 (*House Bill No. 62; M. Hopkins*) INCREASING STATE BONDING AUTHORITY FOR WATER AND WASTEWATER REVOLVING LOAN FUNDING; REMOVING REQUIREMENT FOR FEDERAL COORDINATION; CREATING A STATE DEBT; AMENDING SECTIONS 75-5-1121, 75-5-1122, AND 75-6-227, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....104
- 30 (*House Bill No. 54; K. Seekins-Crowe*) BROADENING THE DEFINITION OF ADULT IMMEDIATE FAMILY MEMBER ALLOWED TO TAKE NONRESIDENT YOUTH COMBINATION LICENSE HOLDERS HUNTING; AMENDING SECTION 87-2-522, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....106
- 31 (*House Bill No. 51; J. Hamilton*) REVISING MONTANA ACHIEVING A BETTER LIFE EXPERIENCE ACT LAWS TO REMOVE REFERENCES TO A REPEALED DEFINITION; AND AMENDING SECTION 53-25-122, MCA.....107
- 32 (*Senate Bill No. 104; J. Welborn*) ADOPTING THE UNIFORM FAMILY LAW ARBITRATION ACT; PROVIDING FOR THE ARBITRATION OF FAMILY LAW DISPUTES; PROVIDING REQUIREMENTS FOR ARBITRATION AGREEMENTS AND INITIATING ARBITRATION; PROVIDING FOR THE QUALIFICATION, SELECTION, AND DISQUALIFICATION OF ARBITRATORS; PROVIDING FOR PARTY PARTICIPATION AND PROTECTION OF CERTAIN PARTIES; PROVIDING FOR ARBITRATOR POWERS AND DUTIES; PROVIDING FOR ARBITRATION AWARDS AND THE CORRECTION, CONFIRMATION, AMENDMENT, OR VACATION OF AWARDS; PROVIDING FOR ENFORCEMENT OF AWARDS; PROVIDING FOR APPEALS; AND PROVIDING FOR ARBITRATORS' IMMUNITY.107
- 33 (*Senate Bill No. 68; S. Fitzpatrick*) REVISING ESTABLISHMENT OF A HOMESTEAD EXEMPTION; PROVIDING THAT A HOMESTEAD MAY BE CLAIMED FOR CERTAIN PROPERTY IN A REVOCABLE TRUST; AMENDING SECTION 70-32-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.115

TITLE CONTENTS

34	(<i>Senate Bill No. 66; S. Fitzpatrick</i>) GENERALLY REVISING THE MONTANA BUSINESS CORPORATION ACT; REVISING THE MEETING REQUIREMENTS; ALLOWING FOR REMOTE MEETINGS; REVISING DEFINITIONS FOR DIRECTOR AND OFFICER RELATING TO INDEMNIFICATION AND ADVANCEMENT; REVISING LAWS RELATING TO DOING BUSINESS IN THE STATE; AND AMENDING SECTIONS 35-14-141, 35-14-701, 35-14-702, 35-14-705, 35-14-709, 35-14-720, 35-14-850, 35-14-1021, AND 35-14-1505, MCA.....	116
35	(<i>Senate Bill No. 41; S. Webber</i>) REVISING THE TAX CREDIT REVIEW PROCESS; PROVIDING FOR REVIEW OF TAX CREDITS EVERY 10 YEARS; AND AMENDING SECTIONS 5-5-227 AND 15-30-2303, MCA.....	123
36	(<i>Senate Bill No. 26; B. Gillespie</i>) CLARIFYING ELIGIBILITY FOR THE LIVESTOCK LOSS MITIGATION PROGRAM AND THE LIVESTOCK LOSS REDUCTION PROGRAM; CLARIFYING THAT LIVESTOCK PRODUCERS ON TRIBAL LANDS ARE ELIGIBLE FOR LIVESTOCK LOSS MITIGATION REIMBURSEMENT; AND AMENDING SECTIONS 2-15-3112 AND 2-15-3113, MCA.....	125
37	(<i>Senate Bill No. 3; J. Small</i>) ALLOWING FOR ADDITIONAL MOTOR CARRIER ENFORCEMENT ON HIGHWAYS WITHIN RESERVATION BOUNDARIES ON A RESERVATION WHOSE TRIBAL GOVERNMENT HAS ENTERED INTO AN AGREEMENT WITH THE DEPARTMENT OF TRANSPORTATION; AND AMENDING SECTION 61-10-154, MCA.	128
38	(<i>Senate Bill No. 27; B. Gillespie</i>) CLARIFYING REIMBURSEMENT METHODS FOR LIVESTOCK LOSSES; PROVIDING MULTIPLIERS FOR REIMBURSEMENT OF LIVESTOCK LOSSES; AND AMENDING SECTION 2-15-3112, MCA.	130
39	(<i>Senate Bill No. 14; J. Ellis</i>) PROVIDING FOR TRIBAL GOVERNMENT PARTICIPATION IN THE 9-1-1 GRANT PROGRAM; AMENDING SECTION 10-4-306, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	132
40	(<i>Senate Bill No. 31; M. McNally</i>) REQUIRING CONSIDERATION OF LESS RESTRICTIVE ALTERNATIVES IN ADULT GUARDIANSHIP PROCEEDINGS; AMENDING SECTIONS 72-5-305, 72-5-316, 72-5-319, AND 72-5-321, MCA; AND PROVIDING AN APPLICABILITY DATE.....	132
41	(<i>Senate Bill No. 67; S. Fitzpatrick</i>) CLARIFYING THAT ONLY LOCAL HEALTH OFFICERS MAY REQUEST ASSISTANCE OF LAW ENFORCEMENT AND REMOVING THE POTENTIAL PENALTY IF LAW ENFORCEMENT FAILS TO ASSIST; AND AMENDING SECTION 50-2-120, MCA.	136
42	(<i>Senate Bill No. 79; D. Kary</i>) PROVIDING FOR ISSUANCE OF A SALVAGE CERTIFICATE OR CERTIFICATE OF TITLE TO AN AUTO AUCTION AFTER NOTICE; AND AMENDING SECTION 61-3-211, MCA.	137
43	(<i>Senate Bill No. 90; J. Small</i>) REVISING LICENSURE FOR PSYCHOLOGISTS; ALLOWING LICENSURE OF INDIVIDUALS WITH EXPERIENCE AND NO DISCIPLINE IN OTHER JURISDICTIONS; ALLOWING TEMPORARY LICENSURE OF POSTDOCTORAL SUPERVISEES; REPEALING SECTIONS 37-17-304 AND 37-17-310, MCA; AND PROVIDING AN EFFECTIVE DATE.....	138

44	(<i>Senate Bill No. 96; S. Webber</i>) ESTABLISHING THE HELEN CLARKE MEMORIAL HIGHWAY IN GLACIER COUNTY; DIRECTING THE DEPARTMENT OF TRANSPORTATION TO INSTALL SIGNS AT THE LOCATION AND TO INCLUDE THE MEMORIAL HIGHWAY ON THE NEXT PUBLICATION OF THE STATE HIGHWAY MAP; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	139
45	(<i>Senate Bill No. 97; S. Fitzpatrick</i>) ELIMINATING THE TERMINATION DATE FOR ACTIVE SUPERVISION OF LICENSING BOARD ACTIONS THAT ARE ANTICOMPETITIVE; REPEALING SECTION 8, CHAPTER 322, LAWS OF 2017; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	141
46	(<i>Senate Bill No. 112; S. Fitzpatrick</i>) REVISING CONSTRUCTION DISPUTE LAWS; PRECLUDING SIMULTANEOUS CONSUMER PROTECTION ACTIONS AND RESIDENTIAL CONSTRUCTION DISPUTES; AND AMENDING SECTIONS 30-14-133 AND 70-19-427, MCA.	141
47	(<i>Senate Bill No. 17; J. Gross</i>) CLARIFYING THAT MINORS MAY NOT DISAFFIRM CONTRACTS FOR HOUSING; AMENDING SECTION 41-1-305, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.	144
48	(<i>Senate Bill No. 50; D. Sands</i>) REVISING THE MEMBERSHIP OF THE BOARD OF CRIME CONTROL; AND AMENDING SECTION 2-15-2306, MCA.	144
49	(<i>Senate Bill No. 54; J. Ellsworth</i>) REQUIRING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO REVIEW EXPERIMENTAL ON-SITE WASTEWATER SYSTEMS AND PROPOSE FOR ADOPTION THOSE SYSTEMS THAT MEET THE REQUIREMENTS OF THE SANITATION IN SUBDIVISIONS ACT; AND AMENDING SECTION 76-4-104, MCA.	144
50	(<i>Senate Bill No. 102; J. Small</i>) GENERALLY REVISING LICENSURE REQUIREMENTS FOR SOCIAL WORKERS; CLARIFYING REQUIREMENTS FOR USE OF CERTAIN TITLES FOR SOCIAL WORKERS; CLARIFYING OUT-OF-STATE PROFESSIONAL COUNSELOR APPLICANTS; ELIMINATING REFERENCE LETTER REQUIREMENTS; REVISING CRIMINAL BACKGROUND CHECK AND FINGERPRINT REQUIREMENTS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 37-22-301, 37-22-305, 37-22-307, 37-22-308, 37-23-202, AND 37-35-102, MCA; AND PROVIDING AN EFFECTIVE DATE.	147
51	(<i>Senate Bill No. 110; R. Osmundson</i>) AUTHORIZING THE GOVERNOR AND THE COMMISSIONER OF HIGHER EDUCATION TO SUSPEND THE EMPLOYER CONTRIBUTION FOR STATE EMPLOYEE GROUP BENEFITS; AMENDING SECTIONS 2-18-703 AND 7-4-2502, MCA; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.	152
52	(<i>Senate Bill No. 9; R. Tempel</i>) PROVIDING FOR MOTORCYCLE LANE FILTERING.	155
53	(<i>Senate Bill No. 74; D. Salomon</i>) REVISING THE COMPOSITION OF COUNTY TRANSPORTATION COMMITTEES; REQUIRING A REPRESENTATIVE FROM EACH SCHOOL DISTRICT OR SYSTEM WITHIN A COUNTY TO BE A MEMBER OF THE COMMITTEE; CLARIFYING THAT EACH MEMBER OF THE COMMITTEE IS A	

TITLE CONTENTS

	VOTING MEMBER; AMENDING SECTION 20-10-131, MCA; AND PROVIDING AN EFFECTIVE DATE.....	155
54	<i>(House Bill No. 85; B. Tschida)</i> REVISING UTILITY COST TRACKING AND RECOVERY LAWS; CLARIFYING COMMISSION APPROVAL OF COST-TRACKING ADJUSTMENTS FOR ELECTRICITY SUPPLY COSTS; AMENDING SECTION 69-3-331, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	156
55	<i>(Senate Bill No. 28; D. Salomon)</i> REVISING CAPTIVE INSURANCE LAWS PERTAINING TO EXAMINATIONS BY THE COMMISSIONER OF INSURANCE; ELIMINATING THE REQUIREMENT TO CONDUCT AN EXAMINATION OF EACH CAPTIVE INSURANCE COMPANY AT LEAST EVERY FIVE YEARS; EXCEPTING CAPTIVE RISK RETENTION GROUPS; AMENDING SECTION 33-28-108, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	156
56	<i>(Senate Bill No. 56; J. Ellsworth)</i> MAKING STATE EMPLOYEE GRIEVANCE PROCEDURES CONSISTENT FOR ALL STATE EMPLOYEES BY REPEALING THE SEPARATE BOARD OF PERSONNEL APPEALS PROCEDURE FOR DEPARTMENT OF TRANSPORTATION AND DEPARTMENT OF FISH, WILDLIFE, AND PARKS EMPLOYEES; AMENDING SECTION 87-1-403, MCA; REPEALING SECTIONS 2-18-1001, 2-18-1002, 2-18-1003, AND 87-1-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	158
57	<i>(Senate Bill No. 70; S. Fitzpatrick)</i> CLARIFYING TITLE PROTECTION FOR PHYSICAL THERAPIST ASSISTANTS; REMOVING THE ORAL INTERVIEW FOR PHYSICAL THERAPIST LICENSURE APPLICANTS; ALLOWING PHYSICAL THERAPIST LICENSURE APPLICANTS TO TAKE THE LICENSURE EXAMINATION PRIOR TO GRADUATION; ALLOWING LICENSEES TO DISPLAY UNNOTARIZED COPIES OF THEIR LICENSES; AMENDING SECTIONS 37-11-301, 37-11-303, 37-11-304, AND 37-11-311, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	158
58	<i>(House Bill No. 94; K. Walsh)</i> EXPANDING LOAN TYPES ELIGIBLE FOR THE MONTANA FARMER LOAN REPAYMENT ASSISTANCE PROGRAM; AMENDING SECTION 90-9-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	160
59	<i>(House Bill No. 142; J. Kassmier)</i> GENERALLY REVISING THE REGULATION OF HEMP; REVISING THE DEFINITION OF HEMP; PROVIDING FOR REGULATION OF HEMP CRUDE AND HEMP DERIVATIVES; REVISING NOTIFICATION REQUIREMENTS; REVISING AFFIRMATIVE DEFENSE FOR HEMP PRODUCTION; PROVIDING THE DEPARTMENT OF AGRICULTURE WITH RULEMAKING AUTHORITY; AMENDING SECTIONS 80-18-101, 80-18-102, 80-18-103, 80-18-106, 80-18-107, AND 80-18-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	161
60	<i>(House Bill No. 143; L. Jones)</i> INCENTIVIZING INCREASES IN BASE PAY FOR TEACHERS IN PUBLIC SCHOOL DISTRICTS; INCREASING THE QUALITY EDUCATOR PAYMENT FOR DISTRICTS THAT MEET LEGISLATIVE GOALS FOR COMPETITIVE BASE PAY OF TEACHERS; PROVIDING DEFINITIONS; AMENDING SECTION 20-9-306, MCA; AND PROVIDING AN EFFECTIVE DATE.....	163

- 61 (*Senate Bill No. 15; J. Ellis*) REVISING ELECTION LAWS RELATED TO ACCESSIBILITY FOR DISABLED ELECTORS AND THE AVAILABILITY OF VOTER INTERFACE DEVICES; REVISING DEFINITIONS; CLARIFYING PROVISIONS ON DESIGNATED AGENTS; REVISING REFERENCES TO APPLICABLE FEDERAL LAWS; REVISING ELECTION COST PROVISIONS; REVISING TIMELINES; APPLYING ACCESSIBILITY PROVISIONS TO ALL ELECTIONS AND REQUIRING VOTER INTERFACE DEVICES BE AVAILABLE FOR ALL ELECTIONS; PROVIDING AND REVISING EXCEPTIONS; REVISING ACCESSIBILITY OF POLLING PLACES; REVISING ALTERNATIVE METHODS FOR DISABLED ELECTORS TO CAST BALLOTS AND RECEIVE ASSISTANCE; REVISING THE PENALTY PROVISION FOR DECEIVING A DISABLED ELECTOR; AMENDING SECTIONS 13-1-101, 13-1-116, 13-1-203, 13-1-302, 13-3-105, 13-3-201, 13-3-202, 13-3-206, 13-3-208, 13-3-212, 13-3-213, 13-13-118, 13-13-119, 13-13-229, 13-13-246, 13-19-205, 13-35-202, AND 13-35-208, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.167
- 62 (*Senate Bill No. 140; K. Regier*) GENERALLY REVISING LAWS RELATED TO CERTAIN JUDICIAL APPOINTMENTS; PROVIDING A DIRECT APPOINTMENT PROCESS FOR THE GOVERNOR TO APPOINT DISTRICT COURT JUDGES AND SUPREME COURT JUSTICES TO FILL JUDICIAL VACANCIES; REPEALING THE JUDICIAL NOMINATION COMMISSION; AMENDING SECTIONS 2-15-1707, 3-7-221, AND 39-71-2901, MCA; REPEALING SECTIONS 3-1-1001, 3-1-1002, 3-1-1003, 3-1-1004, 3-1-1005, 3-1-1006, 3-1-1007, 3-1-1008, 3-1-1009, 3-1-1010, 3-1-1011, 3-1-1012, 3-1-1013, AND 3-1-1014, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.181
- 63 (*Senate Bill No. 118; T. Gauthier*) PROVIDING THAT A FALSE STATEMENT IN AN EMPLOYER-PROVIDED QUESTIONNAIRE UNDER CERTAIN CIRCUMSTANCES IS A BASIS FOR BARRING WORKERS' COMPENSATION BENEFITS; AND PROVIDING AN EFFECTIVE DATE.185
- 64 (*House Bill No. 19; E. Buttrey*) REVISING ALCOHOL LAWS RELATING TO CONDITIONAL LICENSES AND PREMISES; CONFORMING ALCOHOL LAWS WITH APPROVAL OF LICENSES WITHOUT APPROVED PREMISES; AMENDING SECTION 16-4-115, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.185
- 65 (*House Bill No. 80; K. Seekins-Crowe*) GENERALLY REVISING LAWS PERTAINING TO CREDIT ALLOWED DOMESTIC CEDING INSURER AND REDUCTION OF LIABILITY FOR REINSURANCE CEDED BY DOMESTIC INSURER TO ASSUMING INSURER; ALLOWING CREDIT TO BE ALLOWED WHEN REINSURANCE IS CEDED TO AN ASSUMING INSURER WHEN CERTAIN CONDITIONS ARE MET; REQUIRING THE COMMISSIONER TO TIMELY CREATE AND PUBLISH A LIST OF RECIPROCAL JURISDICTIONS AND ASSUMING INSURERS; ALLOWING THE COMMISSIONER TO SUSPEND OR REVOKE ASSUMING INSURERS THAT DO NOT MEET CERTAIN REQUIREMENTS; PROVIDING REQUIREMENTS FOR REHABILITATION, LIQUIDATION, OR CONSERVATION AND CEDING INSURERS; PROVIDING LIMITATIONS; PROVIDING FOR CREDIT TAKEN IN REINSURANCE AGREEMENTS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 33-2-1216 AND 33-2-1217, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.186

66	<i>(House Bill No. 105; R. Marshall)</i> REVISING THE CRIMINAL OFFENSE OF UNLAWFUL TRANSACTIONS WITH CHILDREN; PROHIBITING GIVING OR SELLING TO CHILDREN TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, OR VAPOR PRODUCTS; AMENDING SECTION 45-5-623, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.	197
67	<i>(House Bill No. 180; W. Curdy)</i> REMOVING THE ANTICOMPETITIVE REQUIREMENT TO ATTEST TO THE SKILLS OF LICENSED JOURNEYMAN PLUMBERS AND APPRENTICES; AMENDING SECTIONS 37-69-304, 37-69-305, AND 37-69-323, MCA; AND PROVIDING AN EFFECTIVE DATE.	198
68	<i>(House Bill No. 215; C. Knudsen)</i> REVISING PERMISSIBLE FIREWORKS LAWS; REVISING THE DEFINITION OF PERMISSIBLE FIREWORKS; PROVIDING REFERENCES TO CURRENT FEDERAL REGULATIONS RELATED TO CONSUMER FIREWORKS; REMOVING EXCLUSIONS OF CERTAIN FIREWORKS; AMENDING SECTION 50-37-105, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	199
69	<i>(Senate Bill No. 22; D. Salomon)</i> REVISING LAWS RELATED TO SECONDARY K-12 CAREER AND VOCATIONAL/TECHNICAL EDUCATION PROGRAMS; CLARIFYING STATE SUPPORT FOR SECONDARY K-12 CAREER AND VOCATIONAL/TECHNICAL EDUCATION AND FOR STATE-LEVEL STRENGTHENING CAREER AND TECHNOLOGY STUDENT ORGANIZATIONS; AMENDING SECTION 20-7-305, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.	200
70	<i>(Senate Bill No. 62; B. Brown)</i> CLARIFYING UNLAWFUL POSSESSION OF A GAME FISH, BIRD, GAME ANIMAL, OR FUR-BEARING ANIMAL; AMENDING SECTION 87-6-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.	200
71	<i>(Senate Bill No. 69; S. Fitzpatrick)</i> REVISING LAWS RELATED TO SETTLEMENTS; PROVIDING THAT THE OFFER OF SETTLEMENT PROCEDURE IS AVAILABLE AT ANY TIME IN THE COURTS OF LIMITED JURISDICTION; AMENDING SECTION 25-7-105, MCA; AND PROVIDING AN APPLICABILITY DATE.	203
72	<i>(Senate Bill No. 125; M. Cuffe)</i> EXTENDING THE TERMINATION DATE FOR COUNTY MOTOR VEHICLE RECYCLING AND DISPOSAL LAWS; ALLOWING A COUNTY TO DISPOSE OF NONMOTORIZED VEHICLES AND MOBILE HOMES THAT ARE PUBLIC NUISANCES OR CAUSE CONDITIONS OF DECAY; AMENDING SECTION 5, CHAPTER 427, LAWS OF 2019; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	204
73	<i>(Senate Bill No. 130; T. Manzella)</i> REVISING LAWS RELATED TO CAMPAIGN FINANCE COMPLAINTS; AND REQUIRING THE COMMISSIONER TO POST THE RESPONSE OF A PERSON ACCUSED OF A CAMPAIGN FINANCE VIOLATION AND ALLOWING THE COMMISSIONER TO SPECIFY A DEADLINE FOR THE RESPONSE.	204
74	<i>(House Bill No. 103; W. Curdy)</i> PROVIDING FOR REMOTE PARTICIPATION TO CONDUCT COOPERATIVE BUSINESS; PROVIDING DEFINITIONS; AMENDING SECTIONS 35-18-102, 35-18-207, AND 35-18-303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	204

- 75 (*House Bill No. 193; J. Patelis*) REMOVING LIMITATIONS RELATING TO SPORTS POOLS AND SPORTS TABS; REMOVING DOLLAR LIMITATIONS ON THE AMOUNTS OF SPORTS TABS SOLD AND WINNINGS; AND AMENDING SECTION 23-5-503, MCA.206
- 76 (*House Bill No. 64; T. Moore*) CREATING A SECURITIES WHISTLEBLOWER AWARD AND PROTECTION ACT; PROVIDING DEFINITIONS; PROVIDING AUTHORITY FOR THE COMMISSIONER TO AWARD WHISTLEBLOWERS; PROVIDING FOR ANONYMOUS WHISTLEBLOWER COMPLAINTS; PROVIDING PROCEDURES FOR WHISTLEBLOWER AWARD PAYMENTS; PROVIDING CRITERIA FOR AWARDS AND DISQUALIFICATIONS; PROVIDING FOR PROTECTIONS OF WHISTLEBLOWERS AND INTERNAL REPORTS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.....207
- 77 (*House Bill No. 96; D. Hawk*) ALIGNING A STATE SPECIAL REVENUE ACCOUNT WITH ADMINISTERING AGENCY; AMENDING SECTION 61-3-303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.211
- 78 (*House Bill No. 210; M. Funk*) PROVIDING FOR LICENSURE OF SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY ASSISTANTS; REMOVING THE TERM “AIDES” BUT PROVIDING AN OPTION FOR LICENSING; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTIONS 37-15-102, 37-15-301, 37-15-302, 37-15-303, 37-15-307, 37-15-311, AND 37-15-314, MCA; AND REPEALING SECTION 37-15-313, MCA.213
- 79 (*House Bill No. 199; D. Harvey*) ALLOWING THE DEPARTMENT OF LABOR AND INDUSTRY TO PROVIDE ADDITIONAL INFORMATION TO INJURED WORKERS; PROVIDING FOR JOINT PETITIONS FOR REOPENING OF MEDICAL BENEFITS; AMENDING SECTIONS 39-71-606 AND 39-71-717, MCA; REPEALING SECTION 39-71-2215, MCA; AND PROVIDING EFFECTIVE DATES.216
- 80 (*Senate Bill No. 18; D. Salomon*) ALLOWING CERTAIN HIGH SCHOOL STUDENTS WHO MEET THE STATE MINIMUM GRADUATION CREDIT REQUIREMENT TO RECEIVE A DIPLOMA FROM A DISTRICT THAT HAS A HIGHER CREDIT REQUIREMENT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....218
- 81 (*Senate Bill No. 80; K. Regier*) PROVIDING THAT CERTAIN INTERLOCAL AGREEMENTS MAY NOT EXCEED A 5-YEAR DURATION; AND AMENDING SECTION 7-11-105, MCA.219
- 82 (*Senate Bill No. 123; K. Regier*) ALLOWING A COUNTY TO LOCATE THE OFFICE OF A COUNTY OFFICER OUTSIDE THE COUNTY SEAT; AND AMENDING SECTION 7-4-2211, MCA.220
- 83 (*House Bill No. 28; F. Fleming*) ELIMINATING THE REQUIREMENT FOR THE BOARD OF CRIME CONTROL TO HEAR APPEALS FROM DECISIONS MADE BY THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL; AMENDING SECTIONS 44-4-403 AND 44-7-101, MCA; AND PROVIDING AN EFFECTIVE DATE.221
- 84 (*House Bill No. 38; T. Welch*) ESTABLISHING THAT HOME AND COMMUNITY-BASED SERVICES MUST BE CONSIDERED IN TOTAL WHEN SERVICES ARE AUTHORIZED; CLARIFYING THAT EACH SERVICE ON ITS OWN DOES NOT HAVE TO PREVENT INSTITUTIONALIZATION; AND PROVIDING AN EFFECTIVE DATE.222

TITLE CONTENTS

85	(<i>House Bill No. 48; S. Gist</i>) REMOVING OCCUPATION FROM THE APPLICATION FOR HUNTING AND FISHING-RELATED LICENSES; AMENDING SECTIONS 87-2-106 AND 87-2-202, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.	222
86	(<i>House Bill No. 52; T. Welch</i>) REVISING PROPERTY TAXATION ADMINISTRATION AND CERTAIN PERSONAL PROPERTY REPORTING REQUIREMENTS; REVISING THE REPORTING REQUIREMENTS FOR FARM IMPLEMENT AND CONSTRUCTION EQUIPMENT IN A PURCHASE INCENTIVE RENTAL TO ANNUAL REPORTING; CLARIFYING THE NAME OF THE DIVISION OF MONTANA STATE UNIVERSITY THAT MAKES THE DETERMINATION OF THE MINIMUM NUMBER OF ANIMAL UNIT MONTHS OF CARRYING CAPACITY; AMENDING SECTIONS 15-6-202 AND 15-7-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	224
87	(<i>House Bill No. 70; K. Holmlund</i>) GENERALLY REVISING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES SUICIDE PREVENTION PROGRAM; MODERNIZING THE PROGRAM TO BUILD ON EXISTING PROGRAMS AND REFLECT NATIONAL RESEARCH AND CURRENT BEST PRACTICES; REVISING REQUIREMENTS FOR THE SUICIDE REDUCTION PLAN; AMENDING SECTIONS 53-21-1101 AND 53-21-1102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	227
88	(<i>House Bill No. 75; B. Putnam</i>) AUTHORIZING THE DEPARTMENT OF TRANSPORTATION TO CONDUCT ONLINE SALES OF REAL PROPERTY; PROVIDING NOTICE REQUIREMENTS; AND AMENDING SECTIONS 60-4-202 AND 60-4-203, MCA.	229
89	(<i>House Bill No. 77; R. Fitzgerald</i>) GENERALLY REVISING THE LAWS RELATING TO MOTOR CARRIER SERVICES; CHANGING THE MAXIMUM LENGTH OF A BOAT TRANSPORTER; MODIFYING TRAILER LENGTH MEASUREMENT TO ACCOUNT FOR FRONT AND REAR OVERHANG; ALLOWING TERM PERMITS TO EXTEND BEYOND THE CURRENT GVW LICENSE; EXPANDING THE DEFINITION OF TRUCKS THAT MAY BYPASS SCALES; CLARIFYING THE MARKING OF COMMERCIAL VEHICLES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 61-3-710, 61-8-312, 61-10-104, 61-10-121, 61-10-124, 61-10-141, 61-10-144, 61-10-146, 61-10-312, 69-12-102, AND 69-12-408, MCA; AND REPEALING SECTION 61-3-709, MCA.	230
90	(<i>House Bill No. 93; K. Walsh</i>) ALLOWING THE DEPARTMENT OF AGRICULTURE TO ESTABLISH NOXIOUS WEED SEED FREE CERTIFICATION FOR ADDITIONAL MATERIALS; ALLOWING FOR THE ESTABLISHMENT OF FEES TO FUND PROGRAMS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 80-7-902, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	241
91	(<i>House Bill No. 104; M. Malone</i>) REVISING A COUNTY'S AUTHORITY TO LEASE COUNTY PROPERTY INCLUDING PROPERTY LEASED FOR A DETENTION CENTER; ALLOWING A COUNTY TO EXTEND A LEASE TO 40 YEARS; AND AMENDING SECTIONS 7-8-2231 AND 7-32-2201, MCA.	242
92	(<i>House Bill No. 108; D. Loge</i>) REVISING LAWS RELATED TO FAILING TO OBTAIN LANDOWNER PERMISSION FOR HUNTING; REQUIRING PERMISSION TO HUNT FURBEARERS; DEFINING HUNT; REVISING	

PENALTIES; AMENDING SECTION 87-6-415, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.....	243
93 (<i>House Bill No. 116; V. Ricci</i>) EXPANDING THE REQUIREMENT TO NOTIFY AND REMEDIATE INHABITABLE PROPERTIES CONTAMINATED WITH METHAMPHETAMINE RESIDUE; RAISING THE DECONTAMINATION STANDARD; REVISING THE DEFINITION OF INHABITABLE PROPERTY; REVISING WHEN AN OWNER OR OWNER'S AGENT IS IMMUNE FROM CERTAIN ACTIONS; AND AMENDING SECTIONS 75-10-1301, 75-10-1302, 75-10-1303, AND 75-10-1305, MCA.	244
94 (<i>House Bill No. 119; D. Loge</i>) REQUIRING THE FISH AND WILDLIFE COMMISSION TO APPROVE THE ISSUANCE OF EITHER-SEX OR ANTLERLESS ELK LICENSES AND PERMITS FOR CERTAIN LANDOWNERS AND THEIR DESIGNEES; AMENDING SECTIONS 87-1-301 AND 87-2-513, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	246
95 (<i>House Bill No. 120; D. Loge</i>) ALLOWING ONLY PERSONS ELIGIBLE TO HUNT TO APPLY FOR BONUS POINTS; AMENDING SECTION 87-2-117, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.	249
96 (<i>House Bill No. 138; P. Fielder</i>) REVISING WHAT CONSTITUTES A TRAPPING OR SNARING OFFENSE; REVISING TAGGING REQUIREMENTS; AMENDING SECTION 87-6-601, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	250
97 (<i>House Bill No. 144; P. Fielder</i>) REMOVING PENALTIES FOR A SHERIFF, CONSTABLE, OR PEACE OFFICER WHO DOES NOT ASSIST A STATE OR LOCAL HEALTH OFFICER; AMENDING SECTION 50-2-120, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	251
98 (<i>House Bill No. 197; E. Buttrey</i>) GENERALLY REVISING GAMBLING LAWS RELATED TO PLAYER INFORMATION; ALLOWING PLAYER REWARDS SYSTEMS; PROVIDING FOR PLAYER PRIVACY; PROVIDING REQUIREMENTS FOR STORAGE OF DATA; PROHIBITING SHARING OF INFORMATION; PROVIDING REQUIREMENTS ON THE SHARING OF DATA; CLARIFYING DEPARTMENT OF JUSTICE RULEMAKING AUTHORITY RELATING TO PLAYER INFORMATION; PROVIDING DEFINITIONS; AMENDING SECTIONS 23-5-602, 23-5-621, AND 23-5-637, MCA; AND PROVIDING AN EFFECTIVE DATE.	251
99 (<i>House Bill No. 234; M. Stromswold</i>) REMOVING SUNSET PROVISION FROM LAW REQUIRING MASSAGE THERAPY BUSINESSES TO DISPLAY EACH MASSAGE THERAPIST'S LICENSE; REVISING THE OFFICIALS WHO MAY DETERMINE COMPLIANCE; AMENDING SECTION 37-33-406, MCA; REPEALING SECTION 6, CHAPTER 419, LAWS OF 2019; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	256
100 (<i>House Bill No. 256; M. Binkley</i>) CLARIFYING THE APPLICABILITY OF THE CHILD SAFETY RESTRAINT SYSTEM REQUIREMENTS; AND AMENDING SECTION 61-9-420, MCA.	257
101 (<i>House Bill No. 200; K. Holmlund</i>) PROHIBITING STATE AGENCIES AND LOCAL GOVERNMENTS FROM ENACTING OR ENFORCING CERTAIN POLICIES CONCERNING CITIZENSHIP AND IMMIGRATION; REQUIRING THE ATTORNEY GENERAL TO INVESTIGATE AND ENFORCE CERTAIN PROVISIONS; PROVIDING DEFINITIONS;	

	PROVIDING PENALTIES; AMENDING SECTIONS 90-6-209 AND 90-6-710, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	257
102	<i>(Senate Bill No. 82; S. Fitzpatrick)</i> REVISING ADMINISTRATIVE RULE REVIEW COMMITTEE VOTING PROCEDURES; PROVIDING FOR EX OFFICIO LEGISLATOR MEMBERSHIP TO A COMMITTEE FOR THE PURPOSE OF BREAKING A TIE VOTE; AMENDING SECTIONS 2-4-305, 2-4-306, 2-4-308, 2-4-314, 2-4-402, 2-4-403, 2-4-405, 2-4-406, 2-4-410, AND 2-4-411, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	260
103	<i>(Senate Bill No. 129; G. Hertz)</i> REVISING ALCOHOL REGULATORY ENFORCEMENT LAWS TO PROHIBIT THE DEPARTMENT FROM ISSUING CERTAIN CITATIONS BASED ON CONTRIVED EVENTS; ALLOWING THE DEPARTMENT TO ISSUE CITATIONS BASED ON A CONTRIVED EVENT ONLY AFTER CERTAIN CIRCUMSTANCES; AND AMENDING SECTION 16-4-406, MCA.....	267
104	<i>(Senate Bill No. 133; G. Hertz)</i> REVISING THE PROPERTY TAX APPRAISAL PROCESS AND PROPERTY TAX APPEALS; PROVIDING FOR THE ASSESSMENT OF ATTORNEY FEES AGAINST THE DEPARTMENT OF REVENUE WHEN CERTAIN TAXPAYERS PREVAIL IN A PROPERTY TAX DISPUTE; REQUIRING THE DEPARTMENT OF REVENUE TO JUSTIFY USAGE OF THE COST APPROACH WHEN VALUING RESIDENTIAL CLASS FOUR PROPERTY; CLARIFYING THAT A TAXPAYER MAY REFUSE TO ALLOW THE DEPARTMENT TO ENTER INTO CERTAIN STRUCTURES DURING AN APPRAISAL; AMENDING SECTIONS 15-1-222, 15-2-201, 15-2-303, 15-2-306, 15-7-102, 15-7-139, AND 15-8-111, MCA; AND PROVIDING AN APPLICABILITY DATE.....	268
105	<i>(House Bill No. 22; F. Garner)</i> ALLOWING THE ACCEPTANCE OF IN-KIND SERVICES OR MATERIALS IN EXCHANGE FOR UTILITIES EASEMENTS ON STATE LANDS USED FOR ARMORIES OR OTHER MILITARY FACILITIES; AMENDING SECTION 10-1-108, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	278
106	<i>(House Bill No. 32; S. Vinton)</i> AN ACT ELIMINATING THE IMPLEMENTATION OF ENDING FUND BALANCE LIMITS; REPEALING SECTION 20-9-323, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	279
107	<i>(House Bill No. 33; S. Vinton)</i> REVISING SCHOOL FUNDING LAWS RELATED TO ANTICIPATED ENROLLMENT INCREASES; AMENDING SECTION 20-9-314, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.....	279
108	<i>(House Bill No. 53; J. Hamilton)</i> ADOPTING THE MULTISTATE TAX COMMISSION PROPOSED MODEL STATUTE FOR REPORTING ADJUSTMENTS TO FEDERAL TAXABLE INCOME AND FEDERAL PARTNERSHIP AUDIT ADJUSTMENTS; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-30-2605, 15-30-2606, 15-30-2609, 15-30-2619, 15-31-506, 15-31-509, AND 15-31-544, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.....	280
109	<i>(House Bill No. 83; J. Dooling)</i> GENERALLY REVISING VEHICLE LAWS; REVISING SPECIAL PARKING PERMIT EXPIRATION DATES; REVISING CERTAIN DEFINITIONS; REVISING TRAVEL TRAILER	

STANDARDS; REVISING ODOMETER REPORTING REQUIREMENTS; AND AMENDING SECTIONS 49-4-305, 61-1-101, AND 61-3-206, MCA.	289
110 (<i>House Bill No. 100; D. Hayman</i>) REVISING COMMUNITY COLLEGE DISTRICT AUDIT REQUIREMENTS; REQUIRING COMMUNITY COLLEGE DISTRICTS TO CONTRACT WITH A PRIVATE ACCOUNTING FIRM FOR AUDITS; REQUIRING A COMMUNITY COLLEGE DISTRICT TO PROVIDE ESTIMATED AUDIT COSTS TO THE BUDGET DIRECTOR AND TO PAY FOR ANY COSTS NOT COVERED BY LEGISLATIVE APPROPRIATION; AMENDING SECTIONS 5-13-402 AND 20-15-229, MCA; AND PROVIDING AN EFFECTIVE DATE.	302
111 (<i>House Bill No. 130; D. Bedey</i>) GENERALLY REVISING ALTERNATIVE PROJECT DELIVERY AND DESIGN-BUILD CONTRACTING LAWS; PROVIDING FOR A GENERAL CONTRACTOR CONSTRUCTION MANAGEMENT CONTRACTING PROCESS; REVISING DEFINITIONS; AMENDING SECTIONS 18-2-501, 18-8-204, 18-8-205, 60-2-112, 60-2-134, AND 60-2-137, MCA; AND PROVIDING A TERMINATION DATE.	303
112 (<i>House Bill No. 133; F. Anderson</i>) CREATING AN ANTILITTERING SIGN SPECIAL REVENUE ACCOUNT TO BE FUNDED BY DONATION; PROVIDING FOR THE MAKING AND INSTALLATION OF ANTILITTERING SIGNS PAID FOR BY DONATED MONEY; PROVIDING RULEMAKING AUTHORITY; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE.	309
113 (<i>House Bill No. 177; F. Garner</i>) REVISING LICENSURE REQUIREMENTS FOR PROFESSIONS UNDER THE BOARD OF BEHAVIORAL HEALTH; PROVIDING ALTERNATE EDUCATIONAL PATHS AS DETERMINED BY THE BOARD BY RULE FOR SOCIAL WORKERS, PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, AND ADDICTION COUNSELORS; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 37-22-301, 37-23-202, 37-35-202, AND 37-37-201, MCA.	311
114 (<i>House Bill No. 213; J. Keane</i>) CLARIFYING THE START OF APPRENTICESHIP WAGE RATES; AMENDING SECTION 18-2-416, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	317
115 (<i>House Bill No. 214; F. Anderson</i>) PROVIDING THE BOARD OF HORSERACING DISCRETION IN ALLOCATING SOURCE MARKET FEES; PROVIDING THAT THE BOARD MAY ALLOCATE CERTAIN FEES TO THE OWNER BONUS PROGRAM AND THE BREEDER BONUS PROGRAM; AND AMENDING SECTION 23-4-302, MCA.	318
116 (<i>House Bill No. 232; F. Garner</i>) PROVIDING CONFIDENTIALITY OF PERSONAL INFORMATION FOR STATE LOTTERY GAMES AND SPORTS GAMBLING; AND PROVIDING EXCEPTIONS FOR COURT ORDERS.	319
117 (<i>House Bill No. 254; R. Fitzgerald</i>) REVISING THE WRONGFUL DISCHARGE ACT; REVISING PROVISIONS RELATING TO ELEMENTS OF WRONGFUL DISCHARGE AND THE EMPLOYMENT RELATIONSHIP; PROVIDING FOR PROBATIONARY PERIODS; PROVIDING DEFINITIONS; AMENDING SECTIONS 39-2-903, 39-2-904, 39-2-905, 39-2-911, AND 39-2-912, MCA; REPEALING SECTIONS 39-2-703 AND 39-2-704, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	319

TITLE CONTENTS

118	<i>(House Bill No. 266; K. Holmlund)</i> REVISING LICENSE PLATE LAWS; MANDATING ISSUANCE OF A CERTIFICATE OF WAIVER TO APPLICANTS WITH VEHICLES THAT CANNOT DISPLAY A FRONT LICENSE PLATE; AND AMENDING SECTION 61-3-301, MCA.	323
119	<i>(House Bill No. 270; E. Buttrey)</i> REVISING DRIVER'S LICENSE REQUIREMENTS FOR SPOUSES OF ACTIVE DUTY MILITARY PERSONNEL; CLARIFYING THE SPOUSE EXEMPTION OF ACTIVE DUTY MILITARY PERSONNEL FROM DRIVER'S LICENSE REQUIREMENTS; AND AMENDING SECTION 61-5-104, MCA.	324
120	<i>(House Bill No. 271; R. Marshall)</i> GENERALLY REVISING LAWS RELATED TO COUNTY ROADS; CLARIFYING THE PROCEDURE FOR ADOPTING A COUNTY ROAD; AMENDING SECTION 7-14-2101, MCA; AND PROVIDING AN APPLICABILITY DATE.	325
121	<i>(House Bill No. 290; B. Tschida)</i> CREATING THE SELF-STORAGE INSURANCE ACT; PROVIDING FOR INSURANCE LICENSURE FOR OPERATORS OF SELF-STORAGE FACILITIES; PROVIDING RULEMAKING FOR THE COMMISSIONER OF INSURANCE; PROVIDING REQUIREMENTS FOR BROCHURES AND MATERIALS EXPLAINING SELF-STORAGE INSURANCE; PROVIDING FOR APPLICATIONS AND FEES TO SELL SELF-STORAGE INSURANCE; PROVIDING FOR OPERATOR LICENSE PENALTIES; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING DEFINITIONS.	327
122	<i>(House Bill No. 294; R. Fitzgerald)</i> REVISING FEES FOR AGRICULTURAL SEED LICENSES; REVISING FEE STRUCTURE FOR SEED DEALERS, SEED CONDITIONERS, AND SEED LABELERS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 80-5-130, MCA; AND PROVIDING AN EFFECTIVE DATE.	330
123	<i>(House Bill No. 313; J. Gillette)</i> GENERALLY REVISING LAWS RELATED TO MEDICAL EXAMINERS AND CORONERS; CLARIFYING THE QUALIFICATIONS AND DUTIES OF MEDICAL EXAMINERS; REVISING PROCEDURES RELATED TO HUMAN DEATH INQUIRIES; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 44-3-201, 44-3-203, 44-3-204, 44-3-211, 46-4-122, AND 46-4-123, MCA.	332
124	<i>(House Bill No. 29; J. Trebas)</i> ADOPTING THE MOST RECENT FEDERAL MILITARY LAWS, REGULATIONS, AND CODES APPLICABLE TO THE GOVERNANCE OF THE MONTANA NATIONAL GUARD; AMENDING SECTION 10-1-104, MCA; AND PROVIDING AN APPLICABILITY DATE.	334
125	<i>(House Bill No. 40; W. Curdy)</i> PROVIDING AN EXCEPTION TO MANDATORY DECONTAMINATION FOR VESSELS WITH BALLAST OR BLADDERS; AMENDING SECTION 80-7-1030, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	334
126	<i>(House Bill No. 56; D. Loge)</i> INCREASING PENALTIES FOR FAILURE TO USE TIRE CHAINS OR APPROVED TRACTION DEVICES WHEN REQUIRED; REVISING THE AUTHORITY OF CERTAIN DEPARTMENT OF TRANSPORTATION EMPLOYEES REGARDING ISSUING A CITATION; AND AMENDING SECTIONS 61-9-520 AND 61-10-154, MCA.	335
127	<i>(House Bill No. 65; T. Moore)</i> REVISING THE DEFINITION OF A SECURITIES SALESPERSON TO INCLUDE SUPERVISORS; AMENDING SECTION 30-10-103, MCA; AND PROVIDING AN EFFECTIVE DATE.	337

- 128 (*House Bill No. 76; G. Frazer*) GENERALLY REVISING ADMINISTRATIVE PROVISIONS OF THE VOLUNTARY EMPLOYEE BENEFIT ASSOCIATION ACT THAT ALLOWS PUBLIC EMPLOYEES TO USE UNUSED LEAVE FOR MEDICAL EXPENSES ON A TAX-EXEMPT BASIS; REVISING DEFINITIONS; CLARIFYING THE APPLICABILITY OF FEDERAL LAW AND WHAT CONSTITUTES THE PLAN DOCUMENT; CLARIFYING ACCOUNT ACCESS AND CONTRIBUTION PROVISIONS; REVISING DEATH BENEFIT PROVISIONS; AMENDING SECTIONS 2-18-1302, 2-18-1303, 2-18-1304, 2-18-1309, 2-18-1311, AND 2-18-1313, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.347
- 129 (*House Bill No. 117; V. Ricci*) REVISING CLAIMS HISTORY INFORMATION THAT AN INSURER MAY CONSIDER IN TRANSACTING AUTOMOBILE INSURANCE POLICIES; ALLOWING A DISCOUNT BASED ON FAVORABLE ASPECTS OF THE INSURED'S CLAIMS HISTORY; AND AMENDING SECTIONS 33-16-201 AND 33-18-210, MCA.350
- 130 (*House Bill No. 141; C. Keogh*) GENERALLY REVISING VEHICLE AND VESSEL TITLE TRANSFER LAWS; ALLOWING FOR TIME OF DEATH TRANSFER OF VEHICLE AND VESSEL TITLES; PROVIDING FOR A BENEFICIARY DESIGNATION; SPECIFYING METHODS FOR REVOKING A BENEFICIARY DESIGNATION; SPECIFYING METHOD OF EFFECTING TRANSFER; SPECIFYING TRANSFER AS NONPROBATE TRANSFER; AND AMENDING SECTIONS 61-3-202 AND 72-6-111, MCA.353
- 131 (*House Bill No. 164; C. Keogh*) REVISING LAWS REGARDING TEMPORARY AUTOMATIC DOMESTIC RELATIONS ORDERS IN INVALIDITY OF MARRIAGE, DISSOLUTION OF MARRIAGE, AND LEGAL SEPARATION PROCEEDINGS; PROVIDING FOR THE ISSUANCE OF AUTOMATIC ECONOMIC RESTRAINING ORDERS; AND AMENDING SECTIONS 19-2-801, 40-4-105, AND 40-4-121, MCA.355
- 132 (*House Bill No. 198; D. Harvey*) GENERALLY REVISING LAWS RELATED TO WORKERS' COMPENSATION FOR BURIAL EXPENSES; INCREASING WORKERS' COMPENSATION BENEFITS PAID FOR BURIAL EXPENSES; AND AMENDING SECTION 39-71-725, MCA.362
- 133 (*House Bill No. 220; B. Putnam*) ALLOWING SPECIAL DISTRICTS TO RECEIVE FEDERAL FUNDING DIRECTLY; AMENDING SECTION 7-11-1024, MCA; AND PROVIDING AN EFFECTIVE DATE.362
- 134 (*House Bill No. 268; B. Phalen*) REVISING SPECIAL IMPROVEMENT DISTRICT LAWS FOR SANITARY AND STORM SEWERS; REVISING METROPOLITAN SANITARY AND/OR STORM SEWER DISTRICT LAWS; ALLOWING A COUNTY TO USE A TAX ASSESSMENT TO COLLECT OPERATIONAL COSTS INCURRED OR BILLED TO A DISTRICT; AND AMENDING SECTION 7-13-141, MCA.363
- 135 (*House Bill No. 282; F. Anderson*) REVISING LAWS RELATING TO THE EMPLOYMENT OF MINORS; ALLOWING STUDENT-EMPLOYEES 16 YEARS OF AGE OR OLDER TO PERFORM WORK FUNCTIONS UNDER CERTAIN CIRCUMSTANCES; REVISING EXEMPTIONS IN AGRICULTURE TO ALLOW A STUDENT-LEARNER TO PERFORM REGULAR WORK FUNCTIONS; AND AMENDING SECTIONS 41-2-103, 41-2-107, 41-2-109, AND 41-2-110, MCA.365
- 136 (*House Bill No. 283; F. Anderson*) REQUIRING WORKERS' COMPENSATION INSURANCE COVERAGE FOR VOLUNTEERS

TITLE CONTENTS

ENROLLED IN AN ELEMENTARY OR SECONDARY EDUCATIONAL INSTITUTION; ALLOWING THE BUSINESS PARTNER AND THE EDUCATIONAL INSTITUTION TO MUTUALLY DETERMINE AND AGREE IN WRITING WHETHER THE BUSINESS PARTNER OR THE EDUCATIONAL INSTITUTION ELECTS COVERAGE FOR THE VOLUNTEER; AND AMENDING SECTION 39-71-118, MCA.....	368
137 (<i>House Bill No. 373; K. Holmlund</i>) REVISING THE NATURAL RESOURCES OPERATIONS STATE SPECIAL REVENUE ACCOUNT; PROVIDING FOR A GENERAL FUND TRANSFER; AMENDING SECTION 15-38-301, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.	372
138 (<i>House Bill No. 374; K. Holmlund</i>) REVISING THE BASIC LIBRARY SERVICES ACCOUNT AND THE CONSERVATION DISTRICT ACCOUNT LAWS; PROVIDING FOR GENERAL FUND TRANSFERS; AMENDING SECTIONS 22-1-202 AND 76-15-106, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.	373
139 (<i>House Bill No. 425; J. Schillinger</i>) EXTENDING THE TERMINATION DATE FOR THE CRIME VICTIMS COMPENSATION ACCOUNT; AMENDING SECTION 14, CHAPTER 374, LAWS OF 2009, SECTION 27, CHAPTER 285, LAWS OF 2015, AND SECTION 1, CHAPTER 292, LAWS OF 2015; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	374
140 (<i>Senate Bill No. 276; M. Cuffe</i>) GENERALLY REVISING THE SECRETARY OF STATE'S PUBLIC RECORDS DUTIES; ELIMINATING THE REQUIREMENT FOR THE SECRETARY OF STATE TO APPROVE MICROFILM PROJECTS AND EQUIPMENT PURCHASES; ELIMINATING THE AUTHORITY FOR THE SECRETARY OF STATE TO OPERATE A CENTRAL MICROFILM UNIT; AND AMENDING SECTION 2-6-1101, MCA.	374
141 (<i>Senate Bill No. 262; M. Cuffe</i>) GENERALLY REVISING CLASS 10 PROPERTY TAXATION OF FOREST LANDS; REVISING THE COMPOSITION AND DUTIES OF THE FOREST LANDS TAXATION ADVISORY COMMITTEE; PROVIDING FOR FULL REVIEW AND RECOMMENDATION OF CHANGES TO APPRAISAL METHODOLOGY AND VALUATIONS; AMENDING SECTION 15-44-103, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.	375
142 (<i>Senate Bill No. 205; B. Hoven</i>) REVISING THE NAME OF THE STATE TAX APPEAL BOARD; CHANGING THE NAME OF THE STATE TAX APPEAL BOARD TO THE MONTANA TAX APPEAL BOARD; AND AMENDING SECTIONS 2-6-1007, 2-15-1015, 5-5-227, 5-5-228, 10-4-212, 15-1-101, 15-1-212, 15-1-213, 15-1-222, 15-1-303, 15-1-402, 15-2-101, 15-2-102, 15-2-103, 15-2-104, 15-2-106, 15-2-201, 15-2-301, 15-2-302, 15-2-303, 15-2-304, 15-2-305, 15-2-306, 15-6-135, 15-6-158, 15-6-231, 15-7-102, 15-7-139, 15-8-112, 15-8-113, 15-8-115, 15-8-202, 15-15-101, 15-15-103, 15-15-104, 15-15-201, 15-16-603, 15-23-102, 15-30-2607, 15-30-2608, 15-30-3113, 15-68-405, 15-68-805, 15-70-111, 16-11-149, 53-19-319, AND 61-11-510, MCA.....	377
143 (<i>Senate Bill No. 200; D. Sands</i>) REVISING THE UNIFORM REAL PROPERTY TRANSFER ON DEATH ACT; APPLYING RULES OF CONSTRUCTION APPLICABLE TO WILLS AND APPLYING RULES APPLICABLE TO OTHER NONPROBATE TRANSFERS TO TRANSFER ON DEATH DEEDS; REVISING THE OPTIONAL TRANSFER ON	

DEATH DEED; REVISING THE OPTIONAL FORM OF REVOCATION; AND AMENDING SECTIONS 72-6-412, 72-6-415, AND 72-6-416, MCA.	409
144 (<i>Senate Bill No. 170; D. Kary</i>) REQUIRING ANNUAL VOTER REGISTRATION LIST MAINTENANCE; AND AMENDING SECTION 13-2-220, MCA.	412
145 (<i>Senate Bill No. 154; J. Small</i>) GENERALLY REVISING THE COLLECTION OF DELINQUENT COAL GROSS PROCEEDS PROPERTY TAXES; PROVIDING FOR THE SUSPENSION OF DELINQUENT COAL GROSS PROCEEDS PROPERTY TAXES, INTEREST, AND PENALTIES BY THE GOVERNING BODY OF A COUNTY; AUTHORIZING GROSS PROCEEDS OBLIGATIONS TO BE SECURED BY REVENUE FROM INSTALLMENT PAYMENTS; AMENDING SECTIONS 7-6-1101, 7-6-1102, 7-6-1103, 7-6-1105, 7-6-1111, 7-6-1112, 7-6-1115, 15-16-102, 15-16-119, 15-16-301, 15-16-303, 15-16-401, 15-16-402, 15-16-404, 15-16-801, 15-17-122, 15-17-911, AND 15-23-704, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES.	413
146 (<i>Senate Bill No. 152; B. Hoven</i>) REVISING THE LICENSING OF OPERATORS OF PUBLIC SWIMMING POOLS TO ALLOW FOR IN-PERSON, ONLINE, OR OTHER VIRTUAL TRAINING METHODS; AND AMENDING SECTION 50-53-103, MCA.	422
147 (<i>Senate Bill No. 128; S. Fitzpatrick</i>) PROHIBITING THE CONDITIONING OF THE LEGISLATIVE AUDITOR'S EMPLOYMENT BASED ON THE REVIEW, RECOMMENDATION, OR FEEDBACK OF A STATE AGENCY; AMENDING SECTIONS 5-13-302 AND 5-13-303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	422
148 (<i>Senate Bill No. 126; K. Regier</i>) REVISING PROPERTY VALUATION APPEALS LAWS FOR RESIDENTIAL PROPERTY; PROVIDING THAT CERTAIN INDEPENDENT APPRAISALS PRESUME TO PROVIDE THE PROPERTY VALUE UNLESS THE DEPARTMENT OF REVENUE PROVIDES EVIDENCE OF ANOTHER VALUE; AMENDING SECTION 15-2-301, MCA; AND PROVIDING AN APPLICABILITY DATE.	423
149 (<i>Senate Bill No. 115; K. Regier</i>) CLARIFYING THE APPROVAL PROCESS FOR LAND AND WATER-RELATED ACQUISITIONS BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS; REQUIRING CERTAIN EASEMENTS TO BE APPROVED BY THE BOARD OF LAND COMMISSIONERS; AND AMENDING SECTION 87-1-209, MCA.	425
150 (<i>Senate Bill No. 109; D. Salomon</i>) REQUIRING SCHOOL DISTRICTS TO IDENTIFY GIFTED AND TALENTED CHILDREN; AMENDING SECTION 20-7-902, MCA; AND PROVIDING AN EFFECTIVE DATE.	427
151 (<i>Senate Bill No. 75; D. Salomon</i>) REVISING AND CLARIFYING SCHOOL FUNDING LAWS RELATED TO MINIMUM AGGREGATE HOURS AND UNFORESEEN EMERGENCIES; ALLOWING INSTRUCTION ON A SATURDAY TO MAKE UP INSTRUCTIONAL TIME LOST DUE TO AN UNFORESEEN EMERGENCY; REDEFINING WHAT CONSTITUTES A REASONABLE EFFORT TO MAKE UP INSTRUCTIONAL TIME LOST DUE TO AN UNFORESEEN EMERGENCY; AMENDING SECTIONS 20-1-301, 20-1-303, 20-9-802, 20-9-805, AND 20-9-806, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.	427

152	<i>(Senate Bill No. 53; J. Welborn)</i>	REDUCING PERMITTING REQUIREMENTS TO MINE DECORATIVE ROCK THAT DOES NOT PRODUCE ACID OR OTHER POLLUTANTS, DEFINING THE TERM DECORATIVE ROCK; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 82-4-301, 82-4-303, 82-4-335, 82-4-337, 82-4-338, 82-4-339, AND 82-4-342, MCA.	429
153	<i>(Senate Bill No. 38; T. Gauthier)</i>	GENERALLY REVISING LAWS RELATED TO RECREATIONAL TRAIL PROGRAMS ADMINISTERED BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS; EXPANDING USES OF, AUTHORIZING A MATCH REQUIREMENT FOR, AND PROVIDING FOR DISBURSEMENT OF SUMMER MOTORIZED RECREATION TRAIL GRANT FUNDS; RENAMING THE SNOWMOBILE TRAIL PASS AS THE WINTER TRAIL PASS; REVISING WINTER TRAIL PASS PURCHASE REQUIREMENTS AND REVENUE DISTRIBUTION; AMENDING SECTIONS 23-2-113, 23-2-631, 23-2-634, 23-2-636, 23-2-641, 23-2-642, 61-3-321, AND 87-1-601, MCA; REPEALING SECTION 23-2-615, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	447
154	<i>(Senate Bill No. 13; J. Cohenour)</i>	REVISING WATER RIGHT ADJUDICATION LAWS; INTEGRATING EXAMINATION OF EXEMPT RIGHTS INTO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION PERFORMANCE BENCHMARKS RELATED TO WATER RIGHT ADJUDICATION; ALLOWING EXEMPT RIGHTS TO BE PUBLISHED IN THE SAME SUPPLEMENTAL PRELIMINARY DECREE AS OTHER CLAIMS; AMENDING SECTIONS 85-2-231 AND 85-2-271, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	457
155	<i>(House Bill No. 37; T. Welch)</i>	CLARIFYING REQUIREMENTS FOR THE MEDICALLY NEEDY MEDICAID PROGRAM; ESTABLISHING THAT ELIGIBLE INDIVIDUALS MAY NOT BE REQUIRED TO QUALIFY THROUGH ONLY ONE METHOD FOR THE PROGRAM; CLARIFYING THAT MEDICAL EXPENSES FOR HOME AND COMMUNITY-BASED SERVICES WAIVER PARTICIPANTS MUST BE COUNTED IN THE SAME MANNER AS MEDICAL EXPENSES FOR OTHER MEDICALLY NEEDY INDIVIDUALS; AMENDING SECTIONS 53-4-1110, 53-6-113, AND 53-6-131, MCA; AND PROVIDING AN EFFECTIVE DATE.	459
156	<i>(House Bill No. 39; D. Lenz)</i>	PROVIDING FOR CONTINUED INTERIM LEGISLATIVE REVIEW OF CHILD PROTECTIVE SERVICES MATTERS; REQUIRING REPORTING ON THE RESULTS OF PILOT PROJECTS FOR CHILD ABUSE AND NEGLECT PROCEEDINGS; ESTABLISHING CONDITIONS FOR APPOINTMENT OF A WORKING GROUP; PROVIDING FOR WORKING GROUP MEMBERSHIP AND DUTIES; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE.	466
157	<i>(House Bill No. 58; J. Karjala)</i>	EXTENDING THE APPLICATION OF THE BOND VALIDATING ACT; AMENDING SECTION 17-5-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	467
158	<i>(House Bill No. 71; F. Garner)</i>	REVISING CERTAIN CAMPAIGN FINANCE REPORTING DEADLINES FOR MUNICIPAL CANDIDATES AND POLITICAL COMMITTEES; AMENDING SECTION 13-37-226, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	468

- 159 (*House Bill No. 95; B. Tschida*) REVISING THE CONFIDENTIALITY OF ETHICS COMPLAINTS; REMOVING CONFIDENTIALITY PROVISIONS RELATED TO ETHICS COMPLAINTS CONCERNING PUBLIC EMPLOYEES OR UNELECTED PUBLIC OFFICERS; REPEALING SECTION 2-2-140, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.469
- 160 (*House Bill No. 139; T. Welch*) REVISING DEATH CERTIFICATE FEES AND PROVIDING FOR THEIR USE AS A FUNDING SOURCE OF THE BOARD OF FUNERAL SERVICE; REQUIRING THE BOARD TO REPORT TO THE ECONOMIC AFFAIRS INTERIM COMMITTEE; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 7-4-2631 AND 50-15-111, MCA; AND PROVIDING AN EFFECTIVE DATE.....470
- 161 (*House Bill No. 157; R. Marshall*) GENERALLY REVISING ALCOHOL LICENSING LAWS; ALLOWING A BREWERY OR WINERY TO BE LOCATED ADJACENT TO AN ON-PREMISES RETAIL LICENSE IF THE LICENSEES MAINTAIN ADEQUATE PHYSICAL SEPARATION; DEFINING ADEQUATE PHYSICAL SEPARATION; ALLOWING AN APPLICANT FOR AN ON-PREMISES ALCOHOL LICENSE TO HAVE A SPOUSE THAT HAS AN OWNERSHIP INTEREST IN ONE OR MORE MANUFACTURER LICENSES; AMENDING SECTIONS 16-3-311 AND 16-4-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....472
- 162 (*House Bill No. 224; P. Fielder*) ALLOWING THE SNARING OF WOLVES BY LICENSED TRAPPERS; AND AMENDING SECTION 87-1-901, MCA.....476
- 163 (*House Bill No. 225; P. Fielder*) GENERALLY REVISING WOLF TRAPPING SEASON LAWS; ESTABLISHING THE OPEN AND CLOSE OF WOLF TRAPPING SEASON; PROVIDING EXCEPTIONS; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 87-1-304, MCA.477
- 164 (*House Bill No. 304; F. Garner*) CLARIFYING THE DEFINITION OF COMMUNITY LAND TRUSTS THAT OWN LAND TO PRESERVE AFFORDABLE HOUSING; AND AMENDING SECTION 70-23-102, MCA.....478
- 165 (*House Bill No. 309; J. Read*) GENERALLY REVISING LAWS RELATED TO ABANDONED VEHICLES; AUTHORIZING A TRIBAL LAW ENFORCEMENT AGENCY TO TAKE AN ABANDONED VEHICLE INTO CUSTODY IN CERTAIN CIRCUMSTANCES; PROVIDING THAT A VEHICLE TAKEN INTO POSSESSION BY LAW ENFORCEMENT BECAUSE A DRIVER WAS ARRESTED MAY BE TREATED AS ABANDONED AFTER 60 DAYS; AND AMENDING SECTIONS 61-12-401, 61-12-402, 61-12-404, AND 61-12-405, MCA.480
- 166 (*House Bill No. 353; S. Gunderson*) AUTHORIZING THE ISSUANCE OF REPLACEMENT HUNTING LICENSES, PERMITS, AND TAGS FOR HARVESTED GAME ANIMALS DETERMINED TO BE UNFIT FOR HUMAN CONSUMPTION; AMENDING SECTIONS 87-2-104 AND 87-6-304, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....485
- 167 (*House Bill No. 437; J. Keane*) REMOVING REFERENCES TO AND REPEALING THE BOARD OF RESEARCH AND COMMERCIALIZATION TECHNOLOGY; AMENDING SECTION 90-1-120, MCA; REPEALING SECTION 2-15-1819, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.486

TITLE CONTENTS

168	<i>(House Bill No. 566; T. Welch)</i> CLARIFYING EXISTING GUARANTOR EXONERATION LAW; AND AMENDING SECTION 28-11-211, MCA.....	487
169	<i>(House Bill No. 594; J. Read)</i> EXEMPTING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FROM ENVIRONMENTAL REVIEW RELATED TO GRANTS FOR FOREST MANAGEMENT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	487
170	<i>(Senate Bill No. 60; P. Flowers)</i> REQUIRING TRAPPER EDUCATION FOR RESIDENT TRAPPERS; PROVIDING EXCEPTIONS; PROVIDING INSTRUCTOR CERTIFICATION REQUIREMENTS; ESTABLISHING THE TRAPPER EDUCATION COMMITTEE; CREATING A SEPARATE FURBEARER HUNTING LICENSE FOR RESIDENTS WHO DON'T TRAP; STANDARDIZING REFERENCES TO THE HUNTER SAFETY AND EDUCATION COURSE; AMENDING SECTIONS 87-2-102, 87-2-105, 87-2-514, AND 87-2-601, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.....	488
171	<i>(House Bill No. 13; J. Dooling)</i> APPROPRIATING FUNDS TO IMPLEMENT PAY REVISIONS AND AN INCREASE IN THE LONGEVITY ALLOWANCE; REVISING THE LONGEVITY ALLOWANCE FOR EACH EMPLOYEE WHO HAS COMPLETED 25 YEARS OF UNINTERRUPTED STATE SERVICE BY 0.5% OF THE EMPLOYEE'S BASE SALARY; AMENDING SECTIONS 2-18-303 AND 2-18-304, MCA; AND PROVIDING AN EFFECTIVE DATE.....	493
172	<i>(House Bill No. 81; J. Hamilton)</i> GENERALLY REVISING LAWS RELATED TO THE ADMINISTRATION OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEMS ADMINISTERED BY THE PUBLIC EMPLOYEES' RETIREMENT BOARD; REVISING PROVISIONS RELATED TO ALTERNATE PAYEE RIGHTS UNDER FAMILY LAW ORDERS, REQUIRED BENEFIT DISTRIBUTIONS UNDER FEDERAL LAW, AND MILITARY SERVICE PURCHASE ELIGIBILITY; CLARIFYING WHEN GUARANTEED ANNUAL BENEFIT ADJUSTMENTS MAY COMMENCE; CLARIFYING THE AMOUNT OF THE GUARANTEED ANNUAL BENEFIT ADJUSTMENT PAYABLE UNDER THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM DEFINED BENEFIT PLAN; CLARIFYING PROVISIONS GOVERNING LONG-TERM DISABILITY BENEFIT PAYMENTS UNDER THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM DEFINED CONTRIBUTION PLAN; AMENDING SECTIONS 19-2-907, 19-2-908, 19-2-1007, 19-3-503, 19-3-1605, 19-3-2114, 19-3-2124, 19-3-2141, 19-5-410, 19-6-801, 19-7-803, 19-8-901, 19-9-403, AND 19-13-403, MCA; AND PROVIDING AN EFFECTIVE DATE.....	496
173	<i>(House Bill No. 88; M. Bertoglio)</i> GENERALLY REVISING ADMINISTRATIVE PROVISIONS OF THE TEACHERS' RETIREMENT SYSTEM; CLARIFYING THE DEFINITION OF EARNED COMPENSATION; CLARIFYING EMPLOYER REPORTING REQUIREMENTS; REVISING MANDATORY DISTRIBUTION PROVISIONS TO CONFORM WITH FEDERAL LAW; CORRECTING THE REFERENCED TIME PERIOD FOR REPORTING COMPENSATION EARNED BY A DISABLED MEMBER; AMENDING SECTIONS 19-20-101, 19-20-208, 19-20-303, 19-20-703, AND 19-20-905, MCA; AND PROVIDING AN EFFECTIVE DATE.....	507

- 174 (*House Bill No. 195; V. Ricci*) REVISING CLAIMS HISTORY INFORMATION THAT AN INSURER MAY CONSIDER IN TRANSACTING RESIDENTIAL PROPERTY INSURANCE POLICIES; LIMITING THE PERIOD FOR WHICH ADVERSE CLAIMS HISTORY MAY BE USED IN ISSUING, RENEWING, OR RATING RESIDENTIAL PROPERTY INSURANCE; ALLOWING A DISCOUNT BASED ON FAVORABLE ASPECTS OF THE INSURED'S CLAIMS HISTORY; AND AMENDING SECTIONS 33-16-201 AND 33-18-210, MCA. 513
- 175 (*House Bill No. 208; J. Gillette*) GENERALLY REVISING MENTAL HEALTH SERVICES LAWS FOR WOMEN RELINQUISHING A CHILD FOR ADOPTION; ESTABLISHING REQUIREMENTS RELATED TO MENTAL HEALTH SERVICES FOR WOMEN PLANNING TO RELINQUISH A CHILD FOR ADOPTION; REQUIRING WOMEN TO BE NOTIFIED OF THE AVAILABILITY OF OUTPATIENT MENTAL HEALTH SERVICES; ALLOWING ADOPTIVE PARENTS TO PAY COSTS RELATED TO OUTPATIENT MENTAL HEALTH SERVICES; AND AMENDING SECTIONS 42-2-408, 42-2-409, 42-2-412, 42-2-604, 42-4-102, 42-4-103, 42-4-405, 42-7-101, 42-7-102, AND 52-8-104, MCA. 517
- 176 (*House Bill No. 275; M. Caferro*) ESTABLISHING REQUIREMENTS FOR THE USE OF MONEY APPROPRIATED FOR MEDICAID HOME AND COMMUNITY-BASED SERVICES WAIVER SLOTS; PROVIDING DIRECTION TO THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES ON THE 0208 WAIVER FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES; AND PROVIDING AN EFFECTIVE DATE. 523
- 177 (*House Bill No. 293; B. Mercer*) GENERALLY REVISING LAWS RELATED TO PROVIDING FOR THE UNIFORM TRUST DECANTING ACT; ESTABLISHING THE SCOPE OF THE ACT; REQUIRING DECANTING POWER TO BE USED IN ACCORDANCE WITH FIDUCIARY DUTIES; ESTABLISHING WHICH TRUSTS ARE GOVERNED BY THE ACT; REQUIRING NOTICE WHEN EXERCISING THE DECANTING POWER; SPECIFYING HOW NOTICE WORKS; PROVIDING FOR JUDICIAL INVOLVEMENT; REQUIRING THE DECANTING POWER BE MADE IN A SIGNED RECORD; PROVIDING REQUIREMENTS FOR THE SIGNED RECORD; PROVIDING FOR DECANTING IN CASES OF EXPANDED AND LIMITED DISTRIBUTIVE DISCRETION AND FOR TRUSTS FOR BENEFICIARIES WITH DISABILITIES AND FOR TRUSTS FOR CARE OF ANIMALS; PROTECTING CHARITABLE INTERESTS; PROVIDING LIMITATIONS ON DECANTING; LIMITING CHANGES IN AN AUTHORIZED FIDUCIARY'S COMPENSATION; LIMITING USE OF DECANTING POWER FOR RELIEF FROM LIABILITY OR INDEMNIFICATION; LIMITING LIABILITY FOR CERTAIN TRUSTEES AND OTHER PERSONS; LIMITING USE OF DECANTING POWER TO MODIFY GRANTS OF POWER TO REMOVE OR REPLACE A FIDUCIARY; PROVIDING TAX-RELATED LIMITATIONS; PROVIDING FOR DURATIONS OF SECOND TRUSTS; ALLOWING USE OF DECANTING POWER WHETHER OR NOT A FIRST TRUST'S DISCRETIONARY DISTRIBUTION STANDARD COULD COMPEL A DISTRIBUTION OF PRINCIPAL; PROVIDING FOR DETERMINATIONS OF A SETTLOR'S INTENT; AND PROVIDING FOR LATER-DISCOVERED PROPERTY. 524
- 178 (*House Bill No. 295; M. Caferro*) CLARIFYING THAT LICENSED THERAPISTS AND CLINICAL SOCIAL WORKERS MAY USE

PSYCHOTHERAPEUTIC TECHNIQUES TO TREAT CHRONIC PAIN;
AMENDING SECTIONS 37-22-102, 37-22-307, 37-22-308, AND 37-23-102,
MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.538

179 (*House Bill No. 396; J. Kassmier*) CLARIFYING THE DEFINITION OF
COMMERCIAL FEED TO INCLUDE THE USE OF HEMP PRODUCTS;
AMENDING SECTIONS 80-9-101, 80-9-201, AND 80-9-202, MCA; AND
PROVIDING EFFECTIVE DATES.541

180 (*House Bill No. 548; J. Patelis*) GENERALLY REVISING GAMBLING
LAWS RELATING TO DICE GAMES; ALLOWING PATRON DICE
GAMES; REVISING THE DICE GAME OF CEE-LO TO BE INCLUDED IN
PATRON DICE GAMES; PROVIDING DEFINITIONS; AND AMENDING
SECTIONS 23-5-112 AND 23-5-160, MCA.545

181 (*Senate Bill No. 58; M. Cuffe*) TRANSFERRING FUNDS TO THE
LIVESTOCK LOSS REDUCTION RESTRICTED SPECIAL REVENUE
ACCOUNT; REPEALING THE SUNSET PROVISION ON THE ACCOUNT
AND FUND TRANSFER; PROVIDING RULEMAKING AUTHORITY;
REPEALING SECTION 8, CHAPTER 349, LAWS OF 2015, AND SECTION
6, CHAPTER 284, LAWS OF 2017; AMENDING SECTION 15-1-122, MCA;
PROVIDING AN EFFECTIVE DATE.551

182 (*Senate Bill No. 113; S. Fitzpatrick*) PROVIDING THAT BILLS REFERRED
BY THE LEGISLATURE TO A VOTE OF THE PEOPLE MUST HAVE
A TITLE OF NO MORE THAN 100 WORDS, EXCLUDING SECTION
NUMBERS OF STATUTES BEING AMENDED OR REPEALED; AND
AMENDING SECTION 5-4-102, MCA.554

183 (*Senate Bill No. 120; J. Esp*) PROVIDING THAT A TIE VOTE BY
THE LEGISLATIVE AUDIT COMMITTEE DOES NOT NEGATE
THE LEGISLATIVE AUDITOR'S CONTINUED EMPLOYMENT OR
REAPPOINTMENT; AMENDING SECTIONS 5-13-302 AND 5-13-303,
MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.554

184 (*Senate Bill No. 127; C. Friedel*) REVISING LAWS ON THE SELECTION
OF MUNICIPAL COURT JUDGES; ELIMINATING THE ABILITY OF A
MUNICIPAL COURT JUDGE TO APPOINT A PART-TIME ASSISTANT
JUDGE; AMENDING SECTION 3-6-201, MCA; AND PROVIDING A
DELAYED EFFECTIVE DATE.555

185 (*Senate Bill No. 145; S. Fitzpatrick*) REQUIRING HOMEOWNERS'
ASSOCIATIONS AND CONDOMINIUM ASSOCIATIONS TO ALLOW
MEETINGS BY REMOTE MEANS UNLESS THE GOVERNING
DOCUMENTS OF THE ASSOCIATION PROVIDE OTHERWISE; AND
AMENDING SECTION 35-2-526, MCA.556

186 (*Senate Bill No. 193; S. Hinebaugh*) PROVIDING FOR THE SALE OF
TAX-DEED LAND AT AN AMOUNT LESS THAN APPRAISED VALUE;
PROVIDING THAT THE SALE ONLY TAKES PLACE IF THE TAX-DEED
LAND DID NOT SELL IN TWO CONSECUTIVE AUCTIONS; AND
AMENDING SECTIONS 7-8-2301 AND 7-8-2513, MCA.557

187 (*Senate Bill No. 221; T. Gauthier*) GENERALLY REVISING LAWS
RELATED TO RURAL IMPROVEMENT DISTRICTS; PROVIDING
A PROCESS TO DISSOLVE A RURAL IMPROVEMENT DISTRICT;
AND ALLOWING PROTESTS TO BE RECEIVED REGARDING THE
DISSOLUTION OF A RURAL IMPROVEMENT DISTRICT.559

- 188 (*Senate Bill No. 305; M. Lang*) REVISING SCHOOL FUNDING LAWS RELATED TO STATE LANDS REIMBURSEMENT BLOCK GRANTS; EXTENDING THE SUNSET ON THE BLOCK GRANTS; AMENDING SECTION 20-9-640, MCA; AMENDING SECTION 20, CHAPTER 416, LAWS OF 2017, AND SECTION 2, CHAPTER 475, LAWS OF 2019; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.561
- 189 (*Senate Bill No. 131; D. Salomon*) PROVIDING FOR MILK PRICE FORWARD CONTRACTS; CLARIFYING THAT MILK PRICE FORWARD CONTRACTS DO NOT VIOLATE FAIR TRADE PRACTICES; PROVIDING A DEFINITION;.....561
- 190 (*Senate Bill No. 161; J. Esp*) GENERALLY REVISING SUBDIVISION LAWS; ALLOWING AN EXPEDITED REVIEW FOR SUBDIVISIONS THAT MEET CERTAIN REQUIREMENTS; EXEMPTING CERTAIN SUBDIVISIONS IN CITIES AND TOWNS FROM CERTAIN REVIEWS; ALLOWING A COUNTY TO ADOPT EXPEDITED REVIEW PROVISIONS; REQUIRING THE LOCAL GOVERNMENT TO HOLD A HEARING TO APPROVE OR DENY A SUBDIVISION APPLICATION FOR EXPEDITED REVIEW; CLARIFYING THE AMOUNT OF TIME WITHIN WHICH A PERSON MAY BRING ACTION TO CHALLENGE THE APPROVAL, IMPOSITION OF CONDITIONS, OR DENIAL OF A PRELIMINARY PLAT AND ACTIONS TAKEN ON A FINAL PLAT; AND AMENDING SECTION 76-3-625, MCA.563
- 191 (*Senate Bill No. 339; J. Pomnichowski*) SOLELY CORRECTING AN ERRONEOUS CAMPAIGN FINANCE STATUTORY REFERENCE; AMENDING SECTION 13-37-226, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....566
- 192 (*House Bill No. 152; N. Duram*) REQUIRING DRAIN PLUGS TO BE DISENGAGED AFTER VESSELS, EQUIPMENT, OR OTHER ITEMS ARE USED IN BODIES OF WATER INSIDE AQUATIC INVASIVE SPECIES MANAGEMENT AREAS; DEFINING DRAIN PLUG; ESTABLISHING THAT FAILING TO DISENGAGE A DRAIN PLUG IS NOT A PRIMARY OFFENSE; AMENDING SECTIONS 80-7-1003, 80-7-1010, 80-7-1015, AND 80-7-1019, MCA; AND PROVIDING AN APPLICABILITY DATE.....567
- 193 (*House Bill No. 173; D. Loge*) ESTABLISHING A FIRE HAZARD REDUCTION FUND; REQUIRING THE DEPOSIT OF REVENUE FROM FORFEITED FIRE HAZARD REDUCTION PERFORMANCE BONDS INTO A STATE SPECIAL REVENUE FUND FOR AUTHORIZATION, MANAGEMENT, AND COMPLETION OF FIRE HAZARD REDUCTION ACTIVITIES; CREATING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502 AND 76-13-410, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....570
- 194 (*House Bill No. 226; K. Zolnikov*) GENERALLY REVISING ALCOHOL LAWS TO ALLOW CURBSIDE PICKUP; AUTHORIZING CERTAIN LICENSEES AND LIQUOR STORE AGENTS TO OFFER CURBSIDE PICKUP TO CUSTOMERS; PROVIDING REQUIREMENTS FOR CURBSIDE PICKUP; PROVIDING EXCEPTIONS FOR DOCK SALES; PROVIDING HOURS FOR CURBSIDE PICKUP; PROVIDING DEFINITIONS; AMENDING SECTIONS 16-1-106, 16-2-106, 16-3-213, 16-3-214, 16-3-219, 16-3-303, 16-3-411, 16-3-418, 16-4-105, 16-4-110, 16-4-115, 16-4-201, 16-4-208, 16-4-209, 16-4-213, 16-4-312, AND 16-4-420, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.572

195	(<i>House Bill No. 243; M. Hopkins</i>) GENERALLY REVISING LAWS RELATED TO LAW ENFORCEMENT OFFICERS; ALLOWING A RESERVE OFFICER TO SERVE AS A COURT OFFICER IN A MUNICIPAL COURT; REVISING THE DEFINITION OF RESERVE OFFICER TO INCLUDE A PART-TIME, PAID MEMBER OF A LAW ENFORCEMENT AGENCY WHO SERVES AS A COURT OFFICER; REVISING LIMITATIONS ON DUTIES OR ACTIVITIES OF RESERVE OFFICERS; AMENDING SECTIONS 3-6-303, 7-32-201, AND 7-32-216, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	592
196	(<i>House Bill No. 310; A. Buckley</i>) GENERALLY REVISING SEXUAL ASSAULT REPORTING LAWS; ALLOWING A SEXUAL ASSAULT VICTIM THE RIGHT TO KNOW THE STATUS OF THE VICTIM'S EVIDENCE KIT; AND AMENDING SECTION 46-15-406, MCA.....	593
197	(<i>House Bill No. 446; R. Marshall</i>) DEFINING PROSTHETIC DEVICE OR PROSTHESIS FOR WORKERS' COMPENSATION INSURANCE; PROVIDING THAT A PROSTHETIC DEVICE OR PROSTHESIS IS AN ARTIFICIAL SUBSTITUTE FOR A MISSING BODY PART; AMENDING SECTIONS 39-71-116, 39-71-119, AND 39-71-1101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	594
198	(<i>House Bill No. 31; E. Buttrey</i>) CLARIFYING THE TITLES AND COMMAND AUTHORITY OF THE ADJUTANT GENERAL AND ASSISTANT ADJUTANT GENERALS OF THE MONTANA NATIONAL GUARD; AMENDING SECTIONS 2-15-1201 AND 2-15-1203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	599
199	(<i>House Bill No. 47; W. McKamey</i>) PROVIDING REQUIREMENTS FOR EMERGENCY RULES UNDER THE MONTANA ADMINISTRATIVE PROCEDURE ACT; PROVIDING A DEFINITION FOR SPECIAL NOTICE; REQUIRING CERTAIN NOTIFICATIONS; AND AMENDING SECTION 2-4-303, MCA.....	600
200	(<i>House Bill No. 50; F. Garner</i>) REDISTRIBUTING 9-1-1 FEES TO THE STATE LIBRARY; REQUIRING 9-1-1 FEES BE USED FOR GIS MAPPING RELATED TO NEXT-GENERATION 9-1-1; REQUIRING REPORTING TO AN INTERIM COMMITTEE; PROVIDING A STATUTORY APPROPRIATION; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 10-4-201, 10-4-304, AND 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.....	601
201	(<i>House Bill No. 55; D. Loge</i>) ALLOWING FOR THE USE OF ALL COLORED LIGHTS EXCEPT BLUE ON SNOW-REMOVAL EQUIPMENT; PROVIDING FOR LEGISLATIVE INTENT; AMENDING SECTION 61-9-228, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	604
202	(<i>House Bill No. 57; D. Lenz</i>) REQUIRING A REVIEW HEARING WITHIN 60 DAYS TO DETERMINE THE NECESSITY OF THERAPEUTIC PLACEMENTS IN CHILD ABUSE AND NEGLECT PROCEEDINGS; PROVIDING DEFINITIONS; AMENDING SECTION 41-3-102, MCA; AND PROVIDING AN EFFECTIVE DATE.....	604
203	(<i>House Bill No. 89; W. McKamey</i>) REVISING THE TRANSFORMATIONAL LEARNING PROGRAM; PROVIDING FOR A LOTTERY WHEN APPLICATIONS ARE GREATER THAN AVAILABLE FUNDING; REVISING RULEMAKING AUTHORITY; AMENDING SECTION 20-7-1602, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.....	610

- 204 (*House Bill No. 121; D. Bedey*) REVISING LAWS RELATED TO LOCAL BOARDS OF HEALTH; REQUIRING THAT CERTAIN RULES, REGULATIONS, AND FEES BE PROPOSED BY A LOCAL BOARD OF HEALTH AND ADOPTED BY THE GOVERNING BODY; ALLOWING A LOCAL BOARD OF HEALTH TO ADOPT RULES TO IMPLEMENT A REGULATION ADOPTED BY A LOCAL GOVERNING BODY; ALLOWING A GOVERNING BODY TO AMEND A DIRECTIVE, MANDATE, OR ORDER GIVEN BY A LOCAL BOARD OF HEALTH DURING A TIME OF EMERGENCY OR DISASTER; ALLOWING A GOVERNING BODY TO AMEND AN ORDER GIVEN BY A LOCAL HEALTH OFFICER DURING A TIME OF EMERGENCY OR DISASTER; PROVIDING FOR RELIGIOUS FREEDOM; REVISING PENALTIES ALLOWED FOR THE VIOLATION OF A LOCAL BOARD RULE; REVISING AND PROVIDING DEFINITIONS; AND AMENDING SECTIONS 50-1-101, 50-2-116, 50-2-118, 50-2-124, AND 50-2-130, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.613
- 205 (*House Bill No. 163; P. Fielder*) REVISING THE MEMBERSHIP OF THE FISH AND WILDLIFE COMMISSION; AND AMENDING SECTION 2-15-3402, MCA.619
- 206 (*House Bill No. 217; E. Buttrey*) REQUIRING LICENSURE OF GENETIC COUNSELORS; ESTABLISHING LICENSURE REQUIREMENTS; ESTABLISHING GENETIC COUNSELOR SCOPE OF PRACTICE; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 37-1-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.620
- 207 (*House Bill No. 223; B. Mercer*) CREATING A STATUTORY DUTY FOR PUBLIC SAFETY OFFICERS TO ARREST INDIVIDUALS ALREADY IN CUSTODY WHO ARE THE SUBJECT OF IMMIGRATION DETAINER REQUESTS.623
- 208 (*House Bill No. 280; M. Regier*) REPEALING AUTHORIZATION FOR THE SENIOR CITIZENS' LEGISLATURE; REPEALING SECTION 52-3-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.624
- 209 (*House Bill No. 291; M. Funk*) REQUIRING COVERAGE OF AMPLIFICATION DEVICES AND RELATED SERVICES FOR CHILDREN WITH HEARING LOSS; AMENDING SECTIONS 2-18-704, 33-31-111, AND 33-35-306, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE.624
- 210 (*House Bill No. 292; G. Custer*) GENERALLY REVISING LAWS RELATED TO TITLE INSURANCE REQUIRED FOR A LOCAL SUBDIVISION REVIEW; REQUIRING THAT A SUBDIVISION GUARANTEE MUST BE SUBMITTED WITH A FINAL PLAT; AND AMENDING SECTION 76-3-612, MCA.630
- 211 (*House Bill No. 305; S. Berglee*) GENERALLY REVISING LAWS RELATED TO ROADSIDE MENAGERIES, WILDLIFE SANCTUARIES, AND ZOOS; AUTHORIZING THE PERMITTING OF WILDLIFE SANCTUARIES; AUTHORIZING PERMITS TO OBTAIN WILD ANIMALS; REVISING REVOCATION PROVISIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING FEES AND PENALTIES; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 87-4-801, 87-4-802, 87-4-803, 87-4-804, 87-4-806, 87-5-709, 87-6-101, AND 87-6-715, MCA.631

212 (*House Bill No. 306; M. Funk*) REVISING EXEMPTIONS TO PUBLIC SERVICE COMMISSION REGULATIONS OF MOTOR CARRIERS; PROVIDING AN EXEMPTION FOR CERTAIN TYPES OF RECREATIONAL AND TOURISM TRANSPORTATION; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 69-12-102, MCA.....637

213 (*House Bill No. 307; J. Gillette*) REPEALING THE OBLIGATION OF ADULT CHILDREN TO SUPPORT INDIGENT PARENTS; AMENDING SECTIONS 40-6-214 AND 53-3-116, MCA; AND REPEALING SECTIONS 40-6-301, 40-6-302, AND 40-6-303, MCA.638

214 (*House Bill No. 328; C. Keogh*) PROVIDING REQUIREMENTS FOR EVALUATING AND ASSESSING LANGUAGE AND LITERACY DEVELOPMENT IN DEAF AND HARD-OF-HEARING CHILDREN; PROVIDING FOR THE SELECTION OF LANGUAGE-SPECIFIC EVALUATION AND ASSESSMENT TOOLS AND THE SHARING OF THE TOOLS WITH PROVIDERS; AND PROVIDING FOR AN ANNUAL REPORT REGARDING THE LANGUAGE AND LITERACY DEVELOPMENT OF DEAF AND HARD-OF-HEARING CHILDREN.639

215 (*House Bill No. 346; T. Welch*)REVISING PROPERTY TAX LAWS RELATED TO SOLAR PANEL SYSTEMS; CLASSIFYING UTILITY-SCALE SOLAR FACILITIES AS CLASS THIRTEEN PROPERTY; AMENDING SECTION 15-6-156, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.....640

216 (*House Bill No. 364; J. Trebas*) REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO PROVIDE INFORMATION ABOUT INVESTIGATIONS TO CERTAIN MANDATORY REPORTERS ON REQUEST; AND AMENDING SECTION 41-3-201, MCA.....641

217 (*House Bill No. 383; B. Usher*) GENERALLY REVISING LAWS REGARDING MOTORCYCLE ENDORSEMENTS ON DRIVER'S LICENSES; CLARIFYING THAT A MOTORCYCLE ENDORSEMENT IS NOT REQUIRED TO OPERATE A THREE-WHEELED MOTORCYCLE; AND AMENDING SECTION 61-5-102, MCA.....643

218 (*House Bill No. 386; S. Gist*) REVISING LAWS RELATED TO AUXILIARY OFFICERS; ALLOWING AN AUXILIARY OFFICER TO CARRY A WEAPON ON A SEARCH AND RESCUE MISSION WITH PRIOR APPROVAL OF THE SHERIFF; AND AMENDING SECTION 7-32-232, MCA.....644

219 (*House Bill No. 393; J. Gillette*) REQUIRING THE COURT TO CONSIDER ADDITIONAL FACTORS WHEN ONE PARENT REQUESTS TO AMEND A PARENTING PLAN DUE TO A CHANGE IN RESIDENCE; AND AMENDING SECTION 40-4-219, MCA.....645

220 (*House Bill No. 407; M. Noland*) GENERALLY REVISING LAWS RELATED TO ESTABLISHING STATEWIDE UNIFORMITY FOR AUXILIARY CONTAINER REGULATIONS; PREEMPTING LOCAL ORDINANCES, RESOLUTIONS, INITIATIVES, OR REFERENDUMS REGULATING AUXILIARY CONTAINERS; PROHIBITING LOCAL GOVERNMENTS FROM ADOPTING OR ENFORCING ORDINANCES, RESOLUTIONS, INITIATIVES, OR REFERENDUMS REGULATING THE USE, DISPOSITION, SALE, PROHIBITIONS, FEES, CHARGES, OR TAXES ON AUXILIARY CONTAINERS; PROVIDING CERTAIN EXCEPTIONS; AND AMENDING SECTIONS 7-1-111 AND 7-5-131, MCA.....647

- 221 (*House Bill No. 494; D. Harvey*) REVISING TRANSPORTATION CONSTRUCTION LAW; PROVIDING FOR COLLABORATIVE BROADBAND INSTALLATION; AND PROVIDING RULEMAKING AUTHORITY.....650
- 222 (*House Bill No. 499; J. Trebas*) REVISING CHILD ABUSE AND NEGLECT LAWS REGARDING REASONABLE EFFORTS REQUIRED TO PREVENT REMOVAL OF A CHILD FROM THE HOME OR TO REUNIFY FAMILIES SEPARATED BY THE STATE; DEFINING REASONABLE EFFORTS; AND AMENDING SECTION 41-3-423, MCA.....650
- 223 (*House Bill No. 556; K. Walsh*) PROVIDING STUDENTS ALTERNATIVE MEANS OF EARNING A HIGH SCHOOL DIPLOMA; REQUIRING THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO CREATE A PROCESS FOR STUDENTS TO DEMONSTRATE PROFICIENCY OF HIGH SCHOOL CONTENT STANDARDS THROUGH ALTERNATIVE MEANS; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.652
- 224 (*House Bill No. 558; M. Noland*) PROHIBITING A FRANCHISOR FROM ALTERING A CONTRACT IN THE EVENT OF A TRANSFER BY THE FRANCHISEE; AND PROVIDING AN APPLICABILITY DATE.653
- 225 (*House Bill No. 609; S. Kerns*) CREATING A SPECIAL REVENUE ACCOUNT TO PROVIDE AID TO COUNTIES FOR FUNERALS OF INDIGENT PERSONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING A STATUTORY APPROPRIATION; AND AMENDING SECTION 17-7-502, MCA.653
- 226 (*House Bill No. 49; D. Bedey*) REVISING FEES FOR DOCUMENTS SUBMITTED TO COUNTY CLERKS FOR RECORDING; INCREASING THE PER PAGE FEE AND ALLOCATING THE ADDITIONAL REVENUE TO COUNTY AND STATE LAND INFORMATION ACCOUNTS; AMENDING SECTION 7-4-2637, MCA; AND PROVIDING AN EFFECTIVE DATE.655
- 227 (*House Bill No. 91; R. Farris-Olsen*) PROVIDING FOR AUTOMATIC REMOVAL FROM THE VIOLENT OFFENDER REGISTRY AFTER 10 YEARS FOR CERTAIN VIOLENT OFFENDERS AND FOR VACATING CONVICTIONS FOR FAILURE TO REGISTER AFTER 10 YEARS; REVISING WHEN AN OFFENDER MAY NOT PETITION TO BE REMOVED FROM THE SEXUAL OR VIOLENT OFFENDER REGISTRIES; AND AMENDING SECTIONS 46-23-506 AND 46-23-507, MCA.....656
- 228 (*House Bill No. 159; L. Jones*) REVISING THE GOVERNOR'S POWER TO SPEND CERTAIN UNANTICIPATED FEDERAL FUNDS, ITEMS, AND SERVICES; PROVIDING FOR REVIEW OF THE GOVERNOR'S EMERGENCY AND DISASTER EXPENDITURE PLAN BY THE LEGISLATIVE FINANCE COMMITTEE; LIMITING STATUTORY APPROPRIATION AUTHORITY; PROVIDING FOR A LEGISLATIVE POLLING PROCESS BY THE SECRETARY OF STATE TO VOTE ON WHETHER TO APPROVE THE GOVERNOR'S EXPENDITURE PLAN AND EXCEED THE APPROPRIATION LIMIT; AMENDING SECTION 10-3-203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.658
- 229 (*House Bill No. 201; K. Holmlund*) CLARIFYING THE CALCULATION OF ZONE PAY AND TRAVEL ALLOWANCES IN A PREVAILING

	WAGE DISTRICT; PROVIDING A DEFINITION; AMENDING SECTION 18-2-411, MCA; AND PROVIDING AN EFFECTIVE DATE.....	660
230	(<i>House Bill No. 211; G. Frazer</i>) REVISING LAWS REGARDING VICTIM COMPENSATION; PROVIDING A PARENT OR GUARDIAN OF A MINOR VICTIM OF A SEXUAL OFFENSE IS ENTITLED TO CLAIM WAGE LOSS BENEFITS FOR ACTUAL WAGE LOSS DUE TO TAKING CARE OF THEIR CHILD AND TAKING THEIR CHILD TO MENTAL HEALTH OR MEDICAL TREATMENT DUE TO CRIMINALLY INJURIOUS CONDUCT RELATED TO THE CHILD'S VICTIMIZATION; AND AMENDING SECTION 53-9-128, MCA	661
231	(<i>House Bill No. 218; M. Hopkins</i>) GENERALLY REVISING LAWS RELATED TO EXPRESSION ON CAMPUSES OF PUBLIC POSTSECONDARY INSTITUTIONS; PROVIDING PROTECTIONS FOR FREE EXPRESSION AND EXPRESSIVE ACTIVITY ON PUBLIC POSTSECONDARY INSTITUTION CAMPUSES; PROVIDING PENALTIES FOR VIOLATIONS; PROVIDING DEFINITIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	663
232	(<i>House Bill No. 242; C. Hinkle</i>) ESTABLISHING A MUZZLELOADER HERITAGE HUNT FOR DEER AND ELK; RESTRICTING USE OF CERTAIN EQUIPMENT; REVISING RULEMAKING AUTHORITY; PROVIDING PENALTIES; AND AMENDING SECTIONS 87-1-201, 87-1-301, 87-1-304, AND 87-6-401, MCA	666
233	(<i>House Bill No. 289; M. Regier</i>) ONLY PROHIBITING UNION DUES AND OTHER ASSESSMENTS TO BE CHARGED TO NONMEMBER PUBLIC EMPLOYEES; AMENDING SECTION 39-31-401, MCA; AND REPEALING SECTION 39-31-204, MCA.	672
234	(<i>House Bill No. 349; M. Hopkins</i>) GENERALLY REVISING LAWS RELATED TO FREEDOM OF ASSOCIATION AND FREEDOM OF SPEECH ON CAMPUSES OF PUBLIC POSTSECONDARY INSTITUTIONS; PROVIDING PROTECTIONS FOR FREE ASSOCIATION ON PUBLIC POSTSECONDARY INSTITUTION CAMPUSES; PROHIBITING DISCRIMINATION AGAINST STUDENT ORGANIZATIONS; REQUIRING PUBLIC POSTSECONDARY INSTITUTIONS TO ADOPT ANTI-HARASSMENT POLICIES; PROVIDING RESTRICTIONS ON POLICIES PERTAINING TO THE EXPULSION OF A STUDENT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	673
235	(<i>House Bill No. 401; S. Galloway</i>) REVISING PROPERTY RENTAL LAWS; AND CLARIFYING THAT SECURITY DEPOSIT LAWS ARE INTEGRAL TO RESIDENTIAL DWELLING LAWS AND MOBILE HOME RENTAL LAWS.....	674
236	(<i>House Bill No. 402; S. Galloway</i>) GENERALLY REVISING PROPERTY RENTAL LAWS; REVISING WHAT MAY BE FOUND UNCONSCIONABLE IN A RENTAL AGREEMENT; REVISING TERMINATIONS OF RENTALS; AMENDING SECTIONS 70-24-404, 70-24-422, 70-24-423, 70-33-403, 70-33-422, AND 70-33-423, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	675
237	(<i>House Bill No. 438; S. Galloway</i>) REVISING COMMERCIAL DRIVER LICENSING LAWS; CLARIFYING WAIVER OF THE SKILLS TEST, KNOWLEDGE TEST, OR BOTH, FOR CERTAIN MILITARY EXPERIENCE; AMENDING SECTION 61-5-123, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE	678

- 238 (*House Bill No. 454; V. Ricci*) REVISING LAWS RELATED TO SCHOOL TUITION; CLARIFYING THE ENTITIES FOR WHICH A DISTRICT MAY CHOOSE TO WAIVE TUITION; AUTHORIZING TRUSTEES OF A UNIFIED SCHOOL SYSTEM TO WAIVE TUITION REGARDLESS OF WHETHER THE STUDENT WAS OR WAS NOT A RESIDENT OF THE ELEMENTARY DISTRICT UNIFIED WITH A COUNTY HIGH SCHOOL; AMENDING SECTIONS 20-5-320 AND 20-5-321, MCA; AND PROVIDING AN EFFECTIVE DATE.....680
- 239 (*House Bill No. 543; B. Phalen*) GENERALLY REVISING EDUCATION LAWS; REQUIRING PUPILS IN GRADES 3 THROUGH 12 TO RECEIVE INSTRUCTION ABOUT THE UNITED STATES CONSTITUTION; AUTHORIZING PUBLIC SCHOOLS TO INCLUDE A MOMENT OF SILENCE AFTER THE PLEDGE OF ALLEGIANCE TO THE UNITED STATES FLAG; AMENDING SECTIONS 20-7-111 AND 20-7-133, MCA; AND PROVIDING AN EFFECTIVE DATE.....683
- 240 (*House Bill No. 34; F. Smith*) RECOGNIZING THE FEDERAL RECOGNITION OF THE LITTLE SHELL BAND OF CHIPPEWA INDIANS; REVISING LAWS TO REFLECT FEDERAL RECOGNITION OF EIGHT INDIAN TRIBES IN MONTANA; AMENDING SECTIONS 15-65-101, 20-7-1403, 20-9-537, 20-25-421, 22-2-602, 22-3-804, 44-2-411, 50-71-115, 53-1-216, 90-1-131, AND 90-1-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....684
- 241 (*House Bill No. 35; S. Stewart Peregoy*) ESTABLISHING THE MISSING INDIGENOUS PERSONS REVIEW COMMISSION; ESTABLISHING MEMBERS, DUTIES, AND CONFIDENTIALITY REQUIREMENTS; REQUIRING REMOTE MEETINGS; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.....693
- 242 (*House Bill No. 43; R. Knudsen*) GENERALLY REVISING LAWS RELATING TO TELEHEALTH; PROHIBITING CERTAIN CONTRACT PROVISIONS THAT IMPOSE SITE RESTRICTIONS ON TELEHEALTH; PROVIDING THAT A PREVIOUSLY ESTABLISHED PATIENT-HEALTH CARE PROVIDER RELATIONSHIP IS NOT REQUIRED TO RECEIVE SERVICES BY TELEHEALTH; REVISING THE DEFINITION OF TELEMEDICINE; EXTENDING THE COVERAGE REQUIREMENT TO PUBLIC EMPLOYEE BENEFIT PLANS AND SELF-INSURED STUDENT HEALTH PLANS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-18-704, 20-25-1303, 20-25-1403, 33-22-138, 37-3-102, 37-11-101, 37-11-105, AND 50-46-302, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.695
- 243 (*House Bill No. 98; S. Stewart Peregoy*) EXTENDING TERMINATION OF THE MISSING INDIGENOUS PERSONS TASK FORCE AND THE GRANT PROGRAM IT ADMINISTERS; CLARIFYING INFORMATION THAT THE TASK FORCE MUST REPORT; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 44-2-411 AND 44-2-412, MCA; AMENDING SECTION 8, CHAPTER 373, LAWS OF 2019; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....707
- 244 (*House Bill No. 176; S. Greef*) REVISING LATE VOTER REGISTRATION; CLOSING LATE VOTER REGISTRATION AT NOON THE DAY BEFORE THE ELECTION; PROVIDING AN EXCEPTION SO MILITARY AND OVERSEAS ELECTORS MAY CONTINUE TO REGISTER THROUGH

THE DAY OF THE ELECTION; AMENDING SECTIONS 13-2-301, 13-2-304, 13-13-301, 13-19-207, AND 13-21-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	710
245 (<i>House Bill No. 192; L. Reksten</i>) REVISING LAWS RELATED TO SCHOOL MAJOR MAINTENANCE AND SAFETY FUNDING; INCREASING THE TRANSPARENCY OF THE NOTICE REQUIREMENTS FOR THE NONVOTED BUILDING RESERVE LEVY FOR MAJOR MAINTENANCE; CLARIFYING WHEN SAFETY TRANSFERS TO THE BUILDING RESERVE FUND MAY BE MADE; INCREASING THE SCHOOL MAJOR MAINTENANCE AMOUNT AND THE MULTIPLIER USED TO CALCULATE STATE MAJOR MAINTENANCE AID; SIMPLIFYING THE USES OF THE STATE MAJOR MAINTENANCE AID; AMENDING SECTIONS 20-9-116, 20-9-236, 20-9-502, AND 20-9-525, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.	713
246 (<i>House Bill No. 207; N. Duram</i>) REVISING LAWS RELATED TO SCHOOL BUS LIGHTING; AUTHORIZING THE USE OF ADDITIONAL FLASHING RED LIGHTS ON SCHOOL BUSES; AMENDING SECTIONS 20-10-111 AND 61-9-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	720
247 (<i>House Bill No. 246; M. Bertoglio</i>) GENERALLY REVISING EDUCATION LAWS TO STRENGTHEN SUPERVISION AND CONTROL BY ELECTED SCHOOL BOARDS AND TO INCREASE OPPORTUNITIES FOR PUPILS; BROADENING THE CONCEPT OF INSTRUCTION TO EXPAND A FOCUS ON THE OUTCOME OF LEARNING FOR EACH PUPIL; REVISING TEACHER, SPECIALIST, AND ADMINISTRATOR CERTIFICATION TO CODIFY FLEXIBILITIES AVAILABLE TO ELECTED SCHOOL BOARDS UNDER RULES OF THE BOARD OF PUBLIC EDUCATION; STREAMLINING THE PROCESS OF LICENSING TO ASSIST ELECTED SCHOOL BOARDS IN SUCCESSFULLY RECRUITING AND RETAINING QUALIFIED EDUCATORS; CLARIFYING THE CONDITIONS UNDER WHICH AN ELECTED SCHOOL BOARD MAY QUALIFY FOR EMERGENCY AUTHORIZATION TO EMPLOY AN UNLICENSED TEACHER; CODIFYING THE AUTHORITY OF ELECTED SCHOOL BOARDS TO WAIVE SPECIFIC COURSE REQUIREMENTS BASED ON INDIVIDUAL PUPIL NEEDS, INTERESTS, ASPIRATIONS, AND PERFORMANCE LEVELS; CODIFYING THE AUTHORITY OF ELECTED SCHOOL BOARDS TO GRANT CREDIT FOR ANY COURSE WHEN A PUPIL HAS GAINED PROFICIENCY OVER COURSE CONTENT THROUGH ALTERNATIVE MEANS; AUTHORIZING ELECTED SCHOOL BOARDS TO EXPAND PARTNERSHIPS WITH WORK-BASED LEARNING PARTNERS AND GRANT EQUIVALENT CREDIT FOR TIME SPENT BY A PUPIL PARTICIPATING IN ON-THE-JOB EXPERIENCES WITH A WORK-BASED LEARNING PARTNER; AUTHORIZING AN ELECTED SCHOOL BOARD TO ALLOW NONRESIDENT STUDENTS TO PARTICIPATE IN OFFSITE INSTRUCTION IN CERTAIN CIRCUMSTANCES; AMENDING SECTIONS 20-1-101, 20-3-324, 20-4-101, 20-4-104, 20-4-106, 20-4-111, 20-7-118, AND 20-7-1601, MCA; AMENDING SECTION 7, CHAPTER 402, LAWS OF 2019; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	722
248 (<i>House Bill No. 252; L. Jones</i>) ESTABLISHING AN EMPLOYER TAX CREDIT FOR TRADES EDUCATION AND TRAINING EXPENSES; PROVIDING THAT THE CREDIT BE TAKEN AGAINST INDIVIDUAL	

INCOME TAX AND CORPORATE INCOME TAX LIABILITIES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 15-30-2303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE.	732
249 (<i>House Bill No. 259; S. Vinton</i>) PROHIBITING A LOCAL GOVERNMENT FROM REQUIRING HOUSING FEES OR THE DEDICATION OF REAL PROPERTY FOR THE PURPOSES OF PROVIDING HOUSING FOR SPECIFIED INCOME LEVELS OR SALE PRICES; PROHIBITING ZONING REGULATIONS THAT REQUIRE HOUSING FEES OR THE DEDICATION OF REAL PROPERTY FOR THE PURPOSES OF PROVIDING HOUSING FOR SPECIFIED INCOME LEVELS OR SALE PRICES; AMENDING SECTIONS 7-2-4203, 76-2-203, AND 76-2-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	736
250 (<i>House Bill No. 379; S. Vinton</i>) DECLARING THE USE OF ACTUARIAL TABLES BASED ON SEX OR MARITAL STATUS TO BE A NONDISCRIMINATORY APPROACH TO SETTING INSURANCE PREMIUM RATES, EXCEPT AS PROHIBITED BY FEDERAL LAW; AMENDING SECTION 49-2-309, MCA; AND PROVIDING AN APPLICABILITY DATE.	738
251 (<i>House Bill No. 432; S. Gunderson</i>) PROVIDING A PROPERTY TAX EXEMPTION FOR AFFORDABLE HOUSING OWNED BY A NONPROFIT CORPORATION AND CONSTRUCTED USING FEDERAL GRANTS; AMENDING SECTION 15-6-221, MCA; AND PROVIDING AN APPLICABILITY DATE.	739
252 (<i>House Bill No. 482; S. Gunderson</i>) REVISING LICENSE PLATE LAWS FOR DISABLED VETERANS WITH COMBAT-RELATED DISABILITIES; AND AMENDING SECTION 61-3-332, MCA.	740
253 (<i>House Bill No. 611; R. Fitzgerald</i>) REVISING REQUIREMENTS FOR AMERICAN FLAGS DISPLAYED INSIDE AND OUTSIDE PUBLIC SCHOOLS; AMENDING SECTION 20-3-324, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	743
254 (<i>Senate Bill No. 169; M. Cuffe</i>) GENERALLY REVISING VOTER IDENTIFICATION LAWS; REVISING CERTAIN IDENTIFICATION REQUIREMENTS FOR VOTER REGISTRATION, VOTING, AND PROVISIONAL VOTING; AMENDING SECTIONS 13-2-110, 13-13-114, 13-13-602, AND 13-15-107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	745
255 (<i>House Bill No. 480; B. Mercer</i>) REVISING ORDER OF PROTECTION LAWS TO ALLOW A GUARDIAN, CONSERVATOR, OR AGENT TO ACT ON BEHALF OF AN INCAPACITATED ADULT IN PETITIONING FOR AN ORDER OF PROTECTION OR FOR THE SUBSTITUTE ADDRESS PROGRAM; AMENDING SECTIONS 40-15-102 AND 40-15-116, MCA; AND PROVIDING AN EFFECTIVE DATE.	749
256 (<i>House Bill No. 589; B. Mercer</i>) REVISING LAWS FOR DISPOSITION OF FUNDS FROM LAWSUITS BROUGHT REGARDING UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION; REQUIRING CERTAIN TRANSFERS TO THE GENERAL FUND; SETTING A DATE FOR TRANSFERS; AND AMENDING SECTIONS 30-14-143 AND 30-14-226, MCA.	751

- 257 (*Senate Bill No. 33; M. McNally*) REQUIRING A 30-DAY NOTIFICATION BEFORE TERMINATION OF PARTICIPATION IN A MEDICAID HOME AND COMMUNITY-BASED SERVICES WAIVER PROGRAM; AND PROVIDING AN EFFECTIVE DATE.....752
- 258 (*Senate Bill No. 43; D. Sands*) REQUIRING SUBSTANTIVE CHANGES AFFECTING MEDICAID HOME AND COMMUNITY-BASED WAIVER SERVICES AND ELIGIBILITY REQUIREMENTS TO BE MADE THROUGH THE ADMINISTRATIVE RULEMAKING PROCESS; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTION 53-6-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....753
- 259 (*Senate Bill No. 49; M. Blasdel*) GENERALLY REVISING GAMBLING LAWS RELATING TO OWNERSHIP INTERESTS; PROVIDING A DEFINITION OF OWNERSHIP OR OWNERSHIP INTEREST; ALLOWING TRANSFER OF AN OWNERSHIP INTEREST TO ANOTHER OWNER IN THE SAME LICENSED GAMBLING OPERATION; AMENDING SECTIONS 23-5-112 AND 23-5-118, MCA; AND PROVIDING EFFECTIVE DATES.....757
- 260 (*Senate Bill No. 55; J. Cohenour*) AMENDING THE PROCESS FOR WATER RIGHT OWNERSHIP UPDATES; CREATING A CERTIFICATION PROCESS TO RESOLVE OWNERSHIP DISPUTES; AMENDING THE PENALTY FOR NONCOMPLIANCE; AND AMENDING SECTIONS 85-2-424 AND 85-2-431, MCA.....763
- 261 (*Senate Bill No. 57; J. Pomnichowski*) GENERALLY REVISING REQUIREMENTS FOR REPORTS TO THE LEGISLATURE; UPDATING REQUIREMENTS FOR REPORTS TO THE LEGISLATURE CLEARINGHOUSE; PROVIDING EXCEPTIONS; REVISING DATE REQUIREMENTS; AMENDING SECTIONS 2-1-407, 2-7-104, 2-15-210, 2-15-225, 2-15-401, 2-15-2017, 2-15-2225, 2-15-3113, 2-15-3308, 2-17-101, 2-17-512, 2-17-513, 2-17-515, 2-17-804, 2-17-825, 3-1-702, 5-5-223, 5-5-224, 5-5-229, 5-5-231, 5-5-232, 5-11-210, 5-12-208, 5-12-302, 5-12-303, 5-13-305, 5-13-311, 5-20-301, 10-2-102, 10-3-802, 13-22-108, 13-37-120, 15-30-2303, 15-32-703, 15-70-450, 17-1-102, 17-2-107, 17-5-1650, 17-7-140, 17-7-202, 17-7-214, 17-8-416, 19-3-117, 19-20-216, 19-20-732, 20-1-231, 20-7-101, 20-7-308, 20-7-469, 20-7-904, 20-7-1602, 20-9-161, 20-9-328, 20-9-330, 20-9-537, 20-15-309, 20-25-305, 20-26-105, 22-3-423, 22-3-1002, 23-7-202, 23-7-410, 32-11-306, 33-1-115, 37-1-107, 37-1-145, 37-3-203, 37-7-1514, 39-12-103, 39-71-2375, 41-3-123, 41-3-1211, 41-5-2003, 44-4-1606, 44-7-302, 46-23-1028, 47-1-125, 50-6-402, 50-46-329, 50-46-343, 52-2-211, 52-2-311, 53-1-211, 53-1-216, 53-1-611, 53-4-209, 53-6-110, 53-6-116, 53-6-710, 53-6-1325, 53-20-225, 53-21-508, 53-30-604, 61-2-109, 69-1-222, 69-8-402, 75-1-314, 75-1-1101, 75-5-703, 75-10-111, 75-10-743, 75-10-1601, 75-11-521, 76-4-116, 76-22-118, 77-1-223, 77-2-366, 80-7-1006, 80-7-1026, 80-7-1203, 82-2-701, 85-1-203, 85-1-501, 85-1-605, 85-1-621, 85-1-704, 85-2-105, 85-2-281, 85-2-316, 85-2-338, 85-2-350, 85-2-436, 87-1-201, 87-1-250, 87-1-269, 87-1-272, 87-1-629, 87-1-901, 87-2-702, 90-1-105, 90-1-132, 90-1-182, 90-3-1301, 90-6-703, 90-6-710, AND 90-11-102, MCA; REPEALING SECTIONS 20-9-323 AND 41-3-122, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.765
- 262 (*Senate Bill No. 101; C. Smith*) AUTHORIZING DIRECT PATIENT CARE AGREEMENTS; ESTABLISHING REQUIREMENTS FOR DIRECT PATIENT CARE AGREEMENTS; ESTABLISHING THAT DIRECT PATIENT CARE AGREEMENTS ARE NOT HEALTH INSURANCE; MAKING DIRECT PATIENT CARE AGREEMENTS SUBJECT TO

CONSUMER PROTECTION LAWS; AND AMENDING SECTIONS 30-14-102, 33-1-102, 33-1-201, 33-1-207, 33-22-140, 33-30-101, 33-31-102, AND 50-4-105, MCA.	882
263 (<i>Senate Bill No. 135; S. Fitzpatrick</i>) REVISING THE APPEAL PROCESS FOR COUNTY ZONING DECISIONS; CLARIFYING THAT AN APPEAL FROM A BOARD OF ADJUSTMENT TO A BOARD OF COUNTY COMMISSIONERS IS A DE NOVO REVIEW; AND AMENDING SECTION 76-2-227, MCA.	893
264 (<i>Senate Bill No. 156; B. Bennett</i>) GENERALLY REVISING LAWS FOR THE SALE OF PRODUCTS RESTRICTED BY AGE; REVISING LAWS FOR THE SALE OF ALCOHOL, TOBACCO, ALTERNATIVE NICOTINE PRODUCTS, VAPOR PRODUCTS, AND MARIJUANA; PROHIBITING MISUSE OF DATA AND METADATA FROM SCANS OF GOVERNMENT OR TRIBAL-ISSUED IDENTIFICATION; REQUIRING PERIODIC DELETION OF DATA AND METADATA FROM SCANS OF GOVERNMENT OR TRIBAL-ISSUED IDENTIFICATION; AND AMENDING SECTIONS 16-11-305 AND 16-12-104, MCA.	894
265 (<i>House Bill No. 298; S. Galloway</i>) REVISING THE INFORMATION THAT MUST BE INCLUDED ON A PROPERTY VALUATION STATEMENT; REQUIRING INCLUSION OF THE PRIOR MARKET VALUE AND AN EXPLANATION FOR CERTAIN INCREASES IN VALUE; AND AMENDING SECTION 15-7-102, MCA.	897
266 (<i>House Bill No. 394; M. Noland</i>) EXEMPTING CERTAIN AIR AND WATER POLLUTION CONTROL AND CARBON CAPTURE EQUIPMENT FROM PROPERTY TAXATION; AND AMENDING SECTION 15-6-135, MCA.	900
267 (<i>House Bill No. 463; J. Trebas</i>) REVISING THE UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS ACT; DECREASING THE AMOUNT OF TIME BEFORE AN INSTITUTION MAY RELEASE OR MODIFY A RESTRICTION ON A GIFT INSTRUMENT OR INSTRUMENT OF DONOR INTENT FROM 20 YEARS TO 12 YEARS; AND AMENDING SECTION 72-30-207, MCA.	902
268 (<i>Senate Bill No. 4; J. Small</i>) EXTENDING THE TERMINATION OF THE MISSING INDIGENOUS PERSONS TASK FORCE; REQUIRING THE TASK FORCE TO WORK TOWARD IDENTIFYING CAUSES CONTRIBUTING TO MISSING AND MURDERED INDIGENOUS PERSONS; AMENDING SECTION 44-2-411, MCA; AMENDING SECTION 8, CHAPTER 373, LAWS OF 2019; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	903
269 (<i>Senate Bill No. 72; K. Regier</i>) REVISING SCHOOL LAWS RELATED TO PARTICIPATION IN EXTRACURRICULAR ACTIVITIES; ALLOWING CERTAIN STUDENTS WHO PARTICIPATE IN EXTRACURRICULAR ACTIVITIES TO BE INCLUDED AS PARTIAL ENROLLMENT FOR ANB CALCULATIONS; AMENDING SECTION 20-9-311, MCA; AND PROVIDING AN EFFECTIVE DATE.	904
270 (<i>Senate Bill No. 168; S. Fitzpatrick</i>) REVISING LIEN LAW; REVISING ATTORNEY LIENS, INCLUDING TRANSACTIONAL MATTERS FOR ATTORNEY LIENS; PROVIDING FOR CLIENT CONSENT AND COMMUNICATION; AND AMENDING SECTION 37-61-420, MCA.	908
271 (<i>Senate Bill No. 171; C. Friedel</i>) ALLOWING A COUNTY TO ENTER INTO COOPERATIVE PURCHASING AGREEMENTS WITH CERTAIN	

ENTITIES; EXEMPTING COOPERATIVE PURCHASING AGREEMENTS FROM COMPETITIVE BIDDING REQUIREMENTS; AMENDING SECTION 7-5-2304, MCA; AND PROVIDING AN APPLICABILITY DATE.....	909
272 (<i>Senate Bill No. 175; D. Kary</i>) TEMPORARILY SUSPENDING EMPLOYER CONTRIBUTIONS TO THE JUDGES' RETIREMENT SYSTEM; PERMANENTLY REVISING THE EMPLOYER CONTRIBUTION RATE TO REDUCE THE SYSTEM'S FUNDING SURPLUS; ESTABLISHING A CONTINGENCY FOR THE REDUCTION; AMENDING SECTION 19-5-404, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.	910
273 (<i>Senate Bill No. 178; C. Friedel</i>) PROHIBITING STATE BUILDING CODES FROM REQUIRING MANDATORY INSTALLATION OF FIRE SPRINKLER SYSTEMS IN CERTAIN RESIDENTIAL BUILDINGS; AMENDING SECTION 50-60-203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	911
274 (<i>Senate Bill No. 196; T. McGillvray</i>) REVISING LAWS RELATED TO POLLING PLACE TIMES; ALLOWING CERTAIN POLLING PLACES TO OPEN LATER; REQUIRING NOTICE TO AFFECTED VOTERS; REQUIRING CERTAIN CONSULTATIONS WITH GOVERNING BODIES OF INDIAN RESERVATIONS; AND AMENDING SECTION 13-1-106, MCA.....	912
275 (<i>Senate Bill No. 211; S. Fitzpatrick</i>) REVISING CRITERIA FOR LOCAL GOVERNMENT REVIEW OF A SUBDIVISION APPLICATION WITH REGARD TO IMPACT ON ADJACENT AGRICULTURAL OPERATIONS; AMENDING SECTION 76-3-608, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.....	913
276 (<i>Senate Bill No. 215; C. Glimm</i>) REVISING LAWS RELATED TO THE FREE EXERCISE OF RELIGION; RECOGNIZING THE FREE EXERCISE OF RELIGION AS A FUNDAMENTAL RIGHT; RESTORING THE USE OF THE COMPELLING GOVERNMENTAL INTEREST TEST TO DECISIONS IN LEGAL CASES REGARDING THE FREE EXERCISE OF RELIGION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	914
277 (<i>Senate Bill No. 217; J. Small</i>) REVISING THE MENTAL HEALTH PARITY ACT TO INCLUDE COVERAGE OF SERVICES PROVIDED THROUGH THE PSYCHIATRIC COLLABORATIVE CARE MODEL OR PRIMARY CARE BEHAVIORAL HEALTH MODEL; REQUIRING MULTIPLE EMPLOYER WELFARE ARRANGEMENTS AND PUBLIC EMPLOYEE BENEFIT PLANS TO COMPLY WITH THE REQUIREMENTS OF THE MENTAL HEALTH PARITY ACT; AMENDING SECTIONS 2-18-704, 33-22-702, 33-22-705, AND 33-35-306, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.....	916
278 (<i>Senate Bill No. 222; T. Gauthier</i>) REVISING LAWS RELATED TO NAME CHANGE PETITIONS BY A PERSON WHO IS UNDER THE SUPERVISION OR CUSTODY OF THE DEPARTMENT OF CORRECTIONS; AND AMENDING SECTION 27-31-201, MCA.....	923
279 (<i>Senate Bill No. 226; S. Fitzpatrick</i>) GENERALLY REVISING LAWS RELATED TO LOANS MADE BY A CANDIDATE TO THE CANDIDATE'S CAMPAIGN; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.....	924

- 280 (*Senate Bill No. 240; T. Manzella*) REVISING LAWS REGARDING PENALTIES FOR FALSELY REPORTING CRIMES; PROVIDING PENALTIES FOR WHEN THE CRIME THAT IS FALSELY REPORTED IS A MISDEMEANOR AND MORE SERIOUS PENALTIES FOR FALSELY REPORTING FELONIES; AND AMENDING SECTION 45-7-205, MCA.924
- 281 (*Senate Bill No. 275; J. Welborn*) GENERALLY REVISING THE BOARD OF OUTFITTERS AND OUTFITTING LAWS AND ENFORCEMENT; REVISING THE BOARD OF OUTFITTERS MEMBERSHIP; TERMINATING THE CURRENT BOARD MEMBERSHIP; REVISING THE BOARD'S DUTIES; REVISING REGULATION OF THE PARTIAL SALE OR TEMPORARY TRANSFER OF A HUNTING OR FISHING OUTFITTER'S BUSINESS; PROVIDING AN EXCEPTION FOR THE OUTFITTERS ON THE BEAVERHEAD AND BIG HOLE RIVERS; REVISING CERTAIN OUTFITTER SERVICES; REVISING FEE DEPOSITS; CLARIFYING LIABILITY; REVISING ENFORCEMENT OF VIOLATIONS OF OUTFITTER REGULATIONS; REVISING ENFORCEMENT POWERS OF WARDENS; REVISING PENALTIES; PROVIDING FOR A TRANSITION; AMENDING SECTIONS 2-15-1773, 37-47-201, 37-47-301, 37-47-302, 37-47-310, 37-47-313, 37-47-341, 37-47-344, 37-47-345, 37-47-401, 87-1-506, AND 87-6-702, MCA; REPEALING SECTION 87-6-105, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.925
- 282 (*House Bill No. 258; J. Hinkle*) PROHIBITING THE ENFORCEMENT OF A FEDERAL BAN ON OR REGULATION OF FIREARMS, MAGAZINES, AMMUNITION, AMMUNITION COMPONENTS, OR FIREARM ACCESSORIES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.....931
- 283 (*House Bill No. 451; R. Farris-Olsen*) REVISING LAWS RELATED TO CREDIT FOR INCARCERATION PRIOR TO OR AFTER CONVICTION; INCLUDING TIME SPENT IN A RESIDENTIAL TREATMENT FACILITY UNDER THE ORDER OF A COURT AS TIME THAT MUST BE CREDITED TO A PERSON; AND AMENDING SECTION 46-18-403, MCA.932
- 284 (*Senate Bill No. 20; J. Cohenour*) GENERALLY REVISING RIVER BASIN ADVISORY COUNCIL LAWS FOR DEVELOPING AND IMPLEMENTING THE STATE WATER PLAN; CLARIFYING THAT A STATE WATER PLAN MUST BE DEVELOPED BY 2035; EXTENDING THE USE OF RIVER BASIN ADVISORY COUNCILS IN THE MISSOURI, YELLOWSTONE, CLARK FORK, AND KOOTENAI RIVER BASINS TO DEVELOP THE STATE WATER PLAN; CLARIFYING THE MEMBERSHIP OF RIVER BASIN ADVISORY COUNCILS; ADDING REQUIREMENTS FOR THE STATE WATER PLAN; AMENDING SECTION 85-1-203, MCA; AND REPEALING SECTION 85-2-350, MCA.933
- 285 (*Senate Bill No. 230; M. Lang*) TRANSFERRING A PERCENTAGE OF COMPENSATORY MITIGATION DEPOSITS FROM THE SAGE GROUSE STEWARDSHIP ACCOUNT TO THE STATE GENERAL FUND TO REPAY THE INITIAL COST OF IMPLEMENTING THE MONTANA GREATER SAGE GROUSE STEWARDSHIP ACT; ESTABLISHING A TRANSFER LIMIT; AMENDING SECTION 76-22-109, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A CONTINGENT TERMINATION DATE.935

286 (<i>Senate Bill No. 267; B. Brown</i>) ALLOWING FOR THE REIMBURSEMENT OF COSTS INCURRED WHILE HARVESTING WOLVES; AND AMENDING SECTION 87-6-214, MCA.....	937
287 (<i>Senate Bill No. 277; T. McGillvray</i>) GENERALLY REVISING LAWS RELATED TO STATES' RIGHTS; REQUIRING A REVIEW OF PRESIDENTIAL EXECUTIVE ORDERS BY THE ATTORNEY GENERAL UNDER CERTAIN CIRCUMSTANCES; AND PROVIDING THAT THE STATE, A POLITICAL SUBDIVISION, OR AN ORGANIZATION RECEIVING PUBLIC FUNDS FROM THE STATE MAY NOT IMPLEMENT AN EXECUTIVE ORDER RELATING TO CERTAIN SUBJECTS THAT THE ATTORNEY GENERAL DETERMINES TO BE UNCONSTITUTIONAL	938
288 (<i>Senate Bill No. 227; S. Fitzpatrick</i>) GENERALLY REVISING THE MONTANA ADMINISTRATIVE PROCEDURE ACT; PROVIDING THAT THE LEGISLATURE MAY REPEAL RULES OR AMENDMENTS BY JOINT RESOLUTION; LIMITING THE REPEAL TO RULES ADOPTED OR AMENDED DURING THE INTERIM; AMENDING SECTION 2-4-412, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.....	939
289 (<i>House Bill No. 669; E. Buttrey</i>) GENERALLY REVISING THE MEMBERS OF THE STATE ELECTRICAL BOARD; PROVIDING AN APPROPRIATION; AMENDING SECTION 2-15-1764, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.....	940
290 (<i>House Bill No. 167; M. Regier</i>) ADOPTING THE BORN-ALIVE INFANT PROTECTION ACT; PROVIDING THAT INFANTS BORN ALIVE, INCLUDING INFANTS BORN ALIVE AFTER AN ABORTION, ARE LEGAL PERSONS; REQUIRING HEALTH CARE PROVIDERS TO TAKE NECESSARY ACTIONS TO PRESERVE THE LIFE OF A BORN-ALIVE INFANT; PROVIDING A PENALTY; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AND PROVIDING AN EFFECTIVE DATE.....	945
291 (<i>House Bill No. 170; T. Welch</i>) GENERALLY REVISING LAWS RELATED TO AND INCLUDING GREEN HYDROGEN; DEFINING TERMS; CREATING A NEW TAX CLASSIFICATION FOR GREEN HYDROGEN AND PROVIDING TAX INCENTIVES; EXEMPTING GREEN HYDROGEN FROM THE MAJOR FACILITY SITING ACT; REVISING THE STATE ENERGY POLICY TO INCLUDE GREEN HYDROGEN; REVISING THE USE OF ENERGY DEVELOPMENT AND DEMONSTRATION GRANTS FOR GREEN HYDROGEN; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-6-137, 15-6-141, 15-6-156, 15-6-157, 15-24-1401, 75-20-104, 75-20-201, 90-4-1001, AND 90-4-1005, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.....	947
292 (<i>House Bill No. 300; J. Schillinger</i>) GENERALLY REVISING SCHOOL TRANSPORTATION LAWS; AUTHORIZING THE USE OF 8-PASSENGER TO 15-PASSENGER VEHICLES FOR TRANSPORTATION OF STUDENTS TO AND FROM CERTAIN EVENTS; AND PROVIDING AN EFFECTIVE DATE.	960
293 (<i>House Bill No. 331; C. Knudsen</i>) REQUIRING ADULT AND YOUTH CORRECTIONAL FACILITIES AND PROGRAMS TO GRANT ACCESS TO A LEGISLATOR; REQUIRING CONTRACTS WITH CORRECTIONAL	

FACILITIES AND PROGRAMS TO SPECIFY A LEGISLATOR MAY ACCESS THE FACILITY OR PROGRAM AT ALL TIMES WITH AN EXCEPTION FOR SECURITY ISSUES; AND AMENDING SECTIONS 50-46-302 AND 53-1-202, MCA.....	960
294 (<i>House Bill No. 334; J. Carlson</i>) REVISING LAWS RELATED TO THE MEDICAL EXEMPTION TO STUDENT IMMUNIZATION REQUIREMENTS; REVISING REQUIREMENTS FOR IMMUNIZATION FORMS; ESTABLISHING LIMITATIONS ON EXAMINATION AND USE OF IMMUNIZATION RECORDS; AMENDING SECTIONS 20-5-403, 20-5-405, 20-5-406, AND 20-5-408, MCA; AND PROVIDING AN EFFECTIVE DATE.	964
295 (<i>House Bill No. 391; F. Fleming</i>) REVISING LAWS RELATED TO THE DISTRIBUTION OF DANGEROUS DRUGS; PROVIDING A PENALTY FOR CRIMINAL DISTRIBUTION WHEN A PERSON IS KILLED BY THE DANGEROUS DRUG THAT WAS DISTRIBUTED; AND AMENDING SECTION 45-9-101, MCA.	967
296 (<i>House Bill No. 586; S. Galloway</i>) REVISING MOTOR VEHICLE TITLE LAWS WHEN THE OWNER DOES NOT HAVE THE CERTIFICATE OF TITLE; REVISING WHICH APPLICATIONS FOR TITLE MUST INCLUDE A BOND; AMENDING SECTION 61-3-208, MCA; AND PROVIDING AN EFFECTIVE DATE.	967
297 (<i>Senate Bill No. 157; S. Hinebaugh</i>) REVISING LAWS RELATED TO THE ABILITY OF A STUDENT ATTENDING A NONPUBLIC SCHOOL OR HOME SCHOOL TO PARTICIPATE IN EXTRACURRICULAR ACTIVITIES OFFERED BY THE STUDENT'S RESIDENT SCHOOL DISTRICT; AND PROVIDING AN EFFECTIVE DATE.....	969
298 (<i>Senate Bill No. 163; C. Glimm</i>) REVISING THE NUMBER OF MEMBERS FOR THE BOARD OF WATER WELL CONTRACTORS; REVISING BOARD MEMBERSHIP QUALIFICATIONS; AND AMENDING SECTION 2-15-3307, MCA.	970
299 (<i>Senate Bill No. 166; T. Gauthier</i>) GENERALLY REVISING LAWS RELATED TO ADDICTION COUNSELORS; REVISING LICENSURE REQUIREMENTS AND EDUCATION REQUIREMENTS FOR ADDICTION COUNSELORS; REVISING REGISTRATION REQUIREMENTS FOR ADDICTION COUNSELOR LICENSURE CANDIDATES; ALLOWING CRIMINAL BACKGROUND CHECKS FOR ADDICTION COUNSELOR LICENSE APPLICANTS; AND AMENDING SECTION 37-35-202, MCA.....	971
300 (<i>Senate Bill No. 201; S. Fitzpatrick</i>) PROHIBITING ADDERS IN AVOIDED COST RATE MAKING; AMENDING SECTIONS 69-3-604 AND 69-3-1206, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.....	973
301 (<i>Senate Bill No. 223; T. Gauthier</i>) REVISING FIREARMS LAWS; CREATING A PROCESS FOR QUALIFIED RETIRED LAW ENFORCEMENT OFFICERS TO MAINTAIN THEIR FIREARMS QUALIFICATION AND MAINTAIN THEIR ABILITY TO CARRY CONCEALED AFTER RETIREMENT AS IF THEY WERE ACTIVE PEACE OFFICERS.	974
302 (<i>Senate Bill No. 238; T. Gauthier</i>) GENERALLY REVISING LAWS RELATED TO COMPENSATION FOR SHERIFFS, UNDERSHERIFFS, AND DEPUTY SHERIFFS; ALLOWING THE BOARD OF COUNTY COMMISSIONERS TO PROVIDE ADDITIONAL SALARY TO SHERIFFS;	

REVISING THE METHOD USED TO CALCULATE LONGEVITY
PAYMENTS FOR ALL TYPES OF SHERIFFS; INCREASING THE
PERCENTAGE OF THE SHERIFF'S SALARY THAT IS USED TO
CALCULATE THE SALARY FOR UNDERSHERIFFS AND DEPUTY
SHERIFFS; AND AMENDING SECTIONS 7-4-2503, 7-4-2508, AND
7-4-2510, MCA.975

303 (*Senate Bill No. 283; C. Glimm*) GENERALLY REVISING LAWS
REGARDING FIREARMS ON SCHOOL GROUNDS; CLARIFYING
WHAT MODIFYING THE REQUIREMENT FOR EXPULSION MEANS;
CLARIFYING WHAT CONSTITUTES A VIOLATION; REQUIRING
SCHOOL OFFICIALS TO PROVIDE NOTICE OF CERTAIN RIGHTS;
REQUIRING THE OFFICE OF PUBLIC INSTRUCTION TO MAKE
CERTAIN INFORMATION PUBLIC; AND AMENDING SECTION
20-5-202, MCA.978

304 (*Senate Bill No. 286; S. Hinebauch*) PROHIBITING EASEMENTS IN A
PLATTED SUBDIVISION THAT CROSS EXISTING LOTS OR PARCELS
IF ROAD ACCESS CURRENTLY EXISTS.....979

305 (*Senate Bill No. 307; M. Lang*) REVISING LAWS RELATED TO THE
SAFETY OF IRRIGATION STRUCTURES AND FACILITIES; REVISING
LIMITS OF LIABILITY FOR OWNERS OR OPERATORS OF IRRIGATION
STRUCTURES AND FACILITIES; LIMITING GOVERNMENTAL
LIABILITY; AND AMENDING SECTIONS 85-7-2211 AND 85-7-2212,
MCA.....980

306 (*Senate Bill No. 338; M. Lang*) REVISING CIVIL LIABILITY LAW;
LIMITING THE DUTY OF CARE OWED TO A TRESPASSER; AND
PROVIDING AN IMMEDIATE EFFECTIVE DATE981

307 (*House Bill No. 136; L. Sheldon-Galloway*) ADOPTING THE MONTANA
PAIN-CAPABLE UNBORN CHILD PROTECTION ACT; PROHIBITING
THE ABORTION OF AN UNBORN CHILD CAPABLE OF FEELING
PAIN; PROVIDING EXCEPTIONS; PROVIDING DEFINITIONS; AND
AMENDING SECTION 50-20-109, MCA.....981

308 (*House Bill No. 140; A. Regier*) REQUIRING THAT A PREGNANT WOMAN
MUST BE AFFORDED THE OPPORTUNITY TO VIEW AN ACTIVE
ULTRASOUND AND ULTRASOUND IMAGES AND LISTEN TO THE
FETAL HEARTTONE OF THE UNBORN CHILD BEFORE UNDERGOING
AN ABORTION; PROVIDING EXCEPTIONS; PROVIDING A PENALTY;
AND AMENDING SECTION 50-20-105, MCA.....985

309 (*House Bill No. 171; S. Greef*) ADOPTING THE MONTANA
ABORTION-INDUCING DRUG RISK PROTOCOL ACT; PROVIDING
REQUIREMENTS FOR PROVIDING ABORTION-INDUCING
DRUGS TO PREGNANT WOMEN; PROHIBITING PROVIDING
ABORTION-INDUCING DRUGS IN SCHOOLS AND ON SCHOOL
GROUNDS; REQUIRING INFORMED CONSENT; PROVIDING FOR THE
REPORTING OF CHEMICAL ABORTIONS AND ADVERSE EVENTS
AND COMPLICATIONS; PROVIDING DEFINITIONS; AND PROVIDING
PENALTIES, CIVIL REMEDIES, AND PROFESSIONAL SANCTIONS.....986

310 (*House Bill No. 477; K. Zolnikov*) GENERALLY REVISING LAWS
RELATING TO MARRIAGE AND FAMILY THERAPISTS; REQUIRING
AT LEAST ONE LICENSED MARRIAGE AND FAMILY THERAPIST TO
BE APPOINTED TO THE BOARD OF BEHAVIORAL HEALTH; AND
AMENDING SECTION 2-15-1744, MCA.....994

- 311 (*House Bill No. 491; M. Funk*) REVISING ACCESS TO MILITARY DISCHARGE RECORDS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 7-4-2614, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....995
- 312 (*House Bill No. 517; B. Mercer*) GENERALLY REVISING MARIJUANA PENALTIES FOR PERSONS UNDER 21 YEARS OF AGE; REQUIRING THE POSSESSION, USE, AND DELIVERY OR DISTRIBUTION WITHOUT CONSIDERATION OF MARIJUANA BY A PERSON UNDER 21 YEARS OF AGE TO BE PUNISHED IN ACCORDANCE WITH 45-5-624, MCA; AMENDING SECTIONS 16-12-106 AND 45-5-624, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....996
- 313 (*Senate Bill No. 63; D. Ankney*) CLARIFYING LAND BOARD AUTHORITY TO LEASE STATE LANDS FOR WIND AND SOLAR RESOURCES; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 77-1-902, MCA.1001
- 314 (*Senate Bill No. 91; G. Vance*) REVISING FISCAL NOTE PROCEDURES TO ALLOW FOR A FISCAL NOTE WHEN AN INITIATIVE OR BILL HAS A FISCAL EFFECT ON PRIVATE ENTITIES; ALLOWING THE BUDGET DIRECTOR TO IDENTIFY AND SECURE A QUALIFIED FISCAL ESTIMATING PROVIDER WILLING TO PROVIDE A DRAFT ESTIMATE AT NO COST TO THE STATE; PROVIDING FOR CONTINGENT VOIDNESS; AMENDING SECTIONS 5-4-201 AND 5-4-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.1003
- 315 (*Senate Bill No. 93; G. Vance*) AUTHORIZING POLL WATCHERS AT EACH PLACE OF DEPOSIT IN MAIL BALLOT ELECTIONS; AND AMENDING SECTIONS 13-13-120, 13-13-121, AND 13-19-307, MCA.1004
- 316 (*Senate Bill No. 99; C. Smith*) ESTABLISHING PARAMETERS FOR K-12 HUMAN SEXUALITY EDUCATION; ALLOWING A PARENT OR GUARDIAN OF A CHILD TO REMOVE THE CHILD FROM HUMAN SEXUALITY INSTRUCTION; PROVIDING A DEFINITION OF HUMAN SEXUALITY INSTRUCTION; REQUIRING A SCHOOL DISTRICT TO INFORM A PARENT OR GUARDIAN WHEN EVENTS OR COURSES ON HUMAN SEXUALITY WILL BE HELD OR TAUGHT; PROHIBITING A SCHOOL DISTRICT FROM ALLOWING ANY ABORTION SERVICES PROVIDER TO OFFER MATERIALS OR INSTRUCTION AT A SCHOOL; AMENDING SECTION 20-5-103, MCA; AND PROVIDING AN EFFECTIVE DATE.1005
- 317 (*Senate Bill No. 136; S. Fitzpatrick*) CLARIFYING THE LEGAL AVAILABILITY ANALYSIS FOR A PERMIT AND A CHANGE IN WATER RIGHT; AMENDING SECTIONS 85-2-311 AND 85-2-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.1007
- 318 (*Senate Bill No. 167; S. Fitzpatrick*) REMOVING THE TERMINATION DATES FOR MEDICAL MALPRACTICE-RELATED PROVISIONS OF THE HEALTH AND ECONOMIC LIVELIHOOD PARTNERSHIP ACT; AMENDING SECTIONS 25-3-106 AND 27-2-205, MCA; AMENDING SECTION 28, CHAPTER 368, LAWS OF 2015, AND SECTION 38, CHAPTER 415, LAWS OF 2019; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.1016
- 319 (*Senate Bill No. 174; G. Hertz*) REVISING LAWS RELATED TO THE REVIEW AND APPROVAL OF A SUBDIVISION; PROVIDING ADDITIONAL CLARIFICATION OF THE CONDITIONS FOR

	SUBDIVISION APPROVAL; PROVIDING THAT THE CONDITIONS OF A CONDITIONALLY APPROVED SUBDIVISION MUST BE CLEARLY DEFINED; AMENDING SECTIONS 76-3-501, 76-3-504, 76-3-604, 76-3-608, AND 76-3-620, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	1017
320	(<i>Senate Bill No. 199; G. Hertz</i>) PROVIDING FOR THE MONTANA LOCAL FOOD CHOICE ACT; EXEMPTING CERTAIN HOMEMADE FOOD PRODUCERS FROM FOOD LICENSURE, PERMITTING, CERTIFICATION, PACKAGING, LABELING, AND INSPECTION REGULATIONS AS WELL AS CERTAIN OTHER STANDARDS AND REQUIREMENTS; PROVIDING EXCEPTIONS TO CERTAIN REQUIREMENTS; REVISING RULEMAKING AUTHORITY; AMENDING SECTIONS 30-12-301, 50-31-104, 50-31-106, 50-31-108, 50-31-201, 50-50-301, 81-2-102, 81-2-105, 81-9-201, 81-9-218, 81-21-101, 81-21-102, 81-21-103, 81-22-101, 81-22-102, 81-22-201, 81-22-303, 81-22-304, 81-22-401, 81-22-405, 81-22-412, 81-22-413, 81-22-416, 81-22-420, 81-22-421, 81-22-503, 81-23-103, 81-23-401, AND 81-23-405, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	1024
321	(<i>Senate Bill No. 206; M. Sweeney</i>) REVISING LAWS RELATED TO THE QUALITY EDUCATOR LOAN ASSISTANCE PROGRAM; REVISING THE TIMING OF THE ANNUAL REPORT OF THE BOARD OF PUBLIC EDUCATION FOR THE PROGRAM; AND AMENDING SECTION 20-4-503, MCA.	1041
322	(<i>Senate Bill No. 213; K. Regier</i>) REVISING THE PUBLIC SERVICE COMMISSION APPEALS PROCESS IN CONTESTED CASES TO CONFORM WITH THE PROCEDURES OF THE MONTANA ADMINISTRATIVE PROCEDURE ACT; AMENDING SECTIONS 69-3-308 AND 69-3-330, MCA; REPEALING SECTIONS 69-3-401, 69-3-402, 69-3-403, 69-3-404, AND 69-3-405, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	1042
323	(<i>Senate Bill No. 216; J. Small</i>) GENERALLY REVISING LAWS RELATED TO REQUIRING HEALTH INSURANCE ISSUERS TO PROVIDE PARITY COMPLIANCE REPORTING; REQUIRING IDENTIFICATION OF NONQUANTITATIVE TREATMENT LIMITATIONS; REQUIRING THE REPORTING OF ANALYSIS RESULTS; AMENDING SECTIONS 33-22-702 AND 33-35-306, MCA; AND PROVIDING A CONTINGENT EFFECTIVE DATE AND AN APPLICABILITY DATE.....	1043
324	(<i>Senate Bill No. 233; D. Ankney</i>) GENERALLY REVISING LAWS RELATED TO THE BOARD OF ENVIRONMENTAL REVIEW; REASSIGNING DUTIES AND POWERS OF THE BOARD OF ENVIRONMENTAL REVIEW; TRANSFERRING RULEMAKING AUTHORITY; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 7-13-4502, 7-13-4513, 7-13-4517, 50-2-116, 75-1-1001, 75-2-105, 75-2-111, 75-2-112, 75-2-201, 75-2-202, 75-2-203, 75-2-204, 75-2-206, 75-2-207, 75-2-211, 75-2-212, 75-2-215, 75-2-217, 75-2-218, 75-2-219, 75-2-220, 75-2-221, 75-2-231, 75-2-234, 75-2-301, 75-2-302, 75-2-422, 75-2-428, 75-5-103, 75-5-106, 75-5-201, 75-5-203, 75-5-222, 75-5-301, 75-5-302, 75-5-303, 75-5-304, 75-5-305, 75-5-307, 75-5-308, 75-5-310, 75-5-311, 75-5-312, 75-5-313, 75-5-315, 75-5-316, 75-5-318, 75-5-401, 75-5-402, 75-5-502, 75-5-514, 75-5-515, 75-5-516, 75-5-802, 75-6-104, 75-6-105, 75-6-106, 75-6-107, 75-6-108, 75-6-112, 75-6-116, 75-6-121, 75-6-131, 75-10-104, 75-10-112, 75-10-115, 75-10-221, 75-11-505, 75-11-508, 75-20-105,	

- 75-20-216, 75-20-406, 75-20-407, 75-20-1001, 75-20-1203, 75-20-1205, 76-3-622, 76-4-1001, 80-15-105, 80-15-110, 80-15-201, 82-4-102, 82-4-112, 82-4-123, 82-4-129, 82-4-205, 82-4-207, 82-4-223, 82-4-226, 82-4-231, 82-4-232, 82-4-234, 82-4-235, 82-4-239, 82-4-254, 82-4-304, 82-4-309, 82-4-321, 82-4-332, 82-4-335, 82-4-338, 82-4-339, 82-4-342, 82-4-371, 82-4-406, 82-4-422, 82-4-437, 82-4-445, 82-4-1001, AND 82-15-102, MCA; REPEALING SECTIONS 75-6-103, 75-10-106, 82-4-111, AND 82-4-204, MCA; AND PROVIDING AN EFFECTIVE DATE. 1046
- 325 (*Senate Bill No. 239; M. McNally*) ESTABLISHING THE UNIFORM DIRECTED TRUST ACT; PROVIDING FOR APPLICABILITY; PRESERVING COMMON LAW; PROVIDING EXCEPTIONS; DETAILING THE POWERS, LIMITATIONS, AND DUTIES OF TRUST DIRECTORS; ESTABLISHING THE DUTY AND LIABILITY OF CERTAIN TRUSTEES; PROVIDING FOR COTRUSTEES; PROVIDING FOR ACTIONS AGAINST AND JURISDICTION OVER TRUST DIRECTORS; PROVIDING FOR UNIFORMITY OF APPLICATION AND CONSTRUCTION; SPECIFYING THIS ACT'S RELATION TO THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT; PROVIDING DEFINITIONS; AMENDING SECTIONS 32-1-107, 72-38-103, 72-38-105, 72-38-603, AND 72-38-703, MCA; AND REPEALING SECTION 72-38-808, MCA. 1149
- 326 (*Senate Bill No. 249; M. Lang*) REVISING LAWS RELATED TO FUNDING OF THE MONTANA GREATER SAGE-GROUSE STEWARDSHIP ACT; AUTHORIZING A COST-SHARING AGREEMENT BETWEEN THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS AND THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION; REVISING THE AMOUNT OF ADMINISTRATIVE FEES THAT MAY BE PAID FROM THE SAGE GROUSE STEWARDSHIP ACCOUNT; RECODIFYING THE MONTANA GREATER SAGE-GROUSE STEWARDSHIP ACT IN TITLE 87; AMENDING SECTION 76-22-109, MCA; AND PROVIDING AN EFFECTIVE DATE. 1158
- 327 (*Senate Bill No. 251; C. Smith*) GENERALLY REVISING LAWS RELATED TO DAMAGES IN LAWSUITS; PROVIDING THE MEASURE OF DAMAGES RECOVERABLE FOR MEDICAL SERVICES OR TREATMENT IN ACTIONS ARISING FROM BODILY INJURY OR DEATH; PROVIDING THAT DAMAGES IN ANY ACTION ARISING FROM BODILY INJURY OR DEATH EXCEEDING CERTAIN AMOUNTS ARE UNREASONABLE, UNCONSCIONABLE, AND GROSSLY OPPRESSIVE CONTRARY TO SUBSTANTIAL JUSTICE; ABROGATING THE COMMON LAW COLLATERAL SOURCE RULE, COURT DECISIONS, AND ALL PRIOR STATUTES APPLICABLE TO DETERMINING THE AMOUNTS RECOVERABLE BY PLAINTIFFS AS DAMAGES FOR MEDICAL SERVICES OR TREATMENT RELATING TO MEDICAL SERVICES OR TREATMENT; SETTING JURY CONSIDERATIONS FOR AWARDS OF MEDICAL SERVICES OR TREATMENT; PROVIDING DEFINITIONS; AMENDING SECTIONS 27-1-202, 27-1-302, 27-1-307, AND 27-1-308, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE. 1161
- 328 (*Senate Bill No. 253; G. Hertz*) GENERALLY REVISING MEDICAL CARE SAVINGS ACCOUNT LAWS; ALLOWING INVESTMENT OF MEDICAL CARE SAVINGS ACCOUNT FUNDS IN STOCKS, BONDS, AND MUTUAL FUNDS; PROVIDING THAT INVESTMENT OPTIONS

THAT QUALIFY UNDER A FEDERAL HEALTH SAVINGS ACCOUNT ARE PERMISSIBLE; PROVIDING A TRANSITION CLAUSE TO ALLOW A TAX-FREE ROLLOVER FROM AN EXISTING MEDICAL CARE SAVINGS ACCOUNT; AMENDING SECTION 15-61-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE..... 1164

329 (*Senate Bill No. 257; J. Small*) PROHIBITING LOCAL GOVERNMENTS FROM ENACTING CERTAIN FEES, TAXES, OR PENALTIES REGARDING CARBON USE; AMENDING SECTION 7-1-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 1166

330 (*Senate Bill No. 258; D. Ankney*) RENAMING THE TREASURE STATE ENDOWMENT PROGRAM AND FUND TO THE MONTANA COAL ENDOWMENT PROGRAM AND FUND; AND AMENDING SECTIONS 17-5-703, 17-7-111, 22-3-1306, 90-1-204, 90-6-701, 90-6-702, 90-6-710, AND 90-6-715, MCA. 1168

331 (*Senate Bill No. 261; S. Fitzpatrick*) INCREASING THE MONETARY THRESHOLD FOR JURISDICTION IN JUSTICE COURT; AND AMENDING SECTIONS 3-10-301 AND 75-7-123, MCA..... 1177

332 (*Senate Bill No. 280; C. Glimm*) REVISING VITAL STATISTICS LAWS REGARDING THE AMENDMENT OF BIRTH CERTIFICATE SEX DESIGNATIONS AND THE ISSUANCE OF REPLACEMENT BIRTH CERTIFICATES; PROVIDING THAT THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES MAY AMEND A BIRTH CERTIFICATE SEX DESIGNATION ONLY ON RECEIPT OF A COURT ORDER INDICATING THAT THE SEX OF A PERSON HAS BEEN CHANGED BY SURGICAL PROCEDURE; DIRECTING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO AMEND ADMINISTRATIVE RULES IN CONFORMITY WITH THIS ACT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE. 1179

333 (*Senate Bill No. 287; W. Sales*) GENERALLY REVISING LAWS ON FINANCING PUBLIC PROJECTS; AND REVISING THE PROCESS FOR AWARDED PUBLIC FINANCING CONTRACTS. 1180

334 (*Senate Bill No. 302; W. Sales*) EXTENDING THE DEADLINE TO APPLY FOR WRITTEN AUTHORIZATION TO USE A NAVIGABLE RIVERBED; AMENDING SECTION 77-1-1112, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1181

335 (*Senate Bill No. 309; W. Sales*) GENERALLY REVISING STATE LOTTERY LAWS RELATING TO COMPENSATION OF LOTTERY EMPLOYEES; CLARIFYING THAT THE DIRECTOR OF THE MONTANA STATE LOTTERY IS EXEMPTED FROM CERTAIN STATE EMPLOYEE PAY PROVISIONS; REMOVING THE REQUIREMENT THAT THE LOTTERY DIRECTOR'S SALARY BE EQUAL TO 90% OF THE SALARY OF THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION; REMOVING THE REQUIREMENT THAT THE SALARY OF THE ASSISTANT DIRECTOR OF THE LOTTERY BE EQUAL TO 90% OF THE SALARY OF THE LOTTERY DIRECTOR; AMENDING SECTIONS 2-18-103, 23-7-210, AND 23-7-212, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1182

- 336 (*Senate Bill No. 314; B. Brown*) REVISING LAWS RELATED TO THE HARVEST OF WOLVES; PROVIDING LEGISLATIVE INTENT; REVISING RULEMAKING AUTHORITY; AND AMENDING SECTION 87-1-901, MCA. 1184
- 337 (*Senate Bill No. 328; D. Ankney*) REVISING REQUIREMENTS FOR RELEASING BONDS ON COAL MINES; DEFINING AFFECTED DRAINAGE BASIN; AMENDING SECTIONS 82-4-203 AND 82-4-232, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1185
- 338 (*Senate Bill No. 337; M. Lang*) REVISING LAWS RELATED TO RELOCATION OF GRIZZLY BEARS; REVISING RULEMAKING AUTHORITY; AMENDING SECTION 87-5-301, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE. 1196
- 339 (*Senate Bill No. 344; K. Bogner*) ALLOWING THE DEPARTMENT OF CORRECTIONS TO REPURPOSE CORRECTIONAL FACILITIES SERVING YOUTH AND ADULT OFFENDERS; REDEFINING TERMS RELATED TO STATE YOUTH CORRECTIONAL FACILITIES AND STATE PRISONS; ALLOWING THE DEPARTMENT OF CORRECTIONS TO HOLD CERTAIN YOUTH AND ADULT OFFENDERS IN THE SAME FACILITY SUBJECT TO CERTAIN CONDITIONS; REVISING LAWS RELATED TO EXCESSIVE CAPACITY FOR CERTAIN CORRECTIONAL FACILITIES THAT HOUSE YOUTH AND THE DEPARTMENT'S DETERMINATION OF ALTERNATIVE PLACEMENTS; REQUIRING THE DEPARTMENT TO PRIORITIZE YOUTH NEEDS WHEN CONSIDERING THE USE OF A FACILITY PREVIOUSLY USED TO HOUSE YOUTH; AND AMENDING SECTIONS 19-20-101, 20-4-134, 20-4-502, 20-9-327, 41-5-103, 41-5-106, 41-5-122, 41-5-206, 41-5-208, 41-5-355, 41-5-1416, 41-5-1430, 41-5-1503, 41-5-1504, 41-5-1512, 41-5-1513, 41-5-1522, 41-5-1523, 41-5-2002, 41-5-2005, 45-5-214, 45-7-307, 45-8-318, 46-5-112, 46-23-102, 46-23-201, 50-5-101, 50-5-301, 52-2-302, 52-5-101, 52-5-108, 52-5-109, 52-5-110, 52-5-111, 52-5-112, 52-5-113, 52-5-114, 52-5-120, 52-5-121, 52-5-126, 52-5-128, 53-1-104, 53-1-105, 53-1-107, 53-1-109, 53-1-201, 53-1-202, 53-1-203, 53-1-207, 53-30-101, 53-30-102, 53-30-141, AND 53-30-702, MCA. 1197
- 340 (*Senate Bill No. 345; S. Fitzpatrick*) REVISING DAMAGES AND PENALTY DISTRIBUTION UNDER THE MONTANA FALSE CLAIMS ACT; AND AMENDING SECTION 17-8-410, MCA. 1240
- 341 (*Senate Bill No. 348; W. Sales*) REVISING LAWS RELATED TO USE OF RECLAIMED WASTEWATER FOR SNOWMAKING; PROVIDING A DEFINITION; AND AMENDING SECTIONS 75-6-102 AND 75-6-104, MCA. 1241
- 342 (*Senate Bill No. 358; J. Esp*) ELIMINATING NUTRIENT CRITERIA FROM MONTANA WATER QUALITY STANDARDS; ELIMINATING VARIANCES AND COMPLIANCE SCHEDULES FOR NUTRIENTS; DIRECTING ADOPTION AND AMENDMENT OF ADMINISTRATIVE RULES; PROVIDING FOR A TRANSITION FOR NUTRIENT STANDARDS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 75-5-103, 75-5-105, 75-5-317, AND 75-5-320, MCA; REPEALING SECTIONS 75-5-313, 75-5-314, AND 75-5-319, MCA; REPEALING ARM 17.30.660; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1243
- 343 (*Senate Bill No. 360; M. Lang*) GENERALLY REVISING LAWS RELATED TO FISHERIES MANAGEMENT; REQUIRING A REVIEW OF THE

	EXISTING STATE FISHERIES MANAGEMENT PLAN; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1255
344	(<i>Senate Bill No. 364; S. Fitzpatrick</i>) GENERALLY REVISING INSURANCE LAWS; PROVIDING A FRAMEWORK FOR LIQUIDITY STRESS TESTING; PROVIDING THE COMMISSIONER CERTAIN AUTHORITY TO REQUIRE CERTAIN DOMICILIARY HOLDING COMPANIES TO FILE A GROUP CAPITAL CALCULATION AND LIQUIDITY STRESS TEST; ADDING CONFIDENTIALLY PROTECTIONS FOR DATA THAT GROUPS MAY SUBMIT FOR THE GROUP CAPITAL CALCULATION AND LIQUIDITY STRESS TEST; PROVIDING REGULATORY LAWS FOR INTERNATIONALLY ACTIVE INSURANCE GROUPS; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 33-2-1101, 33-2-1111, AND 33-2-1116, MCA.	1255
345	(<i>Senate Bill No. 367; S. Morigeau</i>) GENERALLY REVISING LAWS RELATING TO THE INDEPENDENT CONTRACTOR CERTIFICATE; PROVIDING THAT THE DEPARTMENT OF LABOR AND INDUSTRY MAY NOT PRESUME AN EMPLOYMENT RELATIONSHIP BECAUSE A PARTY DOES NOT HOLD AN INDEPENDENT CONTRACTOR CERTIFICATE; APPLYING TO UNEMPLOYMENT INSURANCE AND WORKERS' COMPENSATION; AMENDING SECTIONS 39-51-203 AND 39-71-419, MCA; AND PROVIDING AN APPLICABILITY DATE.	1266
346	(<i>Senate Bill No. 370; J. Ellsworth</i>) GENERALLY REVISING DISASTER AND EMERGENCY POWERS LAWS; PROTECTING CERTAIN CONSTITUTIONAL RIGHTS DURING AN EMERGENCY; REVISING THE DECLARATION OF POLICY; CLARIFYING THE LIMITATIONS ON AUTHORITY DURING AN EMERGENCY; PROVIDING FOR CIVIL RELIEF; AMENDING SECTIONS 10-3-101 AND 10-3-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1268
347	(<i>House Bill No. 574; D. Lenz</i>) REVISING THE REQUIREMENTS FOR REPORTS ON THE OUT-OF-STATE PLACEMENT OF HIGH-RISK CHILDREN WITH MULTIAGENCY NEEDS; AMENDING SECTION 52-2-311, MCA; AND PROVIDING AN EFFECTIVE DATE.	1271
348	(<i>House Bill No. 67; L. Jones</i>) GENERALLY REVISING COMMUNITY COLLEGE FUNDING LAWS; ESTABLISHING A BASE PLUS FORMULA THAT IS ADJUSTED FOR ACTUAL FTE IN WEIGHTED CATEGORIES TO BE USED BEGINNING WITH THE 2025 BIENNium; PROVIDING DEFINITIONS; ESTABLISHING A STATE SPECIAL REVENUE ACCOUNT AND PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-142, 17-7-502, 20-15-309, 20-15-310, AND 20-15-312, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.	1272
349	(<i>House Bill No. 129; D. Bedey</i>) GENERALLY REVISING THE FAMILY EDUCATION SAVINGS ACT; REVISING QUALIFYING EXPENDITURES TO INCLUDE ANY EXPENSES PERMITTED UNDER SECTION 529 OF THE INTERNAL REVENUE CODE; REVISING PROGRAM REQUIREMENTS; REVISING THE DUTIES OF THE BOARD OF REGENTS IN ADMINISTERING THE FAMILY EDUCATION SAVINGS PROGRAM; REVISING DEFINITIONS; AMENDING SECTIONS 15-30-2110, 15-62-102, 15-62-103, 15-62-201, 15-62-202, 15-62-203, 15-62-206, 15-62-208, 15-62-301, AND 20-25-902, MCA; REPEALING SECTION 15-62-302, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.	1278

- 350 (*House Bill No. 146; B. Mercer*) REQUIRING THE OFFICE OF BUDGET AND PROGRAM PLANNING TO REPORT ON ACTUAL COSTS OF CERTAIN LEGISLATION WITH PROJECTED FISCAL IMPACT OF OVER \$1 MILLION TO THE GENERAL FUND IN A FISCAL YEAR; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE. 1293
- 351 (*House Bill No. 179; D. Bedey*) GENERALLY REVISING LAWS RELATED TO COMMUNITY COLLEGES; CLARIFYING THE PROCEDURE FOR THE ORGANIZATION OF AND FUNDING FOR A NEW COMMUNITY COLLEGE DISTRICT; REVISING THE ELECTION PROCEDURE FOR THE ORGANIZATION OF A NEW COMMUNITY COLLEGE DISTRICT; REVISING AND CLARIFYING THE FUNDING SOURCES AND ACCOUNTING STRUCTURE FOR COMMUNITY COLLEGES; CONSOLIDATING VARIOUS EXISTING PROPERTY TAX LEVIES INTO ONE OPERATING LEVY FOR A NEW COMMUNITY COLLEGE DISTRICT; REVISING DEFINITIONS; AMENDING SECTIONS 2-9-212, 17-7-102, 19-20-605, 20-7-702, 20-7-704, 20-7-705, 20-9-134, 20-15-103, 20-15-105, 20-15-201, 20-15-202, 20-15-203, 20-15-204, 20-15-208, 20-15-209, 20-15-305, 20-15-309, 20-15-310, 20-15-311, 20-15-312, 20-15-313, AND 20-15-321, MCA; AND PROVIDING AN EFFECTIVE DATE. 1294
- 352 (*House Bill No. 229; J. Gillette*) PROHIBITING QUALIFIED HEALTH INSURANCE PLANS OFFERED THROUGH A HEALTH INSURANCE EXCHANGE IN MONTANA FROM COVERING ABORTION SERVICES. 1309
- 353 (*House Bill No. 260; S. Berglee*) REVISING NONRESIDENT FISHING LICENSE LAWS; REVISING FEES; REVISING THE NUMBER OF DAYS CERTAIN LICENSES ARE VALID; AMENDING SECTIONS 87-2-302, 87-2-304, AND 87-2-307, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE. 1310
- 354 (*House Bill No. 302; J. Kassmier*) REQUIRING AUTHORIZATION OF THE BOARD OF COUNTY COMMISSIONERS BEFORE WILD BUFFALO OR WILD BISON ARE RELEASED INTO A COUNTY; REQUIRING RELEASE OF WILD BUFFALO OR WILD BISON TO MEET CERTAIN CONDITIONS; AMENDING SECTIONS 7-1-111, 81-2-120, AND 87-1-216, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE. 1311
- 355 (*House Bill No. 341; M. Regier*) DIRECTING THAT MEDICAID APPROPRIATIONS BE USED ONLY FOR MEDICAID EXPENDITURES; AND PROVIDING AN EFFECTIVE DATE. 1317
- 356 (*House Bill No. 416; D. Lenz*) ESTABLISHING EDUCATIONAL REQUIREMENTS FOR SUPERVISORS IN THE CHILD PROTECTIVE SERVICES SYSTEM; AMENDING SECTION 52-2-111, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE. 1317
- 357 (*House Bill No. 429; L. Jones*) GENERALLY REVISING THE GOVERNOR'S POWER TO SUSPEND ELECTION LAWS DURING A STATE OF DISASTER OR EMERGENCY; PROVIDING FOR A LEGISLATIVE POLLING PROCESS BY THE SECRETARY OF STATE TO VOTE ON WHETHER TO APPROVE THE GOVERNOR'S SUSPENSION OF ELECTION LAWS; AMENDING SECTION 10-3-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1318
- 358 (*House Bill No. 450; S. Gunderson*) REVISING LAWS RELATED TO DIVISIONS OF LAND EXEMPT FROM SUBDIVISION REVIEW; PROVIDING THAT COURT-ORDERED DIVISIONS OF LAND EXEMPT

FROM SUBDIVISION REVIEW MAY NOT CREATE MORE THAN FOUR
NEW LOTS OR PARCELS; AND AMENDING SECTION 76-3-201, MCA..... 1319

359 (*House Bill No. 468; P. Fielder*) AUTHORIZING THE USE OF DOGS
WHILE HUNTING BLACK BEARS; ESTABLISHING A TRAINING
SEASON; PROVIDING RULEMAKING AUTHORITY; AND AMENDING
SECTIONS 87-2-521 AND 87-6-404, MCA. 1321

360 (*House Bill No. 475; D. Skees*) REVISING THE DEFINITION OF ELIGIBLE
RENEWABLE RESOURCE TO INCLUDE EXISTING HYDROELECTRIC
RESOURCES; AMENDING SECTIONS 69-3-2003, 69-3-2006, AND
90-4-1005, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE
AND A RETROACTIVE APPLICABILITY DATE..... 1322

361 (*House Bill No. 479; K. Sullivan*) PROVIDING WARRANT REQUIREMENTS
FOR THIRD-PARTY ELECTRONIC DATA; PROVIDING NOTIFICATION
REQUIREMENTS; AMENDING SECTIONS 46-5-601 AND 46-5-602,
MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1326

362 (*House Bill No. 496; B. Mercer*) REVISING COUNTY ZONING LAWS;
REQUIRING A LOCAL GOVERNING BODY TO HOLD A PUBLIC
HEARING ON CERTAIN PUBLIC LAND USE; REMOVING A LOCAL
BOARD OF ADJUSTMENTS PROHIBITION TO DENY A PUBLIC
LAND USE THAT IS CONTRARY TO ZONING REGULATIONS; AND
AMENDING SECTION 76-2-402, MCA..... 1327

363 (*House Bill No. 520; M. Marler*) REVISING SEXUAL ASSAULT LAWS;
CREATING A SAFE HARBOR FOR SEX WORKERS WHO ARE
SEXUALLY ASSAULTED; AND AMENDING SECTION 50-32-609, MCA. 1328

364 (*House Bill No. 539; B. Usher*) GENERALLY REVISING LAWS RELATED
TO COUNTY ATTORNEYS; REVISING WHEN SPECIAL COUNSEL
MAY BE EMPLOYED; LIMITING WHEN THE DEPARTMENT OF
PUBLIC HEALTH AND HUMAN SERVICES IS REQUIRED TO REPORT
ALLEGATIONS OF CHILD SEXUAL ABUSE OR CHILD SEXUAL
EXPLOITATION TO A COUNTY ATTORNEY; REVISING THE TIMING
OF REPORTING TO THE ATTORNEY GENERAL; AND AMENDING
SECTIONS 7-4-2705, 41-3-202, AND 41-3-210, MCA. 1329

365 (*House Bill No. 549; S. Kerns*) REVISING BIENNIAL SUICIDE
REDUCTION PLANS TO INCLUDE INFORMATION SPECIFIC TO
ACTIVE DUTY MEMBERS, RESERVE MEMBERS, AND GUARD
MEMBERS OF THE UNIFORMED SERVICES AND VETERANS;
AMENDING SECTION 53-21-1102, MCA; AND PROVIDING AN
IMMEDIATE EFFECTIVE DATE. 1332

366 (*House Bill No. 590; S. Kerns*) PROVIDING THAT A MILITARY MEMBER
ON VOLUNTARY OR INVOLUNTARY ORDERS IS ENTITLED TO A
LEAVE OF ABSENCE; PROVIDING A REMEDY; AMENDING SECTIONS
10-1-1003, 10-1-1004, AND 10-1-1021, MCA; AND PROVIDING AN
IMMEDIATE EFFECTIVE DATE..... 1333

367 (*House Bill No. 616; M. Hopkins*) AMENDING TAX INCREMENT
FINANCING LAWS TO REQUIRE A GOVERNING BODY TO APPROVE
A TAX INCREMENT PROVISION; AMENDING SECTIONS 7-15-4206,
7-15-4233, AND 7-15-4282, MCA; AND PROVIDING AN APPLICABILITY
DATE. 1334

- 368 (*House Bill No. 647; S. Galloway*) REVISING LAWS RELATED TO HUNTING AND FISHING LICENSES FOR NONRESIDENT COLLEGE STUDENTS; AUTHORIZING THE SALE OF CERTAIN LICENSES AT RESIDENT-EQUIVALENT PRICES; REVISING ELIGIBILITY PROVISIONS FOR ALL NONRESIDENT COLLEGE STUDENT LICENSES; AMENDING SECTION 87-2-525, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE. 1338
- 369 (*House Bill No. 665; B. Ler*) PROVIDING THAT BOOKING PHOTOGRAPHS ARE PUBLIC CRIMINAL JUSTICE INFORMATION; REQUIRING A CRIMINAL JUSTICE AGENCY TO CHARGE A CLERKING FEE FOR RELEASE OF CERTAIN BOOKING PHOTOGRAPHS; AMENDING SECTIONS 44-5-103 AND 44-5-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1340
- 370 (*Senate Bill No. 203; K. Bogner*) SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE II, SECTION 11, OF THE MONTANA CONSTITUTION TO EXPLICITLY INCLUDE ELECTRONIC DATA AND COMMUNICATIONS IN SEARCH AND SEIZURE PROTECTIONS. 1343
- 371 (*House Bill No. 206; D. Bedey*) GENERALLY REVISING TUITION AND IN-STATE TREATMENT LAWS; ESTABLISHING A TUITION PER-ANB AMOUNT THAT REFLECTS UPDATES TO THE SCHOOL FUNDING FORMULA; REQUIRING THE DISTRICT OF RESIDENCE TO CONTRIBUTE A PORTION OF THE TUITION COSTS FOR PUPILS PLACED IN GROUP HOMES OR FOSTER CARE AND FOR A PORTION OF THE EDUCATIONAL COSTS OF ELIGIBLE CHILDREN IN IN-STATE CHILDREN'S PSYCHIATRIC HOSPITALS AND IN-STATE RESIDENTIAL TREATMENT FACILITIES; REVISING FUNDING FOR THE EDUCATIONAL COSTS OF ELIGIBLE CHILDREN IN IN-STATE CHILDREN'S PSYCHIATRIC HOSPITALS AND IN-STATE RESIDENTIAL TREATMENT FACILITIES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 20-5-323, 20-5-324, 20-7-403, 20-7-420, 20-7-435, AND 20-9-343, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE. 1343
- 372 (*House Bill No. 423; D. Lenz*) GENERALLY REVISING LAWS RELATED TO SCREENING NEWBORNS FOR GENETIC OR METABOLIC DISORDERS; CREATING A NEWBORN SCREENING COMMITTEE; REQUIRING THE DEPARTMENT TO ADD NEW CONDITIONS TO THE NEWBORN SCREENING PANEL WHEN CERTAIN CONDITIONS ARE MET; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 50-19-203, MCA. 1351
- 373 (*House Bill No. 478; D. Harvey*) REVISING DRIVING UNDER THE INFLUENCE LAWS; PROVIDING THAT BREATH ANALYSIS IS INCLUDED IN THE POSSIBLE EXPENDITURES FOR THE BLOOD-DRAW SEARCH WARRANT PROCESSING ACCOUNT; AND AMENDING SECTION 61-8-402, MCA. 1353
- 374 (*Senate Bill No. 219; D. Howard*) PROVIDING FOR THE RELEASE OF PHONE LOCATION INFORMATION TO A LAW ENFORCEMENT AGENCY OR AGENT OF A PUBLIC SAFETY ANSWERING POINT IN AN EMERGENCY; AND AMENDING SECTION 27-1-735, MCA. 1355
- 375 (*Senate Bill No. 237; D. Kary*) ELIMINATING THE COMMUNITY RENEWABLE ENERGY PROJECT REQUIREMENT FROM MONTANA'S

	RENEWABLE RESOURCE STANDARD; AMENDING SECTIONS 69-3-2003, 69-3-2004, 69-3-2005, 69-3-2006, AND 90-4-1202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.....	1356
376	(<i>Senate Bill No. 265; S. Fitzpatrick</i>) REQUIRING VENUES FOR ARBITRATION IN ELECTRICAL GENERATION DISPUTES THAT OCCUR WITHIN MONTANA; PROVIDING STANDARDS FOR ARBITRATION PANELS IN ELECTRICAL GENERATION DISPUTES; AMENDING SECTION 27-5-323, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.	1363
377	(<i>Senate Bill No. 266; S. Fitzpatrick</i>) REVISING UNFAIR OR DECEPTIVE ACTS OR PRACTICES IN THE CONDUCT OF TRADE OR COMMERCE TO INCLUDE CERTAIN ACTIONS RELATED TO THE OPERATION AND MAINTENANCE OF AN ELECTRICAL GENERATION FACILITY; PROVIDING THE DEPARTMENT OF JUSTICE WITH THE AUTHORITY TO TAKE ACTION IN RESPONSE TO CERTAIN ACTS; PROVIDING DEFINITIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.....	1364
378	(<i>House Bill No. 131; D. Bedey</i>) REQUIRING THE SALE OF LEASED CABIN OR HOME SITES ON STATE WATER PROJECT LANDS IF REQUESTED BY A LESSEE OR IMPROVEMENT OWNER; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 85-1-811, MCA.....	1366
379	(<i>Senate Bill No. 190; T. Gauthier</i>) REVISING LAWS FOR PROVIDING FOR TIP POOLS; PROVIDING REQUIREMENTS FOR TIP POOLS; PROVIDING THAT EMPLOYERS MAY NOT PARTICIPATE IN THE TIP POOL; PROVIDING NOTICE REQUIREMENTS; DISTINGUISHING COMPULSORY CHARGES FROM TIP POOLS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	1368
380	(<i>Senate Bill No. 294; J. Esp</i>) REVISING COUNTY ZONING LAWS; PROVIDING FOR A REFERENDUM TO TERMINATE ZONING DISTRICTS; REMOVING CERTAIN PROTEST PROVISIONS THAT HAVE BEEN INVALIDATED BY THE MONTANA SUPREME COURT; PROVIDING MINIMUM LOT SIZE RESTRICTIONS IN RESIDENTIAL ZONING; AMENDING SECTION 76-2-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.	1369
381	(<i>Senate Bill No. 372; E. McClafferty</i>) REVISING DRIVER'S LICENSE LAWS; ALLOWING APPLICANTS FOR DRIVER'S LICENSES TO REQUEST A LICENSE RESTRICTION NOTING A PERSONAL COMMUNICATION LIMITATION OR OTHER MEDICAL INFORMATION; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 61-14-201, MCA.....	1370
382	(<i>House Bill No. 73; B. Usher</i>) GENERALLY REVISING LAWS RELATED TO THE CRIMINAL JUSTICE OVERSIGHT COUNCIL; REQUIRING THE LEGISLATIVE SERVICES DIVISION TO PROVIDE CLERICAL AND ADMINISTRATIVE STAFF TO THE COUNCIL; AMENDING SECTION 53-1-216, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	1373
383	(<i>House Bill No. 90; D. Lenz</i>) REQUIRING A HEARING WITHIN 5 BUSINESS DAYS OF A CHILD'S REMOVAL FROM THE HOME; PROVIDING AN EXCEPTION; AMENDING SECTION 41-3-301, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.	1375

- 384 (*House Bill No. 155; D. Lenz*) GENERALLY REVISING LAWS RELATING TO REIMBURSEMENT FOR CERTAIN MEDICAID SERVICES; REQUIRING DEVELOPMENT OF A PLAN TO COLLECT DATA AND ANALYZE REIMBURSEMENT RATES FOR CERTAIN MEDICAID PROVIDERS; REQUIRING REPORTS; ESTABLISHING REQUIREMENTS FOR BUDGET SUBMISSIONS BY THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; PROVIDING EQUITY IN INFLATIONARY ADJUSTMENTS FOR CERTAIN STATE INSTITUTIONS AND THE PRIVATE SECTOR; AMENDING SECTION 17-7-111, MCA; AND PROVIDING AN EFFECTIVE DATE..... 1377
- 385 (*House Bill No. 264; R. Fitzgerald*) GENERALLY REVISING LAWS FOR PASSING EMERGENCY VEHICLES; REVISING THE SPEED RULES FOR PASSING EMERGENCY AND LAW ENFORCEMENT VEHICLES; INCLUDING TOW TRUCKS AS VEHICLES TO MOVE OVER FOR; CREATING THE OFFENSE OF RECKLESS ENDANGERMENT OF EMERGENCY PERSONNEL; DESIGNATING RECKLESS ENDANGERMENT OF HIGHWAY WORKERS AND RECKLESS ENDANGERMENT OF EMERGENCY PERSONNEL AS SERIOUS TRAFFIC VIOLATIONS; AND AMENDING SECTIONS 61-8-346, 61-8-715, AND 61-8-803, MCA..... 1381
- 386 (*House Bill No. 333; B. Usher*) REVISING LAWS RELATED TO SEXUAL AND VIOLENT OFFENDERS; PROVIDING THAT INDIVIDUALS CONVICTED OF A CRIME REQUIRING THEM TO REGISTER AS A SEXUAL OR VIOLENT OFFENDER ARE SUBJECT TO THE CRIME OF UNLAWFUL POSSESSION OF A FIREARM BY A CONVICTED PERSON AND MAY NOT POSSESS FIREARMS; AND AMENDING SECTION 45-8-313, MCA. 1383
- 387 (*House Bill No. 362; R. Fitzgerald*) CLARIFYING THAT MILITARY LEAVE IS CREDITED IN FULL AFTER 6 MONTHS OF EMPLOYMENT; AMENDING SECTION 10-1-1009, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE..... 1384
- 388 (*House Bill No. 398; D. Lenz*) AUTHORIZING LEGISLATORS TO REVIEW RECORDS OF CASES INVESTIGATED BY THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN; ESTABLISHING PROCEDURES FOR REVIEW; REQUIRING CONFIDENTIALITY; AND PROVIDING AN EFFECTIVE DATE. 1384
- 389 (*House Bill No. 445; B. Usher*) GENERALLY REVISING AUTOMOBILE LAWS; PROVIDING FOR LOANER PLATES; PROVIDING FOR MEDIATION OF DISPUTES; PROVIDING FOR RESOLUTION OF DISPUTES; PROVIDING STANDING TO BRING ACTION; PROVIDING FOR WARRANT REIMBURSEMENT; PROVIDING FOR REGISTRATION OF CERTAIN VEHICLES BY A MONTANA RESIDENT IF THE RESIDENT CO-OWNS THE VEHICLE WITH OUT-OF-STATE RESIDENTS; PROVIDING DEFINITIONS; AMENDING SECTIONS 61-1-101, 61-3-224, 61-3-303, 61-3-311, 61-3-312, 61-3-332, 61-3-456, 61-4-111, 61-4-128, 61-4-129, 61-4-201, 61-4-207, 61-4-213, AND 61-14-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1385
- 390 (*House Bill No. 598; K. Whitman*) GENERALLY REVISING PARKING LAWS; SUBSTITUTING A DISABILITY PARKING PERMIT FOR A SPECIAL PARKING PERMIT; SUBSTITUTING AN ACCESSIBLE PARKING SPACE FOR A SPECIAL PARKING SPACE; REVISING

TITLE CONTENTS

REQUIREMENTS FOR ACCESSIBLE PARKING SPACES; AND AMENDING SECTIONS 7-5-2109, 7-5-4104, 49-4-301, 49-4-302, 49-4-303, 49-4-304, 49-4-305, 49-4-306, 49-4-307, 49-4-310, 61-3-332, AND 61-3-426, MCA.....	1417
391 (<i>Senate Bill No. 83; B. Hoven</i>) REVISING SPECIAL LIEN LAWS; ALLOWING A NONPOSSESSORY SPECIAL LIEN ON IMPLEMENTS OF HUSBANDRY, CONSTRUCTION EQUIPMENT, FORESTRY EQUIPMENT, AND MOTORIZED LAWN CARE AND LANDSCAPING EQUIPMENT; PROVIDING FOR ENFORCEMENT OF NONPOSSESSORY SPECIAL LIENS; AND AMENDING SECTIONS 71-3-1201 AND 71-3-1203, MCA.....	1425
392 (<i>Senate Bill No. 106; W. Sales</i>) CREATING A LICENSE AND QUALIFICATIONS FOR VETERINARY TECHNICIANS UNDER THE BOARD OF VETERINARY MEDICINE; OUTLINING A SCOPE OF PRACTICE FOR LICENSED VETERINARY TECHNICIANS; PROVIDING A PENALTY FOR FALSELY CLAIMING TO BE A LICENSED VETERINARY TECHNICIAN; ADDING A MEMBER TO THE BOARD OF VETERINARY MEDICINE TO REPRESENT LICENSED VETERINARY TECHNICIANS; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-15-1742, 37-18-101, 37-18-102, 37-18-104, AND 37-18-502, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.	1427
393 (<i>Senate Bill No. 121; T. Jacobson</i>) UPDATING THE DEFINITION OF ACUPUNCTURE TO REFLECT MODERN TECHNIQUES AND MODALITIES; AMENDING SECTION 37-13-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1432
394 (<i>Senate Bill No. 185; D. Howard</i>) GENERALLY REVISING THE POWERS OF THE GOVERNOR TO SUSPEND CERTAIN STATUTES DURING AN EMERGENCY; PROHIBITING A GOVERNOR FROM SUSPENDING A STATUTE THAT AFFECTS THE EXERCISE OF AN INDIVIDUAL'S CONSTITUTIONAL RIGHTS; AND AMENDING SECTION 10-3-104, MCA.....	1432
395 (<i>Senate Bill No. 247; E. Boldman</i>) REVISING ALCOHOL LAWS RELATING TO UNIVERSITIES AND POSTSECONDARY INSTITUTIONS; ALLOWING A UNIT OF THE MONTANA UNIVERSITY SYSTEM OR A POSTSECONDARY INSTITUTION IN MONTANA TO CONTRACT WITH AN ALCOHOL LICENSEE TO SERVE ALCOHOL AT A SPORTING EVENT HELD ON UNIVERSITY PROPERTY; AMENDING SECTIONS 16-3-103, 16-4-111, AND 16-4-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	1433
396 (<i>Senate Bill No. 248; E. Boldman</i>) ESTABLISHING STUDENT-ATHLETE RIGHTS AND PROTECTIONS; ENSURING THAT A STUDENT-ATHLETE CAN EARN COMPENSATION FOR THE USE OF THE STUDENT-ATHLETE'S NAME, IMAGE, OR LIKENESS; AND PROVIDING A DELAYED EFFECTIVE DATE.....	1436
397 (<i>Senate Bill No. 270; B. Hoven</i>) REVISING HAY PRICES ON STATE TRUST LAND; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	1438
398 (<i>Senate Bill No. 301; T. Manzella</i>) PROHIBITING POLITICAL SUBDIVISIONS FROM REQUIRING EMPLOYERS TO PROVIDE WAGES AND BENEFITS THAT ARE INCONSISTENT WITH STATE AND	

FEDERAL LAW; AMENDING SECTION 7-1-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	1438
399 (<i>Senate Bill No. 350; G. Hertz</i>) GENERALLY REVISING ELECTION LAWS RELATED TO MINOR PARTIES; PROVIDING REQUIREMENTS FOR A MINOR PARTY TO QUALIFY THAT POLITICAL PARTY BY PETITION TO NOMINATE ITS CANDIDATES FOR OFFICE BY PRIMARY ELECTION; PROVIDING THAT ANY ELECTOR MAY SUBMIT A MINOR PARTY PETITION; PROVIDING DEADLINES FOR AN ELECTOR TO REMOVE THE ELECTOR'S NAME FROM A MINOR PARTY PETITION; PROVIDING PROCEDURES TO VERIFY ELECTORS' SIGNATURES ON A MINOR PARTY PETITION; REVISING PROCEDURES TO CERTIFY A MINOR PARTY PETITION; PROVIDING RETENTION REQUIREMENTS FOR DOCUMENTS ASSOCIATED WITH MINOR PARTY PETITIONS; PROVIDING THAT MONEY SPENT TO OPPOSE A MINOR PARTY'S PETITION TO QUALIFY TO HOLD A PRIMARY MUST BE DISCLOSED AND REPORTED IN THE SAME MANNER AS MONEY SPENT TO SUPPORT SUCH AN EFFORT; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 13-10-601, 13-10-605, 13-37-601, 13-37-603, 13-37-604, AND 13-37-605, MCA; AND PROVIDING AN APPLICABILITY DATE.....	1441
400 (<i>Senate Bill No. 351; B. Bennett</i>) ALLOWING COUNTY ELECTION ADMINISTRATORS TO TEST VOTE TABULATION MACHINES BEFORE AUTOMATIC TABULATION BEGINS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 13-17-212, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	1447
401 (<i>House Bill No. 632; F. Garner</i>) IMPLEMENTING THE AMERICAN RESCUE PLAN ACT; PROVIDING APPROPRIATIONS AND ALLOCATIONS OF FEDERAL FUNDS AND OTHER FUNDS AVAILABLE BECAUSE OF THE RECEIPT OF FEDERAL FUNDS FOR THE FISCAL YEAR ENDING JUNE 30, 2021; ALLOWING APPROPRIATIONS TO CONTINUE INTO THE 2023 AND 2025 BIENNIUMS; PROVIDING CONDITIONS AND RESTRICTIONS ON THE USE OF FUNDS; CREATING ADVISORY COMMISSIONS RELATED TO INFRASTRUCTURE, COMMUNICATIONS, ECONOMIC TRANSFORMATION AND STABILIZATION AND WORKFORCE DEVELOPMENT, AND HEALTH; PROVIDING DEADLINES AND OTHER CONDITIONS RELATED TO THE GRANT PROCESS; REQUIRING THE USE OF MATCHING FUNDS FOR CERTAIN GRANTS; PROVIDING FOR A TECHNICAL ASSISTANCE TEAM TO ASSIST LOCAL GOVERNMENTS IN THE GRANT PROCESS; PROVIDING FOR FUNDING FOR STATE CAPITAL PROJECTS AND GRANTS FOR WATER AND SEWER INFRASTRUCTURE PROJECTS; PROVIDING MINIMUM ALLOCATION GRANTS TO LOCAL GOVERNMENTS FOR QUALIFYING PROJECTS; PROVIDING FOR A GRANT PROCESS FOR ECONOMIC TRANSFORMATION AND STABILIZATION PROJECTS AND WORKFORCE DEVELOPMENT; PROVIDING GRANTS TO REGIONAL WATER AUTHORITIES; REQUIRING PERFORMANCE MEASURES AND REPORTING ON PROJECTS; PROVIDING COORDINATION INSTRUCTIONS TO FUND QUALIFYING LONG-RANGE PROJECTS WITH FEDERAL FUNDS; PROVIDING THE EXECUTIVE THE AUTHORITY TO MODIFY AND REPORT MODIFICATIONS TO APPROPRIATIONS AND PARAMETERS OF PROGRAMS TO THE LEGISLATIVE FINANCE COMMITTEE; PROVIDING FOR A REDUCTION TO CERTAIN GRANT AWARDS TO	

	LOCAL GOVERNMENTS BASED ON HEALTH REGULATIONS THAT ARE MORE STRICT THAN THOSE OF THE STATE; PROVIDING FOR ADMINISTRATION AND AUDIT COSTS; ESTABLISHING EDUCATIONAL MAINTENANCE OF EFFORT AND EQUITY PAYMENTS AND PARAMETERS FOR THEIR USE; PROHIBITING THE USE OF AMERICAN RESCUE PLAN ACT FUNDS FOR LOBBYING ACTIVITIES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 2-17-603, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	1448
402	(<i>House Bill No. 325; B. Usher</i>) ESTABLISHING SUPREME COURT DISTRICTS; PROVIDING FOR THE SELECTION OF THE CHIEF JUSTICE; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE ELECTORATE AT THE 2022 GENERAL ELECTION; AMENDING SECTION 3-2-101, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.	1469
403	(<i>House Bill No. 7; M. Hopkins</i>) IMPLEMENTING THE RECLAMATION AND DEVELOPMENT GRANTS PROGRAM; APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR GRANTS UNDER THE RECLAMATION AND DEVELOPMENT GRANTS PROGRAM; PRIORITIZING PROJECT GRANTS AND AMOUNTS; ESTABLISHING CONDITIONS FOR GRANTS; AND PROVIDING AN EFFECTIVE DATE.	1471
404	(<i>House Bill No. 66; T. Moore</i>) REAUTHORIZING THE SECURITIES RESTITUTION ASSISTANCE FUND; EXTENDING THE SUNSET DATE OF THE RESTITUTION FUND TO JUNE 30, 2027; AMENDING SECTIONS 30-10-115 AND 30-10-209, MCA; AMENDING SECTION 16, CHAPTER 58, LAWS OF 2011, AND SECTION 55, CHAPTER 151, LAWS OF 2017; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	1473
405	(<i>House Bill No. 112; J. Fuller</i>) CREATING THE SAVE WOMEN'S SPORTS ACT; REQUIRING PUBLIC SCHOOL ATHLETIC TEAMS TO BE DESIGNATED BASED ON BIOLOGICAL SEX; PROVIDING A CAUSE OF ACTION FOR CERTAIN VIOLATIONS OF THE ACT; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING AN EFFECTIVE DATE.	1475
406	(<i>House Bill No. 233; F. Anderson</i>) REVISING AGE PARAMETERS RELATED TO SCHOOL FUNDING; REVISING THE DEFINITION OF PUPIL; ALLOWING CERTAIN STUDENTS WITH DISABILITIES UP TO 21 YEARS OF AGE TO BE INCLUDED IN AVERAGE NUMBER BELONGING CALCULATIONS; AMENDING SECTIONS 20-1-101 AND 20-9-311, MCA; AND PROVIDING AN EFFECTIVE DATE.....	1476
407	(<i>House Bill No. 247; M. Bertoglio</i>) REVISING MOTOR VEHICLE REGISTRATION; REQUIRING THE DEPARTMENT OF JUSTICE TO DEFINE THE NUMBER OF VEHICLES NEEDED TO CONSTITUTE A FLEET; EXEMPTING VEHICLES WITH FLEET LICENSE PLATES FROM NEEDING REGISTRATION DECALS TO BE AFFIXED; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 61-3-318, 61-3-323, 61-3-324, 61-3-325, AND 61-14-101, MCA.	1483
408	(<i>House Bill No. 257; J. Hinkle</i>) GENERALLY REVISING LAWS RELATED TO PROHIBITING ACTIONS THAT IMPEDE A PRIVATE BUSINESS'S ABILITY TO CONDUCT BUSINESS; PROHIBITING CERTAIN TYPES OF LOCAL GOVERNMENT ORDINANCES AND RESOLUTIONS; PROHIBITING AN EMERGENCY PLAN OR PROGRAM THAT	

- RESTRICTS THE ABILITY OF A PRIVATE BUSINESS TO CONDUCT BUSINESS; PROHIBITING A LOCAL BOARD OF HEALTH AND LOCAL HEALTH OFFICER FROM CERTAIN ACTIONS THAT RESTRICT THE ABILITY OF A PRIVATE BUSINESS TO CONDUCT BUSINESS; AMENDING SECTIONS 7-1-111, 7-1-2103, 7-1-4124, 7-5-103, 7-5-121, 7-5-4201, 10-3-301, 50-2-116, 50-2-118, 50-2-123, AND 50-2-124, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.....1486
- 409 (*House Bill No. 273; D. Skees*) REPEALING THE LAWS AUTHORIZING THE PEOPLE OF THE STATE OF MONTANA THROUGH STATEWIDE VOTE TO APPROVE OR REJECT A PROPOSED NUCLEAR POWER FACILITY CERTIFIED UNDER THE MONTANA MAJOR FACILITY SITING ACT; AMENDING SECTIONS 75-1-207, 75-2-103, 75-5-103, 75-20-104, AND 75-20-201, MCA; REPEALING SECTIONS 75-20-1201, 75-20-1202, 75-20-1203, 75-20-1204, AND 75-20-1205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.1498
- 410 (*House Bill No. 336; B. Ler*) ESTABLISHING THE INTERSTATE COOPERATIVE MEATPACKING COMPACT; PROVIDING FOR COMMERCE BETWEEN STATES FOR STATE-INSPECTED MEAT; PROVIDING THAT STATE INSPECTIONS MUST BE AT LEAST EQUAL TO FEDERAL LAWS AND REGULATIONS; ESTABLISHING PARTICIPATION CRITERIA; PROVIDING FOR A COMPACT ADMINISTRATOR IN PARTICIPATING STATES; PROVIDING A PROCESS FOR DISPUTE RESOLUTION AND REVOCATION OF PARTICIPATION; PROVIDING DEFINITIONS; PROVIDING A CONTINGENT EFFECTIVE DATE; AND PROVIDING A TERMINATION DATE AND A CONTINGENT TERMINATION DATE.1512
- 411 (*House Bill No. 426; D. Lenz*) REVISING LAWS RELATING TO THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN; REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO RESPOND TO REPORTS FROM THE OFFICE; ESTABLISHING A TIMELINE FOR RESPONSES; CLARIFYING THAT THE OMBUDSMAN MAY INDEPENDENTLY INVESTIGATE A MATTER BEING ADDRESSED IN ANOTHER MANNER; AND AMENDING SECTIONS 41-3-209, 41-3-1211, AND 41-3-1212, MCA.1517
- 412 (*House Bill No. 449; F. Garner*) REVISING LAWS REGARDING ELECTRONIC MONITORING AS A CONDITION OF PRETRIAL RELEASE; CREATING A REBUTTABLE PRESUMPTION THAT ELECTRONIC MONITORING BE IMPOSED AS A CONDITION OF PRETRIAL RELEASE WHEN AN OFFENSE INVOLVES FELONY PARTNER OR FAMILY MEMBER ASSAULT, STRANGULATION OF A PARTNER OR FAMILY MEMBER, FELONY STALKING, OR FELONY VIOLATION OF AN ORDER OF PROTECTION; AMENDING SECTION 46-9-108, MCA; AND PROVIDING AN EFFECTIVE DATE.....1519
- 413 (*House Bill No. 602; M. Stromswold*) GENERALLY REVISING WARRANT REQUIREMENTS FOR DNA SEARCH RESULTS; REQUIRING A WARRANT FOR A SEARCH FROM A CONSUMER DNA DATABASE; REQUIRING A WARRANT FOR A FAMILIAL DNA SEARCH OR SEARCH RESULTS FROM PARTIAL MATCHING FROM THE STATE DNA IDENTIFICATION INDEX OR A CONSUMER DNA DATABASE; AND PROVIDING DEFINITIONS.....1520

414	<i>(House Bill No. 610; R. Whiteman Pena)</i> ESTABLISHING THE TERRY SPOTTED WOLF, SR. MEMORIAL HIGHWAY IN BIG HORN COUNTY; DIRECTING THE DEPARTMENT OF TRANSPORTATION TO INSTALL SIGNS AND TO INCLUDE THE MEMORIAL HIGHWAY ON THE NEXT PUBLICATION OF THE STATE HIGHWAY MAP; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	1521
415	<i>(House Bill No. 641; S. Gist)</i> REVISING LAWS RELATED TO SEARCH AND RESCUE UNITS; AUTHORIZING A SEARCH AND RESCUE UNIT TO POSSESS HUMAN REMAINS FOR TRAINING SEARCH AND RESCUE CANINES; REVISING LAWS RELATED TO ANATOMICAL GIFTS TO ALLOW SEARCH AND RESCUE UNITS AS AUTHORIZED DONEES IN CERTAIN CIRCUMSTANCES; ALLOWING MONETARY DONATIONS FOR THE SUPPORT AND TRAINING OF SEARCH AND RESCUE UNITS; PROVIDING A STATUTORY APPROPRIATION; AND AMENDING SECTIONS 7-32-235, 17-7-502, AND 72-17-202, MCA.	1522
416	<i>(House Bill No. 644; J. Windy Boy)</i> ESTABLISHING THE TRIBAL COMPUTER PROGRAMMING BOOST SCHOLARSHIP PROGRAM; ASSIGNING ADMINISTRATION OF THE TEACHER PROFESSIONAL DEVELOPMENT COMPONENT OF THE PROGRAM TO THE OFFICE OF PUBLIC INSTRUCTION AND THE INCENTIVIZED STUDENT TRAINING COMPONENT OF THE PROGRAM TO THE DEPARTMENT OF LABOR AND INDUSTRY; DESCRIBING THE PURPOSES AND PARAMETERS OF THE PROGRAM; PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.	1526
417	<i>(House Bill No. 696; B. Usher)</i> GENERALLY REVISING LAWS RELATED TO CRISIS INTERVENTION TEAMS; REVISING THE ADMINISTRATION OF THE PROGRAM; REQUIRING REPORTING TO THE LEGISLATURE; PROVIDING AN APPROPRIATION; AMENDING SECTION 44-7-110, MCA; AND PROVIDING AN EFFECTIVE DATE.....	1528
418	<i>(House Bill No. 702; J. Carlson)</i> PROHIBITING DISCRIMINATION BASED ON A PERSON'S VACCINATION STATUS OR POSSESSION OF AN IMMUNITY PASSPORT; PROVIDING AN EXCEPTION AND AN EXEMPTION; PROVIDING AN APPROPRIATION; AND PROVIDING EFFECTIVE DATES.	1529
419	<i>(Senate Bill No. 44; J. Esp)</i> GENERALLY REVISING LAWS RELATED TO SUBDIVISION SANITATION REVIEW; PROVIDING DEFINITIONS; EXTENDING RULEMAKING AUTHORITY; ALLOWING LOCAL ENTITIES TO ESTABLISH FEES FOR SUBDIVISION AND SUBDIVISION EXEMPTION REVIEW; REVISING SUBDIVISION EXEMPTIONS; REQUIRING NOTIFICATION TO PURCHASERS FOR CERTAIN UNREVIEWED LOTS; AND AMENDING SECTIONS 76-4-102, 76-4-103, 76-4-104, 76-4-105, 76-4-111, 76-4-113, 76-4-125, 76-4-129, 76-4-130, AND 76-4-131, MCA.....	1531
420	<i>(Senate Bill No. 76; D. Salomon)</i> REVISING CAPTIVE INSURANCE LAWS PERTAINING TO THE CAPTIVE INSURANCE REGULATORY AND SUPERVISION ACCOUNT; INCREASING THE PERCENTAGE OF PREMIUM TAX PAID INTO THE CAPTIVE INSURANCE REGULATORY AND SUPERVISION ACCOUNT; PROVIDING FOR FUND TRANSFERS; AND AMENDING SECTION 33-28-120, MCA.....	1537

- 421 (*Senate Bill No. 142; K. Bogner*) INCREASING THE NUMBER OF CHILDREN WHO CAN RECEIVE DAY CARE AT A GROUP DAY-CARE HOME OR FAMILY DAY-CARE HOME; AND AMENDING SECTION 52-2-703, MCA.1538
- 422 (*Senate Bill No. 149; T. McGillvray*) PROVIDING FOR THE ESTABLISHMENT OF HEALTH CARE SHARING MINISTRIES; DEFINING HEALTH CARE SHARING MINISTRY; PROVIDING FOR DISCLAIMERS ON MATERIALS DISTRIBUTED BY HEALTH CARE SHARING MINISTRIES; EXEMPTING HEALTH CARE SHARING MINISTRIES FROM REGULATION AS INSURANCE; AND AMENDING SECTIONS 33-1-102 AND 33-1-201, MCA.1540
- 423 (*Senate Bill No. 214; G. Hertz*) GENERALLY REVISING THE TEMPORARY PROPERTY TAX EXEMPTION FOR TRIBAL PROPERTY; REQUIRING THE DEPARTMENT OF REVENUE TO NOTIFY THE COUNTY IN WHICH THE PROPERTY IS LOCATED OF THE EXEMPTION APPLICATION AND APPROVAL OF THE EXEMPTION; PROVIDING FOR RECAPTURE OF TAXES IF THE TRUST APPLICATION IS DENIED OR NOT APPROVED WITHIN 5 YEARS; EXPANDING RULEMAKING AUTHORITY; AMENDING SECTION 15-6-230, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.....1543
- 424 (*Senate Bill No. 232; T. Gauthier*) REVISING LAWS RELATED TO HIGHWAY PATROL OFFICER COMPENSATION; REQUIRING THAT THE SALARY SURVEY USED TO ESTABLISH THE BASE SALARY FOR HIGHWAY PATROL OFFICERS INCLUDE CERTAIN CITY POLICE DEPARTMENTS; AND AMENDING SECTION 2-18-303, MCA.....1544
- 425 (*Senate Bill No. 234; G. Vance*) PROVIDING THE UNEMPLOYMENT INSURANCE PROGRAM INTEGRITY ACT; PROVIDING DEFINITIONS; REQUIRING THE DEPARTMENT OF LABOR AND INDUSTRY TO VERIFY THE INTEGRITY OF THE UNEMPLOYMENT INSURANCE ROLLS; REQUIRING REPORTING TO THE LEGISLATURE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.1545
- 426 (*Senate Bill No. 243; B. Bennett*) REVISING DOMICILE PRESUMPTIONS FOR PURPOSES OF DETERMINING IN-STATE CLASSIFICATION FOR TUITION PURPOSES; ESTABLISHING A PRESUMPTION THAT A MEMBER OF THE MONTANA NATIONAL GUARD IS DOMICILED IN MONTANA; AMENDING SECTION 20-25-503, MCA; AND PROVIDING AN EFFECTIVE DATE.1546
- 427 (*Senate Bill No. 263; M. Cuffe*) GENERALLY REVISING CLASS 10 PROPERTY TAXATION OF FOREST LANDS; REVISING THE TAX RATE ON FOREST PRODUCTIVITY VALUE; AMENDING SECTION 15-6-143, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.....1547
- 428 (*Senate Bill No. 284; R. Tempel*) WAIVING CERTAIN COSTS INCURRED BY COUNTIES, CITIES, AND TOWNS RELATED TO OPENCUT MINING OPERATIONS; AMENDING SECTIONS 76-22-116 AND 82-4-405, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.1548
- 429 (*Senate Bill No. 285; S. Hinebauch*) ALLOWING ANY TYPE OF RETAIL TRANSACTION AS EVIDENCE FOR ESTIMATING AGRICULTURAL USAGE OF GASOLINE; AMENDING SECTION 15-70-430, MCA; AND PROVIDING AN EFFECTIVE DATE.1549

- 430 (*Senate Bill No. 288; W. Sales*) REVISING THE PROPERTY TAX EXEMPTION FOR AGRICULTURAL PROCESSING FACILITIES; EXPANDING THE EXEMPTION TO ALL TYPES OF OILSEED PROCESSING FACILITIES; REMOVING THE EMPLOYMENT REQUIREMENT; AMENDING SECTION 15-6-220, MCA; AND PROVIDING AN APPLICABILITY DATE 1550
- 431 (*Senate Bill No. 308; J. Welborn*) GENERALLY REVISING BANKING LAWS; PROVIDING FOR THE MUTUAL SAVINGS AND LOAN ASSOCIATION ACT; PROVIDING ADMINISTRATIVE HEARING AND PENALTIES; PROVIDING CRIMINAL LIABILITIES; PROVIDING FOR EXAMINATIONS BY THE DEPARTMENT; PROVIDING FOR MUTUAL ASSOCIATIONS; PROVIDING FOR DEPARTMENT RULEMAKING; PROVIDING REPORTS FOR THE DEPARTMENT; PROVIDING FOR CONFIDENTIALITY; PROVIDING PROHIBITED PRACTICES; PROVIDING FOR FORMATION OF A MUTUAL ASSOCIATION; PROVIDING FOR DEPARTMENT INVESTIGATIONS; PROVIDING FOR ARTICLES OF INCORPORATION AND BYLAWS REQUIREMENTS; PROVIDING FOR A CERTIFICATE OF AUTHORITY TO COMMENCE BUSINESS; PROVIDING FOR CONVERSION FROM A FEDERAL MUTUAL SAVINGS AND LOAN TO A STATE MUTUAL SAVINGS AND LOAN; PROVIDING FOR CONVERSIONS INTO FEDERAL SAVINGS AND LOAN ASSOCIATIONS; PROVIDING REQUIREMENTS OF A STATE MUTUAL ASSOCIATION; PROVIDING REQUIREMENTS FOR MEMBERSHIP IN A FEDERAL HOME LOAN BANK; PROVIDING FOR MERGERS OF MUTUAL ASSOCIATIONS; PROVIDING FOR SALES OF BRANCHES; PROVIDING FOR BUILDING AND LOAN ASSOCIATIONS AND REQUIREMENTS; PROVIDING FOR INVESTMENT IN CERTAIN SECURITIES; PROVIDING FOR CERTIFIED CHECKS; PROVIDING DEPOSIT REQUIREMENTS; PROVIDING GENERAL PROVISIONS; PROVIDING DEPARTMENT RESPONSIBILITY; PROVIDING FORMATION AND REORGANIZATION REQUIREMENTS; PROVIDING FOR OPERATION AND REGULATION; PROVIDING FOR DISSOLUTION, CLOSING, AND LIQUIDATION; PROVIDING FOR FEDERAL DEPOSIT INSURANCE CORPORATIONS; PROVIDING FOR REMOVAL OF DIRECTORS OR OFFICERS OF FINANCIAL INSTITUTIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AND REPEALING SECTIONS 32-2-101, 32-2-102, 32-2-103, 32-2-104, 32-2-105, 32-2-106, 32-2-107, 32-2-108, 32-2-109, 32-2-110, 32-2-111, 32-2-201, 32-2-202, 32-2-203, 32-2-204, 32-2-205, 32-2-206, 32-2-207, 32-2-208, 32-2-209, 32-2-210, 32-2-211, 32-2-212, 32-2-232, 32-2-233, 32-2-241, 32-2-242, 32-2-243, 32-2-244, 32-2-245, 32-2-251, 32-2-252, 32-2-253, 32-2-254, 32-2-255, 32-2-256, 32-2-257, 32-2-261, 32-2-262, 32-2-263, 32-2-264, 32-2-271, 32-2-301, 32-2-302, 32-2-303, 32-2-304, 32-2-305, 32-2-306, 32-2-307, 32-2-308, 32-2-309, 32-2-401, 32-2-402, 32-2-403, 32-2-404, 32-2-405, 32-2-406, 32-2-407, 32-2-408, 32-2-409, 32-2-410, 32-2-411, 32-2-412, 32-2-413, 32-2-414, 32-2-415, 32-2-416, 32-2-417, 32-2-418, 32-2-420, 32-2-431, 32-2-432, 32-2-441, 32-2-442, 32-2-501, 32-2-502, AND 32-2-503, MCA 1551
- 432 (*Senate Bill No. 363; S. Fitzpatrick*) GENERALLY REVISING INSURANCE LAWS; REVISING LAWS RELATING TO ANNUITIES; UPDATING MONTANA STATUTORY LANGUAGE TO CONFORM WITH NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS LANGUAGE; AMENDING THE MONTANA SUITABILITY IN ANNUITY

TRANSACTIONS ACT; PROHIBITING A PRIVATE CAUSE OF ACTION RELATING TO STANDARDS GOVERNING CONDUCT OF A FIDUCIARY OR A FIDUCIARY RELATIONSHIP; REVISING LAWS RELATING TO DUTIES OF INSURERS RELATING TO ANNUITY TRANSACTIONS; REVISING LAWS RELATED TO COMPLIANCE MITIGATION; REVISING LAWS RELATED TO PRODUCER TRAINING; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 33-20-802, 33-20-803, 33-20-804, 33-20-805, 33-20-806, AND 33-20-807, MCA.	1596
433 (<i>House Bill No. 380; K. Seekins-Crowe</i>) REQUIRING SENATE CONFIRMATION FOR MEMBERS OF THE JUDICIAL STANDARDS COMMISSION; AND AMENDING SECTION 3-1-1101, MCA.	1607
434 (<i>House Bill No. 464; M. Regier</i>) REPEALING THE LOCAL OPTION MOTOR FUEL EXCISE TAX; REPEALING SECTIONS 7-14-301, 7-14-302, 7-14-303, AND 7-14-304, MCA; AND PROVIDING AN EFFECTIVE DATE....	1608
435 (<i>Senate Bill No. 81; K. Regier</i>) REVISING 9-1-1 FEES; REQUIRING THE PAYMENT OF 9-1-1 FEES FOR PREPAID WIRELESS SERVICES; ESTABLISHING HOW 9-1-1 FEES ARE IMPOSED ON SERVICES; ESTABLISHING A PROCESS FOR THE COLLECTION OF PREPAID WIRELESS 9-1-1 FEES; ALLOWING A SELLER OF PREPAID WIRELESS SERVICES TO DEDUCT AND RETAIN A PORTION OF THE FEES; LIMITING LIABILITY FOR SELLERS THAT ENGAGE IN PREPAID WIRELESS TRANSACTIONS; PROVIDING DEFINITIONS; AMENDING SECTIONS 10-4-101, 10-4-117, 10-4-201, 10-4-203, 10-4-204, 10-4-205, 10-4-211, 10-4-212, AND 10-4-305, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.	1608
436 (<i>Senate Bill No. 220; J. Cohenour</i>) REVISING ASSAULT LAWS; PROVIDING THAT THE CRIME OF ASSAULT ON A PEACE OFFICER OR JUDICIAL OFFICER INCLUDES ASSAULT WITH WHAT APPEARS TO BE A WEAPON; AND AMENDING SECTION 45-5-210, MCA.....	1614
437 (<i>Senate Bill No. 269; B. Hoven</i>) GENERALLY REVISING LAWS RELATED TO MOBILE HOME PARKS; REVISING THE ALLOWED CAPITAL GAINS TAX EXEMPTIONS FOR THE SALE OF A MOBILE HOME PARK; REQUIRING THE NOTIFICATION OF MOBILE HOME PARK OWNERS; ESTABLISHING A SPECIAL REVENUE ACCOUNT; PROVIDING A STATUTORY APPROPRIATION; AND AMENDING SECTIONS 15-31-163 AND 17-7-502, MCA.	1615
438 (<i>Senate Bill No. 378; S. Fitzpatrick</i>) LEGALIZING MULTIPLE COMPETITOR SPORTS POOLS; INCLUDING MULTIPLE COMPETITOR IN THE DEFINITION OF SPORTS POOL; PROVIDING FOR A FEE; PROVIDING A DEFINITION; AMENDING SECTIONS 23-5-501 AND 23-5-512, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1618
439 (<i>Senate Bill No. 392; G. Vance</i>) PROVIDING FOR THE GRANT OF RIGHT-OF-WAY BY THE MONTANA DEPARTMENT OF TRANSPORTATION FOR CERTAIN ELIGIBLE PROJECTS ALONG INTERSTATE HIGHWAYS; ESTABLISHING CRITERIA; SETTING TIMELINES FOR DEPARTMENT REVIEW; REQUIRING AN APPLICANT TO PAY THE DEPARTMENT CERTAIN FEES; GRANTING THE DEPARTMENT RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1619

440 (*Senate Bill No. 396; B. Hoven*) GENERALLY REVISING LAWS APPLYING TO BOILERS; CREATING A LICENSE FOR A LIMITED LOW-PRESSURE ENGINEER LICENSE; CREATING LICENSE REQUIREMENTS; ALLOWING THE DEPARTMENT OF LABOR AND INDUSTRY TO ASSESS FEES FOR LICENSING; PROVIDING INSPECTION REQUIREMENTS; PROVIDING RULEMAKING AUTHORITY TO THE DEPARTMENT OF LABOR AND INDUSTRY TO MAKE RULES PERTAINING TO LICENSURE AND LICENSURE FEES; AMENDING SECTIONS 50-74-303 AND 50-74-304, MCA; AND REPEALING SECTIONS 50-74-203 AND 50-74-219, MCA..... 1620

441 (*Senate Bill No. 87; D. Ankney*) GENERALLY REVISING LEGAL OBLIGATIONS OF COAL-FIRED POWER PLANT OWNERS RELATED TO PUBLIC WATER SUPPLIES; REQUIRING A WATER FEASIBILITY STUDY BE COMPLETED BY THE OWNERS OF A COAL-FIRED GENERATING UNIT TO ENSURE ACCESS TO A WATER SUPPLY; AMENDING SECTION 75-8-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE. 1623

442 (*Senate Bill No. 114; J. Ellsworth*) REVISING THE HOMESTEAD EXEMPTION; INCREASING THE HOMESTEAD VALUE LIMITATION; PROVIDING FOR ANNUAL INCREASES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 70-32-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1625

443 (*Senate Bill No. 134; J. Small*) REVISING BOARD OF INVESTMENT LOANS FOR COAL-FIRED GENERATION DECOMMISSIONING AND REMEDIATION; AMENDING SECTION 17-6-308, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1625

444 (*Senate Bill No. 147; M. McNally*) GENERALLY REVISING LAWS RELATED TO CAPITAL ENHANCEMENT PROGRAMS TO PROMOTE ENERGY CONSERVATION MEASURES; AUTHORIZING LOCAL GOVERNMENTS TO ADOPT COMMERCIAL PROPERTY-ASSESSED CAPITAL ENHANCEMENTS PROGRAMS THROUGH DISTRICTS TO PROMOTE ENERGY CONSERVATION MEASURES; ESTABLISHING THE COMMERCIAL PROPERTY-ASSESSED CAPITAL ENHANCEMENTS ACT OF MONTANA; PROVIDING FOR THE ADMINISTRATION OF COMMERCIAL PROPERTY-ASSESSED CAPITAL ENHANCEMENTS PROGRAMS THROUGH THE MONTANA FACILITY FINANCE AUTHORITY AND LOCAL GOVERNMENTS; PROVIDING COMMERCIAL PROPERTY-ASSESSED CAPITAL ENHANCEMENTS PROGRAM PLANNING REQUIREMENTS; ESTABLISHING PROCEDURES FOR LOCAL GOVERNMENT DEVELOPMENT OF COMMERCIAL PROPERTY-ASSESSED CAPITAL ENHANCEMENTS PROGRAMS; ALLOWING FOR VOLUNTARY ASSESSMENTS; PRESCRIBING THE POWERS AND DUTIES OF THE GOVERNING BODIES OF LOCAL GOVERNMENTS AND THE AUTHORITY RELATED TO COMMERCIAL PROPERTY-ASSESSED CAPITAL ENHANCEMENTS PROGRAMS; ESTABLISHING CONTRACT AND LABOR REQUIREMENTS FOR CONTRACTS; ALLOWING LOCAL GOVERNMENTS TO JOINTLY ESTABLISH COMMERCIAL PROPERTY-ASSESSED CAPITAL ENHANCEMENTS PROGRAMS; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AMENDING SECTIONS 90-7-202 AND 90-7-211, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE. 1627

- 445 (*Senate Bill No. 172; D. Howard*) GENERALLY REVISING EMERGENCY AND DISASTER LAWS; PROHIBITING DISCRIMINATORY ACTION BY THE GOVERNMENT; PROVIDING FOR CIVIL RELIEF; PROVIDING DEFINITIONS; AMENDING SECTIONS 10-3-101, 10-3-102, AND 10-3-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1634
- 446 (*Senate Bill No. 212; R. Osmundson*) REVISING LAWS RELATED TO PROPERTY TAX BILLS; REQUIRING A PROPERTY TAX BILL TO BE ITEMIZED BY MILL LEVY AND INDICATE WHICH LEVIES ARE VOTED LEVIES; REQUIRING PROPERTY TAX COMPARISON INFORMATION FOR THE COUNTY TO BE PROVIDED WITH NOTICES OF REAPPRAISAL AND PUBLISHED IN NEWSPAPERS; PROVIDING AN APPROPRIATION; AND AMENDING SECTIONS 15-7-111 AND 15-16-101, MCA. 1638
- 447 (*Senate Bill No. 254; M. McNally*) GENERALLY REVISING LAWS RELATED TO DAYLIGHT SAVING TIME; AUTHORIZING YEAR-ROUND MOUNTAIN DAYLIGHT SAVING TIME; EXEMPTING THE STATE AND ITS POLITICAL SUBDIVISIONS FROM MOUNTAIN STANDARD TIME; PROVIDING THAT YEAR-ROUND DAYLIGHT SAVING TIME IS CONTINGENT TO SIMILAR APPROVALS IN OTHER STATES; PROVIDING THAT YEAR-ROUND DAYLIGHT SAVING TIME IS ALSO CONTINGENT TO APPROVAL BY THE UNITED STATES DEPARTMENT OF TRANSPORTATION OR CONGRESS; AMENDING SECTIONS 30-14-1729 AND 71-1-313, MCA; AND PROVIDING A CONTINGENT EFFECTIVE DATE..... 1640
- 448 (*Senate Bill No. 272; G. Vance*) REVISING THE INFORMATION TECHNOLOGY BOARD; ALLOWING FOR THREE MEMBERS WHO ARE STATE AGENCY DIRECTORS; PROVIDING EXEMPTIONS; AMENDING SECTIONS 2-15-1021 AND 2-17-516, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE..... 1642
- 449 (*Senate Bill No. 297; J. Ellsworth*) PROVIDING FOR BROADBAND INFRASTRUCTURE DEPLOYMENT LAWS; ESTABLISHING THE MONTANA BROADBAND INFRASTRUCTURE ACCOUNTS; ESTABLISHING THE MONTANA BROADBAND DEPLOYMENT PROGRAM; PROVIDING A PROPOSAL PROCESS; PROVIDING DEFINITIONS; PROVIDING FOR AN APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A CONTINGENT TERMINATION DATE. 1644
- 450 (*Senate Bill No. 300; C. Glimm*) GENERALLY REVISING TRAFFIC EDUCATION LAWS; REVISING THE TRAFFIC EDUCATION DUTIES OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION; AUTHORIZING THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO APPROVE PRIVATE TRAFFIC EDUCATION COURSES; AUTHORIZING A SCHOOL DISTRICT TO PROVIDE THE TRAFFIC EDUCATION CLASSROOM INSTRUCTION IN A DISTANCE LEARNING FORMAT; ALLOWING A PARENT OR GUARDIAN OF A STUDENT WHO COMPLETES THE TRAFFIC EDUCATION CLASSROOM INSTRUCTION TO INSTRUCT THE STUDENT IN THE HANDS-ON DRIVING PORTION OF THE TRAFFIC EDUCATION COURSE; ALLOWING A TEMPORARY OPPORTUNITY FOR A STUDENT TO OBTAIN A LEARNER LICENSE AFTER TAKING AN ONLINE TRAFFIC EDUCATION COURSE DUE TO THE COVID-19 PANDEMIC; AMENDING SECTIONS 20-7-502, 20-7-503, 61-5-106, AND 61-5-132, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE. 1649

451	<i>(Senate Bill No. 320; E. Boldman)</i> PROVIDING FOR AN ALCOHOL DELIVERY ENDORSEMENT; PROVIDING DELIVERY REQUIREMENTS FOR BEER AND WINE; APPLYING THE DELIVERY REQUIREMENTS TO ON-PREMISES BEER AND WINE, ALL-BEVERAGES, AND RESTAURANT BEER AND WINE LICENSEES; REQUIRING THE DELIVERY TO BE PART OF THE DELIVERY OF FOOD THAT IS PREPARED BY THE LICENSEE; REQUIRING THE DELIVERY TO BE MADE BY THE LICENSEE; AND AMENDING SECTIONS 16-4-105, 16-4-201, AND 16-4-420, MCA.	1653
452	<i>(Senate Bill No. 336; C. Friedel)</i> GENERALLY REVISING LAWS RELATED TO DRIVER'S LICENSE RENEWALS; EXTENDING THE LICENSE RENEWAL PERIOD TO 1 YEAR PAST THE EXPIRATION DATE; EXTENDING THE LENGTH OF TIME A DRIVER'S LICENSE IS VALID FROM 8 TO 12 YEARS; AUTHORIZING RENEWAL APPLICANTS ON ACTIVE MILITARY DUTY TO RENEW A LICENSE BY MAIL OR ONLINE AS LONG AS THE APPLICANT IS ON ACTIVE DUTY; AMENDING SECTION 61-5-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1662
453	<i>(Senate Bill No. 354; S. Hinebaugh)</i> REVISING LAWS RELATED TO LAND SERVITUDES AND EASEMENTS; ALLOWING THE OWNER OF A SERVIENT TENEMENT TO MARK THE SERVITUDE BOUNDARIES WITH SIGNAGE; PROVIDING THAT THE EXTENT OF A SERVITUDE MAY NOT EXTEND BEYOND THOSE PURPOSES PROVIDED FOR IN WRITING; AMENDING SECTION 70-17-106, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1665
454	<i>(Senate Bill No. 374; C. Smith)</i> REVISING LAWS RELATING TO DISPENSING OF DRUGS BY MEDICAL PRACTITIONERS; ALLOWING MEDICAL PRACTITIONERS TO DISPENSE DRUGS TO PATIENTS; ESTABLISHING REQUIREMENTS FOR AND LIMITATIONS ON MEDICAL PRACTITIONER DISPENSING; REQUIRING REGISTRATION; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 37-2-104, 37-7-103, AND 50-31-307, MCA.	1666
455	<i>(Senate Bill No. 398; J. Ellsworth)</i> REVISING LAWS RELATING TO ALTERNATIVE NICOTINE PRODUCTS, VAPOR PRODUCTS, AND TOBACCO; LIMITING LOCAL GOVERNING UNITS FROM PROHIBITING THE SALE OF ALTERNATIVE NICOTINE PRODUCTS OR VAPOR PRODUCTS; INCREASING THE FEE TO SELL ALTERNATIVE NICOTINE PRODUCTS OR VAPOR PRODUCTS AND CERTAIN TOBACCO PRODUCTS; AMENDING SECTIONS 7-1-111, 16-11-122, AND 16-11-311, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1669
456	<i>(Senate Bill No. 402; C. Smith)</i> GENERALLY REVISING LAWS RELATING TO THE JUDICIARY; PROVIDING THAT JUDGES MAY NOT PRESIDE IN CERTAIN SITUATIONS; PROVIDING THAT THE JUDICIAL NOMINATING COMMISSION INCLUDE EIGHT ADDITIONAL LAY MEMBERS; INCREASING THE FEE FOR ENTRY OF JUDGMENT; AMENDING SECTIONS 3-1-1001 AND 25-1-201, MCA; AND PROVIDING EFFECTIVE DATES.	1671
457	<i>(Senate Bill No. 403; B. Keenan)</i> ALLOWING A COUNTY TO PROVIDE A DISTRIBUTION LIST TO A COUNTY WATER AND/OR SEWER DISTRICT TO NOTIFY PROPERTY OWNERS OF A PUBLIC HEARING; ALLOWING A COUNTY TO CHARGE A FEE FOR THE DISTRIBUTION LIST; AND AMENDING SECTIONS 2-6-1017 AND 7-13-2275, MCA.	1674

- 458 (*Senate Bill No. 184; M. Blasdel*) ESTABLISHING THE MONTANA ENTREPRENEUR MAGNET ACT; PROVIDING TAXPAYERS WITH CERTAIN NET LONG-TERM CAPITAL GAINS THAT ARE ATTRIBUTABLE TO THE SALE OR EXCHANGE OF CAPITAL STOCK OF A CORPORATION ACQUIRED ON ACCOUNT OF EMPLOYMENT BY THE CORPORATION OR WHILE EMPLOYED BY THE CORPORATION TO BE TAXED AT A SINGLE TAX RATE; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-30-2103 AND 15-30-2153, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE. 1677
- 459 (*Senate Bill No. 376; G. Hertz*) GENERALLY REVISING APPORTIONMENT OF INCOME FOR PURPOSES OF MONTANA'S CORPORATE INCOME TAX; ADOPTING A DOUBLE-WEIGHTED SALES FACTOR APPORTIONMENT MODEL; AMENDING SECTION 15-1-601, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE..... 1679
- 460 (*House Bill No. 4; D. Bartel*) APPROPRIATING MONEY THAT WOULD USUALLY BE APPROPRIATED BY BUDGET AMENDMENT TO VARIOUS STATE AGENCIES FOR FISCAL YEAR ENDING JUNE 30, 2021; PROVIDING THAT CERTAIN APPROPRIATIONS CONTINUE INTO STATE AND FEDERAL FISCAL YEARS 2022 AND 2023; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1692
- 461 (*House Bill No. 5; L. Jones*) GENERALLY REVISING LAWS RELATED TO CAPITAL DEVELOPMENT PROJECTS; APPROPRIATING MONEY FOR MAJOR REPAIR AND CAPITAL DEVELOPMENT PROJECTS FOR THE BIENNIUM ENDING JUNE 30, 2023; PROVIDING APPROPRIATIONS FOR OPERATIONS AND MAINTENANCE; PROVIDING DEFINITIONS; PROVIDING FOR A TRANSFER OF FUNDS; PROVIDING FOR AN APPROPRIATION FROM THE MONTANA HERITAGE CENTER ACCOUNT; PROVIDING AN APPROPRIATION; AMENDING SECTION 2, CHAPTER 422, LAWS OF 2019; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1701
- 462 (*House Bill No. 6; M. Hopkins*) IMPLEMENTING THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR GRANTS UNDER THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; PRIORITIZING PROJECT GRANTS AND AMOUNTS; ESTABLISHING CONDITIONS FOR GRANTS; AND PROVIDING AN EFFECTIVE DATE. 1711
- 463 (*House Bill No. 8; M. Hopkins*) APPROVING RENEWABLE RESOURCE PROJECTS AND AUTHORIZING LOANS; APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR LOANS UNDER THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; AUTHORIZING THE ISSUANCE OF COAL SEVERANCE TAX BONDS; CREATING STATE DEBT AND APPROPRIATING COAL SEVERANCE TAXES FOR DEBT SERVICE; PLACING CERTAIN CONDITIONS ON LOANS; AND PROVIDING AN EFFECTIVE DATE. 1716
- 464 (*House Bill No. 9; M. Hopkins*) ESTABLISHING PRIORITIES FOR CULTURAL AND AESTHETIC PROJECTS GRANT AWARDS; APPROPRIATING MONEY FOR CULTURAL AND AESTHETIC GRANTS; AND PROVIDING AN EFFECTIVE DATE..... 1719

465 (*House Bill No. 10; K. Holmlund*) REVISING LAWS RELATED TO INFORMATION TECHNOLOGY CAPITAL PROJECTS; APPROPRIATING MONEY FOR INFORMATION TECHNOLOGY CAPITAL PROJECTS FOR THE BIENNIUM ENDING JUNE 30, 2023; PROVIDING FOR MATTERS RELATING TO THE APPROPRIATIONS; PROVIDING FOR A TRANSFER OF FUNDS FROM THE GENERAL FUND TO THE LONG-RANGE INFORMATION TECHNOLOGY PROGRAM ACCOUNT; PROVIDING FOR THE DEVELOPMENT AND ACQUISITION OF NEW INFORMATION TECHNOLOGY SYSTEMS FOR THE DEPARTMENT OF ADMINISTRATION, THE DEPARTMENT OF LABOR AND INDUSTRY, AND THE DEPARTMENT OF TRANSPORTATION; PROMOTING STATEWIDE NETWORKS EFFICIENCIES; AND PROVIDING AN EFFECTIVE DATE.1722

466 (*House Bill No. 11; W. McKamey*) APPROPRIATING MONEY FROM THE TREASURE STATE ENDOWMENT SPECIAL REVENUE ACCOUNT TO THE DEPARTMENT OF COMMERCE FOR INFRASTRUCTURE PROJECTS, EMERGENCY GRANTS FOR FINANCIAL ASSISTANCE TO LOCAL GOVERNMENTS, AND INFRASTRUCTURE PLANNING GRANTS; AUTHORIZING GRANTS FROM THE TREASURE STATE ENDOWMENT SPECIAL REVENUE ACCOUNT; PLACING CONDITIONS AND PROVIDING CLARIFICATIONS ON GRANTS AND FUNDS; APPROPRIATING MONEY FROM THE TREASURE STATE ENDOWMENT REGIONAL WATER SYSTEM SPECIAL REVENUE ACCOUNT TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR FINANCIAL ASSISTANCE TO REGIONAL WATER AUTHORITIES FOR REGIONAL WATER SYSTEM PROJECTS; AMENDING SECTION 90-6-710, MCA; AND PROVIDING AN EFFECTIVE DATE.1723

467 (*House Bill No. 12; M. Hopkins*) APPROPRIATING MONEY FROM THE HISTORIC PRESERVATION GRANT PROGRAM ACCOUNT TO THE DEPARTMENT OF COMMERCE FOR HISTORIC PRESERVATION PROJECTS; REQUIRING MATCHING FUNDS FOR GRANTS; AUTHORIZING GRANTS FROM THE HISTORIC PRESERVATION GRANT PROGRAM ACCOUNT; PLACING CONDITIONS ON GRANTS AND FUNDS; AND PROVIDING AN EFFECTIVE DATE.1728

468 (*House Bill No. 14; M. Hopkins*) PROVIDING FUNDING AND AUTHORIZATION FOR CAPITAL AND INFRASTRUCTURE PROJECTS STATEWIDE; APPROPRIATING MONEY TO THE DEPARTMENT OF ADMINISTRATION FOR CAPITAL PROJECTS; APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR FINANCIAL ASSISTANCE TO LOCAL GOVERNMENT INFRASTRUCTURE PROJECTS THROUGH THE TREASURE STATE ENDOWMENT PROGRAM; APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR GRANTS UNDER THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM AND THE RECLAMATION AND DEVELOPMENT GRANTS PROGRAM; AUTHORIZING PROJECT GRANT AMOUNTS; PLACING CONDITIONS UPON GRANTS AND FUNDS; PROVIDING FOR TRANSFERS OF FUNDS; PROVIDING APPROPRIATIONS FOR OPERATIONS AND MAINTENANCE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.1734

- 469 (*House Bill No. 20; B. Beard*) PERMITTING THE DEPARTMENT OF TRANSPORTATION TO PROVIDE GRANTS FOR COURTESY CARS AT MUNICIPAL AND STATE-OWNED AIRPORTS TO APPROPRIATE THIRD PARTIES; AMENDING SECTIONS 67-10-901, 67-10-902, 67-10-903, AND 67-10-904, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. 1742
- 470 (*House Bill No. 46; D. Bedey*) GENERALLY REVISING SPECIAL EDUCATION FUNDING LAWS; INCLUDING THE SPECIAL EDUCATION ALLOWABLE COST PAYMENT IN THE DEFINITION OF “BASE AID”; ESTABLISHING A METHOD FOR CALCULATING THE TOTAL SPECIAL EDUCATION ALLOCATION; APPLYING THE INFLATION FACTOR CALCULATED UNDER 20-9-326 TO THE TOTAL SPECIAL EDUCATION ALLOCATION FOR DETERMINING THE PRESENT LAW BASE CALCULATED UNDER TITLE 17, CHAPTER 7, PART 1, MCA; AMENDING SECTIONS 20-9-306 AND 20-9-326, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE. 1743
- 471 (*House Bill No. 63; J. Dooling*) GENERALLY REVISING INSURANCE REGULATORY LAWS; UPDATING REFERENCES TO FEDERAL REGULATIONS AND QUARTERLY LISTINGS OF ALIEN INSURERS; REQUIRING LIFE INSURERS TO ANNUALLY PROVIDE AN OPINION RELATING TO RESERVES; AMENDING SECTIONS 15-31-552, 33-2-307, 33-2-407, 33-20-505, 33-22-211, 33-22-1313, 33-22-1316, AND 33-32-102, MCA; AND PROVIDING AN EFFECTIVE DATE. 1747
- 472 (*House Bill No. 72; F. Garner*) REVISING FUNDING OF THE HIGHWAY PATROL OFFICERS’ RETIREMENT SYSTEM; PROVIDING FOR STATE SUPPLEMENTAL CONTRIBUTIONS FROM A STATE SPECIAL REVENUE ACCOUNT; PROVIDING FOR TRANSFERS; AMENDING SECTION 44-1-504, MCA; AND PROVIDING AN EFFECTIVE DATE AND A CONTINGENT TERMINATION DATE. 1756
- 473 (*House Bill No. 115; B. Mercer*) INCREASING PENALTIES FOR 5TH AND SUBSEQUENT DUI OFFENSES; AMENDING SECTION 61-8-731, MCA; AND PROVIDING AN APPLICABILITY DATE. 1757
- 474 (*House Bill No. 178; D. Bedey*) REVISING LAWS RELATED TO COUNTY AND MULTICOUNTY VETERANS’ SERVICE OFFICES; CLARIFYING GRANT DISPERSAL; AMENDING SECTION 10-2-116, MCA; AMENDING SECTION 6, CHAPTER 462, LAWS OF 2009; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE. 1761
- 475 (*House Bill No. 181; K. Zolnikov*) TEMPORARILY REDIRECTING AND STATUTORILY APPROPRIATING TECHNOLOGY FUNDING TO E-RATE BROADBAND MATCHING FUNDS; PROVIDING AN APPROPRIATION; AMENDING SECTION 20-9-534, MCA; AND PROVIDING AN EFFECTIVE DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE. 1762
- 476 (*House Bill No. 191; M. Hopkins*) REVISING THE RESIDENTIAL PROPERTY TAX CREDIT FOR THE ELDERLY; REVISING THE DEFINITION OF HOUSEHOLD INCOME; INCREASING THE MAXIMUM CREDIT THAT MAY BE CLAIMED; AMENDING SECTIONS 15-30-2337 AND 15-30-2340, MCA; AND PROVIDING EFFECTIVE DATES AND TERMINATION DATES. 1763

477	(House Bill No. 231; M. Regier) REVISING CERTIFICATES OF NEED TO INCLUDE ONLY LONG-TERM CARE FACILITIES AND SERVICES; AND AMENDING SECTIONS 50-5-101, 50-5-301, 50-5-302, 50-5-304, 50-5-307, 50-5-308, 50-5-309, AND 53-6-110, MCA.	1775
478	(House Bill No. 267; N. Duram) GENERALLY REVISING LAWS RELATED TO APPROACHING AND PASSING SCHOOL BUSES; PROHIBITING A MOTOR VEHICLE FROM OVERTAKING A STOPPED SCHOOL BUS ON THE RIGHT; PROHIBITING A SCHOOL BUS FROM ACTUATING FLASHING RED LIGHTS WHEN THE BUS IS STOPPED OUTSIDE OF THE ROADWAY TO RECEIVE OR DISCHARGE SCHOOL CHILDREN; REQUIRING USE OF EXTENDED STOP ARMS IN CERTAIN CIRCUMSTANCES; REQUIRING SCHOOL DISTRICT TRUSTEES TO APPROVE EACH BUS STOP THAT REQUIRES A SCHOOL CHILD TO CROSS THE STREET; PROVIDING PENALTIES; AMENDING SECTIONS 61-8-301 AND 61-8-351, MCA; AND PROVIDING EFFECTIVE DATES.	1785
479	(House Bill No. 276; M. Caferro) ADDING A CERTIFIED BEHAVIORAL HEALTH PEER SUPPORT SPECIALIST TO THE BOARD OF BEHAVIORAL HEALTH; INCORPORATING BEHAVIORAL HEALTH PEER SUPPORT INTO THE BOARD OF BEHAVIORAL HEALTH DUTIES; AND AMENDING SECTIONS 2-15-1744 AND 3-22-201, MCA.	1788
480	(House Bill No. 279; S. Berglee) REVISING LAWS RELATED TO THE TAX CREDIT SCHOLARSHIP PROGRAM AND THE INNOVATIVE EDUCATIONAL PROGRAM; REMOVING THE ASSESSMENT REQUIREMENTS FOR QUALIFIED EDUCATION PROVIDERS; REVISING LIMITS ON SCHOLARSHIP AMOUNTS; ALLOWING TAX CREDITS EARNED UNDER THE PROGRAMS TO BE CARRIED FORWARD; REVISING THE TAX CREDIT LIMIT AND THE AGGREGATE LIMIT OF CREDITS UNDER THE PROGRAMS; REVISING THE PREAPPROVAL PROCESS FOR THE TAX CREDIT SCHOLARSHIP PROGRAM; STREAMLINING THE DONATION PROCESS FOR THE INNOVATIVE EDUCATION PROGRAM; EXTENDING THE TERMINATION DATE FOR THE TAX CREDIT SCHOLARSHIP PROGRAM AND THE INNOVATIVE EDUCATIONAL PROGRAM; AMENDING SECTIONS 15-30-3101, 15-30-3102, 15-30-3103, 15-30-3104, 15-30-3106, 15-30-3110, 15-30-3111, AND 15-30-3113, MCA; AMENDING SECTION 33, CHAPTER 457, LAWS OF 2015; REPEALING SECTIONS 20-9-901, 20-9-902, 20-9-903, 20-9-904, 20-9-905, AND 20-9-906, MCA; REPEALING SECTIONS 24, 25, 26, AND 27, CHAPTER 457, LAWS OF 2015; AND PROVIDING EFFECTIVE DATES, APPLICABILITY DATES, AND TERMINATION DATES.	1790
481	(Senate Bill No. 39; K. Regier) REVISING LAWS RELATED TO SEXUAL OFFENDER EVALUATIONS AND TREATMENT; PROVIDING THAT THE BOARD OF BEHAVIORAL HEALTH AND CERTAIN OTHER BOARDS JOINTLY ESTABLISH AND MAINTAIN STANDARDS AND GUIDELINES FOR EVIDENCE-BASED ASSESSMENT, EVALUATION, TREATMENT, AND BEHAVIORAL MONITORING OF SEXUAL OFFENDERS; PROVIDING FOR A LICENSE ENDORSEMENT FOR CERTAIN PROFESSIONALS WHO CONDUCT PSYCHOSEXUAL EVALUATIONS OF SEXUAL OFFENDERS; REVISING QUALIFICATIONS FOR SEXUAL OFFENDER EVALUATORS; PROVIDING RULEMAKING	

AUTHORITY; AMENDING SECTIONS 46-18-111 AND 46-23-509, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.	1807
482 (<i>Senate Bill No. 47; R. Lynch</i>) REVISING LAWS RELATED TO COMMITMENTS TO THE DEPARTMENT OF CORRECTIONS; REQUIRING THE DEPARTMENT TO NOTIFY A SENTENCING JUDGE WHEN THE DEPARTMENT IS UNABLE TO HONOR THE JUDGE'S PLACEMENT RECOMMENDATION; AND REQUIRING THE DEPARTMENT TO COLLECT, ANALYZE, AND REPORT CERTAIN DATA.	1812
483 (<i>Senate Bill No. 51; J. Ellsworth</i>) EXEMPTING CERTAIN FIBER OPTIC OR COAXIAL CABLE FROM PROPERTY TAXATION; AMENDING SECTIONS 15-6-135, 15-6-156, AND 15-6-219, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.	1813
484 (<i>Senate Bill No. 52; J. Ellsworth</i>) REVISING THE LODGING FACILITY USE TAX AND THE SALES TAX ON LODGING AND RENTAL CARS; ALIGNING DEFINITIONS FOR THE LODGING FACILITY USE TAX AND THE SALES TAX ON LODGING; REQUIRING REGISTRATION AND COLLECTION BY SHORT-TERM RENTAL MARKETPLACES; AND AMENDING SECTIONS 15-65-101, 15-65-111, 15-65-112, 15-65-113, 15-65-114, 15-65-115, 15-68-101, 15-68-502, AND 76-8-103, MCA; AND PROVIDING AN APPLICABILITY DATE.	1819
485 (<i>Senate Bill No. 98; B. Gillespie</i>) REVISING THE CIRCUMSTANCES UNDER WHICH GRIZZLY BEARS MAY BE TAKEN BY LANDOWNERS TO PROTECT PERSONS OR LIVESTOCK; PROVIDING LEGISLATIVE FINDINGS; PROVIDING FOR AN ABSOLUTE DEFENSE; AMENDING SECTION 87-6-106, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.	1827
486 (<i>Senate Bill No. 116; D. Ankney</i>) REVISING LAWS RELATED TO ANTLERLESS ELK TAG LICENSES; CLARIFYING DEPARTMENTAL AUTHORITY TO AWARD ELK B TAG LICENSES BY DRAWING; AUTHORIZING A DISCOUNTED PRICE FOR CERTAIN ANTLERLESS ELK B TAG LICENSES; AUTHORIZING LIMITED LANDOWNER PREFERENCE TO RECEIVE ELK B TAG LICENSES; ELIMINATING THE CLASS A-7 ANTLERLESS ELK TAG LICENSE; AMENDING SECTIONS 87-1-325, 87-2-501, AND 87-2-513, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.	1828
487 (<i>Senate Bill No. 155; T. Jacobson</i>) PROVIDING FOR NONDISCRIMINATION IN ACCESS TO ANATOMICAL GIFTS AND ORGAN TRANSPLANTATION ON THE BASIS OF DISABILITY; PROVIDING A CAUSE OF ACTION FOR ALLEGED VIOLATION OF NONDISCRIMINATION PROVISIONS; PROHIBITING INSURERS FROM DENYING COVERAGE SOLELY ON THE BASIS OF DISABILITY; PROVIDING DEFINITIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	1831
488 (<i>Senate Bill No. 159; G. Hertz</i>) REDUCING THE TOP INDIVIDUAL INCOME TAX RATE; AMENDING SECTION 15-30-2103, MCA; AND PROVIDING APPLICABILITY DATES, EFFECTIVE DATES, AND TERMINATION DATES.	1834
489 (<i>Senate Bill No. 173; D. Howard</i>) GENERALLY REVISING EMERGENCY AND DISASTER SERVICES LAWS; ELIMINATING A CONTINUING EMERGENCY OR DISASTER WITHOUT LEGISLATIVE INVOLVEMENT; PROVIDING FOR A LEGISLATIVE POLLING PROCESS BY THE	

	SECRETARY OF STATE TO EXTEND A GOVERNOR'S DECLARATION OF EMERGENCY OR DISASTER; AMENDING SECTIONS 10-3-302 AND 10-3-303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	1837
490	(<i>Senate Bill No. 183; G. Hertz</i>) PROVIDING A STATUTE OF LIMITATIONS FOR OVERBILLING OF REGULATED TELECOMMUNICATIONS TARIFF CHARGES; PROVIDING A 2-YEAR STATUTE OF LIMITATIONS; PROVIDING FOR CONSISTENCY WITH FEDERAL PROVISIONS; AND PROVIDING AN APPLICABILITY DATE	1839
491	(<i>Senate Bill No. 191; R. Osmundson</i>) GENERALLY REVISING STATE FINANCE LAWS; REVISING LAWS RELATED TO THE BUDGET STABILIZATION FUND; REVISING THE PURPOSE OF THE BUDGET STABILIZATION FUND; DEFINING TERMS; REVISING THE CAPITAL DEVELOPMENTS LONG-RANGE BUILDING PROGRAM ACCOUNT; CLARIFYING BUDGET AMENDMENT REQUIREMENTS; PROVIDING LEGISLATIVE INTENT; REVISING LAWS RELATING TO THE TRANSFER OF DEFENDANTS AFTER SENTENCING; REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO REPORT TO LEGISLATIVE COMMITTEES PRIOR TO TAKING CERTAIN ACTIONS; PROVIDING FOR TRANSFERS AND APPROPRIATIONS; AMENDING SECTION 1, CHAPTER 1, LAWS OF 2019; AMENDING SECTIONS 17-7-130, 17-7-209, 17-7-402, 46-19-101, AND 53-6-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	1840
492	(<i>House Bill No. 221; A. Buckley</i>) ALLOWING CAMPAIGN CONTRIBUTIONS TO BE USED BY A CANDIDATE TO PAY FOR THE CANDIDATE'S CHILD-CARE EXPENSES WHILE ENGAGED IN CAMPAIGN ACTIVITY; REQUIRING REPORTING OF CHILD-CARE EXPENSES PAID WITH CAMPAIGN CONTRIBUTIONS; PROVIDING THAT IN-KIND CHILD CARE PROVIDED BY CERTAIN INDIVIDUALS IS NOT A CONTRIBUTION; PROHIBITING CAMPAIGN CONTRIBUTIONS TO BE USED FOR CHILD CARE AFTER THE CANDIDATE FILES THE CANDIDATE'S CLOSING REPORT; AND AMENDING SECTION 13-1-101, MCA.	1848
493	(<i>Senate Bill No. 303; T. McGillvray</i>) GENERALLY REVISING LAWS RELATED TO TELECOMMUNICATIONS CONTRACTS THAT PROVIDE SERVICES FOR STATE INMATES; REQUIRING AN INTERIM STUDY OF TELECOMMUNICATIONS CONTRACTS, FEES, AND COMMISSARY COSTS; REQUIRING A PERFORMANCE AUDIT OF THE INMATE WELFARE FUND; PROVIDING AN APPROPRIATION; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.	1854
494	(<i>Senate Bill No. 319; G. Hertz</i>) GENERALLY REVISING CAMPAIGN FINANCE LAWS; CREATING JOINT FUNDRAISING COMMITTEES; PROVIDING FOR CERTAIN REPORTING; ESTABLISHING THAT IF STUDENT ORGANIZATIONS THAT ARE REQUIRED TO REGISTER AS POLITICAL COMMITTEES ARE FUNDED THROUGH ADDITIONAL OPTIONAL STUDENT FEES, THOSE FEES MUST BE OPT-IN; PROHIBITING CERTAIN POLITICAL ACTIVITIES IN CERTAIN PLACES OPERATED BY A PUBLIC POSTSECONDARY INSTITUTION; PROVIDING FOR JUDICIAL RECUSALS UNDER CERTAIN CIRCUMSTANCES; PROVIDING PENALTIES; AMENDING SECTIONS 13-1-101, 13-35-225, 13-35-237, 13-37-201, 13-37-202, 13-37-203, 13-37-204, 13-37-205, 13-37-207, 13-37-208, 13-37-216, 13-37-217, 13-37-218,	

13-37-225, 13-37-226, 13-37-227, 13-37-228, AND 13-37-229, MCA; AND PROVIDING AN EFFECTIVE DATE.....	1855
495 (<i>Senate Bill No. 326; M. Lang</i>) GENERALLY REVISING LAWS RELATED TO PROVIDING FOR SPECIAL TAXES OR ASSESSMENTS BY RESOLUTION FOR IRRIGATION DISTRICT IMPROVEMENTS; PROVIDING NOTICE OF SPECIAL TAXES OR ASSESSMENTS; PROVIDING A RIGHT TO PROTEST SPECIAL TAXES OR ASSESSMENTS; PROVIDING FOR HEARINGS ON RESOLUTIONS TO LEVY SPECIAL TAXES AND ASSESSMENTS; REPEALING CERTAIN DISTRICT COURT REQUIREMENTS; AMENDING SECTIONS 85-7-2013, 85-7-2014, 85-7-2015, 85-7-2019, 85-7-2031, 85-7-2032, AND 85-7-2115, MCA; REPEALING SECTIONS 85-7-2016, 85-7-2017, AND 85-7-2018, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	1877
496 (<i>Senate Bill No. 327; J. Ellsworth</i>) PROHIBITING REGULATIONS FOR WASTING OF GAME BIRDS THAT ARE MORE RESTRICTIVE THAN FEDERAL REGULATIONS; PROVIDING AN EXCEPTION FOR MIGRATORY BIRDS; AND AMENDING SECTION 87-6-205, MCA.....	1883
497 (<i>Senate Bill No. 357; J. Gross</i>) GENERALLY REVISING LAWS RELATED TO TELEHEALTH SERVICES; ALLOWING HEALTH CARE PROVIDERS TO PROVIDE SERVICES BY MEANS OF TELEHEALTH; ALLOWING MEDICAID COVERAGE OF SERVICES PROVIDED BY MEANS OF TELEHEALTH; PROVIDING DEFINITIONS; CLARIFYING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 37-7-101, 37-7-201, 37-11-101, 37-11-105, 37-15-102, 37-15-202, 37-15-314, 37-15-315, 53-6-113, AND 53-6-155, MCA.....	1884
498 (<i>Senate Bill No. 365; K. Regier</i>) AN ACT GENERALLY REVISING LAWS REGARDING DRIVING UNDER THE INFLUENCE; PROVIDING DEFINITIONS; PROVIDING FOR DRIVING UNDER THE INFLUENCE CRIMES, TREATMENT REQUIREMENTS, A SOBRIETY MONITORING PROGRAM, FORFEITURE PROVISIONS, IMPLIED CONSENT AND ADMINISTRATIVE LICENSE SUSPENSION, APPEAL PROCESS, CONDITIONS OF ADMISSIBILITY, A PROCESS FOR ADMINISTRATION OF TESTS, CONDITIONS FOR RECEIVING A PROBATIONARY DRIVER'S LICENSE, OPEN CONTAINER VIOLATIONS, AND REVOCATION AND SUSPENSION OF LICENSE PROCEDURES; PROVIDING RULEMAKING AUTHORITY; PROVIDING PENALTIES; AMENDING SECTIONS 23-2-535, 44-4-1205, 45-5-106, 45-5-205, 45-5-207, 45-5-628, 46-16-130, 46-18-201, 46-18-236, 50-46-320, 53-9-103, 61-1-101, 61-2-107, 61-2-302, 61-5-205, 61-5-208, 61-5-212, 61-5-218, 61-5-231, 61-5-405, 61-8-101, 61-8-102, 61-8-805, 61-8-807, 61-11-101, AND 67-1-211, MCA; REPEALING SECTIONS 61-8-401, 61-8-402, 61-8-403, 61-8-404, 61-8-405, 61-8-406, 61-8-407, 61-8-408, 61-8-409, 61-8-410, 61-8-411, 61-8-421, 61-8-422, 61-8-440, 61-8-441, 61-8-442, 61-8-460, 61-8-461, 61-8-465, 61-8-714, 61-8-722, 61-8-731, 61-8-732, 61-8-733, 61-8-734, AND 61-8-741, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE.....	1898
499 (<i>Senate Bill No. 384; J. Esp</i>) REVISING AQUATIC INVASIVE SPECIES FEES FOR HYDROELECTRIC FACILITIES; AMENDING SECTION 15-72-601, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.....	1948

- 500 (*Senate Bill No. 385; G. Hertz*) GENERALLY REVISING PROPERTY TAX AND ASSESSMENT LAWS; REVISING SPECIAL DISTRICT LAWS; PROVIDING FUNDING LIMITATIONS FOR SPECIAL DISTRICTS THAT ENCOMPASS THE ENTIRE JURISDICTION OF A LOCAL GOVERNMENT; LIMITING THE DURATION OF CERTAIN SPECIAL DISTRICTS; ALLOWING A REFERENDUM TO EXTEND THE DURATION OF A SPECIAL DISTRICT; REVISING THE PETITION THRESHOLD REQUIRED TO CREATE A SPECIAL DISTRICT; AMENDING SECTIONS 7-11-1003, 7-11-1007, AND 7-11-1011, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE. 1948
- 501 (*Senate Bill No. 395; G. Hertz*) CREATING THE MONTANA PHARMACY BENEFIT MANAGER OVERSIGHT ACT; ESTABLISHING LICENSURE REQUIREMENTS FOR PHARMACY BENEFIT MANAGERS; PROHIBITING CERTAIN PRACTICES; PROHIBITING UNTRUE, DECEPTIVE, OR MISLEADING ADVERTISING; REQUIRING TRANSPARENCY AND MAXIMUM ALLOWABLE COST REPORTING; PROVIDING FOR NETWORK ADEQUACY; AUTHORIZING ENFORCEMENT AND EXAMINATION AUTHORITY; EXPANDING THE MAXIMUM ALLOWABLE COST LAWS TO GROUP AND BLANKET POLICIES; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AMENDING SECTIONS 33-17-102, 33-22-101, 33-22-170, 33-22-174, 33-30-102, 33-31-111, 33-35-306, 33-38-102, AND 39-71-2375, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE. 1952
- 502 (*Senate Bill No. 400; T. Manzella*) RESTRICTING A GOVERNMENTAL ENTITY'S ABILITY TO INTERFERE WITH FUNDAMENTAL PARENTAL RIGHTS; ESTABLISHING A CAUSE OF ACTION FOR INTERFERENCE WITH PARENTAL RIGHTS; PROVIDING A FILING FEE; AMENDING SECTION 25-1-202, MCA; AND PROVIDING AN APPLICABILITY DATE. 1968
- 503 (*Senate Bill No. 399; G. Hertz*) GENERALLY REVISING TAXATION OF INCOME, INCLUDING THE CORPORATE INCOME TAX; REQUIRING THE TAXATION OF INDIVIDUALS, PARTNERSHIPS, AND SUBCHAPTER S. CORPORATIONS, INCLUDING TRUSTS AND ESTATES, TO RELATE THE STATE INDIVIDUAL INCOME TAX TO FEDERAL TAXABLE INCOME; PROVIDING ADJUSTMENTS TO FEDERAL TAXABLE INCOME TO INCLUDE CERTAIN INCOME; PROVIDING ADJUSTMENTS TO FEDERAL TAXABLE INCOME TO EXCLUDE CERTAIN INCOME; ELIMINATING MOST INDIVIDUAL INCOME TAX DEDUCTIONS; ELIMINATING CERTAIN INDIVIDUAL INCOME TAX CREDITS; REVISING CERTAIN INDIVIDUAL INCOME TAX CREDITS; ELIMINATING CERTAIN CORPORATE INCOME TAX DEDUCTIONS AND CREDITS; REVISING INDIVIDUAL INCOME TAX RATES; PROVIDING A TRANSITION FOR CREDITS THAT ARE SUBJECT TO A CARRYFORWARD; PROVIDING A TRANSITION FOR DIFFERENCES IN FEDERAL AND MONTANA INCOME TAX LAWS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-18-1312, 7-14-1133, 7-14-1636, 7-34-2416, 15-1-222, 15-30-2101, 15-30-2102, 15-30-2103, 15-30-2104, 15-30-2113, 15-30-2151, 15-30-2153, 15-30-2303, 15-30-2328, 15-30-2329, 15-30-2393, 15-30-2501, 15-30-2512, 15-30-2602, 15-30-2605, 15-30-2606, 15-30-2618, 15-30-3003, 15-30-3004, 15-30-3005, 15-30-3312, 15-31-162, 15-31-163, 15-31-1007, 15-32-104, 15-32-106, 15-32-610, 15-61-202, 15-61-203, 15-62-103, 15-62-201, 15-62-206, 15-62-207, 15-62-208, 15-63-202, 19-2-1004, 19-17-407, 19-18-612, 19-19-504, 19-20-706, 19-21-212, 20-4-503, 20-25-902, 33-27-101,

33-27-102, 33-27-103, 37-4-104, 50-51-114, 53-2-211, 53-25-117, 53-25-118, 67-11-303, 70-9-803, 75-2-103, 75-5-103, 87-2-102, AND 87-2-105, MCA; REPEALING SECTIONS 7-21-3701, 7-21-3702, 7-21-3703, 7-21-3704, 7-21-3710, 7-21-3715, 15-30-2110, 15-30-2111, 15-30-2114, 15-30-2115, 15-30-2116, 15-30-2117, 15-30-2119, 15-30-2131, 15-30-2132, 15-30-2133, 15-30-2141, 15-30-2142, 15-30-2143, 15-30-2144, 15-30-2152, 15-30-2301, 15-30-2319, 15-30-2320, 15-30-2326, 15-30-2356, 15-30-2364, 15-30-2366, 15-30-2367, 15-30-2373, 15-30-2381, 15-31-131, 15-31-132, 15-31-134, 15-31-135, 15-31-136, 15-31-137, 15-31-171, 15-32-109, 15-32-115, 15-32-201, 15-32-202, 15-32-203, 15-32-401, 15-32-402, 15-32-404, 15-32-405, 15-32-406, 15-32-407, 15-32-501, 15-32-502, 15-32-503, 15-32-504, 15-32-505, 15-32-506, 15-32-507, 15-32-508, 15-32-509, 15-32-510, 15-32-701, 15-32-702, 15-32-703, AND 33-2-724, MCA; AND PROVIDING DELAYED EFFECTIVE DATES AND APPLICABILITY DATES.....	1975
504 (<i>House Bill No. 230; M. Regier</i>) GENERALLY REVISING EMERGENCY AND DISASTER LAWS; LIMITING THE LENGTH OF TIME FOR MARTIAL RULE WITHOUT LEGISLATIVE APPROVAL; PROVIDING FOR AN EXPEDITED LEGISLATIVE POLL BY THE SECRETARY OF STATE TO EXTEND A GOVERNOR'S DECLARATION OF EMERGENCY OR DISASTER; EXPEDITING THE SPECIAL SESSION POLLING PROCESS DURING A DISASTER OR EMERGENCY DECLARATION; PROVIDING FOR A CONTINUED STATE OF EMERGENCY OR DISASTER FOR A DROUGHT, EARTHQUAKE, FLOOD, OR WILDFIRE; PROHIBITING DISCRIMINATORY ACTION BY THE GOVERNMENT; PROVIDING FOR CIVIL RELIEF; PROHIBITING A GOVERNOR FROM SUSPENDING A STATUTE THAT AFFECTS THE EXERCISE OF AN INDIVIDUAL'S CONSTITUTIONAL RIGHTS; LIMITING THE ABILITY TO INTERFERE WITH THE COLLECTION OF RENT OR WITH ACTIONS FOR TERMINATION AND POSSESSION; PROVIDING FOR RELIGIOUS FREEDOM DURING AN EMERGENCY OR DISASTER; PROVIDING DEFINITIONS; AMENDING SECTIONS 5-3-106, 5-3-108, 10-1-106, 10-3-101, 10-3-102, 10-3-103, 10-3-104, 10-3-303, AND 10-3-1210, MCA; REPEALING SECTION 10-3-302, MCA; AND PROVIDING AN EFFECTIVE DATE.	2040
505 (<i>House Bill No. 249; M. Regier</i>) ALLOWING FOR LIMITED ELECTRONIC ADVERTISING OF MARIJUANA AND MEDICAL MARIJUANA; PROVIDING RESTRICTIONS ON THE CONTENT OF ADVERTISING; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 16-12-112, 16-12-211, 50-46-341, AND 50-46-344, MCA.	2048
506 (<i>House Bill No. 303; J. Kassmier</i>) INCREASING THE CLASS EIGHT BUSINESS EQUIPMENT TAX EXEMPTION; PROVIDING A REIMBURSEMENT TO LOCAL GOVERNMENTS AND TAX INCREMENT FINANCING DISTRICTS UNDER THE ENTITLEMENT SHARE PROGRAM, TO SCHOOL DISTRICTS THROUGH GUARANTEED TAX BASE AID, AND TO THE MONTANA UNIVERSITY SYSTEM FOR THE LOSS OF REVENUE; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 15-1-121, 15-1-123, 15-6-138, AND 20-9-366, MCA; AND PROVIDING EFFECTIVE DATES, APPLICABILITY DATES, AND TERMINATION DATES.	2051
507 (<i>House Bill No. 318; K. Holmlund</i>) REVISING WILD BUFFALO AND WILD BISON LAWS; CLARIFYING THE DEFINITION OF "WILD BUFFALO" OR "WILD BISON"; CLARIFYING THAT THE PER CAPITA FEE DOES	

	NOT APPLY TO CERTAIN DOMESTIC BISON; AMENDING SECTIONS 15-24-921, 81-1-101, 87-2-101, AND 87-6-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	2068
508	(<i>House Bill No. 330; L. Jones</i>) GENERALLY REVISING LAWS RELATED TO BUDGET STABILIZATION AND THE BUDGET STABILIZATION RESERVE FUND; REVISING CONDITIONS FOR TRANSFERRING FUNDS FROM THE FIRE SUPPRESSION ACCOUNT; PROVIDING FOR A FINANCIAL MODERNIZATION AND RISK ANALYSIS STUDY TO BE COMPLETED BY A COMMITTEE OF MEMBERS OF THE LEGISLATIVE FINANCE COMMITTEE; DIRECTING THE LEGISLATIVE FINANCE COMMITTEE TO CONDUCT A STUDY ON LONG-TERM BUDGET EFFICIENCY AND A STUDY ON DYNAMIC FISCAL NOTES; SETTING PARAMETERS FOR THE STUDIES; PROVIDING TRANSFERS; PROVIDING APPROPRIATIONS; AMENDING SECTIONS 5-12-205 AND 17-7-140, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	2073
509	(<i>House Bill No. 340; W. Galt</i>) GENERALLY REVISING THE MONTANA ECONOMIC DEVELOPMENT INDUSTRY ADVANCEMENT ACT FILM TAX INCENTIVES; REVISING THE LIMIT ON CREDITS CLAIMED; AMENDING SECTION 15-31-1010, MCA; AND PROVIDING EFFECTIVE DATES, APPLICABILITY DATES, AND TERMINATION DATES.	2077
510	(<i>House Bill No. 357; J. Hamilton</i>) REVISING THE INFLATIONARY ADJUSTMENT FOR INCOME USED TO DETERMINE ELIGIBILITY FOR PROPERTY TAX ASSISTANCE PROGRAMS; AMENDING SECTIONS 15-6-301, 15-6-305, AND 15-6-311, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.....	2080
511	(<i>House Bill No. 358; B. Mercer</i>) GENERALLY REVISING LAWS RELATED TO PRIVACY AND THE PUBLIC RIGHT TO KNOW; PROVIDING DISCLOSURE REQUIREMENTS FOR THE COMPROMISE AND SETTLEMENT OF CLAIMS AGAINST THE STATE; REQUIRING QUARTERLY REPORTS ON DEMANDS TO RESOLVE CLAIMS; PROVIDING DEFINITIONS; AMENDING SECTION 2-9-303, MCA; AND PROVIDING AN EFFECTIVE DATE.....	2083
512	(<i>House Bill No. 365; J. Trebas</i>) REVISING MOTOR CARRIER RATE REGULATION; REPEALING THE CLASS B MOTOR CARRIER CLASSIFICATION AND RELATED REQUIREMENTS; AMENDING SECTIONS 69-12-101, 69-12-201, 69-12-205, 69-12-301, 69-12-314, 69-12-321, 69-12-322, 69-12-323, 69-12-324, 69-12-403, 69-12-404, 69-12-406, 69-12-407, 69-12-501, 69-12-502, AND 69-12-611, MCA; REPEALING SECTION 69-12-312, MCA; AND PROVIDING AN EFFECTIVE DATE.....	2086
513	(<i>House Bill No. 382; W. Curdy</i>) GENERALLY REVISING LAWS RELATED TO PROHIBITING THE USE OF EXPLODING TARGETS ON STATE LANDS AND WATERS DURING TIMES OF DANGEROUS FIRE CONDITIONS; DEFINING “EXPLODING TARGETS”; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	2095
514	(<i>House Bill No. 403; T. Running Wolf</i>) PROVIDING FOR LAWS ADDRESSING EDUCATOR RECRUITMENT AND RETENTION PROBLEMS IN RURAL MONTANA AND INDIAN COUNTRY; ESTABLISHING A MULTIFACETED GROW YOUR OWN GRANT PROGRAM ADMINISTERED BY THE COMMISSIONER OF HIGHER EDUCATION TO STRENGTHEN TEACHER PIPELINES; PROVIDING	

AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.	2096
515 (<i>House Bill No. 430; K. Whitman</i>) REVISING LIMITATIONS ON EMERGENCY POWERS; LIMITING THE ABILITY TO INTERFERE WITH THE COLLECTION OF RENT OR WITH ACTIONS FOR TERMINATION AND POSSESSION; AMENDING SECTION 10-3-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	2097
516 (<i>House Bill No. 435; B. Mercer</i>) GENERALLY REVISING CIVIL LIABILITY LAWS; SETTING CONDITIONS ON CIVIL ACTIONS FOR EXPOSURE TO COVID-19; LIMITING GOVERNMENT LIABILITY; LIMITING LIABILITY OF GOVERNMENT ENTITIES; LIMITING LIABILITY OF HEALTH CARE PROVIDERS; PROVIDING AN AFFIRMATIVE DEFENSE FOR THOSE WHO COMPLY WITH CERTAIN TYPES OF REGULATIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.....	2098
517 (<i>House Bill No. 439; S. Galloway</i>) REVISING LANDLORD-TENANT LAWS; PROVIDING FOR ISSUANCE OF A WRIT OF ASSISTANCE AFTER A RENTAL AGREEMENT IS TERMINATED; AND AMENDING SECTION 70-24-427, MCA.	2101
518 (<i>House Bill No. 444; E. Buttrey</i>) GENERALLY REVISING LAWS RELATED TO SUBDIVISION SANITATION REVIEW; ALLOWING CERTAIN AGGREGATIONS OF PREVIOUSLY DIVIDED PARCELS TO BE EXEMPT FROM SANITATION REVIEW; AMENDING SECTION 76-4-125, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....	2102
519 (<i>House Bill No. 447; B. Mercer</i>) GENERALLY REVISING LAWS RELATED TO LEGISLATIVE OVERSIGHT OF ADMINISTRATIVE RULES; REQUIRING AN AGENCY TO SEND A COPY OF A PROPOSAL NOTICE TO THE APPROPRIATE ADMINISTRATIVE COMMITTEE WHEN IT SENDS THE NOTICE TO THE SECRETARY OF STATE FOR PUBLISHING; PROHIBITING THE ADOPTION OF RULES IN THE LAST QUARTER OF A YEAR BEFORE A LEGISLATIVE SESSION; PROVIDING EXCEPTIONS; REVISING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-4-302 AND 2-4-305, MCA; AND PROVIDING AN APPLICABILITY DATE.	2103
520 (<i>House Bill No. 459; D. Lenz</i>) GENERALLY REVISING LAWS RELATED TO PROVIDING FOR CERTIFICATION OF CHILD PROTECTION SPECIALISTS INVESTIGATING MATTERS OF SUSPECTED CHILD ABUSE, NEGLECT, OR ENDANGERMENT; PROVIDING IMPLEMENTATION INSTRUCTIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 41-3-102, 41-3-108, 41-3-201, 41-3-202, 41-3-205, 41-3-301, 41-3-427, AND 41-3-445, MCA.	2108
521 (<i>House Bill No. 472; M. Regier</i>) REVISING CIVIL LIABILITY UNDER THE CONSUMER PROTECTION ACT; LIMITING TREBLE DAMAGES; LIMITING AWARDS OF ATTORNEY FEES; AND AMENDING SECTION 30-14-133, MCA.	2127
522 (<i>House Bill No. 481; S. Gunderson</i>) PROVIDING FOR PROTECTION OF CRITICAL INFRASTRUCTURE; PROVIDING CIVIL AND CRIMINAL PENALTIES FOR PERSONS AND ENTITIES TRESPASSING ON OR DAMAGING CRITICAL INFRASTRUCTURE FACILITIES; EXEMPTING	

	CERTAIN ACTIVITIES; PROVIDING DEFINITIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	2128
523	(<i>House Bill No. 483; C. Knudsen</i>) REVISING LAWS RELATED TO EXEMPT PERSONAL STAFF; AUTHORIZING EXEMPT PERSONAL STAFF FOR MAJORITY AND MINORITY LEADERSHIP IN THE HOUSE OF REPRESENTATIVES AND THE SENATE; REDUCING THE NUMBER OF EXEMPT PERSONAL STAFF FOR THE PUBLIC SERVICE COMMISSION TO OFFSET THE NUMBER OF EXEMPT STAFF FOR THE LEGISLATURE; PROVIDING FOR A SPECIAL COUNSEL THAT SERVES AT THE PLEASURE OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND PRESIDENT OF THE SENATE; AMENDING SECTION 2-18-104, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.	2130
524	(<i>House Bill No. 495; M. Caferro</i>) GENERALLY REVISING HEALTH CARE LAWS; CREATING A HEALTH CARE PROVIDER TASK FORCE; ESTABLISHING MEMBERSHIP; REQUIRING THE DEPARTMENT OF LABOR AND INDUSTRY TO PROVIDE CLERICAL AND ADMINISTRATIVE SERVICES TO THE TASK FORCE; PROVIDING FOR TASK FORCE DUTIES AND REPORTING REQUIREMENTS; REQUIRING THE TASK FORCE TO MAKE RECOMMENDATIONS ON STATUTES, RULES, AND POLICIES THAT ARE DUPLICATIVE AND INCONSISTENT WITH CURRENT HEALTH CARE PROVIDER PRACTICES; CREATING A STATE SPECIAL REVENUE ACCOUNT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.	2132
525	(<i>House Bill No. 497; B. Mercer</i>) GENERALLY REVISING LEGISLATIVE INTERIM ACTIVITIES; ESTABLISHING INTERIM BUDGET COMMITTEES; PROVIDING FOR THE MEMBERSHIP OF INTERIM BUDGET COMMITTEES; PROVIDING FOR THE APPOINTMENT, STAFFING, COMPENSATION, AND DUTIES OF INTERIM BUDGET COMMITTEES; ASSIGNING INTERIM BUDGET COMMITTEES TO THE LEGISLATIVE FISCAL DIVISION; AMENDING SECTIONS 5-2-205, 5-2-302, 5-12-302, 17-7-138, AND 17-7-139, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.	2134
526	(<i>House Bill No. 498; S. Gunderson</i>) CLARIFYING THE PRIMACY OF THE MINERAL ESTATE; CLARIFYING THE JURISDICTION OF THE BOARD OF OIL AND GAS CONSERVATION; AMENDING SECTIONS 76-2-109 AND 82-11-112, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	2139
527	(<i>House Bill No. 501; J. Trebas</i>) REVISING CRIMINAL LAWS RELATED TO TRESPASS; PROVIDING THAT FAILURE TO WEAR A FACE COVERING OR CARRY PROOF OF VACCINATION MAY NOT BE CONSIDERED IN THE CRIME OF CRIMINAL TRESPASS; AMENDING SECTION 45-6-203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	2140
528	(<i>House Bill No. 502; L. Sheldon-Galloway</i>) REVISING ADOPTION LAWS REGARDING LICENSURE REQUIREMENTS FOR CHILD-PLACEMENT AGENCIES; PROVIDING AN EXEMPTION FROM LICENSURE FOR AN ATTORNEY OR HEALTH CARE PROVIDER ASSISTING A PARENT IN IDENTIFYING OR LOCATING A CHILD FOR ADOPTION OR AN ADOPTIVE PARENT; AMENDING SECTIONS 42-7-105 AND 52-8-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	2140

- 529 (*House Bill No. 503; D. Lenz*) REVISING LAWS RELATED TO CHILD ABUSE AND NEGLECT PROCEEDINGS; ESTABLISHING A VOLUNTARY EMERGENCY PROTECTIVE SERVICES HEARING WITHIN 5 DAYS OF A CHILD'S REMOVAL FROM THE HOME; PROVIDING FOR CONTINUATION AND EXPANSION OF EXISTING PILOT PROJECTS DESIGNED TO IMPROVE THE EFFECTIVENESS OF CHILD ABUSE AND NEGLECT PROCEEDINGS; AMENDING SECTION 41-3-301, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.2142
- 530 (*House Bill No. 504; C. Knudsen*) GENERALLY REVISING LAWS RELATED TO FIREARMS, WEAPONS, AND ACCESSORIES; PROVIDING THAT DURING A DECLARED EMERGENCY THE STATE MAY NOT CONFISCATE, PROHIBIT, OR REGULATE FIREARMS, COMPONENTS, ACCESSORIES, OR OTHER WEAPONS; PROVIDING BUSINESSES RELATED TO FIREARMS OR WEAPONS MAY NOT BE RESTRICTED; PROVIDING EXCEPTIONS; AMENDING SECTION 10-3-114, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.2145
- 531 (*House Bill No. 506; P. Fielder*) GENERALLY REVISING ELECTION LAWS; ESTABLISHING PRIORITIES FOR DEVELOPMENT OF CONGRESSIONAL DISTRICTS; REVISING PROCEDURES FOR PROSPECTIVE ELECTORS TO REGISTER AND VOTE; CLARIFYING REQUIREMENTS FOR A BOARD OF COUNTY CANVASSERS; ELIMINATING THE EXPERIMENTAL USE OF VOTE SYSTEMS; AMENDING SECTIONS 5-1-115, 13-2-205, AND 13-15-401, MCA; REPEALING SECTION 13-17-105, MCA; AND PROVIDING EFFECTIVE DATES.2146
- 532 (*House Bill No. 525; E. Buttrey*) GENERALLY REVISING ALCOHOL CONCESSION AGREEMENT LAWS; REQUIRING DEPARTMENT APPROVAL OF CONCESSION AGREEMENTS; PROVIDING CONCESSION AGREEMENT CRITERIA; PROVIDING FOR PARTY RESPONSIBILITY IN CONCESSION AGREEMENTS; PROVIDING FOR A CHANGE IN CONCESSION AGREEMENT OWNERSHIP; AMENDING SECTION 16-4-418, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES.2148
- 533 (*House Bill No. 527; F. Nave*) GENERALLY REVISING LAWS RELATED TO PLANNING AND ZONING DISTRICTS; EXTENDING THE PERIOD TO PROTEST THE CREATION OF A PLANNING AND ZONING DISTRICT; REQUIRING THE SUBMITTAL OF DRAFT RESOLUTIONS TO THE BOARD OF COUNTY COMMISSIONERS; PROHIBITING ZONING REGULATIONS FROM REGULATING MINERALS OR MINERAL RIGHTS; AMENDING SECTIONS 76-2-101, 76-2-109, AND 82-11-112, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.2150
- 534 (*House Bill No. 530; W. McKamey*) REQUIRING THE SECRETARY OF STATE TO ADOPT RULES DEFINING AND GOVERNING ELECTION SECURITY; REQUIRING ELECTION SECURITY ASSESSMENTS BY THE SECRETARY OF STATE AND COUNTY ELECTION ADMINISTRATIONS; ESTABLISHING THAT SECURITY ASSESSMENTS ARE CONFIDENTIAL INFORMATION; ESTABLISHING REPORTING REQUIREMENTS; DIRECTING THE SECRETARY OF STATE TO ADOPT A RULE PROHIBITING CERTAIN PERSONS FROM RECEIVING PECUNIARY BENEFITS WITH RESPECT TO CERTAIN BALLOT ACTIVITIES; PROVIDING PENALTIES; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.2152

535	<i>(House Bill No. 537; B. Mercer)</i> GENERALLY REVISING VENUE LAWS; ELIMINATING CHOICE OF VENUE IN THE FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY, IN CERTAIN INSTANCES; ESTABLISHING VENUE FOR CERTAIN OUT-OF-STATE LITIGANTS IN THE FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY; AND AMENDING SECTIONS 13-37-113, 15-1-108, 16-4-411, 19-2-401, 19-20-201, 22-3-429, 25-2-126, 30-14-111, 30-14-1413, 31-1-726, 32-1-912, 32-5-402, 33-1-804, 37-1-332, 37-7-1513, 50-5-112, 50-5-113, 50-6-504, 50-30-102, 53-9-131, 61-4-107, 61-8-812, 61-8-815, 75-1-108, 75-2-401, 75-2-413, 75-2-514, 75-5-611, 75-5-631, 75-6-114, 75-10-228, 75-10-417, 75-10-424, 75-10-542, 75-10-711, 75-10-715, 75-10-1223, 75-11-223, 75-11-516, 75-11-518, 75-11-525, 76-4-109, 77-2-107, 82-4-142, 82-4-254, 82-4-354, 82-4-361, 82-4-427, 82-4-441, 82-15-120, 85-2-431, AND 85-6-109, MCA.	2153
536	<i>(House Bill No. 541; S. Galloway)</i> GENERALLY REVISING LANDLORD-TENANT LAWS; PROVIDING FOR REMOVAL OF UNAUTHORIZED PERSONS OR TRESPASSERS FROM A PREMISES; PROVIDING FOR MONETARY DAMAGES IN THE EVENT OF UNAUTHORIZED TERMINATION; REVISING LANDLORD DUTIES; REVISING NOTICE PROVISIONS; ALLOWING CHARGE FOR LABOR AS PECUNIARY DAMAGES; REVISING PROVISIONS REGARDING TENANT NONCOMPLIANCE WITH A RENTAL AGREEMENT; REVISING PROVISIONS REGARDING DISPOSAL OF PROPERTY; REVISING DEFINITIONS; AMENDING SECTIONS 70-24-103, 70-24-201, 70-24-303, 70-24-312, 70-24-401, 70-24-422, 70-24-430, 70-25-201, 70-33-103, 70-33-201, 70-33-303, 70-33-312, 70-33-321, 70-33-401, 70-33-430, AND 70-33-433, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	2190
537	<i>(House Bill No. 553; J. Patelis)</i> LIMITING THE TIME FOR WHICH A SUSPENDED SENTENCE MAY BE IMPOSED FOR A FELONY OFFENSE; AMENDING SECTION 46-18-201, MCA; AND PROVIDING AN APPLICABILITY DATE.	2205
538	<i>(House Bill No. 554; J. Kassmier)</i> REQUIRING LEGISLATIVE APPROVAL OF NATIONAL HERITAGE AREAS AND NATIONAL HISTORIC TRAILS IN MONTANA.	2208
539	<i>(House Bill No. 555; M. Regier)</i> REVISING CIVIL LIABILITY LAWS; INCREASING THE VALUE OF CERTAIN PERSONAL PROPERTY EXEMPT FROM EXECUTION; AMENDING SECTION 25-13-609, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	2209
540	<i>(House Bill No. 559; B. Mercer)</i> REVISING LAWS RELATED TO CONFIDENTIAL CRIMINAL JUSTICE INFORMATION; PROVIDING CERTAIN NOTICE REQUIREMENTS TO INDIVIDUALS WHO MAY HAVE A PRIVACY INTEREST IN THE INFORMATION REQUESTED THAT MUST BE MET BY THE TIME A DECLARATORY JUDGMENT ACTION IS FILED; AND AMENDING SECTION 44-5-303, MCA.	2209
541	<i>(House Bill No. 572; D. Skees)</i> CREATING THE MONTANA SCHOOL MARSHAL PROGRAM; PROVIDING QUALIFICATIONS TO BE APPOINTED AS A SCHOOL MARSHAL; PROVIDING SCHOOL MARSHAL DUTIES; PROVIDING DUTIES FOR SCHOOL DISTRICT BOARDS OF TRUSTEES; REQUIRING NOTIFICATION TO LAW ENFORCEMENT; ALLOWING THE SCHOOL DISTRICT TO PAY FOR CERTAIN COSTS; AMENDING SECTION 45-8-361, MCA; AND PROVIDING AN EFFECTIVE DATE.	2212

- 542 (*House Bill No. 576; J. Schillinger*) REPEALING THE MONTANA RENEWABLE POWER PRODUCTION AND RURAL ECONOMIC DEVELOPMENT ACT; AMENDING SECTIONS 69-5-121, 90-4-1005, AND 90-4-1202, MCA; REPEALING SECTIONS 69-3-2001, 69-3-2002, 69-3-2003, 69-3-2004, 69-3-2005, 69-3-2006, 69-3-2007, AND 69-3-2008, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.2214
- 543 (*House Bill No. 578; T. Moore*) REVISING LAWS RELATING TO THE TRANSFER OF DEFENDANTS AFTER SENTENCING; AND AMENDING SECTION 46-19-101, MCA.2218
- 544 (*House Bill No. 593; K. Seekins-Crowe*) GENERALLY REVISING BARBERING AND COSMETOLOGY LAWS; REVISING MEMBERSHIP OF THE BOARD OF BARBERS AND COSMETOLOGISTS; REVISING THE RULEMAKING AUTHORITY OF THE BOARD OF BARBERS AND COSMETOLOGISTS; REVISING REQUIREMENTS TO HOLD A LICENSE; REVISING REQUIREMENTS FOR SCHOOLS AND TEACHERS; DEFINING TERMS; REVISING CERTAIN QUALIFICATIONS FOR LICENSEES AND TEACHERS; PROVIDING FOR A TRANSITION; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-15-1747, 37-31-101, 37-31-203, 37-31-301, 37-31-302, 37-31-303, 37-31-304, 37-31-305, 37-31-308, 37-31-311, 37-31-312, 37-31-323, AND 37-31-331, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.2219
- 545 (*House Bill No. 599; S. Gunderson*) GENERALLY REVISING OPENCUT MINING LAWS; PROVIDING LESS STRINGENT APPLICATIONS FOR CERTAIN OPENCUT OPERATIONS; DEFINING OCCUPIED DWELLING UNIT; PROVIDING EXEMPTIONS; AMENDING SECTIONS 76-2-209, 82-4-403, 82-4-431, 82-4-432, 82-4-434, AND 82-4-439, MCA; REPEALING SECTION 82-4-440, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.2231
- 546 (*House Bill No. 606; P. Fielder*) ALLOWING CUSTOMERS TO OPT-IN FOR ADVANCED METERING GATEWAY DEVICE INSTALLATION; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 69-4-1001 AND 69-4-1004, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.2242
- 547 (*House Bill No. 614; M. Caferro*) GENERALLY REVISING THE WORKFORCE DEVELOPMENT PROVISIONS OF THE HEALTH AND ECONOMIC LIVELIHOOD PARTNERSHIP ACT; ESTABLISHING ALLOWABLE USES OF WORKFORCE DEVELOPMENT FUNDING; REQUIRING CONTRACTING FOR TRAINING AND EDUCATION PROGRAMS; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTIONS 39-12-103, 39-12-107, AND 53-6-1302, MCA; AND PROVIDING AN EFFECTIVE DATE.2243
- 548 (*House Bill No. 620; A. Regier*) EXTENDING THE TERMINATION DATE OF THE STATUTORY APPROPRIATION FOR TITLE X FAMILY PLANNING FUNDS; PRIORITIZING PUBLIC FUNDS TO HEALTH CARE ENTITIES; PLACING RESTRICTIONS ON THE USE OF FUNDS; PROVIDING DEFINITIONS; AMENDING SECTION 50-1-115, MCA; AMENDING SECTION 6, CHAPTER 291, LAWS OF 2015; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.2246
- 549 (*House Bill No. 625; D. Lenz*) GENERALLY REVISING LAWS RELATED TO THE CHILD AND FAMILY OMBUDSMAN; PROVIDING FOR SYSTEMIC

OVERSIGHT OF CHILD PROTECTIVE SERVICES; CLARIFYING THAT THE OMBUDSMAN MAY INDEPENDENTLY INVESTIGATE A MATTER BEING ADDRESSED IN ANOTHER MANNER; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 41-3-1209, 41-3-1211, AND 41-3-1212, MCA; AND PROVIDING EFFECTIVE DATES.....2248

550 (*House Bill No. 629; D. Fern*) GENERALLY REVISING TAXATION TO PROMOTE NEW BUSINESS AND ECONOMIC ACTIVITY; PROVIDING FOR THE CREATION OF AN INCOME TAX CREDIT TO INCENTIVIZE MONTANA JOB GROWTH; PROVIDING FOR ADMINISTRATION BY THE DEPARTMENT OF LABOR AND INDUSTRY AND THE DEPARTMENT OF REVENUE; PROVIDING THAT THE CREDITS BE TAKEN AGAINST INDIVIDUAL INCOME TAX AND CORPORATE INCOME TAX LIABILITIES; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING APPROPRIATIONS; AMENDING SECTIONS 15-30-2303, 15-30-2357, 15-30-2618, AND 15-31-511, MCA; AND PROVIDING EFFECTIVE DATES, APPLICABILITY DATES, AND TERMINATION DATES.2250

551 (*House Bill No. 630; D. Bedey*) GENERALLY REVISING STATE FINANCE LAWS RELATED TO APPROPRIATING FEDERAL FUNDS FOR COVID-19 RELIEF FOR THE FISCAL YEAR ENDING JUNE 30, 2021; ESTABLISHING A TEMPORARY MAINTENANCE OF EQUITY PAYMENT FOR SCHOOL DISTRICTS; TEMPORARILY SUSPENDING ANTICIPATED ENROLLMENT INCREASES DUE TO COVID-19; TEMPORARILY MODIFYING FINANCIAL SUPPORT FOR UNANTICIPATED ENROLLMENT INCREASES DUE TO COVID-19; ALLOWING COVID-19 RELIEF APPROPRIATIONS TO CONTINUE INTO THE BIENNIUM BEGINNING JULY 1, 2021; APPROPRIATING FUNDS TO THE OFFICE OF STATE PUBLIC DEFENDER FOR THE FISCAL YEAR ENDING JUNE 30, 2021; ALLOWING MODIFICATIONS RELATED TO APPROPRIATIONS AND AUTHORIZATIONS; AMENDING SECTIONS 20-6-326, 20-9-166, AND 20-9-314, MCA; AMENDING SECTION 1, CHAPTER 483, LAWS OF 2019; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.2275

552 (*House Bill No. 637; S. Berglee*) GENERALLY REVISING LAWS RELATED TO THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS; REVISING GAME WARDEN AUTHORITY; REVISING LAWS RELATED TO BLOCK MANAGEMENT PROGRAM PAYMENTS; REVISING LAWS RELATED TO PUBLIC ACCESS LAND AGREEMENTS; REVISING LAWS RELATED TO CLASS D-4 NONRESIDENT HOUND LICENSES; REVISING LAWS RELATED TO ELK LICENSES AND PERMITS FOR LANDOWNERS OFFERING PUBLIC HUNTING; REVISING PREFERENCE POINTS LAWS; REVISING RESTRICTIONS ON WHEN SPECIAL BEAR AND MOUNTAIN LION LICENSES MAY BE USED; CLARIFYING WHEN APPRENTICE HUNTERS MAY RECEIVE THEIR CERTIFICATE; REVISING LAWS RELATED TO SHOOTING PRESERVES; CLARIFYING THE CLASSIFICATION OF WOLVES; REVISING LAWS RELATED TO UNLAWFUL USE OF BOATS, EQUIPMENT, AND VEHICLES WHILE HUNTING; REVISING LAWS RELATED TO HARASSMENT OF GAME BIRDS AND GAME ANIMALS; REVISING LAWS RELATED TO UNLAWFUL HUNTING WITHIN A MUNICIPALITY; REVISING TURKEY TAGGING OFFENSES; REVISING LAWS RELATED TO THE TRANSFER OF OWNERSHIP INTERESTS IN COMMERCIAL LICENSES HELD BY INCORPORATED ENTITIES; AUTHORIZING

ONE-TIME ISSUANCE OF CLASS B-10 AND CLASS B-11 LICENSES TO CERTAIN NONRESIDENTS; ALLOCATING REVENUE; PROVIDING RULEMAKING AUTHORITY; PROVIDING APPROPRIATIONS; MAKING REISSUANCE OF CERTAIN SPECIAL MOOSE LICENSES FOR ANIMALS FOUND UNFIT FOR HUMAN CONSUMPTION RETROACTIVELY APPLICABLE; AMENDING SECTIONS 61-12-401, 87-1-265, 87-1-295; 87-1-301, 87-1-504, 87-2-115, 87-2-513, 87-2-519, 87-2-702, 87-2-810, 87-4-502, 87-4-522, 87-4-530, 87-5-131, 87-6-207, 87-6-401, 87-6-402, 87-6-404, 87-6-405, 87-6-412, AND 87-6-706, MCA; REPEALING SECTIONS 87-1-296, 87-1-297, 87-1-505, AND 87-4-526, MCA; AND PROVIDING EFFECTIVE DATES.2283

553 (*House Bill No. 648; J. Kassmier*) GENERALLY REVISING NATURAL RESOURCE LAWS; CREATING NATURAL RESOURCE-RELATED INVESTIGATION PROGRAMS; PROVIDING FOR A STUDY OF ECONOMIC IMPACTS OF COST DISALLOWANCES; EXEMPTING CERTAIN CHANGES FROM THE MAJOR FACILITY SITING ACT; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 75-20-213 AND 75-20-219, MCA; AND PROVIDING AN EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE.2303

554 (*House Bill No. 651; M. Bertoglio*) GENERALLY REVISING BALLOT INITIATIVES; DEFINING APPROPRIATION FOR THE PURPOSES OF A BALLOT INITIATIVE; REQUIRING EMPLOYERS OF PAID SIGNATURE GATHERERS TO REGISTER WITH THE SECRETARY OF STATE AND PAY A FEE; ALLOWING FOR A WAIVER; REQUIRING INTERIM COMMITTEES OR THE LEGISLATIVE COUNCIL TO REVIEW PROPOSED BALLOT INITIATIVE LANGUAGE AND VOTE WHETHER TO SUPPORT THE PLACEMENT OF A MEASURE ON THE BALLOT; REQUIRING LANGUAGE REGARDING THE REVIEW BY AN INTERIM COMMITTEE OR THE LEGISLATIVE COUNCIL BE PLACED ON THE PETITION PRIOR TO SIGNATURE GATHERING; REQUIRING THE ATTORNEY GENERAL TO REVIEW BALLOT INITIATIVES FOR REGULATORY TAKINGS AND DETERMINATIONS TO BE PLACED ON THE PETITION PRIOR TO SIGNATURE GATHERING; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 5-5-215, 5-11-105, 13-27-202, 13-27-204, AND 13-27-312, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.2307

555 (*House Bill No. 655; E. Buttrey*) GENERALLY REVISING MARIJUANA LAWS; REVISING LABOR LAWS RELATING TO MARIJUANA; REQUIRING CERTAIN DRUG TESTING TO COMPLY WITH APPLICABLE FEDERAL LAWS; PROVIDING CERTAIN EXEMPTIONS FOR MEDICAL MARIJUANA; REVISING LAWS RELATED TO THE BURDEN OF PROOF IN WORKERS COMPENSATION RELATING TO MARIJUANA; INCREASING FEE DISCOUNT PERCENTAGES IN THE EVENT THE DEPARTMENT OF REVENUE DOES NOT PROCESS A LICENSE WITHIN THE STATUTORY REQUIREMENTS; AMENDING SECTIONS 39-51-2303, 39-71-407, AND 50-46-303, MCA; AND PROVIDING AN EFFECTIVE DATE.2313

556 (*House Bill No. 656; J. Read*) REQUIRING COUNTY REIMBURSEMENT FOR ASSUMPTION OF CRIMINAL JURISDICTION WITHIN THE FLATHEAD INDIAN RESERVATION; PROVIDING THAT LAKE COUNTY MAY WITHDRAW FROM ENFORCEMENT OF CRIMINAL JURISDICTION ON BEHALF OF THE STATE; PROVIDING

TITLE CONTENTS

	LEGISLATIVE INTENT; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 2-1-301 AND 2-1-306, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.....	2321
557	(<i>House Bill No. 658; G. Frazer</i>) REVISING LAWS RELATED TO RESTRICTIVE HOUSING; REVISING WHEN AN INMATE IN A RESTRICTIVE HOUSING UNIT MUST RECEIVE CERTAIN APPRAISALS; REVISING WHEN INFORMATION OBTAINED DURING AN APPRAISAL MAY BE DISSEMINATED; REVISING DEFINITIONS; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 53-30-702 AND 53-30-708, MCA; AND PROVIDING AN EFFECTIVE DATE.	2323
558	(<i>House Bill No. 660; J. Kassmier</i>) PROVIDING AN APPROPRIATION TO THE MADE-IN-MONTANA PROGRAM IN THE DEPARTMENT OF COMMERCE; EXPANDING USE OF THE ECONOMIC DEVELOPMENT STATE SPECIAL REVENUE ACCOUNT; AMENDING SECTION 90-1-205, MCA; AND PROVIDING AN EFFECTIVE DATE.....	2325
559	(<i>House Bill No. 661; J. Kassmier</i>) REVISING STRIPPER OIL TAX LAWS; REVISING THE TAX RATES FOR STRIPPER OIL PRODUCTION; PROVIDING DEFINITIONS; AMENDING SECTIONS 15-36-303 AND 15-36-304, MCA; AND PROVIDING EFFECTIVE DATES, APPLICABILITY DATES, AND TERMINATION DATES.	2326
560	(<i>House Bill No. 663; B. Ler</i>) GENERALLY REVISING SCHOOL FUNDING LAWS; INCREASING THE GTB MULTIPLIER AND LINKING ADDITIONAL INCREASES TO REVENUE GENERATED BY MARIJUANA TAXES; PROVIDING AN APPROPRIATION; AMENDING SECTION 20-9-366, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	2356
561	(<i>House Bill No. 667; R. Marshall</i>) REVISING THE TOBACCO TAX ALLOCATION FOR OPERATION AND MAINTENANCE OF STATE VETERANS' NURSING HOMES; PROVIDING AN APPROPRIATION; AMENDING SECTION 16-11-119, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.....	2360
562	(<i>House Bill No. 671; D. Bedey</i>) IMPLEMENTING THE PROVISIONS OF HOUSE BILL 2; PROVIDING FOR INTERIM STUDIES ON EDUCATIONAL FISCAL MATTERS; REQUIRING THE OFFICE OF PUBLIC INSTRUCTION AND THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO COLLABORATE IN SUPPORTING SCHOOL DISTRICTS IN SEEKING REIMBURSEMENT FOR SCHOOL-BASED ELIGIBLE SERVICES UNDER MEDICAID AND THE CHILDREN'S HEALTH INSURANCE PROGRAM; REVISING LAWS RELATED TO PRESERVING MONTANA INDIAN LANGUAGES; REVISING THE MONTANA INDIAN LANGUAGE PRESERVATION PROGRAM; ELIMINATING THE TERMINATIONS OF THE MONTANA INDIAN LANGUAGE PRESERVATION PROGRAM AND THE CULTURAL INTEGRITY COMMITMENT ACT; PROVIDING AN APPROPRIATION; AMENDING SECTION 20-9-537, MCA; REPEALING SECTION 7, CHAPTER 410, LAWS OF 2013, SECTIONS 3 AND 7, CHAPTER 426, LAWS OF 2015, SECTION 10, CHAPTER 442, LAWS OF 2015, SECTIONS 2, 3, 4, AND 9, CHAPTER 232, LAWS OF 2017, SECTIONS 1 THROUGH 7, CHAPTER 77, LAWS OF 2019, AND SECTION 1, CHAPTER 171, LAWS OF 2019; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING AN EFFECTIVE DATE.....	2361

- 563 (*House Bill No. 678; D. Bartel*) IMPLEMENTING THE PROVISIONS OF HOUSE BILL 2; REVISING THE DEFINITION OF "TELEWORK"; GENERALLY REVISING SEARCH AND RESCUE FUNDING; PROVIDING THAT CONSERVATION LICENSE REVENUE FOR SEARCH AND RESCUE FUNDING IS A VOLUNTARY DONATION; PROVIDING FOR SEGREGATION OF SURCHARGES THAT WERE MANDATORY FROM DONATIONS; EXPANDING USE OF ECONOMIC DEVELOPMENT SPECIAL REVENUE ACCOUNT; REVISING DISTRIBUTIONS OF LODGING FACILITY USE TAX PROCEEDS; AMENDING SECTIONS 2-18-101, 10-3-801, 15-65-112, 17-7-502, 22-3-1004, 87-1-601, 87-2-202, AND 90-1-205, MCA; AND PROVIDING EFFECTIVE DATES.....2364
- 564 (*House Bill No. 681; J. Kassmier*) CREATING THE AGRICULTURAL TRANSPORTATION ENHANCEMENT ACCOUNT TO BENEFIT CERTAIN PORT AUTHORITIES; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 7-14-1111 AND 80-11-103, MCA; AND PROVIDING AN EFFECTIVE DATE.....2375
- 565 (*House Bill No. 689; J. Dooling*) GENERALLY REVISING CAMPAIGN FINANCE AND CAMPAIGN PRACTICE LAWS; ESTABLISHING REQUIREMENTS FOR REPORTING CONTRIBUTIONS AND EXPENDITURES FROM POLITICAL COMMITTEES THAT LEASE PROPERTY FROM THE STATE OF MONTANA AND THE MONTANA UNIVERSITY SYSTEM; REPEALING PROVISIONS RELATED TO THE VOLUNTARY FILING OF BROADCAST MATERIALS; PROVIDING AN APPROPRIATION; REVISING REPORTING REQUIREMENTS APPLICABLE TO RELIGIOUS ORGANIZATIONS IN CAMPAIGNS TO PROTECT THE FREE EXERCISE OF RELIGION AS GUARANTEED BY THE FIRST AMENDMENT OF THE UNITED STATES CONSTITUTION AND ARTICLE II, SECTION 5, OF THE MONTANA CONSTITUTION; REVISING DEFINITIONS; AMENDING SECTIONS 13-1-101, 13-37-111, 13-37-113, 13-37-124, 13-37-208, 13-37-233, AND 45-7-202, MCA; REPEALING SECTION 13-35-240, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.....2377
- 566 (*House Bill No. 693; B. Mercer*) IMPLEMENTING PROVISIONS OF THE GENERAL APPROPRIATIONS ACT; PROVIDING FOR REPORTING REQUIREMENTS FOR THE DEPARTMENT OF CORRECTIONS; PROVIDING FOR REPORTING REQUIREMENTS FOR THE OFFICE OF STATE PUBLIC DEFENDER; PROVIDING FOR REPORTING REQUIREMENTS FOR THE DEPARTMENT OF JUSTICE; PROVIDING FOR REPORTING REQUIREMENTS FOR THE OFFICE OF COURT ADMINISTRATOR; PROVIDING FOR LEGISLATIVE INTENT; PROVIDING FOR AN ADDITIONAL JUDGE TO THE 11TH AND THE 18TH JUDICIAL DISTRICTS; EXTENDING THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING BUREAU; TRANSFERRING ADMINISTRATION OF 9-1-1 FUNDS FROM THE DEPARTMENT OF ADMINISTRATION TO THE DEPARTMENT OF JUSTICE; GRANTING CONSENT TO DISCONTINUE THE CONTRACT WITH THE GREAT FALLS REGIONAL PRISON; PROVIDING NOTIFICATION OF DISCHARGE ELIGIBILITY; PROVIDING FOR A TRANSFER OF FUNDS; ALLOWING A DRIVER TO RENEW A DRIVER'S LICENSE WHEN APPLYING FOR A REAL ID-COMPLIANT LICENSE; REDUCING FEES FOR A REAL ID-COMPLIANT DRIVER'S LICENSE OR IDENTIFICATION CARD REQUESTED PRIOR TO RENEWAL; REVISING FUNDING FOR THE MOTOR VEHICLE INFORMATION TECHNOLOGY SYSTEM

ACCOUNT; AMENDING SECTIONS 3-5-102, 10-4-101, 10-4-105, 10-4-304, 44-7-204, 46-23-1011, 61-3-103, 61-3-109, 61-3-203, 61-5-111, AND 61-5-129, MCA; AMENDING SECTION 23, CHAPTER 456, LAWS OF 2019; AND PROVIDING EFFECTIVE DATES.	2387
567 (<i>House Bill No. 704; E. Buttrey</i>) CREATING A SPECIAL RAFFLE OR LOTTERY GAME FOR THE BENEFIT OF THE BOARD OF HORSERACING; ALLOWING THE STATE LOTTERY COMMISSION TO ESTABLISH AN ANNUAL SPECIAL RAFFLE OR LOTTERY; GIVING THE COMMISSION AUTHORITY TO TRANSFER PROCEEDS TO THE BOARD OF HORSERACING; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 23-4-105, MCA.....	2403
568 (<i>House Bill No. 705; E. Buttrey</i>) GENERALLY REVISING ALCOHOL AND GAMBLING LAWS; REVISING LAWS RELATED TO ALCOHOL AND GAMBLING LICENSING; REVISING LAWS RELATING TO SUITABLE PREMISES FOR LICENSED RETAIL ESTABLISHMENTS; REVISING LAWS RELATING TO RESORT ALL-BEVERAGES LICENSES; REVISING LAWS APPLYING TO LOANS AND FINANCING BY LICENSEES; REVISING LAWS RELATING TO CONCESSION AGREEMENTS; REVISING LAWS RELATING TO BUSINESS OWNERSHIP INTERESTS; REVISING LAWS RELATED TO BOTTLE CLUBS; REVISING LAWS RELATED TO PREMISES SUITABILITY; REVISING LAWS RELATED TO SEATING AND VIDEO GAMBLING MACHINES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 16-3-218, 16-3-301, 16-3-311, 16-4-213, 16-4-401, 16-4-406, 16-4-414, 16-4-415, 16-6-306, AND 23-5-117, MCA; AND PROVIDING EFFECTIVE DATES.	2405
569 (<i>House Bill No. 709; M. Regier</i>) REVISING THE FEE FOR DOUBLE PROXY MARRIAGES; AND AMENDING SECTION 25-1-201, MCA.....	2416
570 (<i>House Bill No. 462; M. Stromswold</i>) REVISING LAWS RELATED TO LEARNER LICENSES; REQUIRING CERTAIN DUTIES TO BE PERFORMED BY A RESPONSIBLE ADULT WHEN A PARENT OR GUARDIAN IS NOT AVAILABLE; AMENDING SECTIONS 61-5-106, 61-5-108, AND 61-5-132, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	2418
571 (<i>Senate Bill No. 224; S. Fitzpatrick</i>) GENERALLY REVISING CAMPAIGN FINANCE LAWS; INCREASING THE CAMPAIGN FINANCE DISCLOSURE MONETARY THRESHOLD; PROHIBITING THE COMMISSIONER OF POLITICAL PRACTICES FROM REQUESTING ADDITIONAL INFORMATION IN DISCLOSURE REPORTS; PROVIDING THAT A PERSON WHO HOSTS A FUNDRAISING RECEPTION OR OTHER POLITICAL EVENT ON THEIR PROPERTY IS NOT MAKING A CONTRIBUTION; REVISING REPORTING DEADLINES AND REQUIREMENTS; PROVIDING CERTAIN REPORTING EXCEPTIONS; REVISING INCIDENTAL COMMITTEE FILING REQUIREMENTS; PROVIDING THAT CERTAIN CANDIDATES MAY USE THE SAME ACCOUNT IN A CAMPAIGN DEPOSITORY FOR PRIMARY AND GENERAL ELECTIONS FUNDS UNDER CERTAIN CIRCUMSTANCES; INCREASING AGGREGATE CONTRIBUTION LIMITS BY A POLITICAL COMMITTEE, POLITICAL PARTY COMMITTEE, AND AN INDIVIDUAL TO A CANDIDATE; DIRECTING THE AMENDMENT OF ARM 44.11.502; REPEALING NAMING AND LABELING PROVISIONS REGARDING POLITICAL COMMITTEES; REPEALING AGGREGATE CONTRIBUTION LIMITS RECEIVED BY CERTAIN CANDIDATES;	

REVISING DEFINITIONS; AMENDING SECTIONS 13-1-101, 13-37-205, 13-37-216, 13-37-226, 13-37-229, AND 13-37-232, MCA; AND REPEALING SECTIONS 13-37-210 AND 13-37-218, MCA.	2420
572 (<i>Senate Bill No. 316; S. Fitzpatrick</i>) GENERALLY REVISING CIVIL LAWS; REVISING LAWS RELATED TO THE USE OF FUNDS FOR PROPERTY RESTORATION; REVISING THE LIABILITY STANDARD USED IN REMEDIAL ACTIONS IN THE COMPREHENSIVE ENVIRONMENTAL CLEANUP AND RESPONSIBILITY ACT; REQUIRING THAT AWARDS AND SETTLEMENT FUNDS FOR RESTORATION DAMAGES ARE USED FOR CORRECTIVE ACTION ON PROPERTY; REQUIRING FUNDS TO BE PLACED IN ESCROW OR TRUST ACCOUNTS AND USED FOR INTENDED PURPOSES; PROVIDING OTHER CRITERIA RELATED TO THE USE OF THE FUNDS; PROVIDING FOR RESTORATION DAMAGES; PROVIDING DEFINITIONS; AMENDING SECTION 75-10-711, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	2433
573 (<i>House Bill No. 2; L. Jones</i>) APPROPRIATING MONEY TO VARIOUS STATE AGENCIES FOR THE BIENNIUM ENDING JUNE 30, 2023; AND PROVIDING AN EFFECTIVE DATE.	2436
574 (<i>House Bill No. 92; K. Kelker</i>) PROVIDING COMPENSATION FOR PEOPLE WHO HAVE BEEN WRONGLY CONVICTED OF FELONY CRIMES AND EXONERATED; PROVIDING A PROCEDURE FOR FILING AND DETERMINING PETITIONS FOR COMPENSATION; PROVIDING FOR AN ELECTION OF REMEDIES; PROVIDING FOR EXPUNGEMENT OF CONVICTION AND THE PAYMENT OF DAMAGES FOR SUCCESSFUL PETITIONS; PROVIDING OFFSETS FOR DAMAGES OBTAINED IN OTHER LITIGATION; PROVIDING FOR COUNTY AND CONSOLIDATED GOVERNMENT CONTRIBUTION TOWARD DAMAGES, COSTS, AND ATTORNEY FEES AWARDED; CREATING A STATE SPECIAL REVENUE ACCOUNT; PROVIDING A TRANSFER; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502 AND 46-23-1041, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.	2484
575 (<i>Senate Bill No. 388; G. Hertz</i>) GENERALLY REVISING PROPERTY TAX LAWS; REVISING TARGETED ECONOMIC DEVELOPMENT DISTRICT LAWS; PROVIDING FOR INFRASTRUCTURE THROUGH TAX INCREMENT FINANCING; PROVIDING THE TAX INCREMENT MAY NOT INCLUDE CERTAIN STATE EQUALIZATION MILLS FOR ELEMENTARY AND HIGH SCHOOL EDUCATION; LIMITING THE DURATION OF A FUTURE TAX INCREMENT PROVISION; AMENDING SECTIONS 7-15-4279, 7-15-4283, 7-15-4286, 7-15-4288, AND 7-15-4292, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.	2490
576 (<i>House Bill No. 701; M. Hopkins</i>) GENERALLY REVISING LAWS RELATED TO THE REGULATION AND TAXATION OF MARIJUANA; TRANSFERRING AUTHORITY OVER THE LICENSING, CULTIVATION, AND SALE OF MEDICAL MARIJUANA TO REGISTERED CARDHOLDERS TO THE DEPARTMENT OF REVENUE ; CREATING SEPARATE LICENSE CATEGORIES FOR CULTIVATION, MANUFACTURING, DISPENSING, AND TRANSPORTING MARIJUANA; PROVIDING FOR EIGHT COMBINED-USE MARIJUANA LICENSES; CREATING A MARIJUANA WORKER PERMIT; PROVIDING FOR A LOCAL-OPTION MARIJUANA EXCISE TAX; REQUIRING LOCAL GOVERNMENT APPROVAL FOR A MARIJUANA BUSINESS TO OPERATE IN A	

LOCAL JURISDICTION; PROVIDING APPROPRIATIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING FOR EXPUNGEMENT OF CRIMINAL CONVICTIONS RELATED TO MARIJUANA; PROVIDING FOR CONTINGENT VOIDNESS; AMENDING SECTIONS 3-5-113, 3-5-115, 5-5-223, 5-5-227, 7-22-2101, 15- 64-101, 15-64-102, 15-64-103, 15-64-104, 15-64-105, 15-64-106, 15-64-111, 15-64-112, 16-12-101, 16-12-102, 16-12-104, 16-12-105, 16-12-106, 16-12-107, 16-12-108, 16-12-109, 16-12-110, 16-12-111, 16-12-112, 16-12-113, 16-12-201, 16-12-202, 16-12-203, 16-12-204, 16-12-206, 16-12-207, 16-12-208, 16-12-209, 16-12-210, 16-12-211, 16-12-301, 16-12-302, 18-7-101, 37-1-136, 37-1-316, 37-3-203, 39-2-210, 39-2-313, 39-71- 407, 41-5-216, 45-9-101, 45-9-102, 45-9-103, 45-9-110, 45-9-127, 45-9-203, 45-10-103, 45-10-107, 46-18-202, 50-46-302, 50-46-303, 50-46-307, 50-46-319, 50-46-345, 50-46-346, 50-46-347, 53-6-1201, 53-21-1207, 61-8- 402, 61-8-404, 61-8-405, 61-8-409, 61-8-442, 61-11-101, AND 80-1-104, MCA; AMENDING SECTION 56, INITIATIVE MEASURE NO. 190, APPROVED NOVEMBER 3, 2020; REPEALING SECTIONS 16-12-205, 16- 12-401, 16-12-402, 16-12-403, 16-12-404, 16-12-405, 16-12-406, 16-12-407, 16-12-408, 50-46-301, 50-46-302, 50-46-303, 50-46-304, 50-46-305, 50-46-307, 50-46-308, 50-46-309, 50-46-310, 50-46-311, 50-46-312, 50-46-317, 50-46-318, 50-46-319, 50-46-320, 50-46-326, 50-46-327, 50-46-328, 50-46-329, 50-46-330, 50-46- 331, 50-46-332, 50-46-339, 50-46-340, 50-46-341, 50-46-342, 50-46-343, 50-46-344, 50-46-345, 50-46-346, AND 50-46-347, MCA; REPEALING SECTIONS 37 AND 52, INITIATIVE MEASURE NO. 190, APPROVED NOVEMBER 3, 2020; AND PROVIDING EFFECTIVE DATES AND TERMINATION DATES.....2495

577 (*House Bill No. 691; D. Lenz*) ESTABLISHING REQUIREMENTS FOR CRISIS RESPONSE SERVICES IN THE DEVELOPMENTAL DISABILITIES SYSTEM; PROVIDING DIRECTION TO THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES ON THE USE OF EXISTING FUNDING; PROVIDING RULEMAKING AUTHORITY; PROVIDING AN APPROPRIATION; AMENDING SECTION 53-20-204, MCA; AND PROVIDING AN EFFECTIVE DATE..... 2594A

HOUSE JOINT RESOLUTIONS ADOPTED

<u>HJR</u>	<u>Page</u>
4 (<i>Caferro</i>) REQUESTING AN INTERIM STUDY OF THE CRIMINAL COMMITMENT PROCESS AND PLACEMENT OF INDIVIDUALS WITH MENTAL ILLNESS; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 68TH LEGISLATURE.....	2597
5 (<i>Tschida</i>) ON THE FEDERAL TAXATION OF GUNS.....	2598
6 (<i>Fern</i>) REQUESTING AN INTERIM STUDY OF MONTANA'S COAL SEVERANCE TAX TRUST FUND.....	2599
7 (<i>Knudsen</i>) URGING CONGRESS, THE DEPARTMENT OF THE INTERIOR, AND THE BUREAU OF RECLAMATION TO REPAIR THE FUNDING ALLOCATION AND AUTHORIZE FUNDING FOR THE REPLACEMENT AND REHABILITATION OF THE ST. MARY RIVER DIVERSION AND MILK RIVER PROJECT.....	2600
8 (<i>Garner</i>) REQUESTING AN INTERIM STUDY OF MONTANA'S PUBLIC EMPLOYEE RETIREMENT SYSTEMS AND THE DEVELOPMENT OF	

	RECOMMENDATIONS FOR A LONG-TERM STRATEGIC APPROACH TO FUNDING THE RETIREMENT SYSTEMS RECOGNIZING THE CONCERNS OF ALL STAKEHOLDERS, INCLUDING THE CITIZENS OF MONTANA.....	2601
9	(<i>Marshall</i>) URGING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES CONGRESS TO END THE ENDLESS WAR IN AFGHANISTAN, TO REPEAL THE 2001 AUTHORIZATION FOR USE OF MILITARY FORCE, TO TAKE NO ACTION TO EMPLOY MILITARY FORCES OF THE UNITED STATES IN ACTIVE DUTY COMBAT UNLESS THE UNITED STATES CONGRESS HAS PASSED AN OFFICIAL DECLARATION OF WAR OR HAS TAKEN AN OFFICIAL ACTION OR RENEWED ACTION TO AUTHORIZE THE USE OF MILITARY FORCE, AND TO EXECUTE A PRUDENT FOREIGN POLICY.....	2603
10	(<i>Loge</i>) REQUESTING AN INTERIM STUDY TO ASSESS AND PREPARE FOR THE OPERATION OF AUTONOMOUS VEHICLES ON MONTANA ROADWAYS; AND REQUIRING THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 68TH LEGISLATURE.....	2605
14	(<i>Garner</i>) URGING CONGRESS TO CATEGORIZE PUBLIC SAFETY TELECOMMUNICATORS AS A PROTECTIVE SERVICE OCCUPATION UNDER THE FEDERAL STANDARD OCCUPATIONAL CLASSIFICATION SYSTEM.....	2606
16	(<i>Duram</i>) URGING THE FEDERAL COMMUNICATIONS COMMISSION TO ALLOW MONTANA RESIDENTS TO BE CLASSIFIED IN THE DIRECT MARKETING AREAS OF MONTANA TELEVISION NEWS NETWORKS.....	2607
17	(<i>Marler</i>) DECLARING THE FIRST WEEK IN JUNE AS NOXIOUS WEED AWARENESS WEEK.....	2608
19	(<i>Bertoglio</i>) PROCLAIMING THE MONTH OF MAY AS AMYOTROPHIC LATERAL SCLEROSIS (ALS) AWARENESS MONTH AND URGING THE PRESIDENT AND CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION TO PROVIDE ADDITIONAL FUNDING FOR RESEARCH IN ORDER TO FIND A TREATMENT AND A CURE FOR AMYOTROPHIC LATERAL SCLEROSIS.....	2608
21	(<i>Bishop</i>) URGING THE DESIGNATION OF A STATE FUNERAL FOR THE LAST SURVIVING WORLD WAR II MEDAL OF HONOR RECIPIENT.....	2609
27	(<i>Holmlund</i>) REQUESTING AN INTERIM STUDY ON FUNDING OPTIONS FOR MONTANA'S CONSERVATION DISTRICTS; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 68TH LEGISLATURE.....	2610
29	(<i>Duram</i>) REQUESTING AN INTERIM STUDY TO EXPLORE OPTIONS FOR FUTURE FUNDING OF VICTIM SERVICES IN MONTANA.....	2612
30	(<i>Brewster</i>) REQUESTING AN INTERIM STUDY TO REVIEW AND ASSESS THE CURRENT GOVERNANCE STRUCTURE OF COUNTY WATER AND/OR SEWER DISTRICTS.....	2612
31	(<i>Fleming</i>) REQUESTING AN INTERIM STUDY OF THE COLLECTION AND DISSEMINATION OF CRIMINAL JUSTICE SYSTEM DATA IN MONTANA.....	2614

34 (*Usher*) REQUESTING AN INTERIM STUDY OF PRETRIAL DIVERSION PROGRAMS AND PRESENTENCE DIVERSION AGREEMENTS.....2615

35 (*Carlson*) REQUESTING AN INTERIM STUDY OF THE CHILDREN’S MENTAL HEALTH SYSTEM; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 68TH LEGISLATURE.2616

36 (*Fern*) REQUESTING AN INTERIM STUDY ON RESIDENTIAL PROPERTY TAXES.....2617

37 (*Gunderson*) REQUESTING AN INTERIM STUDY OF SELENIUM LEVELS IN LAKE KOOCANUSA, INCLUDING A COLLABORATIVE REVIEW OF THE MODELING, ANALYSIS, AND WATER QUALITY STANDARDS ADOPTED IN 2020.2618

39 (*Tenenbaum*) REQUESTING AN INTERIM STUDY OF THE USE OF INVOLUNTARY COMMITMENTS FOR INDIVIDUALS WITH ALZHEIMER’S DISEASE OR OTHER DEMENTIAS; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 68TH LEGISLATURE.2619

40 (*Mercer*) REQUESTING AN INTERIM STUDY AND A PERFORMANCE AUDIT OF THE JUDICIAL STANDARDS COMMISSION.2620

44 (*Lenz*) REQUESTING AN INTERIM STUDY OF THE FAMILY FOSTER CARE SYSTEM; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 68TH LEGISLATURE.....2621

45 (*Lenz*) REQUESTING AN INTERIM STUDY OF THE FACTORS THAT TRIGGER CHILD REMOVALS AND FAMILY REUNIFICATION IN CHILD PROTECTIVE SERVICES CASES; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 68TH LEGISLATURE.2622

47 (*Seekins-Crowe*) REQUESTING AN INTERIM STUDY AND A PERFORMANCE AUDIT OF EDUCATIONAL AND CAREER TRAINING OPPORTUNITIES FOR INCARCERATED AND RECENTLY INCARCERATED INDIVIDUALS.2624

48 (*Sullivan*) REQUESTING AN INTERIM STUDY TO EXAMINE THE USE OF FACIAL RECOGNITION TECHNOLOGY IN THE STATE, STUDY THE SECURITY OF FACIAL RECOGNITION TECHNOLOGY, AND EVALUATE POTENTIAL PROTECTIVE MEASURES AND LIMITATIONS; AND REQUIRING THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 68TH LEGISLATURE.2625

49 (*Gillette*) REQUESTING AN INTERIM STUDY OF BENEFITS CLIFFS IN PUBLIC ASSISTANCE PROGRAMS AND IMPACTS ON INDIVIDUALS AND BUSINESSES; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 68TH LEGISLATURE.....2626

HOUSE RESOLUTIONS ADOPTED

<u>HR</u>	<u>Page</u>
1 (<i>Stafman</i>) EXPRESSING APPRECIATION AND GRATITUDE TO ESSENTIAL WORKERS FOR THEIR EFFORTS DURING THE COVID-19 PANDEMIC.....	2629

2	(<i>Skees</i>) ADOPTING THE HOUSE RULES	2631
5	(<i>Usher</i>) FORMALIZING THE LONG-HELD, TRADITIONAL, AND INVOLABLE DECORUM OF THE MONTANA LEGISLATURE THAT MEMBERS OF THE HOUSE OF REPRESENTATIVES DRESS IN PROFESSIONAL BUSINESS ATTIRE AND COMPORT THEMSELVES IN A MANNER THAT RESPECTS AND UPHOLDS THE INTEGRITY OF THE LEGISLATIVE INSTITUTION AND IS BEFITTING OF THE HONOR AND THE PRIVILEGE OF THE POSITION THAT MEMBERS OF THE HOUSE OF REPRESENTATIVES HOLD IN OFFICE ON BEHALF OF THE CITIZENS OF MONTANA.	2657
7	(<i>Vinton</i>) DIRECTING IMMEDIATE LEGAL INTERVENTION ON BEHALF OF THE MONTANA LEGISLATURE AND THE HOUSE OF REPRESENTATIVES AS AN INDISPENSABLE PARTY IN ORDER TO PROTECT THE INTEGRITY OF THE HOUSE OF REPRESENTATIVES AND ITS ABILITY TO FULFILL ITS CONSTITUTIONAL ROLE AND APPLY ASSOCIATED STATUTES AND RELEVANT RULES OF THE HOUSE OF REPRESENTATIVES.....	2658

SENATE JOINT RESOLUTIONS ADOPTED

<u>SJR</u>		<u>Page</u>
1	(<i>Smith</i>) ADOPTING THE JOINT LEGISLATIVE RULES.....	2659
3	(<i>Gauthier</i>) MONTANA REQUESTING AN INTERIM STUDY OF THE FEASIBILITY OF ADVANCED NUCLEAR REACTORS AS A REPLACEMENT FOR COAL-FIRED BOILERS.	2681
5	(<i>Webber</i>) URGING THE NATIONAL PARK SERVICE TO INCLUDE SACAGAWEA ON DESIGNATION SIGNS FOR THE LEWIS AND CLARK TRAIL.	2682
6	(<i>Ellis</i>) URGING THE FEDERAL GOVERNMENT TO SIMPLIFY AND REDUCE THE COSTS OF STREAM RESTORATION PROJECTS WHILE MAINTAINING THE SAFETY OF STRUCTURES IN FLOODS.	2682
7	(<i>Welborn</i>) URGING THE UNITED STATES CONGRESS TO REMOVE THE HIDDEN PASTURE WILDERNESS STUDY AREA FROM FURTHER WILDERNESS STUDY DESIGNATION.	2683
8	(<i>Regier</i>) URGING THE MEMBERS OF THE UNITED STATES CONGRESS TO PROPOSE THE “KEEP NINE” AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES TO REQUIRE THAT THE UNITED STATES SUPREME COURT BE COMPOSED OF NINE JUSTICES.	2684
9	(<i>Hertz</i>) REAFFIRMING THE FRIENDSHIP BETWEEN THE STATE OF MONTANA AND TAIWAN; WELCOMING BILATERAL TRADE AGREEMENT TALKS; AND SUPPORTING TAIWAN’S MEANINGFUL PARTICIPATION IN INTERNATIONAL ORGANIZATIONS.	2685
10	(<i>Small</i>) URGING CONGRESS TO APPROPRIATE FUNDING UNDER THE ENERGY ACT OF 2020 FOR THE DEVELOPMENT OF CARBON CAPTURE TECHNOLOGIES AT THE COLSTRIP ELECTRIC GENERATING STATION IN ROSEBUD COUNTY, MONTANA.	2686
11	(<i>Boldman</i>) ENCOURAGING LABELS THAT STATE “PRODUCT OF THE USA”, “MADE IN THE USA”, “US BEEF”, OR “US PORK” ONLY BE	

ALLOWED ON BEEF AND PORK FROM CATTLE OR SWINE BORN,
RAISED, AND PROCESSED IN THE UNITED STATES.....2688

13 (*Hinebauch*) REQUESTING AN INTERIM STUDY ON PUBLIC
CONTRACTS AND PREVAILING WAGE LAW.....2688

14 (*Sales*) REQUESTING AN INTERIM STUDY OF MONTANA'S PUBLICLY
FUNDED MENTAL HEALTH SYSTEM; AND REQUIRING THAT THE
FINAL RESULTS OF THE STUDY BE REPORTED TO THE 68TH
LEGISLATURE.....2689

15 (*Ellsworth*) APPROVING THE BITTERROOT VALLEY COMMUNITY
COLLEGE DISTRICT.....2691

16 (*Hinebauch*) URGING PROMPT CONGRESSIONAL AND PRESIDENTIAL
APPROVAL FOR THE KEYSTONE XL PIPELINE.....2691

17 (*Bennett*) URGING CONGRESS TO ALLOW MONTANA TO ENACT
YEAR-ROUND DAYLIGHT SAVING TIME.....2692

18 (*Gillespie*) REQUESTING THAT MONTANA'S CONGRESSIONAL
DELEGATION WORK TO RETURN MANAGEMENT OF MONTANA'S
RECOVERED GRIZZLY BEAR POPULATIONS TO THE STATE OF
MONTANA AND INITIATE FURTHER REVIEW OF MONTANA'S
GRIZZLY BEAR POPULATIONS.....2693

19 (*Cuffe*) RECOGNIZING THE 75TH ANNIVERSARY OF THE END OF
WORLD WAR II (1941 TO 1946) AND MONTANA'S VETERANS OF THAT
WAR.....2695

21 (*Cuffe*) SUPPORTING THE PAYMENT OF COMPENSATION
TO MONTANA FOR LOSSES INCURRED AND BENEFITS
REALIZED DOWNSTREAM DUE TO THE CONSTRUCTION
OF LIBBY DAM AND OPPOSING THE RIGHT TO DIVERT
1,500,000 ACRE-FEET OF WATER FROM THE KOOTENAI
RIVER TO THE COLUMBIA RIVER AT CANAL FLATS, BRITISH
COLUMBIA.....2698

23 (*Jacobson*) REQUESTING AN INTERIM STUDY ON PUBLIC NOTICE
PROVIDED ELECTRONICALLY; AND REQUIRING THAT THE
FINAL RESULTS OF THE STUDY BE REPORTED TO THE 68TH
LEGISLATURE.....2699

26 (*Sands*) REQUESTING AN INTERIM STUDY OF THE ADEQUACY OF
THE MONTANA WOMEN'S PRISON FACILITY AND PROGRAMS.....2700

28 (*Blasdel*) REQUESTING AN INTERIM STUDY OF EROSION ALONG
THE FLATHEAD RIVER.....2702

31 (*Boldman*) REQUESTING AN INTERIM STUDY OF IMPLEMENTATION
OF MONTANA'S RECREATIONAL MARIJUANA PROGRAM.....2703

33 (*Pope*) REQUESTING AN INTERIM STUDY TO EXAMINE FUTURE
ELECTRIC GRID CAPACITY REQUIREMENTS, GRID TECHNOLOGIES,
AND THE ROLES OF REGULATORY, PRIVATE-SECTOR, AND STATE
GOVERNMENT ENTITIES IN THE FUTURE OF THE GRID; AND
REQUIRING THE FINAL RESULTS OF THE STUDY BE REPORTED TO
THE 68TH LEGISLATURE.....2704

35 (*Friedel*) REQUESTING AN INTERIM STUDY OF PROCUREMENT
PRACTICES BY THE DEPARTMENT OF PUBLIC HEALTH AND
HUMAN SERVICES; AND REQUIRING THAT THE RESULTS OF THE
STUDY BE REPORTED TO THE 68TH LEGISLATURE.....2705

SENATE RESOLUTIONS ADOPTED

<u>SR</u>		<u>Page</u>
1	(<i>Smith</i>) ADOPTING THE STATE RULES.....	2707
3	(<i>Fitzpatrick</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF LABOR AND INDUSTRY MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 5, 2021, TO THE SENATE.	2725
4	(<i>Welborn</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 5, 2021, TO THE SENATE.	2725
5	(<i>Vance</i>) CONCURRING IN, CONFIRMING AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 5, 2021, TO THE SENATE.	2726
6	(<i>Hoven</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE STATE TAX APPEAL BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 12, 2021, TO THE SENATE.	2726
8	(<i>Hoven</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF REVENUE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 5, 2021, TO THE SENATE.	2727
9	(<i>Vance</i>) CONCURRING IN CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE TRANSPORTATION COMMISSION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 12, 2021, TO THE SENATE.	2727
10	(<i>Vance</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF AERONAUTICS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 12, 2021, TO THE SENATE.	2728
11	(<i>Vance</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 5, 2021, TO THE SENATE.	2728
12	(<i>Regier</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF ASSOCIATE WATER JUDGE MADE BY THE CHIEF JUSTICE OF THE MONTANA SUPREME COURT AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2021, TO THE SENATE.	2729
13	(<i>Kary</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF VETERANS' AFFAIRS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.	2729

15 (*Kary*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE FACILITY FINANCE AUTHORITY MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.2730

16 (*Kary*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE PUBLIC EMPLOYEES' RETIREMENT BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATES JANUARY 14, 2021, TO THE SENATE.....2730

22 (*Kary*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF INVESTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.2731

25 (*Kary*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF BOARD OF COUNTY PRINTING MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.2731

27 (*Fitzpatrick*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE STATE COMPENSATION INSURANCE FUND MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.2732

28 (*Fitzpatrick*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE COMMISSION FOR HUMAN RIGHTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.2732

29 (*Fitzpatrick*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF HOUSING AND THE BOARD OF HORSERACING MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.2733

30 (*Fitzpatrick*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE STATE BANKING BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.2734

31 (*Fitzpatrick*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF PERSONNEL APPEALS AND THE BOARD OF UNEMPLOYMENT INSURANCE APPEALS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE. 2734

32 (*Fitzpatrick*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS RELATED TO BUSINESS AND LABOR MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.2735

33 (*Fitzpatrick*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS RELATED TO BUSINESS AND LABOR MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.2736

34 (*Ankney*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS THE HARD-ROCK MINING IMPACT

	BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.	2737
35	(<i>Ankney</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS THE COAL BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.	2737
36	(<i>Ankney</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.	2738
37	(<i>Ankney</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF OIL AND GAS CONSERVATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.	2738
38	(<i>Salomon</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE MONTANA ARTS COUNCIL MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.	2739
41	(<i>Salomon</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE MONTANA HISTORICAL SOCIETY BOARD OF TRUSTEES MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.	2739
42	(<i>Salomon</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF REGENTS OF HIGHER EDUCATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.	2740
44	(<i>Salomon</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF PUBLIC EDUCATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.	2740
46	(<i>Regier</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE FIRST JUDICIAL DISTRICT COURT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 13, 2021, TO THE SENATE.	2741
47	(<i>Regier</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE EIGHTEENTH JUDICIAL DISTRICT COURT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 13, 2021, TO THE SENATE.	2741
48	(<i>Regier</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF PARDONS AND PAROLE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.	2742
49	(<i>Regier</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE MONTANA PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.	2742

52	<i>(Welborn)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF WATER WELL CONTRACTORS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2021, TO THE SENATE.	2743
53	<i>(Welborn)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF NATURAL RESOURCES AND CONSERVATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 5, 2021, TO THE SENATE.	2743
55	<i>(Lang)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF AGRICULTURE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 5, 2021, TO THE SENATE.	2744
56	<i>(Howard)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF CHIROPRACTORS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 25, 2021, TO THE SENATE.	2744
57	<i>(Howard)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 25, 2021, TO THE SENATE.	2744
58	<i>(Welborn)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF ENVIRONMENTAL REVIEW MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2021, TO THE SENATE.	2745
59	<i>(Hinebaugh)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 25, 2021, TO THE SENATE.	2745
60	<i>(Hinebaugh)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF PARKS AND RECREATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 13, 2021, TO THE SENATE.	2746
63	<i>(Lang)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF LIVESTOCK MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021.	2746
65	<i>(Lang)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF HAIL INSURANCE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.	2747
66	<i>(Lang)</i> CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE LIVESTOCK LOSS BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.	2747

- 68 (*Lang*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF MILK CONTROL MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.2748
- 69 (*Hoven*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE STATE TAX APPEAL BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 12, 2021, TO THE SENATE.2748
- 70 (*Lang*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF VETERINARY MEDICINE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.2749
- 71 (*Howard*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARDS OF ALTERNATIVE HEALTH CARE, BEHAVIORAL HEALTH, CLINICAL LABORATORY SCIENCE PRACTITIONERS, DENTISTRY, HEARING AID DISPENSERS, MASSAGE THERAPY, MEDICAL EXAMINERS, NURSING, NURSING HOME ADMINISTRATORS, OCCUPATIONAL THERAPY PRACTICE, OPTOMETRY, PHARMACY, PHYSICAL THERAPY EXAMINERS, PSYCHOLOGISTS, RADIOLOGIC TECHNOLOGISTS, RESPIRATORY CARE PRACTITIONERS, SANITARIANS, AND SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.2749
- 72 (*Howard*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF OCCUPATIONAL THERAPY PRACTICE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.2752
- 73 (*Salomon*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF REGENTS OF HIGHER EDUCATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 10, 2021, TO THE SENATE.2753
- 74 (*Kary*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF MILITARY AFFAIRS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 5, 2021, TO THE SENATE.2753
- 75 (*Fitzpatrick*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF COMMERCE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 13, 2021, TO THE SENATE.2754
- 76 (*Kary*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 1, 2021, TO THE SENATE.2754
- 77 (*Fitzpatrick*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE STATE BANKING BOARD MADE BY

	THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.	2755
78	(<i>Fitzpatrick</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF PERSONNEL APPEALS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.	2755
79	(<i>Fitzpatrick</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE COMMISSION FOR HUMAN RIGHTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.	2755
80	(<i>Fitzpatrick</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF DIRECTORS OF THE STATE COMPENSATION INSURANCE FUND MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.	2756
81	(<i>Welborn</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF ENVIRONMENTAL REVIEW MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2021, TO THE SENATE.	2756
82	(<i>Kary</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF VETERANS' AFFAIRS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.	2757
83	(<i>Salomon</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF PUBLIC EDUCATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.	2757
84	(<i>Salomon</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE MONTANA HISTORICAL SOCIETY BOARD OF TRUSTEES MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.	2758
85	(<i>Kary</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF VETERANS' AFFAIRS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 2, 2021, TO THE SENATE.	2758
86	(<i>Kary</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE PUBLIC EMPLOYEES' RETIREMENT BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.	2759
87	(<i>Lang</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF LIVESTOCK MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021.	2759
88	(<i>Hinebaugh</i>) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE FISH AND WILDLIFE COMMISSION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 13, 2021, TO THE SENATE.	2760

- 89 (*Lang*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF HAIL INSURANCE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.2760
- 90 (*Fitzpatrick*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF PERSONNEL APPEALS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 2, 2021, TO THE SENATE.2761
- 91 (*Fitzpatrick*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF BARBERS AND COSMETOLOGISTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.2761
- 92 (*Fitzpatrick*) CONCURRING IN, CONFIRMING, AND CONSENTING TO AN APPOINTMENT TO THE STATE ELECTRICAL BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.2762
- 93 (*Hinebauch*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF OUTFITTERS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 13, 2021, TO THE SENATE.2762
- 94 (*Howard*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF PUBLIC ASSISTANCE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 13, 2021, TO THE SENATE.2763
- 95 (*Regier*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE MONTANA BOARD OF CRIME CONTROL MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATIONS DATED MARCH 11, 2021, AND APRIL 6, 2021, TO THE SENATE.2763
- 96 (*Kary*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF COUNTY PRINTING MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 2, 2021, TO THE SENATE.2764
- 97 (*Smith*) DIRECTING IMMEDIATE LEGAL INTERVENTION ON BEHALF OF THE MONTANA LEGISLATURE AND THE SENATE AS AN INDISPENSABLE PARTY IN ORDER TO PROTECT THE INTEGRITY OF THE LEGISLATIVE BRANCH AND ITS ABILITY TO FULFILL ITS CONSTITUTIONAL ROLE AND APPLY ASSOCIATED STATUTES AND RELEVANT RULES OF THE SENATE.2764
- 98 (*Salomon*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE MONTANA ARTS COUNCIL MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 14, 2021, TO THE SENATE.2765
- 99 (*Hinebauch*) CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF OUTFITTERS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 7, 2021, TO THE SENATE.2766

2020 BALLOT ISSUES APPROVED

<u>Constitutional Amendments</u>		<u>Page</u>
46	AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE XIV, SECTION 9, OF THE MONTANA CONSTITUTION TO REVISE THE METHOD OF QUALIFYING A CONSTITUTIONAL AMENDMENT BY INITIATIVE FOR THE BALLOT; AND PROVIDING AN EFFECTIVE DATE.....	2769
47	AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE III, SECTION 4, OF THE MONTANA CONSTITUTION TO REVISE THE METHOD OF QUALIFYING AN INITIATIVE FOR THE BALLOT; AND PROVIDING AN EFFECTIVE DATE.....	2770
 <u>Constitutional Initiative</u>		
118	AMENDING THE MONTANA CONSTITUTION TO ALLOW THE LEGISLATURE OR THE PEOPLE BY INITIATIVE TO ESTABLISH THE LEGAL AGE FOR PURCHASING, CONSUMING, OR POSSESSING MARIJUANA.	2771
 <u>Legislative Referendum</u>		
130	REVISING FIREARMS LAWS TO SECURE THE RIGHT TO KEEP AND BEAR ARMS AND TO PREVENT A PATCHWORK OF RESTRICTIONS BY LOCAL GOVERNMENTS ACROSS THE STATE AND PROVIDING THAT LOCAL GOVERNMENTS MAY NOT REGULATE THE CARRYING OF CONCEALED WEAPONS; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AMENDING SECTIONS 7-1-111 AND 45-8-351, MCA; AND PROVIDING AN EFFECTIVE DATE.....	2772
 <u>Initiative</u>		
190	LEGALIZES THE POSSESSION AND USE OF LIMITED AMOUNTS OF MARIJUANA FOR ADULTS OVER THE AGE OF 21; REQUIRES THE DEPARTMENT OF REVENUE TO LICENSE AND REGULATE THE CULTIVATION, TRANSPORTATION, AND SALE OF MARIJUANA AND MARIJUANA-INFUSED PRODUCTS AND TO INSPECT PREMISES WHERE MARIJUANA IS CULTIVATED AND SOLD; REQUIRES LICENSED LABORATORIES TO TEST MARIJUANA AND MARIJUANA-INFUSED PRODUCTS FOR POTENCY AND CONTAMINANTS; ESTABLISHES A 20% TAX ON NON-MEDICAL MARIJUANA; 10.5% OF THE TAX REVENUE GOES TO THE STATE GENERAL FUND, WITH THE REST DEDICATED TO ACCOUNTS FOR CONSERVATION PROGRAMS, SUBSTANCE ABUSE TREATMENT, VETERANS' SERVICES, HEALTHCARE COSTS, AND LOCALITIES WHERE MARIJUANA IS SOLD; ALLOWS A PERSON CURRENTLY SERVING A SENTENCE FOR AN ACT PERMITTED BY I-190 TO APPLY FOR RESENTENCING OR AN EXPUNGEMENT OF THE CONVICTION; PROHIBITS ADVERTISING OF MARIJUANA AND RELATED PRODUCTS.....	2775

LAWS
Enacted by the
SIXTY-SEVENTH LEGISLATURE
IN REGULAR SESSION

Held at Helena, the Seat of Government
January 4, 2021, through April 29, 2021

Explanatory Note:
New parts of existing statutes are printed in italics and
deleted provisions are shown as stricken.
(Per Section 5-11-205, MCA)

COMPILED BY MONTANA
LEGISLATIVE SERVICES DIVISION

CHAPTER NO. 1

[HB 1]

AN ACT APPROPRIATING MONEY FOR THE OPERATION OF THE CURRENT AND SUBSEQUENT LEGISLATURE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Appropriation. (1) The following amounts are appropriated from the state general fund for fiscal years 2021, 2022, and 2023 for the operation of the 67th legislature and the costs of preparing for the 68th legislature:

LEGISLATIVE BRANCH (1104)

Senate	\$3,903,842
House of Representatives	\$6,411,802
Legislative Services Division	\$1,846,466

(2) The following amounts are appropriated from the state general fund for fiscal year 2023 for the initial costs of the 68th legislature:

LEGISLATIVE BRANCH (1104)

Senate	\$321,085
House of Representatives	\$539,270
Legislative Services Division	\$16,500

Section 2. Effective date. [This act] is effective on passage and approval.

Approved February 3, 2021

CHAPTER NO. 2

[SB 65]

AN ACT REVISING CIVIL LIABILITY LAWS; SETTING CONDITIONS ON CIVIL ACTIONS FOR EXPOSURE TO COVID-19; LIMITING LIABILITY OF PREMISES OWNERS; PROVIDING AFFIRMATIVE DEFENSE FOR THOSE WHO COMPLY WITH CERTAIN TYPES OF REGULATIONS; LIMITING LIABILITY OF HEALTH CARE PROVIDERS; LIMITING PRODUCTS LIABILITY CLAIMS IN RESPONSE TO COVID-19; PROVIDING DEFINITIONS; AMENDING SECTION 27-1-719 AND 70-24-303, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

WHEREAS, the COVID-19 pandemic has caused significant disruption to Montana's people, businesses, places of worship, property owners, and nonprofit organizations and has adversely affected Montana's economy and the rights of Montana's citizens; and

WHEREAS, in order to improve Montana's economy and to encourage people to engage in private sector activities, the Legislature believes it is necessary to enact this legislation to establish standards for imposing liability and to provide defenses for claims relating to COVID-19.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 8], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Covid-19" means the novel coronavirus identified as SARS-CoV-2, the disease caused by the novel coronavirus SARS-CoV-2 or a virus mutating from it, and conditions associated with the disease caused by the novel coronavirus SARS-CoV-2 or a virus mutating from it.

(2) “Health care professional” means, for the purposes of [sections 1 through 8], physicians, physician assistants, nurse practitioners, nurses, nursing assistants, chiropractors, pharmacists, pharmacy technicians, dentists, dental hygienists, optometrists, medication aides, respiratory therapist practitioners, professional counselors, occupational therapists, midwives, psychologists, and other health care practitioners who are licensed, certified, or otherwise authorized or permitted by the laws of this state to administer health care services in the ordinary course of business or in the practice of a profession, whether paid or unpaid. This term includes persons engaged in telemedicine as defined in 33-22-138, and a similar professional’s employer or agent who provides or arranges health care.

(3) “Health care provider” means and includes, for the purposes of [sections 1 through 8], a health care professional, health care facility, home health care facility, assisted living facility, and any other person or facility otherwise authorized or permitted by any federal or state statute, regulation, order, or public health guidance to administer health care services or treatment. It does not include a government entity or a health care professional that is employed by a government entity.

(4) “Person” means an individual, corporation, nonprofit corporation, estate, trust, partnership, limited liability company, business or similar trust, association, joint venture, place of worship, personal representative, trustee, or any other legal or commercial entity. It does not include a government entity.

(5) “Personal protective equipment” includes protective clothing, gloves, face shields, goggles, face masks, respirators, gowns, aprons, coveralls, and other equipment designed to protect the wearer from injury or spread of infection or illness.

(6) “Premises” includes any real property and any appurtenant building or structure, as well as any other location, vehicle, or place, serving a commercial, residential, educational, religious, governmental, cultural, charitable, or health care purpose.

(7) “Public health guidance” includes guidance related to covid-19 issued by the following:

(a) the centers for disease control and prevention of the U.S. department of health and human services;

(b) the centers for medicare and medicaid services of the U.S. department of health and human services;

(c) the federal occupational safety and health administration;

(d) the office of the governor;

(e) a state agency, including the department of public health and human services; or

(f) a local government including a local government health department or local government board of health.

(8) “Qualified product” means and includes:

(a) personal protective equipment and supplies used to treat covid-19 or to prevent the spread of covid-19;

(b) medical devices, equipment, and supplies used to treat covid-19, including medical devices, equipment, and supplies that are used or modified for an unapproved use to treat covid-19 or to prevent the spread of covid-19;

(c) medical devices, equipment, and supplies used outside of their normal use to treat covid-19 or to prevent the spread of covid-19;

(d) medications used to treat covid-19, including medications prescribed or dispensed for off-label use to attempt to treat covid-19;

(e) tests to diagnose or determine immunity to covid-19; and

(f) a component of an item described in subsections (8)(a) through (8)(e).

Section 2. Liability. Except as provided in [sections 3 through 8], a person is not liable for civil damages for injuries or death from or relating to exposure or potential exposure to covid-19 unless the civil action involves an act or omission that constitutes gross negligence, willful and wanton misconduct, or intentional tort.

Section 3. Premises owner's duty of care – limited liability. (1) A person who possesses or is in control of a premises, including a tenant, lessee, or occupant of a premises, who directly or indirectly invites or permits an individual onto a premises, is not liable for civil damages for injuries or death sustained from the individual's exposure to covid-19, whether the exposure occurs on the premises or during an activity managed by the person who possesses or is in control of a premises, unless the civil action involves an act or omission that constitutes gross negligence, willful and wanton misconduct, or intentional tort.

(2) The standard established in subsection (1) applies in landlord-tenant claims made under 70-24-303(1)(b) through (1)(e) for injuries or death sustained from an individual's exposure to covid-19.

Section 4. Liability of health care providers. A health care provider is not liable for civil damages for causing or contributing, directly or indirectly, to the death or injury of an individual as a result of the health care provider's acts or omissions while providing or arranging health care in support of the response to covid-19 unless the health care provider caused the death or injury of an individual through an act or omission that constitutes gross negligence, willful and wanton misconduct, or an intentional tort. This section applies to:

(1) injury or death resulting from screening, assessing, diagnosing, caring for, or treating individuals with a suspected or confirmed case of covid-19;

(2) prescribing, administering, or dispensing a pharmaceutical for off-label use to treat a patient with a suspected or confirmed case of covid-19;

(3) acts or omissions while providing health care to individuals with a condition unrelated to covid-19 when those acts or omissions support the response to covid-19, including the following:

(a) delaying or canceling nonurgent or elective dental, medical, or surgical procedures, or altering the diagnosis or treatment of an individual in response to a federal or state statute, regulation, order, or public health guidance;

(b) diagnosing or treating patients outside the normal scope of the health care provider's license or practice;

(c) using medical devices, equipment, or supplies outside of their normal use for the provision of health care, including using or modifying medical devices, equipment, or supplies for an unapproved use;

(d) conducting tests or providing treatment to an individual outside the premises of a health care facility;

(e) acts or omissions undertaken by a health care provider because of a lack of staffing, facilities, medical devices, equipment, supplies, or other resources attributable to covid-19 that renders the health care provider unable to provide the level or manner of care to a person that otherwise would have been required in the absence of covid-19; or

(f) acts or omissions undertaken by a health care provider relating to the use or nonuse of personal protective equipment.

Section 5. Supplies, equipment, and products designed, manufactured, labeled, sold, distributed, and donated in response to covid-19. (1) A person who designs, manufactures, labels, sells, distributes, or donates household disinfecting or cleaning supplies, personal protective equipment, or a qualified product in response to covid-19 is not liable in a civil action alleging personal injury, death, or property damage caused by or

resulting from the design, manufacturing, labeling, selling, distributing, or donating of the household disinfecting or cleaning supplies, personal protective equipment, or a qualified product unless the person caused the personal injury, death, or property damage through an act or omission that constitutes gross negligence, willful and wanton misconduct, or an intentional tort.

(2) A person who designs, manufactures, labels, sells, distributes, or donates household disinfecting or cleaning supplies, personal protective equipment, or a qualified product in response to covid-19 is not liable in a civil action alleging personal injury, death, or property damage caused by or resulting from a failure to provide proper instructions or sufficient warnings unless the person caused the personal injury, death, or property damage through an act or omission that constitutes gross negligence, willful and wanton misconduct, or an intentional tort.

(3) This section supersedes 27-1-719 for product liability claims brought for damages caused in part by covid-19 as defined in [section 1].

Section 6. Affirmative defense – reasonable measures consistent with regulations, orders, and public health guidance. (1) In addition to all other defenses, a person may assert as an affirmative defense that the person took reasonable measures consistent with a federal or state statute, regulation, order, or public health guidance related to covid-19 that was applicable to the person or activity at issue at the time of the alleged injury, death, or property damage.

(2) If two or more sources of public health guidance are applicable, a person does not breach a duty of care if the person took reasonable measures consistent with one applicable set of public health guidance.

(3) If a person proves the affirmative defense contained in this section, the affirmative defense is a complete bar to any action relating to covid-19.

(4) This section may not be construed to impose liability on a person for failing to comply with a federal or state statute, regulation, order, or public health guidance related to covid-19.

Section 7. Limitation on action. A government order, regulation, or public health guidance related to covid-19 may not create and may not be construed to create a new cause of action against any person with respect to the matters contained in the government order, regulation, or public health guidance.

Section 8. Limitation on requirements. (1) If a federal or state statute, regulation, order, or public health guidance related to covid-19 recommends or requires the use of a face mask, a person is not required to ensure face masks are being used or a face mask is sufficient to stop the spread of covid-19 to meet the standard of care.

(2) If a federal or state statute, regulation, order, or public health guidance related to covid-19 recommends or requires temperature checks, a person is not required to conduct temperature checks before allowing a person to enter a premises if an individual entering the premises refuses to allow a temperature check.

(3) If a federal or state statute, regulation, order, or public health guidance related to covid-19 recommends or requires a vaccine, an individual is not required to receive a vaccine and a person is not required to ensure employees or agents are vaccinated to meet the standard of care.

Section 9. Section 27-1-719, MCA, is amended to read:

“27-1-719. (Temporary) Liability of seller of product for physical harm to user or consumer. (1) As used in this section, “seller” means a manufacturer, wholesaler, or retailer.

(2) A person who sells a product in a defective condition *that is* unreasonably dangerous to a user or consumer or to the property of a user or consumer is liable for physical harm caused by the product to the ultimate user or consumer or to the user's or consumer's property if:

(a) the seller is engaged in the business of selling the product; and

(b) the product is expected to and does reach the user or consumer without substantial change in the condition in which it is sold.

(3) The provisions of subsection (2) apply even if:

(a) the seller exercised all possible care in the preparation and sale of the product; and

(b) the user or consumer did not buy the product from or enter into any contractual relation with the seller.

(4) (a) *Subsection (2) does not apply to product liability claims brought for damages caused in part by covid-19 as defined in [section 1], which are governed by [section 2].*

(b) Subsection (2)(b) does not apply to a claim for relief based upon improper product design.

(5) Except as provided in this subsection, contributory negligence is not a defense to the liability of a seller, based on strict liability in tort, for personal injury or property damage caused by a defectively manufactured or defectively designed product. A seller named as a defendant in an action based on strict liability in tort for damages to person or property caused by a defectively designed or defectively manufactured product may assert the following affirmative defenses against the user or consumer, the legal representative of the user or consumer, or any person claiming damages by reason of injury to the user or consumer:

(a) The user or consumer of the product discovered the defect or the defect was open and obvious and the user or consumer unreasonably made use of the product and was injured by it.

(b) The product was unreasonably misused by the user or consumer and the misuse caused or contributed to the injury.

(6) The affirmative defenses referred to in subsection (5) mitigate or bar recovery and must be applied in accordance with the principles of comparative negligence set forth in 27-1-702. (Terminates on occurrence of contingency--sec. 11(2), Ch. 429, L. 1997.)

27-1-719. (Effective on occurrence of contingency) Liability of seller of product for physical harm to user or consumer. (1) As used in this section, "seller" means a manufacturer, wholesaler, or retailer.

(2) A person who sells a product in a defective condition *that is* unreasonably dangerous to a user or consumer or to the property of a user or consumer is liable for physical harm caused by the product to the ultimate user or consumer or to the user's or consumer's property if:

(a) the seller is engaged in the business of selling the product; and

(b) the product is expected to and does reach the user or consumer without substantial change in the condition in which it is sold.

(3) The provisions of subsection (2) apply even if:

(a) the seller exercised all possible care in the preparation and sale of the product; and

(b) the user or consumer did not buy the product from or enter into any contractual relation with the seller.

(4) (a) *Subsection (2) does not apply to product liability claims brought for damages caused in part by covid-19 as defined in [section 1], which are governed by [section 2].*

(b) Subsection (2)(b) does not apply to a claim for relief based upon improper product design.

(5) Contributory fault is a defense to the liability of a seller, based on strict liability in tort, for personal injury or property damage caused by a defectively manufactured or defectively designed product. A seller named as a defendant in an action based on strict liability in tort for damages to a person or property caused by a defectively designed or defectively manufactured product may assert the following affirmative defenses against the user or consumer, the legal representative of the user or consumer, or any person claiming damages by reason of injury to the user or consumer:

(a) The user or consumer of the product discovered the defect or the defect was open and obvious and the user or consumer unreasonably made use of the product and was injured by it.

(b) The product was unreasonably misused by the user or consumer and the misuse caused or contributed to the injury.

(6) The affirmative defenses referred to in subsection (5) mitigate or bar recovery and must be applied in accordance with the principles of comparative fault set forth in 27-1-702 and 27-1-705."

Section 10. Section 70-24-303, MCA, is amended to read:

"70-24-303. Landlord to maintain premises – agreement that tenant perform duties – limitation of landlord's liability for failure of smoke detector or carbon monoxide detector. (1) *A Subject to [section 3], a landlord:*

(a) shall comply with the requirements of applicable building and housing codes materially affecting health and safety in effect at the time of original construction in all dwelling units where construction is completed after July 1, 1977;

(b) may not knowingly allow any tenant or other person to engage in any activity on the premises that creates a reasonable potential that the premises may be damaged or destroyed or that neighboring tenants may be injured;

(c) shall make repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;

(d) shall keep all common areas of the premises in a clean and safe condition;

(e) shall maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators, supplied or required to be supplied by the landlord;

(f) shall, unless otherwise provided in a rental agreement, provide and maintain appropriate receptacles and conveniences for the removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of the dwelling unit and arrange for their removal;

(g) shall supply running water and reasonable amounts of hot water at all times and reasonable heat between October 1 and May 1, except if the building that includes the dwelling unit is not required by law to be equipped for that purpose or the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant; and

(h) shall install in each dwelling unit under the landlord's control an approved carbon monoxide detector, in accordance with rules adopted by the department of labor and industry, and an approved smoke detector, in accordance with rules adopted by the department of justice. Upon commencement of a rental agreement, the landlord shall verify that the carbon monoxide detector and the smoke detector in the dwelling unit are in good working order. The tenant shall maintain the carbon monoxide detector and the smoke detector

in good working order during the tenant's rental period. For the purposes of this subsection (1)(h), an approved carbon monoxide detector, as defined in 70-20-113, and an approved smoke detector, as defined in 70-20-113, bear a label or other identification issued by an approved testing agency having a service for inspection of materials and workmanship at the factory during fabrication and assembly.

(2) If the duty imposed by subsection (1)(a) is greater than a duty imposed by subsections (1)(b) through (1)(h), a landlord's duty must be determined by reference to subsection (1)(a).

(3) A landlord and tenant of a one-, two-, or three-family residence may agree in writing that the tenant perform the landlord's duties specified in subsections (1)(f) and (1)(g) and specified repairs, maintenance tasks, alteration, and remodeling but only if the transaction is entered into in good faith and not for the purpose of evading the obligations of the landlord.

(4) A landlord and tenant of a one-, two-, or three-family residence may agree that the tenant is to perform specified repairs, maintenance tasks, alterations, or remodeling only if:

(a) the agreement of the parties is entered into in good faith and not for the purpose of evading the obligations of the landlord and is set forth in a separate writing signed by the parties and supported by adequate consideration;

(b) the work is not necessary to cure noncompliance with subsection (1)(a); and

(c) the agreement does not diminish the obligation of the landlord to other tenants in the premises.

(5) The landlord is not liable for damages caused as a result of the failure of the carbon monoxide detector or the smoke detector required under subsection (1)(h)."

Section 11. Codification instruction. [Sections 1 through 8] are intended to be codified as an integral part of Title 27, and the provisions of Title 27 apply to [sections 1 through 8].

Section 12. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 13. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 14. Effective date. [This act] is effective on passage and approval.

Section 15. Termination. [This act] terminates January 1, 2031.

Approved February 10, 2021

CHAPTER NO. 3

[HB 102]

AN ACT GENERALLY REVISING GUN LAWS; PROVIDING A LEGISLATIVE PURPOSE, INTENT, AND FINDINGS; PROVIDING LOCATIONS WHERE CONCEALED WEAPONS MAY BE CARRIED AND EXCEPTIONS; PROHIBITING THE MONTANA UNIVERSITY SYSTEM AND BOARD OF REGENTS FROM INFRINGING ON CONSTITUTIONAL RIGHTS AND PROVIDING EXCEPTIONS; PROVIDING A SEPARATE CIVIL CAUSE OF ACTION FOR VIOLATIONS OF THIS ACT; AMENDING SECTIONS 45-3-111,

45-8-316, 45-8-328, AND 45-8-351, MCA; REPEALING SECTIONS 45-8-317 AND 45-8-339, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Purpose. The purpose of [sections 1 through 11] is to enhance the safety of people by expanding their legal ability to provide for their own defense by reducing or eliminating government-mandated places where only criminals are armed and where citizens are prevented from exercising their fundamental right to defend themselves and others.

Section 2. Legislative intent. It is the intent of the legislature to reduce or remove provisions of law that limit or prohibit the ability of citizens to defend themselves by restricting with prior restraint the right to keep or bear arms that the people have reserved to themselves in the Montana constitution, and to further establish that the right to defense of a person's life, liberty, or property is a fundamental right.

Section 3. Legislative findings. The legislature declares and finds as follows:

(1) Nowhere in Article X, section 9(2)(a), of the Montana constitution is any power granted to amend, suspend, alter, or abolish the Montana constitution, nor is any power granted to affect or interfere with the rights the people have reserved to themselves specifically from interference by government entities and government actors in Article II of the Montana constitution.

(2) The Montana university system was created and is controlled by the Montana constitution and the land and buildings occupied by the university system are public property and not private property and are therefore clearly government entities.

(3) Any significant prohibition upon the possession of firearms at or on the various campuses of the Montana university system calls into question the rights that the people have reserved to protect themselves from government interference under Article II, section 12, of the Montana constitution.

(4) Zones where guns are prohibited provide an increased risk to the health and safety of citizens because these zones create an unreasonable expectation of government-provided safety, while that safety cannot be provided or ensured.

(5) In *District of Columbia v. Heller*, 554 U.S. 570 (2008), and *McDonald v. City of Chicago*, 561 U.S. 742 (2010), the United States supreme court affirmed that the second amendment to the United States constitution reserves to individuals the fundamental right to keep and bear arms for self-defense and is applicable as a restriction upon state and local governments and all political subdivisions of state and local government through the 14th amendment to the United States constitution.

Section 4. Where concealed weapon may be carried – exceptions. A person with a current and valid permit issued pursuant to 45-8-321 or recognized pursuant to 45-8-329 may not be prohibited or restricted from exercising that permit anywhere in the state, except:

(1) in a correctional, detention, or treatment facility operated by or contracted with the department of corrections or a secure treatment facility operated by the department of public health and human services;

(2) in a detention facility or secure area of a law enforcement facility owned and operated by a city or county;

(3) at or beyond a security screening checkpoint regulated by the transportation security administration in a publicly owned, commercial airport;

(4) in a building owned and occupied by the United States;

- (5) on a military reservation owned and managed by the United States;
- (6) on private property where the owner of the property or the person who possesses or is in control of the property, including a tenant or lessee of the property, expressly prohibits firearms;
- (7) within a courtroom or an area of a courthouse in use by court personnel pursuant to an order of a justice of the peace or judge; or
- (8) in a school building as determined by a school board pursuant to 45-8-361.

Section 5. Prohibition on infringement of constitutional rights.

The board of regents and all university system employees subject to the authority of the board of regents are prohibited from enforcing or coercing compliance with any rule or regulation that diminishes or restricts the rights of the people to keep or bear arms as reserved to them in Article II of the Montana constitution, especially those rights reserved in Article II, sections 4 through 12, notwithstanding any authority of the board of regents under Article X, section 9(2)(a), of the Montana constitution.

Section 6. Regulation of firearms prohibited for certain people – exceptions. (1) Except as provided in subsection (2), the board of regents and any unit of the university system may not regulate, restrict, or place an undue burden on the possession, transportation, or storage of firearms on or within university system property by a person eligible to possess a firearm under state or federal law and meeting the minimum safety and training requirements in 45-8-321(3).

(2) The board of regents or a unit of the university system may prohibit or regulate the following:

(a) the discharge of a firearm on or within university system property unless the discharge is done in self-defense;

(b) the removal of a firearm from a gun case or holster unless the removal is done in self-defense or within the domicile on campus of the lawful possessor of the firearm;

(c) the pointing of a firearm at another person unless the lawful possessor is acting in self-defense;

(d) the carrying of a firearm outside of a domicile on campus unless the firearm is within a case or holster;

(e) the failure to secure a firearm with a locking device whenever the firearm is not in the possession of or under the immediate control of the lawful possessor of the firearm;

(f) the possession or storage of a firearm in an on-campus dormitory or housing unit without the express permission of any roommate of the lawful possessor of the firearm;

(g) the possession or storage of a firearm by any individual who has a history of adjudicated university system discipline arising out of the individual's interpersonal violence or substance abuse;

(h) the possession of a firearm at an event on campus where campus authorities have authorized alcohol to be served and consumed; and

(i) the possession of a firearm at an athletic or entertainment event open to the public with controlled access and armed security on site.

Section 7. Remedy for violations. Any person that suffers deprivation of rights enumerated under [sections 1 through 6] has a cause of action against any governmental entity, as defined in 2-9-101. The cause of action must be filed in district court. If a person asserting a deprivation of rights prevails, the person may be awarded reasonable costs, attorney fees, and damages.

Section 8. Section 45-3-111, MCA, is amended to read:

“45-3-111. Openly carrying weapon – display – exemption. (1) Any person who is not otherwise prohibited from doing so by federal or state law may openly carry a weapon and may communicate to another person the fact that the person has a weapon.

(2) If a person reasonably believes that the person or another person is threatened with bodily harm, the person may warn or threaten the use of force, including deadly force, against the aggressor, including drawing or presenting a weapon.

(3) ~~This section does not limit the authority of the board of regents or other postsecondary institutions to regulate the carrying of weapons, as defined in 45-8-361(5)(b), on their campuses.”~~

Section 9. Section 45-8-316, MCA, is amended to read:

“45-8-316. Carrying concealed firearms – exemption. (1) A person who carries or bears concealed upon the individual’s person a firearm shall be punished by a fine not exceeding \$500 or by imprisonment in the county jail for a period not exceeding 6 months, or both.

(2) A person who has previously been convicted of an offense, committed on a different occasion than the offense under this section, in this state or any other jurisdiction for which a sentence to a term of imprisonment in excess of 1 year could have been imposed and who carries or bears concealed upon the individual’s person a firearm shall be punished by a fine not exceeding \$1,000 or be imprisoned in the state prison for a period not exceeding 5 years, or both.

(3) *This section does not apply to a person eligible to possess a firearm under state or federal law.”*

Section 10. Section 45-8-328, MCA, is amended to read:

“45-8-328. Carrying concealed weapon in prohibited place – penalty. (1) ~~Except for a person issued a permit pursuant to 45-8-321 or a person recognized pursuant to 45-8-329 legislative security officers authorized to carry a concealed weapon in the state capitol as provided in 45-8-317(1)(k),~~ a person commits the offense of carrying a concealed weapon in a prohibited place if the person purposely or knowingly carries a concealed weapon in:

(a) portions of a building used for state or local government offices and related areas in the building that have been restricted;

(b) ~~a bank, credit union, savings and loan institution, or similar institution during the institution’s normal business hours. It is not an offense under this section to carry a concealed weapon while:~~

(i) ~~using an institution’s drive-up window, automatic teller machine, or unstaffed night depository; or~~

(ii) ~~at or near a branch office of an institution in a mall, grocery store, or other place unless the person is inside the enclosure used for the institution’s financial services or is using the institution’s financial services.~~

(c) ~~a room in which alcoholic beverages are sold, dispensed, and consumed under a license issued under Title 16 for the sale of alcoholic beverages for consumption on the premises.~~

(2) ~~It is not a defense that the person had a valid permit to carry a concealed weapon. A person convicted of the offense shall be imprisoned in the county jail for a term not to exceed 6 months or fined an amount not to exceed \$500, or both.”~~

Section 11. Section 45-8-351, MCA, is amended to read:

“45-8-351. Restriction on local government regulation of firearms. (1) Except as provided in subsection (2), a county, city, town, consolidated local government, or other local government unit may not prohibit, register, tax, license, or regulate the purchase, sale or other transfer (including delay in

purchase, sale, or other transfer), ownership, possession, transportation, use, or unconcealed carrying of any weapon, including a rifle, shotgun, handgun, or concealed handgun.

(2) (a) For public safety purposes, a city or town may regulate the discharge of rifles, shotguns, and handguns. A county, city, town, consolidated local government, or other local government unit has power to prevent and suppress the carrying of unpermitted concealed weapons or the carrying of unconcealed weapons to a publicly owned and occupied building under its jurisdiction.

(b) Nothing contained in this section allows any government to prohibit the legitimate display of firearms at shows or other public occasions by collectors and others or to prohibit the legitimate transportation of firearms through any jurisdiction, whether in airports or otherwise.

~~(c) A local ordinance enacted pursuant to this section may not prohibit a legislative security officer who has been issued a concealed weapon permit from carrying a concealed weapon in the state capitol as provided in 45-8-317."~~

Section 12. Repealer. The following sections of the Montana Code Annotated are repealed:

45-8-317. Exceptions.

45-8-339. Carrying firearms on train -- penalty.

Section 13. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 14. Codification instruction. [Sections 1 through 7] are intended to be codified as an integral part of Title 45, chapter 8, part 3, and the provisions of Title 45, chapter 8, part 3, apply to [sections 1 through 7].

Section 15. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 6] is effective June 1, 2021.

Approved February 18, 2021

CHAPTER NO. 4

[HB 3]

AN ACT APPROPRIATING MONEY TO VARIOUS STATE AGENCIES FOR THE FISCAL YEAR ENDING JUNE 30, 2021; APPROPRIATING FEDERAL FUNDS FOR COVID-19 RELIEF FOR THE FISCAL YEAR ENDING JUNE 30, 2021; ALLOWING COVID-19 RELIEF APPROPRIATIONS TO CONTINUE INTO THE 2023 BIENNIUM; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Time limits. The appropriations contained in [section 2] are intended to provide necessary and ordinary expenditures for the fiscal year ending June 30, 2021. The unspent balance of any appropriation must revert to the appropriate fund.

Section 2. Appropriations -- authorizations to spend money. The following money is appropriated, subject to the terms and conditions of [section 1]:

Agency and Program	Amount	Fund
Department of Revenue		
Alcoholic Beverage Control Division	\$13,819,000	Proprietary Fund

Office of Public Instruction

Local Level Activities \$4,500,000

General Fund

Section 3. Appropriations – authorization to spend federal money.

(1) There is \$292.9 million in federal special revenue funds appropriated to the office of budget and program planning in fiscal year 2021. Appropriation authority is intended to be allocated to the following items. Appropriations are authorized to continue in the 2023 biennium.

Agency	Amount	Fund
Governor's Office	\$17 million	Federal Special Revenue
[Governor's Education Relief Fund]		
Department of Commerce	\$17 million	Federal Special Revenue
[Emergency Rental Assistance]		
Department of Public Health and Human Services	\$37.8 million	Federal Special Revenue
[Vaccine Funding]		
	\$192.3 million	Federal Special Revenue
[Testing, Tracing, and Mitigation]		
	\$28.8 million	Federal Special Revenue
[Child Care and Development Block Grant]		

(2) There is appropriated \$650,000 in federal funds, generated from interest income on the Coronavirus Relief Fund, to the office of budget and program planning for the fiscal year ending June 30, 2021. Funds must be used to provide matching funds for the department of military affairs for funds received from the federal emergency and management agency.

(3) The office of budget and program planning is authorized to reallocate funds among the items listed in subsection (1) based on receipt of actual federal allocations.

(4) The office of budget and program planning shall provide a report to the legislative fiscal analyst containing the actual allocation of appropriation authority contained in this section.

Section 4. Effective date. [This act] is effective on passage and approval.

Approved February 18, 2021

CHAPTER NO. 5

[SB 19]

AN ACT GENERALLY REVISING THE STRUCTURE AND STAFFING OF THE BOARD OF CRIME CONTROL; PROVIDING THAT THE BOARD IS ALLOCATED TO THE DEPARTMENT OF JUSTICE FOR ADMINISTRATIVE PURPOSES ONLY; ALLOWING THE BOARD TO HIRE ITS OWN PERSONNEL; ELIMINATING THE CRIME CONTROL BUREAU IN THE DEPARTMENT OF CORRECTIONS; AMENDING SECTION 2-15-2306, MCA; REPEALING SECTION 2-15-2307, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-2306, MCA, is amended to read:

"2-15-2306. Board of crime control – composition – allocation.

(1) There is a board of crime control.

(2) The board is allocated to the department of ~~corrections~~ *justice for administrative purposes only as prescribed in 2-15-121. However, the board may hire its own personnel and 2-15-121(2)(d) does not apply.*

(3) The board is composed of 18 members appointed by the governor in accordance with 2-15-124 and any special requirements of Title I of the Omnibus Crime Control and Safe Streets Act, as amended. The board must be representative of state and local law enforcement and criminal justice agencies, including agencies directly related to the prevention and control of juvenile delinquency, units of general local government, and public agencies maintaining programs to reduce and control crime and must include representatives of citizens and professional and community organizations, including organizations directly related to delinquency prevention.”

Section 2. Transition – implementation procedure – legislative intent. (1) Except as provided in subsections (2) and (5), the provisions of 2-15-131 through 2-15-137 govern the transfer of the board of crime control and the board’s functions from the department of corrections to the department of justice.

(2) The staff of the board of crime control, the department of justice, and the department of corrections shall develop a transition plan to allow for the least impactful transition of the board to the department of justice. The plan must be presented to the law and justice interim committee no later than June 30, 2021.

(3) From July 1, 2021, to December 31, 2021, the staff of the board of crime control, in collaboration with the department of justice, shall implement the plan to fully transition the board to the department of justice by January 1, 2022, in a manner that ensures the least amount of:

- (a) delay in grant recipients receiving funds;
- (b) impact in reporting for affected grant recipients; and

(c) impact for transitioning grants between DUNS numbers with the federal government.

(4) To the extent transferring a grant from the department of corrections to the department of justice jeopardizes the grant, as determined by the budget director, the grant may not be transferred to the department of justice.

(5) It is the intent of the legislature that the board of crime control operate within its current level of funding during the transition. Within those funds, the board may add or eliminate staff positions as the board determines to be necessary, subject to the provisions of 2-15-131.

(6) The department of justice shall report at least three times to the law and justice interim committee during the biennium beginning July 1, 2021, on the progress of the transition implementation.

Section 3. Repealer. The following sections of the Montana Code Annotated are repealed:

2-15-2307. Crime control bureau.

Section 4. Directions to code commissioner. (1) Section 2-15-2306 is intended to be renumbered and recodified as an integral part of Title 2, chapter 15, part 20.

(2) The code commissioner is instructed to change internal references within and to the renumbered section in the Montana Code Annotated, including within sections enacted or amended by the 2021 legislature, to reflect the new section number assigned to the section pursuant to this section.

Section 5. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2021.

(2) [Section 2 and this section] are effective on passage and approval.

Approved February 18, 2021

CHAPTER NO. 6

[SB 1]

AN ACT GENERALLY REVISING LOBBYING LAWS; REVISING THE DEFINITION OF LOBBYING; CLARIFYING THAT LOBBYING AND REPORTING REQUIREMENTS RELATE TO PROMOTING OR OPPOSING OFFICIAL ACTION BY A LEGISLATOR OR THE LEGISLATURE; REVISING OUTDATED TERMINOLOGY; REVISING HOW LONG LOBBYING REPORTS MUST BE RETAINED; AND AMENDING SECTIONS 5-7-101, 5-7-102, 5-7-112, 5-7-120, 5-7-208, 5-7-209, 5-7-210, AND 5-7-305, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5-7-101, MCA, is amended to read:

“5-7-101. Purposes of chapter – applicability. (1) The purposes of this chapter are to promote a high standard of ethics in the practice of lobbying, to prevent unfair and unethical lobbying practices, to provide for the licensing of lobbyists and the suspension or revocation of the licenses, ~~to require elected officials to make public their business, financial, and occupational interests,~~ and to require disclosure of the amounts of money spent for lobbying.

(2) This chapter does not subject an individual lobbying on the individual’s own behalf to any reporting requirements or deprive an individual of the constitutional right to communicate with ~~public officials~~ *legislators.*”

Section 2. Section 5-7-102, MCA, is amended to read:

“5-7-102. Definitions. The following definitions apply in this chapter:

(1) “Appointed state official” means an individual who is appointed:

(a) to public office in state government by the governor or the chief justice of the Montana supreme court and who is subject to confirmation by the Montana senate;

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

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

(2) “Business” means:

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

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

(3) “Commissioner” means the commissioner of political practices.

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

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

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

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

(b) The term does not include a legislator.

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

(9) "Individual" means a human being.

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

(11) (a) "Lobbying" means:

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

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

(b) The term does not include:

(i) actions described in subsections (11)(a)(i) and (11)(a)(ii) when performed by a ~~public official~~ legislator, elected state official, appointed state official, an elected local official, an elected federal official, or an elected tribal official while acting in an official governmental capacity; or

(ii) federal lobbying as described in 5-7-120.

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

(b) Lobbyist does not include:

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

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

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

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

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

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

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

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

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

(i) personal and necessary living expenses; or

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

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

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

~~(16) (a) “Public official” means an elected state official or an appointed state official acting in an official capacity for state government or a legislator.~~

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

~~(17)~~(16) “Unprofessional conduct” means:

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

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

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

(i) promising financial support; or

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

(d) attempting to knowingly deceive a ~~public official~~ *legislator* or the legislature with regard to the pertinent facts of an official matter or attempting to knowingly misrepresent pertinent facts of an official matter to a ~~public official legislator~~ or the legislature.”

Section 3. Section 5-7-112, MCA, is amended to read:

“5-7-112. Payment threshold – inflation adjustment. For calendar year 2004, the payment threshold referred to in 5-7-102(12)(b)(iii), 5-7-103, and 5-7-208 is \$2,150. The commissioner shall adjust the threshold amount following a general election by multiplying the threshold amount valid for the year in which the general election was held by an inflation factor, adopted by the commissioner by rule. The rule must be written to reflect the annual average change in the consumer price index from the prior year to the year in which the general election is held. The resulting figure must be rounded up or down to the nearest \$50 increment. The commissioner shall adopt the adjusted amount by rule.”

Section 4. Section 5-7-120, MCA, is amended to read:

“5-7-120. Full disclosure of public expenditures on federal lobbying. (1) Each quarter of a fiscal year that a state agency or a local government, as the terms are defined in 2-2-102, makes an expenditure for the services of a lobbyist to lobby an elected federal official or an appointee of an elected federal official, the state agency or local government shall make readily available for public inspection upon request a summary report itemizing each lobbying service provided and how much money was spent for each service.

(2) Each state agency and local government subject to subsection (1) shall:

(a) designate an office from which a copy of the report may be obtained; and

(b) post a copy of the report to the agency’s or local government’s website on the internet, if the agency or local government has a website.

(3) For purposes of this section:

(a) “expenditure” means a payment by the state agency or local government or a payment by a contractor of the state agency or local government; and

(b) “lobbying” means the practice of promoting or opposing an official action by an elected federal official or an appointee of an elected federal official.”

Section 5. Section 5-7-208, MCA, is amended to read:

“5-7-208. Principals to file report. (1) A principal subject to this chapter shall file with the commissioner a report of payments made for the purpose of

lobbying. A principal is subject to the reporting requirements of this section only if the principal makes total payments for the purpose of lobbying that exceed the amount specified under 5-7-112 during a calendar year.

(2) If payments are made solely to influence legislative action, a report must be made:

(a) by February 15th of any year the legislature is in session and must include all payments made in that calendar year prior to February 1;

(b) by the 15th day of the calendar month following a calendar month in which the principal spent \$5,000 or more and must include all payments made during the prior calendar month; and

(c) no later than 30 days following adjournment of a legislative session and must include all payments made during the session, except as previously reported.

(3) If payments are made to influence any other official action by a ~~public official~~ *legislator* or made to influence other action and legislative action, a report must be made:

(a) by February 15th of the calendar year following the payments and must include all payments made during the prior calendar year; and

(b) by the 15th day of the calendar month following a calendar month in which the principal spent \$5,000 or more and must include all payments made during the prior calendar month.

(4) If payments are not made during the reporting periods provided in subsections (2)(a), (2)(c), and (3)(a), the principal shall file a report stating that fact.

(5) Each report filed under this section must:

(a) list all payments for lobbying in each of the following categories:

(i) printing;

(ii) advertising, including production costs;

(iii) postage;

(iv) travel expenses;

(v) salaries and fees, including allowances, rewards, and contingency fees;

(vi) entertainment, including all foods and refreshments;

(vii) ~~telephone and telegraph~~ *voice or any electronic communication*; and

(viii) other office expenses;

(b) itemize, identifying the payee and the beneficiary:

(i) each separate payment conferring \$25 or more benefit to any ~~public official~~ *legislator* when the payment was made for the purpose of lobbying; and

(ii) each separate payment conferring \$100 or more benefit to more than one ~~public official~~ *legislator*, regardless of individual benefit when the payment was made for the purpose of lobbying, except that in regard to a dinner or other function to which all senators or all representatives have been invited, the beneficiary may be listed as all members of that group without listing separately each ~~person~~ *legislator* who attended;

(c) list each contribution and membership fee that amounts to \$250 or more when aggregated over the period of 1 calendar year paid to the principal for the purpose of lobbying, with the full address of each payer and the issue area, if any, for which the payment was earmarked;

(d) list each official action on which the principal or the principal's agents exerted a major effort to support, oppose, or modify, together with a statement of the principal's position for or against the action; and

(e) be kept by the commissioner for a period of ~~10~~ 4 years."

Section 6. Section 5-7-209, MCA, is amended to read:

"5-7-209. Payments prohibited unless reported – penalty for late filing, failure to report, or false statement. A principal may not make

payments to influence official action by any ~~public official~~ *legislator* or the legislature unless that principal files the reports required under this chapter. A principal who fails to file a required report within the time required by this chapter is subject to the penalties provided in 5-7-305 and 5-7-306(1). A principal who knowingly files a false, erroneous, or incomplete statement commits the offense of unsworn falsification to authorities.”

Section 7. Section 5-7-210, MCA, is amended to read:

“5-7-210. Reimbursement. Whenever a lobbyist invites a ~~public official~~ *legislator* to attend a function that the lobbyist or the lobbyist’s principal has fully or partially funded or sponsored or whenever a lobbyist offers a ~~public official~~ *legislator* a gift, the lobbyist shall, upon request, supply the recipient ~~public official~~ *legislator* with the benefit’s true or estimated cost and allow the ~~public official~~ *legislator* to reimburse. The expenditures must be itemized in the principal’s reports with a notation “reimbursed by benefactee”.”

Section 8. Section 5-7-305, MCA, is amended to read:

“5-7-305. Penalties and enforcement. (1) A person who violates any of the provisions of this chapter is subject to civil penalties of not less than \$250 and not more than \$7,500 according to the discretion of the district court, as court of original jurisdiction. A lobbyist who violates any of the provisions of this chapter must have the lobbyist’s license suspended or revoked according to the discretion of the court. Any ~~public official holding elective office~~ *legislator* adjudged in violation of the provisions of this chapter is additionally subject to recall under the Montana Recall Act, Title 2, chapter 16, part 6, and the violation constitutes an additional basis for recall to those mentioned in 2-16-603(3).

(2) The attorney general, the commissioner, or the county attorney of the county in which the violation takes place may bring a civil action in the name of the state for any appropriate civil remedy.

(3) If a civil penalty action is undertaken by the attorney general or the commissioner, all costs associated with the prosecution must be paid by the state of Montana.

(4) (a) Any individual who has notified the attorney general, the commissioner, and the appropriate county attorney in writing that there is reason to believe that some portion of this chapter is being violated may bring in the name of the state an action (referred to as a citizen’s action) authorized under this chapter if:

(i) the attorney general, the commissioner, or the appropriate county attorney has failed to commence an action within 90 days after notice; and

(ii) the attorney general, the commissioner, or the county attorney fails to commence an action within 10 days after receiving a written notice that a citizen’s action will be brought if the attorney general, the commissioner, or the county attorney does not bring an action.

(b) Each notification tolls the applicable statute of limitations until the expiration of the waiting period.

(c) If the individual who brings the citizen’s action prevails, the individual is entitled to be reimbursed by the state of Montana for costs and attorney fees incurred. However, in the case of a citizen’s action that is dismissed and that the court also finds was brought without reasonable cause, the court may order the individual commencing the action to pay all costs of trial and reasonable attorney fees incurred by the defendant.

(5) A civil action may not be brought under this section more than 3 years after the occurrence of the facts that give rise to the action.

(6) All civil penalties imposed pursuant to this section must be deposited in the state general fund.

(7) A hearing under this chapter must be held by the court unless the defendant-licensee demands a jury trial. The trial must be held as soon as possible but at least 20 days after the filing of the charges and must take precedence over all other matters pending before the court.

(8) If the court finds for the plaintiff, judgment must be rendered revoking or suspending the license and the clerk of court shall file a certified copy of the judgment with the commissioner.”

Approved February 23, 2021

CHAPTER NO. 7

[SB 5]

AN ACT ESTABLISHING THE OTTO FOSSEN MEMORIAL HIGHWAY IN LIBERTY COUNTY; DIRECTING THE DEPARTMENT OF TRANSPORTATION TO INSTALL SIGNS AT THE LOCATION AND TO INCLUDE THE MEMORIAL HIGHWAY ON THE NEXT PUBLICATION OF THE STATE HIGHWAY MAP; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, Deputy Sheriff Otto Fossen lived, raised his family, and served in Liberty County, where many of his descendants still reside; and

WHEREAS, Otto Fossen dedicated 30 years to service for public safety, protecting the people of north central Montana as Deputy Sheriff of Liberty County; and

WHEREAS, Otto Fossen was a man who was compassionate and fair, a man who kept the peace in his community, in his state, and in his heart; and

WHEREAS, Otto Fossen selflessly helped his community as leader, loyal servant, and hero; and

WHEREAS, on October 5, 1957, Otto Fossen gave his life in the line of duty while protecting his community; and

WHEREAS, the 67th Legislature of the State of Montana honors Otto Fossen for his service and sacrifice.

Be it enacted by the Legislature of the State of Montana:

Section 1. Otto Fossen memorial highway. (1) There is established the Otto Fossen memorial highway on the existing U.S. highway 2 from mile marker 329 to the Hill County line.

(2) The department shall design and install appropriate signs marking the location of the Otto Fossen memorial highway, stating his name, title, and the date of his passing.

(3) Maps that identify roadways in Montana must be updated to include the location of the Otto Fossen memorial highway when the department updates and publishes the state maps.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 60, chapter 1, part 2, and the provisions of Title 60, chapter 1, part 2, apply to [section 1].

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

Approved February 23, 2021

CHAPTER NO. 8

[SB 6]

AN ACT REVISING DISTRIBUTION DATES FOR THE SALES TAX ON LODGING; AND AMENDING SECTIONS 15-68-820 AND 22-3-1303, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-68-820, MCA, is amended to read:

“15-68-820. Sales tax and use tax proceeds. (1) Except as provided in subsections (2) through (6), all money collected under this chapter must, in accordance with the provisions of 17-2-124, be deposited by the department into the general fund.

(2) Twenty-five percent of the revenue collected on the base rental charge for rental vehicles under 15-68-102(1)(b) and 15-68-102(3)(a)(ii) must be deposited in the state special revenue fund to the credit of the senior citizen and persons with disabilities transportation services account provided for in 7-14-112.

(3) Until December 30 31, 2024, a portion of the revenue collected on the sale or use of accommodations and campgrounds under 15-68-102(1)(a) and (3)(a)(i) must be deposited as follows:

(a) 20% in the account established in 22-3-1303 for construction of the Montana heritage center; and

(b) 5% in the account established in 22-3-1307 for historic preservation grants.

(4) Starting January 1, 2025, a portion of the revenue collected on the sale or use of accommodations and campgrounds under 15-68-102(1)(a) and (3)(a)(i) must be deposited or distributed as follows:

(a) 6% in the account established in 22-3-1304 for operation and maintenance of the Montana heritage center;

(b) 6% distributed as provided in subsection (5);

(c) 6% in the account established in 22-3-1307 for historic preservation grants; and

(d) 7% in the account established in 17-7-209.

(5) (a) Before allocating the balance of the tax proceeds in accordance with the provisions of 17-2-124 and as provided in subsection (5)(b) of this section, the department shall determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 1% of that amount from the tax proceeds received each reporting period. The department shall distribute the portion of the 1% that was paid with federal funds to the agency that made the in-state lodging expenditure and deposit 30% of the amount deducted less the portion paid with federal funds in the state general fund.

(b) The balance of the tax proceeds received each reporting period and not distributed to agencies that paid the tax with federal funds must be transferred to an account in the state special revenue fund to the credit of the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials, to the department of fish, wildlife, and parks, and to the state-tribal economic development commission as follows:

(i) 7% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks that have both resident and nonresident use;

(ii) 68.5% to be used directly by the department of commerce;

(iii) (A) except as provided in subsection (5)(b)(iii)(B), 24% to be distributed by the department of commerce to regional nonprofit tourism corporations in

the ratio of the proceeds collected in each tourism region to the total proceeds collected statewide; and

(B) if 24% of the proceeds collected annually within the limits of a city, consolidated city-county, resort area, or resort area district exceeds \$35,000, 50% of the amount available for distribution to the regional nonprofit tourism corporation in the region where the city, consolidated city-county, resort area, or resort area district is located to be distributed to the nonprofit convention and visitors bureau in that city, consolidated city-county, resort area, or resort area district; and

(iv) 0.5% to the state special revenue account provided for in 90-1-135 for use by the state-tribal economic development commission established in 90-1-131 for activities in the Indian tourism region.

(6) The tax proceeds received that are transferred to a state special revenue account pursuant to subsection (5)(b) are allocated to the entities.”

Section 2. Section 22-3-1303, MCA, is amended to read:

“22-3-1303. Account – Montana heritage center construction. There is an account in the capital projects fund established in 17-2-102 known as the Montana heritage center construction account. The tax collections allocated in 15-68-820(3)(a) must be deposited in the account until December 31, 2024. The money in the account is authorized to the department of administration and may be used only for capital construction of the Montana heritage center.”

Approved February 23, 2021

CHAPTER NO. 9

[SB 23]

AN ACT REVISING SCHOOL FUNDING LAWS RELATED TO THE STATE SPECIAL REVENUE SCHOOL FLEXIBILITY ACCOUNT; ELIMINATING THE STATE SPECIAL REVENUE SCHOOL FLEXIBILITY ACCOUNT, DEFINITIONS RELATED TO THE ACCOUNT’S DISTRIBUTION FORMULA, AND THE LOCAL LEVY DEPENDENT ON THE STATE DISTRIBUTION; AMENDING SECTION 20-9-543, MCA; AND REPEALING SECTIONS 20-9-541, 20-9-542, AND 20-9-544, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-9-543, MCA, is amended to read:

“20-9-543. (Temporary) School flexibility fund – uses. (1) (a) The trustees of a district ~~shall~~ *may* establish a school flexibility fund and may use the fund, in their discretion, for school district expenditures incurred for:

(i)(a) technological equipment enhancements and expansions considered by the trustees to support enhanced educational programs in the classroom;

(ii)(b) facility expansion and remodeling considered by the trustees to support the delivery of educational programs or the removal and replacement of obsolete facilities;

(iii)(c) supplies and materials considered by the trustees to support the delivery of enhanced educational programs;

(iv)(d) student assessment and evaluation;

(v)(e) the development of curriculum materials;

(vi)(f) training for classroom staff considered by the trustees to support the delivery of enhanced educational programs;

(vii)(g) purchase, lease, or rental of real property that must be used to provide free or reduced price housing for classroom teachers;

(viii)(h) salaries, benefits, bonuses, and other incentives for the recruitment and retention of classroom teachers and other certified staff, subject to collective bargaining when applicable;

(ix)(i) increases in energy costs caused by an increase in energy rates from the rates paid by the district in fiscal year 2001 or from increased use of energy as a result of the expansion of facilities, equipment, or other resources of the district; or

(x)(j) innovative educational programs as defined in 20-9-902 and technology deficiencies.

(b) ~~If the district's ANB calculated for the current fiscal year is less than the ANB for the current fiscal year when averaged with the 4 previous fiscal years, the district may use money from the school flexibility fund to phase in over a 5-year period the spending reductions necessary because of the reduction in ANB.~~

(2) ~~The trustees of a district shall fund the school flexibility fund with the money allocated under [20-9-904 and] 20-9-542 and with the money raised by the levy under 20-9-544.~~

(3)(2) The financial administration of the school flexibility fund must be in accordance with the financial administration provisions of this title for a budgeted fund. (Subsection (1)(a)(x) and bracketed language in subsection (2) terminate December 31, 2023--sec. 33, Ch. 457, L. 2015.)

20-9-543. (Effective January 1, 2024) School flexibility fund – uses.

(1) (a) The trustees of a district ~~shall~~ *may* establish a school flexibility fund and may use the fund, in their discretion, for school district expenditures incurred for:

(i)(a) technological equipment enhancements and expansions considered by the trustees to support enhanced educational programs in the classroom;

(ii)(b) facility expansion and remodeling considered by the trustees to support the delivery of educational programs or the removal and replacement of obsolete facilities;

(iii)(c) supplies and materials considered by the trustees to support the delivery of enhanced educational programs;

(iv)(d) student assessment and evaluation;

(v)(e) the development of curriculum materials;

(vi)(f) training for classroom staff considered by the trustees to support the delivery of enhanced educational programs;

(vii)(g) purchase, lease, or rental of real property that must be used to provide free or reduced price housing for classroom teachers;

(viii)(h) salaries, benefits, bonuses, and other incentives for the recruitment and retention of classroom teachers and other certified staff, subject to collective bargaining when applicable; or

(ix)(i) increases in energy costs caused by an increase in energy rates from the rates paid by the district in fiscal year 2001 or from increased use of energy as a result of the expansion of facilities, equipment, or other resources of the district.

(b) ~~If the district's ANB calculated for the current fiscal year is less than the ANB for the current fiscal year when averaged with the 4 previous fiscal years, the district may use money from the school flexibility fund to phase in over a 5-year period the spending reductions necessary because of the reduction in ANB.~~

(2) ~~The trustees of a district shall fund the school flexibility fund with the money allocated under [20-9-542] and with the money raised by the levy under 20-9-544.~~

(3)(2) The financial administration of the school flexibility fund must be in accordance with the financial administration provisions of this title for a budgeted fund.”

Section 2. Repealer. The following sections of the Montana Code Annotated are repealed:

20-9-541. Definitions.

20-9-542. School flexibility account -- distribution of funds.

20-9-544. District school flexibility fund levy.

Approved February 23, 2021

CHAPTER NO. 10

[SB 25]

AN ACT REVISING THE EDUCATION INTERIM COMMITTEE; REMOVING CERTAIN DUTIES REGARDING THE BOARD OF REGENTS; AND AMENDING SECTION 5-5-224, MCA.

WHEREAS, subsection (2) of 5-5-224, MCA, originated in statutes that created the Joint Committee on Postsecondary Education Policy and Budget, which was staffed by a Legislative Fiscal Analyst and whose membership included members of the Board of Regents, a university system student, and a representative from the Governor’s Office of Budget and Program Planning; and

WHEREAS, the Legislative Finance Committee stated in a letter dated December 17, 2019, to the Education Interim Committee that it had no objections to the removal of subsection (2) of 5-5-224, MCA, and that the Joint Appropriations Subcommittee on Education conducts a thorough review of the budget and finances of the Montana University System each biennium.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5-5-224, MCA, is amended to read:

“5-5-224. Education interim committee. (†) The education interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes:

(a)(1) state board of education;

(b)(2) board of public education;

(c)(3) board of regents of higher education; and

(d)(4) office of public instruction.

(2) ~~The committee shall:~~

(a) ~~provide information to the board of regents in the following areas:~~

(i) ~~annual budget allocations;~~

(ii) ~~annual goal statement development;~~

(iii) ~~long-range planning;~~

(iv) ~~outcome assessment programs; and~~

(v) ~~any other area that the committee considers to have significant educational or fiscal policy impact;~~

(b) ~~periodically review the success or failure of the university system in meeting its annual goals and long-range plans;~~

(c) ~~periodically review the results of outcome assessment programs;~~

(d) ~~develop mechanisms to ensure strict accountability of the revenue and expenditures of the university system;~~

~~(e) study and report to the legislature on the advisability of adjustments to the mechanisms used to determine funding for the university system, including criteria for determining appropriate levels of funding;~~

~~(f) act as a liaison between both the legislative and executive branches and the board of regents; and~~

~~(g) encourage cooperation between the legislative and executive branches and the board of regents.”~~

Approved February 23, 2021

CHAPTER NO. 11

[SB 30]

AN ACT REPEALING THE CREDIT FOR INTEREST DIFFERENTIALS FOR LOANS MADE BY UTILITIES AND FINANCIAL INSTITUTIONS; AMENDING SECTIONS 15-32-101 AND 69-3-1209, MCA; AND REPEALING SECTIONS 15-32-107 AND 69-3-713, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-32-101, MCA, is amended to read:

“15-32-101. Purpose. The purpose of this part is to encourage the use of alternative energy sources and the conservation of energy through incentive programs. The incentives are to be made available to the energy user on a basis that requires the energy user to take the initiative in obtaining a particular incentive. ~~This part allows but does not require a public utility to extend credit for energy conservation investments.”~~

Section 2. Section 69-3-1209, MCA, is amended to read:

“69-3-1209. Electric utility demand-side management programs.

(1) The commission may establish energy savings and peak demand reduction goals for an electric utility, taking into account the utility's cost-effective demand-side management potential and the need for electricity resources.

(2) The commission shall permit electric utilities to implement cost-effective electricity demand-side management programs and conservation in accordance with 69-3-701 through ~~69-3-713~~ 69-3-712 and this part to reduce the need for additional resources.

(3) Every 3 years, an electric utility shall submit a report to the commission describing the demand-side management programs and conservation implemented by the electric utility in the previous year. The report must document:

(a) program expenditures, including incentive payments;

(b) peak demand and energy savings impacts and the techniques used to estimate those impacts;

(c) avoided costs and the techniques used to estimate those costs;

(d) the estimated cost-effectiveness of the programs;

(e) the net economic benefits of the programs; and

(f) any other information required by the commission.”

Section 3. Repealer. The following sections of the Montana Code Annotated are repealed:

15-32-107. Loans by utilities and financial institutions -- tax credit for interest differential for loans made prior to July 1, 1995.

69-3-713. Prohibition against utility claiming conservation tax credit.

Approved February 23, 2021

CHAPTER NO. 12

[SB 34]

AN ACT REVISING REPORTING REQUIREMENTS FOR THE BIODIESEL BLENDING AND STORAGE TAX CREDIT; AND AMENDING SECTION 15-32-703, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-32-703, MCA, is amended to read:

“15-32-703. Biodiesel blending and storage tax credit – recapture – report to interim committee. (1) An individual, corporation, partnership, or small business corporation, as defined in 15-30-3301, may receive a credit against taxes imposed by Title 15, chapter 30 or 31, for the costs of investments in depreciable property used for storing or blending biodiesel with petroleum diesel for sale.

(2) Subject to subsection (4), a special fuel distributor or an owner or operator of a motor fuel outlet qualifying for a credit under this section is entitled to claim a credit, as provided in subsection (3), for the costs described in subsection (1) incurred in the 2 tax years before the taxpayer begins blending biodiesel fuel for sale or in any tax year in which the taxpayer is blending biodiesel fuel for sale.

(3) (a) The total amount of the credits for all years that may be claimed by a distributor under this section is 15% of the costs described in subsection (1), up to a total of \$52,500.

(b) The total amount of the credits for all years that may be claimed by an owner or operator of a motor fuel outlet under this section is 15% of the costs described in subsection (1), up to a total of \$7,500.

(4) The following requirements must also be met for a taxpayer to be entitled to a tax credit under this section:

(a) The investment must be for depreciable property used primarily to blend petroleum diesel with biodiesel made entirely from Montana-produced feedstocks.

(b) Sales of biodiesel must be at least 2% of the taxpayer's total diesel sales by the end of the third year following the initial tax year in which the credit is initially claimed.

(c) (i) The taxpayer claiming a credit must be a person who as an owner, including a contract purchaser or lessee, or who pursuant to an agreement owns, leases, or has a beneficial interest in a business that blends biodiesel.

(ii) If more than one person has an interest in a business with qualifying property, they may allocate all or any part of the investment cost among themselves and their successors or assigns.

(d) The business must be owned or leased during the tax year by the taxpayer claiming the credit, except as otherwise provided in subsection (4)(c), and, except for the 2 tax-year period claimed in subsection (2), must have been blending biodiesel during the tax year for which the credit is claimed.

(5) The credit provided by this section is not in lieu of any depreciation or amortization deduction for the investment or other tax incentive to which the taxpayer otherwise may be entitled under Title 15.

(6) A tax credit allowable under this section that is not completely used by the taxpayer in the tax year in which the credit is initially claimed may be carried forward for credit against the taxpayer's tax liability for any succeeding tax year until the total amount of the credit has been deducted from tax liability. However, a credit may not be carried forward to any tax year in which the facility is not blending biodiesel or storing biodiesel for blending or

beyond the 7th tax year after the tax year for which the credit was initially claimed. If a facility for which a credit is claimed ceases blending of biodiesel with petroleum diesel for sale for a period of 12 continuous months within 5 years after the initial claiming of a credit under this section or within 5 years after a year in which the credit was carried forward or if the taxpayer claiming the credit fails to satisfy the conditions of subsection (4)(b), the total credit is subject to recapture. The person claiming the credit is liable for the total amount of the credit in the event of recapture.

(7) The taxpayer's adjusted basis for determining gain or loss may not be further decreased by any tax credits allowed under this section.

(8) If the taxpayer is a shareholder of an electing small business corporation, the credit must be computed using the shareholder's pro rata share of the corporation's cost of investing in the biodiesel blending facility. In all other respects, the allowance and effect of the tax credit apply to the corporation as otherwise provided by law.

(9) As used in this section, "biodiesel" has the meaning provided in 15-70-401.

(10) The department shall report to the ~~transportation~~ *revenue* interim committee biennially, in accordance with 5-11-210, regarding the number and type of taxpayers claiming the credit under this section, the total amount of the credit claimed, and the department's cost associated with administering the credit."

Approved February 23, 2021

CHAPTER NO. 13

[SB 35]

AN ACT REPEALING THE EXPIRED PROPERTY TAX EXEMPTION FOR ELECTRICAL GENERATION AND DELIVERY FACILITIES; AMENDING SECTIONS 15-24-3004, 15-24-3005, 15-24-3006, 15-24-3007, 75-20-104, 75-20-201, 75-20-207, 75-20-208, 75-20-211, 75-20-301, 75-20-303, 75-20-304, AND 75-20-1202, MCA; AND REPEALING SECTIONS 15-24-3001 AND 15-24-3002, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-24-3004, MCA, is amended to read:

"15-24-3004. Wind generation facility impact fee for local governmental units and school districts. (1) An owner or operator of a wind generation facility used for a commercial purpose is subject to an initial local governmental and local school impact fee to be paid for each year of the first 3 years after construction of the wind generation facility begins. The annual impact fee may not exceed 0.5% of the total cost of constructing the wind generation facility.

(2) (a) Subject to subsection (2)(b), the impact fee is assessed and distributed as provided in ~~15-24-3005(2) and (3)~~ *15-24-3005(1) and (2)*.

(b) Local governmental units may enter into an interlocal agreement as provided in ~~15-24-3005(4)~~ *15-24-3005(3)*.

(3) (a) For the purposes of this section, "wind generation facility" means any combination of a physically connected wind turbine or turbines, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electric power from wind.

(b) The term does not include a wind generation facility used for noncommercial purposes or exclusively for agricultural purposes.”

Section 2. Section 15-24-3005, MCA, is amended to read:

“15-24-3005. Electrical ~~Wind~~ generation facility impact fee for local governmental units and school districts – wind generation facility impact fee. (1) (a) If an owner or operator of an electrical generation facility, as defined in 15-24-3001, is exempt from property taxation pursuant to 15-24-3001, the owner or operator of the facility is subject to an initial local government and local school impact fee. In the first 2 years of construction, the impact fee may not exceed 0.75% of the total cost of constructing the electrical generation facility

(b) In the case of a generation facility powered by oil or gas turbines, the impact fee may not exceed 0.1% of the total construction cost in the remaining 3 years of the tax exemption period as provided in 15-24-3001.

(c) In the case of any other generation facility, the impact fee may not exceed 0.1% of the total construction cost in the subsequent 4 years and may not exceed 0.08% of the total construction cost in the remaining 4 years of the tax exemption period as provided in 15-24-3001.

(2) Except as provided in subsection (4) (3), the jurisdictional area of a local governmental unit in which ~~an electrical generation facility or a~~ wind generation facility is located is the local governmental unit that is authorized to assess the impact fee pursuant to 15-24-3004(1) ~~or subsection (1) of this section.~~

(3) (2) The impact fee must be distributed to the local governmental unit for local impacts and to the impacted school districts.

(4) (3) Subject to the conditions of 15-24-3006 and subsection (5) (4) of this section, if the ~~electrical generation facility or~~ wind generation facility is located within the jurisdictional areas of multiple local governmental units of the county or contiguous counties, the local governmental units may enter into an interlocal agreement under Title 7, chapter 11, part 1, to determine how the fee should be distributed among the various local governmental units and impacted school districts pursuant to subsection (3) (2). The county in which the ~~electrical generation facility or~~ wind generation facility is located is authorized to assess the fee under the interlocal agreement.

(5) (4) For purposes of 15-24-3004 and this section, a “local governmental unit” means a county, city, or town. If ~~an exempt electrical generation facility or a~~ wind generation facility is located within a tax increment financing district, the tax increment financing district is considered a local governmental unit and is entitled to the distribution of impact fees under this section. A tax increment financing district may not receive a distribution of impact fees if ~~an exempt electrical generation facility or a~~ wind generation facility is not located within the district.

(6) (5) Impact fees imposed under 15-24-3004(2)(b) or under subsection (4) (3) of this section must be deposited in the county electrical energy generation impact fee reserve account established in 15-24-3006 for the county in which the ~~electrical~~ wind generation facility is located. Money in the account may not be expended until the multiple local governmental units have entered into an interlocal agreement.”

Section 3. Section 15-24-3006, MCA, is amended to read:

“15-24-3006. Electrical energy generation impact fee reserve account. (1) The governing body of a county ~~receiving receiving~~ impact fees under 15-24-3004(2)(b) ~~or that received impact fees from an electrical generation facility under former 15-24-3005(4) before the amendments in [this act]~~ shall ~~establish an~~ establish or hold the collections in the electrical energy generation

impact fee reserve account ~~to be used to hold the collections~~. Money held in the account may not be considered as cash balance for the purpose of reducing mill levies.

(2) Money may be expended from the account for any purpose of an interlocal agreement provided for in 15-24-3004 or 15-24-3005. The county treasurer shall distribute money in the account to each local governmental unit according to the terms of the interlocal agreement.

(3) Money in the account must be invested as provided by law. Interest and income from the investment of the electrical energy generation impact fee reserve account must be credited to the account.”

Section 4. Section 15-24-3007, MCA, is amended to read:

“15-24-3007. Electrical generation impact fund. (1) A local governmental unit, as defined in 15-24-3005, and a school district that receives impact fees pursuant to 15-24-3004(2)(a), *former 15-24-3005(2) before the amendments in [this act], 15-24-3005, or 15-24-3006 shall establish an establish or retain the* electrical generation impact fund for the ~~deposit~~ *deposit* of the fees. A local governmental unit or school district may retain the money in the fund for any time period considered appropriate by the governing body of the local governmental unit or school district. Money retained in the fund may not be considered as fund balance for the purpose of reducing mill levies.

(2) Money may be expended from the fund for any purpose allowed by law.

(3) Money in the fund must be invested as provided by law. Interest and income earned on the investment of money in the fund must be credited to the fund.

(4) The fund must be financially administered as a nonbudgeted fund by a city, town, or county under the provisions of Title 7, chapter 6, part 40, or by a school district under the provisions of Title 20, chapter 9, part 5.”

Section 5. Section 75-20-104, MCA, is amended to read:

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

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

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

(3) (a) “Associated facilities” includes but is not limited to transportation links of any kind, aqueducts, diversion dams, pipelines, storage ponds, reservoirs, and any other device or equipment associated with the delivery of the energy form or product produced by a facility.

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

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

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

(6) “Commence to construct” means:

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

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

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

(d) the relocation or upgrading of an existing facility defined by subsection ~~(9)(a)~~ (10)(a) or ~~(9)(b)~~ (10)(b), including upgrading to a design capacity covered by subsection ~~(9)(a)~~ (10)(a), except that the term does not include normal maintenance or repair of an existing facility.

(7) (a) "Commencement of acquisition of right-of-way" means the actual, defined legal transfer of property.

(b) The term does not mean preliminary discussions, option agreements that are not within 60 days of commencement of acquisition, letters of intent, or other documents that do not conclusively result in the legal transfer of property.

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

(9) (a) *"Electrical generation facility" means any combination of a physically connected generator or generators, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce 20 average megawatts or more of electric power. The term is limited to generating facilities that produce electricity from coal-fired steam turbines, oil or gas turbines, or turbine generators driven by falling water.*

(b) *The term does not include:*

(i) *electrical generation facilities used for noncommercial purposes or exclusively for agricultural purposes; or*

(ii) *a qualifying small power production facility, as defined in 16 U.S.C. 796(17), that is owned and operated by a person not primarily engaged in the generation or sale of electricity other than electric power from a small power production facility that is classified under 15-6-134 and 15-6-138.*

~~(9)(10)~~ "Facility" means, subject to 75-20-1202:

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

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

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

(iii) does not include electric transmission lines that are collectively less than 150 miles in length and are required under state or federal regulations and laws, with respect to reliability of service, for an electrical generation facility; ~~as defined in 15-24-3001(4)~~; or a wind generation facility, biomass generation facility, or energy storage facility, as defined in 15-6-157, to interconnect to a regional transmission grid or secure firm transmission service to use the grid for which the person planning to construct the line or lines has obtained right-of-way agreements or options for a right-of-way from more than 75% of the owners who collectively own more than 75% of the property along the centerline or centerlines;

(iv) does not include an upgrade to an existing transmission line of a design capacity of 50 kilovolts or more to increase that line's capacity, including construction outside the existing easement or right-of-way. Except for a newly acquired easement or right-of-way necessary to comply with electromagnetic field standards, a newly acquired easement or right-of-way outside the existing easement or right-of-way as described in this subsection ~~(9)(a)(iv)~~ *(10)(a)(iv)* may not exceed a total of 10 miles in length or be more than 10% of the existing transmission right-of-way, whichever is greater, and the purpose of the easement must be to avoid sensitive areas or inhabited areas or conform to state or federal safety, reliability, and operational standards designed to safeguard the transmission network and protect electrical workers and the public.

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

(vi) does not include an energy storage facility, as defined in 15-6-157;

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

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

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

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

(c) any use of geothermal resources, including the use of underground space in existence or to be created, for the creation, use, or conversion of energy, designed for or capable of producing geothermally derived power equivalent to 50 megawatts or more or any addition thereto, except pollution control facilities approved by the department and added to an existing plant, except that the term does not include a compressed air energy storage facility, as defined in 15-6-157; or

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

~~(10)~~*(11)* "Person" means any individual, group, firm, partnership, corporation, limited liability company, cooperative, association, government subdivision, government agency, local government, or other organization or entity.

~~(11)~~*(12)* "Sensitive areas" means government-designated areas that have been recognized for their importance to Montana's wildlife, wilderness, culture, and historic heritage, including but not limited to national wildlife refuges, state wildlife management areas, federal areas of critical environmental concern, state parks and historic sites, designated wilderness areas, wilderness study areas, designated wild and scenic rivers, or national parks, monuments, or historic sites.

(13) "Transmission reliability agencies" means the federal energy regulatory commission, the western electricity coordinating council, the national electric reliability council, and the midwest reliability organization.

~~(12)~~*(14)* "Transmission substation" means any structure, device, or equipment assemblage, commonly located and designed for voltage regulation,

circuit protection, or switching necessary for the construction or operation of a proposed transmission line.

~~(13) “Transmission reliability agencies” means the federal energy regulatory commission, the western electricity coordinating council, the national electric reliability council, and the midwest reliability organization.~~

~~(14)~~(15) “Upgrade” means to increase the electrical carrying capacity of a transmission line by actions including but not limited to:

- (a) installing larger conductors;
- (b) replacing insulators;
- (c) replacing pole or tower structures;
- (d) changing structure spacing, design, or guying; or
- (e) installing additional circuits.

~~(15)~~(16) “Utility” means any person engaged in any aspect of the production, storage, sale, delivery, or furnishing of heat, electricity, gas, hydrocarbon products, or energy in any form for ultimate public use.”

Section 6. Section 75-20-201, MCA, is amended to read:

“75-20-201. Certificate required – operation in conformance – certificate for nuclear facility – applicability to federal facilities.

(1) Except for a facility under diligent onsite physical construction or in operation on January 1, 1973, a person may not commence to construct a facility in the state without first applying for and obtaining a certificate of compliance issued with respect to the facility by the department.

(2) A facility with respect to which a certificate is issued may not be constructed, operated, or maintained except in conformity with the certificate and any terms, conditions, and modifications contained within the certification.

(3) A certificate may only be issued pursuant to this chapter.

(4) If the department decides to issue a certificate for a nuclear facility, it shall report the recommendation to the applicant and may not issue the certificate until the recommendation is approved by a majority of the voters in a statewide election called by initiative or referendum according to the laws of this state.

(5) A person that proposes to construct an energy-related project that is not defined as a facility pursuant to ~~75-20-104(9)~~ **75-20-104(10)** may petition the department to review the energy-related project under the provisions of this chapter. The construction or installation of an energy storage facility, as defined in 15-6-157, is not considered an energy-related project under the provisions of this chapter. A certificate for the construction or installation of an energy storage facility is not required under this chapter.

(6) This chapter applies, to the fullest extent allowed by federal law, to all federal facilities and to all facilities over which an agency of the federal government has jurisdiction.

(7) All judicial challenges of certificates for projects with a project cost, as determined by the court, of more than \$1 million must have precedence over any civil cause of a different nature pending in that court. If the court determines that the challenge was without merit or was for an improper purpose, such as to harass, to cause unnecessary delay, or to impose needless or increased cost in litigation, the court may award attorney fees and costs incurred in defending the action.”

Section 7. Section 75-20-207, MCA, is amended to read:

“75-20-207. Notice requirement for certain electric transmission lines. Whenever a person plans to construct an electric transmission line or associated facilities under the provisions of ~~75-20-104(9)(a)(ii)~~ **75-20-104(10)(a)(ii)**, it must provide public notice to persons residing in the area in which any portion of the electric transmission facility may be located

and to the department. This notice must be made no less than 60 days prior to the commencement of acquisition of right-of-way as defined in 75-20-104 by publication of a summary describing the transmission facility and the proposed location of the facility in those newspapers that will substantially inform those persons of the construction and by mailing a summary to the department. The notice must inform the property owners of their rights under this chapter concerning the location of the facility and that more information concerning their rights may be obtained from the department.”

Section 8. Section 75-20-208, MCA, is amended to read:

“75-20-208. Certain electric transmission lines – verification of requirements. (1) Prior to constructing a transmission line under ~~75-20-104(9)(a)(ii)~~ *75-20-104(10)(a)(ii)*, the person planning to construct the line shall provide to the department within 36 months of the date of the public notice provided under 75-20-207, unless extended by the department for good cause:

(a) copies of the right-of-way agreements or options for a right-of-way containing sufficient information to establish landowner consent to construct the line; and

(b) sufficient information for the department to verify that the requirements of ~~75-20-104(9)(a)(ii)~~ *75-20-104(10)(a)(ii)* are satisfied.

(2) The provisions of ~~75-20-104(9)(a)(ii)~~ *75-20-104(10)(a)(ii)* do not apply to any facility for which public notice under 75-20-207 has been given but for which the requirements of subsection (1) of this section have not been complied with.”

Section 9. Section 75-20-211, MCA, is amended to read:

“75-20-211. Application – filing and contents – proof of service and notice. (1) (a) An applicant shall file with the department an application for a certificate under this chapter and for the permits required under the laws administered by the department in the form that is required under applicable rules, containing the following information:

(i) a description of the proposed location and of the facility to be built;

(ii) a summary of any preexisting studies that have been made of the impact of the facility;

(iii) for facilities defined in ~~75-20-104(9)(a) and (9)(b)~~ *75-20-104(10)(a) and (10)(b)*, a statement explaining the need for the facility, a description of reasonable alternate locations for the facility, a general description of the comparative merits and detriments of each location submitted, and a statement of the reasons why the proposed location is best suited for the facility;

(iv) (A) for facilities as defined in ~~75-20-104(9)(a) and (9)(b)~~ *75-20-104(10)(a) and (10)(b)*, baseline data for the primary and reasonable alternate locations; or

(B) for facilities as defined in ~~75-20-104(9)(c)~~ *75-20-104(10)(c)*, baseline data for the proposed location and, at the applicant’s option, any alternative locations acceptable to the applicant for siting the facility;

(v) at the applicant’s option, an environmental study plan to satisfy the requirements of this chapter; and

(vi) other information that the applicant considers relevant or that the department by order or rule may require.

(b) If a copy or copies of the studies referred to in subsection (1)(a)(ii) are filed with the department, the copy or copies must be available for public inspection.

(2) An application may consist of an application for two or more facilities in combination that are physically and directly attached to each other and are operationally a single operating entity.

(3) The copy of the application must be accompanied by a notice specifying the date on or about which the application is to be filed.

(4) An application must also be accompanied by proof that public notice of the application was given to persons residing in the county in which any portion of the proposed facility is proposed or is alternatively proposed to be located, by publication of a summary of the application in those newspapers that will substantially inform those persons of the application.”

Section 10. Section 75-20-301, MCA, is amended to read:

“75-20-301. Decision of department – findings necessary for certification. (1) Within 30 days after issuance of the report pursuant to 75-20-216 for facilities defined in ~~75-20-104(9)(a) and (9)(b)~~ 75-20-104(10)(a) and (10)(b), the department shall approve a facility as proposed or as modified or an alternative to a proposed facility if the department finds and determines:

- (a) the basis of the need for the facility;
- (b) the nature of the probable environmental impact;
- (c) that the facility minimizes adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives;
- (d) in the case of an electric, gas, or liquid transmission line or aqueduct:
 - (i) what part, if any, of the line or aqueduct will be located underground;
 - (ii) that the facility is consistent with regional plans for expansion of the appropriate grid of the utility systems serving the state and interconnected utility systems; and
 - (iii) that the facility will serve the interests of utility system economy and reliability;

(e) that the location of the facility as proposed conforms to applicable state and local laws and regulations, except that the department may refuse to apply any local law or regulation if it finds that, as applied to the proposed facility, the law or regulation is unreasonably restrictive in view of the existing technology, of factors of cost or economics, or of the needs of consumers, whether located inside or outside the directly affected government subdivisions;

(f) that the facility will serve the public interest, convenience, and necessity;

(g) that the department or board has issued any necessary air or water quality decision, opinion, order, certification, or permit as required by 75-20-216(3); and

(h) that the use of public lands or federally designated energy corridors for location of a facility defined in ~~75-20-104(9)(a) or (9)(b)~~ 75-20-104(10)(a) or (10)(b) was evaluated and public lands or federally designated energy corridors for that facility were selected whenever their use was compatible with:

- (i) the requirements of subsections (1)(a) through (1)(g); and
- (ii) transmission line reliability criteria established by transmission reliability agencies for a facility defined in ~~75-20-104(9)(a)~~ 75-20-104(10)(a).

(2) In determining that the facility will serve the public interest, convenience, and necessity under subsection (1)(f), the department shall consider:

- (a) the items listed in subsections (1)(a) and (1)(b);
- (b) the benefits to the applicant and the state resulting from the proposed facility;
- (c) the effects of the economic activity resulting from the proposed facility;
- (d) the effects of the proposed facility on the public health, welfare, and safety;
- (e) any other factors that it considers relevant.

(3) Within 30 days after issuance of the report pursuant to 75-20-216 for a facility defined in ~~75-20-104(9)(c)~~ 75-20-104(10)(c), the department shall approve a facility as proposed or as modified or an alternative to a proposed facility if the department finds and determines:

(a) that the facility or alternative incorporates all reasonable, cost-effective mitigation of significant environmental impacts; and

(b) that unmitigated impacts, including those that cannot be reasonably quantified or valued in monetary terms, will not result in:

(i) a violation of a law or standard that protects the environment; or

(ii) a violation of a law or standard that protects the public health and safety.

(4) For facilities defined in 75-20-104, if the department cannot make the findings required in this section, it shall deny the certificate."

Section 11. Section 75-20-303, MCA, is amended to read:

"75-20-303. Opinion issued with decision – contents. (1) In rendering a decision on an application for a certificate, the department shall issue an opinion stating its reasons for the action taken.

(2) If the department has found that any regional or local law or regulation that would be otherwise applicable is unreasonably restrictive, it shall state in its opinion the reasons that it is unreasonably restrictive.

(3) A certificate issued by the department must include the following:

(a) an environmental evaluation statement related to the facility being certified. The statement must include but is not limited to analysis of the following information:

(i) the environmental impact of the proposed facility; and

(ii) any adverse environmental effects that cannot be avoided by issuance of the certificate;

(b) a plan for monitoring environmental effects of the proposed facility;

(c) a plan for monitoring the certified facility site between the time of certification and completion of construction;

(d) a time limit as provided in subsection (4);

(e) a statement confirming that notice was provided pursuant to subsection (5); and

(f) a statement signed by the applicant showing agreement to comply with the requirements of this chapter and the conditions of the certificate.

(4) (a) The department shall issue as part of the certificate the following time limits:

(i) For a facility as defined in ~~75-20-104(9)(a)~~ 75-20-104(10)(a) that is more than 30 miles in length and for a facility defined in ~~75-20-104(9)(b)~~ 75-20-104(10)(b), construction must be completed within 10 years.

(ii) For a facility as defined in ~~75-20-104(9)(a)~~ 75-20-104(10)(a) that is 30 miles or less in length, construction must be completed within 5 years.

(iii) For a facility as defined in ~~75-20-104(9)(c)~~ 75-20-104(10)(c), construction must begin within 6 years and continue with due diligence in accordance with preliminary construction plans established in the certificate.

(b) Unless extended, a certificate lapses and is void if the facility is not constructed or if construction of the facility is not commenced within the time limits provided in this section.

(c) The time limit may be extended for a reasonable period upon a showing by the applicant to the department that a good faith effort is being undertaken to complete construction under subsections (4)(a)(i) and (4)(a)(ii). Under this subsection, a good faith effort includes the process of acquiring any necessary state or federal permit or certificate for the facility and the process of judicial review of a permit or certificate.

(d) Construction may begin immediately upon issuance of a certificate unless the department finds that there is substantial and convincing evidence that a delay in the commencement of construction is necessary and should be established for a particular facility.

(5) (a) (i) Except as provided in subsection (5)(a)(ii), for a facility defined in ~~75-20-104(9)(a) and (9)(b)~~ *75-20-104(10)(a) and (10)(b)*, the environmental review conducted pursuant to Title 75, chapter 1, parts 1 through 3, prepared by the department must designate a 500-foot-wide facility siting corridor along the facility route.

(ii) Prior to preparation of the environmental review or the draft environmental impact statement, the department shall consult the applicant and, in a manner determined by rule, landowners and identify areas in which a corridor considered in the environmental review document should be more or less than 500 feet wide. The corridor width may not be narrower than the applicant's right-of-way. For each area in which the corridor is more or less than 500 feet in width, the department shall provide a written justification. The department may not modify a corridor after issuance of the final environmental review document.

(b) The department shall provide written notice of the availability of each environmental review document to each owner of property within a corridor. No more than 60 days prior to the availability of each environmental review document, the names and addresses of the property owners must be obtained from the property tax rolls of the county where the property is located. Except as provided in subsection (5)(c), the notice must:

(i) be delivered personally or by first-class mail. If delivered personally, the property owner shall sign a receipt verifying that the property owner received the statement.

(ii) inform the property owner that the property owner's property is located within a corridor;

(iii) inform the property owner about how a copy of the environmental review document may be obtained; and

(iv) inform the property owner of the property owner's rights under this chapter concerning the location of the facility and that more information concerning those rights may be obtained from the department.

(c) If there is more than one name listed on the property tax rolls for a single property, the notice must be mailed to the first listed property owner at the address on the property tax rolls.

(d) By mailing the notice as provided in subsection (5)(c), the notice requirements in subsection (5)(b) are satisfied.

(6) (a) A certificate holder may submit an adjustment of the location of a facility outside the approved facility siting corridor to the department. The adjustment must be accompanied by the written agreement of the affected property owner and all contiguous property owners that would be affected. The submission must include a map showing the approved facility siting corridor and the proposed adjustment. At the time of submission to the department, the adjustment must be accompanied by a copy of a legal notice published in a newspaper of general circulation in the area of the adjustment. The legal notice must specify that public comments on the adjustment may be submitted to the department within 10 days of the publication date of the notice.

(b) The certificate holder may construct the facility as described in the submission unless the department notifies the certificate holder within 15 days of the submission that the department has determined that:

(i) the adjustment would change the basis of any finding required under 75-20-301 to the extent that the department would have selected a different siting corridor for the facility; or

(ii) the adjustment would materially increase unmitigated adverse impacts.

(c) An adjustment pursuant to subsection (6)(a) is not subject to:

(i) Title 75, chapter 1, part 2;

(ii) a certificate amendment under 75-20-219; or

(iii) a board review under 75-20-223.

(d) (i) For each facility, the department shall maintain a list of persons who requested to receive electronic notice of any adjustment submitted pursuant to this subsection (6).

(ii) Upon receipt of a submitted adjustment, the department shall:

(A) post information about the adjustment on the department's website; and

(B) electronically notify each person identified in subsection (6)(d)(i) of the adjustment and where information about the adjustment may be viewed."

Section 12. Section 75-20-304, MCA, is amended to read:

"75-20-304. Waiver of provisions of certification proceedings.

(1) The department may waive compliance with any of the provisions of 75-20-216 and this part if the applicant makes a clear and convincing showing to the department at a public hearing that an immediate, urgent need for a facility exists and that the applicant did not have knowledge that the need for the facility existed sufficiently in advance to fully comply with the provisions of 75-20-216 and this part.

(2) The department may waive compliance with any of the provisions of this chapter upon receipt of notice by a person subject to this chapter that a facility or associated facility has been damaged or destroyed as a result of fire, flood, or other natural disaster or as the result of insurrection, war, or other civil disorder and there exists an immediate need for construction of a new facility or associated facility or the relocation of a previously existing facility or associated facility in order to promote the public welfare.

(3) The department shall waive compliance with the requirements of 75-20-301(1)(c), (2)(b), and (2)(c) and the requirements of 75-20-211(1)(a)(iii) and (1)(a)(iv) and 75-20-216(3) relating to consideration of alternative sites if the applicant makes a clear and convincing showing to the department at a public hearing that:

(a) a proposed facility will be constructed in a county where a single employer within the county has permanently curtailed or ceased operations, causing a loss of 250 or more permanent jobs within 2 years at the employer's operations within the preceding 10-year period;

(b) the county and municipal governing bodies in whose jurisdiction the facility is proposed to be located support by resolution the waiver;

(c) the proposed facility will be constructed within a 15-mile radius of the operations that have ceased or been curtailed; and

(d) the proposed facility will have a beneficial effect on the economy of the county in which the facility is proposed to be located.

(4) The waiver provided for in subsection (3) applies only to permanent job losses by a single employer. The waiver provided for in subsection (3) does not apply to jobs of a temporary or seasonal nature, including but not limited to construction jobs or job losses during labor disputes.

(5) The waiver provided for in subsection (3) does not apply to consideration of alternatives or minimum adverse environmental impact for a facility defined in ~~75-20-104(9)(a) or (9)(b)~~ 75-20-104(10)(a) or (10)(b) or for an associated facility defined in 75-20-104(3).

(6) The applicant shall pay all expenses required to process and conduct a hearing on a waiver request under subsection (3). However, any payments made under this subsection must be credited toward the fee paid under 75-20-215 to the extent that the data or evidence presented at the hearing or the decision of the department under subsection (3) can be used in making a certification decision under this chapter.

(7) The department may grant only one waiver under subsections (3) and (4) for each permanent loss of jobs as defined in subsection (3)(a)."

Section 13. Section 75-20-1202, MCA, is amended to read:

"75-20-1202. Definitions. As used in 75-20-201, 75-20-203, and this part, the following definitions apply:

(1) "Facility", as defined in ~~75-20-104(9)~~ 75-20-104(10), is further defined to include any nuclear facility as defined in subsection (2)(a).

(2) (a) "Nuclear facility" means each plant, unit, or other facility designed for or capable of:

(i) generating 50 megawatts of electricity or more by means of nuclear fission;

(ii) converting, enriching, fabricating, or reprocessing uranium minerals or nuclear fuels; or

(iii) storing or disposing of radioactive wastes or materials from a nuclear facility.

(b) Nuclear facility does not include any small-scale facility used solely for educational, research, or medical purposes not connected with the commercial generation of energy."

Section 14. Repealer. The following sections of the Montana Code Annotated are repealed:

15-24-3001. Electrical generation and transmission facility exemption -- definitions.

15-24-3002. Rollback tax -- computation.

Approved February 23, 2021

CHAPTER NO. 14

[SB 36]

AN ACT REVISING AND CLARIFYING THE MONTANA CODE ANNOTATED; DIRECTING THE CODE COMMISSIONER TO CORRECT ERRONEOUS REFERENCES CONTAINED IN MATERIAL ENACTED BY THE 67TH LEGISLATURE AND PREVIOUS LEGISLATURES; AND AMENDING SECTIONS 5-5-227, 10-4-107, 10-4-108, 13-2-221, 15-24-202, 20-3-336, 39-71-118, 40-1-203, 44-4-1501, 50-15-101, 69-3-308, 80-8-209, AND 90-9-502, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5-5-227, MCA, is amended to read:

"5-5-227. Revenue interim committee -- powers and duties -- revenue estimating and use of estimates. (1) The revenue interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the state tax appeal board established in 2-15-1015 and for the department of revenue and the entities attached to the department for administrative purposes, except the division of the department that administers the Montana Alcoholic Beverage Code.

(2) (a) The committee must have prepared by December 1 for introduction during each regular session of the legislature in which a revenue bill is under

consideration an estimate of the amount of revenue projected to be available for legislative appropriation.

(b) The committee may prepare for introduction during a special session of the legislature in which a revenue bill or an appropriation bill is under consideration an estimate of the amount of projected revenue. The revenue estimate is considered a subject specified in the call of a special session under 5-3-101.

(3) The committee's estimate, as introduced in the legislature, constitutes the legislature's current revenue estimate until amended or until final adoption of the estimate by both houses. It is intended that the legislature's estimates and the assumptions underlying the estimates will be used by all agencies with responsibilities for estimating revenue or costs, including the preparation of fiscal notes.

(4) The legislative services division shall provide staff assistance to the committee. The committee may request the assistance of the staffs of the office of the legislative fiscal analyst, the legislative auditor, the department of revenue, and any other agency that has information regarding any of the tax or revenue bases of the state.

(5) The committee shall review tax credits ~~{scheduled to expire}~~ as provided in 15-30-2303."

Section 2. Section 10-4-107, MCA, is amended to read:

"10-4-107. Department duties and powers – 9-1-1 planning.

(1) There is a 9-1-1 program administered by the department.

(2) The department shall:

(a) allocate and distribute 9-1-1 fees;

(b) update the allocation and distribution of 9-1-1 fees in accordance with 10-4-305 and rules adopted pursuant to 10-4-108;

(c) provide grants in accordance with 10-4-306. In awarding the grants, the department shall review and approve requests for funding in accordance with 10-4-306.

(d) monitor the expenditure of program funds for:

(i) 9-1-1 purposes by local and tribal governments that host public safety answering points; and

(ii) allowable uses of grant funds by entities;

(e) establish a statewide 9-1-1 plan in accordance with subsection (3) ~~{and planning completed in accordance with 10-4-315}~~;

(f) staff and fund the administrative costs of the 9-1-1 advisory council established in 10-4-105;

(g) accept federal funds granted by congress or by executive order and gifts, grants, and donations for the purposes of administering this chapter; and

(h) establish allowable uses of funds by local and tribal governments that host public safety answering points that receive distributions pursuant to 10-4-305 and ensure that funds are expended only for allowable uses.

(3) A statewide 9-1-1 plan must include:

(a) to the maximum extent feasible the use of existing commercial communications infrastructure; and

(b) 9-1-1 system standards and support efforts to migrate legacy technologies to next-generation 9-1-1 technologies when appropriate and to provide for the implementation of future 9-1-1 technologies. Any standards adopted by the department for legacy 9-1-1 technologies or principles adopted for baseline next-generation 9-1-1 technologies must be:

(i) flexible and graduated, while ensuring minimum service levels; and

(ii) based on industry standards.

(4) The department, in fulfilling its duties pursuant to subsection (2), may request necessary information from local and tribal governments. If a local or tribal government does not comply with the request, the department may withhold funding distributions as provided for in 10-4-109.”

Section 3. Section 10-4-108, MCA, is amended to read:

“10-4-108. Rulemaking authority. (1) The department shall adopt rules to implement the provisions of this chapter. The rules must include but are not limited to:

- (a) distribution procedures for funding authorized in 10-4-305(1);
- (b) procedures for grant funding authorized in 10-4-306. The rules for grant funding must include but are not limited to:
 - (i) eligibility requirements for entities applying for grants;
 - (ii) criteria for awarding grants; and
 - (iii) reporting procedures for grant recipients.
- (c) postdisbursement activities by the department to monitor the use of funding by entities, including:

- (i) reporting requirements; and
 - (ii) procedures for repayment of funds expended on activities determined not to meet eligibility requirements.

(2) The department shall adopt rules including but not limited to:

- (a) technology standards, based on industry standards and a statewide 9-1-1 plan ~~{pursuant to 10-4-315}~~, to ensure that public safety answering points meet minimum 9-1-1 services levels; and

(b) baseline next-generation 9-1-1 principles to facilitate the appropriate deployment of baseline next-generation 9-1-1.

(3) (a) Before January 1, 2022, the department shall adopt rules for the allocation and distribution of funds in the account provided for in 10-4-304(2)(a) in accordance with 10-4-305(2) and (3) to local and tribal government entities that host public safety answering points.

(b) The rules adopted for allocation must be based on the official final decennial census figures and must ensure that each local and tribal government entity that hosts a public safety answering point receives funding. The allocation must account for:

(i) historic allocations provided to a local or tribal government entity that hosts a public safety answering point;

(ii) the population of counties, cities, Indian reservations, or other government entities served by the public safety answering point;

(iii) population trends; and

(iv) other factors determined by the department, in consultation with the 9-1-1 advisory council provided for in 10-4-105, critical to the funding allocation.

(c) The department’s allocation may not distribute funds in a manner that discourages public safety answering points from consolidating or combining.

(4) The department shall adopt rules in accordance with the Montana Administrative Procedure Act provided for in Title 2, chapter 4, to implement the provisions of this section.”

Section 4. Section 13-2-221, MCA, is amended to read:

“13-2-221. Agency-based registration. (1) Qualified individuals must be given the opportunity to register to vote when applying for or receiving services or assistance:

- (a) at an agency that provides public assistance;
- (b) at or through an agency that provides state-funded programs primarily engaged in providing services to persons with disabilities; or
- (c) at another agency designated by the secretary of state with the consent of the agency.

(2) Agency-based registration sites must:

(a) distribute application for voter registration forms with each application for services or assistance; and

(b) assist an applicant in completing an application for voter registration form unless the applicant refuses assistance.

(3) The completed application for voter registration form must be transmitted by the agency to the election administrator of the county of the elector's residence within the time period specified by ~~42 U.S.C. 1973gg, et seq~~ *Title 52, chapter 205, U.S.C.*

(4) As used in this section, "agency" means a state agency as defined in 2-4-102(2)(a) or an office of a city, county, consolidated city-county government, or town."

Section 5. Section 15-24-202, MCA, is amended to read:

"15-24-202. Payment of tax – interest and penalty – display of tax-paid sticker. (1) (a) The owner of a mobile home, manufactured home, or housetrailer that is not taxed as an improvement, as improvements are defined in 15-1-101, shall pay the personal property tax in two payments, except as provided in 10-1-606 or 15-24-206.

(b) The first payment is due on or before May 31 or within 30 days from the date of the notice of taxes due, whichever is later.

(c) The second payment is due no later than November 30 of the year in which the property is assessed.

(d) If not paid on or before the date due, the tax is considered delinquent and subject to the penalty and interest provisions in 15-16-102 applicable to other delinquent property taxes. The penalty must be assessed and interest begins to accrue on the first day of delinquency.

(2) Upon request, the treasurer shall notify a lienholder if taxes on a mobile home, manufactured home, or housetrailer have not been paid.

(3) Taxes assessed against a mobile home, manufactured home, or housetrailer after the second payment date must be prorated to reflect the remaining portion of the tax year. The prorated taxes must be added to the following year's tax roll and, except as provided in 15-24-206, are due with and must be collected with the first payment due in that year.

(4) The department shall issue tax-paid stickers to the county treasurers. A treasurer shall issue a tax-paid sticker to the owner of a mobile home, manufactured home, or housetrailer that is to be moved and on which all taxes, interest, and penalties have been paid in full unless the exceptions in 15-24-206(3), 15-24-209, or 15-24-212 apply. Prior to and while in the process of moving the mobile home, manufactured home, or housetrailer, the owner shall display the tax-paid sticker, which must be visible from the exterior of the mobile home, manufactured home, or housetrailer.

(5) A mobile home, ~~or manufactured home, or housetrailer~~ movement declaration of destination provided for in 15-24-206 may not be issued unless:

(a) the taxes have been paid in full to the county treasurer; or

(b) the exceptions in 15-24-206(3), 15-24-209, or 15-24-212 apply.

(6) On the movement of a mobile home, manufactured home, or housetrailer in violation of this part, the county treasurer for the county where the mobile home, manufactured home, or housetrailer first comes to rest shall issue a written notice to the owner, showing the amount of delinquent taxes, special assessments, penalties, and interest due. In addition to the penalties provided in 15-16-102, 20% or \$50, whichever is greater, must be added to the delinquent taxes as penalty for violation of this part. On receipt of the delinquent taxes, special assessments, penalties, and interest, the county treasurer shall forward all delinquent taxes, special assessments, penalties,

and interest collected under 15-16-102 to the county treasurer for the county of origin. The county of destination shall retain the penalty.”

Section 6. Section 20-3-336, MCA, is amended to read:

“20-3-336. Single-member trustee districts – legislative intent – minority defined. (1) It is the intent of the legislature to provide a board of trustees of a school district with the option to:

(a) review the voting and population patterns of minorities of the school district, as determined by the most recent federal decennial census, voting records, and other pertinent information; and

(b) create single-member trustee districts within the school district:

(i) if the board determines that the present trustee selection process does not serve the best interests of the electors of the district or ensure that the access of minority populations to the political process is not diluted in contravention of federal law; or

(ii) pursuant to a petition as provided in 20-3-337.

(2) “Minority”, as used in 20-3-337 and this section, means a minority whose rights are protected under section 2 of the Voting Rights Act of 1965, (42 U.S.C. 1973 *52 U.S.C. 10301*), as amended.”

Section 7. 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) (7), 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 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 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 8. Section 40-1-203, MCA, is amended to read:

"40-1-203. Proof of age. Before a person authorized by law to issue marriage licenses may issue a marriage license, each applicant for a license shall provide a birth certificate or other satisfactory evidence of age ~~{and, if the applicant is a minor, the approval required by 40-1-213}~~ and, if the applicant is a minor, the approval required by 40-1-213."

Section 9. Section 44-4-1501, MCA, is amended to read:

"44-4-1501. Human trafficking hotline – creation of poster – rulemaking. (1) (a) The department of justice shall create a poster that provides information regarding the national human trafficking resource center hotline. The poster must be at least 8 1/2 inches by 11 inches in size, must include, if available, a quick response code that is provided by the national human trafficking resource center for access by mobile devices, and must include the following statement:

"If you or someone you know is being forced to engage in any activity and cannot leave--whether it is commercial sex, housework, farm work, or any other activity--call the National Human Trafficking Resource Center Hotline at 1-888-373-7888 to access help and services.

Victims of human trafficking are protected under U.S. and Montana law.

The toll-free hotline is:

- Available 24 hours a day, 7 days a week;
- Toll-free;
- Operated by a nonprofit, nongovernmental organization;
- Anonymous and confidential;
- Accessible in 170 languages; and
- Able to provide help, referral to services, training, and general information."

(b) The statement provided in subsection (1)(a) must appear on each poster in English, Spanish, and any other language that is required for voting materials under the federal Voting Rights Act, 42 U.S.C. 1973aa-1a 52 U.S.C. 10503.

(2) (a) The department of justice shall provide a copy of the poster to persons and entities that the department of justice determines by rule should receive the poster.

(b) The department shall make a copy of the poster available for print on its website.

(3) The department of justice shall request that any person or entity receiving a copy of the poster display the poster in a location that is accessible to employees and members of the public.”

Section 10. Section 50-15-101, MCA, is amended to read:

“50-15-101. Definitions. Unless the context requires otherwise, in parts 1 through 4, the following definitions apply:

(1) “Advanced practice registered nurse” means an individual who has been certified as an advanced practice registered nurse as provided in 37-8-202.

(2) “Authorized representative” means a person:

(a) designated by an individual, in a notarized written document, to have access to the individual’s vital records;

(b) who has a general power of attorney for an individual; or

(c) appointed by a court to manage the personal or financial affairs of an individual.

(3) “Dead body” means a human body or parts of a human body from which it reasonably may be concluded that death occurred.

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

(5) “Dissolution of marriage” means a marriage terminated pursuant to Title 40, chapter 4, part 1.

(6) “Fetal death” means death of the fetus prior to the complete expulsion or extraction from its mother as a product of conception, notwithstanding the duration of pregnancy. The death is indicated by the fact that after expulsion or extraction, the fetus does not breathe or show any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles. Heartbeats are distinguished from transient cardiac contractions. Respirations are distinguished from fleeting respiratory efforts or gasps.

(7) “Final disposition” means the burial, interment, cremation, removal from the state, or other authorized disposition of a dead body or fetus.

(8) “Invalid marriage” means a marriage decreed by a district court to be invalid for the reasons contained in 40-1-402.

(9) “Live birth” means the complete expulsion or extraction from the mother as a product of conception, notwithstanding the duration of pregnancy. The birth is indicated by the fact that after expulsion or extraction, the child breathes or shows any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles. Heartbeats are distinguished from transient cardiac contractions. Respirations are distinguished from fleeting respiratory efforts or gasps.

(10) “Local registrar” means a person appointed by the department to act as its agent in administering this chapter in the area set forth in the letter of appointment.

(11) “Person in charge of disposition of a dead body” means a person who places or causes a dead body or the ashes after cremation to be placed in a grave, vault, urn, or other receptacle or otherwise disposes of the body or fetus and who is a funeral director ~~[licensed under Title 37, chapter 19]~~, an employee acting for a funeral director, or a person who first assumes custody of a dead body or fetus.

(12) “Physician” means a person legally authorized to practice medicine in this state.

(13) “Registration” means the process by which vital records are completed, filed, and incorporated into the official records of the department.

(14) “Research” means a systematic investigation designed primarily to develop or contribute to generalizable knowledge.

(15) (a) “Stillbirth” means a fetal death occurring after a minimum of 20 weeks of gestation.

(b) The term does not include an abortion, as defined in 50-20-104.

(16) “System of vital statistics” means the registration, collection, preservation, amendment, and certification of vital records. The term includes the collection of reports required by this chapter and related activities, including the tabulation, analysis, publication, and dissemination of vital statistics.

(17) “Vital records” means certificates or reports of birth, death, fetal death, marriage, and dissolution of marriage and related reports.

(18) “Vital statistics” means the data derived from certificates or reports of birth, death, fetal death, induced termination of pregnancy, marriage, and dissolution of marriage and related reports.”

Section 11. Section 69-3-308, MCA, is amended to read:

“69-3-308. Disclosure of taxes and fees paid by customers of public utility – automatic rate adjustment and tracking for taxes and fees.

(1) A public utility may separately disclose in a customer’s bill the amount of state and local taxes and fees assessed against the public utility that the customer is paying.

(2) (a) (i) ~~{Except as provided in 15-72-601.}~~ *Except as provided in 15-72-601,* the commission shall allow a public utility to file rate schedules containing provisions for the automatic adjustment and tracking of Montana state and local taxes and fees, except state income tax, paid by the public utility. The resulting rate schedule changes must include:

(A) adjustments for the net change in federal and state income tax liability caused by the deductibility of state and local taxes and fees;

(B) retroactive tax adjustments; and

(C) adjustments related to the resolution of property taxes paid under protest.

(ii) The rate schedules must include provisions for annual rate adjustments, including both tax increases and decreases.

(b) The amended rates must automatically go into effect on January 1 following the date of change in taxes paid on an interim basis, subject to any adjustments determined in subsection (2)(c).

(c) The amended rate schedule must be filed with the commission on or before the effective date of the change in taxes paid, and if the commission determines that the revised rate schedule is in error, the commission may, within 45 days of receipt of the revised rate schedule, ask for comment and order the public utility to address any errors or omissions including, if necessary, any refunds due customers.

(d) Failure of the commission to issue an order pursuant to subsection (2)(c) is considered approval on the part of the commission.

(e) A public utility may challenge an order issued by the commission under subsection (2)(c) in accordance with the provisions of 69-3-401 through 69-3-405.”

Section 12. Section 80-8-209, MCA, is amended to read:

“80-8-209. Farm applicators. (1) Farm applicators shall obtain a special-use permit prior to purchasing and using a pesticide designated by the department as a restricted-use pesticide. The fee for the permit is \$45.

The special-use permit is effective for 5 calendar years. The department may establish a staggered years system of issuing permits. Revenue generated by the permit fee must be expended in the following manner:

- (a) \$15 to the department to administer the permitting program;
- (b) \$5 to the Montana state university-Bozeman extension service:
 - (i) to train extension service agents regarding farm pesticide applicator certification and training; and
 - (ii) to operate farm pesticide applicator certification and training programs;
- and
- (c) \$25 to the cooperative extension service for conducting farm pesticide applicator certification and training programs.

(2) Restricted pesticides may not be utilized by farm applicators or their employees except for the purpose of producing or protecting an agricultural commodity on property owned, leased, or rented by the applicator.

(3) Farm applicators shall qualify for their first permit by either passing a graded written examination or attending a training course approved by the department and then taking an ungraded written examination. The examinations and course must meet the minimum certification standards and procedures established by the environmental protection agency except as otherwise provided by this chapter.

(4) The department may require farm applicators to attend a mandatory training session and pass a written examination for those restricted pesticides that are extremely toxic or for which an effective antidote is not available. The department may require farm applicators handling these pesticides to maintain use records.

(5) The department shall require farm applicators to requalify for renewal of the 5-year permit by attending an approved training program. The department shall establish by rule a uniform system of administering the recertification training program. Online recertification training for farm applicators in order to fulfill all recertification requirements must be available to farm applicators. The department and the Montana state university-Bozeman extension service shall enter into a cooperative agreement to establish an online training program for farm applicators. The department may credit only training related to the standards set forth in subsection (4).

(6) Provisions of this chapter relating to certification of farm applicators do not apply to a farm applicator applying nonrestricted pesticides on the applicator's own land or on lands of neighbors if the farm applicator:

- (a) operates farm property and operates and maintains pesticide application equipment primarily for the applicator's own use;
- (b) is not regularly engaged in the business of applying pesticides for hire and does not represent to the public that the farm applicator is a pesticide applicator;

(c) operates pesticide application equipment only in the vicinity of the applicator's own property and for the accommodation of immediate neighbors.

(7) (a) The department shall assess an additional permit fee of \$15 on farm applicators to fund the waste pesticide and pesticide container collection, disposal, and recycling program.

(b) Farm applicators must be assessed the fee at the beginning of the next 5-year permit renewal period. The department may assess a prorated fee for a farm applicator becoming licensed within a 5-year permit renewal period.

(c) Fees collected under this subsection (7) must be deposited in the state special revenue account pursuant to 80-8-112.

~~(8) On or before September 1, 2020, the department shall provide the economic affairs interim committee with a report in accordance with 5-11-210 on recertification requirements and efforts to initiate online training."~~

Section 13. Section 90-9-502, MCA, is amended to read:

"90-9-502. (Temporary) Eligibility – amount of loan repayment assistance. (1) A farmer is qualified for loan repayment assistance if the farmer:

(a) is a resident of Montana whose primary occupation is to operate a farm;

(b) has graduated from a postsecondary institution as defined in 20-26-603 with an associate degree or a baccalaureate degree; *and*

~~[(c) has undertaken the primary occupation of operating a farm within the applicable time period specified in 90-9-103(8)(c);] and~~

~~(d)(c)~~ (c) commits to operate the farm for at least 5 years after applying for loan repayment assistance pursuant to this part.

(2) A farmer who is qualified pursuant to subsection (1) is eligible for loan repayment assistance for up to a maximum of 5 years.

(3) The total amount of loan repayment assistance for an eligible qualified farmer may not exceed 50% of the total amount of educational loans outstanding on the application date for loan repayment assistance.

(4) A farmer who qualifies for and receives loan repayment assistance shall repay that assistance if the farmer ceases to operate the farm before the end of the 5-year commitment. (Terminates June 30, 2029--sec. 16, Ch. 439, L. 2019.)"

Section 14. Directions to code commissioner. The code commissioner is directed to implement 1-11-101(2)(g)(ii) by correcting any clearly inaccurate references to other sections of the Montana Code Annotated contained in material enacted by the 67th legislature and previous legislatures.

Approved February 23, 2021

CHAPTER NO. 15

[SB 45]

AN ACT REPEALING THE NEW OR EXPANDED INDUSTRY CREDIT FOR CORPORATE INCOME TAXES; AMENDING SECTIONS 15-30-2303 AND 15-32-405, MCA; AND REPEALING SECTIONS 15-31-124, 15-31-125, 15-31-126, AND 15-31-127, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-30-2303, MCA, is amended to read:

"15-30-2303. Tax credits subject to review by interim committee.

(1) The following tax credits must be reviewed during the biennium commencing July 1, 2019:

(a) the credit for income taxes imposed by foreign states or countries provided for in 15-30-2302;

(b) the credit for contractor's gross receipts provided for in 15-50-207;

~~(c) the credit for new or expanded manufacturing provided for in 15-31-124 through 15-31-127;~~

~~(d)(c)~~ (c) the credit for installing an alternative energy system provided for in 15-32-201 through 15-32-203;

~~(e)(d)~~ (d) the credit for energy-conserving expenditures provided for in 15-30-2319 and 15-32-109; and

(f)(e) the credit for elderly homeowners and renters provided for in 15-30-2337 through 15-30-2341.

(2) The following tax credits must be reviewed during the biennium commencing July 1, 2021:

(a) the credit for commercial or net metering system investment provided for in Title 15, chapter 32, part 4;

(b) the credit for qualified elderly care expenses provided for in 15-30-2366;

(c) the credit for dependent care assistance and referral services provided for in 15-30-2373 and 15-31-131;

(d) the credit for contributions to a university or college foundation or endowment provided for in 15-30-2326, 15-31-135, and 15-31-136;

(e) the credit for donations to an educational improvement account provided for in 15-30-2334, 15-30-3110, and 15-31-158; and

(f) the credit for donations to a student scholarship organization provided for in 15-30-2335, 15-30-3111, and 15-31-159.

(3) The following tax credits must be reviewed during the biennium commencing July 1, 2023:

(a) the credit for providing disability insurance for employees provided for in 15-30-2367 and 15-31-132;

(b) the credit for installation of a geothermal system provided for in 15-32-115;

(c) the credit for property to recycle or manufacture using recycled material provided for in Title 15, chapter 32, part 6;

(d) the credit for converting a motor vehicle to alternative fuel provided for in 15-30-2320 and 15-31-137;

(e) the credit for infrastructure use fees provided for in 17-6-316; and

(f) the credit for contributions to a qualified endowment provided for in 15-30-2327 through 15-30-2329, 15-31-161, and 15-31-162.

(4) The following tax credits must be reviewed during the biennium commencing July 1, 2025:

(a) the credit for preservation of historic buildings provided for in 15-30-2342 and 15-31-151;

(b) the credit for mineral or coal exploration provided for in Title 15, chapter 32, part 5;

(c) the credit for capital gains provided for in 15-30-2301;

(d) the credit for a new employee in an empowerment zone provided for in 15-30-2356 and 15-31-134;

(e) the credit for an oilseed crush facility provided for in 15-32-701; and

(f) the credit for unlocking state lands provided for in 15-30-2380.

(5) The following tax credits must be reviewed during the biennium commencing July 1, 2027:

(a) the biodiesel or biolubricant production facility credit provided for in 15-32-702;

(b) the biodiesel blending and storage credit provided for in 15-32-703;

(c) the adoption tax credit provided for in 15-30-2364;

(d) the credit for providing temporary emergency lodging provided for in 15-30-2381 and 15-31-171;

(e) the credit for hiring a registered apprentice or veteran apprentice provided for in 15-30-2357 and 15-31-173;

(f) the earned income tax credit provided for in 15-30-2318; and

(g) the media production and postproduction credits provided for in 15-31-1007 and 15-31-1009.

(6) The revenue interim committee shall review the tax credits scheduled for review in the biennium of the next regular legislative session, including any

individual or corporate income tax credits with an expiration or termination date that are not listed in this section, and make recommendations to the legislature about whether to eliminate or revise the credits. The legislature may extend the review dates by amending this section. The revenue interim committee shall review the credits using the following criteria:

(a) whether the credit changes taxpayer decisions, including whether the credit rewards decisions that may have been made regardless of the existence of the tax credit;

(b) to what extent the credit benefits some taxpayers at the expense of other taxpayers;

(c) whether the credit has out-of-state beneficiaries;

(d) the timing of costs and benefits of the credit and how long the credit is effective;

(e) any adverse impacts of the credit or its elimination and whether the benefits of continuance or elimination outweigh adverse impacts; and

(f) the extent to which benefits of the credit affect the larger economy.”

Section 2. Section 15-32-405, MCA, is amended to read:

“15-32-405. Exclusion from other tax incentives. If a credit is claimed for an investment pursuant to this part, no other state energy or investment tax credit, ~~including but not limited to the tax credits allowed by 15-31-124 and 15-31-125,~~ may be claimed for the investment. Property tax reduction allowed by 15-6-224 may not be applied to a facility for which a credit is claimed pursuant to this part.”

Section 3. Repealer. The following sections of the Montana Code Annotated are repealed:

15-31-124. New or expanded industry credit -- definitions.

15-31-125. Determination of tax credit.

15-31-126. Limitation.

15-31-127. Department duties.

Approved February 23, 2021

CHAPTER NO. 16

[SB 61]

AN ACT ADDING MOTHER'S DAY WEEKEND AS A FREE FISHING WEEKEND; AMENDING SECTION 87-2-311, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-2-311, MCA, is amended to read:

“87-2-311. Free fishing ~~weekend weekends~~. Each year on Father's Day and Mother's Day ~~weekend weekends~~, a person may fish for any fish within this state without obtaining a fishing license pursuant to this part as long as the person does so in accordance with any other law or regulation of the department in effect on that weekend.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved February 23, 2021

CHAPTER NO. 17

[HB 23]

AN ACT GENERALLY REVISING THE TAX LIEN AND TAX DEED PROCESS LAWS; PROVIDING THAT PROPERTY WITH A RESIDENCE IS SUBJECT TO A TAX DEED AUCTION ONLY IF THE OWNER OCCUPIES THE RESIDENCE; CLARIFYING TIMELINES FOR NOTIFICATION REQUIREMENTS; REQUIRING THE HIGH BIDDER TO PAY AUCTION COSTS; PROVIDING FOR CANCELLATION OF AN ASSIGNMENT IF THE AUCTION DOES NOT RESULT IN PURCHASE OF THE TAX DEED; PROVIDING THAT THE COUNTY TREASURER DISTRIBUTES SURPLUS AUCTION PROCEEDS TO THE LEGAL TITLEHOLDER; AMENDING SECTIONS 15-18-112, 15-18-212, 15-18-215, 15-18-216, 15-18-217, 15-18-219, 15-18-220, 15-18-221, AND 70-9-803, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-18-112, MCA, is amended to read:

“15-18-112. Redemption from property tax lien – lien on interest in property for taxes paid. (1) (a) Except as provided in subsections (1)(b) and (4), in all cases in which a property tax lien has been assigned, the assignee may pay the subsequent taxes assessed against the property, *once delinquent*, on or after June 1 and prior to July 31 if the taxes have not been paid by the property owner.

(b) If the property qualifies for the property tax assistance program provided for in 15-6-305 and the taxes have not been paid by the property owner, the subsequent taxes may be paid after the time period provided for in 15-16-102(4)(b) and prior to July 31.

(2) Upon redemption of the property tax lien, the redemptioner shall pay, in addition to the amount of the property tax lien, including penalties, interest, and costs, the subsequent taxes assessed, with interest and penalty at the rate established for delinquent taxes in 15-16-102.

(3) An owner of less than all of the interest or a lienholder with an interest in real property who redeems a property tax lien on the property has a lien for the taxes paid on the interests of the property that are not owned by the redemptioner.

(4) The property tax lien may also be redeemed for a particular tax year ~~by a partial payment of that tax year~~, as provided in 15-16-102(5); if:

(a) the property tax lien for the year in which the partial payment is made is owned by the county; and

(b) the tax deed has not been issued pursuant to 15-18-211 or 15-18-220.”

Section 2. Section 15-18-212, MCA, is amended to read:

“15-18-212. Notice – proof of notice – penalty for failure to notify.

(1) Between May 1 and May 30 of the year in which the redemption period expires, a notice must be given as follows:

(a) for each property for which the county attached a tax lien and has not assigned the tax lien, the county treasurer shall notify the parties as required in subsection (4) that a tax deed may be issued to the county unless the property tax lien is redeemed prior to the expiration date of the redemption period; or

(b) for each property other than property provided for in 15-18-219(1)(b) for which the county attached a tax lien and assigned the tax lien pursuant to 15-17-323, the assignee shall notify the parties as required in subsection (4) that a tax deed will be issued to the assignee unless the property tax lien is redeemed prior to the expiration date of the redemption period.

(2) (a) Except as provided in subsection (2)(b), if the county is the possessor of the tax lien, an assignment has not been made, and the board of county commissioners has not directed the county treasurer to issue a tax deed during the period described in subsection (1) but the board of county commissioners at a time subsequent to the period described in subsection (1) does direct the county treasurer to issue a tax deed, the county treasurer shall provide notification to the parties as required in subsection (4) in the manner provided in subsection (1)(a). The notification required under this subsection (2)(a) must be made not less than 60 days or more than 120 days prior to the date on which the county treasurer will issue the tax deed.

(b) If the county commissioners direct the county treasurer to issue a tax deed within 6 months after giving the notice required by subsection (1)(a), additional notice need not be given.

(3) (a) The county treasurer shall notify the assignee of the obligation to give notice under subsection (1)(b) between January 1 and January 31 of the year in which the redemption period expires. The notice of obligation *may* must be sent by certified mail, return receipt requested, to the assignee at the address contained on the assignment certificate provided for in 15-17-323.

(b) If the assignee fails to give notice as required by subsection (1)(b), as evidenced by failure to file proof of notice with the county clerk and recorder as required in subsection (7), the county treasurer shall cancel the property tax lien evidenced by the tax lien certificate and the assignment certificate. Upon cancellation of the property tax lien, the county treasurer shall file with the county clerk and recorder a notice of cancellation on a form provided for in 15-18-217.

(4) (a) The notice required under subsections (1) and (2) must be in the form required by 15-18-215 and be made by certified mail, return receipt requested, to the current occupant, if any, of the property and to each party, other than a utility, listed on a litigation guarantee, provided that the guarantee:

(i) has been approved by the insurance commissioner and issued by a licensed title insurance producer;

(ii) was ordered on the property by the person required to give notice; and

(iii) lists the identities and addresses of the parties of record that have an interest or possible claim of an interest in the property designed to disclose all parties of record that would otherwise be necessary to name in a quiet title action.

(b) The address to which the notice must be sent is, for each party, the address disclosed by the records in the office of the county clerk and recorder or in the litigation guarantee and, for the occupant, the street address or other known address of the subject property.

(5) The person required to give notice shall, within the period described in subsection (1), give notice as provided in 7-1-2121 and in the form required by 15-18-215.

(6) The amount of interest and costs continues to accrue until the date of redemption. The total amount of interest and costs that must be paid for redemption must be calculated by the county treasurer as of the date of payment.

(7) Proof of notice must be given as provided in 15-18-216 and must be filed with the county clerk and recorder. An assignee must file proof of notice with the county clerk and recorder within 30 days of the mailing or publishing of the notice. If the county is the possessor of the tax lien, the proof of notice must be filed before the issuance of the tax deed under this chapter. Once filed, the proof of notice is prima facie evidence of the sufficiency of the notice.

(8) *Prior to issuance of a tax deed for residential property with an owner-occupied dwelling, and after all other notice requirements have been met, the sheriff, the county treasurer, or a designee of the sheriff or county treasurer shall make reasonable attempts to personally deliver a copy of the notice that was sent by certified mail to the owner-occupant of the property for the purpose of discussing the consequences of a failure to respond. If personal delivery attempts are unsuccessful, the sheriff, county treasurer, or designee shall attempt all reasonable means of informing the owner-occupant of the consequences of a failure to respond, including but not limited to a phone call to the owner-occupant or a relative of the owner-occupant.*

(8)(9) A county or any officer of a county may not be held liable for any error of notification.”

Section 3. Section 15-18-215, MCA, is amended to read:

“15-18-215. Form of notice that tax deed may issue. (1) Section 15-18-219 requires that notice be given to all persons considered interested parties and to the current occupant of property that may be lost to a tax deed. The notice must be made as follows for property provided for in 15-18-219(1)(b):

NOTICE THAT A TAX DEED MAY BE ISSUED

IF YOU DO NOT RESPOND TO THIS NOTICE, YOU WILL LOSE YOUR PROPERTY.

TO:.....

(Name)(Address, when unknown, so state)

Pursuant to section 15-18-219, Montana Code Annotated, NOTICE IS HEREBY GIVEN:

1. As a result of a property tax delinquency, a property tax lien exists on the following described real property in which you may have an interest:

2. The property taxes became delinquent on.....

3. The property tax lien was attached on.....

4. The lien was subsequently assigned to..... (if applicable).

5. As of the date of this notice, the amount of tax due is:

TAXES:

PENALTY:

INTEREST:

COST:

TOTAL:

6. For the property tax lien to be liquidated, the total amount listed in paragraph 5, *plus additional interest and costs*, must be paid by....., which is the date that the redemption period expires or expired.

7. If all taxes, penalties, interest, and costs are not paid to the COUNTY TREASURER on or prior to....., which is the date the redemption period expires, a tax deed auction will be held within 60 days of *the tax deed application date*.

8. Any surplus funds resulting from the auction will be distributed to ~~interested parties. A notarized claim for surplus funds must be filed with the county treasurer within 30 days of the auction~~ *the legal titleholder of record*.

9. The business address and telephone number of the county treasurer who is responsible for issuing the tax deed is:..... County Treasurer,..... (Address),..... (Telephone).

FURTHER NOTICE FOR THOSE PERSONS LISTED ABOVE WHOSE ADDRESSES ARE UNKNOWN:

1. The address of the interested party is unknown.

2. The published notice meets the legal requirements for notice of a pending tax deed auction.

3. The interested party's rights in the property may be in jeopardy.

DATED at..... this..... (Date).

.....

Signature

IF YOU DO NOT RESPOND TO THIS NOTICE, YOU WILL LOSE YOUR PROPERTY.

(2) Section 15-18-212 requires that notice be given to all persons considered interested parties of property that may be lost to a tax deed. The notice must be made as follows for all property other than property provided for in 15-18-219(1)(b):

NOTICE THAT A TAX DEED MAY BE ISSUED

IF YOU DO NOT RESPOND TO THIS NOTICE, YOU WILL LOSE YOUR PROPERTY.

TO:.....

(Name)(Address, when unknown, so state)

Pursuant to section 15-18-212, Montana Code Annotated, NOTICE IS HEREBY GIVEN:

1. As a result of a property tax delinquency, a property tax lien exists on the following described real property in which you may have an interest:

2. The property taxes became delinquent on.....

3. The property tax lien was attached on.....

4. The lien was subsequently assigned to..... (if applicable).

5. As of the date of this notice, the amount of tax due is:

TAXES:.....

PENALTY:.....

INTEREST:.....

COST:.....

TOTAL:.....

6. For the property tax lien to be liquidated, the total amount listed in paragraph 5, *plus additional interest and costs*, must be paid by....., which is the date that the redemption period expires or expired.

7. If all taxes, penalties, interest, and costs are not paid to the COUNTY TREASURER on or prior to....., which is the date the redemption period expires, a tax deed may be issued to the assignee or county that is the possessor of the tax lien on the day following the date that the redemption period expires.

8. The business address and telephone number of the county treasurer who is responsible for issuing the tax deed is:..... County Treasurer,..... (Address),..... (Telephone).

FURTHER NOTICE FOR THOSE PERSONS LISTED

ABOVE WHOSE ADDRESSES ARE UNKNOWN:

1. The address of the interested party is unknown.

2. The published notice meets the legal requirements for notice of a pending tax deed issuance.

3. The interested party's rights in the property may be in jeopardy.

DATED at..... this..... (Date).

.....

Signature

IF YOU DO NOT RESPOND TO THIS NOTICE, YOU WILL LOSE YOUR PROPERTY."

Section 4. Section 15-18-216, MCA, is amended to read:

"15-18-216. Form of proof of notice. Sections 15-18-212 and 15-18-219 require that proof of notice must be filed with the county clerk. The proof of notice must be made as follows:

PROOF OF NOTICE

I,..... (Name and Address), acting as or on behalf of the owner of the property tax lien, have complied with the notice requirements of Title 15, chapter 18, MCA, as follows:

1. A "Notice That a Tax Deed May Be Issued" was mailed to the owners, current occupant, and parties, as required by 15-18-212 or 15-18-219, MCA. A copy of each notice is attached or is on file in the office of the county clerk.

2. The notices were mailed by certified mail, return receipt requested. Copies of the return receipts are attached or are on file in the office of the county clerk.

3. Notice was given by publishing in the newspaper as required by 7-1-2121, which is....., on..... and..... or posting in the three public places designated by the governing body, which are.....,....., and..... Proof of publication is attached.

DATED:.....

.....

(Signature)

State of.....

County of.....

The record was signed before me on (date) by (name(s) of individual(s)).....

.....

(Signature of notarial officer)

(Official stamp)

.....

Title of officer (if not shown in stamp)"

Section 5. Section 15-18-217, MCA, is amended to read:

"15-18-217. Form of cancellation. The notice of cancellation of an assignment required by 15-18-212 and 15-18-219 must be made as follows:

I,....., the treasurer of..... County, certify that..... (name of the assignee or assignee's agent) of..... (address), purchased a tax lien assignment..... (assignment certificate no.) *on the following property..... (full legal description)* owned by..... (name of owner of record). ~~See legal description attached as exhibit "A", Tax Receipt No..... on..... (date).~~

I further certify that pursuant to 15-18-212(3)(a) *and 15-18-219(6)(a)*, notice was given to..... (name of assignee or assignee's agent) of the notification obligation and that the tax lien will be canceled if the assignee does not comply with provisions of 15-18-212 and 15-18-219.

I further certify that the treasurer of..... County has no record of notice by the owner of the tax lien in accordance with 15-18-212(7) or 15-18-219(5)(6).

Therefore, noncompliance by the assignee has caused the tax lien to be canceled this..... (date).

.....

Name of County Treasurer"

Section 6. Section 15-18-219, MCA, is amended to read:

"15-18-219. Application for tax deed for residential property – fee – notice. (1) (a) If a property tax lien attached to the property provided for in subsection (1)(b) is not redeemed in the time allowed under 15-18-111, the assignee may file an application after the redemption period has expired with the county treasurer for a tax deed for the property. The *tax* deed application must contain the same information as is required in 15-18-211(1). The county treasurer shall charge the assignee a \$25 application fee. The fee must be deposited in the county general fund.

(b) The following property is subject to the provisions of this section if it contains a dwelling *that is currently occupied by the legal titleholder of record*:

- (i) land classified as residential pursuant to 15-6-134;
- (ii) land classified as agricultural pursuant to 15-6-133(1)(a) and (1)(c); and
- (iii) land classified as forest property pursuant to 15-6-143.

(c) For the property provided for in subsection (1)(b)(ii) and (1)(b)(iii), the provisions of this section also apply to other property of the same class that is included on the same tax bill.

(2) An assignee who applies for a tax deed pursuant to this section shall pay the county treasurer at the time of the tax deed application:

(a) the amount required to redeem any unassigned tax liens or tax liens held by other assignees;

(b) any delinquent taxes, penalties, and interest; *and*

(c) current taxes due for the property; *and*

~~(d) the cost of filing the notice of a tax deed application.~~

(3) (a) The county treasurer shall have the county clerk and recorder file a notice of the tax deed application, ~~which constitutes notice of the pendency of the tax deed application with respect to the property and remains effective for 1 year from the date of the filing.~~

(b) A person acquiring an interest in the property after the tax deed application notice has been filed is considered to be on notice of the pending tax deed *sale auction*, and no additional notice is required. The *sale at auction* of the property automatically releases any filed notice of tax deed application for the property.

(c) If the property is redeemed, the county treasurer shall file a *redemption certificate, which release of releases* the notice of tax deed application.

(4) (a) ~~Prior to applying~~ *Between May 1 and May 30 of the year in which the redemption period expires, an assignee applying for a tax deed, the assignee* shall notify the parties as required in subsection (4)(b) that a tax deed will be auctioned unless the property tax lien is redeemed before the date of the auction.

(b) ~~The notice required under subsection (4)(a) must be in the form required by 15-18-215(1) and be made by certified mail, return receipt requested, in the form required by 15-18-215 and as provided in 7-1-2121, to the current occupant, if any, of the property and to each party, other than a utility, listed on a litigation guarantee, provided that the guarantee:~~

(i) has been approved by the insurance commissioner and issued by a licensed title insurance producer;

(ii) was ordered on the property by the person required to give notice; and

(iii) lists the identities and addresses of the parties of record that have an interest or possible claim of an interest in the property designed to disclose all parties of record that would otherwise be necessary to name in a quiet title action.

(c) The address to which the notice must be sent is, for each party, the address disclosed by the records in the office of the county clerk and recorder or in the litigation guarantee and, for the occupant, the street address or other known address of the subject property.

(5) *The amount of interest and costs continues to accrue until the date of redemption. The total amount of interest and costs that must be paid for redemption must be calculated by the county treasurer as of the date of payment.*

(6) (a) *The county treasurer shall notify the assignee of the obligation to give notice under subsection (4) between January 1 and January 31 of the year in which the redemption period expires. The notice of obligation must be sent by*

certified mail, return receipt requested, to the assignee at the address contained on the assignment certificate provided for in 15-17-323.

~~(d)~~(b) If the assignee fails to give notice as required by ~~this~~ subsection (4), as evidenced by failure to file proof of notice with the county clerk and recorder as required in subsection ~~(5)~~ (6)(c), the county treasurer shall cancel the property tax lien evidenced by the tax lien certificate and the assignment certificate. Upon cancellation of the property tax lien, the county treasurer shall file with the county clerk and recorder a notice of cancellation on a form provided for in 15-18-217.

~~(5)~~(c) Proof of notice must be given as provided in 15-18-216 and must be filed with the county clerk and recorder. An assignee must file proof of notice with the county clerk and recorder within 30 days of the mailing or publishing of the notice. Once filed, the proof of notice is prima facie evidence of the sufficiency of the notice.”

Section 7. Section 15-18-220, MCA, is amended to read:

“15-18-220. Sale at public auction -- notice of auction -- cancellation of assignment for unsuccessful auction. (1) Upon receipt of an application for a tax deed pursuant to 15-18-219, the county treasurer shall hold a public auction in the county in which the property is located within 60 days of receipt of the application. The county treasurer shall publish notice of the auction as provided in 7-1-2121 that includes the date, time, and location of the auction, the legal description of the property, the deposit requirement, and the minimum opening bid. The auction must be held during the regular office hours of the county treasurer.

(2) (a) The opening bid on the property must be the amount required in subsection (2)(b), and the county treasurer may not accept a bid below the opening bid.

(b) The opening bid for the property is equal to the sum of:

(i) the amount required to redeem the tax lien, which includes delinquent taxes, penalties, interest, and costs;

(ii) amounts paid by the assignee upon application for the tax deed pursuant to 15-18-219(2);

(iii) *tax deed fees provided for in 15-18-211(2)(a) and recording fees;* and

~~(iii)~~(iv) an amount equal to half of the most recent assessed value of the land and of the dwelling or half of the value of the land and of the dwelling as determined in an independent appraisal. If the opening bid is based on an independent appraisal, the appraisal must be provided to the county treasurer, must meet the standards set by the Montana board of real estate appraisers, and must have been conducted within 6 months of the date of the auction.

(3) (a) The county treasurer shall sell the property to the high bidder for the purchase price bid *plus auction costs incurred by the county treasurer*. Except as provided in subsection (3)(b), the high bidder shall post with the county treasurer a nonrefundable deposit of 5% of the bid or \$200, whichever is greater, at the time of sale. The deposit is applied to the sale price at the time of full payment. Notice of the deposit requirement must be posted at the auction site, and the county treasurer may require bidders to show their ability to post the deposit. The county treasurer may refuse to recognize the bid of a person who has previously bid and refused, for any reason, to honor the bid.

(b) If the ~~tax deed applicant~~ *assignee* is the high bidder, the ~~tax deed applicant~~ *assignee* shall pay to the county treasurer *auction costs and any amounts included in the opening bid and not already paid, including filing fees, tax deed fees, and one-half of the most recent assessed value of the land and of the dwelling. The amounts paid with the tax deed application must be subtracted from the deposit required in subsection (3)(a). If the assignee does*

not make full payment within 24 hours, excluding weekends and legal holidays, the county treasurer shall cancel the assignment and file with the county clerk and recorder a notice of cancellation on a form provided for in [section 8].

(c) If full payment of the purchase price and ~~recording fees~~ *auction costs* is not made within 24 hours of the sale, excluding weekends and legal holidays, ~~by a high bidder who is not the assignee,~~ the county treasurer shall cancel ~~all bids,~~ notice the auction as provided in subsection (5), and pay costs of the resale from the deposit. Any funds remaining from the deposit must be applied to the opening bid the high bid and allow the next highest bidder to purchase the tax deed for the amount bid. If the next highest bidder does not make full payment of the purchase price and the auction costs within 24 hours, excluding weekends and legal holidays, of notification by the county treasurer, the county treasurer shall repeat the process and contact the next highest bidder until the purchase price and auction costs are paid or until there are no bidders remaining. If no bidder pays the purchase price and auction costs, the county treasurer shall cancel the assignment and file with the county clerk and recorder a notice of cancellation on a form provided for in [section 8].

(d) If there are no bidders at the auction, the county treasurer shall cancel the assignment and file with the county clerk and recorder a notice of cancellation on a form provided for in [section 8].

~~(d)(4)~~ (4) The portion of the opening bid that is equal to half of the most recent assessed value of the land and of the dwelling is considered surplus funds and, upon sale of the property, must be distributed as provided in 15-18-221(3). If the purchase price is higher than the opening bid, the difference between the purchase price and the opening bid is considered surplus funds and must be distributed as provided in 15-18-221(3).

(4)(5) Upon full payment of the purchase price, the county treasurer shall issue the tax deed in the form provided in 15-18-213 and distribute the funds as provided in 15-18-221.

~~(5) If the sale is canceled for any reason or if the buyer fails to make full payment within the time required, the county treasurer shall, within 30 days after the buyer's nonpayment or cancellation of the sale, notice the sale as provided in subsection (1). The sale must be held within 30 days of the date of the notice. The opening bid provided for in subsection (2) must be increased by the cost of giving notice and additional county treasurer's fees.~~

(6) An auction required pursuant to this section may be conducted electronically.”

Section 8. Form of cancellation – unsuccessful auction. The notice of cancellation of an assignment required by 15-18-220 must be made as follows:

I,....., the treasurer of..... County, certify that..... (name of the assignee or assignee's agent) of..... (address) purchased a tax lien assignment..... (assignment certificate no.) on the following property (full legal description) owned by..... (name of owner of record) on..... (date).

I further certify that pursuant to 15-18-219(1), the assignee made an application for a tax deed after the redemption period expired.

I further certify that pursuant to 15-18-220(1) and 7-1-2121, notice of the auction was given on (date) and (date) in (newspaper).

I further certify that there were no bidders at auction or no bidder made payment as required in 15-18-220(3).

Therefore, the assignment of the tax lien is canceled this..... (date).

.....

Name of County Treasurer

Section 9. Section 15-18-221, MCA, is amended to read:

“15-18-221. Distribution of tax deed auction proceeds. (1) The county treasurer shall distribute the proceeds of a tax deed auction pursuant to 15-18-220 as provided in this section.

(2) If the tax deed is purchased by a person other than the ~~person who applied for the tax deed assignee~~, the county treasurer shall pay to the applicant for the tax deed ~~assignee~~:

(a) the amount paid for the assignment of the tax deed ~~lien~~, including delinquent taxes, penalties, interest, and costs; and

(b) all amounts paid pursuant to 15-18-219(2) ~~plus interest at the rate of 1.5% per month for the period from the month after the date of the application for the tax deed through the month of the sale.~~

(3) ~~The surplus funds provided for in 15-18-220(3)(d) must be retained by the county treasurer for the benefit of and distribution to those notified pursuant to 15-18-219(4). To the extent possible, the surplus funds must be distributed by the county treasurer to satisfy in full each person notified pursuant to 15-18-219(4) with a senior mortgage or lien in the property before distribution of any funds to any junior mortgage or lien claimant or to the former property owner. To be considered for funds when they are distributed, the claimant shall file a notarized statement of claim with the county treasurer within 30 days of the auction. The claim must include the particulars of the lien and the amounts currently due. Any lienholder claim that is not filed within the 30-day deadline is barred.~~

(4) ~~Except for claims by a property owner, claims that are not filed on or before close of business on the 30th day after the date of the auction are barred. A person, other than the property owner, who fails to file a proper and timely claim is barred from receiving any disbursement of the surplus funds. The failure of any person described in 15-18-219(4), other than the property owner, to file a claim for surplus funds within the 30 days constitutes a waiver of interest in the surplus funds, and all claims are forever barred.~~

(5) ~~Within 90 days after the claim period expires, the county treasurer shall pay the surplus funds according to the county treasurer's determination of the priority of claims using the information provided by the claimants. Fees and costs incurred by the county treasurer in determining the priority of the claims must be paid from the surplus funds.~~

(6)(3) ~~If the county treasurer does not receive claims for surplus funds within the 30-day claim period, as required in subsection (4), there is a conclusive presumption that Within 30 days of receiving payment from the purchaser of the tax deed, the county treasurer shall distribute surplus funds to the legal titleholder of record described is entitled to the surplus funds. The county treasurer shall process the surplus funds regardless of whether the legal titleholder is a resident of the state or not. The surplus funds are considered to be unclaimed property if not claimed within 5 years as provided in 70-9-803(1)(q).”~~

Section 10. Section 70-9-803, MCA, is amended to read:

“70-9-803. Presumptions of abandonment. (1) Except as provided in subsection (6), property is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:

(a) traveler's check, 15 years after issuance;

(b) money order, 7 years after issuance;

(c) stock or other equity interest in a business association or financial organization, including a security entitlement under Title 30, chapter 8, 5 years after the earlier of:

(i) the date of the most recent dividend, stock split, or other distribution that was unclaimed by the apparent owner; or

(ii) the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable or after the holder discontinued mailings, notifications, or communications to the apparent owner;

(d) debt of a business association or financial organization, other than a bearer bond or an original issue discount bond, 5 years after the date of the most recent interest payment that was unclaimed by the apparent owner;

(e) demand, savings, or time deposit, including a deposit that is automatically renewable, 5 years after the earlier of maturity or the date of the last indication by the owner of interest in the property; however, a deposit that is automatically renewable is considered matured for purposes of this section upon its initial date of maturity unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder;

(f) money or credits owed to a customer as a result of a retail business transaction, 3 years after the obligation accrued;

(g) gift certificate, 3 years after December 31 of the year in which the certificate was sold, but if redeemable in merchandise only, the amount abandoned is considered to be 60% of the certificate's face value. A gift certificate is not presumed abandoned if the gift certificate was sold by a person who in the past fiscal year sold no more than \$200,000 in gift certificates, which amount must be adjusted by November of each year by the inflation factor defined in 15-30-2101. The amount considered abandoned for a person who sells more than the amount that triggers presumption of abandonment is the value of gift certificates greater than that trigger.

(h) amount that is owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, 3 years after the obligation to pay arose or, in the case of a policy or annuity payable upon proof of death, 3 years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based;

(i) property distributable by a business association or financial organization in a course of dissolution, 1 year after the property becomes distributable;

(j) property received by a court as proceeds of a class action and not distributed pursuant to the judgment, 1 year after the distribution date;

(k) ~~except as provided in subsection (1)(q);~~ property held by a court, government, governmental subdivision, agency, or instrumentality, 1 year after the property becomes distributable;

(l) wages or other compensation for personal services, 1 year after the compensation becomes payable;

(m) deposit or refund owed to a subscriber by a utility, 1 year after the deposit or refund becomes payable;

(n) property in an individual retirement account, defined benefit plan, or other account or plan that is qualified for tax deferral under the income tax laws of the United States, 3 years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan, or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty;

(o) a patronage refund owed to a member of a rural electric or telephone cooperative organized under Title 35, chapter 18, that is not used by the cooperative for educational purposes, 5 years after the distribution date;

(p) an unclaimed share in a cooperative that is not used for charitable or civic purposes in the community in which the cooperative is located, 5 years after the distribution date; *and*

~~(q) surplus funds held by a county treasurer pursuant to 15-18-221, 5 years; and~~

~~(r)(q)~~ all other property, 5 years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs.

(2) At the time that an interest is presumed abandoned under subsection (1), any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

(3) Property is unclaimed if, for the applicable period set forth in subsection (1), the apparent owner has not communicated in writing or by other means reflected in a contemporaneous record prepared by or on behalf of the holder with the holder concerning the property or the account in which the property is held and has not otherwise indicated an interest in the property. A communication with an owner by a person other than the holder or its representative who has not in writing identified the property to the owner is not an indication of interest in the property by the owner.

(4) An indication of an owner's interest in property includes:

(a) the presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or financial organization or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received;

(b) owner-directed activity in the account in which the property is held, including a direction by the owner to increase, decrease, or change the amount or type of property held in the account;

(c) the making of a deposit to or withdrawal from an account in a financial organization; and

(d) the payment of a premium with respect to a property interest in an insurance policy; however, the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender value of a policy by the application of those provisions.

(5) Property is payable or distributable for purposes of this part notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment.

(6) The presumption provided in subsection (1) does not apply to:

(a) unclaimed patronage refunds of a rural electric or telephone cooperative if the cooperative uses the refunds exclusively for educational purposes; or

(b) unclaimed shares in a nonutility cooperative if the cooperative uses the shares for charitable or civic purposes in the community in which the cooperative is located."

Section 11. Codification instruction. [Section 8] is intended to be codified as an integral part of Title 15, chapter 18, part 2, and the provisions of Title 15, chapter 18, part 2, apply to [section 8].

Section 12. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 13. Effective date. [This act] is effective on passage and approval.

Section 14. Applicability. [This act] applies to tax liens for which the redemption period expires on or after [the effective date of this act].

Approved February 23, 2021

CHAPTER NO. 18

[HB 26]

AN ACT REVISING SCHOOL LAWS TO SIMPLIFY THE DEFINITION OF PUPIL AND ENSURE THAT OLDER STUDENTS ADMITTED AT THE DISCRETION OF TRUSTEES ARE CONSIDERED PUPILS; RELOCATING AND CLARIFYING THE PROHIBITION ON PUPILS 19 YEARS OF AGE OR OLDER BEING INCLUDED IN ANB CALCULATIONS; AMENDING SECTIONS 20-1-101 AND 20-9-311, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the ages at which children are required to be admitted to public schools and the ages at which trustees may admit children at the trustees' discretion are established in 20-5-101, MCA;

WHEREAS, eligibility for inclusion in average number belonging calculations is governed in 20-9-311, MCA; and

WHEREAS, if trustees, at their discretion, enroll an individual 19 years of age or older, that individual needs to be defined as a pupil so that other school laws apply.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-1-101, MCA, is amended to read:

"20-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Accreditation standards" means the body of administrative rules governing standards such as:

- (a) school leadership;
- (b) educational opportunity;
- (c) academic requirements;
- (d) program area standards;
- (e) content and performance standards;
- (f) school facilities and records;
- (g) student assessment; and
- (h) general provisions.

(2) "Aggregate hours" means the hours of pupil instruction for which a school course or program is offered or for which a pupil is enrolled.

(3) "Agricultural experiment station" means the agricultural experiment station established at Montana state university-Bozeman.

(4) "At-risk student" means any student who is affected by environmental conditions that negatively impact the student's educational performance or threaten a student's likelihood of promotion or graduation.

(5) "Average number belonging" or "ANB" means the average number of regularly enrolled, full-time pupils physically attending or receiving educational services at an offsite instructional setting from the public schools of a district.

(6) “Board of public education” means the board created by Article X, section 9, subsection (3), of the Montana constitution and 2-15-1507.

(7) “Board of regents” means the board of regents of higher education created by Article X, section 9, subsection (2), of the Montana constitution and 2-15-1505.

(8) “Commissioner” means the commissioner of higher education created by Article X, section 9, subsection (2), of the Montana constitution and 2-15-1506.

(9) “County superintendent” means the county government official who is the school officer of the county.

(10) “District superintendent” means a person who holds a valid class 3 Montana teacher certificate with a superintendent’s endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who has been employed by a district as a district superintendent.

(11) (a) “Educational program” means a set of educational offerings designed to meet the program area standards contained in the accreditation standards.

(b) The term does not include an educational program or programs used in 20-4-121 and 20-25-803.

(12) “K-12 career and vocational/technical education” means organized educational activities that have been approved by the office of public instruction and that:

(a) offer a sequence of courses that provide a pupil with the academic and technical knowledge and skills that the pupil needs to prepare for further education and for careers in the current or emerging employment sectors; and

(b) include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills of the pupil.

(13) (a) “Minimum aggregate hours” means the minimum hours of pupil instruction that must be conducted during the school fiscal year in accordance with 20-1-301 and includes passing time between classes.

(b) The term does not include lunch time and periods of unstructured recess.

(14) “Offsite instructional setting” means an instructional setting at a location, separate from a main school site, where a school district provides for the delivery of instruction to a student who is enrolled in the district.

(15) “Principal” means a person who holds a valid class 3 Montana teacher certificate with an applicable principal’s endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who has been employed by a district as a principal. For the purposes of this title, any reference to a teacher must be construed as including a principal.

(16) “Pupil” means ~~a child who is 5 years of age or older on or before September 10 of the year in which the child is to enroll or has been enrolled by special permission of the board of trustees under 20-5-101(3) but who has not yet reached 19 years of age and an individual who is admitted by the board of trustees pursuant to 20-5-101 and who is enrolled in a school established and maintained under the laws of the state at public expense. For purposes of calculating the average number belonging pursuant to 20-9-311, the definition of pupil includes a person who has not yet reached 19 years of age by September 10 of the year and is enrolled under 20-5-101(3) in a school established and~~

~~maintained under the laws of the state at public expense. The eligibility of pupils and calculations for average number belonging are governed by 20-9-311.~~

(17) "Pupil instruction" means the conduct of organized instruction of pupils enrolled in public schools while under the supervision of a teacher.

(18) "Qualified and effective teacher or administrator" means an educator who is licensed and endorsed in the areas in which the educator teaches, specializes, or serves in an administrative capacity as established by the board of public education.

(19) "Regents" means the board of regents of higher education.

(20) "Regular school election" or "trustee election" means the election for school board members held on the day established in 20-20-105(1).

(21) "School election" means a regular school election or any election conducted by a district or community college district for authorizing taxation, authorizing the issuance of bonds by an elementary, high school, or K-12 district, or accepting or rejecting any proposition that may be presented to the electorate for decision in accordance with the provisions of this title.

(22) "School food services" means a service of providing food for the pupils of a district on a nonprofit basis and includes any food service financially assisted through funds or commodities provided by the United States government.

(23) "Special school election" means an election held on a day other than the day of the regular school election, primary election, or general election.

(24) "State board of education" means the board composed of the board of public education and the board of regents as specified in Article X, section 9, subsection (1), of the Montana constitution.

(25) "State university" means Montana state university-Bozeman.

(26) "Student with limited English proficiency" means any student:

(a) (i) who was not born in the United States or whose native language is a language other than English;

(ii) who is an American Indian and who comes from an environment in which a language other than English has had a significant impact on the individual's level of English proficiency; or

(iii) who is migratory, whose native language is a language other than English, and who comes from an environment in which a language other than English is dominant; and

(b) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the student:

(i) the ability to meet the state's proficiency assessments;

(ii) the ability to successfully achieve in classrooms where the language of instruction is English; or

(iii) the opportunity to participate fully in society.

(27) "Superintendent of public instruction" means that state government official designated as a member of the executive branch by the Montana constitution.

(28) "System" means the Montana university system.

(29) "Teacher" means a person, except a district superintendent, who holds a valid Montana teacher certificate that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who is employed by a district as a member of its instructional, supervisory, or administrative staff. This definition of a teacher includes a person for whom an emergency authorization of employment has been issued under the provisions of 20-4-111.

(30) "Textbook" means a book or manual used as a principal source of study material for a given class or group of students.

(31) “Textbook dealer” means a party, company, corporation, or other organization selling, offering to sell, or offering for adoption textbooks to districts in the state.

(32) “Trustees” means the governing board of a district.

(33) “University” means the university of Montana-Missoula.

(34) “Vocational-technical education” means vocational-technical education of vocational-technical students that is conducted by a unit of the Montana university system, a community college, or a tribally controlled community college, as designated by the board of regents.”

Section 2. Section 20-9-311, MCA, is amended to read:

“20-9-311. Calculation of average number belonging (ANB) – 3-year averaging. (1) Average number belonging (ANB) must be computed for each budget unit as follows:

(a) compute an average enrollment by adding a count of regularly enrolled pupils who were enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on the first Monday in February of the prior school fiscal year or the next school day if those dates do not fall on a school day, and divide the sum by two; and

(b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved pupil-instruction-related days for the current school fiscal year and divide by 180.

(2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related days may be included in the calculation.

(3) When a school district has approval to operate less than the minimum aggregate hours under 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

(4) (a) Except as provided in subsection (4)(d), for the purpose of calculating ANB, enrollment in an education program:

(i) from 180 to 359 aggregate hours of pupil instruction per school year is counted as one-quarter-time enrollment;

(ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time enrollment;

(iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time enrollment; and

(iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

(b) Except as provided in subsection (4)(d), enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per school year may not be included for purposes of ANB.

(c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on the hours necessary and appropriate to provide the course within a regular classroom schedule.

(d) A school district may include in its calculation of ANB a pupil who is enrolled in a program providing fewer than the required aggregate hours of pupil instruction required under subsection (4)(a) or (4)(b) if the pupil has demonstrated proficiency in the content ordinarily covered by the instruction as determined by the school board using district assessments. The ANB of a pupil under this subsection (4)(d) must be converted to an hourly equivalent based on the hours of instruction ordinarily provided for the content over which the student has demonstrated proficiency.

(e) A pupil in kindergarten through grade 12 who is concurrently enrolled in more than one public school, program, or district may not be counted as more than one full-time pupil for ANB purposes.

(5) For a district that is transitioning from a half-time to a full-time kindergarten program, the state superintendent shall count kindergarten enrollment in the previous year as full-time enrollment for the purpose of calculating ANB for the elementary programs offering full-time kindergarten in the current year. For the purposes of calculating the 3-year ANB, the superintendent of public instruction shall count the kindergarten enrollment as one-half enrollment and then add the additional kindergarten ANB to the 3-year average ANB for districts offering full-time kindergarten.

(6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days, the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes attendance prior to the day of the enrollment count.

(7) (a) The enrollment of preschool pupils, as provided in 20-7-117, may not be included in the ANB calculations.

(b) *A pupil who has reached 19 years of age by September 10 of the school year may not be included in the ANB calculations.*

(8) The average number belonging of the regularly enrolled pupils for the public schools of a district must be based on the aggregate of all the regularly enrolled pupils attending the schools of the district, except that:

(a) the ANB is calculated as a separate budget unit when:

(i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled pupils of the school must be calculated as a separate budget unit for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(ii) a school of the district is located more than 20 miles from any other school of the district and incorporated territory is not involved in the district, the number of regularly enrolled pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(iii) the superintendent of public instruction approves an application not to aggregate when conditions exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any other condition exists that would result in an unusual hardship to the pupils of the school if they were transported to another school, the number of regularly enrolled pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district; or

(iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB and the basic entitlements of the component districts must be calculated separately for a period of 3 years following the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional years as follows:

(A) 75% of the basic entitlement for the fourth year;

(B) 50% of the basic entitlement for the fifth year; and

(C) 25% of the basic entitlement for the sixth year.

(b) when a junior high school has been approved and accredited as a junior high school, all of the regularly enrolled pupils of the junior high school must be considered as high school district pupils for ANB purposes;

(c) when a middle school has been approved and accredited, all pupils below the 7th grade must be considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high school pupils for ANB purposes; or

(d) when a school has been designated as nonaccredited by the board of public education because of failure to meet the board of public education's assurance and performance standards, the regularly enrolled pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes, nor will an average number belonging for the nonaccredited school be used in determining the BASE funding program for the district.

(9) The district shall provide the superintendent of public instruction with semiannual reports of school attendance, absence, and enrollment for regularly enrolled students, using a format determined by the superintendent.

(10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program provided by the district through any combination of onsite or offsite instruction may be included for ANB purposes only if the pupil is offered access to the complete range of educational services for the basic education program required by the accreditation standards adopted by the board of public education.

(b) Access to school programs and services for a student placed by the trustees in a private program for special education may be limited to the programs and services specified in an approved individual education plan supervised by the district.

(c) Access to school programs and services for a student who is incarcerated in a facility, other than a youth detention center, may be limited to the programs and services provided by the district at district expense under an agreement with the incarcerating facility.

(d) This subsection (10) may not be construed to require a school district to offer access to activities governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a pupil who is not otherwise eligible under the rules of the organization.

(11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this title and who is:

(a) a resident of the district or a nonresident student admitted by trustees under a student attendance agreement and who is attending a school of the district;

(b) unable to attend school due to a medical reason certified by a medical doctor and receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(c) unable to attend school due to the student's incarceration in a facility, other than a youth detention center, and who is receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(d) receiving special education and related services, other than day treatment, under a placement by the trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's expense under an approved individual education plan supervised by the district;

(e) participating in the running start program at district expense under 20-9-706;

(f) receiving educational services, provided by the district, using appropriately licensed district staff at a private residential program or private residential facility licensed by the department of public health and human services;

(g) enrolled in an educational program or course provided at district expense using electronic or offsite delivery methods, including but not limited to tutoring, distance learning programs, online programs, and technology

delivered learning programs, while attending a school of the district or any other nonsectarian offsite instructional setting with the approval of the trustees of the district. The pupil shall:

(i) meet the residency requirements for that district as provided in 1-1-215;

(ii) live in the district and must be eligible for educational services under the Individuals With Disabilities Education Act or under 29 U.S.C. 794; or

(iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.

(h) a resident of the district attending the Montana youth challenge program or a Montana job corps program under an interlocal agreement with the district under 20-9-707.

(12) A district shall, for ANB purposes, calculate the enrollment of an eligible Montana youth challenge program participant as half-time enrollment.

(13) (a) For an elementary or high school district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever generates the greatest maximum general fund budget.

(b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and high school programs pursuant to subsection (13)(a) and then combined.

(14) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

(a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the previous 2 school fiscal years; and

(b) dividing the sum calculated under subsection (14)(a) by three."

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

Approved February 23, 2021

CHAPTER NO. 19

[HB 60]

AN ACT TO ALIGN PROTECTIVE SERVICES TERMINOLOGY WITH THE FAMILIES FIRST PREVENTION SERVICES ACT; AMENDING SECTIONS 41-3-102, 41-3-202, 41-3-205, 41-3-209, 41-3-301, 41-3-302, 41-3-422, AND 41-3-423, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 41-3-102, MCA, is amended to read:

"41-3-102. Definitions. As used in this chapter, the following definitions apply:

(1) (a) "Abandon", "abandoned", and "abandonment" mean:

(i) leaving a child under circumstances that make reasonable the belief that the parent does not intend to resume care of the child in the future;

(ii) willfully surrendering physical custody for a period of 6 months and during that period not manifesting to the child and the person having physical custody of the child a firm intention to resume physical custody or to make permanent legal arrangements for the care of the child;

(iii) that the parent is unknown and has been unknown for a period of 90 days and that reasonable efforts to identify and locate the parent have failed; or

(iv) the voluntary surrender, as defined in 40-6-402, by a parent of a newborn who is no more than 30 days old to an emergency services provider, as defined in 40-6-402.

(b) The terms do not include the voluntary surrender of a child to the department solely because of parental inability to access publicly funded services.

(2) “A person responsible for a child’s welfare” means:

(a) the child’s parent, guardian, or foster parent or an adult who resides in the same home in which the child resides;

(b) a person providing care in a day-care facility;

(c) an employee of a public or private residential institution, facility, home, or agency; or

(d) any other person responsible for the child’s welfare in a residential setting.

(3) “Abused or neglected” means the state or condition of a child who has suffered child abuse or neglect.

(4) (a) “Adequate health care” means any medical care or nonmedical remedial health care recognized by an insurer licensed to provide disability insurance under Title 33, including the prevention of the withholding of medically indicated treatment or medically indicated psychological care permitted or authorized under state law.

(b) This chapter may not be construed to require or justify a finding of child abuse or neglect for the sole reason that a parent or legal guardian, because of religious beliefs, does not provide adequate health care for a child. However, this chapter may not be construed to limit the administrative or judicial authority of the state to ensure that medical care is provided to the child when there is imminent substantial risk of serious harm to the child.

(5) “Best interests of the child” means the physical, mental, and psychological conditions and needs of the child and any other factor considered by the court to be relevant to the child.

(6) “Child” or “youth” means any person under 18 years of age.

(7) (a) “Child abuse or neglect” means:

(i) actual physical or psychological harm to a child;

(ii) substantial risk of physical or psychological harm to a child; or

(iii) abandonment.

(b) (i) The term includes:

(A) actual physical or psychological harm to a child or substantial risk of physical or psychological harm to a child by the acts or omissions of a person responsible for the child’s welfare;

(B) exposing a child to the criminal distribution of dangerous drugs, as prohibited by 45-9-101, the criminal production or manufacture of dangerous drugs, as prohibited by 45-9-110, or the operation of an unlawful clandestine laboratory, as prohibited by 45-9-132; or

(C) any form of child sex trafficking or human trafficking.

(ii) For the purposes of this subsection (7), “dangerous drugs” means the compounds and substances described as dangerous drugs in Schedules I through IV in Title 50, chapter 32, part 2.

(c) In proceedings under this chapter in which the federal Indian Child Welfare Act is applicable, this term has the same meaning as “serious emotional or physical damage to the child” as used in 25 U.S.C. 1912(f).

(d) The term does not include self-defense, defense of others, or action taken to prevent the child from self-harm that does not constitute physical or psychological harm to a child.

(8) “Concurrent planning” means to work toward reunification of the child with the family while at the same time developing and implementing an alternative permanent plan.

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

(10) “Family ~~group decisionmaking~~ *engagement* meeting” means a meeting that involves family members in either developing treatment plans or making placement decisions, or both.

(11) “Indian child” means any unmarried person who is under 18 years of age and who is either:

(a) a member of an Indian tribe; or

(b) eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

(12) “Indian child’s tribe” means:

(a) the Indian tribe in which an Indian child is a member or eligible for membership; or

(b) in the case of an Indian child who is a member of or eligible for membership in more than one Indian tribe, the Indian tribe with which the Indian child has the more significant contacts.

(13) “Indian custodian” means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control have been transferred by the child’s parent.

(14) “Indian tribe” means any Indian tribe, band, nation, or other organized group or community of Indians recognized by:

(a) the state of Montana; or

(b) the United States secretary of the interior as being eligible for the services provided to Indians or because of the group’s status as Indians, including any Alaskan native village as defined in federal law.

(15) “Limited emancipation” means a status conferred on a youth by a court in accordance with 41-1-503 under which the youth is entitled to exercise some but not all of the rights and responsibilities of a person who is 18 years of age or older.

(16) “Parent” means a biological or adoptive parent or stepparent.

(17) “Parent-child legal relationship” means the legal relationship that exists between a child and the child’s birth or adoptive parents, as provided in Title 40, chapter 6, part 2, unless the relationship has been terminated by competent judicial decree as provided in 40-6-234, Title 42, or part 6 of this chapter.

(18) “Permanent placement” means reunification of the child with the child’s parent, adoption, placement with a legal guardian, placement with a fit and willing relative, or placement in another planned permanent living arrangement until the child reaches 18 years of age.

(19) “Physical abuse” means an intentional act, an intentional omission, or gross negligence resulting in substantial skin bruising, internal bleeding, substantial injury to skin, subdural hematoma, burns, bone fractures, extreme pain, permanent or temporary disfigurement, impairment of any bodily organ or function, or death.

(20) “Physical neglect” means either failure to provide basic necessities, including but not limited to appropriate and adequate nutrition, protective shelter from the elements, and appropriate clothing related to weather conditions, or failure to provide cleanliness and general supervision, or both, or exposing or allowing the child to be exposed to an unreasonable physical or psychological risk to the child.

(21) (a) “Physical or psychological harm to a child” means the harm that occurs whenever the parent or other person responsible for the child’s welfare:

(i) inflicts or allows to be inflicted upon the child physical abuse, physical neglect, or psychological abuse or neglect;

(ii) commits or allows sexual abuse or exploitation of the child;

(iii) induces or attempts to induce a child to give untrue testimony that the child or another child was abused or neglected by a parent or other person responsible for the child’s welfare;

(iv) causes malnutrition or a failure to thrive or otherwise fails to supply the child with adequate food or fails to supply clothing, shelter, education, or adequate health care, though financially able to do so or offered financial or other reasonable means to do so;

(v) exposes or allows the child to be exposed to an unreasonable risk to the child’s health or welfare by failing to intervene or eliminate the risk; or

(vi) abandons the child.

(b) The term does not include a youth not receiving supervision solely because of parental inability to control the youth’s behavior.

(22) (a) “Protective services” means services provided by the department:

(i) to enable a child alleged to have been abused or neglected to remain safely in the home;

(ii) to enable a child alleged to have been abused or neglected who has been removed from the home to safely return to the home; or

(iii) to achieve permanency for a child adjudicated as a youth in need of care when circumstances and the best interests of the child prevent reunification with parents or a return to the home.

(b) The term includes emergency protective services provided pursuant to 41-3-301, ~~voluntary protective services~~ *written prevention plans* provided pursuant to 41-3-302, and court-ordered protective services provided pursuant to parts 4 and 6 of this chapter.

(23) (a) “Psychological abuse or neglect” means severe maltreatment through acts or omissions that are injurious to the child’s emotional, intellectual, or psychological capacity to function, including the commission of acts of violence against another person residing in the child’s home.

(b) The term may not be construed to hold a victim responsible for failing to prevent the crime against the victim.

(24) “Qualified expert witness” as used in cases involving an Indian child in proceedings subject to the federal Indian Child Welfare Act means:

(a) a member of the Indian child’s tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organization and child-rearing practices;

(b) a lay expert witness who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child-rearing practices within the Indian child’s tribe; or

(c) a professional person who has substantial education and experience in providing services to children and families and who possesses significant knowledge of and experience with Indian culture, family structure, and child-rearing practices in general.

(25) “Reasonable cause to suspect” means cause that would lead a reasonable person to believe that child abuse or neglect may have occurred or is occurring, based on all the facts and circumstances known to the person.

(26) “Residential setting” means an out-of-home placement where the child typically resides for longer than 30 days for the purpose of receiving food, shelter, security, guidance, and, if necessary, treatment.

(27) “Safety and risk assessment” means an evaluation by a social worker following an initial report of child abuse or neglect to assess the following:

- (a) the existing threat or threats to the child’s safety;
- (b) the protective capabilities of the parent or guardian;
- (c) any particular vulnerabilities of the child;
- (d) any interventions required to protect the child; and
- (e) the likelihood of future physical or psychological harm to the child.

(28) (a) “Sexual abuse” means the commission of sexual assault, sexual intercourse without consent, aggravated sexual intercourse without consent, indecent exposure, sexual abuse, ritual abuse of a minor, or incest, as described in Title 45, chapter 5.

(b) Sexual abuse does not include any necessary touching of an infant’s or toddler’s genital area while attending to the sanitary or health care needs of that infant or toddler by a parent or other person responsible for the child’s welfare.

(29) “Sexual exploitation” means:

(a) allowing, permitting, or encouraging a child to engage in a prostitution offense, as described in 45-5-601 through 45-5-603;

(b) allowing, permitting, or encouraging sexual abuse of children as described in 45-5-625; or

(c) allowing, permitting, or encouraging sexual servitude as described in 45-5-704 or 45-5-705.

(30) (a) “Social worker” means an employee of the department who, before the employee’s field assignment, has been educated or trained in a program of social work or a related field that includes cognitive and family systems treatment or who has equivalent verified experience or verified training in the investigation of child abuse, neglect, and endangerment.

(b) This definition does not apply to any provision of this code that is not in this chapter.

(31) “Treatment plan” means a written agreement between the department and the parent or guardian or a court order that includes action that must be taken to resolve the condition or conduct of the parent or guardian that resulted in the need for protective services for the child. The treatment plan may involve court services, the department, and other parties, if necessary, for protective services.

(32) (a) “Withholding of medically indicated treatment” means the failure to respond to an infant’s life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication, that, in the treating physician’s or physicians’ reasonable medical judgment, will be most likely to be effective in ameliorating or correcting the conditions.

(b) The term does not include the failure to provide treatment, other than appropriate nutrition, hydration, or medication, to an infant when, in the treating physician’s or physicians’ reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of treatment would:

(A) merely prolong dying;

(B) not be effective in ameliorating or correcting all of the infant’s life-threatening conditions; or

(C) otherwise be futile in terms of the survival of the infant; or

(iii) the provision of treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane. For purposes of this subsection (32), “infant” means an infant less than 1 year of age or an infant 1 year of age or older who has been continuously hospitalized since birth, who was born extremely prematurely, or

who has a long-term disability. The reference to less than 1 year of age may not be construed to imply that treatment should be changed or discontinued when an infant reaches 1 year of age or to affect or limit any existing protections available under state laws regarding medical neglect of children 1 year of age or older.

(33) “Youth in need of care” means a youth who has been adjudicated or determined, after a hearing, to be or to have been abused, neglected, or abandoned.”

Section 2. Section 41-3-202, MCA, is amended to read:

“41-3-202. Action on reporting. (1) (a) Upon receipt of a report that a child is or has been abused or neglected, the department shall promptly assess the information contained in the report and make a determination regarding the level of response required and the timeframe within which action must be initiated.

(b) (i) Except as provided in subsection (1)(b)(ii), upon receipt of a report that includes an allegation of sexual abuse or sexual exploitation or if the department determines during any investigation that the circumstances surrounding an allegation of child abuse or neglect include an allegation of sexual abuse or sexual exploitation, the department shall immediately report the allegation to the county attorney of the county in which the acts that are the subject of the report occurred.

(ii) If a victim of sexual abuse or sexual exploitation has attained the age of 14 and has sought services from a contractor as described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault, conditioned upon an understanding that the criminal conduct will not be reported by the department to the county attorney in the jurisdiction in which the alleged crime occurred, the department may not report pursuant to 41-3-205(5)(d) and subsection (1)(b)(i) of this section.

(c) If the department determines that an investigation and a safety and risk assessment are required, a social worker shall promptly conduct a thorough investigation into the circumstances surrounding the allegations of abuse or neglect of the child and perform a safety and risk assessment to determine whether the living arrangement presents an unsafe environment for the child. The safety and risk assessment may include an investigation at the home of the child involved, the child’s school or day-care facility, or any other place where the child is present and into all other nonfinancial matters that in the discretion of the investigator are relevant to the safety and risk assessment. In conducting a safety and risk assessment under this section, a social worker may not inquire into the financial status of the child’s family or of any other person responsible for the child’s care, except as necessary to ascertain eligibility for state or federal assistance programs or to comply with the provisions of 41-3-446.

(2) An initial investigation of alleged abuse or neglect may be conducted when an anonymous report is received. However, if the initial investigation does not within 48 hours result in the development of independent, corroborative, and attributable information indicating that there exists a current risk of physical or psychological harm to the child, a child may not be removed from the living arrangement. If independent, corroborative, and attributable information indicating an ongoing risk results from the initial investigation, the department shall then conduct a safety and risk assessment.

(3) The social worker is responsible for conducting the safety and risk assessment. If the child is treated at a medical facility, the social worker, county attorney, or peace officer, consistent with reasonable medical practice, has the right of access to the child for interviews, photographs, and securing

physical evidence and has the right of access to relevant hospital and medical records pertaining to the child. If an interview of the child is considered necessary, the social worker, county attorney, or peace officer may conduct an interview of the child. The interview may be conducted in the presence of the parent or guardian or an employee of the school or day-care facility attended by the child.

(4) Subject to 41-3-205(3), if the child's interview is audiotaped or videotaped, an unedited audiotape or videotape with audio track must be made available, upon request, for unencumbered review by the family.

(5) (a) If from the safety and risk assessment the department has reasonable cause to suspect that the child is suffering abuse or neglect, the department may provide emergency protective services to the child, pursuant to 41-3-301, or ~~voluntary protective services~~ *enter into a written prevention plan* pursuant to 41-3-302, and may provide protective services to any other child under the same care. The department shall:

(i) after interviewing the parent or guardian, if reasonably available, document the determinations of the safety and risk assessment; and

(ii) notify the child's family of the determinations of the safety and risk assessment, unless the notification can reasonably be expected to result in harm to the child or other person.

(b) Except as provided in subsection (5)(c), the department shall destroy all safety and risk assessment determinations and associated records, except for medical records, within 30 days after the end of the 3-year period starting from the date of completion of the safety and risk assessment.

(c) Safety and risk assessment determinations and associated records may be maintained for a reasonable time as defined by department rule under the following circumstances:

(i) the safety and risk assessment determines that abuse or neglect occurred;

(ii) there had been a previous or there is a subsequent report and investigation resulting in a safety and risk assessment concerning the same person; or

(iii) an order has been issued by a court of competent jurisdiction adjudicating the child as a youth in need of care based on the circumstances surrounding the initial allegations.

(6) The investigating social worker, within 60 days of commencing an investigation, shall also furnish a written safety and risk assessment to the department and, upon request, to the family. Subject to time periods set forth in subsections (5)(b) and (5)(c), the department shall maintain a record system documenting investigations and safety and risk assessment determinations. Unless records are required to be destroyed under subsections (5)(b) and (5)(c), the department shall retain records relating to the safety and risk assessment, including case notes, correspondence, evaluations, videotapes, and interviews, for 25 years.

(7) Any person reporting abuse or neglect that involves acts or omissions on the part of a public or private residential institution, home, facility, or agency is responsible for ensuring that the report is made to the department.

(8) The department shall, upon request from any reporter of alleged child abuse or neglect, verify whether the report has been received, describe the level of response and timeframe for action that the department has assigned to the report, and confirm that it is being acted upon."

Section 3. Section 41-3-205, MCA, is amended to read:

"41-3-205. Confidentiality – disclosure exceptions. (1) The case records of the department and its local affiliate, the local office of public

assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (9) and (10), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless otherwise protected by this section or unless disclosure of the records is determined to be detrimental to the child or harmful to another person who is a subject of information contained in the records, may be disclosed to the following persons or entities in this state and any other state or country:

(a) a department, agency, or organization, including a federal agency, military enclave, or Indian tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect and that otherwise meets the disclosure criteria contained in this section;

(b) a licensed youth care facility or a licensed child-placing agency that is providing services to the family or child who is the subject of a report in the records or to a person authorized by the department to receive relevant information for the purpose of determining the best interests of a child with respect to an adoptive placement;

(c) a health or mental health professional who is treating the family or child who is the subject of a report in the records;

(d) a parent, grandparent, aunt, uncle, brother, sister, guardian, mandatory reporter provided for in 41-3-201(2) and (5), or person designated by a parent or guardian of the child who is the subject of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of any person who reported or provided information on the alleged child abuse or neglect incident contained in the records;

(e) a child named in the records who was allegedly abused or neglected or the child's legal guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate appointed by the court to represent a child in a pending case;

(f) the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

(g) approved foster and adoptive parents who are or may be providing care for a child;

(h) a person about whom a report has been made and that person's attorney, with respect to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any other person whose safety may be endangered;

(i) an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of child abuse or neglect;

(j) a person, agency, or organization that is engaged in a bona fide research or evaluation project and that is authorized by the department to conduct the research or evaluation;

(k) the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family ~~group decisionmaking~~ *engagement* meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

(l) the coroner or medical examiner when determining the cause of death of a child;

(m) a child fatality review team recognized by the department[, including the child abuse and neglect review commission established in 2-15-2019];

(n) a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

(o) a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection (3)(o) must be made in writing. Disclosure under this subsection (3)(o) is limited to information that indicates a risk to children posed by the person about whom the information is sought, as determined by the department.

(p) the news media, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

(q) an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

(r) an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

(s) a juvenile probation officer who is working in an official capacity with the child who is the subject of a report in the records;

(t) an attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

(u) a foster care review committee established under 41-3-115 or, when applicable, a citizen review board established under Title 41, chapter 3, part 10;

(v) a school employee participating in an interview of a child by a social worker, county attorney, or peace officer, as provided in 41-3-202;

(w) a member of a county or regional interdisciplinary child information and school safety team formed under the provisions of 52-2-211;

(x) members of a local interagency staffing group provided for in 52-2-203;

(y) a member of a youth placement committee formed under the provisions of 41-5-121; or

(z) a principal of a school or other employee of the school district authorized by the trustees of the district to receive the information with respect to a student of the district who is a client of the department.

(4) (a) The records described in subsection (3) must be disclosed to a member of the United States congress or a member of the Montana legislature if all of the following requirements are met:

(i) the member receives a written inquiry regarding a child and whether the laws of the United States or the state of Montana that protect children from abuse or neglect are being complied with or whether the laws need to be changed to enhance protections for children;

(ii) the member submits a written request to the department requesting to review the records relating to the written inquiry. The member's request must include a copy of the written inquiry, the name of the child whose records are to be reviewed, and any other information that will assist the department in locating the records.

(iii) before reviewing the records, the member:

(A) signs a form that outlines the state and federal laws regarding confidentiality and the penalties for unauthorized release of the information; and

(B) receives from the department an orientation of the content and structure of the records.

(b) Records disclosed pursuant to subsection (4)(a) are confidential, must be made available for the member to view but may not be copied, recorded, photographed, or otherwise replicated by the member, and must remain solely in the department's possession. The member must be allowed to view the records in the local office where the case is or was active.

(c) Access to records requested pursuant to this subsection (4) is limited to 6 months from the date the written request to review records was received by the department.

(5) (a) The records described in subsection (3) must be promptly released to any of the following individuals upon a written request by the individual to the department or the department's designee:

(i) the attorney general;

(ii) a county attorney or deputy county attorney of the county in which the alleged abuse or neglect occurred;

(iii) a peace officer, as defined in 45-2-101, in the jurisdiction in which the alleged abuse or neglect occurred; or

(iv) the office of the child and family ombudsman.

(b) The records described in subsection (3) must be promptly disclosed by the department to an appropriate individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the department's receipt of a report indicating that any of the following has occurred:

(i) the death of the child as a result of child abuse or neglect;

(ii) a sexual offense, as defined in 46-23-502, against the child;

(iii) exposure of the child to an actual and not a simulated violent offense as defined in 46-23-502; or

(iv) child abuse or neglect, as defined in 41-3-102, due to exposure of the child to circumstances constituting the criminal manufacture or distribution of dangerous drugs.

(c) (i) The department shall promptly disclose the results of an investigation to an individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the determination that:

(A) there is reasonable cause to suspect that a child has been exposed to a Schedule I or Schedule II drug whose manufacture, sale, or possession is prohibited under state law; or

(B) a child has been exposed to drug paraphernalia used for the manufacture, sale, or possession of a Schedule I or Schedule II drug that is prohibited by state law.

(ii) For the purposes of this subsection (5)(c), exposure occurs when a child is caused or permitted to inhale, have contact with, or ingest a Schedule I or Schedule II drug that is prohibited by state law or have contact with drug paraphernalia as defined in 45-10-101.

(d) (i) Except as provided in subsection (5)(d)(ii), the records described in subsection (3) must be released within 5 business days to the county attorney of the county in which the acts that are the subject of a report occurred upon the department's receipt of a report that includes an allegation of sexual abuse or sexual exploitation. The department shall also report to any other

appropriate individual described in subsection (5)(a) and to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211.

(ii) If the exception in 41-3-202(1)(b) applies, a contractor described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault shall report to the department as provided in this part without disclosing the names of the victim and the alleged perpetrator of sexual abuse or sexual exploitation.

(iii) When a contractor described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault provides services to youth over the age of 13 who are victims of sexual abuse and sexual exploitation, the contractor may not dissuade or obstruct a victim from reporting the criminal activity and, upon a request by the victim, shall facilitate disclosure to the county attorney and a law enforcement officer as described in Title 7, chapter 32, in the jurisdiction where the alleged abuse occurred.

(6) A school or school district may disclose, without consent, personally identifiable information from the education records of a pupil to the department, the court, a review board, and the child's assigned attorney, guardian ad litem, or special advocate.

(7) Information that identifies a person as a participant in or recipient of substance abuse treatment services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the consent provisions of the law.

(8) The confidentiality provisions of this section must be construed to allow a court of this state to share information with other courts of this state or of another state when necessary to expedite the interstate placement of children.

(9) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsections (3)(a) and (5). However, this subsection may not be construed to compel a family member to keep the proceedings confidential.

(10) A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member under subsection (9) if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

(11) This section is not intended to affect the confidentiality of criminal court records, records of law enforcement agencies, or medical records covered by state or federal disclosure limitations.

(12) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to this section that are provided to the parent, grandparent, aunt, uncle, brother, sister, guardian, or parent's or guardian's attorney must be provided without cost. (Bracketed language in subsection (3)(m) terminates September 30, 2021--sec. 12, Ch. 235, L. 2017.)"

Section 4. Section 41-3-209, MCA, is amended to read:

"41-3-209. Reports to office of child and family ombudsman. The department shall report to the office of the child and family ombudsman:

(1) within 1 business day, a death of a child who, within the last 12 months:

- (a) had been the subject of a report of abuse or neglect;
- (b) had been the subject of an investigation of alleged abuse or neglect;
- (c) was in out-of-home care at the time of the child's death; or

(d) had received services from the department under a ~~voluntary protective services agreement~~ *written prevention plan*;

(2) within 5 business days:

(a) any criminal act concerning the abuse or neglect of a child;

(b) any critical incident, including but not limited to elopement, a suicide attempt, rape, nonroutine hospitalizations, and neglect or abuse by a substitute care provider, involving a child who is receiving services from the department pursuant to this chapter; or

(c) a third report received within the last 12 months about a child at risk of or who is suspected of being abused or neglected.”

Section 5. Section 41-3-301, MCA, is amended to read:

“41-3-301. Emergency protective service. (1) Any child protective social worker of the department, a peace officer, or the county attorney who has reason to believe any child is in immediate or apparent danger of harm may immediately remove the child and place the child in a protective facility. After ensuring that the child is safe, the department may make a request for further assistance from the law enforcement agency or take appropriate legal action. The person or agency placing the child shall notify the parents, parent, guardian, or other person having physical or legal custody of the child of the placement at the time the placement is made or as soon after placement as possible. Notification under this subsection must include the reason for removal, information regarding the show cause hearing, and the purpose of the show cause hearing and must advise the parents, parent, guardian, or other person having physical or legal custody of the child that the parents, parent, guardian, or other person may have a support person present during any in-person meeting with the social worker concerning emergency protective services.

(2) If a social worker of the department, a peace officer, or the county attorney determines in an investigation of abuse or neglect of a child that the child is in danger because of the occurrence of partner or family member assault, as provided for in 45-5-206, or strangulation of a partner or family member, as provided for in 45-5-215, against an adult member of the household or that the child needs protection as a result of the occurrence of partner or family member assault or strangulation of a partner or family member against an adult member of the household, the department shall take appropriate steps for the protection of the child, which may include:

(a) making reasonable efforts to protect the child and prevent the removal of the child from the parent or guardian who is a victim of alleged partner or family member assault or strangulation of a partner or family member;

(b) making reasonable efforts to remove the person who allegedly committed the partner or family member assault or strangulation of a partner or family member from the child’s residence if it is determined that the child or another family or household member is in danger of partner or family member assault or strangulation of a partner or family member; and

(c) providing services to help protect the child from being placed with or having unsupervised visitation with the person alleged to have committed partner or family member assault or strangulation of a partner or family member until the department determines that the alleged offender has met conditions considered necessary to protect the safety of the child.

(3) If the department determines that an adult member of the household is the victim of partner or family member assault or strangulation of a partner or family member, the department shall provide the adult victim with a referral to a domestic violence program.

(4) A child who has been removed from the child's home or any other place for the child's protection or care may not be placed in a jail.

(5) The department may locate and contact extended family members upon placement of a child in out-of-home care. The department may share information with extended family members for placement and case planning purposes.

(6) If a child is removed from the child's home by the department, a child protective social worker shall submit an affidavit regarding the circumstances of the emergency removal to the county attorney and provide a copy of the affidavit to the parents or guardian, if possible, within 2 working days of the emergency removal. An abuse and neglect petition must be filed within 5 working days, excluding weekends and holidays, of the emergency removal of a child unless arrangements acceptable to the agency for the care of the child have been made by the parents or ~~voluntary protective services are provided a written prevention plan has been entered into~~ pursuant to 41-3-302.

(7) Except as provided in the federal Indian Child Welfare Act, if applicable, a show cause hearing must be held within 20 days of the filing of the petition unless otherwise stipulated by the parties pursuant to 41-3-434.

(8) If the department determines that a petition for immediate protection and emergency protective services must be filed to protect the safety of the child, the social worker shall interview the parents of the child to whom the petition pertains, if the parents are reasonably available, before the petition may be filed. The district court may immediately issue an order for immediate protection of the child.

(9) The department shall make the necessary arrangements for the child's well-being as are required prior to the court hearing."

Section 6. Section 41-3-302, MCA, is amended to read:

"41-3-302. Responsibility of providing protective services – ~~voluntary protective services agreement~~ *written prevention plans*.

(1) The department of public health and human services has the primary responsibility to provide the protective services authorized by this chapter and has the authority pursuant to this chapter to take temporary or permanent custody of a child when ordered to do so by the court, including the right to give consent to adoption.

(2) The department shall respond to emergency reports of known or suspected child abuse or neglect 24 hours a day, 7 days a week.

(3) (a) The department may provide voluntary protective services by entering into a ~~written voluntary protective services agreement~~ *written prevention plan* with a parent, guardian, or other person having physical or legal custody of the child for the purpose of keeping the child safely in the home or for the purpose of returning the child to the home within a 30-day temporary out-of-home protective placement.

(b) The department shall inform a parent, guardian, or other person having physical or legal custody of a child who is considering entering into a ~~voluntary protective services agreement~~ *written prevention plan* that the parent, guardian, or other person may have another person of the parent's, guardian's, or other person's choice present whenever the terms of the ~~voluntary protective services agreement~~ *written prevention plan* are under discussion by the parent, guardian, or other person and the department. Reasonable accommodations must be made regarding the time and place of meetings at which a ~~voluntary protective services agreement~~ *written prevention plan* is discussed.

(4) A ~~voluntary protective services agreement~~ *written prevention plan* may include provisions for:

(a) a family ~~group—decisionmaking~~ *engagement* meeting and implementation of safety plans developed during the meeting;

(b) a professional evaluation and treatment of the parent, guardian, or other person having physical or legal custody of the child or of the child, or both;

(c) a safety plan for the child;

(d) in-home services aimed at permitting the child to remain safely in the home;

(e) temporary relocation of a parent, guardian, or other person having physical or legal custody of the child in order to permit the child to remain safely in the home;

(f) a 30-day temporary out-of-home protective placement; or

(g) any other terms or conditions agreed upon by the parties that would allow the child to remain safely in the home or allow the child to safely return to the home within the 30-day period, including referrals to other service providers.

(5) A ~~voluntary protective services agreement~~ *written prevention plan* is subject to termination by either party at any time. Termination of a ~~voluntary protective services agreement~~ *written prevention plan* does not preclude the department from filing a petition pursuant to 41-3-422 in any case in which the department determines that there is a risk of harm to a child.

(6) If a ~~voluntary protective services agreement~~ *written prevention plan* is terminated by a party to the agreement, a child who has been placed in a temporary out-of-home protective placement pursuant to the agreement must be returned to the parent, guardian, or other person having physical or legal custody of the child within 2 working days of termination of the agreement unless an abuse and neglect petition is filed by the department.”

Section 7. Section 41-3-422, MCA, is amended to read:

“41-3-422. Abuse and neglect petitions – burden of proof. (1) (a) Proceedings under this chapter must be initiated by the filing of a petition. A petition may request the following relief:

(i) immediate protection and emergency protective services, as provided in 41-3-427;

(ii) temporary investigative authority, as provided in 41-3-433;

(iii) temporary legal custody, as provided in 41-3-442;

(iv) long-term custody, as provided in 41-3-445;

(v) termination of the parent-child legal relationship, as provided in 41-3-607;

(vi) appointment of a guardian pursuant to 41-3-444;

(vii) a determination that preservation or reunification services need not be provided; or

(viii) any combination of the provisions of subsections (1)(a)(i) through (1)(a)(vii) or any other relief that may be required for the best interests of the child.

(b) The petition may be modified for different relief at any time within the discretion of the court.

(c) A petition for temporary legal custody may be the initial petition filed in a case.

(d) A petition for the termination of the parent-child legal relationship may be the initial petition filed in a case if a request for a determination that preservation or reunification services need not be provided is made in the petition.

(2) The county attorney, attorney general, or an attorney hired by the county shall file all petitions under this chapter. A petition filed by the

county attorney, attorney general, or an attorney hired by the county must be accompanied by:

(a) an affidavit by the department alleging that the child appears to have been abused or neglected and stating the basis for the petition; and

(b) a separate notice to the court stating any statutory time deadline for a hearing.

(3) Abuse and neglect petitions must be given highest preference by the court in setting hearing dates.

(4) An abuse and neglect petition is a civil action brought in the name of the state of Montana. The Montana Rules of Civil Procedure and the Montana Rules of Evidence apply except as modified in this chapter. Proceedings under a petition are not a bar to criminal prosecution.

(5) (a) Except as provided in subsection (5)(b), the person filing the abuse and neglect petition has the burden of presenting evidence required to justify the relief requested and establishing:

(i) probable cause for the issuance of an order for immediate protection and emergency protective services or an order for temporary investigative authority;

(ii) a preponderance of the evidence for an order of adjudication or temporary legal custody;

(iii) a preponderance of the evidence for an order of long-term custody; or

(iv) clear and convincing evidence for an order terminating the parent-child legal relationship.

(b) If a proceeding under this chapter involves an Indian child, as defined in the federal Indian Child Welfare Act, 25 U.S.C. 1901, et seq., the standards of proof required for legal relief under the federal Indian Child Welfare Act apply.

(6) (a) Except as provided in the federal Indian Child Welfare Act, if applicable, the parents or parent, guardian, or other person or agency having legal custody of the child named in the petition, if residing in the state, must be served personally with a copy of the initial petition and a petition to terminate the parent-child legal relationship at least 5 days before the date set for hearing. If the person or agency cannot be served personally, the person or agency may be served by publication as provided in 41-3-428 and 41-3-429.

(b) Copies of all other petitions must be served upon the person or the person's attorney of record by certified mail, by personal service, or by publication as provided in 41-3-428 and 41-3-429. If service is by certified mail, the department must receive a return receipt signed by the person to whom the notice was mailed for the service to be effective. Service of the notice is considered to be effective if, in the absence of a return receipt, the person to whom the notice was mailed appears at the hearing.

(7) If personal service cannot be made upon the parents or parent, guardian, or other person or agency having legal custody, the court shall immediately provide for the appointment or assignment of an attorney as provided for in 41-3-425 to represent the unavailable party when, in the opinion of the court, the interests of justice require. If personal service cannot be made upon a putative father, the court may not provide for the appointment or assignment of counsel as provided for in 41-3-425 to represent the father unless, in the opinion of the court, the interests of justice require counsel to be appointed or assigned.

(8) If a parent of the child is a minor, notice must be given to the minor parent's parents or guardian, and if there is no guardian, the court shall appoint one.

(9) (a) Any person interested in any cause under this chapter has the right to appear. Any foster parent, preadoptive parent, or relative caring for the child must be given legal notice by the attorney filing the petition of all judicial hearings for the child and has the right to be heard. The right to appear or to be heard does not make that person a party to the action. Any foster parent, preadoptive parent, or relative caring for the child must be given notice of all reviews by the reviewing body.

(b) A foster parent, preadoptive parent, or relative of the child who is caring for or a relative of the child who has cared for a child who is the subject of the petition who appears at a hearing set pursuant to this section may be allowed by the court to intervene in the action if the court, after a hearing in which evidence is presented on those subjects provided for in 41-3-437(4), determines that the intervention of the person is in the best interests of the child. A person granted intervention pursuant to this subsection is entitled to participate in the adjudicatory hearing held pursuant to 41-3-437 and to notice and participation in subsequent proceedings held pursuant to this chapter involving the custody of the child.

(10) An abuse and neglect petition must state:

(a) the nature of the alleged abuse or neglect and of the relief requested;
(b) the full name, age, and address of the child and the name and address of the child's parents or the guardian or person having legal custody of the child; and

(c) the names, addresses, and relationship to the child of all persons who are necessary parties to the action.

(11) Any party in a proceeding pursuant to this section is entitled to counsel as provided in 41-3-425.

(12) At any stage of the proceedings considered appropriate by the court, the court may order an alternative dispute resolution proceeding or the parties may voluntarily participate in an alternative dispute resolution proceeding. An alternative dispute resolution proceeding under this chapter may include a family group decisionmaking *engagement* meeting, mediation, or a settlement conference. If a court orders an alternative dispute resolution proceeding, a party who does not wish to participate may file a motion objecting to the order. If the department is a party to the original proceeding, a representative of the department who has complete authority to settle the issue or issues in the original proceeding must be present at any alternative dispute resolution proceeding.

(13) Service of a petition under this section must be accompanied by a written notice advising the child's parent, guardian, or other person having physical or legal custody of the child of the:

(a) right, pursuant to 41-3-425, to appointment or assignment of counsel if the person is indigent or if appointment or assignment of counsel is required under the federal Indian Child Welfare Act, if applicable;

(b) right to contest the allegations in the petition; and

(c) timelines for hearings and determinations required under this chapter.

(14) If appropriate, orders issued under this chapter must contain a notice provision advising a child's parent, guardian, or other person having physical or legal custody of the child that:

(a) the court is required by federal and state laws to hold a permanency hearing to determine the permanent placement of a child no later than 12 months after a judge determines that the child has been abused or neglected or 12 months after the first 60 days that the child has been removed from the child's home;

(b) if a child has been in foster care for 15 of the last 22 months, state law presumes that termination of parental rights is in the best interests of the child and the state is required to file a petition to terminate parental rights; and

(c) completion of a treatment plan does not guarantee the return of a child.

(15) A court may appoint a standing master to conduct hearings and propose decisions and orders to the court for court consideration and action. A standing master may not conduct a proceeding to terminate parental rights. A standing master must be a member of the state bar of Montana and must be knowledgeable in the area of child abuse and neglect laws.”

Section 8. Section 41-3-423, MCA, is amended to read:

“41-3-423. Reasonable efforts required to prevent removal of child or to return – exemption – findings – permanency plan. (1) The department shall make reasonable efforts to prevent the necessity of removal of a child from the child’s home and to reunify families that have been separated by the state. Reasonable efforts include but are not limited to ~~voluntary protective services agreements~~ *written prevention plans*, development of individual written case plans specifying state efforts to reunify families, placement in the least disruptive setting possible, provision of services pursuant to a case plan, and periodic review of each case to ensure timely progress toward reunification or permanent placement. In determining preservation or reunification services to be provided and in making reasonable efforts at providing preservation or reunification services, the child’s health and safety are of paramount concern.

(2) Except in a proceeding subject to the federal Indian Child Welfare Act, the department may, at any time during an abuse and neglect proceeding, make a request for a determination that preservation or reunification services need not be provided. If an indigent parent is not already represented by counsel, the court shall immediately provide for the appointment or assignment of counsel to represent the indigent parent in accordance with the provisions of 41-3-425. A court may make a finding that the department need not make reasonable efforts to provide preservation or reunification services if the court finds that the parent has:

(a) subjected a child to aggravated circumstances, including but not limited to abandonment, torture, chronic abuse, or sexual abuse or chronic, severe neglect of a child;

(b) committed, aided, abetted, attempted, conspired, or solicited deliberate or mitigated deliberate homicide of a child;

(c) committed aggravated assault against a child;

(d) committed neglect of a child that resulted in serious bodily injury or death; or

(e) had parental rights to the child’s sibling or other child of the parent involuntarily terminated and the circumstances related to the termination of parental rights are relevant to the parent’s ability to adequately care for the child at issue.

(3) Preservation or reunification services are not required for a putative father, as defined in 42-2-201, if the court makes a finding that the putative father has failed to do any of the following:

(a) contribute to the support of the child for an aggregate period of 1 year, although able to do so;

(b) establish a substantial relationship with the child. A substantial relationship is demonstrated by:

(i) visiting the child at least monthly when physically and financially able to do so; or

(ii) having regular contact with the child or with the person or agency having the care and custody of the child when physically and financially able to do so; and

(iii) manifesting an ability and willingness to assume legal and physical custody of the child if the child was not in the physical custody of the other parent.

(c) register with the putative father registry pursuant to Title 42, chapter 2, part 2, and the person has not been:

(i) adjudicated in Montana to be the father of the child for the purposes of child support; or

(ii) recorded on the child's birth certificate as the child's father.

(4) A judicial finding that preservation or reunification services are not necessary under this section must be supported by clear and convincing evidence.

(5) If the court finds that preservation or reunification services are not necessary pursuant to subsection (2) or (3), a permanency hearing must be held within 30 days of that determination and reasonable efforts, including consideration of both in-state and out-of-state permanent placement options for the child, must be made to place the child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanent placement of the child.

(6) If reasonable efforts have been made to prevent removal of a child from the home or to return a child to the child's home but continuation of the efforts is determined by the court to be inconsistent with the permanency plan for the child, the department shall make reasonable efforts to place the child in a timely manner in accordance with the permanency plan, including, if appropriate, placement in another state, and to complete whatever steps are necessary to finalize the permanent placement of the child. Reasonable efforts to place a child permanently for adoption or to make an alternative out-of-home permanent placement may be made concurrently with reasonable efforts to return a child to the child's home. Concurrent planning, including identifying in-state and out-of-state placements, may be used.

(7) When determining whether the department has made reasonable efforts to prevent the necessity of removal of a child from the child's home or to reunify families that have been separated by the state, the court shall review the services provided by the agency including, if applicable, protective services provided pursuant to 41-3-302."

Section 9. Effective date. [This act] is effective July 1, 2021.

Approved February 23, 2021

CHAPTER NO. 20

[HB 68]

AN ACT REVISING LAWS RELATED TO SCHOOL ADMISSION; REQUIRING TRUSTEES TO ALLOW CHILDREN OF MILITARY FAMILIES THAT ARE RELOCATING TO MONTANA UNDER MILITARY ORDERS TO PRELIMINARILY ENROLL IN CLASSES PRIOR TO ESTABLISHING RESIDENCY; AMENDING SECTION 20-5-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-5-101, MCA, is amended to read:

“20-5-101. Admittance of child to school. (1) The trustees shall assign and admit a child to a school in the district when the child is:

(a) 5 years of age or older on or before September 10 of the year in which the child is to enroll but is not yet 19 years of age;

(b) a resident of the district; and

(c) otherwise qualified under the provisions of this title to be admitted to the school.

(2) The trustees of a district may assign and admit any nonresident child to a school in the district under the tuition provisions of this title.

(3) The trustees may at their discretion assign and admit a child to a school in the district who is under 5 years of age or an adult who is 19 years of age or older if there are exceptional circumstances that merit waiving the age provision of this section. The trustees may also admit an individual who has graduated from high school but is not yet 19 years of age even though no special circumstances exist for waiver of the age provision of this section.

(4) The trustees shall assign and admit a child who is homeless, as defined in the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), to a school in the district regardless of residence. The trustees may not require an out-of-district attendance agreement or tuition for a homeless child.

(5) The trustees shall assign and admit a child whose parent or guardian is being relocated to Montana under military orders to a school in the district and allow the child to preliminarily enroll in classes and apply for programs offered by the district prior to arrival and establishing residency.

~~(5)~~(6) Except for the provisions of subsection (4), tuition for a nonresident child must be paid in accordance with the tuition provisions of this title.

~~(6)~~(7) The trustees' assignment of a child meeting the qualifications of subsection (1) to a school in the district outside of the adopted school boundaries applicable to the child is subject to the district's grievance policy. Upon completion of procedures set forth in the district's grievance policy, the trustees' decision regarding the assignment is final.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved February 23, 2021

CHAPTER NO. 21

[HB 74]

AN ACT REPEALING THE MEDICAL MALPRACTICE INSURANCE JOINT UNDERWRITING ASSOCIATION; AMENDING SECTION 33-11-105, MCA; REPEALING SECTIONS 33-23-501, 33-23-502, 33-23-503, 33-23-507, 33-23-508, 33-23-509, 33-23-510, 33-23-511, 33-23-512, 33-23-513, 33-23-514, 33-23-515, 33-23-519, 33-23-520, 33-23-521, 33-23-522, 33-23-523, 33-23-524, 33-23-525, AND 33-23-526, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 33-11-105, MCA, is amended to read:

“33-11-105. Compulsory associations. (1) A risk retention group may not join or contribute financially to any insurance insolvency guaranty fund or similar mechanism in this state. In addition, a risk retention group or its insureds may not receive any benefit from any guaranty fund for claims arising out of the operations of the risk retention group.

(2) ~~(a) Except as provided in subsection (2)(b), a~~ A risk retention group shall participate in this state's joint underwriting associations, mandatory liability pools, and similar mechanisms.

~~(b) A risk retention group is excluded from participating in the joint underwriting association provided for in 33-23-508 and related financing mechanisms.~~

(3) When a purchasing group obtains insurance covering its members' risks from an insurer not authorized in this state or from a risk retention group, the risks, wherever resident or located, may not be covered by any insurance guaranty fund or similar mechanism in this state.

(4) When a purchasing group obtains insurance covering its members' risks from an authorized insurer, only risks resident or located in this state may be covered by the state guaranty fund, subject to Title 33, chapter 10, part 1."

Section 2. Repealer. The following sections of the Montana Code Annotated are repealed:

33-23-501. Purpose.

33-23-502. Definitions.

33-23-503. Market review.

33-23-507. Market assistance plan.

33-23-508. Joint underwriting association.

33-23-509. Authority to issue policies.

33-23-510. Plan of operation -- submission -- amendment.

33-23-511. Application for coverage.

33-23-512. Rates -- approval.

33-23-513. Recoupment of deficit and member assessments.

33-23-514. Stabilization reserve fund.

33-23-515. Premium contingency assessment to cover deficit.

33-23-519. Claims-made policies.

33-23-520. Risk management.

33-23-521. Financial participation by association members.

33-23-522. Recognition of assessments in rates.

33-23-523. Directors.

33-23-524. Appeals and judicial review.

33-23-525. Annual statements.

33-23-526. Examination of association's affairs.

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

Approved February 23, 2021

CHAPTER NO. 22

[HB 153]

AN ACT REVISING PROFESSIONAL LIABILITY INSURANCE REQUIREMENTS FOR REAL ESTATE LICENSEES; LIMITING SOME REQUIREMENTS TO REAL ESTATE BROKERS OR SALESPERSONS WITH ACTIVE LICENSES; AND AMENDING SECTION 37-51-325, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-51-325, MCA, is amended to read:

"37-51-325. Professional liability insurance required -- errors and omissions insurance coverage -- policy requirements. (1) A real estate broker or salesperson licensed with an active real estate license under this chapter must maintain continuous professional liability insurance coverage

that meets the requirements of this section during the period of licensure. The insurance must cover the broker or salesperson for activities contemplated under Title 37, chapter 51, part 3, including errors and omissions by the real estate broker or salesperson.

(2) A real estate broker or salesperson ~~licensed~~ *with an active real estate license* under this chapter must be covered by professional liability insurance through a policy:

(a) issued to real estate broker or salesperson licensees provided on a group policy basis that is approved by the board;

(b) obtained by real estate broker or salesperson licensees independently;
or

(c) issued to the firm with which a real estate broker or salesperson license is affiliated.

(3) All policies issued under this chapter must:

(a) be issued by an insurer licensed under Title 33 to provide professional liability insurance;

(b) offer prior acts coverage to an insured who maintains continuous past insurance coverage;

(c) provide an automatic 60-day extended reporting period to report a claim if the policy is canceled or not renewed for any reason other than nonpayment of premium or a deductible; and

(d) offer an optional extended reporting of not less than 365 days to report a claim, as long as the insured requests the extended reporting period and pays any additional premium for the extended reporting period within 60 days after expiration or cancellation of the policy.

(4) (a) A professional liability insurance policy must be issued to the board and must cover a group of real estate brokers and salespersons licensed under Title 37, chapter 51, part 3, as named insureds. The board may request bids from insurers for the group policy and may use a limited solicitation under 18-4-305. The maximum contract period between the insurer and the board is seven consecutive policy terms, although the board may place the contract out for bid at the end of any policy period. A policy term is for a year. A real estate broker or salesperson licensee may not be denied coverage or be canceled by the group policy.

(b) The group policy must:

(i) have a minimum per-claim limit of \$100,000;

(ii) have a minimum annual aggregate limit of \$300,000;

(iii) have a deductible maximum of \$2,500 a claim for damages; and

(iv) provide coverage that is specific to the real estate broker or salesperson licensee regardless of changes in supervising broker.

(5) If the board is unable to obtain a professional liability insurance policy as described in subsection (4) on terms and conditions the board determines are commercially reasonable, the requirements of this section do not apply to the licensing period for which the policy is sought.

(6) A professional liability insurance policy may be independently issued to a real estate broker or salesperson licensee. The individual policy must:

(a) have a minimum per-claim limit of \$100,000;

(b) have a minimum annual aggregate limit of \$300,000; and

(c) have a deductible maximum of \$2,500 a claim for damages.

(7) A professional liability insurance policy issued to the firm with which a real estate broker or salesperson licensee is affiliated must:

(a) have a minimum per-claim limit of \$100,000;

(b) have a minimum annual aggregate limit of \$1 million; and

(c) provide for a deductible not to exceed \$10,000 a claim to be paid by the firm with which a real estate broker or salesperson licensee is affiliated.

(8) An applicant seeking to obtain ~~or renew~~ a real estate broker or salesperson license *or renew an active real estate broker or salesperson license* shall prove to the board compliance with the insurance requirements of this section. A real estate broker or salesperson licensee who fails to produce proof of coverage on request by the board or its designee is subject to administrative suspension or disciplinary action as determined by the board.

(9) For purposes of this section, the following definitions apply:

(a) "Aggregate limit" means a provision in an insurance contract limiting the maximum liability of an insurer for a series of losses in a given time period, such as a policy term.

(b) "Claims-made and reported policy" means an insurance policy written on a claims-made and reported basis, which provides coverage for claims first made against the insured and first reported to the insurer during the insured's policy period for acts, errors, or omissions that occur after the insured's retroactive date.

(c) "Extended reporting period" means a designated period of time after expiration or cancellation of a claims-made and reported policy during which a claim may be made and reported as if the claim had been made and reported during the policy period.

(d) "Per-claim limit" means the maximum limit payable, per licensee, for damages arising from the same or a related claim.

(e) "Prior acts coverage" means coverage under a policy for claims made against the insured and reported to the insurer that arise from acts, errors, or omissions in services rendered by an insured prior to inception of the current policy period.

(f) "Proof of coverage" means a copy of the actual policy of insurance, a certificate of insurance, or a binder of insurance.

(g) "Retroactive date" means a provision, found in many claims-made and reported policies, that the policy may not cover claims for injuries or damages that occurred before the retroactive date even if the claim is first made during the policy period."

Approved February 23, 2021

CHAPTER NO. 23

[HB 15]

AN ACT APPLYING INFLATIONARY ADJUSTMENTS TO SCHOOL FUNDING FORMULA COMPONENTS; AMENDING SECTION 20-9-306, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-9-306, MCA, is amended to read:

"20-9-306. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "BASE" means base amount for school equity.

(2) "BASE aid" means:

(a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district;

(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement

budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment;

- (c) the total quality educator payment;
- (d) the total at-risk student payment;
- (e) the total Indian education for all payment;
- (f) the total American Indian achievement gap payment; and
- (g) the total data-for-achievement payment.

(3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment, 100% of the total data-for-achievement payment, and 140% of the special education allowable cost payment.

(4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

(5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) "Basic entitlement" means:

(a) for each high school district:

(i) ~~\$315,481 for fiscal year 2020 and \$321,254~~ *\$326,073 for fiscal year 2022 and \$334,453* for each succeeding fiscal year for school districts with an ANB of 800 or fewer; and

(ii) ~~\$315,481 for fiscal year 2020 and \$321,254~~ *\$326,073 for fiscal year 2022 and \$334,453* for each succeeding fiscal year for school districts with an ANB of more than 800, plus ~~\$15,774 for fiscal year 2020 and \$16,063~~ *\$16,304 for fiscal year 2022 and \$16,723* for each succeeding fiscal year for each additional 80 ANB over 800;

(b) for each elementary school district or K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) ~~\$52,579 for fiscal year 2020 and \$53,541~~ *\$54,344 for fiscal year 2022 and \$55,741* for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

(ii) ~~\$52,579 for fiscal year 2020 and \$53,541~~ *\$54,344 for fiscal year 2022 and \$55,741* for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus ~~\$2,630 for fiscal year 2020 and \$2,678~~ *\$2,718 for fiscal year 2022 and \$2,788* for each succeeding fiscal year for each additional 25 ANB over 250;

(c) for each elementary school district or K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) for the district's kindergarten through grade 6 elementary program:

(A) ~~\$52,579 for fiscal year 2020 and \$53,541~~ *\$54,344 for fiscal year 2022 and \$55,741* for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

(B) ~~\$52,579 for fiscal year 2020 and \$53,541~~ *\$54,344 for fiscal year 2022 and \$55,741* for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus ~~\$2,630 for fiscal year~~

~~2020 and \$2,678~~ *\$2,718 for fiscal year 2022 and \$2,788* for each succeeding fiscal year for each additional 25 ANB over 250; and

(ii) for the district's approved and accredited junior high school, 7th and 8th grade programs, or middle school:

(A) ~~\$105,160 for fiscal year 2020 and \$107,084~~ *\$108,690 for fiscal year 2022 and \$111,483* for each succeeding fiscal year for school districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of 450 or fewer; and

(B) ~~\$105,160 for fiscal year 2020 and \$107,084~~ *\$108,690 for fiscal year 2022 and \$111,483* for each succeeding fiscal year for school districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of more than 450, plus ~~\$5,258 for fiscal year 2020 and \$5,354~~ *\$5,434 for fiscal year 2022 and \$5,574* for each succeeding fiscal year for each additional 45 ANB over 450.

(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

(8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment, the total data-for-achievement payment, and the greater of the district's special education allowable cost payment multiplied by:

(a) 175%; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

(11) "Total American Indian achievement gap payment" means the payment resulting from multiplying ~~\$216 for fiscal year 2020 and \$220~~ *\$223 for fiscal year 2022 and \$229* for each succeeding fiscal year times the number of American Indian students enrolled in the district as provided in 20-9-330.

(12) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of 20-9-328.

(13) "Total data-for-achievement payment" means the payment provided in 20-9-325 resulting from multiplying ~~\$21.03 for fiscal year 2020 and \$21.41~~ *\$21.73 for fiscal year 2022 and \$22.29* for each succeeding fiscal year by the district's ANB calculated in accordance with 20-9-311.

(14) "Total Indian education for all payment" means the payment resulting from multiplying ~~\$21.96 for fiscal year 2020 and \$22.36~~ *\$22.70 for fiscal year 2022 and \$23.28* for each succeeding fiscal year times the ANB of the district or \$100 for each district, whichever is greater, as provided for in 20-9-329.

(15) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of ~~\$7,201 for fiscal year 2020 and \$7,333~~ *\$7,443 for fiscal year 2022 and \$7,634* for each succeeding fiscal year for the first ANB, decreased

at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school, a maximum rate of ~~\$5,624 for fiscal year 2020 and \$5,727~~ *\$5,813 for fiscal year 2022 and \$5,962* for each succeeding fiscal year for the first ANB, decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school, the sum of:

(i) a maximum rate of ~~\$5,624 for fiscal year 2020 and \$5,727~~ *\$5,813 for fiscal year 2022 and \$5,962* for each succeeding fiscal year for the first ANB for kindergarten through grade 6, decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of ~~\$7,201 for fiscal year 2020 and \$7,333~~ *\$7,443 for fiscal year 2022 and \$7,634* for each succeeding fiscal year for the first ANB for grades 7 and 8, decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

(16) "Total quality educator payment" means the payment resulting from multiplying ~~\$3,275 for fiscal year 2020 and \$3,335~~ *\$3,385 for fiscal year 2022 and \$3,472* for each succeeding fiscal year by the number of full-time equivalent educators as provided in 20-9-327."

Section 2. Effective date. [This act] is effective July 1, 2021.

Section 3. Applicability. [This act] applies to school fiscal years beginning on or after July 1, 2021.

Approved February 25, 2021

CHAPTER NO. 24

[HB 45]

AN ACT REQUIRING A NONRESIDENT TO HAVE BOTH TAKEN A MONTANA HUNTER SAFETY COURSE AND PREVIOUSLY PURCHASED A RESIDENT HUNTING LICENSE TO OBTAIN A LICENSE TO HUNT WITH A RESIDENT SPONSOR OR FAMILY MEMBER AT A DISCOUNT; AMENDING SECTION 87-2-526, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-2-526, MCA, is amended to read:

"87-2-526. License for nonresident to hunt with resident sponsor or family member -- use of license revenue. (1) The department may offer for sale 500 B-10 nonresident big game combination licenses, 500 B-11 nonresident deer combination licenses, and 500 nonresident elk-only combination licenses that must be used as provided in this section and as authorized by department rules. Sale of licenses pursuant to this section does not affect the license quotas established for Class B-10 and Class B-11 licenses in 87-2-505 and 87-2-510 or the number of nonresident elk-only combination licenses available pursuant to

87-2-511. The price of licenses sold under this subsection is one-half of the fee set for the equivalent license in 87-2-505, 87-2-510, or 87-2-511.

(2) A license authorized in subsection (1) may be used only by an adult nonresident family member of a resident who sponsors the license application and who meets the qualifications of subsection (3). The nonresident family member must have completed a Montana hunter safety and education course ~~or~~ *and* have previously purchased a resident hunting license. A nonresident family member who receives a license pursuant to subsection (1) must be accompanied in the field by a sponsor or family member who meets the qualifications of subsection (3).

(3) To qualify as a sponsor or family member who will accompany a nonresident licensed under subsection (1), a person must be a resident, as defined in 87-2-102, who is 18 years old or older and possesses a current resident hunting license and who is related to the nonresident within the second degree of kinship by blood or marriage. The second degree of kinship includes a mother, father, brother, sister, son, daughter, spouse, grandparent, grandchild, brother-in-law, sister-in-law, son-in-law, daughter-in-law, father-in-law, mother-in-law, stepfather, stepmother, stepbrother, stepsister, stepson, and stepdaughter. The sponsor shall list on the license application the names of family members who are eligible to hunt with the nonresident hunter.

(4) If the department receives more applications for licenses than the number that are available under subsection (1), the department shall conduct a drawing for the licenses. Applicants who are unsuccessful in the drawing must be entered in the general drawing for a nonresident license provided under 87-2-505 or 87-2-510, as applicable.

(5) All money received from the sale of licenses under subsection (1) must be deposited in a separate account and must be used by the department to acquire public hunting access to inaccessible public land, which may include obtaining hunting access through private land to inaccessible public land."

Section 2. Effective date. [This act] is effective March 1, 2022.

Approved February 23, 2021

CHAPTER NO. 25

[HB 79]

AN ACT REVISING THE DEFINITION OF "MALT BEVERAGE" TO INCLUDE ALCOHOLIC BEVERAGES MADE WITH MALT SUBSTITUTES; AMENDING SECTION 16-1-106, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 16-1-106, MCA, is amended to read:

"16-1-106. Definitions. As used in this code, the following definitions apply:

(1) "Agency franchise agreement" means an agreement between the department and a person appointed to sell liquor and table wine as a commission merchant rather than as an employee.

(2) "Agency liquor store" means a store operated under an agency franchise agreement in accordance with this code for the purpose of selling liquor at either the posted or the retail price for off-premises consumption.

(3) "Alcohol" means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.

(4) “Alcoholic beverage” means a compound produced and sold for human consumption as a drink that contains more than 0.5% of alcohol by volume.

(5) (a) “Beer” means:

(i) a malt beverage containing not more than 8.75% of alcohol by volume; or

(ii) an alcoholic beverage containing not more than 14% alcohol by volume;

(A) that is made by the alcoholic fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted cereal grain; and

(B) in which the sugars used for fermentation of the alcoholic beverage are at least 75% derived from malted cereal grain measured as a percentage of the total dry weight of the fermentable ingredients.

(b) The term does not include a caffeinated or stimulant-enhanced malt beverage.

(6) “Beer importer” means a person other than a brewer who imports malt beverages.

(7) “Brewer” means a person who produces malt beverages.

(8) “Caffeinated or stimulant-enhanced malt beverage” means:

(a) a beverage:

(i) that is fermented in a manner similar to beer and from which some or all of the fermented alcohol has been removed and replaced with distilled ethyl alcohol;

(ii) that contains at least 0.5% of alcohol by volume;

(iii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of beer as described in 27 CFR 25.55; and

(iv) to which is added caffeine or other stimulants, including but not limited to guarana, ginseng, and taurine; or

(b) a beverage:

(i) that contains at least 0.5% of alcohol by volume;

(ii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of beer as described in 27 CFR 25.55;

(iii) to which is added a flavor or other ingredient containing alcohol, except for a hop extract;

(iv) to which is added caffeine or other stimulants, including but not limited to guarana, ginseng, and taurine;

(v) for which the producer is required to file a formula for approval with the United States alcohol and tobacco tax and trade bureau pursuant to 27 CFR 25.55; and

(vi) that is not exempt pursuant to 27 CFR 25.55(f).

(9) “Community” means:

(a) in an incorporated city or town, the area within the incorporated city or town boundaries;

(b) in an unincorporated city or area, the area identified by the federal bureau of the census as a community for census purposes; and

(c) in a consolidated local government, the area of the consolidated local government not otherwise incorporated.

(10) “Concessionaire” means an entity that has a concession agreement with a licensed entity.

(11) “Department” means the department of revenue, unless otherwise specified, and includes the department of justice with respect to receiving and processing, but not granting or denying, an application under a contract entered into under 16-1-302.

(12) “Growler” means any refillable, resealable container complying with federal law.

(13) “Hard cider” means an alcoholic beverage that is made from the alcoholic fermentation of the juices of apples or pears and that contains not less than 0.5% of alcohol by volume and not more than ~~6.9%~~ 8.5% of alcohol by volume, including but not limited to flavored, sparkling, or carbonated cider.

(14) “Immediate family” means a spouse, dependent children, or dependent parents.

(15) “Import” means to transfer beer or table wine from outside the state of Montana into the state of Montana.

(16) “Liquor” means an alcoholic beverage except beer and table wine. The term includes a caffeinated or stimulant-enhanced malt beverage.

(17) “Malt beverage” means:

(a) an alcoholic beverage made by the fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted barley with or without hops or their parts or their products and with or without other malted cereals and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared from carbohydrates and with or without other wholesome products suitable for human food consumption; or

(b) *an alcoholic beverage made by the fermentation of malt substitutes, including rice, grain of any kind, glucose, sugar, or molasses that has not undergone distillation.*

(18) “Package” means a container or receptacle used for holding an alcoholic beverage.

(19) “Posted price” means the wholesale price of liquor for sale to persons who hold liquor licenses as fixed and determined by the department and in addition an excise and license tax as provided in this code. In the case of sacramental wine sold in agency liquor stores, the wholesale price may not exceed the sum of the department’s cost to acquire the sacramental wine, the department’s current freight rate to agency liquor stores, and a 20% markup.

(20) “Proof gallon” means a U.S. gallon of liquor at 60 degrees on the Fahrenheit scale that contains 50% of alcohol by volume.

(21) “Public place” means a place, building, or conveyance to which the public has or may be permitted to have access and any place of public resort.

(22) “Retail price” means the price established by an agent for the sale of liquor to persons who do not hold liquor licenses. The retail price may not be less than the department’s posted price.

(23) “Rules” means rules adopted by the department or the department of justice pursuant to this code.

(24) “Sacramental wine” means wine that contains more than 0.5% but not more than 24% of alcohol by volume that is manufactured and sold exclusively for use as sacramental wine or for other religious purposes.

(25) “Special event”, as it relates to an application for a beer and wine special permit, means a short, infrequent, out-of-the-ordinary occurrence, such as a picnic, fair, reception, or sporting contest.

(26) “State liquor warehouse” means a building owned or under control of the department for the purpose of receiving, storing, transporting, or selling alcoholic beverages to agency liquor stores.

(27) “Storage depot” means a building or structure owned or operated by a brewer at any point in the state of Montana off and away from the premises of a brewery, which building or structure is equipped with refrigeration or cooling apparatus for the storage of beer and from which a brewer may sell or distribute beer as permitted by this code.

(28) “Subwarehouse” means a building or structure owned or operated by a licensed beer wholesaler or table wine distributor, located at a site in Montana other than the site of the beer wholesaler’s or table wine distributor’s warehouse or principal place of business, and used for the receiving, storage, and distribution of beer or table wine as permitted by this code.

(29) “Table wine” means wine that contains not more than 16% of alcohol by volume and includes cider.

(30) “Table wine distributor” means a person importing into or purchasing in Montana table wine or sacramental wine for sale or resale to retailers licensed in Montana.

(31) “Warehouse” means a building or structure located in Montana that is owned or operated by a licensed beer wholesaler or table wine distributor for the receiving, storage, and distribution of beer or table wine as permitted by this code.

(32) “Wine” means an alcoholic beverage made from or containing the normal alcoholic fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction, except as may occur in the usual cellar treatment of clarifying and aging, and that contains more than 0.5% but not more than 24% of alcohol by volume. Wine may be ameliorated to correct natural deficiencies, sweetened, and fortified in accordance with applicable federal regulations and the customs and practices of the industry. Other alcoholic beverages not defined in this subsection but made in the manner of wine and labeled and sold as wine in accordance with federal regulations are also wine.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved February 23, 2021

CHAPTER NO. 26

[SB 21]

AN ACT REVISING THE LOBBYIST LICENSING FEE AND THE ASSOCIATED SPECIAL REVENUE ACCOUNT FOR STATE GOVERNMENT BROADCASTING SERVICES; DEPOSITING ALL REVENUE FROM THE LOBBYIST LICENSING FEE IN THE STATE GENERAL FUND; REPEALING THE SPECIAL REVENUE ACCOUNT FOR STATE GOVERNMENT BROADCASTING SERVICES; AMENDING SECTION 5-7-103, MCA; REPEALING SECTION 5-11-1112, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5-7-103, MCA, is amended to read:

“5-7-103. Licenses – fees – eligibility – waiver. (1) Any adult of good moral character who is otherwise qualified under this chapter may be licensed as a lobbyist. The commissioner shall provide a license application form. The application form may be obtained from and must be filed in the office of the commissioner. Upon approval of the application and receipt of the license fee by the commissioner, a license must be issued that entitles the licensee to practice lobbying on behalf of one or more enumerated principals. The license fee is \$150 for each lobbyist except as provided in subsection (5) or unless the fee is waived for hardship reasons under this subsection. Each license expires on December 31 of each even-numbered year or may be terminated at the request of the lobbyist. A lobbyist who believes that payment of the license fee may constitute a hardship may apply to the commissioner for a waiver of the

fee required by this section. The commissioner may waive all or a portion of the license fee upon proof by the lobbyist that payment of the fee constitutes a hardship.

(2) (a) Except as provided in subsection (2)(b), an application may not be disapproved without affording the applicant a hearing. The hearing must be held and the decision entered within 10 business days of the date of the filing of the application, excluding the date on which the application is filed.

(b) An application may not be approved if a principal has failed to file reports required under 5-7-208.

(3) The fines collected under this chapter must be deposited in the state treasury.

(4) The commissioner shall deposit the license fee provided for in subsection (1) as follows:

(a) ~~\$50 in the general fund; and~~

(b) ~~\$100 in the state special revenue account provided for in 5-11-1112 in the general fund.~~

(5) A lobbyist who receives payments from one or more principals that total less than the amount specified under 5-7-112 in a calendar year is not required to pay the license fee or file an application form as provided for in subsection (1).

(6) The commissioner may adopt rules to implement the waiver provisions of subsections (1) and (5)."

Section 2. Repealer. The following sections of the Montana Code Annotated are repealed:

5-11-1112. State government broadcasting account.

Section 3. Effective date. [This act] is effective July 1, 2021.

Approved February 23, 2021

CHAPTER NO. 27

[SB 24]

AN ACT REVISING SCHOOL FUNDING LAWS TO ALLOW NONOPERATING SCHOOL DISTRICTS TO RETAIN A PORTION OF OIL AND NATURAL GAS PRODUCTION TAXES; AMENDING SECTION 20-9-310, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-9-310, MCA, is amended to read:

"20-9-310. Oil and natural gas production taxes for school districts – allocation and limits. (1) Except as provided in subsection (5), the maximum amount of oil and natural gas production taxes that a school district may retain is 130% of the school district's maximum budget, determined in accordance with 20-9-308.

(2) Upon receipt of school district budget reports required under 20-9-134, the superintendent of public instruction shall provide the department of revenue with a list reporting the maximum general fund budget for each school district.

(3) Except as provided by 15-36-332(9), the department of revenue shall make the full quarterly distribution of oil and natural gas production taxes as required under 15-36-332(6) until the amount distributed reaches the limitation in subsection (1) of this section. The department of revenue shall deposit any amount exceeding the limitation in subsection (1) in the guarantee account provided for in 20-9-622.

(4) (a) Subject to the limitation in subsection (1) and the conditions in subsection (4)(b), the trustees shall budget and allocate the oil and natural gas production taxes anticipated by the district in any budgeted fund at the discretion of the trustees. Oil and natural gas production taxes allocated to the district general fund may be applied to the BASE or over-BASE portions of the general fund budget at the discretion of the trustees.

(b) Except as provided in subsection (4)(c), if the trustees apply an amount less than 12.5% of the total oil and natural gas production taxes received by the district in the prior school fiscal year to the district's general fund BASE budget for the upcoming school fiscal year, then:

(i) the trustees shall levy the number of mills required to raise an amount equal to the difference between 12.5% of the oil and natural gas production taxes received by the district in the prior school fiscal year and the amount of oil and natural gas production taxes the trustees budget in the district's general fund BASE budget for the upcoming school fiscal year;

(ii) the mills levied under subsection (4)(b)(i) are not eligible for the guaranteed tax base subsidy under the provisions of 20-9-366 through 20-9-369; and

(iii) the general fund BASE budget levy requirement calculated in 20-9-141 must be calculated as though the trustees budgeted 12.5% of the oil and natural gas production taxes received by the district in the prior year and the number of mills calculated in subsection (4)(b)(i) must be added to the number of mills calculated in 20-9-141(2).

(c) The provisions of subsection (4)(b) do not apply to the following:

(i) a district that has a maximum general fund budget of less than \$1 million;

(ii) a district whose oil and natural gas revenue combined with its adopted general fund budget totals 105% or less of its maximum general fund budget;

(iii) a district that has a maximum general fund budget of \$1 million or more and has had an unusual enrollment increase approved by the superintendent of public instruction as provided in 20-9-314 in the year immediately preceding the fiscal year to which the provisions of this subsection (4) would otherwise apply; or

(iv) a district that has issued outstanding oil and natural gas revenue bonds. Funds received pursuant to this section must first be applied by the district to payment of debt service obligations for oil and natural gas revenue bonds for the next 12-month period.

(5) (a) The limit on oil and natural gas production taxes that a school district may retain under subsection (1) must be increased for any school district with an unusual enrollment increase approved by the superintendent of public instruction as provided in 20-9-314. The increase in the limit on oil and natural gas production taxes that a school district may retain under subsection (1) applies in the year immediately following the fiscal year in which the office of public instruction has approved the district's unusual enrollment increase and must be calculated by multiplying \$45,000 times each additional ANB approved by the superintendent of public instruction as provided in 20-9-314.

(b) *For a district in nonoperating status under 20-9-505, the maximum amount of oil and natural gas production taxes that a school district may retain is 130% of the school district's maximum budget in the district's most recent operating year, determined in accordance with 20-9-308.*

(6) In any year in which the actual oil and natural gas production taxes received by a school district are less than 50% of the total oil and natural gas production taxes received by the district in the prior year, the district may

transfer money from any budgeted fund to its general fund in an amount not to exceed the amount of the shortfall.”

Section 2. Effective date. [This act] is effective July 1, 2021.

Section 3. Applicability. [This act] applies to school fiscal years beginning on or after July 1, 2021.

Approved February 23, 2021

CHAPTER NO. 28

[HB 41]

AN ACT GENERALLY REVISING THE SECURITIES ACT; REVISING LAWS RELATING TO PLACE OF BUSINESS FOR INVESTMENT ADVISERS AND BROKER-DEALERS; AMENDING SECTION 30-10-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 30-10-201, MCA, is amended to read:

“30-10-201. Registration and notice filing requirements of broker-dealers, salespersons, investment advisers, and investment adviser representatives. (1) It is unlawful for a person to transact business in this state as a broker-dealer or salesperson, except as provided in 30-10-105, unless the person is registered under parts 1 through 3 of this chapter.

(2) It is unlawful for a broker-dealer or issuer to employ a salesperson to represent the broker-dealer or issuer in this state, except in transactions exempt under 30-10-105, unless the salesperson is registered under parts 1 through 3 of this chapter.

(3) It is unlawful for a person to transact business in this state as an investment adviser or as an investment adviser representative unless:

(a) the person is registered under parts 1 through 3 of this chapter;

(b) the person does not have a place of business in the state and the person’s only clients in this state are:

(i) investment companies, as defined in the Investment Company Act of 1940, or insurance companies;

(ii) other investment advisers;

(iii) federal covered advisers;

(iv) broker-dealers;

(v) banks;

(vi) trust companies;

(vii) savings and loan associations;

(viii) employee benefit plans with assets of not less than \$1 million;

(ix) governmental agencies or instrumentalities, whether acting for themselves or as trustees with investment control; or

(x) other institutional investors as designated by rule or order of the commissioner; or

(c) the person does not have a place of business in this state and, during the preceding 12-month period, the person has not had more than five clients who are residents of this state, other than those clients specified in subsection (3)(b). *This subsection (3)(c) also applies to broker-dealers and investment advisers.*

(4) Except for federal covered advisers whose only clients are clients listed in subsection (3)(b) or who meet the requirements of subsection (3)(c), it is unlawful for a federal covered adviser to conduct advisory business in

this state unless the federal covered adviser complies with the provisions of subsection (6)(b).

(5) (a) It is unlawful for a person required to be registered as an investment adviser under Title 30, chapter 10, parts 1 through 3, to employ an investment adviser representative unless the investment adviser representative is registered or exempt from registration under Title 30, chapter 10, parts 1 through 3.

(b) It is unlawful for a federal covered adviser to employ, supervise, or associate with an investment adviser representative who maintains a place of business in this state unless the investment adviser representative is registered or exempt from registration under Title 30, chapter 10, parts 1 through 3.

(6) (a) A broker-dealer or a salesperson, acting as an agent for an issuer or as an agent for a broker-dealer in the offer or sale of securities for an issuer, or an investment adviser or investment adviser representative may apply for registration by filing an application in the form that the commissioner prescribes and payment of the fee prescribed in 30-10-209.

(b) Except for a federal covered adviser whose only clients are those listed in subsection (3)(b) or who meet the requirements of subsection (3)(c), a federal covered adviser shall, prior to acting as a federal covered adviser in this state, submit a notice filing to the commissioner consisting of the fee prescribed in 30-10-209 and copies of any documents filed with the securities and exchange commission that the commissioner requires by rule or order. A notice filing is effective upon its receipt by the commissioner.

(7) The application must contain whatever information the commissioner requires. A registration application of a broker-dealer, salesperson, investment adviser, or investment adviser representative may not be withdrawn before the commissioner approves or denies the registration, without the express written consent of the commissioner.

(8) When the registration requirements are met, the commissioner shall make the registration effective. An effective registration of a broker-dealer, salesperson, investment adviser, or investment adviser representative may not be withdrawn or terminated without the express written consent of the commissioner.

(9) Registration of a broker-dealer, salesperson, investment adviser, or investment adviser representative or a notice filing by a federal covered adviser:

(a) is effective until December 31 following the registration or notice filing or any other time as the commissioner may by rule adopt; and

(b) may be renewed pursuant to subsection (11).

(10) (a) The registration of a salesperson is not effective during any period when the salesperson is not associated with an issuer or a registered broker-dealer specified in the application. When a salesperson begins or terminates a connection with an issuer or registered broker-dealer, the salesperson and the issuer or broker-dealer shall promptly notify the commissioner.

(b) The registration of an investment adviser representative is not effective during any period when the person is not associated with either an investment adviser registered under this act or a federal covered adviser with an effective notice filing who is specified in the application. When an investment adviser representative begins or terminates a connection with an investment adviser, the investment adviser shall promptly notify the commissioner. When an investment adviser representative begins or terminates a connection with a federal covered adviser, the investment adviser representative shall promptly notify the commissioner.

(11) Registration of a broker-dealer, salesperson, investment adviser, or investment adviser representative or notice filing for a federal covered adviser may be renewed by filing, prior to the expiration of the registration or notice filing, an application containing information as the commissioner may require to indicate any material change in the information contained in the original application or any renewal application for registration or notice filing, and payment of the fee prescribed by 30-10-209. A broker-dealer who is not a member of the national association of securities dealers, inc., is required to file a financial statement of the broker-dealer within 90 days of the end of the broker-dealer's fiscal year, except as provided in section 15 of the Securities Exchange Act of 1934. A registered broker-dealer or investment adviser may file an application for registration of a successor, to become effective upon approval of the commissioner.

(12) (a) Except as provided in section 15 of the Securities Exchange Act of 1934 in the case of a broker-dealer and section 222 of the Investment Advisers Act of 1940 in the case of an investment adviser, every registered broker-dealer and investment adviser shall make and keep accounts and other records, except with respect to securities exempt under 30-10-104(1), as may be prescribed by the commissioner by rule or order. All required records of an investment adviser must be preserved for the period the commissioner prescribes by rule or order. All the records of a registered broker-dealer or investment adviser are subject at any time or from time to time to reasonable periodic, special, or other examinations, within or outside this state, by representatives of the commissioner, as the commissioner considers necessary or appropriate in the public interest or for the protection of investors.

(b) The commissioner may require investment advisers who are registered or required to be registered to furnish or disseminate certain information as necessary or appropriate in the public interest or for the protection of investors and advisory clients.

(c) If information contained in any document filed with the commissioner is, or becomes, inaccurate or incomplete in any material respect, the registrant or federal covered adviser shall promptly file a correcting amendment.

(13) The commissioner may by order deny, suspend, or revoke registration of any broker-dealer, salesperson, investment adviser, or investment adviser representative if the commissioner finds that the order is in the public interest and that the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, director, person occupying a similar status or performing similar functions, or person directly or indirectly controlling the broker-dealer or investment adviser:

(a) has filed an application for registration under this section that, as of its effective date or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement that was, in light of the circumstances under which it was made, false or misleading with respect to any material fact;

(b) has willfully violated or willfully failed to comply with any provision of parts 1 through 3 of this chapter or a predecessor law or any rule or order under parts 1 through 3 of this chapter or a predecessor law;

(c) has been convicted of any misdemeanor involving a security or any aspect of the securities business or any felony;

(d) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business;

(e) is the subject of an order of the commissioner denying, suspending, or revoking registration as a broker-dealer, salesperson, investment adviser, or investment adviser representative;

(f) is the subject of an adjudication or determination, within the past 5 years, by a securities or commodities agency or administrator of another state or a court of competent jurisdiction, that the person has violated the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisors Act of 1940, the Investment Company Act of 1940, or the Commodity Exchange Act or the securities or commodities law of any other state;

(g) has engaged in dishonest or unethical practices in the securities business;

(h) is insolvent, either in the sense that the person's liabilities exceed the person's assets or in the sense that the person cannot meet obligations as they mature, but the commissioner may not enter an order against a broker-dealer or investment adviser under this subsection (13) without a finding of insolvency as to the broker-dealer or investment adviser;

(i) has not complied with a condition imposed by the commissioner under this section or is not qualified on the basis of such factors as training, experience, or knowledge of the securities business;

(j) has failed to pay the proper filing fee, but the commissioner may enter only a denial order under this subsection (13), and the commissioner shall vacate any order when the deficiency has been corrected; or

(k) has failed to reasonably supervise the person's salespersons or employees or investment adviser representatives or employees to ensure their compliance with this act.

(14) The commissioner may not institute a suspension or revocation proceeding on the basis of a fact or transaction known to the commissioner when registration became effective unless the proceeding is instituted within 30 days after the date on which the registration became effective.

(15) The commissioner may by order summarily postpone or suspend registration pending final determination of any proceeding under this section.

(16) Upon the entry of the order under subsection (13), the commissioner shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is a salesperson or investment adviser representative, that it has been entered and of the reasons for the order and that if requested by the applicant or registrant within 15 days after the receipt of the commissioner's notification, the matter will be promptly set for hearing. If a hearing is not requested within 15 days and none is ordered by the commissioner, the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing, may modify or vacate the order or extend it until final determination.

(17) If the commissioner finds that a registrant or applicant for registration is no longer in existence or has ceased to do business as a broker-dealer, salesperson, investment adviser, or investment adviser representative or is subject to an adjudication of mental incompetence or to the control of a committee, conservator, or guardian or cannot be located after reasonable search, the commissioner may by order cancel the registration or application.

(18) The commissioner may, after suspending or revoking registration of any broker-dealer, salesperson, investment adviser, or investment adviser representative, impose a fine not to exceed \$5,000 upon the broker-dealer, salesperson, investment adviser, or investment adviser representative. The fine is in addition to all other penalties imposed by the laws of this state and must be collected by the commissioner in the name of the state of Montana

and deposited in the general fund. Imposition of any fine under this subsection is an order from which an appeal may be taken pursuant to 30-10-308. If any broker-dealer, salesperson, investment adviser, or investment adviser representative fails to pay a fine referred to in this subsection, the amount of the fine is a lien upon all of the assets and property of the broker-dealer, salesperson, investment adviser, or investment adviser representative in this state and may be recovered by suit by the commissioner and deposited in the general fund. Failure of a broker-dealer, salesperson, investment adviser, or investment adviser representative to pay a fine also constitutes a forfeiture of the right to do business in this state under parts 1 through 3 of this chapter.

(19) A sole proprietor registered as a broker-dealer or investment adviser who does not employ other salespersons or investment adviser representatives, other than the sole proprietor, is not required to register as both a broker-dealer and a salesperson or as an investment adviser and an investment adviser representative if the sole proprietor meets the examination requirements established by the commissioner by rule.

(20) A person who is subject to the provisions of this section and who has passed the general securities principal's examination is not required to also pass the uniform investment adviser law examination. The commissioner shall by rule provide for a form that a person who passes the general securities principal's examination shall file with the commissioner as a verification of having passed the examination unless the commissioner can verify electronically that the person has passed the exam."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved February 26, 2021

CHAPTER NO. 29

[HB 62]

AN ACT INCREASING STATE BONDING AUTHORITY FOR WATER AND WASTEWATER REVOLVING LOAN FUNDING; REMOVING REQUIREMENT FOR FEDERAL COORDINATION; CREATING A STATE DEBT; AMENDING SECTIONS 75-5-1121, 75-5-1122, AND 75-6-227, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 75-5-1121, MCA, is amended to read:

"75-5-1121. Authorization of bonds -- allocation of proceeds.

(1) Upon request of the department of natural resources and conservation and upon certification by the department that the state has entered into a capitalization grant agreement or other agreement with the United States government pursuant to 75-6-204 and that federal capitalization grants have been made to the state for the program, the board of examiners is authorized to issue and sell bonds of the state as authorized by the legislature to provide money for the program. The bonds are general obligations on which the full faith, credit, and taxing powers of the state are pledged for payment of the principal and interest. The bonds must be issued as provided by Title 17, chapter 5, part 8.

(2) (a) Except as otherwise provided in this subsection (2), the proceeds of the bonds are allocated to the state allocation account or the administration account of the revolving fund, as provided in 75-5-1106.

(b) Any accrued interest and bond proceeds to be used to pay interest must be deposited in the debt service account of the revolving fund.

(c) Proceeds of bonds to be used to pay the costs of issuing the bonds must be deposited in a cost of issuance account established outside of the revolving fund by the board of examiners in the resolution or trust indenture authorizing the issuance of the bonds.

(d) Any premium received must be deposited in the state allocation account, the debt service account, or the cost of issuance account as directed by the board of examiners in the resolution or trust indenture regarding the bonds.

(e) For purposes of 17-5-803 and 17-5-804, the state allocation account and the cost of issuance account constitute a capital projects account. The proceeds must be available to the department and the department of natural resources and conservation and may be used for the purposes authorized in this part without further budgetary authorization.

(3) In the resolution authorizing the sale and issuance of the bonds, the board of examiners, upon the request of the department of natural resources and conservation, may create separate accounts or subaccounts to provide for the payment security of the bonds and may pledge the interest component of the loan repayments credited to the revolving fund and the revolving fund as security for the bonds.

(4) The board of examiners may allow bonds issued under this section to be secured by a trust indenture between the board of examiners and a trustee. The trustee may be a trust company or bank having the powers of a trustee inside or outside the state.

(a) If the board of examiners elects to issue bonds pursuant to a trust indenture, the trustee may, as determined by the board of examiners, hold one or more of the funds and accounts created pursuant to this chapter.

(b) In addition to provisions that the board of examiners determines to be necessary and appropriate to secure the bonds, provide for the rights of the bondholders, and ensure compliance with all applicable law, the trust indenture must contain provisions that:

(i) govern the custody, safeguarding, and disbursement of all money held by the trustee under the trust indenture; and

(ii) permit representatives of the state treasurer, department, or department of natural resources and conservation, upon reasonable notice and at reasonable times, to inspect the trustee's books and records concerning the trust indenture.

(c) A trust indenture or an executed counterpart of a trust indenture developed pursuant to this chapter must be filed with the secretary of state."

Section 2. Section 75-5-1122, MCA, is amended to read:

"75-5-1122. Creation of debt. The legislature, through the enactment of this law by a two-thirds vote of the members of each house, authorizes the creation of state debt in an amount not to exceed ~~\$40~~ \$70 million in principal amount of general obligation bonds outstanding from time to time for the purpose of:

(1) ~~providing the state's share of funding~~ the program; and

(2) funding portions of loans on an interim basis pending receipt of:

(a) grant payments from the environmental protection agency for which federal legislation appropriating the proceeds of the grants has been enacted; or

(b) other revenue for the program."

Section 3. Section 75-6-227, MCA, is amended to read:

"75-6-227. Creation of debt. The legislature, through enactment of this section, authorizes the creation of state debt in an amount not to exceed ~~\$30~~

\$50 million in principal amount of general obligation bonds outstanding from time to time for the purpose of:

(1) ~~providing the state's share of funding~~ the drinking water program; and

(2) funding portions of loans on an interim basis pending receipt of:

(a) grant payments from the environmental protection agency for which federal legislation appropriating the proceeds of the grants has been enacted; or

(b) other revenue for the program.”

Section 4. Two-thirds vote required. Because [sections 2 and 3] authorize the creation of state debt, Article VIII, section 8, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage.

Section 5. Effective date. [This act] is effective on passage and approval.

Approved February 26, 2021

CHAPTER NO. 30

[HB 54]

AN ACT BROADENING THE DEFINITION OF ADULT IMMEDIATE FAMILY MEMBER ALLOWED TO TAKE NONRESIDENT YOUTH COMBINATION LICENSE HOLDERS HUNTING; AMENDING SECTION 87-2-522, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-2-522, MCA, is amended to read:

“87-2-522. Nonresident youth combination licenses. (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, and who is 12 years of age or older or will turn 12 years old before or during the season for which the license is issued and who is under 18 years of age may, upon payment of a fee of one-half of the cost of a regularly priced license and subject to the limitations prescribed by law and department regulation, apply to the fish, wildlife, and parks office in Helena, Montana, to purchase:

(a) one of the following:

(i) a Class B-10 nonresident big game combination license;

(ii) a Class B-11 nonresident deer combination license; or

(iii) a nonresident elk-only combination license;

(b) if available:

(i) a Class B-8 nonresident deer B tag;

(ii) a Class B-12 nonresident antlerless elk B tag license.

(2) (a) When using a license issued pursuant to this section, the holder must be accompanied by an adult immediate family member who is the holder of a valid Class B-7, Class B-8, Class B-10, Class B-11, Class B-12, or nonresident elk-only combination license or who is the holder of a valid resident deer or elk tag. As used in this subsection, an adult immediate family member means an applicant's natural or adoptive parent, grandparent, brother, or sister, *stepparent*, or *legal guardian* who is 18 years of age or older.

(b) An applicant shall provide the name and automated licensing system number of the adult immediate family member who will accompany the youth when applying for a license pursuant to this section.

(3) Class B-10 and Class B-11 licenses issued pursuant to this section are not included in the limit on the number of available Class B-10 and

Class B-11 licenses issued pursuant to 87-2-505 and 87-2-510. Nonresident elk-only combination licenses issued pursuant to this section are in addition to nonresident elk-only combination licenses available for sale pursuant to 87-2-511.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved February 26, 2021

CHAPTER NO. 31

[HB 51]

AN ACT REVISING MONTANA ACHIEVING A BETTER LIFE EXPERIENCE ACT LAWS TO REMOVE REFERENCES TO A REPEALED DEFINITION; AND AMENDING SECTION 53-25-122, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 53-25-122, MCA, is amended to read:

“53-25-122. Exemption from claims of creditors. (1) Except as provided in subsection (3) and 26 U.S.C. 529A, up to \$100,000 of assets and earnings held in and distributions from the trust by or on behalf of an ~~account owner~~, a contributor; or designated beneficiary of a participating trust agreement are exempt from all claims of creditors of the ~~account owner~~, contributor; or designated beneficiary.

(2) Subsection (1) applies to assets and earnings held in and distributions from a qualified program established as provided in section 529A of the Internal Revenue Code, 26 U.S.C. 529A, and maintained by another state if the ~~owner~~, contributor; or designated beneficiary is a Montana resident.

(3) Assets, earnings, and distributions are not protected from claims if the contribution violates the Uniform Fraudulent Transfer Act provided for in Title 31, chapter 2, part 3, or 11 U.S.C. 548.”

Approved February 26, 2021

CHAPTER NO. 32

[SB 104]

AN ACT ADOPTING THE UNIFORM FAMILY LAW ARBITRATION ACT; PROVIDING FOR THE ARBITRATION OF FAMILY LAW DISPUTES; PROVIDING REQUIREMENTS FOR ARBITRATION AGREEMENTS AND INITIATING ARBITRATION; PROVIDING FOR THE QUALIFICATION, SELECTION, AND DISQUALIFICATION OF ARBITRATORS; PROVIDING FOR PARTY PARTICIPATION AND PROTECTION OF CERTAIN PARTIES; PROVIDING FOR ARBITRATOR POWERS AND DUTIES; PROVIDING FOR ARBITRATION AWARDS AND THE CORRECTION, CONFIRMATION, AMENDMENT, OR VACATION OF AWARDS; PROVIDING FOR ENFORCEMENT OF AWARDS; PROVIDING FOR APPEALS; AND PROVIDING FOR ARBITRATORS' IMMUNITY.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 28] may be cited as the Uniform Family Law Arbitration Act.

Section 2. Definitions. As used in [sections 1 through 28], the following definitions apply:

(1) “Arbitration agreement” means an agreement that subjects a family law dispute to arbitration.

(2) “Arbitration organization” means an association, agency, board, commission, or other entity that is neutral and initiates, sponsors, or administers an arbitration or is involved in the selection of an arbitrator.

(3) “Arbitrator” means an individual selected, alone or with others, to make an award in a family law dispute that is subject to an arbitration agreement.

(4) “Child-related dispute” means a family law dispute regarding the parenting or financial support of a child.

(5) “Court” means the district court.

(6) “Family law dispute” means a contested issue arising under Title 40.

(7) “Party” means an individual who signs an arbitration agreement and whose rights will be determined by an award.

(8) “Person” means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal entity.

(9) “Record”, used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(10) “Sign” means, with present intent to authenticate or adopt a record:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic symbol, sound, or process.

(11) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe.

Section 3. Scope. (1) [Sections 1 through 28] govern arbitration of a family law dispute.

(2) [Sections 1 through 28] do not authorize an arbitrator to make an award that:

(a) grants a legal separation, dissolution of marriage, or invalidity of marriage;

(b) terminates parental rights;

(c) grants an adoption or a guardianship of a child or incapacitated individual; or

(d) issues an order of protection pursuant to Title 40, chapter 15.

Section 4. Applicable law. (1) Except as otherwise provided in [sections 1 through 28], the law applicable to arbitration is Title 27, chapter 5.

(2) In determining the merits of a family law dispute, an arbitrator shall apply the law of this state, including its choice of law rules.

Section 5. Arbitration agreement. (1) An arbitration agreement must:

(a) be in a record signed by the parties;

(b) identify the arbitrator, an arbitration organization, or a method of selecting an arbitrator;

(c) identify the family law dispute the parties intend to arbitrate; and

(d) specify how notice to arbitrate is to be given.

(2) Except as otherwise provided in subsection (3), an agreement in a record to arbitrate a family law dispute that arises between the parties before, at the time, or after the agreement is made is valid and enforceable as any other contract and irrevocable except on a ground that exists at law or in equity for the revocation of a contract.

(3) An agreement to arbitrate a child-related dispute that arises between the parties after the agreement is made is unenforceable unless:

(a) the parties affirm the agreement in a record after the dispute arises; or
(b) the agreement was entered during a family law proceeding and the court approved or incorporated the agreement in an order issued in the proceeding.

(4) If a party objects to arbitration on the ground the arbitration agreement is unenforceable or the agreement does not include a family law dispute, the court shall decide whether the agreement is enforceable or includes the family law dispute.

Section 6. Notice of arbitration. (1) If the parties have entered into an arbitration agreement, a party may initiate arbitration by giving notice to arbitrate to the other party in the manner specified in the arbitration agreement.

(2) If the parties have not entered into an arbitration agreement, a party may send a written request to the other party requesting that the parties agree to arbitrate and enter into an arbitration agreement that complies with [section 5].

Section 7. Motion for judicial relief. (1) A motion for judicial relief under [sections 1 through 28] must be made to the court in which a proceeding is pending involving a family law dispute subject to arbitration or, if no proceeding is pending, a court with jurisdiction over the parties and the subject matter.

(2) On motion of a party, the court may compel arbitration if the parties have entered into an arbitration agreement that complies with [section 5] unless the court determines under [section 12] that the arbitration should not proceed.

(3) On motion of a party, the court shall terminate arbitration if it determines that:

- (a) the agreement to arbitrate is unenforceable;
- (b) the family law dispute is not subject to arbitration; or
- (c) under [section 12], the arbitration should not proceed.

(4) Unless prohibited by an arbitration agreement, on motion of a party, the court may order consolidation of separate arbitrations involving the same parties and a common issue of law or fact if necessary for the fair and expeditious resolution of the family law dispute.

Section 8. Qualification and selection of arbitrator. (1) Except as otherwise provided in subsection (2), unless waived in a record by the parties, an arbitrator must be:

- (a) an attorney in good standing admitted to practice in the state or a retired Montana district court judge; and
- (b) trained in identifying domestic violence.

(2) The identification in the arbitration agreement of an arbitrator or arbitration organization or the method for selecting an arbitrator that is specified in the arbitration agreement controls how an arbitrator is selected.

(3) If an arbitrator is unable or unwilling to act, or if the agreed-on method of selecting an arbitrator fails, on motion of a party, the court shall select an arbitrator.

Section 9. Disclosure by arbitrator – disqualification. (1) Before agreeing to serve as an arbitrator, an individual, after making reasonable inquiry, shall disclose to all parties any known fact a reasonable person would believe is likely to affect:

(a) the impartiality of the arbitrator in the arbitration, including bias, a financial or personal interest in the outcome of the arbitration, or an existing or past relationship with a party, attorney representing a party, or witness; or

(b) the arbitrator's ability to make a timely award.

(2) An arbitrator, the parties, and the attorneys representing the parties have a continuing obligation to disclose to all parties any known fact a reasonable person would believe is likely to affect the impartiality of the arbitrator or the arbitrator's ability to make a timely award.

(3) An objection to the selection or continued service of an arbitrator and a motion for a stay of arbitration and disqualification of the arbitrator must be made pursuant to the arbitration agreement or on motion of a party to the court.

(4) If a disclosure required by subsection (1)(a) or (2) is not made, the court may:

(a) on motion of a party not later than 30 days after the failure to disclose is known or by the exercise of reasonable care should have been known to the party, suspend the arbitration;

(b) on timely motion of a party, vacate an award under [section 19(1)(b)]; or

(c) if an award has been confirmed, grant other appropriate relief.

(5) If the parties agree to discharge an arbitrator or the arbitrator is disqualified, the parties by agreement may select a new arbitrator or request the court to select another arbitrator as provided in [section 8].

Section 10. Party participation. (1) A party may:

(a) be represented in an arbitration by an attorney;

(b) be accompanied by an individual who will not be called as a witness or act as an advocate; and

(c) participate in the arbitration to the full extent permitted under the law and procedural rules of this state.

(2) A party or representative of a party may not communicate ex parte with the arbitrator except to the extent allowed in a family law proceeding for communication with a judge.

Section 11. Temporary order or award. (1) Before an arbitrator is selected and able to act, on motion of a party, the court may enter a temporary order under 40-4-121.

(2) After an arbitrator is selected:

(a) the arbitrator may make a temporary award under 40-4-121; and

(b) if the matter is urgent and the arbitrator is not able to act in a timely manner or provide an adequate remedy, on motion of a party, the court may enter a temporary order.

(3) On motion of a party, before the court confirms a final award, the court under [section 16], [section 18], or [section 19] may confirm, correct, vacate, or amend a temporary award made under subsection (2)(a).

(4) On motion of a party, the court may enforce a subpoena or interim award issued by an arbitrator for the fair and expeditious disposition of the arbitration.

Section 12. Protection of party or child. (1) As used in this section, "protection order" means an injunction or other order, issued under the domestic violence, family violence, or stalking laws of the issuing jurisdiction, to prevent an individual from engaging in a violent or threatening act against, harassment of, contact or communication with, or being in physical proximity to another individual who is a party or a child under the custodial responsibility of a party.

(2) If a party is subject to a protection order or an arbitrator determines there is a reasonable basis to believe a party's safety or ability to participate effectively in arbitration is at risk, the arbitrator shall stay the arbitration and refer the parties to court. The arbitration may not proceed unless the party at risk affirms the arbitration agreement in a record and the court determines:

- (a) the affirmation is informed and voluntary;
- (b) arbitration is not inconsistent with the protection order; and
- (c) reasonable procedures are in place to protect the party from risk of harm, harassment, or intimidation.

(3) If an arbitrator determines that there is a reasonable basis to believe a child who is the subject of a child-related dispute is abused or neglected, the arbitrator shall terminate the arbitration of the child-related dispute and report the abuse or neglect to the department of public health and human services.

(4) An arbitrator may make a temporary award to protect a party or child from harm, harassment, or intimidation.

(5) On motion of a party, the court may stay arbitration to review a determination or temporary award under this section.

(6) This section supplements remedies available under law of this state for the protection of victims of domestic violence, family violence, stalking, harassment, or similar abuse.

Section 13. Powers and duties of arbitrator. (1) An arbitrator shall conduct an arbitration in a manner the arbitrator considers appropriate for a fair and expeditious disposition of the dispute.

(2) An arbitrator shall provide each party a right to be heard, to present evidence material to the family law dispute, and to cross-examine witnesses.

(3) Unless the parties otherwise agree in a record, an arbitrator's powers include the power to:

- (a) select the rules for conducting the arbitration;
- (b) hold conferences with the parties before a hearing;
- (c) determine the date, time, and place of a hearing;
- (d) require a party to provide:
 - (i) a copy of a relevant court order;
 - (ii) information required to be disclosed in a family law proceeding under Title 40; and
 - (iii) a proposed award that addresses each issue in arbitration;
- (e) meet with or interview a child who is the subject of a child-related dispute;
- (f) appoint a private expert at the expense of the parties;
- (g) administer an oath or affirmation and issue a subpoena for the attendance of a witness or the production of documents and other evidence at a hearing;
- (h) compel discovery concerning the family law dispute and determine the date, time, and place of discovery;
- (i) determine the admissibility and weight of evidence;
- (j) permit deposition of a witness for use as evidence at a hearing;
- (k) for good cause, prohibit a party from disclosing information;
- (l) appoint an attorney, guardian ad litem, or other representative for a child at the expense of the parties;
- (m) impose a procedure to protect a party or child from risk of harm, harassment, or intimidation;
- (n) allocate arbitration fees, attorney's fees, expert witness fees, and other costs for the parties; and

(o) impose a sanction on a party for bad faith or misconduct during the arbitration according to standards governing imposition of a sanction for litigant misconduct in a family law proceeding.

(4) An arbitrator may not allow ex parte communication except to the extent allowed in a family law proceeding for communication with a judge.

Section 14. Recording of hearing. (1) Except as otherwise provided in subsection (2) or required by law of this state other than [sections 1 through 28], an arbitration hearing need not be recorded unless required by the arbitrator, provided by the arbitration agreement, or requested by a party.

(2) An arbitrator shall request a verbatim recording be made of any part of an arbitration hearing concerning a child-related dispute.

Section 15. Award. (1) An arbitrator shall make an award in a record, dated and signed by the arbitrator. The arbitrator shall give notice of the award to each party by a method agreed on by the parties or, if the parties have not agreed on a method, in the manner provided in Title 27, chapter 5.

(2) Except as otherwise provided in subsection (3), the award under [sections 1 through 28] must state the reasons on which it is based unless otherwise agreed by the parties.

(3) An award determining a child-related dispute must state the reasons on which it is based as required by the law of this state governing a court order in a child-related dispute.

(4) An award under [sections 1 through 28] is not enforceable as a judgment until confirmed under [section 16].

Section 16. Confirmation of award. (1) After an arbitrator gives notice under [section 15(1)] of an award, including an award corrected under [section 17], a party may move the court for an order confirming the award.

(2) Except as otherwise provided in subsection (3), the court shall confirm an award under [sections 1 through 28] if:

(a) the parties agree in a record to confirmation; or

(b) the time has expired for making a motion, and no motion is pending, under [section 18] or [section 19].

(3) If an award determines a child-related dispute, the court shall confirm the award under subsection (2) if the court finds, after a review of the record if necessary, that the award on its face:

(a) complies with [section 15] and law of this state governing a child-related dispute; and

(b) is in the best interests of the child.

(4) On confirmation, an award under [sections 1 through 28] is enforceable as a judgment.

Section 17. Correction by arbitrator of unconfirmed award. On motion of a party made not later than 30 days after an arbitrator gives notice under [section 15(1)] of an award, the arbitrator may correct the award:

(1) if the award has an evident mathematical miscalculation or an evident mistake in the description of a person, thing, or property;

(2) if the award is imperfect in a manner of form not affecting the merits of the issues submitted; or

(3) to clarify the award.

Section 18. Correction by court of unconfirmed award. (1) On motion of a party made not later than 90 days after an arbitrator gives notice under [section 15(1)] of an award, including an award corrected under [section 17], the court shall correct the award if:

(a) the award has an evident mathematical miscalculation or an evident mistake in the description of a person, thing, or property;

(b) the award is imperfect in a manner of form not affecting the merits of the issues submitted; or

(c) the arbitrator made an award on a dispute not submitted to the arbitrator and the award may be corrected without affecting the merits of the issues submitted.

(2) A motion under this section to correct an award may be joined with a motion to vacate or amend the award under [section 19].

(3) Unless a motion under [section 19] is pending, the court may confirm a corrected award under [section 16].

Section 19. Vacation or amendment by court of unconfirmed award. (1) On motion of a party, the court shall vacate an unconfirmed award if the moving party establishes that:

(a) the award was procured by corruption, fraud, or other undue means;

(b) there was:

(i) evident partiality by the arbitrator;

(ii) corruption by the arbitrator; or

(iii) misconduct by the arbitrator substantially prejudicing the rights of a party;

(c) the arbitrator refused to postpone a hearing on showing of sufficient cause for postponement, refused to consider evidence material to the controversy, or otherwise conducted the hearing contrary to [section 13], so as to prejudice substantially the rights of a party;

(d) the arbitrator exceeded the arbitrator's powers;

(e) no arbitration agreement exists, unless the moving party participated in the arbitration without making a motion under [section 7] not later than the beginning of the first arbitration hearing; or

(f) the arbitration was conducted without proper notice under [section 6] of the initiation of arbitration, so as to prejudice substantially the rights of a party.

(2) Except as otherwise provided in subsection (3), on motion of a party, the court shall vacate an unconfirmed award that determines a child-related dispute if the moving party establishes that:

(a) the award does not comply with [section 15] or Title 40;

(b) the record of the hearing or the statement of reasons in the award is inadequate for the court to review the award; or

(c) a ground for vacating the award under subsection (1) exists.

(3) If an award is subject to vacation under subsection (2)(a), on motion of a party, the court may amend the award if amending rather than vacating is in the best interests of the child.

(4) The court shall determine a motion under subsection (2) or (3) based on the record of the arbitration hearing and facts occurring after the hearing.

(5) A motion under this section to vacate or amend an award must be filed not later than 90 days:

(a) after an arbitrator gives the party filing the motion notice of the award or a corrected award; or

(b) for a motion under subsection (1)(a), after the ground of corruption, fraud, or other undue means is known or by the exercise of reasonable care should have been known to the party filing the motion.

(6) If the court under this section vacates an award for a reason other than the absence of an enforceable arbitration agreement, the court may order a rehearing before an arbitrator. If the reason for vacating the award is that the award was procured by corruption, fraud, or other undue means or there was evident partiality, corruption, or misconduct by the arbitrator, the rehearing must be before another arbitrator.

(7) If the court under this section denies a motion to vacate or amend an award, the court may confirm the award under [section 16] unless a motion is pending under [section 18].

Section 20. Clarification of confirmed award. If the meaning or effect of an award confirmed under [section 16] is in dispute, the parties may:

(1) agree to arbitrate the dispute before the original arbitrator or another arbitrator; or

(2) proceed in court under the law of this state governing clarification of a judgment.

Section 21. Judgment on award. (1) On granting an order confirming, vacating without directing a rehearing, or amending an award under [sections 1 through 28], the court shall enter judgment in conformity with the order.

(2) On motion of a party, the court may order that a document or part of the arbitration record be sealed or redacted to prevent public disclosure of all or part of the record or award to the extent permitted under the law of this state.

Section 22. Modification of confirmed award or judgment. If a party requests under the law of this state a modification of an award confirmed under [section 16] or judgment on the award based on a fact occurring after confirmation:

(1) the parties shall proceed under the dispute resolution method specified in the award or judgment; or

(2) if the award or judgment does not specify a dispute resolution method, the parties may:

(a) agree to arbitrate the modification before the original arbitrator or another arbitrator; or

(b) absent agreement, proceed under the appropriate law of this state governing modification of a judgment.

Section 23. Enforcement of confirmed award. (1) The court shall enforce an award confirmed under [section 16], including a temporary award, in the manner and to the same extent as any other order or judgment of a court.

(2) The court shall enforce an arbitration award in a family law dispute confirmed by a court in another state in the manner and to the same extent as any other order or judgment from another state.

Section 24. Appeal. (1) An appeal may be taken under [sections 1 through 28] from:

(a) an order confirming or denying confirmation of an award;

(b) an order correcting an award;

(c) an order vacating an award without directing a rehearing; or

(d) a final judgment.

(2) An appeal under this section may be taken as from an order or a judgment in a civil action.

Section 25. Immunity of arbitrator. (1) (a) An arbitrator or arbitration organization acting in that capacity in a family law dispute is immune from civil liability to the same extent as a judge of a court of this state acting in a judicial capacity.

(b) The civil immunity provisions of this subsection (1) do not apply to a person employed by or an entity operated by the state or a political subdivision of the state.

(2) The immunity provided by this section supplements any immunity under law of this state.

(3) An arbitrator's failure to make a disclosure required by [section 9] does not cause the arbitrator to lose immunity under this section.

(4) An arbitrator is not competent to testify, and may not be required to produce records, in a judicial, administrative, or similar proceeding about a statement, conduct, decision, or ruling occurring during arbitration, to the same extent as a judge of a court of this state acting in judicial capacity. This subsection does not apply:

(a) to the extent disclosure is necessary to determine a claim by the arbitrator or arbitration organization against a party to the arbitration; or

(b) to a hearing on a motion under [section 19(1)(a) or (1)(b)] to vacate an award, if there is prima facie evidence that a ground for vacating the award exists.

(5) If a person commences a civil action against an arbitrator arising from the services of the arbitrator or seeks to compel the arbitrator to testify or produce records in violation of subsection (4) and the court determines that the arbitrator is immune from civil liability or is not competent to testify or required to produce the records, the court shall award the arbitrator reasonable attorney fees, costs, and reasonable expenses of litigation.

Section 26. Uniformity of application and construction. In applying and construing [sections 1 through 28], consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 27. Relation to electronic signatures in global and national commerce act. [Sections 1 through 28] modify, limit, or supersede the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 et seq., but do not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. 7003(b).

Section 28. Transition. [Sections 1 through 28] apply to arbitration of a family law dispute under an arbitration agreement made on or after [the effective date of this act]. If an arbitration agreement was made before [the effective date of this act], the parties may agree in a record that [sections 1 through 28] apply to the arbitration.

Section 29. Codification instruction. [Sections 1 through 28] are intended to be codified as a new chapter in Title 40, and the provisions of Title 40 apply to [sections 1 through 28].

Approved February 23, 2021

CHAPTER NO. 33

[SB 68]

AN ACT REVISING ESTABLISHMENT OF A HOMESTEAD EXEMPTION; PROVIDING THAT A HOMESTEAD MAY BE CLAIMED FOR CERTAIN PROPERTY IN A REVOCABLE TRUST; AMENDING SECTION 70-32-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 70-32-103, MCA, is amended to read:

“70-32-103. From whose property homestead may be selected – revocable trust disregarded. (1) If the claimant is married, the homestead may be selected from the property of either spouse. When the claimant is not married, the homestead may be selected from any of the claimant’s property.

(2) *A homestead may be selected from property contributed by the settlor to a revocable trust when the property would otherwise qualify under this chapter*

if it were not for the transfer of property to the revocable trust. For the purpose of this chapter, the claimant is the husband, wife, or unmarried person that is the settlor of the revocable trust. All provisions of this chapter apply to the settlor claimant in the same manner as an individual claimant, regardless of trust status.

(3) For the purposes of this section, “revocable” and “settlor” have the same meaning as provided in 72-38-103.”

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Applicability. [This act] applies to homesteads claimed on or after [the effective date of this act].

Approved February 23, 2021

CHAPTER NO. 34

[SB 66]

AN ACT GENERALLY REVISING THE MONTANA BUSINESS CORPORATION ACT; REVISING THE MEETING REQUIREMENTS; ALLOWING FOR REMOTE MEETINGS; REVISING DEFINITIONS FOR DIRECTOR AND OFFICER RELATING TO INDEMNIFICATION AND ADVANCEMENT; REVISING LAWS RELATING TO DOING BUSINESS IN THE STATE; AND AMENDING SECTIONS 35-14-141, 35-14-701, 35-14-702, 35-14-705, 35-14-709, 35-14-720, 35-14-850, 35-14-1021, AND 35-14-1505, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 35-14-141, MCA, is amended to read:

“35-14-141. Notices and other communications. (1) A notice under this chapter must be in writing unless oral notice is reasonable in the circumstances. Unless otherwise agreed between the sender and the recipient, words in a notice or other communication under this chapter must be in English.

(2) A notice or other communication may be given by any method of delivery, except that electronic transmissions must be in accordance with this section. If the methods of delivery are impracticable, a notice or other communication may be given by means of a broad nonexclusionary distribution to the public, which may include:

- (a) a newspaper of general circulation in the area where published;
- (b) radio, television, or other form of public broadcast communication; or
- (c) other methods of distribution that the corporation has previously identified to its shareholders.

(3) A notice or other communication to a domestic corporation or to a foreign corporation registered to do business in this state may be delivered to the corporation’s registered agent at its registered office or to the secretary at the corporation’s principal office shown in its most recent annual report or, in the case of a foreign corporation that has not yet delivered an annual report, in its foreign registration statement.

(4) A notice or other communications may be delivered by electronic transmission if consented to by the recipient or if authorized by subsection (10). A corporation that files documents with the office of the secretary of state under this chapter is considered to have given its irrevocable consent to delivery of notices or other communications by the office of the secretary of state to the corporation by electronic transmission.

(5) Any consent under subsection (4) may be revoked by the person who consented by written or electronic notice to the person to whom the consent was delivered. A consent is considered revoked if:

(a) the corporation is unable to deliver two consecutive electronic transmissions given by the corporation in accordance with the consent; and

(b) the inability becomes known to the secretary or an assistant secretary or to the transfer agent or other person responsible for the giving of notice or other communications. However, the inadvertent failure to treat the inability as a revocation does not invalidate any meeting or other action.

(6) Unless otherwise agreed between the sender and the recipient, an electronic transmission is received when:

(a) it enters an information processing system that the recipient has designated or uses for the purposes of receiving electronic transmissions or information of the type sent and from which the recipient is able to retrieve the electronic transmission; and

(b) it is in a form capable of being processed by that system.

(7) Receipt of an electronic acknowledgment from an information processing system described in subsection (6)(a) establishes that an electronic transmission was received but, by itself, does not establish that the content sent corresponds to the content received.

(8) An electronic transmission is received under this section even if no person is aware of its receipt.

(9) A notice or other communication, if in a comprehensible form or manner, is effective at the earliest of the following:

(a) if in a physical form, the earliest of when it is actually received or when it is left at:

(i) a shareholder's address shown on the corporation's record of shareholders maintained by the corporation under 35-14-1601(4);

(ii) a director's residence or usual place of business; or

(iii) the corporation's principal office;

(b) if mailed postage prepaid and correctly addressed to a shareholder, on deposit in the United States mail;

(c) if mailed by United States mail postage prepaid and correctly addressed to a recipient other than a shareholder, the earliest of when it is actually received or:

(i) if sent by registered or certified mail, return receipt requested, the date shown on the return receipt signed by or on behalf of the addressee; or

(ii) 5 days after it is deposited in the United States mail;

(d) if an electronic transmission, when it is received as provided in subsection (6); and

(e) if oral, when communicated.

(10) A notice or other communication may be in the form of an electronic transmission that cannot be directly reproduced in paper form by the recipient through an automated process used in conventional commercial practice only if:

(a) the electronic transmission is otherwise retrievable in perceivable form; and

(b) the sender and the recipient have consented in writing to the use of that form of electronic transmission.

(11) If this chapter prescribes requirements for notices or other communications in particular circumstances, those requirements govern. If articles of incorporation or bylaws prescribe requirements for notices or other communications not inconsistent with this section or other provisions of this chapter, those requirements govern. The articles of incorporation or

bylaws may authorize or require delivery of notices of meetings of directors by electronic transmission.

(12) In the event that any provisions of this chapter are determined to modify, limit, or supersede the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001, et seq., the provisions of this chapter control to the maximum extent permitted by section 102(a)(2) of that federal act.

(13) (a) *Whenever notice would otherwise be required to be given under any provision of this chapter to a shareholder, the notice need not be given if:*

(i) *notices to shareholders of two consecutive annual meetings, and all notices of meetings during the period between the two consecutive annual meetings, have been sent, other than by electronic transmission, to the shareholder at the shareholder's address as shown on the records of the corporation and have been returned undeliverable or could not be delivered; or*

(ii) *all, but not less than two, distributions to shareholders during a 12-month period, or two consecutive distributions to shareholders during a period of more than 12 months, have been sent to the shareholder at the shareholder's address as shown on the records of the corporation and have been returned undeliverable or could not be delivered.*

(b) *If any shareholder to which this subsection (13) applies delivers to the corporation a written notice setting forth the shareholder's then-current address, the requirement that notice be given to the shareholder must be reinstated."*

Section 2. Section 35-14-701, MCA, is amended to read:

"35-14-701. Annual meeting. (1) Unless directors are elected by written consent in lieu of an annual meeting as permitted by 35-14-704, a corporation shall hold a meeting of shareholders annually at a time stated in or fixed in accordance with the bylaws at which directors must be elected.

(2) **Annual** *Unless the board of directors determines to hold the meeting solely by means of remote communication in accordance with 35-14-709(3), annual meetings may be held:*

(a) *in or out of this state at the place stated in or fixed in accordance with the bylaws-If; or*

(b) *if no place is so stated in or fixed in accordance with the bylaws, annual meetings must be held at the corporation's principal office.*

(3) The failure to hold an annual meeting at the time stated in or fixed in accordance with a corporation's bylaws does not affect the validity of any corporate action."

Section 3. Section 35-14-702, MCA, is amended to read:

"35-14-702. Special meeting. (1) A corporation shall hold a special meeting of shareholders:

(a) *on call of its board of directors or of the person or persons authorized to do so by the articles of incorporation or bylaws; or*

(b) *if shareholders holding at least 10% of all the votes entitled to be cast on an issue proposed to be considered at the proposed special meeting sign, date, and deliver to the corporation one or more written demands for the meeting describing the purpose or purposes for which it is to be held, provided that the articles of incorporation may fix a lower percentage or a higher percentage, not exceeding 25%, of all the votes entitled to be cast on any issue proposed to be considered. Unless otherwise provided in the articles of incorporation, a written demand for a special meeting may be revoked by a writing to that effect received by the corporation before the receipt by the corporation of demands sufficient in number to require the holding of a special meeting.*

(2) If not otherwise fixed under 35-14-703 or 35-14-707, the record date for determining shareholders entitled to demand a special meeting is the first

date on which a signed shareholder demand is delivered to the corporation. No written demand for a special meeting is effective unless, within 60 days of the earliest date on which the demand delivered to the corporation as required by this section was signed, written demands signed by shareholders holding at least the percentage of votes specified in or fixed in accordance with subsection (1)(b) have been delivered to the corporation.

(3) *Special Unless the board of directors determines to hold the meeting solely by remote participation in accordance with 35-14-709(3), special meetings of shareholders may be held:*

(a) in or out of this state at the place stated in or fixed in accordance with the bylaws. ~~If, or~~

(b) *if no place is so stated in or fixed in accordance with the bylaws, special meetings must be held* at the corporation's principal office.

(4) Only business within the purpose or purposes described in the meeting notice required by 35-14-705(3) may be conducted at a special meeting of shareholders."

Section 4. Section 35-14-705, MCA, is amended to read:

"35-14-705. Notice of meeting. (1) A corporation shall notify shareholders of the date, time, and place, *if any*, of each annual and special shareholders' meeting no fewer than 10 or more than 60 days before the meeting date. If the board of directors has authorized participation by means of remote communication pursuant to 35-14-709 for holders of any class or series of shares, the notice to the holders of that class or series of shares must describe the means of remote communication to be used. The notice must include the record date for determining the shareholders entitled to vote at the meeting if that date is different from the record date for determining shareholders entitled to notice of the meeting. Unless this chapter or the articles of incorporation require otherwise, the corporation is required to give notice only to shareholders entitled to vote at the meeting as of the record date for determining the shareholders entitled to notice of the meeting.

(2) Unless this chapter or the articles of incorporation require otherwise, the notice of an annual meeting of shareholders need not include a description of the purpose or purposes for which the meeting is called.

(3) Notice of a special meeting of shareholders must include a description of the purpose or purposes for which the meeting is called.

(4) If not otherwise fixed under 35-14-703 or 35-14-707, the record date for determining shareholders entitled to notice of and to vote at an annual or special shareholders' meeting is the day before the first notice is delivered to shareholders.

(5) Unless the bylaws require otherwise, if an annual or special shareholders' meeting is adjourned to a different date, time, or place, *if any*, notice need not be given of the new date, time, or place, *if any*, if the new date, time, or place, *if any*, is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or must be fixed under 35-14-707, however, notice of the adjourned meeting must be given under this section to shareholders entitled to vote at the adjourned meeting as of the record date fixed for notice of the adjourned meeting."

Section 5. Section 35-14-709, MCA, is amended to read:

"35-14-709. Remote participation -- shareholder's meetings.

(1) Shareholders of any class or series of shares may participate in any meeting of shareholders by means of remote communication to the extent the board of directors authorizes the participation for that class or series. Participation as a shareholder by means of remote communication is subject to guidelines

and procedures the board of directors adopts and must be in conformity with subsection (2).

(2) Shareholders participating in a shareholders' meeting by means of remote communication are considered present and may vote at the meeting if the corporation has implemented reasonable measures:

(a) to verify that each person participating remotely as a shareholder is a shareholder; and

(b) to provide those shareholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the shareholders, including an opportunity to communicate and to read or hear the proceedings of the meeting substantially concurrently with the proceedings.

(3) *Unless the bylaws require the meeting of shareholders to be held at a place, the board of directors may determine that any meeting of shareholders may not be held at any place and must instead be held solely by means of remote communication, but only if the corporation implements the measures specified in subsection (1)."*

Section 6. Section 35-14-720, MCA, is amended to read:

"35-14-720. Shareholders' list for meeting. (1) After fixing a record date for a meeting, a corporation shall prepare an alphabetical list of the names of all its shareholders who are entitled to notice of a shareholders' meeting. If the board of directors fixes a different record date under 35-14-707(5) to determine the shareholders entitled to vote at the meeting, a corporation also shall prepare an alphabetical list of the names of all its shareholders who are entitled to vote at the meeting. A list must be arranged by voting group and, within each voting group, by class or series of shares and must show the address of and number of shares held by each shareholder. Nothing in this subsection requires the corporation to include on the list the electronic mail address or other electronic contact information of a shareholder.

(2) (a) The shareholders' list for notice must be available for inspection by any shareholder, beginning 2 business days after notice is given of the meeting for which the list was prepared and continuing through the meeting;:

(i) at the corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held; or

(ii) *on a reasonably accessible electronic network, provided that the information required to gain access to the list is provided with the notice of the meeting. In the event that the corporation determines to make the list available on an electronic network, the corporation may take reasonable steps to ensure that the information is available only to shareholders of the corporation.*

(b) A shareholders' list for voting must be similarly available for inspection promptly after the record date for voting. A shareholder or the shareholder's agent or attorney is entitled on written demand to inspect and, subject to the requirements of 35-14-1602(3), to copy the list, during regular business hours and at the shareholder's expense, during the period it is available for inspection.

(3) ~~The~~ *If the meeting is to be held at a place, the corporation shall make the list of shareholders entitled to vote available at the meeting, and any shareholder or the shareholder's agent or attorney is entitled to inspect the list at any time during the meeting or any adjournment. If the meeting is to be held solely by means of remote communication, then the list must also be open to inspection during the meeting on a reasonably accessible electronic network, and the information required to access the list must be provided with the notice of the meeting.*

(4) If the corporation refuses to allow a shareholder or the shareholder's agent or attorney to inspect a shareholders' list before or at the meeting or to

copy a list as permitted by subsection (2), the district court of the county where the corporation's principal office is located or, if its principal office is not located in this state, the first judicial district, on application of the shareholder, may summarily order the inspection or copying at the corporation's expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete.

(5) Refusal or failure to prepare or make available the shareholders' list does not affect the validity of action taken at the meeting."

Section 7. Section 35-14-850, MCA, is amended to read:

"35-14-850. Definitions – indemnification and advance for expenses. For the purposes of 35-14-850 through 35-14-859, unless the context clearly requires otherwise, the following definitions apply:

(1) "Corporation" includes any domestic or foreign predecessor entity of a corporation in a merger or other transaction in which the predecessor's existence ceased upon consummation of the transaction.

(2) "Director" means an individual who is or was a director of a corporation or who, while a director of the corporation, is or was serving at the corporation's request as a director, *officer, manager, partner, trustee, employee, or agent* of another entity or ~~trustee of~~ an employee benefit plan. A director is considered to be serving ~~as a trustee of~~ an employee benefit plan at the corporation's request if the individual's duties to the corporation also impose duties on, or otherwise involve services by, the individual to the plan or to participants in or beneficiaries of the plan. The term includes, *unless the context requires otherwise*, the estate or personal representative of a director.

(3) "Liability" means the obligation to pay a judgment, a settlement, a penalty, a fine, including an excise tax assessed with respect to an employee benefit plan, or expenses incurred with respect to a proceeding, including attorney fees.

(4) "Officer" means an individual who is or was an officer of a corporation or who, while an officer of the corporation, is or was serving at the corporation's request as ~~an a director~~, officer, or manager, partner, trustee, employee, or agent of another entity or ~~trustee of an~~ employee benefit plan. An officer is considered to be serving ~~as a trustee of~~ an employee benefit plan at the corporation's request if the individual's duties to the corporation also impose duties on or otherwise involve services by the individual to the plan or to participants in or beneficiaries of the plan. The term includes, *unless the context requires otherwise*, the estate or personal representative of an officer.

(5) (a) "Official capacity" means:

(i) when used with respect to a director, the office of director in a corporation; and

(ii) when used with respect to an officer as contemplated in 35-14-856, the office in a corporation held by the officer.

(b) The term does not include service for any other domestic or foreign corporation or any joint venture, trust, employee benefit plan, or other entity.

(6) "Party" means an individual who was, is, or is threatened to be made a defendant or respondent in a proceeding.

(7) "Proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, arbitrativ, or investigative and whether formal or informal."

Section 8. Section 35-14-1021, MCA, is amended to read:

"35-14-1021. Bylaw increasing quorum or voting requirement for directors. (1) A bylaw that increases a quorum or voting requirement for the board of directors *or that requires a meeting of shareholders to be held at a place* may be amended or repealed:

(a) if originally adopted by the shareholders, only by the shareholders unless the bylaw provides otherwise; or

(b) if adopted by the board of directors, either by the shareholders or by the board of directors.

(2) A bylaw adopted or amended by the shareholders that increases a quorum or voting requirement for the board of directors may provide that it can be amended or repealed only by a specified vote of either the shareholders or the board of directors.

(3) Action by the board of directors under subsection (1) to amend or repeal a bylaw that changes a quorum or voting requirement for the board of directors must meet the same quorum requirement and be adopted by the same vote required to take action under the quorum and voting requirement then in effect or proposed to be adopted, whichever is greater.”

Section 9. Section 35-14-1505, MCA, is amended to read:

“35-14-1505. Activities not constituting doing business. (1) Activities of a foreign corporation that do not constitute doing business in this state for purposes of this part include:

(a) maintaining, defending, mediating, arbitrating, or settling a proceeding;

(b) carrying on any activity concerning the internal affairs of the foreign corporation, including holding meetings of its shareholders or board of directors;

(c) maintaining accounts in financial institutions;

(d) maintaining offices or agencies for the transfer, exchange, and registration of securities of the foreign corporation or maintaining trustees or depositories with respect to those securities;

(e) selling through independent contractors;

(f) soliciting or obtaining orders by any means if the orders require acceptance outside this state before they become contracts;

(g) creating or acquiring indebtedness, mortgages, or security interests in property;

(h) securing or collecting debts or enforcing mortgages or security interests in property securing the debts and holding, protecting, or maintaining property so acquired;

(i) owning real or personal property that is acquired incident to activities described in subsection (1)(h) if the property is disposed of within 5 years after the date of acquisition, does not produce income, or is not used in the performance of a corporate function;

(j) conducting an isolated transaction that is completed within 30 days and that is not in the course of repeated transactions of a similar nature; and

(k) doing business in interstate commerce.

(2) The list of activities in subsection (1) is not exhaustive.

(3) This section does not apply in determining the contacts or activities that may subject a foreign corporation to service of process, taxation, or regulation under the laws of this state other than this chapter.

(4) *Except as provided in subsection (1), a foreign corporation is transacting doing business in this state within the meaning of subsection (1) 35-14-1502(1) if it enters into a contract, including a contract entered into pursuant to Title 18, with the state of Montana, an agency of the state, or a political subdivision of the state and must register to do business under this part before entering into the contract. This subsection does not apply to contracts for goods fully prepared or services fully performed out of state for delivery or use in this state.”*

Approved February 23, 2021

CHAPTER NO. 35

[SB 41]

AN ACT REVISING THE TAX CREDIT REVIEW PROCESS; PROVIDING FOR REVIEW OF TAX CREDITS EVERY 10 YEARS; AND AMENDING SECTIONS 5-5-227 AND 15-30-2303, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5-5-227, MCA, is amended to read:

“5-5-227. Revenue interim committee – powers and duties – revenue estimating and use of estimates. (1) The revenue interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the state tax appeal board established in 2-15-1015 and for the department of revenue and the entities attached to the department for administrative purposes, except the division of the department that administers the Montana Alcoholic Beverage Code.

(2) (a) The committee must have prepared by December 1 for introduction during each regular session of the legislature in which a revenue bill is under consideration an estimate of the amount of revenue projected to be available for legislative appropriation.

(b) The committee may prepare for introduction during a special session of the legislature in which a revenue bill or an appropriation bill is under consideration an estimate of the amount of projected revenue. The revenue estimate is considered a subject specified in the call of a special session under 5-3-101.

(3) The committee’s estimate, as introduced in the legislature, constitutes the legislature’s current revenue estimate until amended or until final adoption of the estimate by both houses. It is intended that the legislature’s estimates and the assumptions underlying the estimates will be used by all agencies with responsibilities for estimating revenue or costs, including the preparation of fiscal notes.

(4) The legislative services division shall provide staff assistance to the committee. The committee may request the assistance of the staffs of the office of the legislative fiscal analyst, the legislative auditor, the department of revenue, and any other agency that has information regarding any of the tax or revenue bases of the state.

(5) The committee shall review tax credits ~~[scheduled to expire]~~ as provided in 15-30-2303.”

Section 2. Section 15-30-2303, MCA, is amended to read:

“15-30-2303. Tax credits subject to review by interim committee. (1) The following tax credits must be reviewed during the biennium commencing July 1, 2019, and during each biennium commencing 10 years thereafter:

(a) ~~the credit for income taxes imposed by foreign states or countries provided for in 15-30-2302;~~

(b)(a) the credit for contractor’s gross receipts provided for in 15-50-207;

(c)(b) the credit for new or expanded manufacturing provided for in 15-31-124 through 15-31-127;

(d)(c) the credit for installing an alternative energy system provided for in 15-32-201 through 15-32-203;

(e)(d) the credit for energy-conserving expenditures provided for in 15-30-2319 and 15-32-109; and

(f)(e) the credit for elderly homeowners and renters provided for in 15-30-2337 through 15-30-2341.

(2) The following tax credits must be reviewed during the biennium commencing July 1, 2021, *and during each biennium commencing 10 years thereafter*:

- (a) the credit for commercial or net metering system investment provided for in Title 15, chapter 32, part 4;
- (b) the credit for qualified elderly care expenses provided for in 15-30-2366;
- (c) the credit for dependent care assistance and referral services provided for in 15-30-2373 and 15-31-131;
- (d) the credit for contributions to a university or college foundation or endowment provided for in 15-30-2326, 15-31-135, and 15-31-136;
- (e) the credit for donations to an educational improvement account provided for in 15-30-2334, 15-30-3110, and 15-31-158; and
- (f) the credit for donations to a student scholarship organization provided for in 15-30-2335, 15-30-3111, and 15-31-159.

(3) The following tax credits must be reviewed during the biennium commencing July 1, 2023, *and during each biennium commencing 10 years thereafter*:

- (a) the credit for providing disability insurance for employees provided for in 15-30-2367 and 15-31-132;
- (b) the credit for installation of a geothermal system provided for in 15-32-115;
- (c) the credit for property to recycle or manufacture using recycled material provided for in Title 15, chapter 32, part 6;
- (d) the credit for converting a motor vehicle to alternative fuel provided for in 15-30-2320 and 15-31-137;
- (e) the credit for infrastructure use fees provided for in 17-6-316; and
- (f) the credit for contributions to a qualified endowment provided for in 15-30-2327 through 15-30-2329, 15-31-161, and 15-31-162.

(4) The following tax credits must be reviewed during the biennium commencing July 1, 2025, *and during each biennium commencing 10 years thereafter*:

- (a) the credit for preservation of historic buildings provided for in 15-30-2342 and 15-31-151;
- (b) the credit for mineral or coal exploration provided for in Title 15, chapter 32, part 5;
- (c) the credit for capital gains provided for in 15-30-2301;
- (d) the credit for a new employee in an empowerment zone provided for in 15-30-2356 and 15-31-134;
- (e) the credit for an oilseed crush facility provided for in 15-32-701; and
- (f) the credit for unlocking state lands provided for in 15-30-2380.

(5) The following tax credits must be reviewed during the biennium commencing July 1, 2027, *and during each biennium commencing 10 years thereafter*:

- (a) the biodiesel or biolubricant production facility credit provided for in 15-32-702;
- (b) the biodiesel blending and storage credit provided for in 15-32-703;
- (c) the adoption tax credit provided for in 15-30-2364;
- (d) the credit for providing temporary emergency lodging provided for in 15-30-2381 and 15-31-171;
- (e) the credit for hiring a registered apprentice or veteran apprentice provided for in 15-30-2357 and 15-31-173;
- (f) the earned income tax credit provided for in 15-30-2318; and
- (g) the media production and postproduction credits provided for in 15-31-1007 and 15-31-1009.

(6) The revenue interim committee shall review the tax credits scheduled for review ~~in the biennium of the next regular legislative session, including any individual or corporate income tax credits with an expiration or termination date that are not listed in this section;~~ and make recommendations to the legislature about whether to eliminate or revise the credits. ~~The legislature may extend the review dates by amending this section. The committee shall also review any tax credit with an expiration date or termination date that is not listed in this section in the biennium before the credit is scheduled to expire or terminate.~~

(7) The revenue interim committee shall review the credits using the following criteria:

- (a) whether the credit changes taxpayer decisions, including whether the credit rewards decisions that may have been made regardless of the existence of the tax credit;
- (b) to what extent the credit benefits some taxpayers at the expense of other taxpayers;
- (c) whether the credit has out-of-state beneficiaries;
- (d) the timing of costs and benefits of the credit and how long the credit is effective;
- (e) any adverse impacts of the credit or its elimination and whether the benefits of continuance or elimination outweigh adverse impacts; and
- (f) the extent to which benefits of the credit affect the larger economy.”

Approved February 23, 2021

CHAPTER NO. 36

[SB 26]

AN ACT CLARIFYING ELIGIBILITY FOR THE LIVESTOCK LOSS MITIGATION PROGRAM AND THE LIVESTOCK LOSS REDUCTION PROGRAM; CLARIFYING THAT LIVESTOCK PRODUCERS ON TRIBAL LANDS ARE ELIGIBLE FOR LIVESTOCK LOSS MITIGATION REIMBURSEMENT; AND AMENDING SECTIONS 2-15-3112 AND 2-15-3113, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-3112, MCA, is amended to read:

“2-15-3112. Livestock loss mitigation program – definitions. The livestock loss board shall establish and administer a program to reimburse livestock producers for livestock losses caused by wolves, mountain lions, and grizzly bears, subject to the following provisions:

(1) The board shall establish eligibility requirements for reimbursement, which must provide that all Montana livestock producers are eligible for coverage for losses by wolves, mountain lions, and grizzly bears to cattle, swine, horses, mules, sheep, goats, llamas, and livestock guard animals on state, federal, *tribal*, and private land and ~~on tribal land that is eligible through agreement pursuant to 2-15-3113(2).~~

(2) (a) Confirmed and probable livestock losses must be reimbursed at an amount not to exceed fair market value as determined by the board.

(b) Before the board may issue a reimbursement for losses to a livestock producer eligible for coverage for losses, the department of revenue shall certify that the livestock producer has paid per capita fees as required by 15-24-921. Except for a tribal member or tribal entity participating in an authorized agreement pursuant to 2-15-3113, a livestock producer may not

receive a reimbursement for losses until the producer has paid any delinquent per capita fees.

(3) Other losses may be reimbursed at rates determined by the board.

(4) A claim process must be established to be used when a livestock producer suffers a livestock loss for which wolves, mountain lions, or grizzly bears may be responsible. The claim process must set out a clear and concise method for documenting and processing claims for reimbursement for livestock losses.

(5) A process must be established to allow livestock producers to appeal reimbursement decisions. A producer may appeal a staff adjuster's decision by notifying the staff adjuster and the board in writing, stating the reasons for the appeal and providing documentation supporting the appeal. If the documentation is incomplete, the board or a producer may consult with the U.S. department of agriculture wildlife services to complete the documentation. The board may not accept any appeal on the question of whether the loss was or was not a confirmed or probable loss because that final determination lies solely with the U.S. department of agriculture wildlife services and may not be changed by the board. The board shall hold a hearing on the appeal within 90 days of receipt of the written appeal, allowing the staff adjuster and the producer to present their positions. A decision must be rendered by the board within 30 days after the hearing. The producer must be notified in writing of the board's decision.

(6) As used in this section, the following definitions apply:

(a) "Confirmed" means reasonable physical evidence that livestock was actually attacked or killed by a wolf, mountain lion, or grizzly bear, including but not limited to the presence of bite marks indicative of the spacing of tooth punctures of wolves, mountain lions, or grizzly bears and associated subcutaneous hemorrhaging and tissue damage indicating that the attack occurred while the animal was alive, feeding patterns on the carcass, fresh tracks, scat, hair rubbed off on fences or brush, eyewitness accounts, or other physical evidence that allows a reasonable inference of wolf, mountain lion, or grizzly bear predation on an animal that has been largely consumed.

(b) "Fair market value" means:

(i) for commercial sheep more than 1 year old, the average price of sheep of similar age and sex paid at the most recent Billings livestock sale ring or other ring as determined by the board;

(ii) for commercial lambs, the average market weaning value;

(iii) for registered sheep, the average price paid to the specific breeder for sheep of similar age and sex during the past year at public or private sales for that registered breed;

(iv) for commercial cattle more than 1 year old, the average price of cattle of similar age and sex paid at the most recent Billings livestock sale ring or other ring as determined by the board;

(v) for commercial calves, the average market weaning value;

(vi) for registered cattle, the average price paid to the owner for cattle of similar age and sex during the past year at public or private sales for that registered breed;

(vii) for other registered livestock, the average price paid to the producer at public or private sales for animals of similar age and sex. A producer may provide documentation that a registered animal has a fair market value in excess of the average price, in which case the board shall seek additional verification of the value of the animal from independent sources. If the board determines that the value of that animal is greater than the average price,

then the increased value must be accepted as the fair market value for that animal.

(viii) for other livestock, the average price paid at the most recent public auction for the type of animal lost or the replacement price as determined by the board.

(c) "Probable" means the presence of some evidence to suggest possible predation but a lack of sufficient evidence to clearly confirm predation by a particular species. A kill may be classified as probable depending on factors including but not limited to recent confirmed predation by the suspected depredating species in the same or a nearby area, recent observation of the livestock by the owner or the owner's employees, and telemetry monitoring data, sightings, howling, or fresh tracks suggesting that the suspected depredating species may have been in the area when the depredation occurred."

Section 2. Section 2-15-3113, MCA, is amended to read:

"2-15-3113. Additional powers and duties of livestock loss board.

(1) The livestock loss board shall:

(a) process claims;

(b) seek information necessary to ensure that claim documentation is complete;

(c) provide payments authorized by the board for confirmed and probable livestock losses, along with a written explanation of payment;

(d) submit monthly and annual reports to the board of livestock summarizing claims and expenditures and the results of action taken on claims and maintain files of all claims received, including supporting documentation;

(e) provide information to the board of livestock regarding appealed claims and implement any decision by the board;

(f) prepare the annual budget for the board; and

(g) provide proper documentation of staff time and expenditures.

(2) The livestock loss board may enter into an agreement with any Montana tribe, if the tribe has adopted a wolf, mountain lion, or grizzly bear management plan for reservation lands that is consistent with the state wolf, mountain lion, or grizzly bear management plan, to provide that tribal lands within reservation boundaries are eligible for *mitigation livestock loss reduction program* grants pursuant to 2-15-3111 and that livestock losses on tribal lands within reservation boundaries are eligible for reimbursement payments pursuant to 2-15-3112.

(3) The livestock loss board shall:

(a) coordinate and share information with state, federal, and tribal officials, livestock producers, nongovernmental organizations, and the general public in an effort to reduce livestock losses caused by wolves, mountain lions, and grizzly bears;

(b) establish an annual budget for the prevention, mitigation, and reimbursement of livestock losses caused by wolves, mountain lions, and grizzly bears;

(c) perform or contract for the performance of periodic program audits and reviews of program expenditures, including payments to individuals, incorporated entities, and producers who receive loss reduction grants and reimbursement payments;

(d) adjudicate appeals of claims;

(e) investigate alternative or enhanced funding sources, including possible agreements with public entities and private wildlife or livestock organizations that have active livestock loss reimbursement programs in place;

(f) meet as necessary to conduct business; and

(g) report annually to the governor, the legislature, members of the Montana congressional delegation, the board of livestock, the fish and wildlife commission, and the public regarding results of the programs established in 2-15-3111 through 2-15-3113.

(4) The livestock loss board may sell or auction any carcasses or parts of carcasses from wolves or mountain lions received pursuant to 87-1-217. The proceeds, minus the costs of the sale including the preparation of the carcass or part of the carcass for sale, must be deposited into the livestock loss reduction and mitigation special revenue account established in 81-1-110 and used for the purposes of 2-15-3111 through 2-15-3114.”

Section 3. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Approved February 23, 2021

CHAPTER NO. 37

[SB 3]

AN ACT ALLOWING FOR ADDITIONAL MOTOR CARRIER ENFORCEMENT ON HIGHWAYS WITHIN RESERVATION BOUNDARIES ON A RESERVATION WHOSE TRIBAL GOVERNMENT HAS ENTERED INTO AN AGREEMENT WITH THE DEPARTMENT OF TRANSPORTATION; AND AMENDING SECTION 61-10-154, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-10-154, MCA, is amended to read:

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

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

- (a) any for-hire motor carrier or any private motor carrier;
 - (b) any motor vehicle or vehicle combination used in interstate commerce that has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight, whichever is greater, of 10,001 pounds or more;
 - (c) any motor vehicle or vehicle combination used in intrastate commerce that has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight, whichever is greater, of 26,001 pounds or more and that is not a farm vehicle operating solely in Montana;
 - (d) any motor vehicle that is designed or used to transport at least 16 passengers, including the driver, and that is not used to transport passengers for compensation;
 - (e) any motor vehicle that is designed or used to transport at least nine passengers, including the driver, for compensation; or
 - (f) any motor vehicle that is used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with federal hazardous materials regulations in 49 CFR, part 172.
- (3) Standards of safety adopted under this section must substantially comply, within allowed tolerance guidelines, to the federal motor carrier safety

regulations and the federal hazardous material regulations as applied to motor carriers and vehicles transporting passengers or property in commerce.

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

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

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

(b) issue summonses;

(c) accept bail;

(d) serve warrants for arrest;

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

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

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

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

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

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

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

(d) *may, on any highway under the jurisdiction of the department of transportation within the exterior boundaries of a reservation whose tribal government has entered into an agreement with the department of transportation pursuant to Title 18, chapter 11, part 1, exercise the authority under this part to issue a citation pursuant to 61-9-520 for violation of 61-9-406(6).*

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

(8) The department of transportation shall report to the transportation interim committee biennially, in accordance with 5-11-210, on its enforcement of the provisions of Title 15, chapter 70, part 4, pursuant to the authority provided in subsection (6)(c) and on any impacts that enforcement has had on the state special revenue fund.”

Approved February 23, 2021

CHAPTER NO. 38

[SB 27]

AN ACT CLARIFYING REIMBURSEMENT METHODS FOR LIVESTOCK LOSSES; PROVIDING MULTIPLIERS FOR REIMBURSEMENT OF LIVESTOCK LOSSES; AND AMENDING SECTION 2-15-3112, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-3112, MCA, is amended to read:

“2-15-3112. Livestock loss mitigation program – definitions. The livestock loss board shall establish and administer a program to reimburse livestock producers for livestock losses caused by wolves, mountain lions, and grizzly bears, subject to the following provisions:

(1) The board shall establish eligibility requirements for reimbursement, which must provide that all Montana livestock producers are eligible for coverage for losses by wolves, mountain lions, and grizzly bears to cattle, swine, horses, mules, sheep, goats, llamas, and livestock guard animals on state, federal, and private land and on tribal land that is eligible through agreement pursuant to 2-15-3113(2).

(2) ~~(a) Confirmed and probable livestock losses must be reimbursed at an amount not to exceed fair market value as determined by the board~~ *Except as provided in subsection (2)(b), the board may reimburse confirmed and probable livestock losses at an amount not to exceed the fair market value of the livestock.*

(b) The board may reimburse confirmed and probable livestock losses by paying a multiplier of the fair market value of the livestock based on a board-determined region.

~~(b)(c)~~ Before the board may issue a reimbursement for losses to a livestock producer eligible for coverage for losses, the department of revenue shall certify that the livestock producer has paid per capita fees as required by 15-24-921. Except for a tribal member or tribal entity participating in an authorized agreement pursuant to 2-15-3113, a livestock producer may not receive a reimbursement for losses until the producer has paid any delinquent per capita fees.

(3) Other losses may be reimbursed at rates determined by the board.

(4) A claim process must be established to be used when a livestock producer suffers a livestock loss for which wolves, mountain lions, or grizzly bears may be responsible. The claim process must set out a clear and concise method for documenting and processing claims for reimbursement for livestock losses.

(5) A process must be established to allow livestock producers to appeal reimbursement decisions. A producer may appeal a staff adjuster's decision by notifying the staff adjuster and the board in writing, stating the reasons for the appeal and providing documentation supporting the appeal. If the documentation is incomplete, the board or a producer may consult with the U.S. department of agriculture wildlife services to complete the documentation. The board may not accept any appeal on the question of whether the loss was or was not a confirmed or probable loss because that final determination lies solely with the U.S. department of agriculture wildlife services and may not be changed by the board. The board shall hold a hearing on the appeal within 90 days of receipt of the written appeal, allowing the staff adjuster and the producer to present their positions. A decision must be rendered by the board within 30 days after the hearing. The producer must be notified in writing of the board's decision.

(6) As used in this section, the following definitions apply:

(a) “Confirmed” means reasonable physical evidence that livestock was actually attacked or killed by a wolf, mountain lion, or grizzly bear, including but not limited to the presence of bite marks indicative of the spacing of tooth punctures of wolves, mountain lions, or grizzly bears and associated subcutaneous hemorrhaging and tissue damage indicating that the attack occurred while the animal was alive, feeding patterns on the carcass, fresh tracks, scat, hair rubbed off on fences or brush, eyewitness accounts, or other physical evidence that allows a reasonable inference of wolf, mountain lion, or grizzly bear predation on an animal that has been largely consumed.

(b) “Fair market value” means:

(i) for commercial sheep more than 1 year old, the average price of sheep of similar age and sex paid at the most recent Billings livestock sale ring or other ring as determined by the board;

(ii) for commercial lambs, the average market weaning value;

(iii) for registered sheep, the average price paid to the specific breeder for sheep of similar age and sex during the past year at public or private sales for that registered breed;

(iv) for commercial cattle more than 1 year old, the average price of cattle of similar age and sex paid at the most recent Billings livestock sale ring or other ring as determined by the board;

(v) for commercial calves, the average market weaning value;

(vi) for registered cattle, the average price paid to the owner for cattle of similar age and sex during the past year at public or private sales for that registered breed;

(vii) for other registered livestock, the average price paid to the producer at public or private sales for animals of similar age and sex. A producer may provide documentation that a registered animal has a fair market value in excess of the average price, in which case the board shall seek additional verification of the value of the animal from independent sources. If the board determines that the value of that animal is greater than the average price, then the increased value must be accepted as the fair market value for that animal.

(viii) for other livestock, the average price paid at the most recent public auction for the type of animal lost or the replacement price as determined by the board.

(c) “Probable” means the presence of some evidence to suggest possible predation but a lack of sufficient evidence to clearly confirm predation by a particular species. A kill may be classified as probable depending on factors including but not limited to recent confirmed predation by the suspected depredating species in the same or a nearby area, recent observation of the livestock by the owner or the owner’s employees, and telemetry monitoring data, sightings, howling, or fresh tracks suggesting that the suspected depredating species may have been in the area when the depredation occurred.”

Section 2. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Approved February 23, 2021

CHAPTER NO. 39

[SB 14]

AN ACT PROVIDING FOR TRIBAL GOVERNMENT PARTICIPATION IN THE 9-1-1 GRANT PROGRAM; AMENDING SECTION 10-4-306, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 10-4-306, MCA, is amended to read:

“10-4-306. 9-1-1 grants. (1) The department shall, in consultation with the 9-1-1 advisory council created pursuant to 10-4-105, award competitive grants annually using the account established pursuant to 10-4-304(2)(b) for private telecommunications providers and for local *and tribal* government entities that host public safety answering points. Beginning July 1, 2018, grants must be awarded to private telecommunications providers; *or to local or tribal* government entities that host public safety answering points; *or both to all* in accordance with this section and with rules adopted by the department in accordance with 10-4-108.

(2) In accordance with subsection (3), grants may be awarded to private telecommunications providers and to local *or tribal* government entities that host public safety answering points for:

- (a) emergency telecommunications systems plans;
- (b) project feasibility studies or project plans;
- (c) the implementation, operation, and maintenance of 9-1-1 systems, equipment, devices, and data; and
- (d) the purchase of services that support 9-1-1 systems.

(3) In awarding grants, preference must be given to applications in the following order of priority:

(a) requests by private telecommunications providers or by local *or tribal* government entities that host public safety answering points by working with a private telecommunications provider; and

(b) requests by local *or tribal* government entities that host public safety answering points.

(4) Nothing in this section prevents a local *or tribal* government entity that hosts a public safety answering point in accordance with this section from:

- (a) providing grant money received by the local *or tribal* government entity to a private telecommunications provider for 9-1-1 purposes; or
- (b) collaborating with another local *or tribal* government entity on a joint grant application.”

Section 2. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

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

Approved March 1, 2021

CHAPTER NO. 40

[SB 31]

AN ACT REQUIRING CONSIDERATION OF LESS RESTRICTIVE ALTERNATIVES IN ADULT GUARDIANSHIP PROCEEDINGS; AMENDING SECTIONS 72-5-305, 72-5-316, 72-5-319, AND 72-5-321, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 72-5-305, MCA, is amended to read:

“72-5-305. Definitions. In this part, unless the context requires otherwise, the following definitions apply:

(1) “Full guardian” means a guardian who possesses all the legal duties and powers enumerated in 72-5-321.

(2) “Guardian” includes a full guardian and a limited guardian.

(3) “*Less restrictive alternative*” means an approach to meeting a person’s needs that restricts fewer rights of the person than would the appointment of a guardian. The term includes supported decisionmaking, appropriate technological assistance, and appointment of a representative payee.

(3)(4) “Limited guardian” means a guardian who possesses fewer than all of the legal duties and powers of a full guardian and whose rights, powers, and duties have been specifically enumerated by the court.

(5) “*Supported decisionmaking*” means assistance from one or more persons of a person’s choosing in:

(a) understanding the nature and consequences of potential personal and financial decisions, which enables the person to make the decisions; and

(b) communicating a decision, once made, if consistent with the person’s wishes.”

Section 2. Section 72-5-316, MCA, is amended to read:

“72-5-316. Findings – order of appointment. (1) If the court is satisfied that the person for whom a guardianship is sought is incapacitated, *that the identified needs of the person cannot be met by a less restrictive alternative*, and that judicial intervention in the person’s personal freedom of action and decision is necessary to meet essential requirements for the person’s physical health or safety, it may appoint a full guardian having the powers described in 72-5-321 or a limited guardian having the powers described in the order. If the court is satisfied that the allegedly incapacitated person could handle the essential requirements for physical health or safety if the person’s financial resources were managed by another, it shall order that the petition be treated as a petition for a protective order under Title 72, chapter 5, part 4, and proceed accordingly. Alternatively, the court may dismiss the proceeding or enter any other appropriate order that is not inconsistent with the specific provisions of this part. In issuing its order, the court shall make specific findings of fact.

(2) The court may not invest a guardian with powers or duties beyond those sought in the petition and may, upon petition for a full guardianship, create a limited guardianship or conservatorship when the court determines that a limited guardianship or conservatorship is all that is required for the care and protection of the incapacitated person. The order must specify whether a full or limited guardianship is being created. In the case of a limited guardianship, the order must specify the particular powers and duties vested in the limited guardian and the period for which the limited guardianship is created.

(3) An incapacitated person may not be limited in the exercise of any civil or political rights except those that are clearly inconsistent with the exercise of the powers granted to the guardian unless the court’s order specifically provides for the limitations. The order must state that all rights not specifically limited are retained by the incapacitated person.”

Section 3. Section 72-5-319, MCA, is amended to read:

“72-5-319. Contents of petition for appointment of guardian.

(1) The petition for appointment of a guardian must contain:

(a) the name, residence, and mailing address of the petitioner, the petitioner's relationship to the alleged incapacitated person, and the petitioner's interest in the matter;

(b) the name, residence, and mailing address of the alleged incapacitated person;

(c) the nature and degree of the alleged incapacity;

(d) if the petition in any way affects the management of the property of the alleged incapacitated person, the approximate value and description of the property, including any compensation, pension, insurance, or allowance to which the person may be entitled;

(e) whether there is, in any state, a full guardian or limited guardian for the person or estate of the incapacitated person or a conservator of the person's property;

(f) the name, residence, and mailing address of the person whom the petitioner seeks to have appointed guardian;

(g) the names, residences, and nature of relationship, so far as is known or can reasonably be ascertained, of the persons most closely related by blood or marriage to the alleged incapacitated person;

(h) the name and residence of the person or institution having the care and custody of the alleged incapacitated person;

(i) the reasons why the appointment of a guardian is sought, *including:*

(i) *any less restrictive alternatives for meeting the alleged incapacitated person's needs that have been implemented or, if no less restrictive alternatives have been implemented, the reason why; and*

(ii) *the reason why a less restrictive alternative is insufficient to meet the alleged incapacitated person's needs;*

(j) and whether a limited guardianship or full guardianship is requested;

~~(j)~~(k) the facts supporting the allegations of incapacity and the need for a guardian;

~~(k)~~(l) the specific areas of protection and assistance requested and the limitation of rights requested to be included in the order of appointment;

~~(l)~~(m) in the case of a petition for limited guardianship, the particular powers and areas of authority that the petition seeks to have vested in the limited guardian as provided in 72-5-320 and the term for which the limited guardianship is requested;

~~(m)~~(n) in the case of a petition for full guardianship, the length of time the guardianship is expected to last.

(2) The petition may also include a request for temporary guardianship as provided in 72-5-317 if the petitioner believes that the requisites of that section are met and that the appointment of a temporary guardian, pending the completion of guardianship proceedings, is necessary to protect the welfare of the alleged incapacitated person. The facts requiring appointment of a temporary guardian must be stated with specificity."

Section 4. Section 72-5-321, MCA, is amended to read:

"72-5-321. Powers and duties of guardian of incapacitated person.

(1) The powers and duties of a limited guardian are those specified in the order appointing the guardian. The limited guardian is required to report the condition of the incapacitated person and of the estate that has been subject to the guardian's possession and control, as required by the court or by court rule.

(2) A full guardian of an incapacitated person has the same powers, rights, and duties respecting the ward that a parent has respecting an unemancipated minor child, except that a guardian is not liable to third persons for acts of the ward solely by reason of the parental relationship. In particular and without

qualifying the foregoing, a full guardian has the following powers and duties, except as limited by order of the court:

(a) To the extent that it is consistent with the terms of any order by a court of competent jurisdiction relating to detention or commitment of the ward, the full guardian is entitled to custody of the person of the ward and may establish the ward's place of residence within or outside of this state.

(b) If entitled to custody of the ward, the full guardian shall make provision for the care, comfort, and maintenance of the ward and whenever appropriate arrange for the ward's training and education. Without regard to custodial rights of the ward's person, the full guardian shall take reasonable care of the ward's clothing, furniture, vehicles, and other personal effects and commence protective proceedings if other property of the ward is in need of protection.

(c) A full guardian may give any consents or approvals that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment, or service. This subsection (2)(c) does not authorize a full guardian to consent to the withholding or withdrawal of life-sustaining treatment or to a do not resuscitate order if the full guardian does not have authority to consent pursuant to the Montana Rights of the Terminally Ill Act, Title 50, chapter 9, or to the do not resuscitate provisions of Title 50, chapter 10. A full guardian may petition the court for authority to consent to the withholding or withdrawal of life-sustaining treatment or to a do not resuscitate order. The court may not grant that authority if it conflicts with the ward's wishes to the extent that those wishes can be determined. To determine the ward's wishes, the court shall determine by a preponderance of evidence if the ward's substituted judgment, as applied to the ward's current circumstances, conflicts with the withholding or withdrawal of life-sustaining treatment or a do not resuscitate order.

(d) If a conservator for the estate of the ward has not been appointed, a full guardian may:

(i) institute proceedings to compel any person under a duty to support the ward or to pay sums for the welfare of the ward to perform that person's duty;

(ii) receive money and tangible property deliverable to the ward and apply the money and property for support, care, and education of the ward. However, the full guardian may not use funds from the ward's estate for room and board that the full guardian, or the full guardian's spouse, parent, or child has furnished the ward unless a charge for the service is approved by order of the court made upon notice to at least one of the next of kin of the incompetent ward, if notice is possible. The full guardian must exercise care to conserve any excess for the ward's needs.

(e) Unless waived by the court, a full guardian is required to report the condition of the ward and of the estate ~~which~~ *that* has been subject to the full guardian's possession or control annually for the preceding year. A copy of the report must be served upon the ward's parent, child, or sibling if that person has made an effective request under 72-5-318.

(f) If a conservator has been appointed, all of the ward's estate received by the full guardian in excess of those funds expended to meet current expenses for support, care, and education of the ward must be paid to the conservator for management as provided in this chapter, and the full guardian must account to the conservator for funds expended.

(3) Upon failure, as determined by the clerk of court, of the guardian to file an annual report, the court shall order the guardian to file the report and give good cause for the guardian's failure to file a timely report.

(4) Any full guardian of one for whom a conservator also has been appointed shall control the custody and care of the ward. A limited guardian

of a person for whom a conservator has been appointed shall control those aspects of the custody and care of the ward over which the limited guardian is given authority by the order establishing the limited guardianship. The full guardian or limited guardian is entitled to receive reasonable sums for the guardian's services and for room and board furnished to the ward as agreed upon between the guardian and the conservator, provided the amounts agreed upon are reasonable under the circumstances. The full guardian or limited guardian authorized to oversee the incapacitated person's care may request the conservator to expend the ward's estate by payment to third persons or institutions for the ward's care and maintenance.

(5) Except as provided in subsection (6), a full guardian or limited guardian may not involuntarily commit for mental health treatment or for treatment of a developmental disability or for observation or evaluation a ward who is unwilling or unable to give informed consent to commitment, except as provided in 72-5-322, unless the procedures for involuntary commitment set forth in Title 53, chapters 20 and 21, are followed. This chapter does not abrogate any of the rights of mentally disabled persons provided for in Title 53, chapters 20 and 21.

(6) (a) If the court has found that a ward has a primary diagnosis of a major neurocognitive disorder, as defined in the fifth edition of the diagnostic and statistical manual of mental disorders adopted by the American psychiatric association, and because of this disorder the ward is unwilling or unable to give informed consent to treatment, a full guardian or limited guardian may seek admission of the ward for stabilization and treatment to a hospital, skilled nursing facility, or another appropriate treatment facility other than the Montana state hospital.

(b) If the ward is admitted to the Montana mental health nursing care center, the court shall review every 90 days whether the Montana mental health nursing care center is the appropriate placement for the ward or whether a less restrictive ~~alternative~~ placement exists.

(7) Upon the death of a full guardian's or limited guardian's ward, the full guardian or limited guardian, upon an order of the court and if there is no personal representative authorized to do so, may make necessary arrangements for the removal, transportation, and final disposition of the ward's physical remains, including burial, entombment, or cremation, and for the receipt and disposition of the ward's clothing, furniture, and other personal effects that may be in the possession of the person in charge of the ward's care, comfort, and maintenance at the time of the ward's death."

Section 5. Applicability. [This act] applies to guardianship proceedings commenced on or after [the effective date of this act].

Approved March 1, 2021

CHAPTER NO. 41

[SB 67]

AN ACT CLARIFYING THAT ONLY LOCAL HEALTH OFFICERS MAY REQUEST ASSISTANCE OF LAW ENFORCEMENT AND REMOVING THE POTENTIAL PENALTY IF LAW ENFORCEMENT FAILS TO ASSIST; AND AMENDING SECTION 50-2-120, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 50-2-120, MCA, is amended to read:

~~“50-2-120. Assistance from law enforcement officials. A state or local health officer may request a sheriff, constable, or other peace officer to assist the health officer in carrying out the provisions of this chapter. If the officer does not render the service, the officer is guilty of a misdemeanor and may be removed from office.”~~

Approved March 1, 2021

CHAPTER NO. 42

[SB 79]

AN ACT PROVIDING FOR ISSUANCE OF A SALVAGE CERTIFICATE OR CERTIFICATE OF TITLE TO AN AUTO AUCTION AFTER NOTICE; AND AMENDING SECTION 61-3-211, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-3-211, MCA, is amended to read:

“61-3-211. Surrender of certificate of title – issuance of salvage certificate – salvage retitling requirements – insurer or owner unable to supply title to auto auction dealer. (1) When an insurer acquires ownership of a motor vehicle that is less than 15 years ~~of age old~~ and that has been determined to be a salvage vehicle, the insurer shall apply for a salvage certificate on a form prescribed by the department. The application must be accompanied by a certificate of title assigned to the insurer unless the application indicates that the insurer was unable to obtain the certificate of title after making at least two attempts to do so following oral or written acceptance by the owner of the salvage vehicle of the settlement offer for the salvage vehicle. If the certificate of title or electronic record of title maintained by the department names one or more holders of a perfected security interest in the motor vehicle, the insurer shall secure and deliver to the department or an authorized agent a release from each secured party of the secured interest.

(2) The department shall issue a salvage certificate to the insurer within 5 working days of the date of receipt of the application. Upon receipt of a salvage certificate issued by the department, an insurer may possess, retain, transport, sell, transfer, or otherwise dispose of the salvage vehicle. The salvage certificate is prima facie evidence of ownership of a salvage vehicle.

(3) If the insurer elects to sell a salvage vehicle before a salvage certificate is obtained under subsections (1) and (2), the insurer shall complete a salvage receipt on a form prescribed by the department. The insurer shall deliver the original salvage receipt to the salvage vehicle purchaser only after a release has been obtained from each secured party of any security interest in the salvage vehicle. The insurer shall then deliver to the department or an authorized agent a copy of the salvage receipt, any security releases, and a certificate of title assigned to the insurer unless the insurer was unable to obtain the certificate of title after making at least two attempts to do so following oral or written acceptance by the owner of the salvage vehicle of the settlement offer for the salvage vehicle. Upon submission of the original salvage receipt by the salvage vehicle purchaser, the department shall issue a salvage certificate to the salvage vehicle purchaser that is prima facie evidence of ownership. A salvage certificate must be obtained before the salvage vehicle purchaser disposes of the salvage vehicle.

(4) If an insurer determines that a salvage vehicle will remain with the owner after an agreed settlement, the insurer shall notify the department or an authorized agent of the settlement on a form prescribed by the department.

Upon receipt of the notice, the department may require the owner to surrender the certificate of title in compliance with this part, regardless of whether ownership of the salvage vehicle was obtained in a jurisdiction not requiring the surrender of the certificate of title or a comparable ownership document.

(5) At the time of surrender of a certificate of title for a salvage vehicle not acquired by an insurer, the department shall issue a salvage certificate to the owner. Upon receipt of a salvage certificate issued by the department to a noninsurer, the owner may possess, retain, transport, sell, transfer, or otherwise dispose of the salvage vehicle. A salvage certificate is prima facie evidence of ownership of a salvage vehicle.

(6) A fee of \$5 must be paid to the department for the issuance of a salvage certificate.

(7) A salvage vehicle owned by or in the inventory of a motor vehicle wrecking facility on October 1, 1991, is exempt from the provisions of this section if the owner of the facility has complied with the provisions of 61-3-225.

(8) (a) *When an auto auction dealer is in possession of a salvage vehicle that was subject to an insurance claim and the insurer did not obtain a salvage certificate or certificate of title as a result of the insurance claim, the insurer shall provide a claim release statement to the auto auction dealer.*

(b) *Upon receiving a claim release statement from an insurer, the auto auction dealer shall send notice to the owner and any lienholder of the vehicle. The notice shall inform the owner and any lienholder of outstanding charges owed to the auto auction and the requirement to pay applicable charges and pick up the vehicle within 30 days after the date of the notice. Notice under this subsection (8) must be sent by certified mail to the owner and lienholder address on record with the department.*

(c) *The owner, lienholder, or insurance provider of the vehicle may not reclaim the vehicle until the owner, the lienholder, or the owner's or lienholder's insurance provider has paid the costs incurred by the auto auction dealer in removing and storing the vehicle.*

(d) *If the removal and storage costs are not paid within 30 days after the notice in subsection (8)(b) was postmarked, the auto auction dealer may, on a form prescribed by the department, request that a salvage certificate or certificate of title be issued. The request must certify that the notice required in subsection (8)(b) was sent and that the owner or lienholder has not made payment as required in subsection (8)(b).*

(e) *Upon receipt of a valid request as provided in subsection (8)(d), the department shall cancel the vehicle's certificate to title, remove any perfected security interest, and issue to the auto auction dealer a salvage certificate for vehicles less than 15 years old or a certificate of title for vehicles 15 years old or older. After the department has issued a salvage certificate or certificate of title under this section, the former owner or lienholder or insurance provider has no further right, title, claim, or interest in or to the vehicle."*

Approved March 1, 2021

CHAPTER NO. 43

[SB 90]

AN ACT REVISING LICENSURE FOR PSYCHOLOGISTS; ALLOWING LICENSURE OF INDIVIDUALS WITH EXPERIENCE AND NO DISCIPLINE IN OTHER JURISDICTIONS; ALLOWING TEMPORARY LICENSURE OF POSTDOCTORAL SUPERVISEES; REPEALING SECTIONS 37-17-304 AND 37-17-310, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Licensure by experience. The board shall license a person as a psychologist if the person pays the prescribed fees and submits evidence that the person:

- (1) is 18 years of age or older;
- (2) is of good moral character;
- (3) has a doctoral degree described in 37-17-302;
- (4) is licensed or certified as a psychologist in another jurisdiction that has a disciplinary process as part of its regulatory structure;
- (5) has actively practiced psychology under a license or certification as described in subsection (4) for 5 of the 7 years immediately preceding application in the state;
- (6) is not subject to pending criminal or administrative charges related to unprofessional conduct or impairment; and
- (7) has not been administratively disciplined for unprofessional conduct or impairment in any jurisdiction within the 7 years immediately preceding application in the state.

Section 2. Licensure of postdoctoral supervisees. (1) (a) Except as provided in subsection (1)(b), if a person submits evidence that the person is engaged in a postdoctoral supervision program as part of a plan approved by the board and meets the qualifications of 37-17-302, the board shall license the person as a psychologist.

(b) A person licensed under this subsection (1) is not required to pass the prescribed exam and have 1 year of postdoctoral supervised experience as provided in 37-17-302(4).

(2) The person may only practice as described in the approved postdoctoral supervision plan.

(3) The license provided for in this section expires at the conclusion of the approved postdoctoral supervision program, unless the person meets all of the qualifications in 37-17-302.

Section 3. Repealer. The following sections of the Montana Code Annotated are repealed:

37-17-304. Admission of licensees from other states or jurisdictions.

37-17-310. Licensure of senior psychologists.

Section 4. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 37, chapter 17, part 3, and the provisions of Title 37, chapter 17, part 3, apply to [sections 1 and 2].

Section 5. Effective date. [This act] is effective July 1, 2021.

Approved March 1, 2021

CHAPTER NO. 44

[SB 96]

AN ACT ESTABLISHING THE HELEN CLARKE MEMORIAL HIGHWAY IN GLACIER COUNTY; DIRECTING THE DEPARTMENT OF TRANSPORTATION TO INSTALL SIGNS AT THE LOCATION AND TO INCLUDE THE MEMORIAL HIGHWAY ON THE NEXT PUBLICATION OF THE STATE HIGHWAY MAP; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, Helen Piotopowaka Clarke was born in 1846 to a Scottish American father and a Blackfeet mother, Cothcocoma; and

WHEREAS, she spent most of her childhood at a convent school in Cincinnati and returned to Montana just a few years before a group of Blackfeet men murdered her father in 1869; and

WHEREAS, on January 23, 1870, Clarke's brothers participated in the Bear River Massacre (Baker Massacre), during which the U.S. Army slaughtered 217 women, children, and the elderly suffering from smallpox of the peaceful camp of Chief Heavy Runner; and

WHEREAS, following the massacre, Helen Clarke moved to the east coast and had a brief but successful acting career in New York; and

WHEREAS, in 1875, she returned to Montana and found a teaching position in Helena, but experienced discrimination and racism because of her mixed race ancestry; and

WHEREAS, in 1882, Clarke was elected as Lewis and Clark County Superintendent of Schools, one of the first two women and the only person of Indian descent to hold elective office in Montana Territory. She held the position for three terms; and

WHEREAS, in 1889, Clarke left Montana to work for the Department of Interior, Indian Bureau, as an allotment agent. Again, she was met with discrimination—this time for her sex. Officials within the department felt a woman had no business or legal right to work as an Indian agent; and

WHEREAS, in 1901, Clarke moved to San Francisco, where she established herself as a tutor of “artes, elocution and dramatic art.” However, anti-Indian prejudices followed her to California; and

WHEREAS, in 1911, Clarke wrote about the pervasiveness of anti-Indian racism: “This very nation looks with eyes askance upon the cultured, the intelligent, intellectual half-breeds of mixed-bloods who reside either off or on reservations. Such inconsistencies in character or principles belong not to a great people”; and

WHEREAS, by the end of her remarkable life, Clarke had proved through experience a bitter truth: no matter how accomplished a woman was, no matter how assimilated a person of indigenous ancestry, America was unwilling to let go of its prejudices against both women and Indians; and

WHEREAS, Helen Piotopowaka Clarke died on March 4, 1923, in the village of East Glacier, Montana, and was laid to rest in the East Glacier Cemetery; and

WHEREAS, the 67th Legislature of the State of Montana honors Helen Clarke for her work in improving the quality of life and equality of opportunity in her time.

Be it enacted by the Legislature of the State of Montana:

Section 1. Helen Clarke memorial highway. (1) There is established the Helen Clarke memorial highway on the existing U.S. highway 2 from the limits of East Glacier to the limits of Browning.

(2) The department shall design and install appropriate signs marking the location of the Helen Clarke memorial highway.

(3) Maps that identify roadways in Montana must be updated to include the location of the Helen Clarke memorial highway when the department updates and publishes the state maps.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 60, chapter 1, part 2, and the provisions of Title 60, chapter 1, part 2, apply to [section 1].

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

Approved March 1, 2021

CHAPTER NO. 45

[SB 97]

AN ACT ELIMINATING THE TERMINATION DATE FOR ACTIVE SUPERVISION OF LICENSING BOARD ACTIONS THAT ARE ANTICOMPETITIVE; REPEALING SECTION 8, CHAPTER 322, LAWS OF 2017; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Repealer. Section 8, Chapter 322, Laws of 2017, is repealed.

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 1, 2021

CHAPTER NO. 46

[SB 112]

AN ACT REVISING CONSTRUCTION DISPUTE LAWS; PRECLUDING SIMULTANEOUS CONSUMER PROTECTION ACTIONS AND RESIDENTIAL CONSTRUCTION DISPUTES; AND AMENDING SECTIONS 30-14-133 AND 70-19-427, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 30-14-133, MCA, is amended to read:

“30-14-133. Damages – limitation on residential construction disputes – notice to public agencies – attorney fees – prior judgment as evidence. (1) *⚠ (a) Except as provided in subsection (1)(b), a consumer who suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment by another person of a method, act, or practice declared unlawful by 30-14-103 may bring an individual action but not a class action under the rules of civil procedure in the district court of the county in which the seller, lessor, or service provider resides or has its principal place of business or is doing business to recover actual damages or \$500, whichever is greater. An individual claim may be brought in justice’s court. The court may, in its discretion, award up to three times the actual damages sustained and may provide any other equitable relief that it considers necessary or proper.*

(b) A consumer may not bring or maintain an action under this section if the consumer is bringing an action subject to 70-19-427 or 70-19-428 against a construction professional.

(2) Upon commencement of any action brought under subsection (1), the clerk of court shall mail a copy of the complaint or initial pleading to the department and the appropriate county attorney and, upon entry of any judgment or decree in the action, shall mail a copy of the judgment or decree to the department and the appropriate county attorney.

(3) In any action brought under this section, the court may award the prevailing party reasonable attorney fees incurred in prosecuting or defending the action. A person who brings an action on the person’s own behalf without an attorney may receive attorney fees at the judge’s discretion.

(4) Any permanent injunction, judgment, or order of the court made under 30-14-111 is prima facie evidence in an action brought under this section that the respondent used or employed a method, act, or practice declared unlawful by 30-14-103.”

Section 2. Section 70-19-427, MCA, is amended to read:

“70-19-427. Residential construction disputes – limitation on consumer protection actions – notice and opportunity to repair – tolling of statute of limitations – presumption of compliance with construction standards. (1) Prior to commencing an action against a construction professional for a construction defect, the claimant shall serve written notice of claim on the construction professional. The notice of claim must state that the claimant asserts a construction defect claim against the construction professional and must describe the claim in reasonable detail sufficient to determine the general nature of the defect. If a written notice of claim is served under this section within the time prescribed for the filing of an action under 27-2-208, the statute of limitations for construction defect claims is tolled. *Assertion of a claim under this section precludes a claimant from bringing or maintaining an action under 30-14-133.*

(2) Within 21 days after service of the notice of claim, the construction professional shall serve a written response on the claimant. The written response must:

(a) propose to inspect the residence that is the subject of the claim and to complete the inspection within a specified timeframe. The proposal must include the statement that the construction professional shall, based on the inspection, offer to remedy the defect, compromise by payment, or dispute the claim;

(b) offer to compromise and settle the claim by monetary payment without inspection; or

(c) state that the construction professional disputes the claim and will neither remedy the construction defect nor compromise and settle the claim.

(3) (a) If the construction professional disputes the claim or does not respond to the claimant's notice of claim within the time stated in subsection (2), the claimant may bring an action against the construction professional for the claim described in the notice of claim without further notice.

(b) If the claimant rejects the inspection proposal or the settlement offer made by the construction professional pursuant to subsection (2), the claimant shall serve written notice of the claimant's rejection on the construction professional. After service of the notice of rejection, the claimant may bring an action against the construction professional for the construction defect claim described in the notice of claim. If the construction professional has not received from the claimant, within 30 days after the claimant's receipt of the construction professional's response, either an acceptance or rejection of the inspection proposal or settlement offer, then at any time after that date the construction professional may terminate the proposal or offer by serving written notice on the claimant. The claimant may, after service, bring an action against the construction professional for the construction defect claim described in the notice of claim.

(4) (a) If the claimant elects to allow the construction professional to inspect in accordance with the construction professional's proposal pursuant to subsection (2)(a), the claimant shall provide the construction professional and its contractors or other agents reasonable access to the claimant's residence, as agreed by the parties, to inspect the premises and the claimed defect.

(b) Within 14 days following completion of the inspection, the construction professional shall serve on the claimant:

(i) a written offer to remedy the construction defect at no cost to the claimant, including a report of the scope of the inspection, the findings and results of the inspection, a description of the additional construction necessary

to remedy the defect described in the claim, and a timetable for the completion of the construction;

(ii) a written offer to compromise and settle the claim by monetary payment pursuant to subsection (2)(b);

(iii) a written offer to remedy the claim through a combination of repair and monetary payment pursuant to subsection (2)(b); or

(iv) a written statement setting forth the reasons why the construction professional will not proceed further to remedy the alleged defect.

(c) If the construction professional does not proceed further to remedy the alleged construction defect within the agreed-upon time or if the construction professional fails to comply with the provisions of subsection (4)(b), the claimant may bring an action against the construction professional for the claim described in the notice of claim without further notice.

(d) If the claimant rejects the offer made by the construction professional pursuant to subsection (4)(b)(i) or (4)(b)(ii) to either remedy the construction defect or to compromise and settle the claim by monetary payment, the claimant shall serve written notice of the claimant's rejection on the construction professional. After service of the rejection notice, the claimant may bring an action against the construction professional for the construction defect claim described in the notice of claim. If the construction professional has not received from the claimant, within 30 days after the claimant's receipt of the construction professional's response, either an acceptance or rejection of the offer made pursuant to subsection (4)(b)(i) or (4)(b)(ii), then at any time after that date the construction professional may terminate the offer by serving written notice on the claimant.

(5) (a) Any claimant accepting the offer of a construction professional to remedy the construction defect pursuant to subsection (4)(b)(i) or (4)(b)(iii) shall do so by serving the construction professional with a written notice of acceptance within 30 days after receipt of the offer. The claimant shall provide the construction professional and its contractors or other agents reasonable access to the claimant's residence during normal working hours to perform and complete the construction according to the timetable stated in the offer.

(b) The claimant and construction professional may, by written mutual agreement, alter the extent of construction or the timetable for completion of construction stated in the offer, including but not limited to repair of additional defects.

(6) Subsequently discovered claims of construction defects must be administered separately under 70-19-428 and this section, unless otherwise agreed to by the parties.

(7) This section may not be construed to prevent a claimant from commencing an action on the construction defect claim described in the notice of claim if the construction professional fails to perform the construction agreed upon, fails to remedy the defect, or fails to perform within the time agreed upon pursuant to subsection (4)(b) or (5)(b).

(8) This section may not be enforced unless the ~~home owner~~ *homeowner* has been given written notice of the requirements of 70-19-426, 70-19-428, and this section."

Approved March 1, 2021

CHAPTER NO. 47

[SB 17]

AN ACT CLARIFYING THAT MINORS MAY NOT DISAFFIRM CONTRACTS FOR HOUSING; AMENDING SECTION 41-1-305, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 41-1-305, MCA, is amended to read:

“41-1-305. Minor may not disaffirm contract for necessities. (1) A minor may not disaffirm a contract, otherwise valid, to pay the reasonable value of things necessary ~~for the minor's support or that of to support the minor~~ or the minor's family; ~~that was~~ entered into by the minor when not under the care of a parent or guardian able to provide for the minor or the minor's family.

(2) *For the purposes of this section, the phrase “necessary to support the minor or the minor's family” includes housing.”*

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Applicability. [This act] applies to contracts entered into after [the effective date of this act].

Approved March 2, 2021

CHAPTER NO. 48

[SB 50]

AN ACT REVISING THE MEMBERSHIP OF THE BOARD OF CRIME CONTROL; AND AMENDING SECTION 2-15-2306, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-2306, MCA, is amended to read:

“2-15-2306. Board of crime control – composition – allocation.

(1) There is a board of crime control.

(2) The board is allocated to the department of corrections.

(3) (a) The board is composed of 18 members appointed by the governor in accordance with 2-15-124 and any special requirements of Title I of the Omnibus Crime Control and Safe Streets Act, as amended. The board must be representative of state and local law enforcement and criminal justice agencies, including agencies directly related to the prevention and control of juvenile delinquency, units of general local government, and public agencies maintaining programs to reduce and control crime and must include representatives of citizens and professional and community organizations, including organizations directly related to delinquency prevention.

(b) *One member must represent organizations that provide services and support to crime victims.”*

Approved March 2, 2021

CHAPTER NO. 49

[SB 54]

AN ACT REQUIRING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO REVIEW EXPERIMENTAL ON-SITE WASTEWATER SYSTEMS AND PROPOSE FOR ADOPTION THOSE SYSTEMS THAT MEET THE REQUIREMENTS OF THE SANITATION IN SUBDIVISIONS ACT; AND AMENDING SECTION 76-4-104, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 76-4-104, MCA, is amended to read:

“76-4-104. Rules for administration and enforcement. (1) The department shall, subject to the provisions of 76-4-135, adopt reasonable rules, including adoption of sanitary standards, necessary for administration and enforcement of this part.

(2) The rules and standards must provide the basis for approving subdivisions for various types of public and private water supplies, sewage disposal facilities, storm water drainage ways, and solid waste disposal. The rules and standards must be related to:

- (a) size of lots;
- (b) contour of land;
- (c) porosity of soil;
- (d) ground water level;
- (e) distance from lakes, streams, and wells;
- (f) type and construction of private water and sewage facilities; and
- (g) other factors affecting public health and the quality of water for uses relating to agriculture, industry, recreation, and wildlife.

(3) (a) Except as provided in subsection (3)(b), the rules must provide for the review of subdivisions consistent with 76-4-114 by a local department or board of health, as described in Title 50, chapter 2, part 1, if the local department or board of health employs a registered sanitarian or a registered professional engineer and if the department certifies under subsection (4) that the local department or board is competent to conduct the review.

(b) (i) Except as provided in 75-6-121 and subsection (3)(b)(ii) of this section, a local department or board of health may not review public water supply systems, public sewage systems, or extensions of or connections to these systems.

(ii) A local department or board of health may be certified by the department to review subdivisions proposed to connect to existing municipal or county water and/or sewer district water and wastewater systems previously approved by the department if no extension of the systems is required.

(4) The department shall also adopt standards and procedures for certification and maintaining certification to ensure that a local department or board of health is competent to review the subdivisions as described in subsection (3).

(5) The department shall review those subdivisions described in subsection (3) if:

(a) a proposed subdivision lies within more than one jurisdictional area and the respective governing bodies are in disagreement concerning approval of or conditions to be imposed on the proposed subdivision; or

(b) the local department or board of health elects not to be certified.

(6) The rules must further provide for:

(a) providing the reviewing authority with a copy of the plat or certificate of survey subject to review under this part and other documentation showing the layout or plan of development, including:

(i) total development area; and

(ii) total number of proposed dwelling units and structures requiring facilities for water supply or sewage disposal;

(b) adequate evidence that a water supply that is sufficient in terms of quality, quantity, and dependability will be available to ensure an adequate supply of water for the type of subdivision proposed;

(c) evidence concerning the potability of the proposed water supply for the subdivision;

(d) adequate evidence that a sewage disposal facility is sufficient in terms of capacity and dependability;

(e) standards and technical procedures applicable to storm drainage plans and related designs, in order to ensure proper drainage ways;

(f) standards and technical procedures applicable to sanitary sewer plans and designs, including soil testing and site design standards for on-lot sewage disposal systems when applicable;

(g) standards and technical procedures applicable to water systems;

(h) standards and technical procedures applicable to solid waste disposal;

(i) adequate evidence that a proposed drainfield mixing zone and a proposed well isolation zone are located wholly within the boundaries of the proposed subdivision where the proposed drainfield or well is located or that an easement or, for public land, other authorization has been obtained from the landowner to place the proposed drainfield mixing zone or proposed well isolation zone outside the boundaries of the proposed subdivision where the proposed drainfield or proposed well is located. A proposed mixing zone or a proposed well isolation zone for an individual water system well that is a minimum of 50 feet inside the proposed subdivision boundary may extend outside the boundaries of the proposed subdivision onto adjoining land that is dedicated for use as a right-of-way for roads, railroads, or utilities. This subsection (6)(i) does not apply to the divisions provided for in 76-3-207 except those under 76-3-207(1)(b). Nothing in this section is intended to prohibit the extension, construction, or reconstruction of or other improvements to a public sewage system within a well isolation zone that extends onto land that is dedicated for use as a right-of-way for roads, railroads, or utilities.

(j) criteria for granting waivers and deviations from the standards and technical procedures adopted under subsections (6)(e) through (6)(i);

(k) evidence to establish that, if a public water supply system or a public sewage system is proposed, provision has been made for the system and, if other methods of water supply or sewage disposal are proposed, evidence that the systems will comply with state and local laws and regulations that are in effect at the time of submission of the subdivision application under this chapter. Evidence that the systems will comply with local laws and regulations must be in the form of a certification from the local health department as provided by department rule.

(l) evidence to demonstrate that appropriate easements, covenants, agreements, and management entities have been established to ensure the protection of human health and state waters and to ensure the long-term operation and maintenance of water supply, storm water drainage, and sewage disposal facilities;

(m) eligibility requirements for municipalities and county water and/or sewer districts to qualify as a certifying authority under the provisions of 76-4-127.

(7) *The department shall:*

(a) *conduct a biennial review of experimental wastewater system components that have been granted a waiver or deviation as provided in subsection (6)(j);*

(b) *utilize relevant analysis of wastewater system components approved in other states and data from peer-reviewed third-party studies to conduct the review provided in subsection (7)(a);*

(c) *propose those experimental wastewater system components that meet the purposes and provisions of this part for adoption into the rules pursuant to this section; and*

(d) report to the local government interim committee biennially, in accordance with 5-11-210, the number and type of experimental wastewater system components reviewed and the number and type of system components approved and provide written findings to explain why a system component was reviewed but not approved.

(7)(8) Review and certification or denial of certification that a division of land is not subject to sanitary restrictions under this part may occur only under those rules in effect when a complete application is submitted to the reviewing authority, except that in cases in which current rules would preclude the use for which the lot was originally intended, the applicable requirements in effect at the time the lot was recorded must be applied. In the absence of specific requirements, minimum standards necessary to protect public health and water quality apply.

(8)(9) The reviewing authority may not deny or condition a certificate of subdivision approval under this part unless it provides a written statement to the applicant detailing the circumstances of the denial or condition imposition. The statement must include:

- (a) the reason for the denial or condition imposition;
- (b) the evidence that justifies the denial or condition imposition; and
- (c) information regarding the appeal process for the denial or condition imposition.

(9)(10) The department may adopt rules that provide technical details and clarification regarding the water and sanitation information required to be submitted under 76-3-622.”

Approved March 2, 2021

CHAPTER NO. 50

[SB 102]

AN ACT GENERALLY REVISING LICENSURE REQUIREMENTS FOR SOCIAL WORKERS; CLARIFYING REQUIREMENTS FOR USE OF CERTAIN TITLES FOR SOCIAL WORKERS; CLARIFYING OUT-OF-STATE PROFESSIONAL COUNSELOR APPLICANTS; ELIMINATING REFERENCE LETTER REQUIREMENTS; REVISING CRIMINAL BACKGROUND CHECK AND FINGERPRINT REQUIREMENTS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 37-22-301, 37-22-305, 37-22-307, 37-22-308, 37-23-202, AND 37-35-102, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-22-301, MCA, is amended to read:

“37-22-301. License Licensed clinical social worker requirements – rulemaking – exemptions. (1) An applicant to be a licensed clinical social worker:

(a) must have a doctorate or master’s degree in social work from a program accredited by the council on social work education or approved by the board; and

(b) must have registered as a social worker licensure candidate, as provided in 37-22-313, and completed at least 24 months of supervised post-master’s degree work experience in psychotherapy, which must have included 3,000 hours of social work experience, of which at least 1,500 hours were in direct client contact, within the past 5 years.

(2) After completing the required supervised work experience as a social worker licensure candidate, the applicant shall:

~~(a) provide the board with three letters of reference from professionals licensed by the board or academic professors who have knowledge of the applicant's professional performance;~~

~~(b)(a)~~ satisfactorily complete an examination prescribed by the board. An applicant who fails the examination may reapply to take the examination and may continue as a social worker licensure candidate, subject to the terms set by the board.

~~(c)(b)~~ submit a completed application required by the board and the application fee prescribed by the board.

(3) A licensed clinical social worker:

(a) is subject to the social work ethical standards adopted under 37-22-201;

(b) may engage in independent practice, as defined by the board, upon receiving a license; and

(c) may use the initials "LSW" or "LCSW" for "licensed social worker" or "licensed clinical social worker".

(4) An applicant is exempt from the examination requirement in subsection ~~(2)(b)~~ (2)(a) if the applicant:

(a) proves to the board that the applicant is licensed, certified, or registered in a state or territory of the United States under laws that have substantially the same requirements as this chapter; and

(b) has passed an examination similar to that required by the board.

(5) As a prerequisite to the issuance of a license, the board shall require the applicant to submit fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307. The board may require a criminal background check of applicants and determine the suitability for licensure as provided in 37-1-201 through 37-1-205 and 37-1-307.

(6) The board shall adopt rules to implement this section."

Section 2. Section 37-22-305, MCA, is amended to read:

"37-22-305. Representation to public as licensed clinical social worker -- limitations on use of title -- limitations on practice. (1) (a) Upon issuance of a license in accordance with this chapter, a licensee may use the title "*social worker*", "*licensed social worker*", "*licensed clinical social worker*", "*licensed baccalaureate social worker*", or "*licensed master's social worker*".

(b) Except as provided in subsection (2), a person may not represent that the person is a *social worker*, a *licensed social worker*, a *licensed clinical social worker*, a *licensed baccalaureate social worker*, or a *licensed master's social worker*, by adding the letters "LSW", or "LCSW", "*LBSW*", or "*LMSW*" after the person's name or by any other means unless licensed under this chapter.

(2) Individuals licensed in accordance with this chapter before October 1, 1993, who use the title "licensed social worker" or "LSW" may use the title "*social worker*", "*licensed clinical social worker*", or "LCSW".

(3) Subsection (1) does not prohibit:

(a) qualified members of other professions, such as physicians, psychologists, lawyers, pastoral counselors, educators, or the general public engaged in social work like activities, from doing social work consistent with their training if they do not hold themselves out to the public by a title or description incorporating the words "*social worker*", "*licensed social worker*", or "*licensed clinical social worker*", "*licensed baccalaureate social worker*", or "*licensed master's social worker*";

(b) activities; or services; ~~and use of an official title by~~ of a person in the employ of or under a contract with a federal, state, county, or municipal agency, an educational, research, or charitable institution, or a health care facility licensed under the provisions of Title 50, chapter 5, that are a part of the duties of the office or position;

(c) an employer from performing social work like activities performed solely for the benefit of employees;

(d) activities and services of a student, intern, or resident in social work pursuing a course of study at an accredited university or college or working in a generally recognized training center if the activities and services constitute a part of the supervised course of study;

(e) activities and services by a person who is not a resident of this state that are rendered for a period that does not exceed, in the aggregate, 60 days during a calendar year or 45 consecutive calendar days if the person is authorized under the law of the state or country of residence to perform the activities and services. However, the person shall report to the department the nature and extent of the activities and services if they exceed 10 days in a calendar year.

(f) pending disposition of the application for a license, activities and services by a person who has recently become a resident of this state, has applied for a license within 90 days of taking up residency in this state, and is licensed to perform the activities and services in the state of former residence; or

(g) activities or services of a social worker licensure candidate, professional counselor licensure candidate, or marriage and family therapist licensure candidate.”

Section 3. Section 37-22-307, MCA, is amended to read:

“37-22-307. Licensed baccalaureate social worker requirements – exemption – rulemaking. (1) An applicant to be a licensed baccalaureate social worker:

(a) must have a bachelor’s degree in social work from a program accredited by the council on social work education or a program approved by the board by rule; and

(b) must have registered as a social worker licensure candidate, as provided in 37-22-313, and completed supervised work experience as specified in the training and supervision plan submitted to the board and approved by the board 37-22-313 and board rule. Some of the required hours must be in direct client contact.

(2) After completing the required supervised work experience as a social worker licensure candidate, the applicant shall:

(a) ~~provide the board with three letters of reference from professionals licensed by the board or academic professors who have knowledge of the applicant’s professional performance;~~

~~(b)(a)~~ satisfactorily complete an examination prescribed by the board by rule. An applicant who fails the examination may reapply to take the examination and may continue as a social worker licensure candidate, subject to the terms set by the board.

~~(c)(b)~~ submit a completed application required by the board and the application fee prescribed by the board; and

~~(d)(c)~~ as a prerequisite to the issuance of a license, submit fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307. The board may require a criminal background check of applicants and determine the suitability for licensure as provided in 37-1-201 through 37-1-205 and 37-1-307.

- (3) A licensed baccalaureate social worker:
 - (a) is subject to the social work ethical standards adopted under 37-22-201;
 - (b) may engage in social work activities as provided in 37-22-102(5)(b) through (5)(g);
 - (c) may engage in practice, as defined by the board, upon receiving a license; and
 - (d) may use the initials “LBSW” for “licensed baccalaureate social worker”.
- (4) An applicant is exempt from the examination requirement in subsection (2)(e) (2)(a) if the applicant:
 - (a) proves to the board that the applicant is licensed, certified, or registered in a state or territory of the United States under laws that have substantially the same requirements as this chapter; and
 - (b) has passed an examination similar to that required by the board.
- (5) Individuals who demonstrate to the board on or before May 1, 2021, that they meet the applicable work and education experience as provided in subsection (1) are exempt from examination procedures provided in subsection (2)(b) (2)(a) and may be licensed under this section.
- (6) ~~The board may require a criminal background check of applicants and shall adopt rules to implement this section.”~~

Section 4. Section 37-22-308, MCA, is amended to read:

“37-22-308. Licensed master’s social worker requirements – rulemaking – exemption. (1) An applicant to be a licensed master’s social worker:

- (a) must have a master’s degree in social work from a program accredited by the council on social work education or a program approved by the board by rule; and

- (b) must have registered as a social worker licensure candidate, as provided in 37-22-313, and completed supervised work experience as specified in ~~the training and supervision plan submitted to the board and approved by the board~~ 37-22-313 and board rule. Some of the required hours must be in direct client contact.

- (2) After completing the required supervised work experience as a social worker licensure candidate, the applicant shall:

- ~~(a) provide the board with three letters of reference from professionals licensed by the board or academic professors who have knowledge of the applicant’s professional performance;~~

- ~~(b)(a)~~ satisfactorily complete an examination prescribed by the board by rule. An applicant who fails the examination may reapply to take the examination and may continue as a social worker licensure candidate, subject to the terms set by the board.

- ~~(c)(b)~~ submit a completed application required by the board and the application fee prescribed by the board by rule; and

- ~~(d)(c)~~ as a prerequisite to the issuance of a license, submit fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307. The board may require a criminal background check of applicants and determine the suitability for licensure as provided in 37-1-201 through 37-1-205 and 37-1-307.

- (3) A licensed master’s social worker:

- (a) is subject to the social work ethical standards adopted under 37-22-201;
 - (b) may engage in social work activities as provided in 37-22-102(5)(b) through (5)(g);

- (c) may engage in practice, as defined by the board, upon receiving a license; and

- (d) may use the initials “LMSW” for “licensed master’s social worker”.

(4) An applicant is exempt from the examination requirement in subsection ~~(2)(e)~~ *(2)(a)* if the applicant:

(a) proves to the board that the applicant is licensed, certified, or registered in a state or territory of the United States under laws that have substantially the same requirements as this chapter; and

(b) has passed an examination similar to that required by the board.

(5) Individuals who demonstrate to the board on or before May 1, 2021, that they meet the applicable work and education experience as provided in subsection (1) are exempt from examination procedures provided in subsection ~~(2)(b)~~ *(2)(a)* and may be licensed under this section.

(6) The board ~~may require a criminal background check of applicants and shall adopt rules to implement this section.~~

Section 5. Section 37-23-202, MCA, is amended to read:

“37-23-202. Licensure requirements. (1) An applicant for licensure must have satisfactorily:

(a) completed a ~~planned~~ graduate program of ~~60 semester hours~~, primarily counseling in nature, ~~6 semester hours of which were earned in an advanced counseling practicum~~ that resulted in a graduate degree from an institution accredited to offer a graduate program in counseling *with a minimum number of hours in areas or disciplines established by the board in rule*;

(b) completed 3,000 hours of counseling practice supervised by a licensed professional counselor or licensed member of an allied mental health profession, at least half of which was postdegree. The applicant must have each supervisor endorse the application for licensure, attesting to the number of hours supervised.

(c) passed an examination prepared and administered by:

(i) the national board of certified counselors; or

(ii) the national academy of certified clinical mental health counselors; and

(d) completed an application.

~~(2) The board shall provide by rule for licensure of a person who possesses a graduate degree that consists of a minimum of 45 semester hours primarily related to counseling and that is from an institution accredited to offer a graduate program in counseling, by specifying the additional graduate credit hours necessary to fulfill the requirements of subsection (1)(a) in counseling courses in an approved program within a period of 5 years.~~

~~(3)(2)~~ As a prerequisite to the issuance of a license, the board shall require the applicant to submit fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307.

~~(4)(3)~~ If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust, and if the board determines that the applicant is not, the license may be denied.”

Section 6. Section 37-35-102, MCA, is amended to read:

“37-35-102. Definitions. As used in this chapter, the following definitions apply:

(1) “Accredited college or university” means a college or university accredited by a regional or national accrediting association for institutions of higher learning.

(2) “Addiction” means the condition or state in which an individual is physiologically or psychologically dependent upon alcohol or other drugs. The term includes chemical dependency as defined in 53-24-103.

(3) “Addiction counselor licensure candidate” means a person who is registered pursuant to 37-35-202(5) to engage in addiction counseling and earn supervised work experience necessary for licensure.

(4) “Board” means the board of behavioral health provided for in 2-15-1744.

(5) “Licensed addiction counselor” means a person who has the knowledge and skill necessary to provide the therapeutic process of addiction and gambling ~~dependence-impulse-control~~ disorder counseling and who is licensed under the provisions of this chapter.”

Section 7. Effective date. [This act] is effective July 1, 2021.

Approved March 2, 2021

CHAPTER NO. 51

[SB 110]

AN ACT AUTHORIZING THE GOVERNOR AND THE COMMISSIONER OF HIGHER EDUCATION TO SUSPEND THE EMPLOYER CONTRIBUTION FOR STATE EMPLOYEE GROUP BENEFITS; AMENDING SECTIONS 2-18-703 AND 7-4-2502, MCA; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-18-703, MCA, is amended to read:

“2-18-703. Contributions. (1) ~~Each~~ *Except as provided in subsection (2)(f), each* agency, as defined in 2-18-601, and the state compensation insurance fund shall contribute the amount specified in this section toward the group benefits cost.

(2) (a) Except as provided in subsection (2)(b), for employees defined in 2-18-701 and for members of the legislature, the employer contribution for group benefits is \$1,054 a month.

(b) For employees defined in 2-18-701 and for members of the legislature, beginning January 2020 and for each succeeding month, the cost of group benefits, including both the employer and employee contributions for group benefits and health flexible spending accounts, may not exceed the monthly amount for self-only coverage and coverage other than self-only that will trigger the excise tax under 26 U.S.C. 4980I, including any cost-of-living adjustments under 26 U.S.C. 4980I. This section limits contributions for group benefits only to the extent needed to avoid triggering the excise tax under 26 U.S.C. 4980I.

(c) Except as provided in subsection (2)(d), for employees of the Montana university system, the employer contribution for group benefits is \$1,054 a month.

(d) For employees of the Montana university system, beginning the earlier of July 2020 or the first month in 2020 in which the excise tax under 26 U.S.C. 4980I applies, and for each succeeding month, the cost of group benefits, including both the employer and employee contributions for group benefits and health flexible spending accounts, may not exceed the monthly amount for self-only coverage and coverage other than self-only that will trigger the excise tax under 26 U.S.C. 4980I, including any cost-of-living adjustments under 26 U.S.C. 4980I. This section limits contributions for group benefits only to the extent needed to avoid triggering the excise tax under 26 U.S.C. 4980I.

(e) (i) If a state employee is terminated to achieve a reduction in force, the continuation of contributions for group benefits beyond the termination date is subject to negotiation under 39-31-305 and to the protections of 2-18-1205. Permanent part-time, seasonal part-time, and temporary part-time employees

who are regularly scheduled to work less than 20 hours a week are not eligible for the group benefit contribution. An employee who elects not to be covered by a state-sponsored group benefit plan may not receive the state contribution. A portion of the employer contribution for group benefits may be applied to an employee's costs for participation in Part B of medicare under Title XVIII of the Social Security Act, as amended, if the state group benefit plan is the secondary payer and medicare the primary payer.

(ii) Payments required under this subsection (2)(e) may be suspended if a state agency or unit of the Montana university system is directed to suspend the employer contribution for the state employee group benefit plan or university system group benefit plan pursuant to subsection (2)(f).

(f) The approving authority, as defined in 17-7-102, shall direct a state agency or unit of the Montana university system to suspend the employer contribution for the state employee group benefit plan or university system group benefit plan described in subsections (1) and (2)(a) through (2)(d) for a period of up to 2 months.

(3) For employees of elementary and high school districts, the employer's contributions may exceed but may not be less than \$10 a month.

(4) (a) For employees of political subdivisions, as defined in 2-9-101, except school districts, the employer's contributions may exceed but may not be less than \$10 a month.

(b) Subject to the public hearing requirement provided in 2-9-212(2)(b), the amount in excess of the base contribution of a local government's property tax levy for contributions for group benefits as determined in subsection (4)(c) is not subject to the mill levy calculation limitation provided for in 15-10-420.

(c) (i) Subject to subsections (4)(c)(ii) and (4)(c)(iii), the base contribution is determined by multiplying the average annual contribution for each employee on July 1, 1999, times the number of employees for whom the employer makes contributions for group benefits under 2-9-212 on July 1 of each fiscal year.

(ii) If a political subdivision did not make contributions for group benefits on or before July 1, 1999, and subsequently does so, the base contribution is determined by multiplying the average annual contribution for each employee in the first year the political subdivision provides contributions for group benefits times the number of employees for whom the employer makes contributions for group benefits under 2-9-212 on July 1 of each fiscal year.

(iii) If a political subdivision has made contributions for group benefits but has not previously levied for contributions in excess of the base contribution, the political subdivision's base is determined by multiplying the average annual contribution for each employee at the beginning of the fiscal year immediately preceding the year in which the levy will first be levied times the number of employees for whom the employer made contributions for group benefits under 2-9-212 in that fiscal year.

(5) Unused employer contributions for any state employee must be transferred to an account established for this purpose by the department of administration and upon transfer may be used to offset losses occurring to the group of which the employee is eligible to be a member.

(6) Unused employer contributions for any government employee may be transferred to an account established for this purpose by a self-insured government and upon transfer may be used to offset losses occurring to the group of which the employee is eligible to be a member or to increase the reserves of the group.

(7) The laws prohibiting discrimination on the basis of marital status in Title 49 do not prohibit bona fide group insurance plans from providing greater or additional contributions for insurance benefits to employees with dependents than to employees without dependents or with fewer dependents."

Section 2. Section 7-4-2502, MCA, is amended to read:

“7-4-2502. Payment of salaries of county officials and assistants – state share for county attorney – statutory appropriation. (1) The salaries of the county officers and their assistants may be paid monthly, twice monthly, or every 2 weeks out of the general fund of the county and upon the order of the board of county commissioners.

(2) The funding for the salary and health insurance benefits for the county attorney is a shared responsibility of the state and the county. The state's share is payable as provided in subsection (3).

(3) (a) For each fiscal year, the department of justice shall pay to each county and consolidated government the amount calculated under subsection (3)(b). Payments must be made quarterly.

(b) (i) For each county and consolidated government with a full-time county attorney, the amount paid each fiscal year must be equal to 50% of 85% of a district court judge's salary most recently set under 3-5-211 plus an amount equal to 50% of the employer contribution for group benefits under 2-18-703(2) for an employee as defined in 2-18-701.

(ii) For each county and consolidated government with a part-time county attorney, the total amount paid each fiscal year must be equal to the amount calculated under subsection (3)(b)(i) prorated according to the position's regular work hours.

(iii) *The payments required under subsection (3)(b)(i) are not affected if the governor directs a state agency to not pay the employer contribution for employee group benefits pursuant to 2-18-703(2)(f).*

(c) For the purpose of this subsection (3), the following definitions apply:

(i) “Full-time county attorney” means that as of July 1 immediately preceding the regular legislative session, the county attorney position has been established as a full-time position pursuant to 7-4-2706.

(ii) “Part-time county attorney” means that as of July 1 immediately preceding the regular legislative session, the county attorney position has been established as a part-time position pursuant to 7-4-2706.

(iii) “Salary” means wage plus the employer contributions required for retirement, workers' compensation insurance, and the Federal Insurance Contributions Act as determined for a district court judge.

(4) The amount to be paid to each county pursuant to subsection (3) is statutorily appropriated, as provided in 17-7-502, from the general fund to the department of justice.

(5) The board may, under limitations and restrictions prescribed by law, fix the compensation of all county officers not otherwise fixed by law and provide for the payment of the compensation and may, for all or the remainder of each fiscal year, in conjunction with setting salaries for other officers as provided in 7-4-2504, set their salaries at the prior fiscal year level.”

Section 3. Contingent voidness. If House Bill No. 2, including general fund budget reductions related to the suspension of employee group benefits payments for up to 2 months, is not passed and approved, then [this act] is void.

Section 4. Effective date. [This act] is effective July 1, 2021.

Section 5. Termination. [This act] terminates June 30, 2022.

Approved March 2, 2021

CHAPTER NO. 52

[SB 9]

AN ACT PROVIDING FOR MOTORCYCLE LANE FILTERING.

Be it enacted by the Legislature of the State of Montana:

Section 1. Lane filtering for motorcycles. (1) An operator of a two-wheeled motorcycle may engage in lane filtering when:

(a) the operator of a two-wheeled motorcycle is on a road with lanes wide enough to pass safely;

(b) the overtaking motorcycle is not operated at a speed in excess of 20 miles an hour when overtaking the stopped or slow-moving vehicle; and

(c) conditions permit continued reasonable and prudent operation of the motorcycle while lane filtering.

(2) As used in this section, "lane filtering" means the act of overtaking and passing another vehicle that is stopped or traveling at a speed not in excess of 10 miles an hour in the same direction of travel and in the same lane.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 61, chapter 8, part 3, and the provisions of Title 61, chapter 8, part 3, apply to [section 1].

Approved March 2, 2021

CHAPTER NO. 53

[SB 74]

AN ACT REVISING THE COMPOSITION OF COUNTY TRANSPORTATION COMMITTEES; REQUIRING A REPRESENTATIVE FROM EACH SCHOOL DISTRICT OR SYSTEM WITHIN A COUNTY TO BE A MEMBER OF THE COMMITTEE; CLARIFYING THAT EACH MEMBER OF THE COMMITTEE IS A VOTING MEMBER; AMENDING SECTION 20-10-131, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-10-131, MCA, is amended to read:

"20-10-131. County transportation committee membership. (1) To coordinate the orderly provision of a uniform transportation program within a county, there must be a county transportation committee created in each county of the state of Montana. The membership of the committee consists of:

(a) the county superintendent;

(b) the presiding officer of the board of county commissioners or a member of the board designated by the presiding officer; and

~~(c) except for a K-12 school district, a trustee or district employee designated by the trustees of each high school district of the county;~~

~~(d) one representative from each high school district of the county who is a trustee of an elementary district encompassed within the high school district and who has been selected at a meeting of the trustees of the elementary districts;~~

~~(e) two representatives of each K-12 school district of the county, each of whom is either a trustee or a district employee designated by the trustees; and~~

~~(f) a representative of a district of another county when the transportation services of the district are affected by the actions of the county transportation committee, but the representative has a voice only in matters affecting transportation within the district or by the district.~~

(c) *one representative of each school district within the county, except that an elementary district and high school district that compose a school system under 20-6-312 or 20-6-508 are limited to one representative for the school system. Each representative must be designated by the trustees of the respective school district or school system.*

(2) The county transportation committee must have at least five members, and if this minimum membership cannot be realized in the manner prescribed in subsections (1)(a) through ~~(1)(e)~~ (1)(c), the county superintendent shall appoint a sufficient number of members to satisfy the minimum membership requirement.

(3) The county superintendent is the presiding officer of the county transportation committee, and a quorum is a majority of the membership. A quorum must be present for the committee to conduct business. The committee shall meet on the call of the presiding officer or any three members of the committee. *Each member of the committee is a voting member.*

Section 2. Effective date. [This act] is effective July 1, 2021.

Approved March 2, 2021

CHAPTER NO. 54

[HB 85]

AN ACT REVISING UTILITY COST TRACKING AND RECOVERY LAWS; CLARIFYING COMMISSION APPROVAL OF COST-TRACKING ADJUSTMENTS FOR ELECTRICITY SUPPLY COSTS; AMENDING SECTION 69-3-331, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 69-3-331, MCA, is amended to read:

“69-3-331. Cost tracking and recovery. (1) If the commission approves a cost-tracking adjustment for *electricity supply costs* for a public utility regulated in accordance with chapter 8 or under this chapter, the cost-tracking adjustment must provide for:

~~(a) identical treatment of public utilities subject to chapter 8 or this chapter;~~

~~(b)(a)~~ 90% customer and 10% shareholder sharing of costs, if cost sharing is required; and

~~(c)(b)~~ full recovery of costs incurred by a public utility as a result of qualifying small power production facility purchase requirements established in Title 69, chapter 3, part 6.

(2) A cost-tracking adjustment may not include a deadband.

(3) For the purposes of this section, “deadband” means a level of cost recovery variance, including levels of underrecoveries and overrecoveries to be borne by the public utility.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 9, 2021

CHAPTER NO. 55

[SB 28]

AN ACT REVISING CAPTIVE INSURANCE LAWS PERTAINING TO EXAMINATIONS BY THE COMMISSIONER OF INSURANCE; ELIMINATING THE REQUIREMENT TO CONDUCT AN EXAMINATION OF

EACH CAPTIVE INSURANCE COMPANY AT LEAST EVERY FIVE YEARS; EXCEPTING CAPTIVE RISK RETENTION GROUPS; AMENDING SECTION 33-28-108, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 33-28-108, MCA, is amended to read:

"33-28-108. Examinations and investigations. (1) (a) ~~The Except for captive risk retention groups as provided in subsection (1)(b), the commissioner or some competent person appointed by the commissioner shall~~ *may* examine the affairs, transactions, accounts, records, and assets of each captive insurance company as often as the commissioner considers advisable ~~but no less frequently than every 5 years. This section does not apply to a captive insurance company operating under a certificate of dormancy as provided in 33-28-401.~~

(b) *The commissioner or some competent person appointed by the commissioner shall examine the affairs, transactions, accounts, records, and assets of each captive risk retention group as often as the commissioner considers advisable, but no less frequently than every 5 years.*

~~(b)(c)~~ The expenses and charges of the examination must be paid to the commissioner by the company or companies examined.

(2) The provisions of Title 33, chapter 1, part 4, apply to examinations conducted under this section.

(3) Except as provided in subsection (4), all examination reports, preliminary examination reports or results, working papers, recorded information, documents, and their copies produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under this section are confidential, are not subject to subpoena, and may not be made public by the commissioner or an employee or agent of the commissioner without the written consent of the company or upon court order.

(4) (a) Subsection (3) does not prevent the commissioner from using information obtained pursuant to this section in furtherance of the commissioner's regulatory authority under Title 33. The commissioner may, in the commissioner's discretion, grant access to information obtained pursuant to this section to public officers having jurisdiction over the regulation of insurance in any other state or country or to law enforcement officers of this state or any other state or agency of the federal government at any time, as long as the officers receiving the information agree in writing to hold it in a manner consistent with this section.

(b) Captive risk retention group reports produced pursuant to the examination requirements of this section are public records as defined in 2-6-1002.

(5) Except as provided in subsection (6), the provisions of this section apply to all business written by a captive insurance company.

(6) The examination for a branch captive insurance company may only be of branch business and branch operations if the branch captive insurance company has satisfied the requirements of 33-28-107(2)(d) to the satisfaction of the commissioner.

(7) As a condition of authorization of a branch captive insurance company, the foreign captive insurance company shall grant authority to the commissioner for examination of the affairs of the foreign captive insurance company in the jurisdiction in which the foreign captive insurance company is formed."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 8, 2021

CHAPTER NO. 56

[SB 56]

AN ACT MAKING STATE EMPLOYEE GRIEVANCE PROCEDURES CONSISTENT FOR ALL STATE EMPLOYEES BY REPEALING THE SEPARATE BOARD OF PERSONNEL APPEALS PROCEDURE FOR DEPARTMENT OF TRANSPORTATION AND DEPARTMENT OF FISH, WILDLIFE, AND PARKS EMPLOYEES; AMENDING SECTION 87-1-403, MCA; REPEALING SECTIONS 2-18-1001, 2-18-1002, 2-18-1003, AND 87-1-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-1-403, MCA, is amended to read:

“87-1-403. Regulation of employees by director. (1) The director may suspend without pay, reduce in rank, or remove any employee at any time for cause, providing that any person who has been continuously employed for 1 year or more immediately preceding any suspension or discharge may demand and receive a hearing before the department on the charges filed. ~~The action of the department resulting from such a hearing constitutes final administrative action for purposes of filing a grievance with the board of personnel appeals as provided in 87-1-205.~~

(2) The director shall rate all employees on the basis of merit and efficiency in accordance with rules adopted by the department to secure a proper rating of each person employed. ~~The department shall fix the salaries of employees. shall be fixed by the department, and travel~~ Travel expenses, as provided for in 2-18-501 through 2-18-503, ~~as amended, shall be~~ are allowed employees while ~~upon~~ on official business away from designated headquarters.”

Section 2. Repealer. The following sections of the Montana Code Annotated are repealed:

2-18-1001. Department of transportation personnel grievances -- hearing.

2-18-1002. Grievance procedure -- hearing -- order.

2-18-1003. Enforcement of board order -- petition in district court.

87-1-205. Grievance procedure.

Section 3. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or grievance proceedings that were subject to the provisions repealed by this act and that were begun before [the effective date of this act]. A grievance proceeding subject to this saving clause may be filed with the Board of Personnel Appeals.

Section 4. Effective date. [This act] is effective on passage and approval.

Approved March 8, 2021

CHAPTER NO. 57

[SB 70]

AN ACT CLARIFYING TITLE PROTECTION FOR PHYSICAL THERAPIST ASSISTANTS; REMOVING THE ORAL INTERVIEW FOR PHYSICAL THERAPIST LICENSURE APPLICANTS; ALLOWING PHYSICAL THERAPIST LICENSURE APPLICANTS TO TAKE THE LICENSURE EXAMINATION PRIOR TO GRADUATION; ALLOWING LICENSEES TO DISPLAY UNNOTARIZED COPIES OF THEIR LICENSES; AMENDING SECTIONS 37-11-301, 37-11-303, 37-11-304, AND 37-11-311, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-11-301, MCA, is amended to read:

“37-11-301. License required for physical therapist and *physical therapist assistant* – unauthorized representation as licensed therapist. (1) A person may not practice or purport to practice physical therapy without first obtaining a license under the provisions of this chapter.

(2) A person who is not licensed under this chapter as a physical therapist or *physical therapist assistant*, whose license has been suspended or revoked, or whose license has lapsed and has not been revived and who uses the words or letters “L.P.T.”, “Licensed Physical Therapist”, “P.T.”, “Physical Therapist”, “R.P.T.”, “Registered Physical Therapist”, “D.P.T.”, “*Doctor of Physical Therapy*”, “P.T.A.”, “*Physical Therapist Assistant*”, “L.P.T.A.”, “*Licensed Physical Therapist Assistant*”, “R.P.T.A.”, “*Registered Physical Therapist Assistant*”, or any other letters, words, or insignia indicating or implying that the person is a licensed physical therapist or *physical therapist assistant* or who in any way, orally or in writing or in print or by sign, directly or by implication, purports to be a physical therapist or *physical therapist assistant* is guilty of a misdemeanor.

(3) A person who is not licensed as a physical therapist assistant in accordance with this chapter may not assist a physical therapist in the practice of physical therapy.”

Section 2. Section 37-11-303, MCA, is amended to read:

“37-11-303. Qualifications of applicants for license. (1) To be eligible for a license as a physical therapist, an applicant must:

(a) be of good moral character and at least 18 years of age;

(b) have graduated from an accredited school of physical therapy approved by the board; and

(c) pass to the satisfaction of the board a written or computerized examination prescribed by the board ~~and, if considered necessary, an oral interview to determine the fitness of the applicant to practice as a physical therapist.~~

(2) To be eligible for a physical therapist assistant license, an applicant must:

(a) be of good moral character and at least 18 years of age;

(b) have graduated from an accredited physical therapist assistant curriculum approved by the board; and

(c) have passed a written or computerized examination prescribed by the board.”

Section 3. Section 37-11-304, MCA, is amended to read:

“37-11-304. Application for examination. A person who desires to be licensed as a physical therapist or a physical therapist assistant shall apply to the department on a form furnished by the department. ~~The person shall provide evidence, satisfactory to the board, of having the qualifications preliminary to the examination required by 37-11-303.”~~

Section 4. Section 37-11-311, MCA, is amended to read:

“37-11-311. Display of license. Each licensee shall display the licensee’s ~~original current license or an official duplicate issued by the department and a renewal certificate~~ in a conspicuous place in the principal office where the licensee practices physical therapy. ~~A reproduction displayed in lieu of the original or official duplicate is not authorized unless the reproduction is signed and notarized by a notary public.”~~

Section 5. Effective date. [This act] is effective on passage and approval.

Approved March 8, 2021

CHAPTER NO. 58

[HB 94]

AN ACT EXPANDING LOAN TYPES ELIGIBLE FOR THE MONTANA FARMER LOAN REPAYMENT ASSISTANCE PROGRAM; AMENDING SECTION 90-9-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 90-9-103, MCA, is amended to read:

“90-9-103. (Temporary) Definitions. As used in this chapter, the following definitions apply:

(1) “Act” means the Montana Growth Through Agriculture Act.

(2) “Agricultural business” means an enterprise engaged in the production, processing, marketing, distribution, or exporting of agricultural products. The term includes any related business the primary function of which is providing goods or services to an agricultural enterprise.

(3) “Company” means a natural person, firm, partnership, corporation, association, or other entity authorized to conduct business in the state.

(4) “Council” means the Montana agriculture development council established in 2-15-3015.

(5) “Department” means the department of agriculture established in 2-15-3001.

(6) “Educational loan” means a loan made pursuant to a federal loan program, except for a federal parent loan for undergraduate students (PLUS) loan, as provided in 20 U.S.C. 1078-2, *or a loan made by a private lender expressly for the payment of the borrower’s college expenses. A portion of a consolidated loan may be considered, if the qualifying amount can be determined fairly.*

(7) “Educational loan servicer” means an entity that engages for compensation or gain from another or on its own behalf, in the business of:

(a) receiving any scheduled periodic payments from a borrower pursuant to the terms of an educational loan;

(b) applying the payments of principal and interest and other payments with respect to the amounts received from a borrower, as may be required pursuant to the terms of an educational loan; and

(c) performing other administrative services with respect to an educational loan.

(8) “Farmer” means a person who:

(a) is engaged in agricultural activities, including ranching, at a farm;

(b) participates in the day-to-day operations of a farm; and

(c) is the primary owner of an agricultural operation, including an heir, a successor, or an assignee of the operation.

(9) “Federal loan program” has the meaning provided in 20-4-502.

(10) (a) “Matching funds” means the funds received by the loan or grant recipient from private, federal, state, or commodity checkoff funds and contributed by the recipient in support of a loan or grant application in an amount that is at least equal to the funds disbursed to the recipient by the council.

(b) Matching funds may not include other state grants.

(11) “State” means the state of Montana. (Terminates June 30, 2029--sec. 16, Ch. 439, L. 2019.)

90-9-103. (Effective July 1, 2029) Definitions. As used in this chapter, the following definitions apply:

(1) “Act” means the Montana Growth Through Agriculture Act.

(2) “Agricultural business” means an enterprise engaged in the production, processing, marketing, distribution, or exporting of agricultural products. The term includes any related business the primary function of which is providing goods or services to an agricultural enterprise.

(3) “Company” means a natural person, firm, partnership, corporation, association, or other entity authorized to conduct business in the state.

(4) “Council” means the Montana agriculture development council established in 2-15-3015.

(5) “Department” means the department of agriculture established in 2-15-3001.

(6) (a) “Matching funds” means the funds received by the loan or grant recipient from private, federal, state, or commodity checkoff funds and contributed by the recipient in support of a loan or grant application in an amount that is at least equal to the funds disbursed to the recipient by the council.

(b) Matching funds may not include other state grants.

(7) “State” means the state of Montana.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 8, 2021

CHAPTER NO. 59

[HB 142]

AN ACT GENERALLY REVISING THE REGULATION OF HEMP; REVISING THE DEFINITION OF HEMP; PROVIDING FOR REGULATION OF HEMP CRUDE AND HEMP DERIVATIVES; REVISING NOTIFICATION REQUIREMENTS; REVISING AFFIRMATIVE DEFENSE FOR HEMP PRODUCTION; PROVIDING THE DEPARTMENT OF AGRICULTURE WITH RULEMAKING AUTHORITY; AMENDING SECTIONS 80-18-101, 80-18-102, 80-18-103, 80-18-106, 80-18-107, AND 80-18-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 80-18-101, MCA, is amended to read:

“80-18-101. Definitions. As used in this part, the following definitions apply:

(1) “Hemp” means all parts and varieties of the plant *Cannabis sativa* L. ~~containing no greater than 0.3% tetrahydrocannabinol~~ *consistent with the United States department of agriculture’s definition of hemp and rules established by the department.*

(2) “Hemp crude” means a hemp derivative in a temporary state of not complying with the legal definition of hemp, the amount of tetrahydrocannabinol, or the amount of tetrahydrocannabinolic acid that will be further processed in order to comply.

(3) “Hemp derivatives” means all products that contain, are processed from, extracted from, or manufactured from hemp.

~~(2)(4)~~ “Marijuana” means all plant material from the genus *Cannabis* containing tetrahydrocannabinol (THC) or seeds of the genus capable of germination.”

Section 2. Section 80-18-102, MCA, is amended to read:

“80-18-102. Hemp authorized as agricultural crop. Hemp ~~that has no more than 0.3% tetrahydrocannabinol~~ is considered an agricultural crop in this state. Upon meeting the requirements of 80-18-103, an individual in this

state may plant, grow, harvest, possess, process, sell, or buy hemp, *including cultivatable seeds or plants if the hemp does not contain more than 0.3% tetrahydrocannabinol.*"

Section 3. Section 80-18-103, MCA, is amended to read:

"80-18-103. Hemp – licensing. (1) An individual growing hemp ~~for commercial purposes or selling propagatable hemp or hemp seeds~~ shall apply to the department for a license on a form prescribed by the department.

(2) The application for a license must include the name and address of the applicant and the legal description of the land area to be used for the production of hemp *and any additional information required by rule.*

(3) The licensing requirements of this part do not apply to employees of the agricultural experiment station or the Montana state university-Bozeman extension service involved in research and extension-related activities."

Section 4. Section 80-18-106, MCA, is amended to read:

"80-18-106. Hemp production – notification requirements. (†) Each licensee shall file with the department:

(a)(1) documentation showing that ~~the seeds planted are of a~~ *the* type and variety certified to have no more than 0.3% tetrahydrocannabinol of seeds; and

(b)(2) a copy of any contract to grow hemp.

(2) ~~Each licensee shall notify the department of the sale or distribution of any hemp grown by the licensee, including the name and address of the person receiving the hemp."~~

Section 5. Section 80-18-107, MCA, is amended to read:

"80-18-107. Rulemaking authority. The department shall adopt rules that include but are not limited to:

(1) testing of the hemp during growth to determine tetrahydrocannabinol levels;

(2) supervision of the hemp during its growth and harvest;

(3) assessment of a fee that is commensurate with the costs of the department's activities in licensing, testing, and supervising hemp production; ~~and~~

(4) *a hemp definition that complies with United States department of agriculture requirements and state regulation;*

(5) *regulations for hemp derivatives and hemp crude, including licensing, fees, and transportation requirements;*

(6) *necessary licensing requirements; and*

(†)(7) any other rules and procedures necessary to carry out this part."

Section 6. Section 80-18-111, MCA, is amended to read:

"80-18-111. Affirmative defense for possession or cultivation of marijuana. (†) It is an affirmative defense to a prosecution for the possession or cultivation of marijuana ~~under 45-9-102, 45-9-103, and 45-9-110~~ that:

(a) ~~the defendant was growing or processing hemp pursuant to this in compliance with this part or a tribal plan approved by the United States department of agriculture;~~

(b) ~~the defendant had valid applicable controlled substances registrations from the United States department of justice, drug enforcement administration; and~~

(c) ~~the defendant fully complied with all of the conditions of the controlled substances registration.~~

(2) ~~This section is not an affirmative defense to a charge of criminal sale or distribution of marijuana."~~

Section 7. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Section 8. Effective date. [This act] is effective on passage and approval.
Approved March 8, 2021

CHAPTER NO. 60

[HB 143]

AN ACT INCENTIVIZING INCREASES IN BASE PAY FOR TEACHERS IN PUBLIC SCHOOL DISTRICTS; INCREASING THE QUALITY EDUCATOR PAYMENT FOR DISTRICTS THAT MEET LEGISLATIVE GOALS FOR COMPETITIVE BASE PAY OF TEACHERS; PROVIDING DEFINITIONS; AMENDING SECTION 20-9-306, MCA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Montana's public school districts have made significant progress in increasing the average pay of teachers over the last 15 years; and

WHEREAS, in spite of such progress in increasing the average pay of teachers, school districts have not made comparable progress in increasing the base pay of early career teachers; and

WHEREAS, the success of efforts to recruit the next generation of high quality educators in Montana's public school districts will be served by providing more competitive base pay for teachers in Montana's public school districts; and

WHEREAS, incentives for public school districts and collective bargaining units to collaborate in increasing base pay will help improve efforts to recruit and retain the next generation of high quality educators in Montana's public school districts.

Be it enacted by the Legislature of the State of Montana:

Section 1. Incentives for school districts meeting legislative goal for competitive base pay of teachers in public school districts – definitions. (1) A district, as defined in 20-6-101, must receive an extra quality educator payment for certain quality educators, calculated as provided in 20-9-306(16), if it meets the legislative goal for competitive base pay of teachers in subsection (2).

(2) The legislative goal for competitive base pay of teachers is a teacher base pay, that in the applicable year:

(a) is equal to at least 10 times as much as the quality educator payment amount provided in 20-9-306(16); and

(b) for a school district classified as first class pursuant to Title 20, chapter 6, is not less than 70% of the teacher average pay in the school district.

(3) A district seeking an incentive for the subsequent school fiscal year under this section shall, by December 1, provide the data necessary, as determined by the superintendent of public instruction, to verify:

(a) that the district has met the legislative goal established in subsection (2) for the current year; and

(b) the number of full-time equivalent teachers that are in the first 3 years of the teacher's teaching career in the current year.

(4) For the purposes of this section, the following definitions apply:

(a) "Teacher" means an individual who:

(i) holds a current class 1, 2, 4, 6, or 7 license issued by the office of public instruction under rules adopted by the board of public education pursuant to 20-4-102; and

(ii) is employed by a school district in an instructional position requiring teacher licensure.

(b) “Teacher average pay” means the total compensation paid by a school district to all of its teachers, not including bonuses, stipends, or extended duty contracts, divided by the total full-time equivalent teachers employed in the district, with full-time equivalence rounded to the nearest tenth.

(c) “Teacher base pay” means the lowest salary for a beginning teacher incorporated in the district’s collective bargaining agreement if the teachers’ employment is covered by a collective bargaining agreement pursuant to Title 39, chapter 31, or incorporated in district policy if the teachers’ employment is not covered by a collective bargaining agreement, not including bonuses, stipends, or extended duty contracts.

Section 2. Section 20-9-306, MCA, is amended to read:

“20-9-306. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) “BASE” means base amount for school equity.

(2) “BASE aid” means:

(a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district;

(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment;

(c) the total quality educator payment;

(d) the total at-risk student payment;

(e) the total Indian education for all payment;

(f) the total American Indian achievement gap payment; and

(g) the total data-for-achievement payment.

(3) “BASE budget” means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment, 100% of the total data-for-achievement payment, and 140% of the special education allowable cost payment.

(4) “BASE budget levy” means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

(5) “BASE funding program” means the state program for the equitable distribution of the state’s share of the cost of Montana’s basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) “Basic entitlement” means:

(a) for each high school district:

(i) \$315,481 for fiscal year 2020 and \$321,254 for each succeeding fiscal year for school districts with an ANB of 800 or fewer; and

(ii) \$315,481 for fiscal year 2020 and \$321,254 for each succeeding fiscal year for school districts with an ANB of more than 800, plus \$15,774 for fiscal year 2020 and \$16,063 for each succeeding fiscal year for each additional 80 ANB over 800;

(b) for each elementary school district or K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) \$52,579 for fiscal year 2020 and \$53,541 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

(ii) \$52,579 for fiscal year 2020 and \$53,541 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus \$2,630 for fiscal year 2020 and \$2,678 for each succeeding fiscal year for each additional 25 ANB over 250;

(c) for each elementary school district or K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) for the district's kindergarten through grade 6 elementary program:

(A) \$52,579 for fiscal year 2020 and \$53,541 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of 250 or fewer; and

(B) \$52,579 for fiscal year 2020 and \$53,541 for each succeeding fiscal year for school districts or K-12 district elementary programs with an ANB of more than 250, plus \$2,630 for fiscal year 2020 and \$2,678 for each succeeding fiscal year for each additional 25 ANB over 250; and

(ii) for the district's approved and accredited junior high school, 7th and 8th grade programs, or middle school:

(A) \$105,160 for fiscal year 2020 and \$107,084 for each succeeding fiscal year for school districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of 450 or fewer; and

(B) \$105,160 for fiscal year 2020 and \$107,084 for each succeeding fiscal year for school districts or K-12 district elementary programs with combined grades 7 and 8 with an ANB of more than 450, plus \$5,258 for fiscal year 2020 and \$5,354 for each succeeding fiscal year for each additional 45 ANB over 450.

(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

(8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment, the total data-for-achievement payment, and the greater of the district's special education allowable cost payment multiplied by:

(a) 175%; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

(11) "Total American Indian achievement gap payment" means the payment resulting from multiplying \$216 for fiscal year 2020 and \$220 for each succeeding fiscal year times the number of American Indian students enrolled in the district as provided in 20-9-330.

(12) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of 20-9-328.

(13) “Total data-for-achievement payment” means the payment provided in 20-9-325 resulting from multiplying \$21.03 for fiscal year 2020 and \$21.41 for each succeeding fiscal year by the district’s ANB calculated in accordance with 20-9-311.

(14) “Total Indian education for all payment” means the payment resulting from multiplying \$21.96 for fiscal year 2020 and \$22.36 for each succeeding fiscal year times the ANB of the district or \$100 for each district, whichever is greater, as provided for in 20-9-329.

(15) “Total per-ANB entitlement” means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of \$7,201 for fiscal year 2020 and \$7,333 for each succeeding fiscal year for the first ANB, decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school, a maximum rate of \$5,624 for fiscal year 2020 and \$5,727 for each succeeding fiscal year for the first ANB, decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school, the sum of:

(i) a maximum rate of \$5,624 for fiscal year 2020 and \$5,727 for each succeeding fiscal year for the first ANB for kindergarten through grade 6, decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of \$7,201 for fiscal year 2020 and \$7,333 for each succeeding fiscal year for the first ANB for grades 7 and 8, decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

(16) “Total quality educator payment” means the payment resulting from multiplying \$3,275 for fiscal year 2020 and \$3,335 for each succeeding fiscal year by the *sum of*:

(a) *the number of full-time equivalent educators as provided in 20-9-327; and*

(b) *as provided in [section 1], for a school district meeting the legislative goal for competitive base pay of teachers, the number of full-time equivalent teachers that were in the first 3 years of the teacher’s teaching career in the previous year.”*

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 20, chapter 9, part 3, and the provisions of Title 20, chapter 9, part 3, apply to [section 1].

Section 4. Effective date. [This act] is effective July 1, 2021.

Approved March 5, 2021

CHAPTER NO. 61

[SB 15]

AN ACT GENERALLY REVISING ELECTION LAWS RELATED TO ACCESSIBILITY FOR DISABLED ELECTORS AND THE AVAILABILITY OF VOTER INTERFACE DEVICES; REVISING DEFINITIONS; CLARIFYING PROVISIONS ON DESIGNATED AGENTS; REVISING REFERENCES TO APPLICABLE FEDERAL LAWS; REVISING ELECTION COST PROVISIONS; REVISING TIMELINES; APPLYING ACCESSIBILITY PROVISIONS TO ALL ELECTIONS AND REQUIRING VOTER INTERFACE DEVICES BE AVAILABLE FOR ALL ELECTIONS; PROVIDING AND REVISING EXCEPTIONS; REVISING ACCESSIBILITY OF POLLING PLACES; REVISING ALTERNATIVE METHODS FOR DISABLED ELECTORS TO CAST BALLOTS AND RECEIVE ASSISTANCE; REVISING THE PENALTY PROVISION FOR DECEIVING A DISABLED ELECTOR; AMENDING SECTIONS 13-1-101, 13-1-116, 13-1-203, 13-1-302, 13-3-105, 13-3-201, 13-3-202, 13-3-206, 13-3-208, 13-3-212, 13-3-213, 13-13-118, 13-13-119, 13-13-229, 13-13-246, 13-19-205, 13-35-202, AND 13-35-208, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-1-101, MCA, is amended to read:

“13-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) “Active elector” means an elector whose name has not been placed on the inactive list due to failure to respond to confirmation notices pursuant to 13-2-220 or 13-19-313.

(2) “Active list” means a list of active electors maintained pursuant to 13-2-220.

(3) “Anything of value” means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.

(4) “Application for voter registration” means a voter registration form prescribed by the secretary of state that is completed and signed by an elector, is submitted to the election administrator, and contains voter registration information subject to verification as provided by law.

(5) “Ballot” means a paper ballot counted manually or a paper ballot counted by a machine, such as an optical scan system or other technology that automatically tabulates votes cast by processing the paper ballots.

(6) (a) “Ballot issue” or “issue” means a proposal submitted to the people at an election for their approval or rejection, including but not limited to an initiative, referendum, proposed constitutional amendment, recall question, school levy question, bond issue question, or ballot question.

(b) For the purposes of chapters 35 and 37, an issue becomes a “ballot issue” upon certification by the proper official that the legal procedure necessary for its qualification and placement on the ballot has been completed, except that a statewide issue becomes a “ballot issue” upon preparation and transmission by the secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

(7) “Ballot issue committee” means a political committee specifically organized to support or oppose a ballot issue.

(8) "Candidate" means:

(a) an individual who has filed a declaration or petition for nomination, acceptance of nomination, or appointment as a candidate for public office as required by law;

(b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained contributions, made expenditures, or given consent to an individual, organization, political party, or committee to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure nomination or election to any office at any time, whether or not the office for which the individual will seek nomination or election is known when the:

(i) solicitation is made;

(ii) contribution is received and retained; or

(iii) expenditure is made; or

(c) an officeholder who is the subject of a recall election.

(9) (a) "Contribution" means:

(i) the receipt by a candidate or a political committee of an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to support or oppose a candidate or a ballot issue;

(ii) an expenditure, including an in-kind expenditure, that is made in coordination with a candidate or ballot issue committee and is reportable by the candidate or ballot issue committee as a contribution;

(iii) the receipt by a political committee of funds transferred from another political committee; or

(iv) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate or political committee.

(b) The term does not mean services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residences for a candidate or other individual.

(c) This definition does not apply to Title 13, chapter 37, part 6.

(10) "Coordinated", including any variations of the term, means made in cooperation with, in consultation with, at the request of, or with the express prior consent of a candidate or political committee or an agent of a candidate or political committee.

(11) "De minimis act" means an action, contribution, or expenditure that is so small that it does not trigger registration, reporting, disclaimer, or disclosure obligations under Title 13, chapter 35 or 37, or warrant enforcement as a campaign practices violation under Title 13, chapter 37.

(12) "*Disability*" means a temporary or permanent mental or physical impairment such as:

(a) impaired vision;

(b) impaired hearing;

(c) impaired mobility. Individuals having impaired mobility include those who require use of a wheelchair and those who are ambulatory but are physically impaired because of age, disability, or disease.

(d) impaired mental or physical functioning that makes it difficult for the person to participate in the process of voting.

(13)(13) "Election" means a general, special, or primary election held pursuant to the requirements of state law, regardless of the time or purpose.

(13)(14) (a) "Election administrator" means, except as provided in subsection (13)(b) (14)(b), the county clerk and recorder or the individual designated by a county governing body to be responsible for all election

administration duties, except that with regard to school elections not administered by the county, the term means the school district clerk.

(b) As used in chapter 2 regarding voter registration, the term means the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties even if the school election is administered by the school district clerk.

~~(14)~~(15) (a) “Election communication” means the following forms of communication to support or oppose a candidate or ballot issue:

(i) a paid advertisement broadcast over radio, television, cable, or satellite;
(ii) paid placement of content on the internet or other electronic communication network;

(iii) a paid advertisement published in a newspaper or periodical or on a billboard;

(iv) a mailing; or

(v) printed materials.

(b) The term does not mean:

(i) an activity or communication for the purpose of encouraging individuals to register to vote or to vote, if that activity or communication does not mention or depict a clearly identified candidate or ballot issue;

(ii) a communication that does not support or oppose a candidate or ballot issue;

(iii) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, internet website, or other periodical publication of general circulation;

(iv) a communication by any membership organization or corporation to its members, stockholders, or employees; or

(v) a communication that the commissioner determines by rule is not an election communication.

~~(15)~~(16) “Election judge” means a person who is appointed pursuant to Title 13, chapter 4, part 1, to perform duties as specified by law.

~~(16)~~(17) (a) “Electioneering communication” means a paid communication that is publicly distributed by radio, television, cable, satellite, internet website, newspaper, periodical, billboard, mail, or any other distribution of printed materials, that is made within 60 days of the initiation of voting in an election, that does not support or oppose a candidate or ballot issue, that can be received by more than 100 recipients in the district voting on the candidate or ballot issue, and that:

(i) refers to one or more clearly identified candidates in that election;

(ii) depicts the name, image, likeness, or voice of one or more clearly identified candidates in that election; or

(iii) refers to a political party, ballot issue, or other question submitted to the voters in that election.

(b) The term does not mean:

(i) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, internet website, or other periodical publication of general circulation unless the facilities are owned or controlled by a candidate or political committee;

(ii) a communication by any membership organization or corporation to its members, stockholders, or employees;

(iii) a commercial communication that depicts a candidate’s name, image, likeness, or voice only in the candidate’s capacity as owner, operator, or employee of a business that existed prior to the candidacy;

(iv) a communication that constitutes a candidate debate or forum or that solely promotes a candidate debate or forum and is made by or on behalf of the person sponsoring the debate or forum; or

(v) a communication that the commissioner determines by rule is not an electioneering communication.

~~(17)~~(18) "Elector" means an individual qualified to vote under state law.

~~(18)~~(19) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value:

(i) made by a candidate or political committee to support or oppose a candidate or a ballot issue; or

(ii) used or intended for use in making independent expenditures or in producing electioneering communications.

(b) The term does not mean:

(i) services, food, or lodging provided in a manner that they are not contributions under subsection (9);

(ii) payments by a candidate for personal travel expenses, food, clothing, lodging, or personal necessities for the candidate and the candidate's family;

(iii) the cost of any bona fide news story, commentary, blog, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

(iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees.

(c) This definition does not apply to Title 13, chapter 37, part 6.

~~(19)~~(20) "Federal election" means an election in even-numbered years in which an elector may vote for individuals for the office of president of the United States or for the United States congress.

~~(20)~~(21) "General election" means an election that is held for offices that first appear on a primary election ballot, unless the primary is canceled as authorized by law, and that is held on a date specified in 13-1-104.

~~(21)~~(22) "Inactive elector" means an individual who failed to respond to confirmation notices and whose name was placed on the inactive list pursuant to 13-2-220 or 13-19-313.

~~(22)~~(23) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220 or 13-19-313.

~~(23)~~(24) (a) "Incidental committee" means a political committee that is not specifically organized or operating for the primary purpose of supporting or opposing candidates or ballot issues but that may incidentally become a political committee by receiving a contribution or making an expenditure.

(b) For the purpose of this subsection ~~(23)~~ (24), the primary purpose is determined by the commissioner by rule and includes criteria such as the allocation of budget, staff, or members' activity or the statement of purpose or goal of the person or individuals that form the committee.

~~(24)~~(25) "Independent committee" means a political committee organized for the primary purpose of receiving contributions and making expenditures that is not controlled either directly or indirectly by a candidate and that does not coordinate with a candidate in conjunction with the making of expenditures except pursuant to the limits set forth in 13-37-216(1).

~~(25)~~(26) "Independent expenditure" means an expenditure for an election communication to support or oppose a candidate or ballot issue made at any time that is not coordinated with a candidate or ballot issue committee.

~~(26)~~(27) "Individual" means a human being.

~~(27)~~(28) "Legally registered elector" means an individual whose application for voter registration was accepted, processed, and verified as provided by law.

(28)(29) "Mail ballot election" means any election that is conducted under Title 13, chapter 19, by mailing ballots to all active electors.

(29)(30) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, including a political committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (8).

(30)(31) "Place of deposit" means a location designated by the election administrator pursuant to 13-19-307 for a mail ballot election conducted under Title 13, chapter 19.

(31)(32) (a) "Political committee" means a combination of two or more individuals or a person other than an individual who receives a contribution or makes an expenditure:

(i) to support or oppose a candidate or a committee organized to support or oppose a candidate or a petition for nomination;

(ii) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

(iii) to prepare or disseminate an election communication, an electioneering communication, or an independent expenditure.

(b) Political committees include ballot issue committees, incidental committees, independent committees, and political party committees.

(c) A candidate and the candidate's treasurer do not constitute a political committee.

(d) A political committee is not formed when a combination of two or more individuals or a person other than an individual makes an election communication, an electioneering communication, or an independent expenditure of \$250 or less.

(32)(33) "Political party committee" means a political committee formed by a political party organization and includes all county and city central committees.

(33)(34) "Political party organization" means a political organization that:

(a) was represented on the official ballot in either of the two most recent statewide general elections; or

(b) has met the petition requirements provided in Title 13, chapter 10, part 5.

(34)(35) "Political subdivision" means a county, consolidated municipal-county government, municipality, special purpose district, or any other unit of government, except school districts, having authority to hold an election.

(35)(36) "Polling place election" means an election primarily conducted at polling places rather than by mail under the provisions of Title 13, chapter 19.

(36)(37) "Primary" or "primary election" means an election held on a date specified in 13-1-107 to nominate candidates for offices filled at a general election.

(37)(38) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not been verified as provided by law.

(38)(39) "Provisionally registered elector" means an individual whose application for voter registration was accepted but whose identity or eligibility has not yet been verified as provided by law.

(39)(40) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

(40)(41) "Random-sample audit" means an audit involving a manual count of ballots from designated races and ballot issues in precincts selected through a random process as provided in 13-17-503.

(41)(42) "Registrar" means the county election administrator and any regularly appointed deputy or assistant election administrator.

(42)(43) "Regular school election" means the school trustee election provided for in 20-20-105(1).

(43)(44) "School election" has the meaning provided in 20-1-101.

(44)(45) "School election filing officer" means the filing officer with whom the declarations for nomination for school district office were filed or with whom the school ballot issue was filed.

(45)(46) "School recount board" means the board authorized pursuant to 20-20-420 to perform recount duties in school elections.

(46)(47) "Signature envelope" means an envelope that contains a secrecy envelope and ballot and that is designed to:

(a) allow election officials, upon examination of the outside of the envelope, to determine that the ballot is being submitted by someone who is in fact a qualified elector and who has not already voted; and

(b) allow it to be used in the United States mail.

(47)(48) "Special election" means an election held on a day other than the day specified for a primary election, general election, or regular school election.

(48)(49) "Special purpose district" means an area with special boundaries created as authorized by law for a specialized and limited purpose.

(49)(50) "Statewide voter registration list" means the voter registration list established and maintained pursuant to 13-2-107 and 13-2-108.

(50)(51) "Support or oppose", including any variations of the term, means:

(a) using express words, including but not limited to "vote", "oppose", "support", "elect", "defeat", or "reject", that call for the nomination, election, or defeat of one or more clearly identified candidates, the election or defeat of one or more political parties, or the passage or defeat of one or more ballot issues submitted to voters in an election; or

(b) otherwise referring to or depicting one or more clearly identified candidates, political parties, or ballot issues in a manner that is susceptible of no reasonable interpretation other than as a call for the nomination, election, or defeat of the candidate in an election, the election or defeat of the political party, or the passage or defeat of the ballot issue or other question submitted to the voters in an election.

(51)(52) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in 13-15-206.

(52)(53) "Voted ballot" means a ballot that is:

(a) deposited in the ballot box at a polling place;

(b) received at the election administrator's office; or

(c) returned to a place of deposit.

(53)(54) "Voter interface device" means a voting system that:

(a) is accessible to electors with disabilities;

(b) communicates voting instructions and ballot information to a voter;

(c) allows the voter to select and vote for candidates and issues and to verify and change selections; and

(d) produces a paper ballot that displays electors' choices so the elector can confirm the ballot's accuracy and that may be manually counted.

(54)(55) "Voting system" or "system" means any machine, device, technology, or equipment used to automatically record, tabulate, or process the vote of an elector cast on a paper ballot."

Section 2. Section 13-1-116, MCA, is amended to read:

"13-1-116. Fingerprint, mark, or agent for disabled electors – rulemaking. (1) Except as otherwise specified by law, the provisions of this section apply.

(2) Whenever a signature is required by an elector under a provision of this title and the elector is unable because of a disability to provide a signature, the elector may provide a fingerprint, subject to subsection (6), or an identifying mark or may request that an agent, election administrator, or election judge sign for the elector as provided in this section.

(3) If an elector is unable to provide a fingerprint or an identifying mark and the elector has not established an agent pursuant to subsection (4), the election administrator or an election judge may sign for the elector after reviewing and verifying the elector's identification.

(4) (a) An elector who is unable to provide a signature may apply to the election administrator to have another person designated as an agent for purposes of providing a signature or identifying mark required pursuant to this title and for providing any other assistance to the elector throughout the registration and voting process. *The individual designated as an elector's agent may not be the elector's employer, an agent of the elector's employer, or an officer or agent of the elector's union.* The use of an agent is a reasonable accommodation under the provisions of 49-2-101(19)(b).

(b) An application for designation of an agent by an elector under this section must be made on a form prescribed by the secretary of state. The secretary of state shall by rule establish the criteria that must be met and the process that must be followed in order for a person to become a designated agent for a disabled elector pursuant to this subsection (4).

(5) If an election administrator or election judge signs or marks a document for an elector pursuant to this section, the election administrator or election judge shall initial the signature or mark.

(6) A disabled elector may not be required to provide a fingerprint."

Section 3. Section 13-1-203, MCA, is amended to read:

"13-1-203. Secretary of state to advise, assist, and train. (1) The secretary of state shall advise and assist election administrators, including administrators of school elections under Title 20, chapter 20, with regard to:

(a) the application, operation, and interpretation of Title 13, except for chapter 35, 36, or 37;

(b) the implementation and operation of the National Voter Registration Act of 1993, Public Law 103-31, *the Americans with Disabilities Act of 1990, 42 U.S.C. 12101, et seq., the Voting Rights Act of 1965, 52 U.S.C 10101, et seq., the Voting Accessibility for the Elderly and Handicapped Act of 1984, 52 U.S.C. 20101, et seq., and the Help America Vote Act of 2002, Public Law 107-252;* and

(c) the procedures adopted pursuant to 13-17-211.

(2) The secretary of state shall prepare and distribute training materials for election judges to be trained pursuant to 13-4-203. Sufficient copies of the materials to supply all election judges in the county and to provide a small extra supply must be sent to each election administrator.

(3) (a) The secretary of state shall hold at least one training session every 2 years to instruct election administrators and their staffs on how to conduct and administer primary and general elections. The training must also include instruction on the use of the statewide voter registration system. The training may be held in various locations around the state. The training must also be offered online and through teleconferencing.

(b) Costs of the biennial training, including the materials, must be paid by the secretary of state.

(4) In addition to completing the biennial training under subsection (3), each election administrator shall complete 6 hours of election-related continuing education each year that is approved by the secretary of state. Costs for the continuing education must be paid by the counties.

(5) The secretary of state shall:

(a) certify for election administration purposes each election administrator who attends the biennial training and completes the required continuing education; and

(b) provide a certificate of completion to election staff who attend the biennial election training described in subsection (3).

(6) An election administrator may require that election staff complete the continuing education described in subsection (4) and provide a certificate of completion to staff who complete it.”

Section 4. Section 13-1-302, MCA, is amended to read:

“13-1-302. Election costs. (1) Unless specifically provided otherwise, all costs of the regularly scheduled primary and general elections shall be paid by the counties and other political subdivisions for which the elections are held. Each political subdivision shall bear its proportionate share of the costs as determined by the county governing body.

(2) A political subdivision holding an annual election with a regularly scheduled school election shall bear its proportionate share of the costs as determined by the county election administrator and the school district election administrator.

(3) The political subdivision for which a special election is held shall bear all costs of the election, or its proportionate share as determined by the county governing body if held in conjunction with any other election.

(4) Costs of elections may not include the services of the election administrator or capital expenditures. *A county may not charge a political subdivision or school district for the purchase or routine maintenance of a voter interface device. However, the county may charge for the cost of programming a device for the election and for replacement, repairs, or maintenance required due to the political subdivision's or school district's use of the device.*

(5) The county governing body shall set a schedule of fees for services provided to school districts by the election administrator. *Before finalizing a contract to conduct a school election pursuant to a request under 20-20-417, the county shall provide the school district with an estimate of costs for each county voter interface device to be used for the election. When a school district is conducting its own election, the school district shall request from the county an estimate of the cost for using a county voter interface device. The county shall provide the estimate within 30 days of receiving the school district's request.*

(6) Election costs shall be paid from county funds, and any shares paid by other political subdivisions shall be credited to the fund from which the costs were paid.

(7) The proportionate costs referred to in subsection (1) of this section shall be only those additional costs incurred as a result of the political subdivision holding its election in conjunction with the primary or general election.”

Section 5. Section 13-3-105, MCA, is amended to read:

“13-3-105. Designation of polling place. (1) The county governing body shall designate the polling place for each precinct no later than 30 days before a primary election. The same polling place must be used for both the primary and general election if at all possible. Changes may be made by the governing body in designated polling places up to 10 days before an election if a designated polling place is not available. Polling places may be located outside the boundaries of a precinct.

(2) Not more than 10 days or less than 2 *business* days before an election, the election administrator shall publish in a newspaper of general circulation in the county a statement of the locations of the precinct polling places. The election administrator shall include in the published notice the accessibility

designation for each polling place according to the classification in 13-3-207. Notice may also be given as provided in 2-3-105 through 2-3-107.

(3) An election administrator may make changes in the location of a polling place if an emergency occurs 10 days or less before an election. Notice must be posted at both the old and new polling places, and other notice may be given by whatever means available.

(4) (a) Any building may be used as a polling place. The building must be furnished at no charge as long as no structural changes are required in order to use the building as a polling place.

(b) If the building regularly used as a designated polling place is not available for an election because of an unforeseen or temporary circumstance and no other suitable building is available free of charge, the county may pay for use of a building as a temporary polling place for that election provided that the building meets the polling place standards under this chapter. If a county pays for the use of a building as a temporary polling place because of an unforeseen or temporary circumstance, the county shall provide with its regular report on election costs to the secretary of state any costs incurred for use of a building pursuant to this subsection (4)(b).

(5) The exterior of the voting systems, or of the booths in which they are placed, and every part of the polling place must be in plain view of the election judges."

Section 6. Section 13-3-201, MCA, is amended to read:

"13-3-201. Purpose. The purpose of this part is to promote the fundamental right to vote by improving access to polling places *and accessible voting technology* for individuals with disabilities ~~and elderly individuals~~. The provisions of this part acknowledge that, in certain cases, it may not be possible to locate a polling place that meets the standards for accessibility, either because an accessible polling place does not exist or, if it does, its location in the precinct would require undue travel for a majority of the electors. In those cases when an accessible polling place is not available, this part provides voters with disabilities ~~and elderly voters~~ an alternative means for casting a ballot on election day."

Section 7. Section 13-3-202, MCA, is amended to read:

"13-3-202. Definitions. As used in this part, unless the context indicates otherwise, the following definitions apply:

(1) "Accessible" means accessible to individuals with disabilities ~~and elderly individuals~~ for purposes of voting as determined in accordance with standards established by the secretary of state under 13-3-205.

(2) ~~"Disability" means a temporary or permanent physical impairment such as:~~

(a) ~~impaired vision;~~

(b) ~~impaired hearing; or~~

(c) ~~impaired mobility. Individuals having impaired mobility include those who require use of a wheelchair and those who are ambulatory but are physically impaired because of age, disability, or disease.~~

(3) "Elderly" means 65 years of age or older.

(4) "Election" means a general, special, or primary election held in an even-numbered year.

(5)(2) "Inaccessible" means not accessible under standards adopted pursuant to 13-3-205.

(6)(3) "Rural polling place" means a location that is expected to serve less than 200 registered electors."

Section 8. Section 13-3-206, MCA, is amended to read:

“13-3-206. Survey of polling places to determine accessibility – procedures. (1) The election administrator ~~in each county~~ shall conduct an onsite survey of each polling place used in an election to determine whether it meets the standards for accessibility established under 13-3-205.

(2) Each election administrator shall conduct the survey in a manner that represents the path of travel that an elector would reasonably be expected to take in order to reach the polling place on election day.

(3) A polling place that has been surveyed pursuant to this section need not be surveyed again unless:

- (a) the conditions of accessibility change; or
- (b) the initial survey results are inaccurate.”

Section 9. Section 13-3-208, MCA, is amended to read:

“13-3-208. Accessible voting technology Voter interface device availability. (1) The intent of this section is to:

(a) ensure that disabled electors have access to voting technology that allows the electors to cast ballots independently, privately, and securely;

(b) provide that votes cast using accessible voting technology are collected and counted in a manner that preserves secrecy; and

(c) comply with applicable federal and state law concerning accessibility for disabled electors.

(2) ~~(a) County~~ *Except as provided in subsection (2)(c):*

(i) ~~the election administrators administrator~~ shall ensure that at least one voter interface device is available at each polling place; *and*

(ii) *in a mail ballot election, the election administrator shall ensure that voter interface devices are available at locations appropriate to provide accessibility for disabled electors.*

(b) Each voter interface device must be set up and located ~~within the polling place~~ in a manner that allows any elector using the device to cast a ballot independently and privately, including the provision of accommodations to provide a physical barrier or other method to ensure that the screen of the device is blocked from the view of ~~other voters in the polling place~~ *others*.

(c) *A voter interface device is not required:*

(i) *if there are fewer than 200 registered electors eligible to vote in the election; or*

(ii) *for an irrigation district election.*

(3) Subject to subsection (4):

(a) votes on a ballot produced by a voter interface device may be counted manually or using an automatic tabulating system;

(b) ballots counted manually must be counted in accordance with 13-15-206; and

(c) if ballots produced by a voter interface device cannot be processed through an automatic tabulator used in the county and the election administrator does not provide for the ballots to be counted manually, the election administrator may provide for the votes on each ballot produced by the device to be transcribed to the standard ballot form used in the precinct so that the ballots may be processed through an automatic tabulator used in the county.

(4) (a) If the voter interface device produces a ballot form that is distinguishable from the standard ballot form used in the precinct, the county election administrator shall take measures to protect the secrecy of the votes cast by an elector using the device.

(b) Measures to ensure secrecy may provide that votes on a ballot produced by the voter interface device are transcribed to the standard ballot form used

in the precinct so that the ballots are indistinguishable from and counted with the other ballots.

(c) Measures must also include encouraging a portion of the nondisabled electors to use the device to cast their ballot.

(5) Any transcription of votes conducted pursuant to this section must be conducted in secret by at least three election officials in substantially the same manner as provided for in 13-13-246.”

Section 10. Section 13-3-212, MCA, is amended to read:

“13-3-212. Exemption if no accessible polling place is reasonably available. (1) If an election administrator desires to designate as a polling place a location that is inaccessible, the election administrator shall make a request in writing to the secretary of state asking that an inaccessible polling place be exempt from the standards for accessibility.

(2) The secretary of state may grant an exemption pursuant to rules adopted under 13-3-205 if all potential polling places have been surveyed and it is determined that:

(a) an accessible polling place is not available and the county *or school district* cannot safely or reasonably make a polling place temporarily accessible in the area involved; or

(b) the location is a rural polling place and designation of an accessible facility as a polling place will require excessive travel or impose other hardships for the majority of qualified electors in the precinct *or school district*.”

Section 11. Section 13-3-213, MCA, is amended to read:

“13-3-213. Alternative means for casting ballot. (1) The election administrator shall provide individuals with disabilities ~~and elderly individuals~~ an alternative means for casting a ballot on election day if they are assigned to an inaccessible polling place. These alternative means for casting a ballot include:

(a) delivery of a ballot to the elector as provided in 13-13-118;

(b) voting by absentee ballot in person at a designated voting station at the county election administrator’s office; and

(c) prearranged assignment to an accessible polling place within the county.

(2) An elector with a disability ~~or an elderly elector~~ assigned to an inaccessible polling place who desires to vote at an accessible polling place:

(a) shall request assignment to an accessible polling place by notifying the election administrator in writing at least ~~7~~ *2 business* days preceding the election;

(b) must be assigned to the nearest accessible polling place for the purpose of voting in the election;

(c) shall sign the elector’s name on a special addendum to the official precinct register as required in subsection (4); and

(d) must receive the same ballot to which the elector is otherwise entitled.

(3) For the purpose of subsection (2), the ballot cast at an alternative polling place must be processed and counted in the same manner as an absentee ballot.

(4) The name of an elector who has been assigned to vote in a precinct other than the precinct in which the person is registered, as provided in subsection (2), must be printed on a special addendum to the precinct register in a form prescribed by the secretary of state.”

Section 12. Section 13-13-118, MCA, is amended to read:

“13-13-118. Taking ballot to disabled elector. (1) ~~The chief election judge may appoint two election judges who represent different political parties to take a ballot to an~~ An elector able to come to the premises where a polling

place is located but unable to enter the polling place because of a disability *may contact the election administrator prior to coming to the premises and request that a ballot be delivered to the elector outside the building where the polling place is located. The chief election judge shall appoint two election judges who, if possible, represent different political parties to take the ballot to the elector. If election judges who represent different political parties are not available, the chief election judge shall appoint two election judges to assist the elector.* The elector may request assistance in marking the ballot as provided in 13-13-119.

(2) The judges shall have the elector sign an oath form stating that the elector is entitled to vote and shall write in the precinct register by the elector's name "voted on the premises by oath" and sign their names.

(3) When the ballot or ballots are marked ~~and folded~~, the judges shall *place each ballot in a secrecy sleeve and immediately take them the ballot* into the polling place and give ~~them the ballot~~ to the judge at the ballot box. Any challenge to the elector's right to vote must be resolved as provided in Title 13, chapter 13, part 3."

Section 13. Section 13-13-119, MCA, is amended to read:

"13-13-119. Aid to disabled elector. (1) ~~When a disabled elector enters a polling place, an election judge shall ask the elector if the elector wants assistance.~~

(2) ~~An election judge or an individual chosen by the disabled elector as specified in subsection (5) may aid an elector who, because of physical disability or inability to read or write, needs~~ *A disabled elector may request assistance in marking the elector's ballot.*

(3)(2) ~~The~~ *If the elector has not designated an agent:*

(a) *the election judges shall require a declaration of disability by the elector. The declaration must be made under oath, which must be administered by an election judge.*

(4) The elector may be assisted by two judges who represent different parties. If election judges who represent different political parties are not available, the chief election judge shall appoint two election judges to assist the elector. The judges shall certify on the precinct register opposite the disabled elector's name that the ballot was marked with their assistance. The judges may not reveal information regarding the ballot.

(5)(b) ~~Instead of assistance as provided in subsection (4), the elector may request the assistance of any individual the elector designates to the judges designate an agent, as provided in 13-1-116, to aid the elector in the marking of the elector's ballot. An individual designated to assist the elector shall sign the individual's name on the precinct register beside the name of the elector assisted. The individual chosen may not be the elector's employer, an agent of the elector's employer, or an officer or agent of the elector's union.~~

(6)(3) ~~No elector~~ *one other than the elector who requires assistance may divulge to anyone within the polling place the name of any candidate for whom the elector intends to vote or may ask or receive the assistance of any individual within the polling place in the preparation of the elector's ballot."*

Section 14. Section 13-13-229, MCA, is amended to read:

"13-13-229. Voting performed before absentee election board or authorized election official. (1) Pursuant to 13-13-212(2), the elector may request that an absentee election board or an authorized election official personally deliver a ballot to the elector.

(2) The manner and procedure of voting by use of an absentee ballot under this section must be the same as provided in 13-13-201, except that the elector shall hand the marked ballot in the sealed signature envelope to the absentee election board or authorized election official, and the board or official

shall deliver the sealed signature envelope to the election administrator or to the election judges of the precinct in which the elector is registered.

(3) An absentee ballot cast by a qualified elector pursuant to this section may not be rejected by the election administrator if the ballot was in the possession of the board or an authorized election official before the time designated for the closing of the polls.

(4) An elector who needs assistance in marking the elector's ballot because of ~~physical incapacity~~ *a disability* or inability to read or write may receive assistance from the *elector's designated agent, as provided for in 13-1-116, or from the* absentee election board or authorized election official appointed to personally deliver the ballot. Any assistance given an elector pursuant to this section must be provided in substantially the same manner as required in 13-13-119."

Section 15. Section 13-13-246, MCA, is amended to read:

"13-13-246. Electronic ballots for disabled persons -- procedures -- definition -- rulemaking. (1) (a) Upon a written or an in-person request from a legally registered or provisionally registered elector with a disability, an election administrator shall provide the elector with an electronic ballot.

(b) The request may be made by electronic mail.

(2) (a) After receiving a request and verifying that the elector is legally registered or provisionally registered, the election administrator shall provide to the elector an electronic ballot, instructions for completing the ballot, a secrecy envelope *or page*, and a transmittal cover sheet that includes an elector affirmation. If the elector is provisionally registered, the election administrator shall include instructions about what information the elector shall include with the voted ballot pursuant to 13-13-201(4).

(b) The election administrator shall maintain an official log of all ballots provided pursuant to this section.

(c) After voting the ballot, the elector shall print the ballot, place it in the secrecy envelope *or under the secrecy page*, sign the affirmation, including by fingerprint, mark, or agent pursuant to 13-1-116, or provide a driver's license number or the last four digits of the elector's social security number. If the elector is provisionally registered, the elector shall also return sufficient voter identification and eligibility information to allow the election administrator to determine pursuant to rules adopted under 13-2-109 that the elector is legally registered. The elector shall return the voted ballot and affirmation in a manner that ensures both are received by 8 p.m. on election day.

(d) An elector may return the voted ballot and affirmation in the regular mail provided they are received at the office of the election administrator by 8 p.m. on election day. A valid ballot must be counted if it is received at the office of the election administrator by 8 p.m. on election day.

(3) After receiving a ballot and secrecy envelope and if the validity of the ballot is confirmed pursuant to 13-13-241, the election administrator shall log the receipt of the ballot and process it as required in Title 13, chapter 13. If the ballot is rejected, the election administrator shall notify the elector pursuant to 13-13-245.

(4) (a) When performing the procedures prescribed in 13-13-241(7) to open secrecy envelopes, an election official shall place in a secure absentee ballot envelope any ballot returned pursuant to this section that requires transcription. No sooner than the time provided in 13-13-241(7), the election administrator shall transcribe the returned ballots using the procedure prescribed below and in accordance with any rules established by the secretary of state to ensure the security of the ballots and the secrecy of the votes.

(b) No fewer than three election officials shall participate in the transcription process to transfer the elector's vote from the received ballot to the standard ballot used in the precinct.

(c) A number must be written on the secrecy envelope *or page* that contains the original voted electronic ballot, and the same number must be placed on the transcribed ballot and in the official log.

(d) The election officials who transcribed the original voted electronic ballot shall sign the log next to the number.

(e) No one participating in the ballot transmission process may reveal any information about the ballot.

(5) The secretary of state shall adopt rules to implement and administer this section, including rules to ensure the security of the ballots and the secrecy of the votes.

~~(6) For the purposes of this section, "disability" has the meaning provided in 13-3-202."~~

Section 16. Section 13-19-205, MCA, is amended to read:

"13-19-205. Written plan for conduct of election – amendments – approval procedures. (1) The election administrator shall prepare a written plan for the conduct of each election to be conducted by mail and shall submit the plan to the secretary of state in a manner that ensures that it is received at least 60 days prior to the date set for the election. There must be a separate plan for each type of election held even if held on the same day.

(2) The written plan must include:

(a) a timetable for the election;

(b) *a plan for providing voter interface devices as required in 13-3-208; and*

~~(b)(c)~~ sample written instructions that will be sent to the electors. The instructions must include but are not limited to:

(i) information on the estimated amount of postage required to return the ballot;

(ii) (A) the location of the places of deposit and the days and times when ballots may be returned to the places of deposit, if the information is available; or

(B) if the information on location and hours of places of deposit is not available, a section that will allow the information to be added before the instructions are mailed to electors; and

(iii) any applicable instructions specified under 13-13-214(4).

(3) The plan may be amended by the election administrator at any time prior to the 35th day before election day by notifying the secretary of state in writing of any changes.

(4) Within 5 days of receiving the plan and as soon as possible after receiving any amendments, the secretary of state shall approve, disapprove, or recommend changes to the plan or amendments.

(5) When the written plan and any amendments have been approved, the election administrator shall proceed to conduct the election according to the approved plan unless the election is canceled for any reason provided by law."

Section 17. Section 13-35-202, MCA, is amended to read:

"13-35-202. Conduct of election officials and election judges. An election officer or judge of an election may not:

(1) deposit in a ballot box a paper ballot that is not marked as official;

(2) examine an elector's ballot before putting the ballot in the ballot box;

(3) look at any mark made by the elector upon the ballot;

(4) make or place any mark or device on any ballot with the intent to ascertain how the elector has voted;

(5) allow any individual other than the elector to be present at the marking of the ballot except as provided in *13-1-116*, *13-13-118*, ~~and 13-13-119, and 13-13-229~~; or

(6) make a false statement in a certificate regarding affirmation.”

Section 18. Section 13-35-208, MCA, is amended to read:

“13-35-208. ~~Deceiving an~~ Deception of elector. A person who *assists a disabled elector pursuant to 13-1-116, 13-13-118, 13-13-119, or 13-13-229, and who deceives an* the elector ~~voting under 13-13-118 or 13-13-119~~ is guilty of a misdemeanor.”

Section 19. Effective date. [This act] is effective January 1, 2022.

Approved March 16, 2021

CHAPTER NO. 62

[SB 140]

AN ACT GENERALLY REVISING LAWS RELATED TO CERTAIN JUDICIAL APPOINTMENTS; PROVIDING A DIRECT APPOINTMENT PROCESS FOR THE GOVERNOR TO APPOINT DISTRICT COURT JUDGES AND SUPREME COURT JUSTICES TO FILL JUDICIAL VACANCIES; REPEALING THE JUDICIAL NOMINATION COMMISSION; AMENDING SECTIONS 2-15-1707, 3-7-221, AND 39-71-2901, MCA; REPEALING SECTIONS 3-1-1001, 3-1-1002, 3-1-1003, 3-1-1004, 3-1-1005, 3-1-1006, 3-1-1007, 3-1-1008, 3-1-1009, 3-1-1010, 3-1-1011, 3-1-1012, 3-1-1013, AND 3-1-1014, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Judicial vacancy – notice. (1) (a) Upon receiving notice from the chief justice of the supreme court, the governor shall appoint a candidate, as provided in [sections 1 through 7], to fill any vacancy on the supreme court or the district court.

(b) The chief justice of the supreme court shall appoint a candidate to fill any term or vacancy for the chief water judge or associate water judge pursuant to 3-7-221.

(2) Within 10 days of the date of receipt by the governor of the notice from the chief justice of the supreme court that a vacancy has occurred or the effective date of a judicial resignation has been announced, the governor shall notify the public, including media outlets with general statewide circulation and other appropriate sources, that a vacancy has been announced, including the deadline within which applications must be received.

Section 2. Investigation – qualifications for appointment. (1) The governor may authorize investigations concerning the qualifications of eligible persons.

(2) A lawyer in good standing who has the qualifications set forth by law for holding judicial office may be a candidate and may apply to the governor for consideration, or application may be made by any person on the lawyer's behalf.

Section 3. Applications. An eligible person may apply for the vacant judicial position by completing and submitting to the governor an original signed paper application and an electronic copy of the original application by the deadline date. The deadline date must be within 40 days of the governor's receipt of the notice of vacancy provided by the chief justice.

Section 4. Public comment. (1) The governor shall establish a reasonable period for reviewing applications and interviewing applicants that provides at least 30 days for public comment concerning applicants.

(2) Each applicant who has the qualifications set forth by law for holding judicial office and who receives a letter of support from at least three adult Montana residents by the close of the public comment period provided for in subsection (1) must be considered a nominee for the position.

(3) The total time from receipt of notice of a vacancy until appointment may not exceed 100 days.

(4) The application, public comment, and any related documents are open to the public except when the demands of individual privacy clearly exceed the merits of public disclosure.

Section 5. Appointments. (1) The governor, or the chief justice of the supreme court for the office described in 3-7-221, shall make an appointment within 30 days of the close of the public comment period from the list of applicants.

(2) For purposes of Article VII, section 8, of the Montana constitution, the governor must be construed to receive the names of the nominees at the close of the public comment period provided for in [section 4].

(3) If the governor fails to appoint within 30 days of the close of the public comment period provided for in subsection (1), the chief justice shall make the appointment from the same list of applicants within 30 days of the governor's failure to appoint.

Section 6. Senate confirmation – exception – nomination in interim – appointment contingent on vacancy. (1) (a) Except as provided in subsection (2):

(i) each appointment must be confirmed by the senate; and

(ii) an appointment made while the senate is not in session is effective until the end of the next special or regular legislative session.

(b) If the appointment is subject to senate confirmation under subsection (1)(a) and is not confirmed, the office is vacant and another selection of nominees and appointment must be made.

(2) The following appointments are not subject to senate confirmation, and there must be an election for the office at the general election immediately preceding the scheduled expiration of the term or following the appointment, as applicable:

(a) an appointment made while the senate is not in session if the term to which the appointee is appointed expires prior to the next legislative session, regardless of the time of the appointment in relation to the candidate filing deadlines for the office; and

(b) an appointment made while the senate is not in session if a general election will be held prior to the next legislative session and the appointment is made prior to the candidate filing deadline for primary elections under 13-10-201(7), in which case the position is subject to election at the next primary and general elections.

(3) A nomination is not effective unless a vacancy in office occurs.

Section 7. Duration of appointment – election for remainder of term. (1) If an appointment subject to [section 5] is confirmed by the senate, the appointee shall serve until the appointee or another person elected at the first general election after confirmation is elected and qualified. The candidate elected at that election holds the office for the remainder of the unexpired term.

(2) If an incumbent judge or justice files for election to the office to which the judge or justice was elected or appointed and no other candidate files for election to that office, the name of the incumbent must nevertheless be placed

on the general election ballot to allow voters of the district or state to approve or reject the incumbent. If an incumbent is rejected at an election for approval or rejection, the incumbent shall serve until the day before the first Monday of January following the election, at which time the office is vacant and another appointment must be made.

Section 8. Section 2-15-1707, MCA, is amended to read:

“2-15-1707. Office of workers’ compensation judge – allocation – appointment – salary. (1) There is the office of workers’ compensation judge. The office is allocated to the department of labor and industry for administrative purposes only as prescribed in 2-15-121.

(2) The governor shall appoint the workers’ compensation judge for a term of 6 years in the same manner provided by ~~Title 3, chapter 1, part 10 [sections 1 through 7]~~, for the appointment of supreme court justices or district court judges. A vacancy must be filled in the same manner as the original appointment.

(3) To be eligible for workers’ compensation judge, a person must:

(a) have the qualifications necessary for district court judges found in Article VII, section 9, of the Montana constitution;

(b) devote full time to the duties of workers’ compensation judge and not engage in the private practice of law.

(4) The workers’ compensation judge is entitled to the same salary and other emoluments as that of a district judge but must be accorded retirement benefits under the public employees’ retirement system.”

Section 9. Section 3-7-221, MCA, is amended to read:

“3-7-221. Appointment of chief water judge and associate water judge – terms of office. (1) The chief justice of the Montana supreme court shall appoint a chief water judge as provided in ~~Title 3, chapter 1, part 10 [sections 1 through 7]~~. The chief justice of the Montana supreme court may appoint an associate water judge ~~as provided in Title 3, chapter 1, part 10.~~

(2) To be eligible for the office of chief water judge or associate water judge, a person shall have the qualifications for district court or supreme court judges found in Article VII, section 9, of the Montana constitution.

(3) The term of office of the chief water judge and the associate water judge is 4 years, subject to continuation of the water divisions by the legislature.”

Section 10. Section 39-71-2901, MCA, is amended to read:

“39-71-2901. Location of office – court powers – withdrawal – substitution – vacancy. (1) The principal office of the workers’ compensation judge must be in the city of Helena.

(2) The workers’ compensation court has power to:

(a) preserve and enforce order in its immediate presence;

(b) provide for the orderly conduct of proceedings before it and its officers;

(c) compel obedience to its judgments, orders, and process in the same manner and by the same procedures as in civil actions in district court;

(d) compel the attendance of persons to testify; and

(e) punish for contempt in the same manner and by the same procedures as in district court.

(3) The workers’ compensation judge shall withdraw from all or part of any matter if the judge believes the circumstances make disqualification appropriate. In the case of a withdrawal, the workers’ compensation judge shall designate and contract for a substitute workers’ compensation judge to preside over the proceeding from the list provided for in subsection (7).

(4) If the office of the workers’ compensation judge becomes vacant and before the vacancy is permanently filled pursuant to ~~Title 3, chapter 1, part 10 [sections 1 through 7]~~, the chief justice of the Montana supreme court shall

appoint a substitute judge within 30 days of receipt of the notice of vacancy. The chief justice shall select a substitute judge from the list provided for in subsection (7) or from the pool of retired state district court judges. The chief justice may appoint a substitute judge for a part of the vacancy or for the entire duration of the vacancy, and more than one substitute judge may be appointed to fill a vacancy.

(5) If a temporary vacancy occurs because the workers' compensation judge is suffering from a disability that temporarily precludes the judge from carrying out the duties of office for more than 60 days, a substitute judge must be appointed from the substitute judge list identified in subsection (7) by the current judge, if able, or by the chief justice of the supreme court. The substitute judge may not serve more than 90 days after appointment under this subsection. This subsection applies only if the workers' compensation judge is temporarily unable to carry out the duties of office due to a disability, and proceedings to permanently replace the judge under ~~Title 3, chapter 1, part 10 [sections 1 through 7]~~, may not be instituted.

(6) A substitute judge must be compensated at the same hourly rate charged by the department of justice agency legal services bureau for the provision of legal services to state agencies. A substitute judge must be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503. When a substitute judge has accepted jurisdiction, the clerk of the workers' compensation court shall mail a copy of the assumption of jurisdiction to each attorney or party of record. The certificate of service must be attached to the assumption of jurisdiction form in the court file.

(7) The workers' compensation judge shall maintain a list of persons who are interested in serving as a substitute workers' compensation judge in the event of a recusal by the judge or a vacancy and who prior to being put on the list of potential substitutes have been admitted to the practice of law in Montana for at least 5 years, currently reside in Montana, and have resided in the state for 2 years."

Section 11. Repealer. The following sections of the Montana Code Annotated are repealed:

- 3-1-1001. Creation, composition, and function of commission.
- 3-1-1002. Staggered terms of members.
- 3-1-1003. Vacancies.
- 3-1-1004. No compensation -- travel expenses.
- 3-1-1005. Commission members not eligible for judicial office.
- 3-1-1006. Secretary -- election and duties.
- 3-1-1007. Commission to make rules -- confidentiality of proceedings.
- 3-1-1008. Quorum.
- 3-1-1009. Investigation by commission -- application for consideration.
- 3-1-1010. Lists submitted to governor and chief justice -- report on proceedings.
- 3-1-1011. Governor or chief justice of the supreme court to nominate from list.
- 3-1-1012. When governor fails to nominate.
- 3-1-1013. Senate confirmation -- exception -- nomination in the interim -- appointment contingent on vacancy.
- 3-1-1014. Duration of appointment -- election for remainder of term.

Section 12. Codification instruction. [Sections 1 through 7] are intended to be codified as an integral part of Title 3, chapter 1, and the provisions of Title 3, chapter 1, apply to [sections 1 through 7].

Section 13. Effective date. [This act] is effective on passage and approval.

Approved March 16, 2021

CHAPTER NO. 63

[SB 118]

AN ACT PROVIDING THAT A FALSE STATEMENT IN AN EMPLOYER-PROVIDED QUESTIONNAIRE UNDER CERTAIN CIRCUMSTANCES IS A BASIS FOR BARRING WORKERS' COMPENSATION BENEFITS; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. False statement on employment questionnaire.

(1) A false statement made by an employee in an employer-provided written questionnaire calling for the disclosure of an employee's medical condition that is relevant to the essential functions of the job following a conditional offer of employment bars all wage-loss or medical benefits under this chapter if all of the following conditions are met:

(a) the employee knowingly or willfully, by omission or commission, makes a false representation regarding the employee's physical condition that is relevant to the essential functions of the job;

(b) the employer relies on the false representation and that reliance is a contributing factor in the hiring of the employee; and

(c) there is a causal connection between the falsely represented condition and the injury or occupational disease for which wage-loss or medical benefits are claimed.

(2) The employee has the right to petition the workers' compensation court after satisfying the mediation requirements of this chapter if the employee disagrees with a decision to terminate benefits or bar benefits as provided under subsection (1).

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 39, chapter 71, part 1, and the provisions of Title 39, chapter 71, part 1, apply to [section 1].

Section 3. Effective date. [This act] is effective July 1, 2021.

Approved March 18, 2021

CHAPTER NO. 64

[HB 19]

AN ACT REVISING ALCOHOL LAWS RELATING TO CONDITIONAL LICENSES AND PREMISES; CONFORMING ALCOHOL LAWS WITH APPROVAL OF LICENSES WITHOUT APPROVED PREMISES; AMENDING SECTION 16-4-115, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 16-4-115, MCA, is amended to read:

"16-4-115. Beer and wine licenses for off-premises consumption.

(1) A retail license to sell beer or table wine, or both, in the original packages for off-premises consumption may be issued only to a person, firm, or corporation that is approved by the department as a person, firm, or corporation qualified to sell beer or table wine, or both. If the premises proposed for licensing are operated in conjunction with another business, that business must be a grocery store or drugstore licensed as a pharmacy. The number of licenses that the department may issue is not limited by the provisions of 16-4-105 but must be determined by the department in the exercise of its sound discretion, and the department may in the exercise of its sound discretion grant or deny an application for any license or suspend or revoke any license for cause.

(2) Upon receipt of a completed application for a license under this section, accompanied by the necessary license fee as provided in 16-4-501, the department shall request that the department of justice make a background investigation of all matters relating to the application.

(3) Based on the results of the investigation or in exercising its sound discretion as provided in subsection (1), the department shall determine whether:

(a) the applicant is qualified to receive a license;

(b) the applicant's premises are suitable for the carrying on of the business; and

(c) the requirements of this code and the rules promulgated by the department are met and complied with.

(4) License applications submitted under this section are not subject to the provisions of 16-4-203 and 16-4-207.

~~(5) If the premises proposed for licensing under this section are a new or remodeled structure, the department may issue a conditional license prior to completion of the premises upon reasonable evidence that the premises will be suitable for the carrying on of business."~~

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 23, 2021

CHAPTER NO. 65

[HB 80]

AN ACT GENERALLY REVISING LAWS PERTAINING TO CREDIT ALLOWED DOMESTIC CEDING INSURER AND REDUCTION OF LIABILITY FOR REINSURANCE CEDED BY DOMESTIC INSURER TO ASSUMING INSURER; ALLOWING CREDIT TO BE ALLOWED WHEN REINSURANCE IS CEDED TO AN ASSUMING INSURER WHEN CERTAIN CONDITIONS ARE MET; REQUIRING THE COMMISSIONER TO TIMELY CREATE AND PUBLISH A LIST OF RECIPROCAL JURISDICTIONS AND ASSUMING INSURERS; ALLOWING THE COMMISSIONER TO SUSPEND OR REVOKE ASSUMING INSURERS THAT DO NOT MEET CERTAIN REQUIREMENTS; PROVIDING REQUIREMENTS FOR REHABILITATION, LIQUIDATION, OR CONSERVATION AND CEDING INSURERS; PROVIDING LIMITATIONS; PROVIDING FOR CREDIT TAKEN IN REINSURANCE AGREEMENTS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 33-2-1216 AND 33-2-1217, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 33-2-1216, MCA, is amended to read:

"33-2-1216. Credit allowed domestic ceding insurer – rulemaking.

(1) Credit for reinsurance is allowed to a domestic ceding insurer as either an asset or a reduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of subsection (2), (3), (4), (5), ~~or~~ (6), (7), ~~or~~ (8). Credit must be allowed under subsection (2), (3), or (4) only in respect to cessions of those kinds or classes of business that the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a U.S. *United States* branch of an alien assuming insurer, in the state through which the branch of the alien assuming insurer entered and is licensed to transact insurance or reinsurance. If the requirements of

subsection (4) or (5) are met, the requirements of subsection (7) (9) must also be met.

(2) Credit must be allowed when the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this state.

(3) Credit must be allowed when the reinsurance is ceded to an assuming insurer that is accredited by the commissioner as a reinsurer in this state. Credit may not be allowed a domestic ceding insurer if the assuming insurer's accreditation has been revoked by the commissioner after notice and hearing. An accredited reinsurer is one that:

(a) files with the commissioner evidence of its submission to this state's jurisdiction;

(b) submits to this state's authority to examine its books and records;

(c) is licensed to transact insurance or reinsurance in at least one state or, in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;

(d) files annually with the commissioner a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement; and

(e) demonstrates to the satisfaction of the commissioner that the accredited reinsurer has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer meets this requirement as of the time of its application if:

(i) the assuming accredited reinsurer maintains a surplus ~~as regards with regard~~ to policyholders in an amount not less than \$20 million; and

(ii) the commissioner approves its accreditation within 90 days after the date that the accredited reinsurer submits its application.

(4) (a) Subject to subsection (4)(b), credit must be allowed when:

(i) the reinsurance is ceded to an assuming insurer that is domiciled and licensed in or, in the case of a United States branch of an alien assuming insurer, is entered through a state that employs standards regarding credit for reinsurance substantially similar to those applicable under this statute; and

(ii) the assuming insurer or the United States branch of an alien assuming insurer:

(A) maintains a surplus with regard to policyholders in an amount not less than \$20 million; and

(B) submits to the authority of this state to examine its books and records.

(b) The requirement of subsection (4)(a)(i) does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

(5) (a) Credit must be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution for the payment of the valid claims of its United States policyholders and ceding insurers and their assigns and successors in interest. The assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the NAIC annual statement form by licensed insurers to enable the commissioner to determine the sufficiency of the trust fund. The assuming insurer shall submit to examination of its books and records by the commissioner and shall bear the expense of examination.

(b) (i) In the case of a single assuming insurer, the trust must consist of a trusteed account representing the assuming insurer's liabilities attributable to business written in the United States, and in addition, the assuming insurer shall maintain a surplus with the trustee of not less than \$20 million, except as provided in subsection (5)(b)(ii).

(ii) At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least 3 full years, the insurance regulator with principal regulatory oversight of the trust may authorize a reduction in the required trustee surplus after a finding that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows. The risk assessment must consider all material risk factors, including, when applicable, the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trustee surplus may not be reduced to an amount less than 30% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.

(iii) In the case of a group, including incorporated and individual unincorporated underwriters, the trust must consist of a trustee account representing the respective underwriters' liabilities attributable to business written in the United States to any underwriter of the group. Additionally, the group shall maintain a surplus with the trustee of which \$100 million must be held jointly for the benefit of United States ceding insurers of any member of the group. The incorporated members of the group, as group members, may not be engaged in a business other than underwriting as members of the group and are subject to the same level of solvency regulation and control by the insurance regulator as the unincorporated members. *Within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, The the group shall ~~make available~~ provide* to the commissioner an annual certification of the solvency of each underwriter by the insurance regulator and the independent public accountants in the jurisdiction where the underwriter is domiciled.

(iv) In the case of a group of incorporated insurers under common administration:

(A) the provisions of subsection (5)(b)(iv)(B) apply to the group that:

(I) complies with the reporting requirements contained in subsection (5)(a);

(II) has continuously transacted an insurance business outside the United States for at least 3 years immediately prior to making application for accreditation;

(III) submits to this state's authority to examine its books and records and bears the expense of the examination; and

(IV) has aggregate policyholders' surplus of \$10 billion;

(B) (I) the trust must be in an amount equal to the group's several liabilities attributable to business ceded by United States ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of the group;

(II) the group shall maintain a joint surplus with a trustee of which \$100 million is held jointly for the benefit of United States ceding insurers of any member of the group as additional security for any liabilities; and

(III) *within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, each member of the group shall ~~make available~~ provide* to the commissioner an annual certification of the member's solvency by the insurance regulator and the independent public accountants in the jurisdiction where the underwriter is domiciled.

(c) The trust must be established in a form approved by the commissioner. The trust instrument must provide that contested claims are valid and

enforceable upon the final order of any court of competent jurisdiction in the United States. The trust must vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers and their assigns and successors in interest. The trust and the assuming insurer are subject to examination as determined by the commissioner. The trust described in this subsection (5)(c) must remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust.

(d) No later than February 28 of each year, the trustees of the trust shall report to the commissioner in writing setting forth the balance of the trust and listing the trust's investments at the end of the preceding year. The trustees shall certify the date of termination of the trust, if planned, or certify that the trust may not expire prior to the following December 31.

~~(e)~~ ~~(i)(6)~~ (a) The commissioner shall allow credit when the reinsurance is ceded to an assuming insurer that the commissioner has certified as a reinsurer in this state and secures its obligation in accordance with the requirements of this subsection ~~(5)(e)~~ (6).

~~(ii)(b)~~ To be eligible for certification under this subsection ~~(5)(e)~~ (6), an assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction as determined by the commissioner pursuant to subsection ~~(5)(e)(iv)~~ (6)(d) and shall:

~~(A)(i)~~ maintain minimum capital and surplus or its equivalent as promulgated by the commissioner by rule;

~~(B)(ii)~~ maintain financial strength ratings from two or more rating agencies, as determined by the commissioner;

~~(C)(iii)~~ agree to the jurisdiction of this state;

~~(D)(iv)~~ appoint a registered agent for service of process in this state as required by 33-1-605;

~~(E)(v)~~ agree to provide security for 100% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if the assuming insurer resists enforcement of a final judgment from within the United States;

~~(F)(vi)~~ agree to meet applicable information filing requirements as determined by the commissioner; and

~~(G)(vii)~~ satisfy any other requirements for certification considered relevant by the commissioner.

~~(iii)(c)~~ An association, including incorporated and individual unincorporated underwriters, may be a certified reinsurer. The incorporated members of the association may not engage in any business other than underwriting as a member of the association. The incorporated members are subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members. In order to be eligible for certification under this subsection ~~(5)(e)(iii)~~ (6)(c), the association shall satisfy the requirements of this subsection ~~(5)(e)~~ (6)(c) and shall:

~~(A)(i)~~ satisfy its minimum capital and surplus requirements through the capital and surplus equivalents as a net of liabilities of the association and its members. This provision must include use of a joint central fund that may be applied to any unsatisfied obligation of the association or any of its members in an amount that provides adequate protection as determined by the commissioner.

~~(B)(ii)~~ provide to the commissioner, within 90 days of the date its financial statements are due to be filed with the association's domiciliary regulator, an annual certification by the association's domiciliary regulator of the solvency of each underwriter member. If a certification is unavailable, the association may

provide a financial statement prepared by independent public accountants of each underwriter member.

(iv)(d) The commissioner shall create, maintain, and publish a list of qualified jurisdictions under which an assuming insurer licensed and domiciled in a qualified jurisdiction is eligible to be considered for certification as a certified reinsurer. The commissioner shall certify all United States jurisdictions as long as those jurisdictions are accredited under the NAIC financial standards and accreditation program. For jurisdictions not in the United States, the commissioner may defer to a list of qualified jurisdictions published by the NAIC or, if the commissioner does not defer to the NAIC list, shall develop a list of qualified jurisdictions by considering:

(A)(i) the reinsurance supervisory system of the jurisdiction;

(B)(ii) the rights, benefits, and extent of reciprocal recognition afforded by the jurisdiction to reinsurers licensed and domiciled within the United States;

(C)(iii) whether an NAIC-accredited jurisdiction has certified the reinsurer; and

(D)(iv) any additional factors the commissioner considers relevant.

(v)(e) If the commissioner approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions published by the NAIC, the commissioner shall provide thoroughly documented justification in accordance with the criteria listed under subsection (5)(e)(iv) (6)(d).

(vi)(f) Qualified jurisdictions under subsection (5)(e)(iv) (6)(d) shall agree to share information and cooperate with the commissioner with respect to all certified reinsurers domiciled within that jurisdiction.

(vii)(g) The commissioner may not approve a jurisdiction not in the United States if the commissioner determines that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards.

(viii)(h) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the commissioner may either suspend the reinsurer's certification indefinitely or revoke the certification entirely.

(ix)(i) The commissioner shall assign a rating to each certified reinsurer. In assigning a rating, the commissioner shall consider the financial strength ratings assigned by agencies approved by the commissioner. The commissioner shall publish a list of all certified reinsurers and their ratings. The commissioner may defer to a rating assigned by a jurisdiction accredited by the NAIC.

(x)(j) A certified reinsurer shall secure obligations assumed from United States ceding insurers under this subsection (5)(e)(x) (6)(j) at a level consistent with the certified reinsurer's rating. A domestic ceding insurer qualifies for full financial statement credit for reinsurance ceded to a certified reinsurer if the certified reinsurer:

(A)(i) maintains security in a form acceptable to the commissioner and in accord with the provisions of this section; or

(B)(ii) forms a multibeneficiary trust in accord with subsections (5)(a) through (5)(d), except that minimum trustee surplus requirements as provided in subsection (5)(b) do not apply with respect to a multibeneficiary trust account maintained by a certified reinsurer for the purpose of securing obligations incurred under this subsection (5)(e)(x) (6)(j). A multibeneficiary trust under this subsection (5)(e)(x)(B) (6)(j)(ii) must be maintained with a minimum trustee surplus of \$10 million.

(xi)(k) A certified reinsurer operating under subsection (5)(e)(x)(B) (6)(j)(ii) shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this subsection (5)(e) (6) or comparable laws of other United States jurisdictions.

(xii)(l) If obligations incurred by a certified reinsurer under this subsection (5)(e) (6) lack sufficient security, the commissioner shall reduce the allowable credit by an amount proportionate to the deficiency. The commissioner may impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

(xiii)(m) For the purposes of this subsection (5)(e) (6), a certified reinsurer whose certification has been terminated for any reason must be treated as a certified reinsurer required to secure 100% of its obligations. If the commissioner assigns a higher rating to a certified reinsurer on inactive status pursuant to this subsection (5)(e)(xiii) (6)(m), this subsection (5)(e)(xiii) (6)(m) does not apply. As used in this subsection (5)(e)(xiii) (6)(m), "terminated" refers to a reinsurer whose certificate of authority has been revoked, suspended, voluntarily surrendered, or put on inactive status.

(xiv)(n) A certified reinsurer that ceases to assume new business in this state may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of this subsection (5)(e) (6), and the commissioner shall assign a rating that takes into account, if relevant, the reasons the reinsurer is not assuming new business.

(7) (a) *Credit must be allowed when the reinsurance is ceded to an assuming insurer meeting each of the conditions set forth below:*

(i) *The assuming insurer must have its head office or be domiciled in, as applicable, and be licensed in a reciprocal jurisdiction. A "reciprocal jurisdiction" is a jurisdiction that meets one of the following criteria:*

(A) *A non-U.S. jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and European Union, is a member state of the European Union. For purposes of this subsection (7), a "covered agreement" is an agreement entered into pursuant to Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in Montana or for allowing the ceding insurer to recognize credit for reinsurance.*

(B) *A U.S. jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program; or*

(C) *A qualified jurisdiction as determined by the commissioner pursuant to subsection (6)(d), which is not otherwise described in subsection (7)(a)(i)(A) or (7)(a)(i)(B) above and which meets certain additional requirements, consistent with the terms and conditions of in-force covered agreements, as specified by the commissioner in rule.*

(ii) *The assuming insurer must have and maintain, on an ongoing basis, minimum capital and surplus, or its equivalent, calculated according to the methodology of its domiciliary jurisdiction, in an amount to be set forth in rule. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must have and maintain, on an ongoing basis, minimum capital and surplus equivalents (net of liabilities), calculated according to the methodology applicable in its domiciliary jurisdiction, and a central fund containing a balance in amounts to be set forth in rule.*

(iii) *The assuming insurer must have and maintain, on an ongoing basis, a minimum solvency or capital ratio, as applicable, provided in rule. If the assuming insurer is an association, including incorporated and individual*

unincorporated underwriters, it must have and maintain, on an ongoing basis, a minimum solvency or capital ratio in the reciprocal jurisdiction where the assuming insurer has its head office or is domiciled, as applicable, and is also licensed.

(iv) The assuming insurer shall agree and provide adequate assurance to the commissioner, in a form specified by the commissioner pursuant to rules, as follows:

(A) The assuming insurer shall provide prompt written notice and explanation to the commissioner if it falls below the minimum requirements in subsection (7)(a)(ii) or (7)(a)(iii), or if any regulatory action is taken against it for serious noncompliance with applicable law;

(B) The assuming insurer shall consent in writing to the jurisdiction of the Montana courts and to appoint a registered agent for service of process in Montana as required by 33-1-605. The commissioner may require that consent for service of process be provided to the commissioner and included in each reinsurance agreement. Nothing in this provision shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent the agreements are unenforceable under applicable insolvency or delinquency law.

(C) The assuming insurer shall consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer or its legal successor, that have been declared enforceable in the jurisdiction where the judgment was obtained;

(D) Each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to 100% of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to the agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its resolution estate; and

(E) The assuming insurer shall confirm that it is not presently participating in any solvent scheme of arrangement which involves Montana's ceding insurers, and agree to notify the ceding insurer and the commissioner and to provide security in an amount equal to 100% of the assuming insurer's liabilities to the ceding insurer, should the assuming insurer enter into such a solvent scheme of arrangement. The security must be in a form consistent with the provisions of 33-2-1217 and subsection (7) of this section and as specified by the commissioner through rule.

(v) The assuming insurer or its legal successor shall provide, if requested by the commissioner, on behalf of itself and any legal successors, certain documentation to the commissioner, as specified by the commissioner through rule.

(vi) The assuming insurer shall maintain a practice of prompt payment of claims under reinsurance agreements, pursuant to criteria set forth through rule.

(vii) The assuming insurer's supervisory authority shall confirm to the commissioner on an annual basis, as of the preceding December 31 or at the annual date otherwise statutorily reported to the reciprocal jurisdiction, that the assuming insurer complies with the requirements in subsections (7)(a)(ii) and (7)(a)(iii).

(viii) Nothing in this section precludes an assuming insurer from providing the commissioner with information on a voluntary basis.

(b) The commissioner shall create and publish a timely list of reciprocal jurisdictions.

(i) A list of reciprocal jurisdictions is published through the NAIC committee process. The commissioner's list must include any reciprocal jurisdiction as defined under subsections (7)(a)(i)(A) and (7)(a)(i)(B) and must consider any other reciprocal jurisdiction included on the NAIC list. The commissioner may approve a jurisdiction that does not appear on the NAIC list of reciprocal jurisdictions in accordance with criteria established by the commissioner through rule.

(ii) The commissioner may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets the requirements of a reciprocal jurisdiction, in accordance with a process set forth by the commissioner through rule, except that the commissioner may not remove from the list a reciprocal jurisdiction as defined under subsections (7)(a)(i)(A) and (7)(a)(i)(B). Upon removal of a reciprocal jurisdiction from this list, credit for reinsurance ceded to an assuming insurer which has its home office or is domiciled in that jurisdiction must be allowed, if otherwise allowed pursuant to this section.

(c) The commissioner shall create and publish a timely list of assuming insurers that have satisfied the conditions set forth in this subsection and to which cessions must be granted credit in accordance with this subsection (7). The commissioner may add an assuming insurer to the list if an NAIC accredited jurisdiction has added the assuming insurer to a list of the assuming insurers or if, upon initial eligibility, the assuming insurer submits the information to the commissioner as required under subsection (7)(a)(iv) and complies with any additional requirements that the commissioner may impose through rule, except to the extent that they conflict with an applicable covered agreement.

(d) If the commissioner determines that an assuming insurer no longer meets one or more of the requirements under this subsection (7), the commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this subsection (7) in accordance with procedures set forth in rule.

(i) While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured in accordance with 33-2-1217.

(ii) If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the commissioner and consistent with the provisions of 33-2-1217.

(e) If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding ceded liabilities.

(f) Nothing in this subsection (7) shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree on requirements for security or other terms in that reinsurance agreement, except as expressly prohibited by this section or other applicable law or regulation.

(g) (i) Credit may be taken under this subsection (7) only for reinsurance agreements entered into, amended, or renewed on or after [the effective date of this act] adding this subsection, and only with respect to losses incurred and reserves reported on or after the later of:

(A) *the date on which the assuming insurer has met all eligibility requirements pursuant to this subsection (7) herein; and*

(B) *the effective date of the new reinsurance agreement, amendment, or renewal.*

(ii) *This subsection (7) does not alter or impair a ceding insurer's right to take credit for reinsurance, to the extent that credit is not available under this subsection (7), as long as the reinsurance qualifies for credit under any other applicable provision of this section.*

(iii) *Nothing in this subsection (7):*

(A) *authorizes an assuming insurer to withdraw or reduce the security provided under any reinsurance agreement except as permitted by the terms of the agreement; and*

(B) *limits, or in any way alters, the capacity of parties to any reinsurance agreement to renegotiate the agreement.*

~~(6)~~(8) Credit must be allowed when the reinsurance is ceded to an assuming insurer that does not meet the requirements of subsection (2), (3), (4), ~~or~~ (5), (6), (7), ~~or~~ (8), but only with respect to the insurance of risks located in a jurisdiction in which the reinsurance is required by applicable law or regulation of that jurisdiction.

~~(7)~~(9) (a) If the assuming insurer is not licensed, accredited, or certified to transact insurance or reinsurance in this state, the credit permitted by subsections (4), ~~and~~ (5), (6), ~~and~~ (7) may not be allowed unless the assuming insurer agrees in the reinsurance agreements to the following provisions:

(i) upon the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall:

(A) submit to the jurisdiction of any court of competent jurisdiction in any state of the United States;

(B) comply with all requirements necessary to give the court jurisdiction; and

(C) abide by the final decision of the court or of any appellate court in the event of an appeal; and

(ii) the assuming insurer shall designate the commissioner or a designated attorney as its attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding insurer.

(b) Subsection ~~(7)(a)(i)~~ (9)(a)(i) is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes if an obligation is created in the agreement.

~~(8)~~(10) (a) If the assuming insurer does not meet the requirements of subsection (1), (2), or (3), the credit permitted by subsection (4), ~~or~~ (5), (6), ~~or~~ (7) may not be allowed unless the assuming insurer agrees in the trust agreements to the conditions under subsections ~~(8)(b)~~ (10)(b) through ~~(8)(d)~~ (10)(d).

(b) Regardless of any other provisions in the trust instrument, the trustee shall comply with an order of the commissioner or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner all assets of the trust fund if:

(i) the trust fund is inadequate because the trust fund contains an amount less than the required amount; or

(ii) the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings.

(c) The assets transferred under subsection ~~(8)(a)~~ (10)(a) must be distributed by the commissioner. Claims must be filed with and valued by the commissioner in accordance with the laws of the state in which the trust is domiciled and that apply to the liquidation of domestic insurers.

(d) The commissioner may determine that the assets of the trust fund or any part of the trust fund assets are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust. If the commissioner makes this determination, the commissioner shall return the assets or part of the assets to the trustee for distribution in accordance with the trust agreement.

(9)(11) (a) The commissioner may suspend or revoke a reinsurer's accreditation or certification if the reinsurer ceases to meet the requirements of this section. The commissioner shall give the reinsurer notice and opportunity for a hearing. The suspension or revocation may not take effect until after the commissioner's order on hearing unless:

(i) the reinsurer waives its right to a hearing;

(ii) the commissioner's order is based on:

(A) regulatory action by the reinsurer's domiciliary jurisdiction; or

(B) the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction; or

(iii) the commissioner finds that an emergency requires immediate action.

(b) While a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the suspension qualifies for credit under this section except to the extent that the reinsurer's obligations under the contract are secured in accordance with this section. If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with 33-2-1217 and subsection ~~(5)(e)(x)~~ (6)(j) of this section.

~~(10)~~(12) (a) A ceding insurer shall take steps:

(i) to manage the reinsurance recoverables proportionate to the ceding insurer's own book of business. A domestic ceding insurer shall provide notice to the commissioner within 30 days after:

(A) the reinsurance recoverables from any single assuming insurer or group of affiliated assuming insurers exceeds 50% of the domestic ceding insurer's last reported surplus to policyholders; or

(B) a determination that the reinsurance recoverables from any single assuming insurer or group of affiliated assuming insurers is likely to exceed the limit in subsection ~~(10)(a)(i)(A)~~ (12)(a)(i)(A).

(ii) to diversify its reinsurance program. A domestic ceding insurer shall notify the commissioner within 30 days after ceding to any single assuming insurer or group of affiliated assuming insurers more than 20% of the ceding insurer's gross written premium in the prior calendar year or after the domestic ceding insurer has determined that the reinsurance ceded to any single assuming insurer or group of affiliated assuming insurers is likely to exceed the 20% limit.

(b) The notifications made pursuant to this subsection ~~(10)~~ (12) must demonstrate that the exposure is safely managed by the domestic ceding insurer.

~~(11)~~(13) A reinsurance contract issued or renewed after the effective date of a suspension or revocation does not qualify for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with this section."

Section 2. Section 33-2-1217, MCA, is amended to read:

"33-2-1217. Reduction of liability for reinsurance ceded by domestic insurer to assuming insurer – definition. A reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of 33-2-1216 must be allowed in an amount not

exceeding the liabilities carried by the ceding insurer. The reduction must be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer:

(1) under a reinsurance contract with the assuming insurer as security for the payment of obligations under the contract if the security is held in the United States subject to withdrawal solely by and under the exclusive control of the ceding insurer; or

(2) in the case of a trust, in a qualified United States financial institution. This security may be in the form of:

(a) cash;

(b) securities listed by the securities valuation office of the NAIC, including those exempt from filing as defined in the purposes and procedures manual of the securities valuation office, and qualifying as admitted assets;

(c) clean, irrevocable, unconditional letters of credit that are issued or confirmed by a qualified United States financial institution no later than December 31 of the year for which filing is being made and that are in the possession of the ceding insurer on or before the filing date of the insurer's annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation must, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever occurs first.

(d) any other form of security acceptable to the commissioner.

(3) For the purposes of subsection (2)(c), a "qualified United States financial institution" means an institution that:

(a) is organized or, in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any of its states;

(b) is regulated, supervised, and examined by United States federal or state authorities with regulatory authority over banks and trust companies; and

(c) has been determined by either the commissioner or the securities valuation office of the national association of insurance commissioners to meet the standards of financial condition and standing that are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

(4) For the purposes of this part, except for subsection (2)(c), "qualified United States financial institution" means, with respect to institutions eligible to act as a fiduciary of a trust, an institution that:

(a) is organized or, in the case of a United States branch or agency office of a foreign banking corporation, licensed under the laws of the United States or any of its states and that has been granted authority to operate with fiduciary powers; and

(b) is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies.

(5) The commissioner may adopt rules implementing:

(a) the provisions of 33-2-307, 33-2-708, and chapter 12; and

(b) *reinsurance arrangements provided under this section provided that:*

(i) a rule adopted pursuant to this subsection (5)(b) may apply only to reinsurance relating to:

(A) life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits;

(B) universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period;

(C) *variable annuities with guaranteed death or living benefits;*
 (D) *long-term care insurance policies; or*
 (E) *such other life and health insurance and annuity products as to which NAIC adopts model regulatory requirements with respect to credit for reinsurance.*

(ii) *a rule adopted pursuant to subsection (5)(b)(i)(A) or (5)(b)(i)(B) may apply to any treaty containing:*

(A) *policies issued on or after January 1, 2015; or*
 (B) *policies issued prior to January 1, 2015, if risk pertaining to policies is ceded in connection with the treaty, in whole or in part, on or after January 1, 2015.”*

Section 3. Effective date. [This act] is effective on passage and approval.
 Approved March 23, 2021

CHAPTER NO. 66

[HB 105]

AN ACT REVISING THE CRIMINAL OFFENSE OF UNLAWFUL TRANSACTIONS WITH CHILDREN; PROHIBITING GIVING OR SELLING TO CHILDREN TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, OR VAPOR PRODUCTS; AMENDING SECTION 45-5-623, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 45-5-623, MCA, is amended to read:

“45-5-623. Unlawful transactions with children. (1) Except as provided for in 16-6-305, a person commits the offense of unlawful transactions with children if the person knowingly:

(a) sells or gives explosives to a child ~~under the age of majority~~ except as authorized under appropriate city ordinances;

(b) sells or gives intoxicating substances other than alcoholic beverages to a child ~~under the age of majority~~;

(c) sells or gives an alcoholic beverage to a person under 21 years of age;

(d) ~~sells or gives to a child a tobacco product, alternative nicotine product, or vapor product, as defined in 16-11-302;~~

~~(d)(e)~~ being a junk dealer, pawnbroker, or secondhand dealer, receives or purchases goods from a child ~~under the age of majority~~ without authorization of the parent or guardian; or

~~(e)(f)~~ tattoos or provides a body piercing on a child ~~under the age of majority~~ without the explicit in-person consent of the child’s parent or guardian. For purposes of this subsection (1)(f), “tattoo” and “body piercing” have the meaning provided in 50-48-102. Failure to adequately verify the identity of a parent or guardian is not an excuse for violation of this subsection (1)(f).

(2) A person convicted of the offense of unlawful transactions with children shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. A person convicted of a second offense of unlawful transactions with children shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for any term not to exceed 6 months, or both. (See compiler’s comments for contingent termination of certain text.)”

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Applicability. [This act] applies to offenses committed on or after [the effective date of this act].

Approved March 23, 2021

CHAPTER NO. 67

[HB 180]

AN ACT REMOVING THE ANTICOMPETITIVE REQUIREMENT TO ATTEST TO THE SKILLS OF LICENSED JOURNEYMAN PLUMBERS AND APPRENTICES; AMENDING SECTIONS 37-69-304, 37-69-305, AND 37-69-323, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-69-304, MCA, is amended to read:

“37-69-304. Qualifications of applicants for journeyman plumber’s license – restriction on authority. (1) The following requirements must be met by applicants for a journeyman plumber’s license:

(a) a specific record of 5 years of legally obtained experience in the field of plumbing ~~with an attestation of skill by a supervising master plumber~~. This experience requirement may be fulfilled by:

(i) working 5 years in a major phase of the plumbing business, verified by time or pay records, ~~and the attestation of a supervising master plumber~~; or

(ii) completing an apprenticeship program meeting the standards set by the department or the United States department of labor, bureau of apprenticeship. Credit toward this experience requirement may be given for time spent attending an accredited trade or other school specializing in training of value in the field of plumbing and approved by the board.

(b) satisfactory completion of a written examination prescribed by the board and conducted by the department, subject to 37-1-101(4), testing the applicant’s knowledge of techniques and methods employed in the field of plumbing and, if required by the board, a practical demonstration establishing competence in the special skills required in the field of plumbing.

(2) A licensed journeyman plumber may perform work only in the employment of a licensed master plumber unless otherwise permitted by rule of the board. Performing work in the employment of a licensed master plumber means the licensed master plumber shall observe the journeyman plumber’s work at different times over the course of employment and for different levels of plumbing work. ~~The board shall define the periods and the levels for which the master plumber shall attest the journeyman plumber’s skills, as provided in subsection (1).”~~

Section 2. Section 37-69-305, MCA, is amended to read:

“37-69-305. Qualifications of applicants for master plumber’s license – restriction on authority. (1) The following requirements must be met by an applicant for a master plumber’s license:

(a) evidence of 4 years of experience as a licensed journeyman plumber in the field of plumbing, verified by time or pay records of actual plumbing experience;

(b) evidence of 3 years of experience, which may run concurrently with the requirement in subsection (1)(a):

(i) working with a licensed master plumber ~~who has personally observed the applicant over a period specified by the board by rule and during application of plumbing skill levels, as determined by the board by rule~~; or

(ii) in a supervisory capacity in the field of plumbing; and

(c) satisfactory completion of an examination prescribed by the board for master plumbers testing the applicant's knowledge of the field of plumbing and demonstrating skill and ability in the field of plumbing.

(2) For purposes of subsection (1), 1 year of experience is 1,500 hours or more of work in a continuous 12-month period.

(3) A master plumber may not allow the master plumber's license to be used by any person or firm, corporation, or business other than the master plumber's own for the purpose of obtaining permits or for doing plumbing work under the license."

Section 3. Section 37-69-323, MCA, is amended to read:

"37-69-323. Restrictions on and responsibility for employees of master plumber. A licensed master plumber may employ only apprentice plumbers registered with the state department of labor and industry and only journeyman plumbers who are licensed by the state of Montana. A master plumber is responsible for ensuring that all work performed by the journeyman plumber or apprentice employed by the licensed master plumber is in compliance with the state plumbing code. The licensed master plumber may be charged with unprofessional conduct under 37-1-316 and held liable for false swearing, as provided in 45-7-202, if the licensed master plumber provides an assurance but has not personally observed a portion of the plumbing work performed by the employed journeyman plumber or apprentice. The board shall provide by rule what portion of the plumbing work must be personally observed by the licensed master plumber false information to the department related to the experience or skill of a journeyman plumber or apprentice."

Section 4. Effective date. [This act] is effective July 1, 2021.

Approved March 24, 2021

CHAPTER NO. 68

[HB 215]

AN ACT REVISING PERMISSIBLE FIREWORKS LAWS; REVISING THE DEFINITION OF PERMISSIBLE FIREWORKS; PROVIDING REFERENCES TO CURRENT FEDERAL REGULATIONS RELATED TO CONSUMER FIREWORKS; REMOVING EXCLUSIONS OF CERTAIN FIREWORKS; AMENDING SECTION 50-37-105, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 50-37-105, MCA, is amended to read:

"50-37-105. Permissible fireworks. Permissible fireworks, ~~excluding sky rockets, roman candles, and bottle rockets,~~ include and are limited to those that meet the definition of "common fireworks" "consumer fireworks" as set forth in the U.S. department of transportation's Hazardous Materials Regulations, 49 CFR, parts 173.88 and 173.100, as they read on January 1, 1985, provided in 27 CFR 555.11 and that comply with the construction, chemical composition, and labeling regulations of the U.S. consumer product safety commission, as set forth in 16 CFR, part 1507, as it read on January 1, 1985 parts 1500 and 1507."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 23, 2021

CHAPTER NO. 69

[SB 22]

AN ACT REVISING LAWS RELATED TO SECONDARY K-12 CAREER AND VOCATIONAL/TECHNICAL EDUCATION PROGRAMS; CLARIFYING STATE SUPPORT FOR SECONDARY K-12 CAREER AND VOCATIONAL/TECHNICAL EDUCATION AND FOR STATE-LEVEL STRENGTHENING CAREER AND TECHNOLOGY STUDENT ORGANIZATIONS; AMENDING SECTION 20-7-305, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-7-305, MCA, is amended to read:

“20-7-305. Funding for secondary K-12 career and vocational/technical education programs – application – rules. (1) The superintendent of public instruction shall annually distribute money from the biennial appropriation for secondary K-12 career and vocational/technical education. The money must be allocated to:

(a) high school districts providing approved secondary K-12 career and vocational/technical education programs in accordance with 20-7-306 and this section; and

~~(b) career and technical student organizations for grants in accordance with 20-7-320.~~

(2) A high school district providing secondary K-12 career and vocational/technical education programs shall apply to the superintendent of public instruction for funds available under 20-7-306 and this section. The superintendent of public instruction shall by rule prescribe the method for distribution, the form of the application, budget procedures, and accounting rules for the funds. The superintendent of public instruction may prescribe other requirements for the receipt of funding consistent with Title 20, chapter 7, part 3.

(3) A secondary K-12 career and vocational/technical education program in a high school district may not be funded until that program has been offered by the school district for 1 school year.

(4) As used in 20-7-306 and this section, the term “school district” means a district organized for the purpose of providing educational services for grades 9 through 12, but the term does not include postsecondary vocational education centers.”

Section 2. Effective date. [This act] is effective July 1, 2021.

Section 3. Applicability. [This act] applies to school fiscal years beginning on or after July 1, 2021.

Approved March 23, 2021

CHAPTER NO. 70

[SB 62]

AN ACT CLARIFYING UNLAWFUL POSSESSION OF A GAME FISH, BIRD, GAME ANIMAL, OR FUR-BEARING ANIMAL; AMENDING SECTION 87-6-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-6-202, MCA, is amended to read:

“87-6-202. Unlawful possession, shipping, or transportation of game fish, bird, game animal, or fur-bearing animal. (1) A person may not possess, ship, or transport all or part of any game fish, bird, game animal, or fur-bearing animal that was unlawfully killed, captured, or taken, whether killed, captured, or taken in Montana or outside of Montana.

(2) This section does not prohibit the possession, shipping, or transportation of:

(a) hides, heads, or mounts of lawfully killed, captured, or taken game fish, birds, game animals, or fur-bearing animals, except that the sale or purchase of a hide, head, or mount of a grizzly bear is prohibited, except as provided by federal law;

(b) naturally shed antlers or the antlers with a skull or portion of a skull attached from a game animal that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(c) the bones of an elk, antelope, moose, or deer that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(d) paddlefish roe as caviar under the provisions of 87-4-601;

(e) captive-reared migratory waterfowl; or

(f) salvaged antelope, deer, elk, or moose subject to 87-3-145.

(3) A person may not possess, ship, or transport live fish away from the body of water in which the fish were taken except:

(a) as provided in Title 87, chapter 4, part 6, or as specifically permitted by the laws of this state;

(b) fish species approved by the commission for use as live bait and subject to any restrictions imposed by the commission; or

(c) within the boundaries of the eastern Montana fishing district, as established by commission regulations.

(4) Except as provided in 87-3-310, possession of all or part of a dead game fish, bird, game animal, or fur-bearing animal is prima facie evidence that the person or persons in whose possession the fish, bird, or animal is found killed, captured, or took the fish, bird, or animal.

(5) The value of a game fish, bird, game animal, or fur-bearing animal that is unlawfully possessed, shipped, or transported must be determined from the schedules of restitution values in 87-6-906 and 87-6-907. The value of game fish, birds, game animals, or fur-bearing animals that are unlawfully possessed, shipped, or transported pursuant to a common scheme, as defined in 45-2-101, or as part of the same transaction, as defined in 46-1-202, may be aggregated in determining the value.

(6) The following penalties apply for a violation of this section:

(a) If a person is convicted or forfeits bond or bail after being charged with unlawful possession, shipping, or transportation of a game fish or bird and if the value of all or part of the game fish or bird or combination thereof does not exceed \$1,000, the person shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(b) If a person is convicted or forfeits bond or bail after being charged with unlawful possession or transportation of a mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or any part of these animals and if the value of all or part of the animal or combination thereof does not exceed \$1,000, the person shall be fined not less than \$500

or more than \$2,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture unless the court imposes a longer period.

(c) If a person is convicted or forfeits bond or bail after being charged with unlawful possession or transportation of a deer, antelope, elk, or mountain lion or any part of these animals and if the value of all or part of the animal or combination thereof does not exceed \$1,000, the person shall be fined not less than \$300 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period.

(d) If a person is convicted or forfeits bond or bail after being charged with unlawful shipping of a mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, grizzly bear, deer, antelope, elk, or mountain lion or any part of these animals and if the value of all or part of the animal or combination thereof does not exceed \$1,000, the person shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(e) If a person is convicted or forfeits bond or bail after being charged with unlawful possession, shipping, or transportation of a fur-bearing animal or pelt of a fur-bearing animal and if the value of all or part of the animal or combination thereof does not exceed \$1,000, the person shall be fined not less than \$100 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and any pelts possessed unlawfully must be confiscated.

(f) If a person is convicted under this section or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof exceeds \$1,000, the person shall be fined not more than \$50,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for not less than 3 years up to a revocation for life from the date of conviction.

(7) A person convicted of unlawful possession of more than double the legal bag limit may be subject to the additional penalties provided in 87-6-901.

(8) As used in this section:

(a) “lawfully killed, captured, or taken” means killed, captured, or taken in conformance with this title, the regulations adopted by the commission, and the rules adopted by the department under authority of this title; ~~and~~

(b) “possess” includes the act of killing, capturing, or taking a game fish, bird, game animal, or fur-bearing animal regardless of whether the person takes or retains physical possession of the fish, bird, or animal; ~~and~~

~~(b)(c)~~ “unlawfully killed, captured, or taken” means not lawfully killed, captured, or taken.

(9) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 through 87-6-907.”

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Applicability. [This act] applies to offenses charged after [the effective date of this act].

Approved March 23, 2021

CHAPTER NO. 71

[SB 69]

AN ACT REVISING LAWS RELATED TO SETTLEMENTS; PROVIDING THAT THE OFFER OF SETTLEMENT PROCEDURE IS AVAILABLE AT ANY TIME IN THE COURTS OF LIMITED JURISDICTION; AMENDING SECTION 25-7-105, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 25-7-105, MCA, is amended to read:

“25-7-105. Offer of settlement. (1) (a) At any time more than 60 days after service of the complaint and more than 30 days before ~~the~~ a trial in district court begins, ~~any~~ a party may serve upon the adverse party a written offer to settle a claim for the money or property or to the effect specified in the offer.

(b) *At any time after commencement of an action and more than 10 days before a trial in a court of limited jurisdiction begins, a party may serve upon the adverse party a written offer to settle a claim for the money or property or to the effect specified in the offer.*

(c) If within 10 days after the service of the offer, the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service of the offer and notice of acceptance with the clerk of court and the court shall enter judgment. An offer not accepted is considered withdrawn and evidence of the offer is not admissible except in a proceeding to determine costs. If the final judgment is less favorable to the offeree than the offer, the offeree shall pay the costs incurred by the offeror after the offer was made. The fact that an offer is made but not accepted does not preclude a subsequent offer.

(2) When the liability of one party to another has been determined by verdict, order, or judgment, but the amount or extent of the liability remains to be determined by further proceedings, either party may make a written offer of settlement. The offer has the same effect as an offer before trial, and the applicable provisions of subsection (1) apply if the offer is served within a reasonable time not less than 10 days prior to the commencement of a hearing to determine the amount or extent of liability.

(3) For the purposes of this section, costs include reasonable attorney fees.

(4) This section applies only to an action or claim for which the amount contained in a pleading is \$50,000 or less, exclusive of costs, interest, and service charges, and the action or claim:

(a) arises from contract or breach of contract, other than a contract of insurance, bond, surety, or warranty; or

(b) involves real property.”

Section 2. Applicability. [This act] applies to actions or claims filed on or after October 1, 2021.

Approved March 23, 2021

CHAPTER NO. 72

[SB 125]

AN ACT EXTENDING THE TERMINATION DATE FOR COUNTY MOTOR VEHICLE RECYCLING AND DISPOSAL LAWS; ALLOWING A COUNTY TO DISPOSE OF NONMOTORIZED VEHICLES AND MOBILE HOMES THAT ARE PUBLIC NUISANCES OR CAUSE CONDITIONS OF DECAY; AMENDING SECTION 5, CHAPTER 427, LAWS OF 2019; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5, Chapter 427, Laws of 2019, is amended to read:

“Section 5. Termination. [This act] terminates June 30, ~~2021~~ 2023.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 23, 2021

CHAPTER NO. 73

[SB 130]

AN ACT REVISING LAWS RELATED TO CAMPAIGN FINANCE COMPLAINTS; AND REQUIRING THE COMMISSIONER TO POST THE RESPONSE OF A PERSON ACCUSED OF A CAMPAIGN FINANCE VIOLATION AND ALLOWING THE COMMISSIONER TO SPECIFY A DEADLINE FOR THE RESPONSE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Campaign finance complaint response. A written response to a complaint alleging a violation of Title 13, chapter 37, part 2, must be posted on the commissioner’s website. The commissioner may specify a deadline for the written response by the person who is the subject of the campaign finance complaint.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 13, chapter 37, part 1, and the provisions of Title 13, chapter 37, part 1, apply to [section 1].

Approved March 23, 2021

CHAPTER NO. 74

[HB 103]

AN ACT PROVIDING FOR REMOTE PARTICIPATION TO CONDUCT COOPERATIVE BUSINESS; PROVIDING DEFINITIONS; AMENDING SECTIONS 35-18-102, 35-18-207, AND 35-18-303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 35-18-102, MCA, is amended to read:

“35-18-102. Definitions. In this chapter, unless the context otherwise requires, the following definitions apply:

(1) “Broadband” means transmission facilities capable of handling frequencies greater than those required for high-grade voice communication, higher than 4 kilohertz.

(2) “Cable television system” means a system that receives and amplifies the signals broadcast by one or more television stations and redistributes the signals to subscribing members of the public for a fixed or periodic fee by wire, cable, microwave, or other means, whether the means are owned or leased.

(3) “Cooperative” means a corporation organized under this chapter or a corporation that becomes subject to the provisions of this chapter.

(4) “Member” means each incorporator of a cooperative and each person admitted to and retaining membership in a cooperative as provided by the articles of incorporation or bylaws of the cooperative, including persons admitted to joint membership.

(5) “Person” includes any natural person, firm, association, corporation, business trust, partnership, federal agency, state or political subdivision or an agency of a state or political subdivision, or other organization or group of persons.

(6) “Present” or “presence” includes in-person or any form of presence utilizing remote communication authorized by a cooperative’s articles or bylaws.

(7) “Remote communication” includes communication made electronically, by conference telephone call, internet, remote technology, or other communication through which all participants in the meeting have the opportunity to read or hear the proceedings substantially concurrently with their occurrence, vote on matters submitted to the members, pose questions, and make comments.

(6)(8) “Rural area”, as applied to all corporations organized under the provisions of 35-18-105(1), means:

(a) an area not included within the boundaries of an incorporated or unincorporated city, town, village, or borough having a population in excess of 3,500 persons on March 17, 1939, or subsequent to March 17, 1939;

(b) an incorporated municipality in which 95% or more of the premises are served by an electric cooperative on February 1, 1971;

(c) a former rural area annexed by a municipality and subject to 69-5-109; or

(d) an incorporated municipality that was served by a public utility that sold the public utility’s distribution facilities within that municipality to an electric cooperative after January 1, 1998.”

Section 2. Section 35-18-207, MCA, is amended to read:

“35-18-207. Bylaws. (1) The original bylaws of a cooperative ~~shall must~~ be adopted by its board of trustees. ~~Thereafter~~

(2) (a) *Except as provided in subsection (2)(b), after adoption of original bylaws, the bylaws shall must* be adopted, amended, or repealed by its members.

(b) *If bylaws do not enable remote communication, the board may hold a remote meeting of the members for the purpose of member consideration of bylaw changes needed to authorize the board, at its discretion, to utilize remote communication.*

(3) The bylaws ~~shall must~~ set forth the rights and duties of members and trustees and may contain other provisions for the regulation and management of the affairs of the cooperative not inconsistent with this chapter or with the articles of incorporation.”

Section 3. Section 35-18-303, MCA, is amended to read:

“35-18-303. Meetings of members – general and special – place – notice – quorum – voting. (1) An annual meeting of the members ~~shall must~~ be held at ~~such a time as shall be~~ provided in the bylaws.

(2) Special meetings of the members may be called by the board of trustees, by any three trustees, by not less than 10% of the members, or by the president.

(3) Meetings of members ~~shall must~~ be held ~~at such place as may be~~ provided in the bylaws. In the absence of ~~any such a~~ provision, all meetings ~~shall must~~ be held ~~at such place as shall be~~ determined by the board of trustees.

(4) Except as ~~hereinafter~~ otherwise provided *in this chapter*, written or printed notice stating the time and place of each meeting of members and, in the case of a special meeting, the purpose or purposes for which the meeting is called ~~shall must~~ be given to each member, either personally, ~~or~~ by mail, ~~or by another method~~ not less than 10 or more than 25 days before the date of the meeting.

(5) Five percent of all members present ~~in person~~ or 50 members present ~~in person~~, whichever is fewer, ~~shall constitute~~ *constitutes* a quorum for the transaction of business at all meetings of the members, but the bylaws may prescribe the presence of a greater percentage or number of the members for a quorum. If less than a quorum is present at any meeting, a majority of those present ~~in person~~ may adjourn the meeting from time to time without further notice.

(6) Each member ~~shall be~~ is entitled to one vote on each matter submitted to a vote at a meeting. Voting ~~shall be in person~~ *is by members present*, but, if the bylaws ~~so~~ provide, may also be by proxy, ~~or~~ by mail, *by electronic voting*, or ~~both by any combination of the three~~. If the bylaws provide for voting by proxy, ~~or~~ by mail, ~~or by electronic voting~~, they ~~shall must~~ also prescribe the conditions under which proxy, ~~or~~ mail, ~~or electronic voting~~ or ~~both any combination of the three~~ ~~shall be~~ is exercised. In any event, ~~no person shall a person may not~~ vote as a proxy for more than three members at ~~any a~~ meeting of the members.”

Section 4. Effective date. [This act] is effective on passage and approval.

Approved March 25, 2021

CHAPTER NO. 75

[HB 193]

AN ACT REMOVING LIMITATIONS RELATING TO SPORTS POOLS AND SPORTS TABS; REMOVING DOLLAR LIMITATIONS ON THE AMOUNTS OF SPORTS TABS SOLD AND WINNINGS; AND AMENDING SECTION 23-5-503, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 23-5-503, MCA, is amended to read:

“23-5-503. Rules. (1) (a) The card or other device used for recording the sports pool or sports tab game must clearly indicate in advance of the sale of any chances:

- (i) the number of chances to be sold in that specific pool;
- (ii) the name of the event or series of events;
- (iii) the consideration to be paid for each chance; and
- (iv) the total amount or percentage to be paid to the winners.

(b) The sports tabs must be purchased from a sports tab game seller licensed under 23-5-513.

(2) (a) Each sports tab must be sold for the same amount, ~~which may not exceed \$25~~. A chance to participate in a sports pool may be sold in any combination so long as each chance is for the same amount ~~and not greater than \$100 and the total amount paid to all winners of any individual sports pool does not exceed the value of \$2,500~~. ~~The~~ *There is no limit on the dollar amount for a sports pool and sports tab, including the total amount paid to all winners of any individual sports tab game may not exceed the value of \$2,500.*

(b) Chances for a series of events may be purchased all at once prior to the occurrence of the first event.

(3) (a) Except as provided in subsections (3)(b) and (3)(c), the winners of any sports pool must receive a 100% payout of the value of the sports pool. The winner of a sports tab game must receive at least 90% of the total cost of the 100 sports tabs. The operator of the sports tab game may retain the remaining money for administration and other expenses.

(b) A nonprofit organization, licensed as a gambling operator, that maintains records and opens the records to inspection upon reasonable demand to verify that the retained portion is used to support charitable activities, scholarships or educational grants, or community service projects may retain up to 50% of the value of a sports pool or a sports tab game.

(c) A licensed gambling operator may conduct a sports pool or sports tab game to support a named nonprofit organization and may donate up to 50% of the value of the sports pool or sports tab game to the nonprofit organization.

(4) A licensed gambling operator conducting a sports pool or a sports tab game may purchase chances or sports tabs to participate in the sports pool or sports tab game but may not:

(a) retain any portion of the amount wagered in the sports pool or sports tab game, except as provided in subsection (3)(b);

(b) charge a fee for participating in the sports pool or sports tab game; or

(c) use the sports pool or sports tab game in any manner to establish odds or handicaps or to allow betting or booking.”

Approved March 25, 2021

CHAPTER NO. 76

[HB 64]

AN ACT CREATING A SECURITIES WHISTLEBLOWER AWARD AND PROTECTION ACT; PROVIDING DEFINITIONS; PROVIDING AUTHORITY FOR THE COMMISSIONER TO AWARD WHISTLEBLOWERS; PROVIDING FOR ANONYMOUS WHISTLEBLOWER COMPLAINTS; PROVIDING PROCEDURES FOR WHISTLEBLOWER AWARD PAYMENTS; PROVIDING CRITERIA FOR AWARDS AND DISQUALIFICATIONS; PROVIDING FOR PROTECTIONS OF WHISTLEBLOWERS AND INTERNAL REPORTS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 11] may be cited as the “Whistleblower Award and Protection Act”.

Section 2. Purpose. The Whistleblower Award and Protection Act provides monetary awards to whistleblowers and provides protection for those who make whistleblower complaints.

Section 3. Definitions. As used in [sections 1 through 11], unless the context requires otherwise:

(1) (a) “Monetary sanction” means any money, including penalties, disgorgement, and interest ordered to be paid as a result of an administrative or judicial action.

(b) The term does not include restitution.

(2) “Original information” means information that is:

(a) derived from the independent knowledge or analysis of a whistleblower;

(b) not already known to the commissioner from any other source, unless the whistleblower is the original source of the information;

(c) not exclusively derived from an allegation made in an administrative or judicial hearing, in a governmental report, hearing, audit, or investigation, or from the news media, unless the whistleblower is the source of the information; and

(d) provided to the commissioner for the first time after [the effective date of this act].

(3) “Whistleblower” means an individual who, alone or jointly with others, provides the state or other law enforcement agency with information pursuant to the provisions set forth in [sections 1 through 11], and the information relates to a possible violation of state or federal securities laws, including any rules or regulations thereunder, that has occurred, is ongoing, or is about to occur.

Section 4. Authority to make whistleblower award. Subject to the provisions of [sections 1 through 11], the commissioner may award an amount to one or more whistleblowers who voluntarily provide original information in writing, and in the form and manner required by the commissioner that leads to the successful enforcement of an administrative or judicial action under Title 30, chapter 10.

Section 5. Anonymous whistleblower complaints. (1) An individual may make an anonymous whistleblower complaint.

(2) Any individual who anonymously makes a claim for a whistleblower award shall be represented by counsel at the time of an award in [section 4] in order to verify qualification for the award. Prior to the payment of an award, a whistleblower shall disclose their identity and provide such other information as the commissioner may require, directly or through counsel for the whistleblower. The identity of the whistleblower must remain protected from public disclosure as stated in subsection (1) and [section 11(7)].

Section 6. Amount of whistleblower award. If the commissioner determines to make one or more awards under [section 4], the aggregate amount of awards that may be awarded in connection with an administrative or judicial action may not be less than 10% or more than 30% of the monetary sanctions collected in the related administrative or judicial action.

Section 7. Discretion to determine amount of whistleblower award. The determination of the amount of an award made under [sections 1 through 11] is in the discretion of the commissioner consistent with [sections 6 and 9].

Section 8. Source of payment of whistleblower award. (1) The commissioner is authorized to order that a whistleblower award is paid:

(a) directly to a known whistleblower; or

(b) for an anonymous whistleblower, to counsel for the whistleblower as provided in [section 6], who shall distribute the award to the anonymous whistleblower.

(2) Any whistleblower award under [sections 1 through 11] must be paid solely from the monetary sanction collected in the related administrative or judicial action and has first priority over other payment or disbursement.

Section 9. Factors used to determine amount of whistleblower award. In determining the amount of an award under [sections 1 through 11], the commissioner shall consider:

(1) the significance of the original information provided by the whistleblower to the success of the administrative or judicial action;

(2) the degree of assistance provided by the whistleblower in connection with the administrative or judicial action;

(3) the interest of the commissioner in deterring violations of the securities laws by making awards to whistleblowers who provide original information that leads to the successful enforcement of such laws; and

(4) any other factors the commissioner considers relevant.

Section 10. Disqualification from award. The commissioner may not provide an award to a whistleblower under this section if the whistleblower:

(1) is convicted of a felony in connection with the administrative or judicial action for which the whistleblower otherwise could receive an award;

(2) acquires the original information through the performance of an audit of financial statements required under the securities laws and for whom providing the original information violates 15 U.S.C. 78j-1;

(3) fails to submit information to the commissioner in the form as the commissioner may prescribe;

(4) knowingly makes a false, fictitious, or fraudulent statement or misrepresentation as part of, or in connection with, the original information provided or the administrative or judicial action for which the original information was provided;

(5) in the whistleblower's submission, its other dealings with the commissioner, or in its dealings with another authority in connection with a related action, knowingly makes any false, fictitious, or fraudulent statement or representation, or uses any false writing or document knowing that it contains any false, fictitious, or fraudulent statement or entry with intent to mislead or otherwise hinder the commissioner or another authority in connection with a related action;

(6) knowingly provides original information that is false, fictitious, or fraudulent;

(7) has a legal duty to report the original information to the commissioner;

(8) is, or was at the time the whistleblower acquired the original information submitted to the commissioner, a member, officer, or employee of the office of the state auditor, the United States securities and exchange commission, any securities regulatory authority of another state, a self-regulatory organization, the public company accounting oversight board, or any law enforcement organization;

(9) is, or was at the time the whistleblower acquired the original information submitted to the commissioner, a member, officer, or employee of a foreign government, of any political subdivision, department, agency, or instrumentality of a foreign government, or of any other foreign financial regulatory authority as that term is defined in 15 U.S.C. 78c(a)(52);

(10) is the spouse, parent, child, or sibling of the commissioner or an employee of the office of the state auditor, or resides in the same household as the commissioner or an employee of the office of the state auditor; or

(11) directly or indirectly acquires the original information provided to the commissioner from a person:

(a) who is subject to subsection (2), unless the information is not excluded from that person's use, or provides the commissioner with information about possible violations involving that person;

(b) who is a person described in subsection (8), (9), or (10); or

(c) with the intent to evade any provision of [sections 1 through 11].

Section 11. Protection of whistleblowers and internal reporters.

(1) An employer may not terminate, discharge, demote, suspend, threaten, harass, directly or indirectly, or in any other manner retaliate against an individual because of any lawful act done by the individual:

(a) in providing information to the state or other law enforcement agency concerning a possible violation of state or federal securities laws, including any rules or regulations thereunder, that has occurred, is ongoing, or is about to occur;

(b) in initiating, testifying in, or assisting in any investigation or administrative or judicial action of the commissioner, the office of the state auditor, or other law enforcement agency based upon or related to such information concerning a possible violation of state or federal securities laws, including any rules or regulations thereunder;

(c) in making disclosures that are required or protected under the Sarbanes-Oxley Act of 2002, 15 U.S.C. 7201 et seq., the Securities Act of 1933, 15 U.S.C. 77a, et seq., the Securities Exchange Act of 1934, 15 U.S.C. 78a, et seq., 18 U.S.C. 1513(e), any other law, rule, or regulation subject to the jurisdiction of the United States securities and exchange commission or the Montana Securities Act or a rule adopted thereunder; or

(d) in making disclosures to a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct) regarding matters subject to the jurisdiction of the commissioner, the office of the state auditor, or the United States securities and exchange commission.

(2) Notwithstanding subsection (1), an individual is not protected under this section if:

(a) the individual knowingly makes a false, fictitious, or fraudulent statement or misrepresentation;

(b) the individual uses a false writing or document knowing that the writing or document contains false, fictitious, or fraudulent information; or

(c) the individual knows that the disclosure is of original information that is false, fictitious, or fraudulent.

(3) An individual who alleges any act of retaliation in violation of subsection (1) may bring an action for the relief provided in subsection (6) in the court of original jurisdiction for the county or state where the alleged violation occurs, the individual resides, or the person against whom the action is filed resides or has a principal place of business.

(4) A subpoena requiring the attendance of a witness at a trial or hearing conducted under subsection (3) may be served at any place in the United States.

(5) An action under subsection (3) must be brought within:

(a) 3 years after the date on which the violation of subsection (1) occurred; or

(b) 3 years after the date when facts material to the right of action are known or reasonably should have been known by the employee alleging a violation of subsection (1), but not more than 6 years after the date on which the violation occurred.

(6) A court may award as relief for an individual prevailing in an action brought under this section:

(a) reinstatement with the same compensation, fringe benefits, and seniority status that the individual would have had, but for the retaliation;

(b) two times the amount of backpay otherwise owed to the individual, with interest;

(c) compensation for litigation costs, expert witness fees, and reasonable attorney fees;

(d) actual damages;

(e) an injunction to restrain a violation; or

(f) any combination of these remedies.

(7) Information that could reasonably be expected to reveal the identity of a whistleblower is exempt from public disclosure under Title 2, chapter 6, parts 10 through 12. This subsection does not limit the ability of any person to present evidence to a grand jury or to share evidence with potential witnesses or defendants in the course of an ongoing criminal investigation.

(8) A person may not take any action to impede an individual from communicating directly with the commissioner's staff about a possible securities law violation, including enforcing, or threatening to enforce, a confidentiality agreement with respect to such communications, except with respect to:

(a) agreements concerning communications covered by the attorney-client privilege, unless disclosure of that information would otherwise be permitted by an attorney under applicable state attorney conduct rules or otherwise; and

(b) information obtained in connection with legal representation of a client on whose behalf an individual or the individual's employer or firm are providing services, and the individual is seeking to use the information to make a whistleblower submission for the individual's own benefit, unless disclosure would otherwise be permitted by an attorney pursuant to applicable state attorney conduct rules or otherwise.

(9) The rights and remedies provided for in [sections 1 through 11] may not be waived by any agreement, policy form, or condition of employment, including by a predispute arbitration agreement.

(10) Nothing in this section diminishes the rights, privileges, or remedies of any individual under any federal or state law, or under any collective bargaining agreement.

Section 12. Codification instruction. [Sections 1 through 11] are intended to be codified as an integral part of Title 30, chapter 10, and the provisions of Title 30, chapter 10, apply to [sections 1 through 11].

Section 13. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 14. Effective date. [This act] is effective on passage and approval.

Section 15. Applicability. [This act] applies to original information provided by a whistleblower on or after October 1, 2021.

Approved March 25, 2021

CHAPTER NO. 77

[HB 96]

AN ACT ALIGNING A STATE SPECIAL REVENUE ACCOUNT WITH ADMINISTERING AGENCY; AMENDING SECTION 61-3-303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-3-303, MCA, is amended to read:

"61-3-303. Original registration – process – fees. (1) Except as provided in 61-3-324, a Montana resident who owns a motor vehicle, trailer, semitrailer, or pole trailer operated or driven upon the public highways of this state shall register the motor vehicle, trailer, semitrailer, or pole trailer in the county where the owner is domiciled. A nonresident who has an interest in real property in Montana may register in the county where the real property is located a motor vehicle, trailer, semitrailer, or pole trailer operated or driven upon the public highways of this state.

(2) Except as provided in subsection (3), the county treasurer or an authorized agent shall register any vehicle for which:

(a) as of the date that the motor vehicle, trailer, semitrailer, or pole trailer is to be registered, the owner delivers an application for a certificate of title to the department, an authorized agent, or a county treasurer; or

(b) the county treasurer or an authorized agent confirms that the department has an electronic record of title for the motor vehicle, trailer, semitrailer, or pole trailer as provided under 61-3-101.

(3) (a) A county treasurer or an authorized agent may register a motor vehicle, trailer, semitrailer, or pole trailer for which a certificate of title and registration were issued in another jurisdiction and for which registration is required under 61-3-701 after the county treasurer or the authorized agent examines the current out-of-jurisdiction registration certificate or receipt and receives payment of the fees required in 61-3-701. The county treasurer or an authorized agent may ask the motor vehicle, trailer, semitrailer, or pole trailer owner to provide additional information, prescribed by the department, to ensure that the electronic record of registration maintained by the department is complete.

(b) A county treasurer or an authorized agent shall collect fees pursuant to 61-3-203 and 61-3-220(4) and issue a 90-day temporary registration permit pursuant to 61-3-224 for a motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for which the new owner cannot, due to circumstances beyond the new owner's control, surrender a previously assigned certificate of title. The new owner shall request the 90-day temporary registration permit from the authorized agent or county treasurer that originally issued the temporary registration permit.

(4) Upon registering a motor vehicle, trailer, semitrailer, or pole trailer for the first time in this state, the county treasurer or an authorized agent shall:

(a) update the electronic record of title, if any, maintained for the vehicle by the department under 61-3-101;

(b) assign a registration period for the vehicle under 61-3-311;

(c) determine the vehicle's age, if required, under 61-3-501;

(d) determine the amount of fees, including local option taxes or fees, to be paid under subsection (5); and

(e) assign and issue license plates for the vehicle under 61-3-331.

(5) Unless otherwise provided by law, a person registering a motor vehicle shall pay to the county treasurer or an authorized agent:

(a) the fees in lieu of tax or registration fees as required for:

(i) a light vehicle under 61-3-321 or 61-3-562, in addition to, if applicable, any local option tax or fee under 61-3-537 or 61-3-570;

(ii) a motor home under 61-3-321;

(iii) a travel trailer under 61-3-321;

(iv) a motorcycle or quadricycle under 61-3-321;

(v) a bus, a truck having a manufacturer's rated capacity of more than 1 ton, or a truck tractor under 61-3-321 and 61-3-529; or

(vi) a trailer under 61-3-321;

(b) a donation of \$1 or more if the person indicates that the person wishes to donate to promote awareness and education efforts for procurement of organ and tissue donations in Montana to favorably impact anatomical gifts; and

(c) a donation of \$1 or more if the person indicates that the person wishes to donate to promote education on, support for, and awareness of traumatic brain injury.

(6) The county treasurer or an authorized agent may not issue a registration receipt or license plates for the motor vehicle, trailer, semitrailer, or pole trailer to the owner unless the owner makes the payments required by subsection (5).

(7) The department may make full and complete investigation of the registration status of the motor vehicle, trailer, semitrailer, or pole trailer. A person seeking to register a motor vehicle, trailer, semitrailer, or pole trailer under this section shall provide additional information to support the registration to the department if requested.

(8) Revenue that accrues from the voluntary donation provided in subsection (5)(b) must be forwarded by the respective county treasurer or an authorized agent to the department for deposit in the state special revenue fund to the credit of an account established by the department of ~~public health and human services~~ *labor and industry* to support activities related to awareness and education efforts for procurement of organ and tissue donations for anatomical gifts.

(9) (a) Except as provided in subsection (9)(b), the fees in lieu of tax, taxes, and fees imposed on or collected from the registration of a travel trailer, motorcycle, or quadricycle or a trailer, semitrailer, or pole trailer that has a declared weight of less than 26,000 pounds are required to be paid only once during the time that the travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is owned by the same person who registered the travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer. Once registered, a travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is registered permanently unless ownership is transferred or unless it was registered under 61-3-701.

(b) Whenever ownership of a travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is transferred, the new owner is required to register the travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer as if it were being registered for the first time, including paying all of the required fees in lieu of tax, taxes, and fees.

(10) Revenue that accrues from the voluntary donation provided in subsection (5)(c) must be forwarded by the respective county treasurer or an authorized agent to the department for deposit in the state special revenue fund to the credit of the account established in 2-15-2218 to support activities related to education regarding prevention of traumatic brain injury.

(11) The department, an authorized agent of the department, or a county treasurer shall use the online motor vehicle liability insurance verification system provided in 61-6-157 to verify that the vehicle owner has complied with the requirements of 61-6-301.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 25, 2021

CHAPTER NO. 78

[HB 210]

AN ACT PROVIDING FOR LICENSURE OF SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY ASSISTANTS; REMOVING THE TERM “AIDES” BUT PROVIDING AN OPTION FOR LICENSING; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTIONS 37-15-102, 37-15-301, 37-15-302, 37-15-303, 37-15-307, 37-15-311, AND 37-15-314, MCA; AND REPEALING SECTION 37-15-313, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-15-102, MCA, is amended to read:

“37-15-102. Definitions. As used in this chapter, the following definitions apply:

(1) “Audiologist” means a person who practices audiology and who meets the qualifications set forth in this chapter. A person represents to the public that the person is an audiologist by incorporating in any title or description of services or functions that the person directly or indirectly performs the words “audiologist”, “audiology”, “audiometrist”, “audiometry”, “audiological”, “audiometrics”, “hearing clinician”, “hearing clinic”, “hearing therapist”, “hearing therapy”, “hearing center”, “hearing aid audiologist”, or any similar title or description of services.

(2) “Audiology ~~aide~~ or assistant” means any person meeting the minimum requirements established by the board of speech-language pathologists and audiologists who works directly under the supervision of a licensed audiologist.

(3) “Board” means the board of speech-language pathologists and audiologists provided for in 2-15-1739.

(4) “Department” means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(5) “Facilitator” means a trained individual who is physically present with the patient and facilitates telepractice at the direction of an audiologist or speech-language pathologist. A facilitator may be but is not limited to an audiology *assistant* or a speech-language pathology ~~aide~~ or assistant.

(6) “Patient” means a consumer of services from an audiologist, ~~or a~~ speech-language pathologist, *a speech-language pathology assistant, or an audiology assistant*, including a consumer of those services provided through telepractice.

(7) “Practice of audiology” means nonmedical diagnosis, assessment, and treatment services relating to auditory and vestibular disorders as provided by board rule and includes the selling, dispensing, and fitting of hearing aids.

(8) “Practice of speech-language pathology” means nonmedical diagnosis, assessment, and treatment services relating to speech-language pathology as provided by board rule.

(9) “Speech-language pathologist” means a person who practices speech-language pathology and who meets the qualifications set forth in this chapter. A person represents to the public that the person is a speech-language pathologist by incorporating in any title or description of services or functions that the person directly or indirectly performs the words “speech pathologist”, “speech pathology”, “speech correctionist”, “speech corrections”, “speech therapist”, “speech therapy”, “speech clinician”, “speech clinic”, “language pathologist”, “language pathology”, “voice therapist”, “voice therapy”, “voice pathologist”, “voice pathology”, “logopedist”, “logopedics”, “communicologist”, “communicology”, “aphasiologist”, “aphasiology”, “phoniatrist”, “language therapist”, “language clinician”, or any similar title or description of services or functions.

(10) “Speech-language pathology ~~aide~~ or assistant” means a person meeting the minimum requirements established by the board who works directly under the supervision of a licensed speech-language pathologist.

(11) “Telepractice” means the practice of audiology or speech-language pathology by an audiologist or speech-language pathologist at a distance through any means, method, device, or instrumentality for the purposes of assessment, intervention, and consultation.”

Section 2. Section 37-15-301, MCA, is amended to read:

“37-15-301. License required. (1) A license must be issued to qualified persons either in speech-language pathology or audiology. A person may be licensed in both areas if the person meets the respective qualifications, and in those instances, the license fee must be as though for one license.

(2) A person may not practice or represent to the public that the person is a speech-language pathologist, ~~or an audiologist, a speech-language pathology assistant, or an audiology assistant~~ in this state unless the person is licensed in accordance with the provisions of this chapter.

(3) The board may issue a limited license to qualified individuals engaged in supervised professional experience, as defined by board rule.”

Section 3. Section 37-15-302, MCA, is amended to read:

“37-15-302. Application forms. An application ~~for examination for licensing to be licensed as a speech-language pathologist, or an audiologist, a speech-language pathology assistant, or an audiology assistant must be made upon~~ on forms prescribed by the department.”

Section 4. Section 37-15-303, MCA, is amended to read:

“37-15-303. Qualifications. (1) To be eligible for licensing by the board as a speech-language pathologist or audiologist, the applicant:

(a) must meet the current academic, supervised clinical practicum, and supervised professional experience requirements as defined by board rule; and
(b) shall pass an examination approved by the board.

(2) ~~(a) To be eligible for licensing by the board as a speech-language pathology assistant or an audiology assistant, the applicant:~~

~~(i) must meet the current academic, supervised clinical practicum, and the supervised professional experience requirement, as each is defined by board rule, and pass the examination approved by the board; or~~

~~(ii) shall provide evidence to the board that the applicant:~~

~~(A) served as an unlicensed speech-language pathology assistant or an unlicensed audiology assistant sufficient to meet current academic, supervised clinical practicum, and supervised professional experience similar to those defined under subsection (2)(a)(i) for a period prior to October 1, 2021; and~~

~~(B) passed the examination approved by the board.~~

~~(b) The board shall provide by rule the type of evidence and conditions, plus the length of the period required under subsection (2)(a)(ii), to meet equivalency for current academic, supervised clinical practicum, and supervised professional experience prior to October 1, 2021.~~

~~(2)(3) The board shall determine the subject and scope of the any examination.~~

~~(3)(4) The standards defined by the board must be equal to or greater than the standards generally accepted as the national norm.”~~

Section 5. Section 37-15-307, MCA, is amended to read:

“37-15-307. Application and examination fee — license fee = registration fee. The board shall determine the amount of fees, which may be adjusted annually by rule, that are necessary to meet costs and projected expenditures for:

(1) a renewed license as a speech-language pathologist, ~~or an audiologist, a speech-language pathology assistant, or an audiology assistant;~~

(2) a limited license for a person engaged in supervised professional experience; and

(3) an initial application for a license ~~or registration;~~

~~(4) examinations; and~~

~~(5) registration as a speech-language pathology aide or assistant or audiology aide or assistant.”~~

Section 6. Section 37-15-311, MCA, is amended to read:

“37-15-311. Municipal tax prohibited. ~~No A municipality or any other subdivision of the state may not impose a license tax shall be imposed upon on~~ speech-language pathologists, ~~or audiologists, by a municipality or any other subdivision of the state~~ speech-language pathology assistants, or audiology assistants.”

Section 7. Section 37-15-314, MCA, is amended to read:

“37-15-314. Telepractice – authorization – licensure. (1) An audiologist, ~~or speech-language pathologist, speech-language pathology assistant, or audiology assistant~~ who is licensed under and meets the requirements of this chapter may engage in telepractice in Montana without obtaining a separate or additional license from the board.

(2) Except as provided in 37-15-103, an audiologist, ~~or speech-language pathologist, speech-language pathology assistant, or audiology assistant~~ who is not a resident of Montana and who is not licensed under this chapter may not provide services to patients in Montana through telepractice without first obtaining a license from the board in accordance with this part.

(3) An audiology aide ~~or assistant or a speech-language pathology aide or assistant may not engage in telepractice. This section does not prohibit an audiology aide or assistant or a speech-language pathology aide or assistant from serving as a facilitator, or provide other services as directed by a speech-language pathologist or audiologist that otherwise comply with board rules for scope of practice by speech-language pathology assistants and audiology assistants.”~~

Section 8. Repealer. The following sections of the Montana Code Annotated are repealed:

37-15-313. Registration of aides or assistants.

Approved March 25, 2021

CHAPTER NO. 79

[HB 199]

AN ACT ALLOWING THE DEPARTMENT OF LABOR AND INDUSTRY TO PROVIDE ADDITIONAL INFORMATION TO INJURED WORKERS; PROVIDING FOR JOINT PETITIONS FOR REOPENING OF MEDICAL BENEFITS; AMENDING SECTIONS 39-71-606 AND 39-71-717, MCA; REPEALING SECTION 39-71-2215, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 39-71-606, MCA, is amended to read:

“39-71-606. Insurer to accept or deny claim within 30 days of receipt – notice of benefits and entitlements to claimants – notice of denial – notice of reopening – notice to employer – employer’s right to loss information. (1) Each insurer under any plan for the payment of workers’ compensation benefits shall, within 30 days of receipt of a claim for compensation signed by the claimant or the claimant’s representative, either accept or deny the claim and, if denied, shall inform the claimant and the department in writing of the denial.

(2) (a) The department shall make available to insurers for distribution to claimants sufficient copies of a document describing current benefits and entitlements available under Title 39, chapter 71. On receipt of a claim, each insurer shall promptly notify the claimant in writing of potential benefits

and entitlements available by providing the claimant a copy of the document prepared by the department.

(b) The department may provide information to claimants regarding nonstatutory programs or benefits offered to injured workers or the families of injured workers by a nonprofit organization. The department may not provide the contact information of an injured worker to such an organization without the express consent of the injured worker.

(3) Each insurer under plan No. 2 or No. 3 for the payment of workers' compensation benefits shall notify the employer of the reopening of the claim within 14 days after the reopening of a claim for the purpose of paying compensation benefits.

(4) (a) When requested by an employer that an insurer currently insures or has insured in the immediately preceding 5 years or when requested by the employer's designated insurance producer, an insurer shall provide the loss information listed in subsection (4)(b) within 10 days of the request.

(b) Loss information provided under this subsection (4) must include for the period requested:

- (i) all date of injury or occupational disease data for the employer's claims;
- (ii) payment data on the employer's closed claims; and
- (iii) payment data and loss reserve amounts on the employer's open claims, including all compensation benefits that are ongoing and are being charged against that employer's account.

(c) The information provided under this subsection (4) is confidential insurance information. The information may be used by the employer for internal management purposes or for procuring insurance products but may not be disclosed for any other purpose without the express written consent of the insurer.

(5) Failure of an insurer to comply with the time limitations required in subsections (1) and (3) does not constitute an acceptance of a claim as a matter of law. However, an insurer who fails to comply with 39-71-608 or subsections (1) and (3) of this section may be assessed a penalty under 39-71-2907 if a claim is determined to be compensable by the workers' compensation court."

Section 2. Section 39-71-717, MCA, is amended to read:

"39-71-717. Reopening of terminated medical benefits -- medical review. (1) A petition to reopen medical benefits that terminate under 39-71-704(1)(f) must be reviewed as provided in this section.

(2) Medical benefits may be reopened only if the worker's medical condition is a direct result of the compensable injury or occupational disease and requires medical treatment in order to allow the worker to continue to work or return to work. Medical benefits closed by settlement or court order are not subject to reopening.

(3) A review of a petition to reopen medical benefits must be conducted by a medical review panel as provided in subsection (4) or, if stipulated by the worker and the insurer, solely by the department's medical director.

(4) The medical review panel must be composed of the department's medical director and two additional physicians who are licensed to practice medicine in Montana and who have expertise and experience in the area of medicine that is relevant to the worker's condition. The department's medical director shall serve as the presiding officer of the medical review panel. Participants on the medical review panel must be reimbursed as provided in 2-18-501 through 2-18-503 if travel is required for a review and must be paid a reasonable fee for services.

(5) A petition for reopening of medical benefits must be filed with the department within 5 years of the termination of medical benefits pursuant to 39-71-704(1)(f). A petition may not be filed more than 90 days before benefits are to terminate.

(6) Upon receipt of a petition to reopen medical benefits, the department shall request from the insurer a copy of the worker's medical records contained in the insurer's claim file. The worker or the insurer may submit additional information that is relevant to the petition to reopen medical benefits.

(7) The proof necessary to support reopening of medical benefits must be a preponderance of the evidence.

(8) Within 60 days of the submission of a petition to reopen medical benefits, the medical review panel or the department's medical director shall issue a report. The report must provide the rationale for the decision reached. A report issued by the medical review panel must be supported by a majority of the panel members. If the report concludes that medical benefits must be reopened, the report must state the extent to which the benefits must be reopened consistent with the utilization and treatment guidelines. Benefits reopened pursuant to this section remain open for 2 years or until maximum medical improvement is achieved following surgery or the recommended medical treatment, whichever occurs first. If the medical panel specifically approves treatment beyond 2 years, medical benefits remain open for as long as recommended by the medical panel. The petitioner and the insurer shall submit updated information to the medical panel every 2 years, and every subsequent 2 years the medical panel shall review the claims that were reopened for longer than 2 years to determine whether to change the previous recommendation.

(9) *If a joint petition to reopen medical benefits is filed by the insurer and worker, the medical and other records required by subsections (3), (4), and (6) do not need to be submitted. A report on a joint petition is not required from the medical director or a medical review panel. A joint petition reopens medical benefits. The joint petition may specify the term for which benefits will remain open. Nothing in this subsection may be construed to require an insurer to jointly petition to reopen medical benefits.*

(9)(10) A party aggrieved by a decision of the department's medical director or medical review panel may, after satisfying the dispute resolution requirements provided in this chapter, file a petition with the workers' compensation court. The report of the department's medical director or the medical review panel is presumed to be correct and may be overcome only by clear and convincing evidence."

Section 3. Repealer. The following sections of the Montana Code Annotated are repealed:

39-71-2215. Security deposit to ensure payment of liability of plan No. 2 insurer.

Section 4. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2021.

(2) [Section 2] and this section are effective on passage and approval.

Approved March 25, 2021

CHAPTER NO. 80

[SB 18]

AN ACT ALLOWING CERTAIN HIGH SCHOOL STUDENTS WHO MEET THE STATE MINIMUM GRADUATION CREDIT REQUIREMENT TO

RECEIVE A DIPLOMA FROM A DISTRICT THAT HAS A HIGHER CREDIT REQUIREMENT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Graduation requirements for youth who experience a disruption in education – legislative intent. (1) The legislature finds and declares pursuant to Article X, section 1, of the Montana constitution that an appropriate means of fulfilling the people's goal of developing the full educational potential of each person is to allow a pupil who experiences an educational disruption to obtain a diploma if the pupil meets the state's minimum high school credit requirement. The legislature believes educational disruptions can interfere with pupil success and intends the policy established in this section to provide additional options for a pupil to achieve the individual's maximum postsecondary potential.

(2) If an enrolled high school pupil who has experienced an educational disruption meets the minimum high school credit requirement for graduation as established by administrative rules of the board of public education but will not meet a higher credit requirement established by the trustees of the district where the student is enrolled, the trustees of the district shall award the student a diploma. The trustees may distinguish the diploma in a reasonable manner from other diplomas issued by the trustees.

(3) Pursuant to 20-5-101(3), if a pupil who receives a diploma pursuant to this section is not yet 19 years of age, the trustees may admit the individual to provide any reasonable curriculum designed to advance postsecondary success, including courses for postsecondary credit and career training.

(4) For the purposes of this section, the following definitions apply:

(a) "Board of public education" has the same meaning as provided in 20-1-101.

(b) "Educational disruption" means a disruption experienced during grades nine through twelve caused by homelessness, involvement in the child welfare system or juvenile justice system, a medical or mental health crisis, or another event considered a qualifying educational disruption by the trustees of the district.

(c) "Homelessness" has the same meaning as provided for the term "homeless children and youths" in 42 U.S.C. 11434a(2).

(d) "Pupil" has the same meaning as provided in 20-1-101.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 20, chapter 7, part 13, and the provisions of Title 20, chapter 7, part 13, apply to [section 1].

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

Approved March 26, 2021

CHAPTER NO. 81

[SB 80]

AN ACT PROVIDING THAT CERTAIN INTERLOCAL AGREEMENTS MAY NOT EXCEED A 5-YEAR DURATION; AND AMENDING SECTION 7-11-105, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-11-105, MCA, is amended to read:

"7-11-105. Detailed contents of interlocal agreements. (1) The contract authorized by 7-11-104 must specify the following:

(⊕)(a) its duration;

(2)(b) the precise organization, composition, and nature of any separate legal entity created by the contract;

(3)(c) the purpose or purposes of the interlocal contract;

(4)(d) the manner of financing the joint or cooperative undertaking and establishing and maintaining a budget for the undertaking;

(5)(e) the permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and, if applicable, for disposing of property upon a partial or complete termination;

(6)(f) provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking, including representation of the contracting parties on the joint board;

(7)(g) if applicable, the manner of acquiring, holding, and disposing of real and personal property used in the joint or cooperative undertaking;

(8)(h) the contracting party responsible for reports and payment of retirement system contributions pursuant to 19-2-506;

(9)(i) if applicable, the manner of sharing the employment of a teacher or specialist under 20-4-201, a superintendent under 20-4-401, or a professional person licensed under Title 37; and

(10)(j) any other necessary and proper matters.

(2) *An agreement authorized by 7-11-104 between a city or town and a county that governs the adoption and enforcement of municipal zoning or subdivision regulations beyond the boundaries of a municipality pursuant to 76-2-310 and 76-2-311 may not exceed a term of 5 years, at which time both parties may mutually agree to renew the agreement."*

Approved March 26, 2021

CHAPTER NO. 82

[SB 123]

AN ACT ALLOWING A COUNTY TO LOCATE THE OFFICE OF A COUNTY OFFICER OUTSIDE THE COUNTY SEAT; AND AMENDING SECTION 7-4-2211, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-4-2211, MCA, is amended to read:

"7-4-2211. County offices. (1) All county officers, except justices of the peace as set forth in 3-10-101 and except as provided in subsection (3), must keep their offices at the county seat.

(2) (a) The sheriff, the county clerk, the clerk of the district court, the treasurer, the county attorney, the county auditor in counties in which that officer is maintained, and the county assessor shall keep their offices open for the transaction of business during the office hours determined by the governing body by resolution after a public hearing and only if consented to by any affected elected county officer, every day in the year except legal holidays and Saturdays.

(b) This subsection (2) does not apply to counties operating under the county manager plan.

(3) *A board of county commissioners may, by resolution, decide to locate the office of a county officer outside the boundaries of the county seat. The office of a county officer must be located within the boundaries of the county."*

Approved March 26, 2021

CHAPTER NO. 83

[HB 28]

AN ACT ELIMINATING THE REQUIREMENT FOR THE BOARD OF CRIME CONTROL TO HEAR APPEALS FROM DECISIONS MADE BY THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL; AMENDING SECTIONS 44-4-403 AND 44-7-101, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 44-4-403, MCA, is amended to read:

“44-4-403. Council duties – determinations – appeals. (1) The council shall:

(a) establish basic and advanced qualification and training standards for employment;

(b) conduct and approve training; and

(c) provide for the certification or recertification of public safety officers and for the suspension or revocation of certification of public safety officers.

(2) The council may waive or modify a qualification or training standard for good cause.

(3) A person who has been denied certification or recertification or whose certification or recertification has been suspended or revoked is entitled to a contested case hearing before the council pursuant to Title 2, chapter 4, part 6, ~~except that a decision by the council may be appealed to the board of crime control, as provided for in 44-7-101.~~ A decision of the ~~board of crime control council~~ is a final agency decision subject to judicial review.

(4) The council is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining and retaining confidential criminal justice information, as defined in 44-5-103, regarding public safety officers in order to provide for the certification or recertification of a public safety officer and for the suspension or revocation of certification of a public safety officer. The council may not record or retain any confidential criminal justice information without complying with the provisions of the Montana Criminal Justice Information Act of 1979 provided for in Title 44, chapter 5.”

Section 2. Section 44-7-101, MCA, is amended to read:

“44-7-101. Functions. (1) As designated by the governor as the state planning agency under the Omnibus Crime Control and Safe Streets Act of 1968, as amended, the board of crime control shall perform the functions assigned to it under that act. The board shall also provide to criminal justice agencies technical assistance and supportive services that are approved by the board or assigned by the governor or legislature.

(2) ~~The board shall consider all appeals brought from decisions of the Montana public safety officer standards and training council pursuant to 44-4-403. A board member designated as a member of the Montana public safety officer standards and training council, as provided in 44-4-402, may not participate in appeals brought to the board from decisions of the council. The board shall promulgate rules governing the manner and method of the appeals.”~~

Section 3. Effective date. [This act] is effective July 1, 2021.

Approved March 26, 2021

CHAPTER NO. 84

[HB 38]

AN ACT ESTABLISHING THAT HOME AND COMMUNITY-BASED SERVICES MUST BE CONSIDERED IN TOTAL WHEN SERVICES ARE AUTHORIZED; CLARIFYING THAT EACH SERVICE ON ITS OWN DOES NOT HAVE TO PREVENT INSTITUTIONALIZATION; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Home and community-based services waivers – legislative findings and intent. (1) The legislature finds that home and community-based services allow individuals who would otherwise need an institutional level of care to remain in their homes and to better integrate into their communities.

(2) The legislature further finds that home and community-based services offer a lower-cost alternative to institutional care.

(3) The legislature further finds that waiver participants often need multiple services that individually may not prevent institutionalization but when provided as a package allow a person to remain in a home or community setting.

(4) It is the intent of the legislature that in evaluating the services proposed for waiver participants, the department shall:

(a) review whether the services and equipment recommended by medical professionals will collectively, not individually, prevent an individual from requiring an institutional level of care; and

(b) approve each waiver service or item of medical equipment that will contribute to allowing a person to remain in a home or community setting even if the service or item on its own would not prevent an institutional level of care.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 53, chapter 6, part 4, and the provisions of Title 53, chapter 6, part 4, apply to [section 1].

Section 3. Effective date. [This act] is effective July 1, 2021.

Approved March 26, 2021

CHAPTER NO. 85

[HB 48]

AN ACT REMOVING OCCUPATION FROM THE APPLICATION FOR HUNTING AND FISHING-RELATED LICENSES; AMENDING SECTIONS 87-2-106 AND 87-2-202, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-2-106, MCA, is amended to read:

“87-2-106. Application for license. (1) A license may be procured from the director, a warden, or an authorized agent of the director. The applicant shall state the applicant’s name, age, [last four digits of the applicant’s social security number,] ~~occupation~~, street address of permanent residence, mailing address, qualifying length of time as a resident in the state of Montana, and status as a citizen of the United States or as an alien and other facts, data, or descriptions as may be required by the department. An applicant for a resident license shall present a valid Montana driver’s license, Montana driver’s

examiner's identification card, tribal identification card, or other identification specified by the department to substantiate the required information. It is the applicant's burden to provide documentation establishing the applicant's identity and qualifications to purchase a license. Except as provided in subsections (2) through (4), the statements made by the applicant must be subscribed to by the applicant.

(2) Except as provided in subsection (3), department employees or officers may issue licenses by telephone, by mail, on the internet, or by other electronic means.

(3) To apply for a license under the provisions of 87-2-102(7), the applicant shall apply to the director and shall subscribe to fulfillment of the requirements of 87-2-102(7). The director shall process the application in an expedient manner.

(4) A resident may apply for and purchase a wildlife conservation license, hunting license, or fishing license for the resident's spouse, parent, child, brother, or sister who is otherwise qualified to obtain the license.

(5) A license is void unless subscribed to by the licensee.

(6) A person whose privilege to hunt, fish, or trap has been revoked is not eligible to purchase any license until all terms of the court sentence in which the privilege was revoked, including making restitution, have been met or the person is in compliance with installment payments specified by the court and the department has received notification from the sentencing court to that effect pursuant to 87-6-922(2).

[(7) The department shall keep the applicant's social security number confidential, except that the number may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.]

(8) The department shall delete an applicant's social security number in any electronic database [5 years after the date that application is made for the most recent license]. *(Bracketed language terminates or is amended on occurrence of contingency--sec. 3, Ch. 321, L. 2001.)*"

Section 2. Section 87-2-202, MCA, is amended to read:

"87-2-202. Application – fee. (1) Except as provided in 87-2-817(2), a wildlife conservation license must be sold upon written application. The application must contain the applicant's name, age, [last four digits of the applicant's social security number,] ~~occupation~~, street address of permanent residence, mailing address, qualifying length of time as a resident in the state of Montana, and status as a citizen of the United States or as an alien and must be signed by the applicant. The applicant shall present a valid Montana driver's license, a Montana driver's examiner's identification card, a tribal identification card, or other identification specified by the department to substantiate the required information when applying for a wildlife conservation license. It is the applicant's burden to provide documentation establishing the applicant's identity and qualifications to purchase a wildlife conservation license or to receive a free wildlife conservation license pursuant to 87-2-817(2).

(2) Hunting, fishing, or trapping licenses issued in a form determined by the department must be recorded according to rules that the department may prescribe.

(3) (a) Resident wildlife conservation licenses may be purchased for a fee of \$8, of which 25 cents is a search and rescue surcharge.

(b) Nonresident wildlife conservation licenses may be purchased for a fee of \$10, of which 25 cents is a search and rescue surcharge.

[(4) The department shall keep the applicant's social security number confidential, except that the number may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.]

(5) The department shall delete the applicant's social security number in any electronic database [5 years after the date that application is made for the most recent license]. *(Bracketed language terminates or is amended on occurrence of contingency--sec. 3, Ch. 321, L. 2001. The \$2 wildlife conservation license fee increases in subsections (3)(a) and (3)(b) enacted by Ch. 596, L. 2003, are void on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)*

Section 3. Effective date. [This act] is effective March 1, 2022.

Approved March 26, 2021

CHAPTER NO. 86

[HB 52]

AN ACT REVISING PROPERTY TAXATION ADMINISTRATION AND CERTAIN PERSONAL PROPERTY REPORTING REQUIREMENTS; REVISING THE REPORTING REQUIREMENTS FOR FARM IMPLEMENT AND CONSTRUCTION EQUIPMENT IN A PURCHASE INCENTIVE RENTAL TO ANNUAL REPORTING; CLARIFYING THE NAME OF THE DIVISION OF MONTANA STATE UNIVERSITY THAT MAKES THE DETERMINATION OF THE MINIMUM NUMBER OF ANIMAL UNIT MONTHS OF CARRYING CAPACITY; AMENDING SECTIONS 15-6-202 AND 15-7-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-6-202, MCA, is amended to read:

"15-6-202. Freeport merchandise and business inventories exemption -- definitions. (1) Freeport merchandise and business inventories are exempt from taxation.

(2) (a) "Freeport merchandise" means stocks of merchandise manufactured or produced outside this state that are in transit through this state and consigned to a warehouse or other storage facility, public or private, within this state for storage in transit prior to shipment to a final destination outside the state and that have acquired a taxable situs within the state.

(b) Stocks of merchandise do not lose their status as freeport merchandise because while in the storage facility they are assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled, or repackaged.

(c) A person seeking to qualify the person's property as freeport merchandise shall make application to the department in the manner prescribed by the department.

(3) (a) "Business inventories" include goods primarily intended for sale and not for lease in the ordinary course of business and raw materials and work in progress with respect to those goods. Except for farm implements and construction equipment described in subsection (3)(b), business inventories do not include goods that are leased or rented.

(b) Business inventories include farm implements as defined in 30-11-801 or construction equipment as defined in 30-11-901 that are held pursuant to a purchase incentive rental program.

(4) (a) For the purpose of subsection (3)(b), "purchase incentive rental program" means a program operated by a dealer of farm implements as defined in 30-11-801 or a dealer of construction equipment as defined in 30-11-901

under which the farm implement or construction equipment is owned by the dealership, held for sale, and rented to a single user of the farm implement or construction equipment as an incentive for the purchase of the property.

(b) A purchase incentive rental program does not include a farm implement or construction equipment that is:

- (i) rented to a person for more than 9 months;
- (ii) rented more than once to the same person; or
- (iii) not owned by a farm implement dealership or construction equipment dealership.

(c) All farm implements and construction equipment in a purchase incentive rental program must be reported to the department ~~each calendar quarter~~ *no later than March 31 of each year* on a form provided by the department."

Section 2. Section 15-7-202, MCA, is amended to read:

"15-7-202. Eligibility of land for valuation as agricultural. (1) (a) Contiguous parcels of land totaling 160 acres or more under one ownership are eligible for valuation, assessment, and taxation as agricultural land each year that none of the parcels is devoted to a residential, commercial, or industrial use.

(b) (i) Contiguous parcels of land of 20 acres or more but less than 160 acres under one ownership that are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural land if:

(A) the land is used primarily for raising and marketing, as defined in subsection (1)(c), products that meet the definition of agricultural in 15-1-101 and if, except as provided in subsection (3), the owner or the owner's immediate family members, agent, employee, or lessee markets not less than \$1,500 in annual gross income from the raising of agricultural products produced by the land; or

(B) the parcels would have met the qualification set out in subsection (1)(b)(i)(A) were it not for independent, intervening causes of production failure beyond the control of the producer or a marketing delay for economic advantage, in which case proof of qualification in a prior year will suffice.

(ii) Noncontiguous parcels of land that meet the income requirement of subsection (1)(b)(i) are eligible for valuation, assessment, and taxation as agricultural land under subsection (1)(b)(i) if:

(A) the land is an integral part of a bona fide agricultural operation undertaken by the persons set forth in subsection (1)(b)(i) as defined in this section; and

(B) the land is not devoted to a residential, commercial, or industrial use.

(iii) Parcels of land that are part of a family-operated farm, family corporation, family partnership, sole proprietorship, or family trust that is involved in Montana agricultural production consisting of 20 acres or more but less than 160 acres that do not meet the income requirement of subsection (1)(b)(i) may also be valued, assessed, and taxed as agricultural land if the owner:

(A) applies to the department requesting classification of the parcel as agricultural;

(B) verifies that the parcel of land is greater than 20 acres but less than 160 acres and that the parcel is located within 15 air miles of the family-operated farming entity referred to in subsection (1)(b)(iii)(C); and

(C) verifies that:

(I) the owner of the parcel is involved in agricultural production by submitting proof that 51% or more of the owner's Montana annual gross income is derived from agricultural production; and

(II) property taxes on the property are paid by a family corporation, family partnership, sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of the entity's Montana annual gross income is derived from agricultural production; or

(III) the owner is a shareholder, partner, owner, or member of the family corporation, family partnership, sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of the person's or entity's Montana annual gross income is derived from agricultural production.

(c) For the purposes of this subsection (1):

(i) "marketing" means the selling of agricultural products produced by the land and includes but is not limited to:

(A) rental or lease of the land as long as the land is actively used for grazing livestock or for other agricultural purposes; and

(B) rental payments made under the federal conservation reserve program or a successor to that program;

(ii) land that is devoted to residential use or that is used for agricultural buildings and is included in or is contiguous to land under the same ownership that is classified as agricultural land, other than nonqualified agricultural land described in 15-6-133(1)(c), must be classified as agricultural land, and the land must be valued as provided in 15-7-206.

(2) Contiguous or noncontiguous parcels of land totaling less than 20 acres under one ownership that are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural each year that the parcels meet any of the following qualifications:

(a) except as provided in subsection (3), the parcels produce and the owner or the owner's agent, employee, or lessee markets not less than \$1,500 in annual gross income from the raising of agricultural products as defined in 15-1-101;

(b) the parcels would have met the qualification set out in subsection (2)(a) were it not for independent, intervening causes of production failure beyond the control of the producer or marketing delay for economic advantage, in which case proof of qualification in a prior year will suffice; or

(c) in a prior year, the parcels totaled 20 acres or more and qualified as agricultural land under this section, but the number of acres was reduced to less than 20 acres for a public use described in 70-30-102 by the federal government, the state, a county, or a municipality, and since that reduction in acres, the parcels have not been further divided.

(3) For grazing land to be eligible for classification as agricultural land under subsections (1)(b) and (2), the land must be capable of sustaining a minimum number of animal unit months of carrying capacity. The minimum number of animal unit months of carrying capacity must equate to \$1,500 in annual gross income as determined by the Montana state university-Bozeman department of agricultural economics and economics college of agriculture.

(4) The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona fide agricultural enterprise is not considered a bona fide agricultural operation.

(5) (a) Upon application by the property owner, the following parcels of land are eligible for provisional agricultural classification for 5 years to allow crops to reach salable maturity:

(i) a fruit orchard consisting of a minimum of 100 live fruit trees maintained using accepted fruit tree husbandry practices, including pest and disease management, fencing, and a watering system;

(ii) a vineyard containing a minimum of 120 live vines maintained using accepted husbandry practices, including weed and grass maintenance, pest and disease management, pruning, and trellising and staking; and

(iii) property containing a minimum of 2,000 live Christmas trees cultivated according to accepted husbandry practices, including regular shearing.

(b) Following the 5th year of provisional agricultural classification, the property owner shall submit an application for agricultural classification. The application must include documentation proving that the property continues to meet the requirements of subsection (5)(a) and that the income requirements of subsection (2)(a) have been met.

(6) The department may not classify land less than 160 acres as agricultural unless the owner has applied to have land classified as agricultural land. Land of 20 acres or more but less than 160 acres for which no application for agricultural classification has been made is valued as provided in 15-6-133(1)(c) and is taxed as provided in 15-6-133(3). If land has been valued, assessed, and taxed as agricultural land in any year, it must continue to be valued, assessed, and taxed as agricultural until the department reclassifies the property. A reclassification does not mean revaluation pursuant to 15-7-111.

(7) For the purposes of this part, growing timber is not an agricultural use.”

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

Approved March 26, 2021

CHAPTER NO. 87

[HB 70]

AN ACT GENERALLY REVISING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES SUICIDE PREVENTION PROGRAM; MODERNIZING THE PROGRAM TO BUILD ON EXISTING PROGRAMS AND REFLECT NATIONAL RESEARCH AND CURRENT BEST PRACTICES; REVISING REQUIREMENTS FOR THE SUICIDE REDUCTION PLAN; AMENDING SECTIONS 53-21-1101 AND 53-21-1102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 53-21-1101, MCA, is amended to read:

“53-21-1101. Suicide prevention officer – duties. (1) The department of public health and human services shall implement a suicide prevention program administered by a suicide prevention officer attached to the office of the director of the department *division responsible for administering adult mental health services. The program must be informed by the best available evidence.*

(2) The suicide prevention officer shall:

(a) coordinate all suicide prevention activities being conducted *for both children and adults by the all divisions within the department, including activities in the addictive and mental disorders division, the health resources division, and the public health and safety division,* and coordinate with any suicide prevention activities that are conducted by other state agencies, including the office of the superintendent of public instruction, the department of corrections, the department of military affairs, ~~and~~ the university system, *and other stakeholders;*

(b) develop a ~~biennial~~ *biennial* suicide reduction plan *in accordance with 53-21-1102* that addresses reducing suicides by Montanans of all ages, ethnic groups, and occupations;

(c) direct a statewide suicide prevention program with ~~evidence-based~~ activities *based on the best available evidence* that include but are not limited to:

(i) conducting statewide ~~public awareness~~ *communication* campaigns aimed at normalizing the need for all Montanans to address *their* mental health ~~problems~~ and utilizing both paid and free media, including digital and social media, and including input from government agencies, school representatives from elementary schools through higher education, mental health advocacy groups, veteran groups, and other relevant nonprofit organizations;

(ii) initiating, in partnership with Montana's tribes and tribal organizations, ~~a public awareness program~~ *communication and training* that is culturally appropriate and ~~that~~ utilizes the modalities best suited for Indian country;

(iii) seeking opportunities for research that will improve understanding of suicide in Montana and provide increased suicide-related services;

(iv) training for medical professionals, military personnel, school personnel, social service providers, and the general public on recognizing the early warning signs of suicidality, depression, and other mental illnesses *as well as actions, based on the best available evidence, to take during and after a crisis; and*

(v) *identifying and using available resources, which may include providing grants to entities, including but not limited to tribes, tribal and urban health organizations, local governments, schools, health care providers, professional associations, and other nonprofit and community organizations, for development or expansion of evidence-based suicide prevention programs in accordance with the requirements of 53-21-1111;*

(vi) building a multifaceted, lifespan approach to suicide prevention; and

(vii) obtaining, analyzing, and reporting program evaluation data, quality health outcomes, and suicide morbidity and mortality data, subject to existing confidentiality protections for the data."

Section 2. Section 53-21-1102, MCA, is amended to read:

"53-21-1102. Suicide reduction plan. (1) The department of public health and human services shall produce a ~~biennial~~ *biennial* suicide reduction plan ~~that must be submitted to the legislature as provided in 5-11-210 that must be submitted to the legislature as provided in 5-11-210.~~

(2) The plan must include:

(a) an assessment of both risk and protective factors impacting Montana's suicide rate;

(b) specific activities to reduce suicide;

(c) concrete targets for suicide reduction among various demographic populations, including but not limited to American Indians, veterans, and youth;

(d) measurable outcomes for all activities; and

(e) information on all existing state suicide reduction activities for all state agencies, as well as any known local or tribal suicide reduction activities.

(3) Upon the development of a suicide reduction plan draft, the department shall initiate a public comment period of not less than 21 days during which members of mental health advocacy groups and other interested parties may submit comments on and suggestions for the plan. The department shall produce a final plan, which takes public comment into account, no later than 60 days after the close of the comment period. The plan must be published on the department's website and submitted to:

- (a) the appropriate children, families, health, and human services interim committee of and the legislature as provided in 5-11-210;;
- (b) the director of the department;; and
- (c) the governor.”

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

Approved March 26, 2021

CHAPTER NO. 88

[HB 75]

AN ACT AUTHORIZING THE DEPARTMENT OF TRANSPORTATION TO CONDUCT ONLINE SALES OF REAL PROPERTY; PROVIDING NOTICE REQUIREMENTS; AND AMENDING SECTIONS 60-4-202 AND 60-4-203, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 60-4-202, MCA, is amended to read:

“60-4-202. Sale of interest in real property. (1) The department may sell an interest in real property if the department determines that the property is not necessary to the laying out, altering, construction, improvement, or maintenance of a highway. Except as provided in 60-4-213 through 60-4-218 and subsection (2) of this section, if the interest is reasonably of a value in excess of \$10,000, sale must be made to the highest bidder at public auction. The sale of an interest at auction must be conducted as provided in ~~77-2-321~~ 60-4-203.

(2) (a) The department may sell an interest in real property without a public auction directly to:

- (i) a federal, state, tribal, or local government;
- (ii) an agency of government;
- (iii) a school district; or
- (iv) a unit of the Montana university system.

(b) The department shall obtain fair market value for the property.

(3) Except as provided in 60-4-213 through 60-4-218, before the department sells an interest in real property as provided in subsection (2), the department shall notify all landowners whose property is adjacent to the land proposed for sale. If any of the landowners are interested in buying the land proposed for sale, the landowners shall notify the department of their interest by registered letter within 30 days of the receipt of the notice of sale from the department. Upon receipt of a notice of interest, the department shall offer the land for sale as provided in 60-4-203 and this section.”

Section 2. Section 60-4-203, MCA, is amended to read:

“60-4-203. Conduct of sale. (1) Except as provided in 60-4-213 through 60-4-218, the department shall publish notice of the sale ~~once a week~~ *once a week* for 4 successive weeks ~~in a newspaper published in the county in which the interest is located~~ *in a newspaper published in the county in which the interest is located and on the department's website. The notice of sale must contain the information required by 77-2-322. Sale* ~~The sale must~~ *may* be held *in person* in the county where the property is located *or through an online auction.*

(2) *The notice of sale must contain:*

- (a) *the day, date, and time of beginning of the sale;*
- (b) *a list of all the tracts to be offered for sale with the legal description, which includes the township and range, section number, and subdivision, or reference to the block and lot if surveyed;*

- (c) *number of acres in unplatted lands;*
- (d) *appraised value per acre and appraised value of each lot;*
- (e) *quarter section listing of nonirrigable farm lands, with grazing lands listed in larger tracts not exceeding one section;*
- (f) *a consecutive series of sales numbers for advertised tracts, if appropriate;*
and
- (g) *terms and conditions of the sale and any additional information the department considers useful.*

(2)(3) Except as provided in 60-4-213 through 60-4-218, before the sale of an interest having a value in excess of \$10,000, the department must have the interest appraised at a price representing a fair market value. The appraised value must be stated in the published notice.

(3)(4) Except as provided in 60-4-213 through 60-4-218, a sale of an interest may not be made unless it has been appraised within 6 months prior to the date of the sale. A sale may not be made for less than 90% of the appraised value.

(4)(5) Except as provided in 60-4-213 through 60-4-218, title to an interest may not pass from the state until the purchaser has paid the full amount of the purchase price into the state treasury to the credit of the department.”

Approved March 26, 2021

CHAPTER NO. 89

[HB 77]

AN ACT GENERALLY REVISING THE LAWS RELATING TO MOTOR CARRIER SERVICES; CHANGING THE MAXIMUM LENGTH OF A BOAT TRANSPORTER; MODIFYING TRAILER LENGTH MEASUREMENT TO ACCOUNT FOR FRONT AND REAR OVERHANG; ALLOWING TERM PERMITS TO EXTEND BEYOND THE CURRENT GVW LICENSE; EXPANDING THE DEFINITION OF TRUCKS THAT MAY BYPASS SCALES; CLARIFYING THE MARKING OF COMMERCIAL VEHICLES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 61-3-710, 61-8-312, 61-10-104, 61-10-121, 61-10-124, 61-10-141, 61-10-144, 61-10-146, 61-10-312, 69-12-102, AND 69-12-408, MCA; AND REPEALING SECTION 61-3-709, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-3-710, MCA, is amended to read:

“**61-3-710. Rulemaking authority.** The department of transportation may adopt and enforce rules for the administration of cooperative or reciprocal vehicle registration, including the setting of a fee, and for other matters necessary to carry out the provisions of 61-3-708 and 61-3-709.”

Section 2. Section 61-8-312, MCA, is amended to read:

“**61-8-312. Special speed limitations on trucks, truck tractors, and motor-driven cycles.** (1) Except as provided in 61-8-303, 61-8-309, 61-8-310, and subsection (2) of this section, the speed limit for a truck or truck tractor of more than 1 ton “manufacturer’s rated capacity” traveling on:

- (a) an interstate highway, as defined in 60-1-103, is 70 miles an hour; and
- (b) any other public highway is 65 miles an hour.

(2) Except as provided in 61-8-303, 61-8-309, and 61-8-310, the speed limit for a vehicle subject to a term permit under 61-10-124(2)(d) or a truck-trailer-trailer or truck tractor-semitrailer-trailer-trailer combination of

vehicles subject to special permits under ~~61-10-124(4)~~ 61-10-124(3) is 65 miles an hour unless otherwise stated in the permit.

(3) A person may not operate a motor-driven cycle at any time mentioned in 61-9-201 at a speed greater than 35 miles an hour unless the motor-driven cycle is equipped with a headlamp or lamps that are adequate to reveal a person or vehicle at a distance of 300 feet ahead.”

Section 3. Section 61-10-104, MCA, is amended to read:

“61-10-104. Length—definitions. (1) A single truck, bus, or self-propelled vehicle, unladen or with load, may not have an overall length, inclusive of front and rear bumpers, in excess of 55 feet.

(2) (a) When used in a truck tractor-semitrailer combination, the semitrailer may not exceed 53 feet in length, excluding those portions not designed to carry a load, except as provided by 61-10-124. When used in a truck tractor-semitrailer-trailer or a truck tractor-semitrailer-semitrailer combination, the semitrailer and trailer or the two semitrailers may not exceed 28 1/2 feet each in length or 61 feet in combined trailer length, excluding those portions not designed to carry a load, except as provided by 61-10-124. Truck tractor-semitrailer, truck tractor-semitrailer-trailer, and truck tractor-semitrailer-semitrailer combinations are not subject to a combination length limit.

(b) (i) A stinger-steered boat transporter may not exceed ~~75~~ 80 feet in length plus a maximum ~~3~~ 4 feet of front overhang and ~~4~~ 6 feet of rear overhang, except as provided by 61-10-124.

(ii) A stinger-steered automobile transporter may not exceed 80 feet in length plus a maximum 4 feet of front overhang and 6 feet of rear overhang, except as provided by 61-10-124.

(c) All other combinations of vehicles may not have a combination length in excess of 75 feet, except as provided by 61-10-124. If the combination consists of more than two units, the rear units of the combination must be equipped with breakaway brakes.

(3) A motor vehicle may not tow more than one motor vehicle, and a motor vehicle may not draw more than three motor vehicles attached to it by the triple saddle-mount method (that is, by mounting the front wheels of one vehicle on the bed of another, leaving only the rear wheels of the vehicle in contact with the roadway), and this combination may not have a combination length in excess of 75 feet.

(4) A passenger vehicle or truck of less than 2,000 pounds “manufacturer’s rated capacity” may not tow more than one trailer or semitrailer, and this combination may not have a length in excess of 65 feet.

(5) (a) The length of a vehicle combination consisting of a truck or truck tractor and one pole trailer or semitrailer hauling raw logs may not exceed 75 feet in overall length. As used in this subsection (5)(a), the term “length” means the total length of the vehicle combination beginning at the front of the front bumper of the truck or truck tractor and extending to the most distant end of the logs being hauled. A term permit for an overlength vehicle combination, as provided in 61-10-124(2), does not apply to the vehicle combination described in this subsection (5)(a). A vehicle combination exceeding 75 feet must have a trip permit.

(b) The maximum overhang of any log may not exceed 15 feet, except by special, single-trip permit. Overhang is measured from the center of the rear-most axle to the most distant end of the logs being hauled.

(c) The provisions in subsections (5)(a) and (5)(b) do not apply to a vehicle combination hauling utility poles.

(6) As used in this chapter, the following definitions apply:

(a) “Axle” means a transverse beam that is the common axis of rotation of one or more wheels and that, to receive credit for allowable total gross loading, must be capable of continuously transmitting a proportionate share of the total gross load to the roadway when the axle is in operation.

(b) “Combination length” means the total length of a combination of vehicles, such as a truck tractor-semitrailer-trailer combination, measured from the front bumper of the motor vehicle to the back bumper or rear extremity of the last trailer, including the connection tongues.

(c) “Combined trailer length” means the total length of a combination of trailers measured from the front of the first trailer, *or the front bunk on a pole trailer*, to the back of the last trailer, including the connection tongues and *loads rear overhang*.

(d) “Length”, except as provided in subsection (5)(a), means the total longitudinal dimension of a single vehicle, a trailer, or a semitrailer. The length of a trailer or semitrailer is measured from the front of the cargo-carrying unit to its rear, exclusive of safety or energy efficiency devices, air-conditioning units, air compressors, flexible fender extensions, splash and spray suppressant devices, bolsters, mechanical fastening devices, and hydraulic lift gates.

(e) “Rocky Mountain double” means a combination of vehicles that includes a truck tractor pulling a long semitrailer and a shorter trailer.

(f) “Steering axle” means an axle that pivots at the hub to allow the wheel to follow the travel of the vehicle. A steering axle is capable of being steered but need not always be connected to a steering wheel.

(g) “Stinger-steered automobile transporter” means a truck tractor-semitrailer combination that has a fifth wheel on a drop frame located behind and below the rear axle of the truck tractor and that is designed and used for the transportation of vehicles.

(h) “Stinger-steered boat transporter” means a truck tractor-semitrailer combination that has a fifth wheel on a drop frame located behind and below the rear axle of the truck tractor and that is designed and used for the transportation of assembled boats or boat hulls.”

Section 4. Section 61-10-121, MCA, is amended to read:

“61-10-121. Permits for excess size and weight – exempt from environmental review – agents. (1) (a) Upon application and with good cause shown, the department of transportation, or its agent under subsection (4), and local authorities in their respective jurisdictions may issue ~~telephonically or in writing~~ a special permit authorizing the applicant to operate or move a vehicle, combination of vehicles, load, object, or other thing of a size or weight exceeding the maximum specified in 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110 upon a highway under the jurisdiction of and for the maintenance of which the body granting the permit is responsible. However, only the department may issue permits for movement of a vehicle or combination of vehicles carrying built-up or reducible loads in excess of 9 feet in width or exceeding the length, height, or weight specified in 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110. This permit must be issued in the public interest. A carrier receiving this permit must have public liability and property damage insurance for the protection of the traveling public as a whole. ~~A permit may not be issued for a period greater than the period for which the GVW license is valid, including grace periods, as provided in this title. Owners of vehicles licensed in other jurisdictions may, at the discretion of the department, purchase permits to expire with their registration. A license required by the state governs the issuance of a special permit.~~

(b) The department may issue oversize permits to dealers in implements of husbandry and self-propelled machinery. The permits may be transferred from unit to unit by the dealer for the fee set forth in 61-10-124. These oversize permits may not restrict dealers in implements of husbandry and self-propelled machinery from traveling on a Saturday or Sunday and expire on December 31 of each year, with no grace period. For the purposes of this section, a dealer in implements of husbandry or self-propelled machinery must be a resident of the state. A post-office box number is not a permanent address under this section.

(2) The applicant for a special permit shall specifically describe the powered vehicle or towing vehicle and generally describe the type of vehicle, combination of vehicles, load, object, or other thing to be operated or moved and the particular state highways over which the vehicle, combination of vehicles, load, object, or other thing is to be moved and whether the permit is required for a single trip or for continuous operation.

(3) Issuance of a permit pursuant to this section is exempt from the provisions of Title 75, chapter 1, parts 1 and 2, when existing roads through existing rights-of-way are used.

(4) The department may enter into a contract with a private party to act as an agent of the department for the purpose of issuing, in writing, a special permit allowed under this section.

(5) This section does not authorize a local authority to require a fee and a permit for the movement of a vehicle, combination of vehicles, load, object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a highway that is under the jurisdiction of an entity other than the local authority."

Section 5. Section 61-10-124, MCA, is amended to read:

"61-10-124. (Temporary) Special permits – fees. (1) Except as provided in subsections (2)(d) and ~~(4)~~ (3), in addition to the regular registration and gross vehicle weight fees, a fee of \$10 for each trip permit and a fee of \$75 for each term permit issued for size in excess of that specified in 61-10-101 through 61-10-104 must be paid for all movements under special permits on the public highways under the jurisdiction of the department of transportation.

(2) (a) Except as provided in subsections (2)(b), (2)(d), (2)(f), (2)(h), ~~(4); and (5)~~ (3), ~~and (4)~~, term or blanket permits may not be issued for an overwidth vehicle, combination of vehicles, load, or other thing in excess of 15 feet; an overlength vehicle, combination of vehicles, load, object, or other thing in excess of 95 feet; or an overheight vehicle, combination of vehicles, load, or other thing in excess of 14 feet or of a limit determined by the department. A vehicle, combination of vehicles, load, or other thing in excess of these dimensions is limited to trip permits. Except as provided in subsection (2)(g), a Rocky Mountain double may not exceed 81 feet in combined trailer length. A Rocky Mountain double is not subject to a combination length limit. Special permits for vehicle combinations of more than two trailers or more than two units designed for or used to carry a load are not permitted except as provided in subsections ~~(4) and (5)~~ (3) ~~and (4)~~. Special permits for vehicle combinations may specify and special permits under subsections ~~(4) and (5)~~ (3) ~~and (4)~~ must specify highway routing and otherwise limit or prescribe conditions of operation of the vehicle or combination, including but not limited to required equipment, speed, stability, operational procedures, and insurance.

(b) A term permit may be issued to a dealer in implements of husbandry and self-propelled machinery for an overwidth or overlength vehicle referred to in subsection (2)(a). This permit expires on December 31 of each year, with no grace period.

(c) With payment of the appropriate gross weight fees required by 61-10-201 and with payment of the fee prescribed in subsection (1), allowable gross weight of a five-axle combination logging vehicle is 80,000 pounds.

(d) A term permit may be issued for any combination of vehicles that exceeds 95 feet in length but does not exceed 100 feet in combination length, except a truck-trailer-trailer or a truck tractor-semitrailer-trailer-trailer combination, for travel only on interstate highways, as defined in 60-1-103, or on other highways within a 2-mile radius of an interstate highway interchange in order to obtain necessary services or to load or unload at a terminal. When a terminal is beyond a 2-mile radius, the department may authorize travel between the terminal and the interchange. The fee for this permit is \$125.

(e) A term permit may be issued for a truck tractor-semitrailer combination when the semitrailer exceeds 53 feet in length but does not exceed 57 feet in length.

(f) (i) An annual permit may be issued for nondivisible loads up to 120 feet in length. The fee for this permit is \$125.

(ii) Portions of a nondivisible load hauled on a public road off of the interstate highway may be detached and reloaded on the same hauling unit if the separate pieces are necessary to the operation of the machine or equipment that is being hauled and if the arrangement does not exceed limits for which a permit may be issued.

(iii) An applicant for a nondivisible load permit for use as provided in subsection ~~(6)(b)~~ (5)(b) is responsible for providing information regarding the number of work hours required to dismantle the load.

(iv) For use as provided in subsection ~~(6)(b)~~ (5)(b) and for the purposes of this section, emergency response vehicles and casks designed and used for the transport of spent nuclear materials are considered nondivisible loads.

(g) A Rocky Mountain double carrying baled hay may not exceed 88 feet of combined trailer length.

(h) A term permit may be issued for an overlength vehicle moving a mobile home or a manufactured home, as defined in 15-24-201, when the vehicle does not exceed 110 feet in length or 16 feet in width.

(3) Except as provided in subsection (2)(b), a permit may not be issued for a period of time greater than the period for which the GVW license is valid as provided in this title, including grace periods allowed by this title. Owners of vehicles licensed in other jurisdictions may, at the discretion of the department of transportation, purchase permits to expire with their registration. A license required by the state governs the issuance of a special permit.

~~(4)~~(3) The department may issue special permits to the operating company for a truck-trailer-trailer or truck tractor-semitrailer-trailer-trailer combination of vehicles under the following conditions:

(a) the combination may be operated only on interstate highways, as defined in 60-1-103, and on other highways within a 2-mile radius of an interstate highway interchange only in order to obtain necessary services or to load or unload at a terminal. When a terminal is beyond a 2-mile radius, the department may authorize travel between the terminal and the interchange.

(b) a combination of vehicles powered by a cab-over or tilt-cab truck tractor or a truck may not exceed an overall length of 105 feet, inclusive of front and rear bumpers and overhang;

(c) a combination of vehicles powered by a conventional truck tractor may not exceed an overall length of 110 feet, inclusive of the front and rear bumpers and overhang;

(d) an individual cargo unit of the combination may not exceed 28 1/2 feet in length and 102 inches in width;

(e) gross weight fees under 61-10-201 must be paid on the truck or truck tractor for the declared registered gross weight of the special vehicle combination, but not to exceed the formula in 61-10-107;

(f) the combination must have a special overlength permit issued at a fee of \$200 for a term permit or \$20 for each trip permit;

(g) travel of the combination may be restricted to specific routes, hours of operation, specific days, or seasonal periods; and

(h) the department may enforce any other restrictions determined by the department to be necessary. The permit is not transferable, and the fee for the permit is \$200.

~~(5)~~(4) The department of transportation may issue special permits under subsection ~~(4)~~(3) for vehicle combinations that consist of a truck-trailer-trailer if:

(a) the vehicle combination's overall length, inclusive of front and rear bumpers, is not more than 95 feet; and

(b) the person, firm, or corporation applying for the permit:

(i) restricts truck-trailer-trailer operations authorized by the permit to the hauling of talc ore, chlorite, dolomite, limestone, and custom combine equipment;

(ii) operated the truck-trailer-trailer combination before July 1, 1987;

(iii) restricts the truck-trailer-trailer operations authorized by the permit to the specified routes that those vehicles used before July 1, 1987; and

(iv) provides the department of transportation with an affidavit confirming the routes used before July 1, 1987, for truck-trailer-trailer operations.

~~(6)~~(5) For the purposes of this section, a "nondivisible load" is:

(a) on public roads off of interstate highways, a load that cannot be readily or reasonably dismantled and that is reduced to a minimum practical size and weight;

(b) on interstate highways, a load or vehicle exceeding applicable length or weight limits that, if separated into smaller loads or vehicles, would:

(i) compromise the intended use of the vehicle;

(ii) destroy the value of the load or vehicle; or

(iii) require more than 8 work hours to dismantle using appropriate equipment. (Void on occurrence of contingency--sec. 2, Ch. 285, L. 2003.)

61-10-124. (Effective on occurrence of contingency) Special permits -- fees. (1) Except as provided in subsections (2)(d) and ~~(4)~~ (3), in addition to the regular registration and gross vehicle weight fees, a fee of \$10 for each trip permit and a fee of \$75 for each term permit issued for size in excess of that specified in 61-10-101 through 61-10-104 must be paid for all movements under special permits on the public highways under the jurisdiction of the department of transportation.

(2) (a) Except as provided in subsections (2)(b), (2)(d), (2)(f), (2)(g), ~~(4)~~, and ~~(5)~~ (3), and (4), term or blanket permits may not be issued for an overwidth vehicle, combination of vehicles, load, or other thing in excess of 15 feet; an overlength vehicle, combination of vehicles, load, object, or other thing in excess of 95 feet; or an overheight vehicle, combination of vehicles, load, or other thing in excess of 14 feet or of a limit determined by the department. A vehicle, combination of vehicles, load, or other thing in excess of these dimensions is limited to trip permits. A Rocky Mountain double may not exceed 81 feet in combined trailer length. A Rocky Mountain double is not subject to a combination length limit. Special permits for vehicle combinations of more than two trailers or more than two units designed for or used to carry a load are not permitted except as provided in subsections ~~(4)~~ and ~~(5)~~ (3) and (4). Special permits for vehicle combinations may specify and special

permits under subsections ~~(4) and (5)~~ (3) and (4) must specify highway routing and otherwise limit or prescribe conditions of operation of the vehicle or combination, including but not limited to required equipment, speed, stability, operational procedures, and insurance.

(b) A term permit may be issued to a dealer in implements of husbandry and self-propelled machinery for an overwidth or overlength vehicle referred to in subsection (2)(a). This permit expires on December 31 of each year, with no grace period.

(c) With payment of the appropriate gross weight fees required by 61-10-201 and with payment of the fee prescribed in subsection (1), allowable gross weight of a five-axle combination logging vehicle is 80,000 pounds.

(d) A term permit may be issued for any combination of vehicles that exceeds 95 feet in length but does not exceed 100 feet in combination length, except a truck-trailer-trailer or a truck tractor-semitrailer-trailer-trailer combination, for travel only on interstate highways, as defined in 60-1-103, or on other highways within a 2-mile radius of an interstate highway interchange in order to obtain necessary services or to load or unload at a terminal. When a terminal is beyond a 2-mile radius, the department may authorize travel between the terminal and the interchange. The fee for this permit is \$125.

(e) A term permit may be issued for a truck tractor-semitrailer combination when the semitrailer exceeds 53 feet in length but does not exceed 57 feet in length.

(f) (i) An annual permit may be issued for nondivisible loads up to 120 feet in length. The fee for this permit is \$125.

(ii) Portions of a nondivisible load hauled on a public road off of the interstate highway may be detached and reloaded on the same hauling unit if the separate pieces are necessary to the operation of the machine or equipment that is being hauled and if the arrangement does not exceed limits for which a permit may be issued.

(iii) An applicant for a nondivisible load permit for use as provided in subsection ~~(6)(b)~~ (5)(b) is responsible for providing information regarding the number of work hours required to dismantle the load.

(iv) For use as provided in subsection ~~(6)(b)~~ (5)(b) and for the purposes of this section, emergency response vehicles and casks designed and used for the transport of spent nuclear materials are considered nondivisible loads.

(g) A term permit may be issued for an overlength vehicle moving a mobile home or a manufactured home, as defined in 15-24-201, when the vehicle does not exceed 110 feet in length or 16 feet in width.

~~(3) Except as provided in subsection (2)(b), a permit may not be issued for a period of time greater than the period for which the GVW license is valid as provided in this title, including grace periods allowed by this title. Owners of vehicles licensed in other jurisdictions may, at the discretion of the department of transportation, purchase permits to expire with their registration. A license required by the state governs the issuance of a special permit.~~

~~(4)(3)~~ The department may issue special permits to the operating company for a truck-trailer-trailer or truck tractor-semitrailer-trailer-trailer combination of vehicles under the following conditions:

(a) the combination may be operated only on interstate highways, as defined in 60-1-103, and on other highways within a 2-mile radius of an interstate highway interchange only in order to obtain necessary services or to load or unload at a terminal. When a terminal is beyond a 2-mile radius, the department may authorize travel between the terminal and the interchange.

(b) a combination of vehicles powered by a cab-over or tilt-cab truck tractor or a truck may not exceed an overall length of 105 feet, inclusive of front and rear bumpers and overhang;

(c) a combination of vehicles powered by a conventional truck tractor may not exceed an overall length of 110 feet, inclusive of the front and rear bumpers and overhang;

(d) an individual cargo unit of the combination may not exceed 28 1/2 feet in length and 102 inches in width;

(e) gross weight fees under 61-10-201 must be paid on the truck or truck tractor for the declared registered gross weight of the special vehicle combination, but not to exceed the formula in 61-10-107;

(f) the combination must have a special overlength permit issued at a fee of \$200 for a term permit or \$20 for each trip permit;

(g) travel of the combination may be restricted to specific routes, hours of operation, specific days, or seasonal periods; and

(h) the department may enforce any other restrictions determined by the department to be necessary. The permit is not transferable, and the fee for the permit is \$200.

~~(5)~~(4) The department of transportation may issue special permits under subsection ~~(4)~~(3) for vehicle combinations that consist of a truck-trailer-trailer if:

(a) the vehicle combination's overall length, inclusive of front and rear bumpers, is not more than 95 feet; and

(b) the person, firm, or corporation applying for the permit:

(i) restricts truck-trailer-trailer operations authorized by the permit to the hauling of talc ore, chlorite, dolomite, limestone, and custom combine equipment;

(ii) operated the truck-trailer-trailer combination before July 1, 1987;

(iii) restricts the truck-trailer-trailer operations authorized by the permit to the specified routes that those vehicles used before July 1, 1987; and

(iv) provides the department of transportation with an affidavit confirming the routes used before July 1, 1987, for truck-trailer-trailer operations.

~~(6)~~(5) For the purposes of this section, a "nondivisible load" is:

(a) on public roads off of interstate highways, a load that cannot be readily or reasonably dismantled and that is reduced to a minimum practical size and weight;

(b) on interstate highways, a load or vehicle exceeding applicable length or weight limits that, if separated into smaller loads or vehicles, would:

(i) compromise the intended use of the vehicle;

(ii) destroy the value of the load or vehicle; or

(iii) require more than 8 work hours to dismantle using appropriate equipment."

Section 6. Section 61-10-141, MCA, is amended to read:

"61-10-141. Officers authorized to weigh vehicles and require removal of excessive loads – definition. (1) (a) A peace officer, officer of the highway patrol, or employee of the department of transportation may weigh any vehicle regulated by 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110, except recreational vehicles, travel trailers, or motor homes, by means of either portable scales used on an engineered site or stationary scales. The peace officer, officer of the highway patrol, or employee of the department of transportation may require that the vehicle be driven to the nearest stationary scales or engineered site for use of portable scales if those stationary scales or an engineered site is within 2 miles.

(b) If it is determined in the weighing process that the maximum allowable weights specified in 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110 have been exceeded, the peace officer, officer of the highway patrol, or employee of the department of transportation may then require the driver to unload at a designated facility that portion of the load necessary to decrease the weight of the vehicle to conform to the maximum allowable weights specified in 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110. If the excess weight does not exceed 10,000 pounds, an excess weight permit may be issued in accordance with 61-10-121. The permit authorizes the driver of the excess weight load to proceed to a designated facility where the load can be safely reduced to legal limits.

(2) Commodities and material unloaded as required by this section must be cared for by the owner or operator of the vehicle at the risk of that owner or operator. Commodities or material unloaded as required by this section may not be left on the highway right-of-way.

(3) The department of transportation may establish, maintain, and operate weigh stations, either intermittently or on a continuous schedule, and may, *except for trucks exempted by department administrative rule*, require all trucks and commercial motor vehicles of 26,000 pounds GVW or greater to enter for the purpose of weighing and inspection for compliance with all laws pertaining to their operation and safety requirements. The department may require vehicles over 10,000 pounds, *except those exempted by department administrative rule*, to be inspected and weighed by portable scale crews when the portable scales are used on an engineered site.

(4) For the purposes of this section, “engineered site” means:

(a) a turnout designed and constructed by the department of transportation that has indents in the pavement to level portable scales; or

(b) a site where leveling pads can be used in strict accordance with all of the manufacturer’s manuals and specifications.”

Section 7. Section 61-10-144, MCA, is amended to read:

“61-10-144. Violation of standards – tolerance. (1) It is a misdemeanor for a person, firm, or corporation to violate any provision of 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110.

(2) The operator of a vehicle or combination of vehicles may move over the highways to the first open stationary scale or portable scale on an engineered site, as defined in 61-10-141(4), without incurring the excess weight penalties set forth in 61-10-145 if the total gross weight of the vehicle or combination of vehicles does not exceed allowable total gross weight limitations by more than 10% and if the weight carried by any axle or combination of axles does not exceed the allowable axle weight limitations by more than 10%. If the vehicle or combination of vehicles is not in excess of the allowable total gross or axle weight limitations by more than 10%, the department may issue a single trip permit for the fee of \$10, allowing the vehicle or combination of vehicles to move over the highways to the first facility where its load can be safely adjusted or to its destination. Violations of total gross or axle weight limitations in excess of 10% are subject to the fines provided in 61-10-145, and all loads in excess of 10% of the total gross or axle weight limitations:

(a) may be required to be adjusted or reduced to conform to the size and weight limitations before the vehicle or combination of vehicles is moved from the point of weighing; or

(b) may be issued a permit as authorized by 61-10-141.

(3) Farm vehicles transporting agricultural products from a harvesting combine or other harvesting machinery may be operated on any highway, except an interstate highway, as defined in 60-1-103, within a 100-mile radius

of the harvested field to the point of first unloading without incurring excess weight penalties under 61-10-145 if the total gross weight of the farm vehicle or combination of vehicles does not exceed allowable weight limitations by more than 20% for each axle and the maximum load for each inch of tire width does not exceed 670 pounds. A single trip permit, as required in subsection (2), is not applicable to the farm vehicle or combination of vehicles. When a farm vehicle or combination of vehicles violates any of the provisions of this subsection, the fine or penalty imposed applies to that portion of the load above the legal limit.”

Section 8. Section 61-10-146, MCA, is amended to read:

“61-10-146. Special permits – misrepresentations and violations as misdemeanor. (1) A person who knowingly and willfully misrepresents the size or weight of a vehicle, combination of vehicles, load, object, or other thing in obtaining a special permit or who does not follow the requirements and conditions of the special permit or who operates a vehicle, combination of vehicles, load, object, or other thing the size or weight of which requires a special permit without first obtaining a special permit is guilty of a misdemeanor.

(2) A person, firm, or corporation convicted of:

(a) operating a vehicle or combination of vehicles with weight upon a wheel, axle, or group of axles greater than the maximum authorized by a special permit or of operating without a special permit a vehicle or combination of vehicles the weight of which requires a special permit shall, in addition to the other penalties provided by law for the offense, be punished by a fine in the amount provided in 61-10-145(1); or

(b) violating any provision of 61-10-124(4)(3) or any restriction on the special permits issued by the department under 61-10-124(4)(3) shall be punished by a fine of not less than \$500 or more than \$1,000, and all special permits issued for the operation of the combination in violation must be confiscated. The combination must be separated into combinations of legal length before the units may proceed.”

Section 9. Section 69-12-102, MCA, is amended to read:

“69-12-102. Scope of chapter – exemptions. (1) This chapter does not affect:

(a) the operation of school buses that are used in conveying pupils or other students enrolled in classes to and from district or other schools or in transportation movements related to school activities that are sponsored or supervised by school authorities;

(b) the transportation by means of motor vehicles in the regular course of business of employees by a person or corporation engaged exclusively in the construction or maintenance of highways or engaged exclusively in logging or mining operations, insofar as the use of employees in construction and production is concerned;

(c) the transportation of household goods and garbage by motor vehicle in a city, town, or village with a population of less than 500 persons according to the latest United States census or in the commercial areas of a city, town, or village with a population of less than 500 persons, as determined by the commission;

(d) the transportation of newspapers, newspaper supplements, periodicals, or magazines;

(e) motor vehicles used exclusively in carrying junk vehicles from a collection point to a motor vehicle wrecking facility or a motor vehicle graveyard;

(f) ambulances;

(g) the transportation by motor vehicle of not more than 15 passengers between their places of residence or termini near their residences and their

places of employment in a single daily round trip if the driver is also going to or from the driver's place of employment;

(h) the operation of:

(i) a transportation system by a municipality or transportation district as provided in Title 7, chapter 14, part 2;

(ii) a municipal bus service pursuant to Title 7, chapter 14, part 44; or

(iii) any public transportation system recognized by the Montana department of transportation as a federal transit administration provider pursuant to 49 U.S.C. 5311;

(i) armored motor vehicles used for the transportation of valuable paintings and other items of unusual value requiring special handling and security;

(j) the transportation of household goods or garbage under an agreement between a motor carrier and an office or agency of the United States government;

(k) the transportation of persons provided by private, nonprofit organizations, including those recognized by the Montana department of transportation as federal transit administration providers pursuant to 49 U.S.C. 5310. As used in this subsection (1)(k), "private, nonprofit organizations" means organizations recognized as nonprofit under section 501(c) of the Internal Revenue Code.

(l) the transportation of a group of passengers if:

(i) the motor vehicle used for the transportation of the passengers is designed to carry more than 26 passengers; and

(ii) the motor carrier has obtained a USDOT number from the U.S. department of transportation as provided in 49 CFR 390.19; or

(m) the transportation of a group of employees to or from a worksite by a motor carrier under contract with the employer for a period of time of at least 1 year.

(2) ~~Except for the identification of ownership requirements provided in 69-12-408, this~~ This chapter does not affect commercial tow trucks designed and exclusively used in towing wrecked, disabled, or abandoned vehicles or while these tow trucks are rendering assistance to wrecked, disabled, or abandoned vehicles.

(3) This chapter does not prevent bona fide leases, brokerage agreements, or buy-and-sell agreements."

Section 10. Section 69-12-408, MCA, is amended to read:

"69-12-408. Identification of ownership of certain large motor vehicles. (1) ~~(a) Except as provided in subsection (2), a~~ A person may not operate a motor vehicle *or combination of vehicles having a gross weight of more than 10,000 pounds or combination of vehicles having a gross weight of more than 10,000 pounds on the highways of the state upon a public highway in this state for the transportation of passengers, household goods, or garbage for hire on a commercial basis* unless the name or trade name, city, and state or the name or trade name and the public service commission or department of transportation number is displayed on both sides of each vehicle operated under its own power, either alone or in combination. If a number is displayed, it must be the number of the person or corporation under whose jurisdiction the vehicle or vehicles are being operated.

~~(b)(2)~~ The display must be in letters in sharp contrast to the background and in a size, shape, and color readily legible in daylight from a distance of 50 feet while the vehicle is not in motion. The display must be maintained so that it remains legible. The display may be accomplished either by painting the information on the vehicle or through the use of a decal or a removable device

prepared so that it meets the identification and legibility requirements of this section.

~~(2) This section does not apply to:~~

~~(a) farm vehicles; or~~

~~(b) motor vehicles being:~~

~~(i) transported to dealers from point of manufacture;~~

~~(ii) transported from one dealer to another;~~

~~(iii) demonstrated to a prospective buyer; or~~

~~(iv) delivered to a buyer from a dealer or a manufacturer.~~

~~(3) This section does not apply to:~~

~~(a) farm vehicles; or~~

~~(b) motor vehicles being:~~

~~(i) transported to dealers from point of manufacture;~~

~~(ii) transported from one dealer to another;~~

~~(iii) demonstrated to a prospective buyer; or~~

~~(iv) delivered to a buyer from a dealer or a manufacturer.”~~

Section 11. Repealer. The following sections of the Montana Code Annotated are repealed:

61-3-709. Identification of ownership of certain large motor vehicles.

Approved March 26, 2021

CHAPTER NO. 90

[HB 93]

AN ACT ALLOWING THE DEPARTMENT OF AGRICULTURE TO ESTABLISH NOXIOUS WEED SEED FREE CERTIFICATION FOR ADDITIONAL MATERIALS; ALLOWING FOR THE ESTABLISHMENT OF FEES TO FUND PROGRAMS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 80-7-902, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Creation of certification programs – other materials.

(1) The department may by rule establish certification programs for materials other than forage. Certification may include but is not limited to:

(a) noxious weed free;

(b) noxious weed and seed free; or

(c) invasive organism free.

(2) Programs established in accordance with subsection (1) must be paid for using fees or donations and may not be mandated by the department.

(3) All fees, materials, and standards for programs established in accordance with this section must be included in rules established in accordance with subsection (1).

(4) A person who falsely claims a certification created under this section is subject to penalties under 80-7-922.

(5) To assist in implementation of a program, the department may enter into agreements with counties, the Montana state university extension service, other states, federal agencies, or other parties.

Section 2. Section 80-7-902, MCA, is amended to read:

“80-7-902. Findings – purpose. (1) The legislature finds that:

(a) natural resources of the state need to be protected from noxious weeds and their seeds;

(b) the movement of agricultural crops or commodities as livestock forage, bedding, mulch, and related materials, including pellets, cubes, and other processed livestock feeds with noxious weed seeds, causes new and expanding noxious weed infestations on private and government-managed lands, which adversely impact agricultural, forest, recreational, and other lands;

(c) it is necessary to develop and implement a state forage and product noxious weed seed free program in cooperation with federal, state, and local government, the university system, and private enterprise;

(d) an educational program is needed to inform all citizens of the importance of the incentive to market and handle forage that is free of noxious weed seeds;

(e) a cooperative forage and product distribution system with federal, state, local, and private land manager participation is needed to prevent increased noxious weed infestations; and

(f) compliance standards involving the import or export of forage, in cooperation with county weed districts and the department, are needed; and

(g) *to the extent there is a need for standards and good practices for other materials to prevent the spread of noxious weeds, seeds, and other invasive organisms, the department may create options for proof of compliance in a cost-effective manner to protect the state and to provide options for businesses.*

(2) The purpose of this part is to promote incentives to benefit the people of this state and other states by producing and making available forage *and other materials* free of noxious ~~weed~~ *weeds and their seeds.*"

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 80, chapter 7, part 9, and the provisions of Title 80, chapter 7, part 9, apply to [section 1].

Section 4. Effective date. [This act] is effective on passage and approval.

Approved March 26, 2021

CHAPTER NO. 91

[HB 104]

AN ACT REVISING A COUNTY'S AUTHORITY TO LEASE COUNTY PROPERTY INCLUDING PROPERTY LEASED FOR A DETENTION CENTER; ALLOWING A COUNTY TO EXTEND A LEASE TO 40 YEARS; AND AMENDING SECTIONS 7-8-2231 AND 7-32-2201, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-8-2231, MCA, is amended to read:

"7-8-2231. Authorization to lease county property. (1) The board of county commissioners has jurisdiction and power, under limitations and restrictions that are prescribed by law, to lease and transfer county property, however acquired, that is not necessary to the conduct of the county's business or the preservation of county property and for which immediate sale cannot be had. The leases must be made in a manner and for purposes that, in the judgment of the board, are best suited to advance the public benefit and welfare.

(2) ~~Except as provided in 7-32-2201(5):~~

~~(a) All~~ *All* property must be leased subject to sale by the board; and

~~(b) a lease may not be for a period to exceed 10 40 years."~~

Section 2. Section 7-32-2201, MCA, is amended to read:

"7-32-2201. Establishing detention center -- detention center contract -- regional detention center -- authority for county to lease its property for detention center. For the confinement of lawfully committed

persons, the governing body of a county may participate in or undertake one or more of the following:

(1) A detention center may be built or provided and kept in good repair at the expense of the county in each county, except that whenever in the discretion of the governing body of two or more local governments it is necessary or desirable to build, provide, or use a multijurisdictional detention center, they may do so in any of the jurisdictions concerned. The multijurisdictional detention center must be built or provided and kept in good repair at the expense of the local governments concerned on a basis as the governing bodies agree.

(2) A county or two or more local governments acting together may provide for the detention center allowed by subsection (1) by:

(a) establishing in the county government the position of detention center administrator and hiring a person, who is answerable to the governing body of the county, to fill the position or appointing the sheriff as detention center administrator; or

(b) entering into an agreement with a private party under which the private party will provide, maintain, or operate the detention center.

(3) The detention centers in this state are kept by the detention center administrators of the local governments in which they are situated. In the case of a multijurisdictional detention center as provided in subsection (1), the detention center must be kept by the local governments using the detention center on a basis as the governing bodies agree.

(4) The board of county commissioners has jurisdiction and power, under limitations and restrictions that are prescribed by law, to cause a detention center to be erected, furnished, maintained, and operated. The costs must be paid for out of the county treasury.

(5) The board of county commissioners has the power to lease to any person or entity any real or personal property of the county necessary or appropriate for use as a detention center. A lease of *property* entered into under this section must be for a period not to exceed 30 years and may not be limited by 7-8-2231 40 years.

(6) A county or two or more local governments acting together may enter into a lease-purchase agreement with a person or entity for a period not to exceed 20 years for the construction, furnishing, and purchasing of a detention center."

Approved March 26, 2021

CHAPTER NO. 92

[HB 108]

AN ACT REVISING LAWS RELATED TO FAILING TO OBTAIN LANDOWNER PERMISSION FOR HUNTING; REQUIRING PERMISSION TO HUNT FURBEARERS; DEFINING HUNT; REVISING PENALTIES; AMENDING SECTION 87-6-415, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-6-415, MCA, is amended to read:

"87-6-415. Failure to obtain landowner's permission for hunting.

(1) ~~A resident or nonresident shall obtain permission of the landowner, the lessee, or their agents before taking or attempting to take~~ *A person may not hunt or attempt to hunt furbearers, game animals, migratory game birds, nongame*

wildlife, predatory animals, upland game birds, or wolves ~~while hunting~~ on private property *without first obtaining permission of the landowner, the lessee, or their agents.*

(2) A person who violates this section shall, upon conviction for a first offense, be fined *not less than \$135 or more than \$500.*

(3) A person convicted of a second *or subsequent* offense of hunting on private property without obtaining permission of the landowner within 5 years shall be fined not less than \$500 or more than \$1,000.

(4) In addition, the person, upon conviction under subsection (3) or forfeiture of bond or bail:

(a) ~~may be subject to forfeiture of~~ *shall forfeit* any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes ~~for a period of time set by the court~~ *not less than 12 months or more than 3 years from the date of conviction or forfeiture; and*

(b) may be ordered to make restitution for property damage resulting from the violation in an amount and manner to be set by the court. The court shall determine the manner and amount of restitution after full consideration of the convicted person's ability to pay the restitution. Upon good cause shown by the convicted person, the court may modify any previous order specifying the amount and manner of restitution. Full payment of the amount of restitution ordered must be made prior to the release of state jurisdiction over the person convicted.

(5) *For the purposes of this section, the term "hunt" has the same meaning as provided in 87-6-101 and includes entering private land to:*

(a) *retrieve wildlife; or*

(b) *access public land to hunt."*

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Applicability. [This act] applies to violations of [section 1] charged on or after [the effective date of this act].

Approved March 26, 2021

CHAPTER NO. 93

[HB 116]

AN ACT EXPANDING THE REQUIREMENT TO NOTIFY AND REMEDIATE INHABITABLE PROPERTIES CONTAMINATED WITH METHAMPHETAMINE RESIDUE; RAISING THE DECONTAMINATION STANDARD; REVISING THE DEFINITION OF INHABITABLE PROPERTY; REVISING WHEN AN OWNER OR OWNER'S AGENT IS IMMUNE FROM CERTAIN ACTIONS; AND AMENDING SECTIONS 75-10-1301, 75-10-1302, 75-10-1303, AND 75-10-1305, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 75-10-1301, MCA, is amended to read:

"75-10-1301. Finding and purpose. The legislature finds that some properties are being contaminated with hazardous chemical residues created by the manufacture of methamphetamine *or the smoke from the use of methamphetamine*. Innocent members of the public may be harmed when they are unknowingly exposed to these residues if the properties are not decontaminated prior to any subsequent rental, sale, or use of the properties. Remediation of properties has been frustrated by the lack of a decontamination standard. The purpose of this part is to protect the public health, safety,

and welfare by providing specific cleanup standards and authorizing the department to establish a voluntary program that will provide for a property decontamination process that will meet state standards.”

Section 2. Section 75-10-1302, MCA, is amended to read:

“75-10-1302. Definitions. Unless the context requires otherwise, in this part, the following definitions apply:

(1) “Department” means the department of environmental quality provided for in 2-15-3501.

(2) (a) “Inhabitable property” means any building or structure used as a clandestine methamphetamine drug lab *or that has been contaminated from smoke from the use of methamphetamine* that is intended to be primarily occupied by people, either as a dwelling or a business, including a storage facility, mobile home, or recreational vehicle, that may be sold, leased, or rented for any length of time.

(b) The term does not mean any water system, sewer system, land, or water outside of a building or structure described in subsection (2)(a).

(3) “Surface material” means any porous or nonporous substance common to the interior of a building or structure, including but not limited to ceilings and walls, window coverings, floors and floor coverings, counters, furniture, heating and cooling duct work, and any other surfaces to which inhabitants of the building or structure may be exposed.”

Section 3. Section 75-10-1303, MCA, is amended to read:

“75-10-1303. Decontamination standards – rulemaking authority – samples. (1) The decontamination standard for methamphetamine inside inhabitable property is less than or equal to $\Theta \pm 1.5$ micrograms of methamphetamine per 100 square centimeters of surface material unless a different standard is adopted by the department by rule to protect human health. The department may adopt standards by rule for precursors to methamphetamine that are consistent with the standard for methamphetamine.

(2) (a) The department may by rule establish the number and locations of surface material samples to be collected based on the circumstances of the contamination and acceptable testing methods.

(b) In the absence of a rule described in subsection (2)(a), at least three samples must be collected from the surface material most likely to be contaminated at each property.”

Section 4. Section 75-10-1305, MCA, is amended to read:

“75-10-1305. Occupant notice by owner of inhabitable property – immunity. (1) An owner of inhabitable property that is known by the owner to have been used as a clandestine methamphetamine drug lab *or that has been contaminated from smoke from the use of methamphetamine* shall notify in writing any subsequent occupant or purchaser of the inhabitable property of that fact if the inhabitable property has not been remediated to the standards established in 75-10-1303 by a contractor who is certified in accordance with 75-10-1304.

(2) An owner or an owner’s agent referred to in subsection (1) may provide notice to a subsequent occupant or purchaser that the owner or the owner’s agent has submitted:

(a) documentation to the department by a contractor who is certified pursuant to 75-10-1304 that the inhabitable property has been remediated to the standards established in 75-10-1303; or

(b) documentation by a certified contractor that the property meets the decontamination standards without decontamination.

(3) Notice as required or authorized in this section must occur before agreement to a lease or sale of the inhabitable property.

(4) If the department has confirmed that the decontamination standard provided for in 75-10-1303 has been met and if notice has been given as provided in subsections (2) and (3), the owner and the owner's agent are not liable in any action brought by a person who has been given notice that is based on the presence of methamphetamine in an inhabitable property.

~~(5) The immunity provided for in subsection (4) does not apply to an owner or an owner's agent who caused the methamphetamine contamination."~~

Approved March 26, 2021

CHAPTER NO. 94

[HB 119]

AN ACT REQUIRING THE FISH AND WILDLIFE COMMISSION TO APPROVE THE ISSUANCE OF EITHER-SEX OR ANTLERLESS ELK LICENSES AND PERMITS FOR CERTAIN LANDOWNERS AND THEIR DESIGNEES; AMENDING SECTIONS 87-1-301 AND 87-2-513, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-1-301, MCA, is amended to read:

"87-1-301. Powers of commission. (1) Except as provided in subsections (6) and (7), the commission:

(a) shall set the policies for the protection, preservation, management, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment of all other responsibilities of the department related to fish and wildlife as provided by law;

(b) shall establish the hunting, fishing, and trapping rules of the department;

(c) except as provided in 23-1-111 and 87-1-303(3), shall establish the rules of the department governing the use of lands owned or controlled by the department and waters under the jurisdiction of the department;

(d) must have the power within the department to establish wildlife refuges and bird and game preserves;

(e) shall approve all acquisitions or transfers by the department of interests in land or water, except as provided in 23-1-111 and 87-1-209(2) and (4);

(f) except as provided in 23-1-111, shall review and approve the budget of the department prior to its transmittal to the office of budget and program planning;

(g) except as provided in 23-1-111, shall review and approve construction projects that have an estimated cost of more than \$1,000 but less than \$5,000;

(h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as provided in 87-1-323. In developing or implementing an elk management plan, the commission shall consider landowner tolerance when deciding whether to restrict elk hunting on surrounding public land in a particular hunting district. As used in this subsection (1)(h), "landowner tolerance" means the written or documented verbal opinion of an affected landowner regarding the impact upon the landowner's property within the particular hunting district where a restriction on elk hunting on public property is proposed.

(i) shall set the policies for the salvage of antelope, deer, elk, or moose pursuant to 87-3-145; ~~and~~

(j) shall comply with, adopt policies that comply with, and ensure the department implements in each region the provisions of state wildlife management plans adopted following an environmental review conducted pursuant to Title 75, chapter 1, parts 1 through 3; ~~and~~

(k) shall review and approve the issuance of an either-sex or antlerless elk license, permit, or combination thereof to a landowner or a landowner's designee pursuant to 87-2-513.

(2) The commission may adopt rules regarding the use and type of archery equipment that may be employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in archery equipment change.

(3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons, conditions, programs, or other provisions that the commission considers appropriate to promote or enhance hunting by Montana's youth and persons with disabilities.

(4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

(i) separate deer licenses from nonresident elk combination licenses;

(ii) set the fees for the separated deer combination licenses and the elk combination licenses without the deer tag;

(iii) condition the use of the deer licenses; and

(iv) limit the number of licenses sold.

(b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and appropriate to regulate the harvest by nonresident big game combination license holders:

(i) for the biologically sound management of big game populations of elk, deer, and antelope;

(ii) to control the impacts of those elk, deer, and antelope populations on uses of private property; and

(iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-321 through 87-1-325.

(5) (a) Subject to the provisions of subsection (5)(b), the commission may adopt rules to:

(i) limit the number of nonresident mountain lion hunters in designated hunting districts; and

(ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting districts.

(b) The commission shall adopt rules for the use of and set quotas for the sale of Class D-4 nonresident hound handler licenses by hunting district, portions of a hunting district, group of districts, or administrative regions. However, no more than two Class D-4 licenses may be issued in any one hunting district per license year.

(c) The commission shall consider, but is not limited to consideration of, the following factors:

(i) harvest of lions by resident and nonresident hunters;

(ii) history of quota overruns;

(iii) composition, including age and sex, of the lion harvest;

(iv) historical outfitter use;

(v) conflicts among hunter groups;

(vi) availability of public and private lands; and

(vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters.

(6) The commission may not regulate the use or possession of firearms, firearm accessories, or ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

(a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the establishment of special archery seasons;

(b) for human safety, the restriction of certain areas to the use of only specified hunting arms, including bows and arrows, traditional handguns, and muzzleloading rifles;

(c) the restriction of the use of shotguns for the hunting of deer and elk pursuant to 87-6-401(1)(f);

(d) the regulation of migratory game bird hunting pursuant to 87-3-403; or

(e) the restriction of the use of rifles for bird hunting pursuant to 87-6-401(1)(g) or (1)(h).

(7) Pursuant to 23-1-111, the commission does not oversee department activities related to the administration of state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, and 9."

Section 2. Section 87-2-513, MCA, is amended to read:

"87-2-513. Either-sex or antlerless elk license or permit for landowner who offers free public elk hunting – terms, conditions, and issuance. (1) For wildlife management purposes; *and with approval of the commission pursuant to 87-1-301*, the department may issue, at no cost to a landowner who provides free public elk hunting on the landowner's property and pursuant to this section, an either-sex or antlerless elk license, permit, or combination thereof as required in that hunting district for the landowner or the landowner's designee to hunt on the landowner's property. A designee may be an immediate family member or an authorized full-time employee of the landowner.

(2) To be eligible for a license or permit pursuant to this section, a landowner:

(a) must own occupied elk habitat that is large enough, in the department's determination, to accommodate successful public hunting;

(b) may not have been issued a Class A-7 landowner license pursuant to 87-2-501(3) during the license year;

(c) must have entered into a contractual public elk hunting access agreement with the department in accordance with subsection (7) that allows public access for free public elk hunting on the landowner's property throughout the regular hunting season; and

(d) may not charge a fee or authorize a person to charge a fee for hunting access on the landowner's property.

(3) For every four members of the public allowed to hunt under the contractual public elk hunting access agreement, the department may issue one license, permit, or combination thereof pursuant to subsection (1). The department may limit the total number of licenses and permits issued under this section.

(4) A license or permit issued pursuant to this section:

(a) is nontransferable and may not be sold or bartered; and

(b) may only be used for hunting conducted on property that is opened to public access pursuant to this section.

(5) The department may prioritize distribution of licenses or permits under subsection (1) according to the areas the department determines are most in need of management.

(6) If the department determines that a landowner or landowner's designee has not abided by the restrictions and conditions of a license or permit issued pursuant to this section, that landowner or landowner's designee is not eligible to receive another license or permit pursuant to this section during any subsequent license year.

(7) (a) A contractual public elk hunting access agreement must define the areas that will be open to public elk hunting, the number of public elk hunting days that will be allowed on the property, and other factors that the department and the landowner consider necessary for the proper management of elk on the landowner's property. The agreement must reserve the right of the landowner to deny access to the landowner's property by a public hunter selected pursuant to subsection (7)(b) for cause, including but not limited to intoxication, violation of landowner conditions for use of the property, or previous misconduct on a landowner's property.

(b) The department shall select public hunters eligible to hunt on the landowner's property through a random drawing of holders of existing licenses or permits in that hunting district."

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

Approved March 26, 2021

CHAPTER NO. 95

[HB 120]

AN ACT ALLOWING ONLY PERSONS ELIGIBLE TO HUNT TO APPLY FOR BONUS POINTS; AMENDING SECTION 87-2-117, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-2-117, MCA, is amended to read:

"87-2-117. License bonus point system. (1) The commission shall establish a bonus point system that gives an applicant who has purchased more bonus points more chances to receive a license, tag, or permit over an applicant who has purchased fewer bonus points.

(2) A person may purchase only one bonus point per species per license year and may:

(a) purchase a bonus point when applying for a license, tag, or permit by paying the fee established in 87-2-113(2) per species; or

(b) *if the person is otherwise eligible to apply for a license, tag, or permit,* purchase a bonus point without applying for ~~a~~ *the* license, tag, or permit by paying the fee established in subsection (5). An applicant not applying for a license, tag, or permit may purchase a bonus point only between July 1 and September 30 in the current license year.

(3) The department may only apply any accumulated bonus points to a person's chance to obtain a license, tag, or permit if the person purchases a bonus point when applying for the license, tag, or permit.

(4) Bonus points may only be applied to first choice drawings.

(5) (a) A resident who does not apply for a license, tag, or permit may purchase a bonus point for \$15 for each species for which a bonus point is made available by the commission.

(b) A nonresident who does not apply for a license, tag, or permit may purchase a bonus point for \$25 for each species for which a bonus point is made available by the commission, except that the fee is \$75 for moose, mountain goat, mountain sheep, and wild buffalo or bison.

(6) The department may not delete a person's accumulated bonus points unless the person obtains the license, tag, or permit associated with the bonus points, in which case the department shall delete the person's accumulated bonus points.

(7) (a) Except as provided in subsection (7)(b), the department shall square the number of points purchased by a person per species when conducting drawings for licenses, tags, and permits.

(b) For persons applying for licenses, tags, or permits as a party, the department shall calculate the average number of bonus points accumulated by the individuals listed on the party application, rounded to the nearest whole number, and square the average. Each individual retains their own bonus points unless the party obtains the licenses, tags, or permits associated with the bonus points, in which case the department shall delete each person's accumulated bonus points."

Section 2. Effective date. [This act] is effective March 1, 2022.

Approved March 26, 2021

CHAPTER NO. 96

[HB 138]

AN ACT REVISING WHAT CONSTITUTES A TRAPPING OR SNARING OFFENSE; REVISING TAGGING REQUIREMENTS; AMENDING SECTION 87-6-601, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-6-601, MCA, is amended to read:

"87-6-601. Trapping and snaring offenses. (1) A person may not use a trap or snare trap for the purpose of trapping or snaring a fur-bearing animal, a predatory animal, or a nongame species unless:

(a) the trap or snare trap is tagged with a numbered metal device identifying tag bearing an individual identifying number issued by the department or the owner's name; and address; and telephone number unless the person is trapping or snaring on the person's land or an irrigation ditch right-of-way contiguous to the person's land;

(b) the consent of the landowner has been obtained for a set on private property; and

(c)(b) the trap or snare trap is set in a manner and at a time so that it will not unduly endanger livestock. A person who injures livestock in a trap or snare traps is liable for damages to the owner of the livestock.

(2) A person trapping fur-bearing animals, predatory animals, or any other animals shall fasten a metal tag to all traps bearing in legible English the name and address or wildlife conservation license number of the trapper; except that a tag is not required on traps used by landowners trapping on their own land or on an irrigation ditch right-of-way contiguous to the land.

(3)(2) A holder of a Class C-2 trapper's license person may not use a trap or snare for the purpose of trapping or snaring a fur-bearing animal, a predatory animals animal, or a nongame wildlife species on private property without obtaining written permission from the landowner, the lessee, or their agents.

(4)(3) A person may not at any time willfully destroy, open or leave open, or partially destroy a house of any muskrat or beaver, except that trapping in the house of muskrats is not prohibited when authorized by the commission.

(5)(4) (a) A person may not destroy, disturb, or remove any trap or snare belonging to another person or remove wildlife from a trap or snare belonging to another person without permission of the owner of the trap or snare, except that from March 1 to October 1 of each year a person may remove any snare from land owned or leased by the person if the snare would endanger livestock.

(b) This subsection (5) (4) does not apply to a law enforcement officer acting within the scope of the officer's duty.

(6)(5) A person convicted of a violation of this section shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by the state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(7)(6) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 and 87-6-906."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 26, 2021

CHAPTER NO. 97

[HB 144]

AN ACT REMOVING PENALTIES FOR A SHERIFF, CONSTABLE, OR PEACE OFFICER WHO DOES NOT ASSIST A STATE OR LOCAL HEALTH OFFICER; AMENDING SECTION 50-2-120, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 50-2-120, MCA, is amended to read:

"50-2-120. Assistance from law enforcement officials. A state or local health officer may request a sheriff, constable, or other peace officer to assist the health officer in carrying out the provisions of this chapter. ~~If the officer does not render the service, the officer is guilty of a misdemeanor and may be removed from office."~~

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 26, 2021

CHAPTER NO. 98

[HB 197]

AN ACT GENERALLY REVISING GAMBLING LAWS RELATED TO PLAYER INFORMATION; ALLOWING PLAYER REWARDS SYSTEMS; PROVIDING FOR PLAYER PRIVACY; PROVIDING REQUIREMENTS FOR STORAGE OF DATA; PROHIBITING SHARING OF INFORMATION; PROVIDING REQUIREMENTS ON THE SHARING OF DATA; CLARIFYING DEPARTMENT OF JUSTICE RULEMAKING AUTHORITY RELATING TO PLAYER INFORMATION; PROVIDING DEFINITIONS; AMENDING SECTIONS 23-5-602, 23-5-621, AND 23-5-637, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Player rewards system -- privacy of player -- penalty.

(1) (a) A licensed gambling operator may use a player rewards system. A player rewards system interface must be submitted to the state for approval pursuant to subsection (9), but the licensed gambling operator may utilize any technology available for the input or utilization of player rewards data.

(b) The department may not require approval of modifications to a video gambling machine cabinet by a manufacturer or licensee if the modifications do not have the potential to affect the play of the machine or any approved system.

(2) Player rewards system data received from a player rewards system:

(a) must remain confidential and only used for the purposes of player rewards;

(b) is protected as confidential trade secrets of the licensed gambling operator;

(c) may be used for managing and operating a player rewards system by the licensed gambling operator for the individual licensed premises where the system is located;

(d) may be electronically stored, including off-site electronic storage over the internet; and

(e) may be accessed and used remotely by the player rewards system manufacturer, developer, distributor, video gaming machine route operator, or the licensed gambling operator for the purposes of maintenance, repairs, upgrades, and enhancements, as well as managing and operating a player rewards system, if access is authorized by the licensed gambling operator; and

(f) may not be shared between individual licensed premises.

(3) Any personally identifiable information of the player may not be used for any purpose other than for player rewards and may not be shared between individual licensed premises.

(4) A route operator may not tie the purchase, lease, or rental of a player rewards system to a video gambling machine route operator contract.

(5) Player rewards data must be retrievable in a common data format so that it may be exported from one system and imported into another system at the request of the licensed gambling operator.

(6) A player rewards system must be available for any licensed gambling operator to purchase, rent, or lease under similar terms.

(7) Player rewards data may be sold or passed from a licensed gambling operator to a party purchasing that same alcoholic beverage license or by the same licensed gambling operator if a new alcoholic license is purchased for use at the same individual licensed premises.

(8) A player may voluntarily opt in for membership in a player rewards system. A player who opts in to membership in a player rewards system is considered to have consented for personally identifiable information to be collected by the licensed gambling operator and for player rewards system data to be used for the purposes of player rewards. A player may opt out of a player rewards system at any time.

(9) If a player rewards system communicates with a video gambling machine, the department shall only test and approve the hardware interface and software interface to ensure that the player rewards system does not affect the play of the video gambling machine. For player rewards systems not communicating with a video gambling machine, department approval is not required, although the department may ensure that player rewards system data is protected and used in compliance with this section.

(10) The unauthorized use or dissemination of player rewards data is prohibited, and a violation of this section may be punished as provided in 23-5-136. The department may only investigate the reported misuse of a player rewards system and data. Any player rewards data obtained by the department must be protected as confidential trade secret property.

(11) The player rewards system manufacturer is required to license with the state as an associated gambling business.

Section 2. Section 23-5-602, MCA, is amended to read:

“23-5-602. Definitions. As used in this part, the following definitions apply:

(1) “Associated equipment” means all proprietary devices, machines, or parts used in the manufacture or maintenance of a video gambling machine, including but not limited to integrated circuit chips, printed wired assembly, printed wired boards, printing mechanisms, video display monitors, metering devices, and cabinetry.

(2) *“Automated accounting and reporting system” means a system that, at a minimum, is used to electronically report video gambling machine accounting data to the state.*

~~(2)~~(3) (a) “Bingo machine” means an electronic video gambling machine that, upon insertion of cash, is available to play bingo, as defined by rules of the department. The machine uses a video display and microprocessors and, by the skill of the player, by chance, or by both, allows the player to receive free games, bonus games, or credits that may be redeemed for cash.

(b) The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

~~(3)~~(4) (a) “Bonus game” means a game other than a bingo, poker, keno, or video line game that is offered as a prize for playing and achieving a defined outcome by playing a bingo, poker, keno, or video line game. The term includes a game that allows a player to win free credits, free games, or a multiplier of credits already won or to move to an accelerated pay table for the play of a bingo, poker, keno, or video line game. A bonus game must make available to the player a display of the rules for the bonus game.

(b) The term does not include a game that allows the player to wager money or credits on the game or to lose money or credits already won. The term does not include a game by which the bonus game would become the predominant game rather than a bingo, poker, keno, or video line game. The department shall by administrative rule define the conditions that would cause a bonus game to be the predominant game. The term does not include a game that displays or simulates a gambling activity that is not legal under state law.

~~(4)~~(5) “Electronically captured data” means video gambling machine accounting information and records of video gambling machine events, in electronic form, that are automatically recorded and communicated to the department through an approved automated accounting and reporting system.

~~(5)~~(6) “Gross income” means money put into a video gambling machine minus credits paid out in cash.

~~(6)~~(7) (a) “Keno machine” means an electronic video gambling machine that, upon insertion of cash, is available to play keno, as defined by rules of the department. The machine uses a video display and microprocessors and, by the skill of the player, by chance, or by both, allows the player to receive free games, bonus games, or credits that may be redeemed for cash.

(b) The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

(7)(8) “Licensed machine owner” means a licensed operator or route operator who owns a video gambling machine for which a permit has been issued by the department.

(8)(9) “Multigame” means a combination of at least two or more approved types of games, including bingo, poker, keno, or video line games, within the same video gambling machine cabinet if the video gambling machine cabinet has been approved by the department.

(9)(10) “Permitholder” means a licensed operator on whose premises is located one or more video gambling machines for which a permit has been issued by the department.

(11) *“Player rewards system” means a system that rewards player loyalty, including but not limited to employing player rankings, awarding player points, or other promotions based on player engagement at an individual licensed premises as determined by using video gambling machine data, which may come from an automated accounting and reporting system, and other information gathered at an individual licensed premises.*

(10)(12) (a) “Poker machine” means an electronic video gambling machine that, upon insertion of cash, is available to play or simulate the play of the game of draw poker, 5-card stud, 7-card stud, or hold ‘em, as defined by rules of the department. The machine uses a video display and microprocessors and, by the skill of the player, by chance, or by both, allows the player to receive free games, bonus games, or credits that may be redeemed for cash.

(b) The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

(11)(13) (a) “Video line game” means a video line game as defined by rules of the department and approved by the department. A video line game uses a video display and microprocessors and, by the skill of the player, by chance, or by both, allows the player to receive free games, bonus games, or credits that may be redeemed for cash. Video line games may be offered only in a multigame video gambling machine cabinet.

(b) The term does not include a game played on a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.”

Section 3. Section 23-5-621, MCA, is amended to read:

“23-5-621. Rules. (1) The department shall adopt rules that:

(a) implement 23-5-637;

(b) describe the video gambling machines authorized by this part and state the specifications for video gambling machines authorized by this part, including a description of the images and the minimum area of a screen that depicts a bingo, poker, keno, or video line game;

(c) allow video gambling machines to be imported into this state and used for the purposes of trade shows, exhibitions, and similar activities;

(d) allow each video gambling machine to offer any combination of approved bingo, poker, keno, and video line games within the same video gambling machine cabinet if the owner of the video gambling machine has received approval to report video gambling machine information using an approved automated accounting and reporting system or has entered into an agreement with the department to use an approved automated accounting and reporting system;

(e) allow, on an individual license basis, licensed machine owners and operators of machines that use an approved automated accounting and reporting system to:

(i) electronically acquire and use for an individual licensed premises the information and data collected for business management, accounting, and payroll, ~~and player rewards purposes; however, the rules must specify that~~

~~the data made available as a result of an approved automated accounting and reporting system may not be used by licensees for player tracking purposes;~~

~~(ii) use a player rewards system; and~~

~~(ii)(iii) acquire and use, at the expense of a licensee, a department-approved site controller; and~~

~~(f) minimize, whenever possible, the recordkeeping and retention requirements for video gambling machines that use an approved automated accounting and reporting system.~~

(2) The department's rules for an approved automated accounting and reporting system must, at a minimum:

(a) provide for confidentiality of information received through the approved automated accounting and reporting system within the limits prescribed by 23-5-115(8) and 23-5-116;

(b) prescribe specifications for maintaining the security and integrity of the approved automated accounting and reporting system;

(c) limit and prescribe the circumstances for electronic issuance of video gambling machine permits and electronic transfer of funds for payment of taxes, fees, or penalties to the department;

(d) describe specifications and a review and testing process for approved automated accounting and reporting systems to be used by licensed operators, including the requirements for electronically captured data; and

(e) prescribe the frequency of reporting from an approved automated accounting and reporting system and provide exceptions for geographically isolated video gambling operators."

Section 4. Section 23-5-637, MCA, is amended to read:

"23-5-637. Approved automated accounting and reporting systems. (1) For the purposes of performing its duties under this chapter, minimizing regulatory costs, simplifying the reporting of video gambling machine revenue data, preserving the integrity of video gambling machines within its jurisdiction, lessening administrative and recordkeeping burdens for licensed machine owners and licensed operators and the department, and enhancing the management tools available to the industry and the state, the department may approve an automated accounting and reporting system for video gambling machines.

(2) Except as provided in subsection ~~(5)~~ (6) or as provided in an agreement for multiple-game software, utilization of an approved automated accounting and reporting system is voluntary for licensed machine owners and licensed operators who hold a valid current license.

(3) An approved automated accounting and reporting system must provide for the recording and entry of video gambling machine permit and tax information and for the electronic transfer of funds through the use of web entry technology, the internet, or direct electronic communication with the department.

(4) (a) *Information from an approved automated accounting and reporting system may be submitted electronically, manually, or in any other way considered appropriate by the department. Licensed gambling operators may choose which form of reporting occurs. A player rewards system may be used by any licensed gambling operator regardless of the type of automated accounting and reporting system used by the licensed gambling operator.*

(b) *For information submitted electronically, the approved automated accounting and reporting system data must be made available for access by the route operator, the licensed gambling operator, and the automated accounting and reporting system provider.*

(4)(5) A permit may not be issued for a video gambling machine manufactured after July 1, 2005, that is not manufactured in a manner specifically designed to comply with communications standards adopted by department rules.

(5)(6) If a permitholder voluntarily utilizes an approved automated accounting and reporting system for one or more video gambling machines at a premises, all video gambling machines on the premises that utilize the approved system, including video gambling machines replacing video gambling machines that utilize the approved system, must continue to use the approved system as long as video gambling machines are operated on the premises.”

Section 5. Transition. Player rewards system data received from individual licensed premises with common ownership prior to October 1, 2021, may be used by the licensed gambling operator. After October 1, 2021, player rewards system data that is collected at an individual licensed premises must be used in accordance with [this act].

Section 6. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 23, chapter 5, and the provisions of Title 23, chapter 5, apply to [section 1].

Section 7. Effective date. [This act] is effective July 1, 2021.

Approved March 26, 2021

CHAPTER NO. 99

[HB 234]

AN ACT REMOVING SUNSET PROVISION FROM LAW REQUIRING MESSAGE THERAPY BUSINESSES TO DISPLAY EACH MESSAGE THERAPIST'S LICENSE; REVISING THE OFFICIALS WHO MAY DETERMINE COMPLIANCE; AMENDING SECTION 37-33-406, MCA; REPEALING SECTION 6, CHAPTER 419, LAWS OF 2019; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-33-406, MCA, is amended to read:

“37-33-406. (Temporary) Message therapy businesses – requirements. (1) A message therapy business shall conspicuously display on the premises the license of each message therapist working at the business or, for a mobile practice, make the license readily available.

(2) (a) The department or a local designee, a local government official having jurisdiction, or a local law enforcement officer may enter a message therapy business at any time during business hours to determine compliance with subsection (1).

(b) The action taken under subsection (2)(a) may not interrupt a treatment session that is in progress, except that a treatment session lasting 2 hours or more may be interrupted. (~~Terminates June 30, 2023--sec. 6, Ch. 419, L. 2019.~~)”

Section 2. Repealer. Section 6, Chapter 419, Laws of 2019, is repealed.

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

Approved March 26, 2021

CHAPTER NO. 100

[HB 256]

AN ACT CLARIFYING THE APPLICABILITY OF THE CHILD SAFETY RESTRAINT SYSTEM REQUIREMENTS; AND AMENDING SECTION 61-9-420, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-9-420, MCA, is amended to read:

“61-9-420. Child safety restraint systems – standards – exemptions.

(1) ~~If a child under 6 years of age and weighing less than 60 pounds is a passenger in a motor vehicle, that motor vehicle must be equipped with one child safety restraint for each child in the vehicle and each child must be properly restrained.~~ *Each motor vehicle passenger who is under 6 years of age and weighs less than 60 pounds must be transported and properly restrained in a child safety restraint.* The child safety restraint must be appropriate for the height and weight of the child as indicated by manufacturer standards.

(2) The department shall by rule establish standards in compliance with 61-9-419 through 61-9-423 and applicable federal standards for approved types of child safety restraint systems.

(3) The department may by rule exempt from the requirements of subsection (1) a child who because of a physical or medical condition or body size cannot be placed in a child safety restraint.”

Approved March 26, 2021

CHAPTER NO. 101

[HB 200]

AN ACT PROHIBITING STATE AGENCIES AND LOCAL GOVERNMENTS FROM ENACTING OR ENFORCING CERTAIN POLICIES CONCERNING CITIZENSHIP AND IMMIGRATION; REQUIRING THE ATTORNEY GENERAL TO INVESTIGATE AND ENFORCE CERTAIN PROVISIONS; PROVIDING DEFINITIONS; PROVIDING PENALTIES; AMENDING SECTIONS 90-6-209 AND 90-6-710, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 5], the following definitions apply:

(1) “Local government” means a municipality, a county, or a consolidated city-county government.

(2) “Policy” means a formal or informal rule, order, ordinance, or policy, whether written or unwritten.

(3) “State agency” means an office, position, commission, committee, board, department, council, division, bureau, section, or any other entity or instrumentality of the executive branch of state government.

Section 2. Sanctuary jurisdiction prohibited -- exception.

(1) Except as provided in subsection (2), a state agency or local government may not enact, adopt, implement, enforce, or refer to the electorate a policy that prohibits or restricts a government entity, official, or employee from:

(a) sending to, receiving from, exchanging with, or maintaining for a federal, state, or local government entity information regarding a person’s citizenship or immigration status for a lawful purpose;

(b) complying with a notification request concerning the release of an individual if the request is lawfully made by the United States department of homeland security acting pursuant to its authority under 8 U.S.C. 1226 and 1357 as those sections read on [the effective date of this act]; or

(c) complying with an immigration detainer request if:

(i) the request is lawfully made by the United States department of homeland security acting pursuant to its authority under 8 U.S.C. 1226 and 1357 as those sections read on [the effective date of this act]; and

(ii) the arrest is authorized under state law.

(2) A state agency or local government may not be considered in violation of this section based solely on a policy otherwise subject to subsection (1) that exclusively concerns an individual who comes forward as a victim of or a witness to a criminal offense.

Section 3. Monitoring and compliance. (1) The attorney general shall:

(a) monitor state and local government compliance with the provisions of [section 2]; and

(b) investigate compliance complaints.

(2) If an investigation by the attorney general finds that a state agency or local government has violated the provisions of [section 2], the attorney general shall bring a civil action against the state agency or local government.

Section 4. Standing – venue – notifications. (1) The attorney general has standing to bring a civil action under [sections 1 through 5] to compel compliance by a state agency or local government.

(2) An action under [sections 1 through 5] must be instituted in the state district court for the county in which the local government or state agency is located.

(3) If a court of competent jurisdiction finds that a local government has violated the provisions of [sections 1 through 5], the attorney general shall notify the coal board provided for in 2-15-1821 and the department of commerce for the purpose of compliance with 90-6-209 and 90-6-710. If the attorney general finds that the local government comes into compliance with the provisions of [sections 1 through 5], the attorney general shall certify to the coal board and the department of commerce that the local government is no longer in violation of the provisions of [sections 1 through 5].

Section 5. Penalties – exemptions. (1) In addition to any other penalties or remedies provided by law and except as provided in subsection (3), a state agency or local government that violates the provisions of [section 2] shall be punished by a fine of \$10,000 every 5 days that the state agency or local government is not in compliance with the provisions of [section 2].

(2) Except as provided in subsection (3), a local government that is in violation of [section 2] may not:

(a) receive new grants awarded under the provisions of Title 90, chapter 6, part 2; or

(b) have projects prioritized or recommended by the department of commerce for infrastructure projects under the provisions of Title 90, chapter 6, part 7.

(3) A state agency or local government may not be penalized under this section if the state or local government comes into compliance with the provisions of [sections 1 through 5] within 14 days after the filing of an action under [section 4].

(4) A fine collected pursuant to this section must be deposited in the state general fund.

Section 6. Sanctuary jurisdiction prohibited. A local government as defined in [section 1] may not enact, adopt, implement, enforce, or refer to the electorate a policy described in [section 2].

Section 7. Section 90-6-209, MCA, is amended to read:

“90-6-209. Limitations on grants. (1) The board may commit itself to the expenditure of funds for more than 1 year for a single project, but the board may not obligate funds not yet appropriated by the legislature. The total amount of grants to state agencies, except grants made pursuant to 90-6-205(4)(b), and Indian tribes may not exceed 7% of the total money allocated to the board during each fiscal year.

(2) A grant to an Indian tribe under 90-6-205 may not be approved by the board unless:

(a) the governing body of the tribe has agreed:

(i) to waive its immunity from suit on any issue specifically arising from the transaction of a grant obtained under this part; and

(ii) to the adjudication of any dispute arising out of the grant transaction in the district court of the first judicial district of the state of Montana; and

(b) approval of the transaction has been obtained from the secretary of the United States department of the interior whenever approval is necessary.

(3) (a) *The board may not award a new grant to a local government that is in violation of [section 2] pursuant to the provisions of [section 5].*

(b) *For the purposes of this subsection (3), “local government” has the meaning provided in [section 1].”*

Section 8. Section 90-6-710, MCA, is amended to read:

“90-6-710. Priorities for projects – procedure – rulemaking. (1) The department of commerce must receive proposals for infrastructure projects from local governments on a continual basis. The department shall work with a local government in preparing cost estimates for a project. In reviewing project proposals, the department may consult with other state agencies with expertise pertinent to the proposal. For the projects under 90-6-703(1)(a), the department shall prepare and submit two lists containing the recommended projects and the recommended form and amount of financial assistance for each project to the governor, prioritized pursuant to subsection (2) and this subsection. One list must contain the ranked and recommended bridge projects, and the other list must contain the remaining ranked and recommended infrastructure projects referred to in 90-6-701(3)(a). Each list must be prioritized pursuant to subsection (2) of this section, but the department may recommend up to 20% of the interest earnings anticipated to be deposited into the treasure state endowment fund established in 17-5-703 during the following biennium for bridge projects. Before making recommendations to the governor, the department may adjust the ranking of projects by giving priority to urgent and serious public health or safety problems. The governor shall review the projects recommended by the department and shall submit the lists of recommended projects and the recommended financial assistance to the legislature.

(2) (a) In preparing recommendations under subsection (1), preference must be given to infrastructure projects based on the following order of priority:

(a)(i) projects that solve urgent and serious public health or safety problems or that enable local governments to meet state or federal health or safety standards;

(b)(ii) projects that reflect greater need for financial assistance than other projects;

(c)(iii) projects that incorporate appropriate, cost-effective technical design and that provide thorough, long-term solutions to community public facility needs;

(d)(iv) projects that reflect substantial past efforts to ensure sound, effective, long-term planning and management of public facilities and that attempt to resolve the infrastructure problem with local resources;

(e)(v) projects that enable local governments to obtain funds from sources other than the funds provided under this part;

(f)(vi) projects that provide long-term, full-time job opportunities for Montanans, that provide public facilities necessary for the expansion of a business that has a high potential for financial success, or that maintain the tax base or that encourage expansion of the tax base; and

(g)(vii) projects that are high local priorities and have strong community support.

(b) (i) *The department may not recommend or prioritize projects submitted by a local government that is in violation of [section 2] pursuant to the provisions of [section 5].*

(ii) *For the purposes of this subsection (2)(b), "local government" has the meaning provided in [section 1].*

(3) After the review required by subsection (1), the projects must be approved by the legislature.

(4) The department shall adopt rules necessary to implement the treasure state endowment program.

(5) The department shall, *in accordance with 5-11-210*, report to each regular session of the legislature the status of all projects that have not been completed in order for the legislature to review each project's status and determine whether the authorized grant should be withdrawn."

Section 9. Codification instruction. (1) [Sections 1 through 5] are intended to be codified as an integral part of Title 2, chapter 1, and the provisions of Title 2, chapter 1, apply to [sections 1 through 5].

(2) [Section 6] is intended to be codified as an integral part of Title 7, chapter 5, part 1, and the provisions of Title 7, chapter 5, part 1, apply to [section 6].

Section 10. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 11. Effective date. [This act] is effective on passage and approval.

Approved March 31, 2021

CHAPTER NO. 102

[SB 82]

AN ACT REVISING ADMINISTRATIVE RULE REVIEW COMMITTEE VOTING PROCEDURES; PROVIDING FOR EX OFFICIO LEGISLATOR MEMBERSHIP TO A COMMITTEE FOR THE PURPOSE OF BREAKING A TIE VOTE; AMENDING SECTIONS 2-4-305, 2-4-306, 2-4-308, 2-4-314, 2-4-402, 2-4-403, 2-4-405, 2-4-406, 2-4-410, AND 2-4-411, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Administrative rule review committee voting – objections. (1) Except as provided in subsection (2), the speaker of the house and the president of the senate are ex officio voting members of each administrative rule review committee for the sole purpose of breaking a tie vote

on a question before a committee involving an objection to an administrative rule pursuant to Title 2, chapter 4.

(2) If the speaker of the house, the president of the senate, or both, are members of an administrative rule review committee, the highest ranking officer of the majority party that is not a member of the committee is an ex officio voting member for the purposes of subsection (1). The ranking order for the:

- (a) house is speaker pro tempore, majority leader, and majority whip; and
- (b) senate is president pro tempore, majority leader, and majority whip.

Section 2. Section 2-4-305, MCA, is amended to read:

“2-4-305. Requisites for validity – authority and statement of reasons. (1) (a) The agency shall fully consider written and oral submissions respecting the proposed rule, including comments submitted by the primary sponsor of the legislation prior to the drafting of the substantive content and wording of a proposed rule that initially implements legislation.

(b) (i) Upon adoption of a rule, an agency shall issue a concise statement of the principal reasons for and against its adoption, incorporating in the statement the reasons for overruling the considerations urged against its adoption. If substantial differences exist between the rule as proposed and as adopted and the differences have not been described or set forth in the adopted rule as that rule is published in the register, the differences must be described in the statement of reasons for and against agency action. When written or oral submissions have not been received, an agency may omit the statement of reasons.

(ii) If an adopted rule that initially implements legislation does not reflect the comments submitted by the primary sponsor, the agency shall provide a statement explaining why the sponsor’s comments were not incorporated into the adopted rule.

(2) Rules may not unnecessarily repeat statutory language. Whenever it is necessary to refer to statutory language in order to convey the meaning of a rule interpreting the language, the reference must clearly indicate the portion of the language that is statutory and the portion that is an amplification of the language.

(3) Each proposed and adopted rule must include a citation to the specific grant of rulemaking authority pursuant to which the rule or any part of the rule is adopted. In addition, each proposed and adopted rule must include a citation to the specific section or sections in the Montana Code Annotated that the rule purports to implement. A substantive rule may not be proposed or adopted unless:

(a) a statute granting the agency authority to adopt rules clearly and specifically lists the subject matter of the rule as a subject upon which the agency shall or may adopt rules; or

(b) the rule implements and relates to a subject matter or an agency function that is clearly and specifically included in a statute to which the grant of rulemaking authority extends.

(4) Each rule that is proposed and adopted by an agency and that implements a policy of a governing board or commission must include a citation to and description of the policy implemented. Each agency rule implementing a policy and the policy itself must be based on legal authority and otherwise comply with the requisites for validity of rules established by this chapter.

(5) To be effective, each substantive rule adopted must be within the scope of authority conferred and in accordance with standards prescribed by other provisions of law.

(6) Whenever by the express or implied terms of any statute a state agency has authority to adopt rules to implement, interpret, make specific, or otherwise carry out the provisions of the statute, an adoption, amendment, or repeal of a rule is not valid or effective unless it is:

(a) consistent and not in conflict with the statute; and

(b) reasonably necessary to effectuate the purpose of the statute. A statute mandating that the agency adopt rules establishes the necessity for rules but does not, standing alone, constitute reasonable necessity for a rule. The agency shall also address the reasonableness component of the reasonable necessity requirement by, as indicated in 2-4-302(1) and subsection (1) of this section, stating the principal reasons and the rationale for its intended action and for the particular approach that it takes in complying with the mandate to adopt rules. Subject to the provisions of subsection (8), reasonable necessity must be clearly and thoroughly demonstrated for each adoption, amendment, or repeal of a rule in the agency's notice of proposed rulemaking and in the written and oral data, views, comments, or testimony submitted by the public or the agency and considered by the agency. A statement that merely explains what the rule provides is not a statement of the reasonable necessity for the rule.

(7) A rule is not valid unless notice of it is given and it is adopted in substantial compliance with 2-4-302, 2-4-303, or 2-4-306 and this section and unless notice of adoption of the rule is published within 6 months of the publishing of notice of the proposed rule. The measure of whether an agency has adopted a rule in substantial compliance with 2-4-302, 2-4-303, or 2-4-306 and this section is not whether the agency has provided notice of the proposed rule, standing alone, but rather must be based on an analysis of the agency's substantial compliance with 2-4-302, 2-4-303, or 2-4-306 and this section. If an amended or supplemental notice of either proposed or final rulemaking, or both, is published concerning the same rule, the 6-month limit must be determined with reference to the latest notice in all cases.

(8) (a) An agency may use an amended proposal notice or the adoption notice to correct deficiencies in citations of authority for rules and in citations of sections implemented by rules.

(b) An agency may use an amended proposal notice but, except for clerical corrections, may not use the adoption notice to correct deficiencies in a statement of reasonable necessity.

(c) If an agency uses an amended proposal notice to amend a statement of reasonable necessity for reasons other than for corrections in citations of authority, in citations of sections being implemented, or of a clerical nature, the agency shall allow additional time for oral or written comments from the same interested persons who were notified of the original proposal notice, including from a primary sponsor, if primary sponsor notification was required under 2-4-302, and from any other person who offered comments or appeared at a hearing already held on the proposed rule.

(9) If *Subject to [section 1]*, if a majority of the members of the appropriate administrative rule review committee notify the committee presiding officer that those members object to all or a portion of a notice of proposed rulemaking, the committee shall notify the agency in writing that the committee objects to all or a portion of the proposal notice and will address the objections at the next committee meeting. Following notice by the committee to the agency, all or a portion of the proposal notice that the committee objects to may not be adopted until publication of the last issue of the register that is published before expiration of the 6-month period during which the adoption notice must be published, unless prior to that time, the committee meets and does not

make the same objection. A copy of the committee's notification to the agency must be included in the committee's records.

(10) This section applies to the department of labor and industry adopting a rule relating to a commercial drug formulary as provided in 39-71-704. This section does not apply to the automatic updating of department of labor and industry rules relating to commercial drug formularies as provided in 39-71-704."

Section 3. Section 2-4-306, MCA, is amended to read:

"2-4-306. Filing and format – adoption and effective dates – dissemination of emergency rules. (1) Each agency shall file with the secretary of state a copy of each rule adopted by it or a reference to the rule as contained in the proposal notice. A rule is adopted on the date that the adoption notice is filed with the secretary of state and is effective on the date referred to in subsection (4), except that if the secretary of state requests corrections to the adoption notice, the rule is adopted on the date that the revised notice is filed with the secretary of state.

(2) Pursuant to 2-15-401, the secretary of state may prescribe rules to effectively administer this chapter, including rules regarding the printed or electronic format, style, and arrangement for notices and rules that are filed pursuant to this chapter, and may refuse to accept the filing of any notice or rule that is not in compliance with this chapter and the secretary of state's rules. The secretary of state shall keep and maintain a permanent register of all notices and rules filed, including superseded and repealed rules, that must be open to public inspection and shall provide copies of any notice or rule upon request of any person. Unless otherwise provided by statute, the secretary of state may require the payment of the cost of providing copies.

(3) If the appropriate administrative rule review committee has conducted a poll of the legislature in accordance with 2-4-403, the results of the poll must be published with the rule if the rule is adopted by the agency.

(4) Each rule is effective after publication in the register, as provided in 2-4-312, except that:

(a) if a later date is required by statute or specified in the rule, the later date is the effective date;

(b) subject to applicable constitutional or statutory provisions:

(i) a temporary rule is effective immediately upon filing with the secretary of state or at a stated date following publication in the register; and

(ii) an emergency rule is effective at a stated date following publication in the register or immediately upon filing with the secretary of state if the agency finds that this effective date is necessary because of imminent peril to the public health, safety, or welfare. The agency's finding and a brief statement of reasons for the finding must be filed with the rule. The agency shall, in addition to the required publication in the register, take appropriate and extraordinary measures to make emergency rules known to each person who may be affected by them.

(c) if, following written administrative rule review committee notification to an agency under 2-4-305(9), the committee meets and under 2-4-406(1) objects to all or some portion of a proposed rule before the proposed rule is adopted, the proposed rule or portion of the proposed rule objected to is not effective until the day after final adjournment of the regular session of the legislature that begins after the notice proposing the rule was published by the secretary of state, unless, following the committee's objection under 2-4-406(1) and *subject to [section 1]*:

(i) the committee withdraws its objection under 2-4-406 before the proposed rule is adopted; or

(ii) the rule or portion of a rule objected to is adopted with changes that in the opinion of a majority of the committee members, as communicated in writing to the committee presiding officer and staff, make it comply with the committee's objection and concerns.

(5) An agency may not enforce, implement, or otherwise treat as effective a rule proposed or adopted by the agency until the effective date of the rule as provided in this section. Nothing in this subsection prohibits an agency from enforcing an established policy or practice of the agency that existed prior to the proposal or adoption of the rule as long as the policy or practice is within the scope of the agency's lawful authority.

(6) This section applies to the department of labor and industry adopting a rule relating to a commercial drug formulary as provided in 39-71-704. This section does not apply to the automatic updating of department of labor and industry rules relating to commercial drug formularies as provided in 39-71-704."

Section 4. Section 2-4-308, MCA, is amended to read:

"2-4-308. Adjective or interpretive rule – statement of implied authority and legal effect. (1) Each adjective or interpretive rule or portion of an adjective or interpretive rule to be adopted under implied rulemaking authority must contain a statement in the historical notations of the rule that the rule is advisory only but may be a correct interpretation of the law. The statement must be placed in the ARM when the rule in question is scheduled for reprinting.

(2) ~~The Subject to [section 1],~~ the appropriate administrative rule review committee may file with the secretary of state, for publication with any rule or portion of a rule that it considers to be adjective or interpretive, a statement indicating that it is the opinion of the appropriate administrative rule review committee that the rule or portion of a rule is adjective or interpretive and therefore advisory only. If the committee requests the statement to be published for an adopted rule not scheduled for reprinting in the ARM, the cost of publishing the statement in the ARM must be paid by the committee."

Section 5. Section 2-4-314, MCA, is amended to read:

"2-4-314. Biennial review by agencies – recommendations by committee. (1) Each agency shall at least biennially review its rules to determine if any new rule should be adopted or any existing rule should be modified or repealed.

(2) ~~The Subject to [section 1],~~ the committee may recommend to the legislature those modifications, additions, or deletions of agency rulemaking authority which the committee considers necessary."

Section 6. Section 2-4-402, MCA, is amended to read:

"2-4-402. Powers of committees – duty to review rules. (1) The administrative rule review committees shall review all proposed rules filed with the secretary of state.

(2) ~~The Subject to [section 1],~~ the appropriate administrative rule review committee may:

(a) request and obtain an agency's rulemaking records for the purpose of reviewing compliance with 2-4-305;

(b) prepare written recommendations for the adoption, amendment, or rejection of a rule and submit those recommendations to the department proposing the rule and submit oral or written testimony at a rulemaking hearing;

(c) require that a rulemaking hearing be held in accordance with the provisions of 2-4-302 through 2-4-305;

(d) institute, intervene in, or otherwise participate in proceedings involving this chapter in the state and federal courts and administrative agencies;

(e) review the incidence and conduct of administrative proceedings under this chapter.”

Section 7. Section 2-4-403, MCA, is amended to read:

“2-4-403. Legislative intent – poll. (1) *If Subject to [section 1], if the legislature is not in session, the committee may poll all members of the legislature by mail to determine whether a proposed rule is consistent with the intent of the legislature.*

(2) *If 20 or more legislators object to a proposed rule, the committee shall poll the members of the legislature.*

(3) *The poll must include an opportunity for the agency to present a written justification for the proposed rule to the members of the legislature.”*

Section 8. Section 2-4-405, MCA, is amended to read:

“2-4-405. Economic impact statement. (1) *Upon Subject to [section 1], on written request of the appropriate administrative rule review committee based upon the affirmative request of a majority of the members of the committee at an open meeting, an agency shall prepare a statement of the economic impact of the adoption, amendment, or repeal of a rule as proposed. The agency shall also prepare a statement upon receipt by the agency or the committee of a written request for a statement made by at least 15 legislators. If the request is received by the committee, the committee shall give the agency a copy of the request, and if the request is received by the agency, the agency shall give the committee a copy of the request. As an alternative, the committee may, by contract, prepare the estimate.*

(2) *Except to the extent that the request expressly waives any one or more of the following, the requested statement must include and the statement prepared by the committee may include:*

(a) *a description of the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule;*

(b) *a description of the probable economic impact of the proposed rule upon affected classes of persons, including but not limited to providers of services under contracts with the state and affected small businesses, and quantifying, to the extent practicable, that impact;*

(c) *the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenue;*

(d) *an analysis comparing the costs and benefits of the proposed rule to the costs and benefits of inaction;*

(e) *an analysis that determines whether there are less costly or less intrusive methods for achieving the purpose of the proposed rule;*

(f) *an analysis of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule;*

(g) *a determination as to whether the proposed rule represents an efficient allocation of public and private resources; and*

(h) *a quantification or description of the data upon which subsections (2)(a) through (2)(g) are based and an explanation of how the data was gathered.*

(3) *A request to an agency for a statement or a decision to contract for the preparation of a statement must be made prior to the final agency action on the rule. The statement must be filed with the appropriate administrative*

rule review committee within 3 months of the request or decision. A request or decision for an economic impact statement may be withdrawn at any time.

(4) ~~Upon~~ *Subject to [section 1]*, on receipt of an impact statement, the committee shall determine the sufficiency of the statement. If the committee determines that the statement is insufficient, the committee may return it to the agency or other person who prepared the statement and request that corrections or amendments be made. If the committee determines that the statement is sufficient, a notice, including a summary of the statement and indicating where a copy of the statement may be obtained, must be filed with the secretary of state for publication in the register by the agency preparing the statement or by the committee, if the statement is prepared under contract by the committee, and must be mailed to persons who have registered advance notice of the agency's rulemaking proceedings.

(5) This section does not apply to rulemaking pursuant to 2-4-303.

(6) The final adoption, amendment, or repeal of a rule is not subject to challenge in any court as a result of the inaccuracy or inadequacy of a statement required under this section.

(7) An environmental impact statement prepared pursuant to 75-1-201 that includes an analysis of the factors listed in this section satisfies the provisions of this section."

Section 9. Section 2-4-406, MCA, is amended to read:

"2-4-406. Committee objection to violation of authority for rule – effect. (1) *If Subject to [section 1]*, if the appropriate administrative rule review committee objects to all or some portion of a proposed or adopted rule because the committee considers it not to have been proposed or adopted in substantial compliance with 2-4-302, 2-4-303, and 2-4-305, the committee shall send a written objection to the agency that promulgated the rule. The objection must contain a concise statement of the committee's reasons for its action.

(2) Within 14 days after the mailing of a committee objection to a rule, the agency promulgating the rule shall respond in writing to the committee. After receipt of the response, the committee may withdraw or modify its objection.

(3) *If Subject to [section 1]*, if the committee fails to withdraw or substantially modify its objection to a rule, it may vote to send the objection to the secretary of state, who shall, upon receipt of the objection, publish the objection in the register adjacent to any notice of adoption of the rule and in the ARM adjacent to the rule, provided an agency response must also be published if requested by the agency. Costs of publication of the objection and the agency response must be paid by the committee.

(4) If an objection to all or a portion of a rule has been published pursuant to subsection (3), the agency bears the burden, in any action challenging the legality of the rule or portion of a rule objected to by the committee, of proving that the rule or portion of the rule objected to was adopted in substantial compliance with 2-4-302, 2-4-303, and 2-4-305. If a rule is invalidated by court judgment because the agency failed to meet its burden of proof imposed by this subsection and the court finds that the rule was adopted in arbitrary and capricious disregard for the purposes of the authorizing statute, the court may award costs and reasonable attorney fees against the agency."

Section 10. Section 2-4-410, MCA, is amended to read:

"2-4-410. Report of litigation. Each agency shall report to the appropriate administrative rule review committee any judicial proceedings in which the construction or interpretation of any provision of this chapter is in issue and may report to the committee any proceeding in which the construction or interpretation of any rule of the agency is in issue. ~~Upon~~ *Subject to [section 1]*, on request of the committee, copies of documents filed in any proceeding in

which the construction or interpretation of either this chapter or an agency rule is in issue must be made available to the committee by the agency involved.”

Section 11. Section 2-4-411, MCA, is amended to read:

“**2-4-411. Report.** *The Subject to [section 1],* the committee may recommend amendments to the Montana Administrative Procedure Act or the repeal, amendment, or adoption of a rule as provided in 2-4-412 and make other recommendations and reports as it considers advisable.”

Section 12. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 2, chapter 4, part 1, and the provisions of Title 2, chapter 4, part 1, apply to [section 1].

Section 13. Effective date. [This act] is effective on passage and approval.

Approved March 31, 2021

CHAPTER NO. 103

[SB 129]

AN ACT REVISING ALCOHOL REGULATORY ENFORCEMENT LAWS TO PROHIBIT THE DEPARTMENT FROM ISSUING CERTAIN CITATIONS BASED ON CONTRIVED EVENTS; ALLOWING THE DEPARTMENT TO ISSUE CITATIONS BASED ON A CONTRIVED EVENT ONLY AFTER CERTAIN CIRCUMSTANCES; AND AMENDING SECTION 16-4-406, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 16-4-406, MCA, is amended to read:

“**16-4-406. Renewal – suspension or revocation – penalty – mitigating and aggravating circumstances – contrived events.** (1) The department shall, upon a written, verified complaint of a person, request that the department of justice investigate the action and operation of a brewer, winery, wholesaler, domestic distillery, table wine distributor, beer or wine importer, retailer, concessionaire, or any other person or business licensed or registered under this code.

(2) Subject to the opportunity for a hearing under the Montana Administrative Procedure Act, if the department, after reviewing admissions of either the licensee or concessionaire or receiving the results of the department of justice’s or a local law enforcement agency’s investigation, has reasonable cause to believe that a licensee or concessionaire has violated a provision of this code or a rule of the department, it may, in its discretion and in addition to the other penalties prescribed:

- (a) reprimand a licensee or concessionaire or both;
- (b) proceed to revoke the license of the licensee or the concession agreement of the concessionaire or both;
- (c) suspend the license or the concession agreement or both for a period of not more than 3 months;
- (d) refuse to grant a renewal of the license or concession agreement or both after its expiration; or
- (e) impose a civil penalty not to exceed \$1,500.

(3) The department shall consider mitigating circumstances and may adjust penalties within penalty ranges based on its consideration of mitigating circumstances. Examples of mitigating circumstances are:

- (a) there have been no violations by the licensee or concessionaire or both within the past 3 years;

(b) there have been good faith efforts by the licensee or concessionaire or both to prevent a violation;

(c) written policies exist that govern the conduct of the licensee's employees or the concessionaire's employees or both;

(d) there has been cooperation in the investigation of the violation that shows that the licensee or concessionaire or both or an employee or agent of the licensee or concessionaire or both accepts responsibility; or

~~(e) the investigation was not based on complaints received or on observed misconduct, but was based solely on the investigating authority creating the opportunity for a violation; or~~

~~(f) the licensee or concessionaire or both have provided responsible alcohol server training to all of their employees.~~

(4) The department shall consider aggravating circumstances and may adjust penalties within penalty ranges based on its consideration of aggravating circumstances. Examples of aggravating circumstances are:

(a) prior warnings about compliance problems;

(b) prior violations within the past 3 years;

(c) lack of written policies governing employee conduct;

(d) multiple violations during the course of the investigation;

(e) efforts to conceal a violation;

(f) the intentional nature of the violation; or

(g) involvement of more than one patron or employee in a violation.

(5) The department may not issue a violation to a licensee or a concessionaire provided the investigation was not based on complaints or on observed misconduct, but was based solely on a contrived event by the investigating authority or another designated organization creating the opportunity for a violation. The department may issue a violation only if the licensee or concessionaire fails more than two contrived event investigations within a 3-year period beginning with the first failure. For purposes of this section, the first two violations resulting from a contrived event investigation within a 3-year period do not constitute a violation of this code, and the department may not consider these violations in considering any mitigating circumstances and penalties as provided in this section."

Approved March 31, 2021

CHAPTER NO. 104

[SB 133]

AN ACT REVISING THE PROPERTY TAX APPRAISAL PROCESS AND PROPERTY TAX APPEALS; PROVIDING FOR THE ASSESSMENT OF ATTORNEY FEES AGAINST THE DEPARTMENT OF REVENUE WHEN CERTAIN TAXPAYERS PREVAIL IN A PROPERTY TAX DISPUTE; REQUIRING THE DEPARTMENT OF REVENUE TO JUSTIFY USAGE OF THE COST APPROACH WHEN VALUING RESIDENTIAL CLASS FOUR PROPERTY; CLARIFYING THAT A TAXPAYER MAY REFUSE TO ALLOW THE DEPARTMENT TO ENTER INTO CERTAIN STRUCTURES DURING AN APPRAISAL; AMENDING SECTIONS 15-1-222, 15-2-201, 15-2-303, 15-2-306, 15-7-102, 15-7-139, AND 15-8-111, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-1-222, MCA, is amended to read:

“15-1-222. Taxpayer bill of rights. The department of revenue shall in the course of performing its duties in the administration and collection of the state’s taxes ensure that:

(1) the taxpayer has the right to record any interview, meeting, or conference with auditors or any other representatives of the department;

(2) the taxpayer has the right to hire a representative of the taxpayer’s choice to represent the taxpayer’s interests before the department or any tax appeal board. The taxpayer has a right to obtain a representative at any time, except that the selection of a representative may not be used to unreasonably delay a field audit that is in progress. The representative must have written authorization from the taxpayer to receive from the department confidential information concerning the taxpayer. The department shall provide copies to the authorized representative of all information sent to the taxpayer and shall notify the authorized representative concerning contacts with the taxpayer.

(3) except as provided in subsection (5), the taxpayer has the right to be treated by the department in a similar manner as all similarly situated taxpayers regarding the administration and collection of taxes, imposition of penalties and interest, and available taxpayer remedies unless there is a rational basis for the department to distinguish them;

(4) the taxpayer has the right to obtain tax advice from the department. The taxpayer has a right to the waiver of penalties and interest, but not taxes, when the taxpayer has relied on written advice provided to the taxpayer by an employee of the department.

(5) at the discretion of the department, upon consideration of all facts relevant to the specific taxpayer, the taxpayer has the right to pay delinquent taxes, interest, and penalties on an installment basis. This subsection applies only to taxes collected by the department, provided the taxpayer meets reasonable criteria.

(6) the taxpayer has the right to a complete and accurate written description of the basis for any additional tax assessed by the department;

(7) the taxpayer has the right to a review by management level employees of the department for any additional taxes assessed by the department;

(8) the taxpayer has the right to a full explanation of the available procedures for review and appeal of additional tax assessments;

(9) the taxpayer, after the exhaustion of all appropriate administrative remedies, has the right to have the state tax appeal board or a court, or both, review any final decision of the department assessing an additional tax. The taxpayer shall seek a review in a timely manner. A taxpayer is entitled to collect court costs and attorney fees from the department for frivolous or bad faith lawsuits as provided in 25-10-711, *and lawsuits pertaining to an appeal of the value of class four residential property in which the taxpayer substantially prevails, as provided in 15-2-306.*

(10) the taxpayer has the right to expect that the department will adhere to the same tax appeal deadlines as are required of the taxpayer unless otherwise provided by law;

(11) the taxpayer has the right to a full explanation of the department’s authority to collect delinquent taxes, including the procedures and notices that are required to protect the taxpayer;

(12) the taxpayer has the right to have certain property exempt from levy and seizure as provided in Title 25, chapter 13, part 6, and any other applicable provisions in Montana law;

(13) the taxpayer has the right to the immediate release of any lien the department has placed on property when the tax is paid or when the lien is the result of an error by the department;

(14) the taxpayer has the right to assistance from the department in complying with state and local tax laws that the department administers; and

(15) the taxpayer has the right to be guaranteed that an employee of the department is not paid, promoted, or in any way rewarded on the basis of assessments or collections from taxpayers.”

Section 2. Section 15-2-201, MCA, is amended to read:

“15-2-201. Powers and duties. (1) It is the duty of the state tax appeal board to:

(a) prescribe rules for the tax appeal boards of the different counties in the performance of their duties and for this purpose may schedule meetings of county tax appeal boards, and it is the duty of all invited county tax appeal board members to attend if possible, and the cost of their attendance must be paid from the appropriation of the state tax appeal board;

(b) grant, at its discretion, whenever good cause is shown and the need for the hearing is not because of taxpayer negligence, permission to a county tax appeal board to meet beyond the normal time period provided for in 15-15-101(4) to hear an appeal;

(c) hear appeals from decisions of the county tax appeal boards *and assess attorney fees against the department when a taxpayer substantially prevails on the merits of an appeal of the value of class four residential property, as provided in 15-2-306;*

(d) hear appeals from decisions of the department of revenue in regard to business licenses, property assessments, taxes, except determinations that an employer-employee relationship existed between the taxpayer and individuals subjecting the taxpayer to the requirements of chapter 30, part 25, and penalties.

(2) Oaths to witnesses in any investigation by the state tax appeal board may be administered by a member of the board or the member's agent. If a witness does not obey a summons to appear before the board or refuses to testify or answer any material questions or to produce records, books, papers, or documents when required to do so, that failure or refusal must be reported to the attorney general, who shall thereupon institute proceedings in the proper district court to punish the witness for the neglect or refusal. A person who testifies falsely in any material matter under consideration by the board is guilty of perjury and punished accordingly. Witnesses attending shall receive the same compensation as witnesses in the district court. The compensation must be charged to the proper appropriation for the board.

(3) The state tax appeal board also has the duties of an appeal board relating to other matters as may be provided by law.”

Section 3. Section 15-2-303, MCA, is amended to read:

“15-2-303. Judicial review – costs and attorney fees. (1) Any party to an appeal before the state tax appeal board who is aggrieved by a final decision is entitled to judicial review under this part.

(2) Proceedings for review must be instituted by filing a petition in district court in the county in which the taxable property or some portion of it is located, except the taxpayer has the option to file in the district court of the first judicial district. A petition for judicial review must be filed within 60 days after service of the final decision of the state tax appeal board or, if a rehearing is requested, within 60 days after service of the final decision. Copies of the petition must be promptly served on all parties of record. The department of revenue shall promptly notify the state tax appeal board, in writing, of any judicial review, but failure to do so has no effect on the judicial review. The department of revenue shall, on request, submit to the state tax appeal board a copy of all pleadings and documents.

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

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

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

(6) *In addition to costs and attorney fees permitted under 25-10-711, the district court and the supreme court on the appeal of a district court decision shall award costs and reasonable attorney fees as determined by the respective court to a taxpayer that substantially prevails, as defined in 15-2-306(4), on the merits of an appeal of the value of class four residential property. Costs and attorney fees awarded by the district court and the supreme court are limited to cases in which the department appeals a decision of the state tax appeal board."*

Section 4. Section 15-2-306, MCA, is amended to read:

"15-2-306. Board may *shall* order refund. (1) In any appeal before the state tax appeal board when a taxpayer has paid property taxes or fees under written protest and the taxes or fees are held by the treasurer of a unit of local government in a protest fund, the state tax appeal board shall enter judgment, exclusive of costs, if the board finds that the property taxes or fees should be refunded.

(2) *In addition to costs and attorney fees permitted under 25-10-711, the board shall award costs and reasonable attorney fees as determined by the board from the department to a taxpayer that substantially prevails on the merits of an appeal of the value of class four residential property. Costs and attorney fees awarded by the board are limited to cases in which the department appeals a decision of the county tax appeal board.*

(2)(3) The state tax appeal board's judgment issued pursuant to ~~subsection~~ subsections (1) and (2) must be held in abeyance:

(a) until the time period for appeal has passed; or

(b) if the final decision of the state tax appeal board has been appealed in accordance with 15-2-303.

(4) *For the purpose of this section, "substantially prevails" means:*

(a) *a judgment that results in a reduction in value from the department's appealed value of the taxpayer's property; and*

(b) *the amount of the reduction provided for in the judgment is greater than 25% of the difference between the value in the department's original appeal from the county tax appeal board proceeding and the value claimed by the taxpayer for the state tax appeal board or court proceeding."*

Section 5. Section 15-7-102, MCA, is amended to read:

"15-7-102. Notice of classification, market value, and taxable value to owners – appeals. (1) (a) Except as provided in 15-7-138, the department shall mail or provide electronically to each owner or purchaser under contract for deed a notice that includes the land classification, market value, and taxable value of the land and improvements owned or being purchased. A notice must be mailed or, with property owner consent, provided electronically to the owner only if one or more of the following changes pertaining to the land or improvements have been made since the last notice:

(i) change in ownership;

(ii) change in classification;

(iii) change in valuation; or

(iv) addition or subtraction of personal property affixed to the land.

(b) The notice must include the following for the taxpayer's informational and informal classification and appraisal review purposes:

(i) a notice of the availability of all the property tax assistance programs available to property taxpayers, including the intangible land value assistance program provided for in 15-6-240, the property tax assistance programs provided for in Title 15, chapter 6, part 3, and the residential property tax credit for the elderly provided for in 15-30-2337 through 15-30-2341;

(ii) the total amount of mills levied against the property in the prior year;

(iii) a statement that the notice is not a tax bill; and

(iv) a taxpayer option to request an informal classification and appraisal review by checking a box on the notice and returning it to the department.

(c) When the department uses an appraisal method that values land and improvements as a unit, including the sales comparison approach for residential condominiums or the income approach for commercial property, the notice must contain a combined appraised value of land and improvements.

(d) Any misinformation provided in the information required by subsection (1)(b) does not affect the validity of the notice and may not be used as a basis for a challenge of the legality of the notice.

(2) (a) Except as provided in subsection (2)(c), the department shall assign each classification and appraisal to the correct owner or purchaser under contract for deed and mail or provide electronically the notice in written or electronic form, adopted by the department, containing sufficient information in a comprehensible manner designed to fully inform the taxpayer as to the classification and appraisal of the property and of changes over the prior tax year.

(b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an appeal of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in 15-1-402.

(c) The department is not required to mail or provide electronically the notice to a new owner or purchaser under contract for deed unless the department has received the realty transfer certificate from the clerk and recorder as provided in 15-7-304 and has processed the certificate before the notices required by subsection (2)(a) are mailed or provided electronically. The department shall notify the county tax appeal board of the date of the mailing or the date when the taxpayer is informed the information is available electronically.

(3) (a) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the market value of the property as determined by the department or with the classification of the land or improvements, the owner may request an informal classification and appraisal review by submitting an objection on written or electronic forms provided by the department for that purpose or by checking a box on the notice and returning it to the department in a manner prescribed by the department.

(i) For property other than class three property described in 15-6-133, class four property described in 15-6-134, and class ten property described in 15-6-143, the objection must be submitted within 30 days from the date on the notice.

(ii) For class three property described in 15-6-133 and class four property described in 15-6-134, the objection may be made only once each valuation cycle. An objection must be made in writing or by checking a box on the notice within 30 days from the date on the classification and appraisal notice for a reduction in the appraised value to be considered for both years of the 2-year valuation cycle. An objection made more than 30 days from the date of the classification and appraisal notice will be applicable only for the second year

of the 2-year valuation cycle. For an objection to apply to the second year of the valuation cycle, the taxpayer must make the objection in writing or by checking a box on the notice no later than June 1 of the second year of the valuation cycle or, if a classification and appraisal notice is received in the second year of the valuation cycle, within 30 days from the date on the notice.

(iii) For class ten property described in 15-6-143, the objection may be made at any time but only once each valuation cycle. An objection must be made in writing or by checking a box on the notice within 30 days from the date on the classification and appraisal notice for a reduction in the appraised value to be considered for all years of the 6-year appraisal cycle. An objection made more than 30 days after the date of the classification and appraisal notice applies only for the subsequent remaining years of the 6-year reappraisal cycle. For an objection to apply to any subsequent year of the valuation cycle, the taxpayer must make the objection in writing or by checking a box on the notice no later than June 1 of the year for which the value is being appealed or, if a classification and appraisal notice is received after the first year of the valuation cycle, within 30 days from the date on the notice.

(b) If the objection relates to residential or commercial property and the objector agrees to the confidentiality requirements, the department shall provide to the objector, by posted mail or electronically, within 8 weeks of submission of the objection, the following information:

(i) the methodology and sources of data used by the department in the valuation of the property; and

(ii) if the department uses a blend of evaluations developed from various sources, the reasons that the methodology was used.

(c) At the request of the objector *or a representative of the objector*, and only if the objector *or representative* signs a written or electronic confidentiality agreement, the department shall provide in written or electronic form:

(i) comparable sales data used by the department to value the property; *and*

(ii) sales data used by the department to value residential property in the property taxpayer's market model area; *and*

(iii) *if the cost approach was used by the department to value residential property, the documentation required in 15-8-111(3) regarding why the comparable sales approach was not reliable.*

(d) For properties valued using the income approach as one approximation of market value, notice must be provided that the taxpayer will be given a form to acknowledge confidentiality requirements for the receipt of all aggregate model output that the department used in the valuation model for the property.

(e) The review must be conducted informally and is not subject to the contested case procedures of the Montana Administrative Procedure Act. As a part of the review, the department may consider the actual selling price of the property and other relevant information presented by the taxpayer in support of the taxpayer's opinion as to the market value of the property. The department shall consider an independent appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate appraisers and the appraisal was completed within 6 months of the valuation date pursuant to 15-8-201. If the department does not use the appraisal provided by the taxpayer in conducting the appeal, the department must provide to the taxpayer the reason for not using the appraisal. The department shall give reasonable notice to the taxpayer of the time and place of the review.

(f) After the review, the department shall determine the correct appraisal and classification of the land or improvements and notify the taxpayer of its determination by mail or electronically. The department may not determine

an appraised value that is higher than the value that was the subject of the objection unless the reason for an increase was the result of a physical change in the property or caused by an error in the description of the property or data available for the property that is kept by the department and used for calculating the appraised value. In the notification, the department shall state its reasons for revising the classification or appraisal. When the proper appraisal and classification have been determined, the land must be classified and the improvements appraised in the manner ordered by the department.

(4) Whether a review as provided in subsection (3) is held or not, the department may not adjust an appraisal or classification upon the taxpayer's objection unless:

(a) the taxpayer has submitted an objection on written or electronic forms provided by the department or by checking a box on the notice; and

(b) the department has provided to the objector by mail or electronically its stated reason in writing for making the adjustment.

(5) A taxpayer's written objection or objection made by checking a box on the notice and supplemental information provided by a taxpayer that elects to check a box on the notice to a classification or appraisal and the department's notification to the taxpayer of its determination and the reason for that determination are public records. The department shall make the records available for inspection during regular office hours.

(6) If a property owner feels aggrieved by the classification or appraisal made by the department after the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal board and then to the state tax appeal board, whose findings are final subject to the right of review in the courts. The appeal to the county tax appeal board, pursuant to 15-15-102, must be filed within 30 days from the date on the notice of the department's determination. A county tax appeal board or the state tax appeal board may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the state tax appeal board determines that an adjustment should be made, the department shall adjust the base value of the property in accordance with the board's order."

Section 6. Section 15-7-139, MCA, is amended to read:

"15-7-139. Requirements for entry on property by property valuation staff employed by department – authority to estimate value of property not entered – rules. (1) Subject to the conditions and restriction of this section, the provisions of 45-6-203 do not apply to property valuation staff employed by the department and acting within the course and scope of the employees' official duties.

(2) A person qualified under subsection (1) may enter private land to appraise or audit property for property tax purposes.

(3) (a) No later than November 30 of each year, the department shall publish in a newspaper of general circulation in each county a notice that the department may enter property for the purpose of appraising or auditing property.

(b) The published notice must indicate:

(i) that a landowner may require that the landowner or the landowner's agent be present when the person qualified in subsection (1) enters the land to appraise or audit property;

(ii) that the landowner shall notify the department in writing of the landowner's requirement that the landowner or landowner's agent be present; and

(iii) that the landowner's written notice must be mailed to the department at an address specified and be postmarked not more than 30 days following the date of publication of the notice. The department may grant a reasonable extension of time for returning the written notice.

(4) The written notice described in subsection (3)(b)(ii) must be legible and include:

(a) the landowner's full name;

(b) the mailing address and property address; and

(c) a telephone number at which an appraiser may contact the landowner during normal business hours.

(5) When the department receives a written notice as described in subsection (4), the department shall contact the landowner or the landowner's agent to establish a date and time for entering the land to appraise or audit the property.

(6) If a landowner or the landowner's agent prevents a person qualified under subsection (1) from entering land to appraise or audit property or fails or refuses to establish a date and time for entering the land pursuant to subsection (5), the department shall estimate the value of the real and personal property located on the land.

(7) (a) *Subject to subsection (7)(b), a county tax appeal board and the state tax appeal board may not adjust the estimated value of the real or personal property determined under subsection (6) unless the landowner or the landowner's agent:*

(a)(i) gives permission to the department to enter the land to appraise or audit the property; or

(b)(ii) provides to the department and files with the county tax appeal board or the state tax appeal board an appraisal of the property conducted by an appraiser who is certified by the Montana board of real estate appraisers. The appraisal must be conducted in accordance with current uniform standards of professional appraisal practice established for certified real estate appraisers under 37-54-403. The appraisal must be conducted within 1 year of the reappraisal valuation date provided for in 15-7-103(6) and must establish a separate market value for each improvement and the land.

(b) *A county tax appeal board and the state tax appeal board may not use a denial of permission to enter into improvements, personal property, buildings, or structures as a basis to not adjust the estimated value of the real or personal property when permission is limited to entering the land and conducting an exterior inspection of the improvements, personal property, buildings, or structures.*

(8) A person qualified under subsection (1) who enters land pursuant to this section shall carry on the person identification sufficient to identify the person and the person's employer and shall present the identification upon request.

(9) The authority granted by this section does not authorize entry into improvements, personal property, or buildings or structures without the permission of the owner or the owner's agent.

(10) Vehicular access to perform appraisals and audits is limited to established roads and trails, unless approval for other vehicular access is granted by the landowner.

(11) The department shall adopt rules that are necessary to implement 15-7-140 and this section. The rules must, at a minimum, establish procedures for granting a reasonable extension of time for landowners to respond to notices from the department."

Section 7. Section 15-8-111, MCA, is amended to read:

“15-8-111. Appraisal – market value standard – exceptions.

(1) All taxable property must be appraised at 100% of its market value except as otherwise provided.

(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) If the department uses the cost approach as one approximation of market value, the department shall fully consider reduction in value caused by depreciation, whether through physical depreciation, functional obsolescence, or economic obsolescence.

(c) If the department uses the income approach as one approximation of market value and sufficient, relevant information on comparable sales and construction cost exists, the department shall rely upon the two methods that provide a similar market value as the better indicators of market value.

(d) Except as provided in subsection (4), the market value of special mobile equipment and agricultural tools, implements, and machinery is the average wholesale value shown in national appraisal guides and manuals or the value before reconditioning and profit margin. The department shall prepare valuation schedules showing the average wholesale value when a national appraisal guide does not exist.

(3) (a) In valuing class four residential and commercial property described in 15-6-134, the department shall conduct the appraisal following the appropriate uniform standards of professional appraisal practice for mass appraisal promulgated by the appraisal standards board of the appraisal foundation. In valuing the property, the department shall use information available from any source considered reliable. Comparable properties used for valuation must represent similar properties within an acceptable proximity of the property being valued. *The department shall use the same valuation method to value residential properties in the same neighborhood or subdivision unless there is a compelling reason to use a different approach.*

(b) *When valuing residential property under the cost approach, the department shall document why the comparable sales model does not support usage of the comparable sales approach, including an analysis of whether the cost approach is used for other class four residential property in the market area.*

(4) The department may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the value of property, except:

(a) the market value for agricultural implements and machinery is the average wholesale value category as provided in published national agricultural and implement valuation guides. The valuation guide must provide average wholesale values specific to the state of Montana or a region that includes the state of Montana. The department shall adopt by rule the valuation guides used as provided in this subsection (4)(a). If the average wholesale value category is unavailable, the department shall use a comparable wholesale value category.

(b) for agricultural implements and machinery not listed in an official guide, the department shall prepare a supplemental manual in which the values reflect the same depreciation as those found in the official guide;

(c) (i) for condominium property, the department shall establish the value as provided in subsection (5); and

(ii) for a townhome or townhouse, as defined in 70-23-102, the department shall determine the value in a manner established by the department by rule; and

(d) as otherwise authorized in Titles 15 and 61.

(5) (a) Subject to subsection (5)(c), if sufficient, relevant information on comparable sales is available, the department shall use the sales comparison approach to appraise residential condominium units. Because the undivided interest in common elements is included in the sales price of the condominium units, the department is not required to separately allocate the value of the common elements to the individual units being valued.

(b) Subject to subsection (5)(c), if sufficient, relevant information on income is made available to the department, the department shall use the income approach to appraise commercial condominium units. Because the undivided interest in common elements contributes directly to the income-producing capability of the individual units, the department is not required to separately allocate the value of the common elements to the individual units being valued.

(c) If sufficient, relevant information on comparable sales is not available for residential condominium units or if sufficient, relevant information on income is not made available for commercial condominium units, the department shall value condominiums using the cost approach. When using the cost approach, the department shall determine the value of the entire condominium project and allocate a percentage of the total value to each individual unit. The allocation is equal to the percentage of undivided interest in the common elements for the unit as expressed in the declaration made pursuant to 70-23-403, regardless of whether the percentage expressed in the declaration conforms to market value.

(6) For purposes of taxation, assessed value is the same as appraised value.

(7) The taxable value for all property is the market value multiplied by the tax rate for each class of property.

(8) The market value of properties in 15-6-131 through 15-6-134, 15-6-143, and 15-6-145 is as follows:

(a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after deducting the expenses specified and allowed by 15-23-503 or, if applicable, as provided in 15-23-515, 15-23-516, 15-23-517, or 15-23-518.

(b) Properties in 15-6-132, under class two, are assessed at 100% of the annual gross proceeds.

(c) Properties in 15-6-133, under class three, are assessed at 100% of the productive capacity of the lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as agricultural lands for tax purposes.

(d) Properties in 15-6-134, under class four, are assessed at 100% of market value.

(e) Properties in 15-6-143, under class ten, are assessed at 100% of the forest productivity value of the land when valued as forest land.

(f) Railroad transportation properties in 15-6-145 are assessed based on the valuation formula described in 15-23-205.

(9) Land and the improvements on the land are separately assessed when any of the following conditions occur:

(a) ownership of the improvements is different from ownership of the land;

(b) the taxpayer makes a written request; or

(c) the land is outside an incorporated city or town.

(10) *For the purpose of this section, the term “compelling reason” includes but is not limited to:*

- (a) *there are no comparable sales in the neighborhood or subdivision;*
- (b) *the comparable sales model prepared by the department shows that the subject property cannot be valued using the market sales approach; or*
- (c) *other residential properties in the same neighborhood or subdivision are also valued using the cost approach and not the market sales approach.”*

Section 8. Applicability. [This act] applies to state tax appeal board proceedings filed after [the effective date of this act] and to appraisals performed by the department of revenue after [the effective date of this act].

Approved March 31, 2021

CHAPTER NO. 105

[HB 22]

AN ACT ALLOWING THE ACCEPTANCE OF IN-KIND SERVICES OR MATERIALS IN EXCHANGE FOR UTILITIES EASEMENTS ON STATE LANDS USED FOR ARMORIES OR OTHER MILITARY FACILITIES; AMENDING SECTION 10-1-108, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 10-1-108, MCA, is amended to read:

“10-1-108. Armories – acquisition and sale – proceeds – account – utilities easements. (1) A county, city, or town may convey or lease real property to the state for armories or other military facilities.

(2) A county, city, or town in which a unit of the national guard is organized and regularly stationed may provide any part of the funds to build an armory. The armory must be of sufficient size and suitable for the drill of the unit.

(3) (a) There is a Montana national guard land purchase account in the state special revenue fund. If the state sells an armory, the money from the sale must be deposited in the account.

(b) Money in the account is statutorily appropriated, as provided in 17-7-502, for the purposes described in subsection (4).

(c) Any interest and income accruing on the account must be deposited in the state general fund.

(4) (a) Money in the account may be used for preparations to purchase or the purchase of land necessary for the Montana national guard’s mission and is expendable solely upon the authorization of the governor.

(b) Money in the account may be used for the construction of facilities necessary for the Montana national guard’s mission subject to the provisions of the state long-range building program and 18-2-102. Money in the account may not be expended for construction unless the balance of the account, after any proposed construction expenses are deducted, is at least \$250,000.

(5) *The department may accept the in-kind provision of services or materials, or both, as consideration equal to or exceeding the full market value of any utilities easement on real property used by the department for an armory or military facility.”*

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 31, 2021

CHAPTER NO. 106

[HB 32]

AN ACT ELIMINATING THE IMPLEMENTATION OF ENDING FUND BALANCE LIMITS; REPEALING SECTION 20-9-323, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Repealer. The following sections of the Montana Code Annotated are repealed:

20-9-323. Ending fund balance limits.

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 31, 2021

CHAPTER NO. 107

[HB 33]

AN ACT REVISING SCHOOL FUNDING LAWS RELATED TO ANTICIPATED ENROLLMENT INCREASES; AMENDING SECTION 20-9-314, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-9-314, MCA, is amended to read:

“20-9-314. Procedures for determining eligibility and amount of increased average number belonging due to unusual enrollment increase. A district that anticipates an unusual increase in enrollment in the ensuing school fiscal year, as provided for in 20-9-313(1)(d), may increase its ~~basic entitlement and total per-ANB entitlement~~ *BASE aid and special education allowable cost payment* for the ensuing school fiscal year in accordance with the following provisions:

(1) Prior to June 1, the district shall estimate the elementary or high school enrollment to be realized during the ensuing school fiscal year, based on as much factual information as may be available to the district.

(2) No later than June 1, the district shall submit its application for an anticipated unusual enrollment increase by elementary or high school level to the superintendent of public instruction. The application must include:

(a) the enrollment for the current school fiscal year;

(b) the average number belonging used to calculate the basic entitlement and total per-ANB entitlement for the current school fiscal year;

(c) the average number belonging that will be used to calculate the basic entitlement and total per-ANB entitlement for the ensuing school fiscal year;

(d) the anticipated enrollment, including the factual information on which the estimate is based, as provided in subsection (1); and

(e) any other information or data that may be requested by the superintendent of public instruction.

(3) The superintendent of public instruction shall immediately review all the factors of the application and shall approve or disapprove the application or adjust the enrollment used to calculate the budgeted average number belonging for the ensuing school fiscal year. After approving an estimate, with or without adjustment, the superintendent of public instruction shall:

(a) determine the percentage by which the adjusted enrollment exceeds the enrollment used for the budgeted average number belonging; and

(b) approve an increase of the average number belonging used to establish the ensuing year's basic entitlement and total per-ANB entitlement in accordance with subsection (5) if the increase in subsection (3)(a) is at least 4% or 40 students, whichever is less.

(4) The superintendent of public instruction shall notify the district of the decision by the fourth Monday in June.

(5) Whenever an unusual enrollment increase is approved by the superintendent of public instruction, the maximum allowable increase to the average number belonging is equal to the adjusted enrollment as determined by the superintendent of public instruction in subsection (3) minus the sum of:

(a) the enrollment used to calculate the budgeted average number belonging for the ensuing school fiscal year; and

(b) the lesser of 40 students or 4% of the enrollment used to calculate the budgeted average number belonging for the ensuing school fiscal year.

(6) (a) Any entitlement increases resulting from provisions of this section must be reviewed at the end of the ensuing school fiscal year.

(b) If the actual enrollment is less than the enrollment used to determine the budgeted ANB, the superintendent of public instruction shall recalculate the district's BASE budget and maximum budget limitations, adopted budget, ~~and BASE aid, and the special education allowable cost payment~~ using the *greater of the district's unadjusted enrollment or the actual enrollment* in place of the adjusted enrollment and:

(i) any BASE aid *and special education allowable cost payment* received by the district in excess of the amount recalculated is an overpayment subject to the refund provisions of 20-9-344(4); and

(ii) any revenue received by the district from BASE budget and over-BASE budget levies increased by the difference between the adjusted enrollment and the actual enrollment is an overpayment and must be used to reduce the BASE budget levy calculated as provided in 20-9-141 to the extent of any BASE budget levy revenue overpayment and to reduce the over-BASE budget levy to the extent of any over-BASE budget levy revenue overpayment in the ensuing school fiscal year. In order to return the full amount of the overpayment to local taxpayers, the amount of the reduction in the BASE budget mills levied as a result of any overpayment must be calculated as a final step in computing the district's general fund net BASE levy requirement pursuant to the procedure set forth in 20-9-141(2) and the district's guaranteed tax base aid must be calculated prior to the reduction in BASE mills."

Section 2. Effective date. [This act] is effective July 1, 2021.

Section 3. Applicability. [This act] applies to school fiscal years beginning on or after July 1, 2021.

Approved March 31, 2021

CHAPTER NO. 108

[HB 53]

AN ACT ADOPTING THE MULTISTATE TAX COMMISSION PROPOSED MODEL STATUTE FOR REPORTING ADJUSTMENTS TO FEDERAL TAXABLE INCOME AND FEDERAL PARTNERSHIP AUDIT ADJUSTMENTS; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-30-2605, 15-30-2606, 15-30-2609, 15-30-2619, 15-31-506, 15-31-509, AND 15-31-544, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. For purposes of [sections 1 through 8], Title 15, chapter 30, part 26, and Title 15, chapter 31, part 5, the following definitions apply:

(1) “Administrative adjustment request” means an administrative adjustment request filed by a partnership under 26 U.S.C. 6227.

(2) “Direct partner” means a partner that holds an interest directly in a partnership or pass-through entity.

(3) “Exempt partner” means a partner that is exempt from taxation under 15-31-102.

(4) “Federal adjustment” means a change to an item or amount determined under the Internal Revenue Code that is used by a taxpayer to compute the Montana income tax owed, regardless of whether that change results from action by the internal revenue service, including a partnership level audit, or the filing of an amended federal return, federal refund claim, or an administrative adjustment request by the taxpayer.

(5) “Federal adjustments report” includes methods or forms required by the department for use by a taxpayer to report final federal adjustments, including an amended Montana tax return, information return, or a uniform multistate report.

(6) “Federal partnership representative” means the person the partnership designates for the tax year as the partnership’s representative, or the person the internal revenue service has appointed to act as the federal partnership representative, pursuant to 26 U.S.C. 6223(a).

(7) “Final determination date” means:

(a) except as provided in subsections (7)(b) and (7)(c), if the federal adjustment arises from an internal revenue service audit or other action by the internal revenue service, the final determination date is the first day on which no federal adjustments arising from that audit or other action remain to be finally determined whether by internal revenue service decision with respect to which all rights of appeal have been waived or exhausted, by agreement, or, if appealed or contested, by a final decision with respect to which all rights of appeal have been waived or exhausted. For agreements required to be signed by the internal revenue service and the taxpayer, the final determination date is the date on which the last party signed the agreement.

(b) for federal adjustments arising from an internal revenue service audit or other action by the internal revenue service, if the taxpayer filed as a member of a combined report, the final determination date means the first day on which no related federal adjustments arising from that audit remain to be finally determined, as described in subsection (7)(a), for the entire group; or

(c) if the federal adjustment results from filing an amended federal return, a federal refund claim, or an administrative adjustment request, or if it is a federal adjustment reported on an amended federal return or other similar report filed pursuant to 26 U.S.C. 6225(c), the final determination date means the day on which the amended return, refund claim, administrative adjustment request, or other similar report was filed.

(8) “Final federal adjustment” means a federal adjustment after the final determination date for that federal adjustment has passed.

(9) “Indirect partner” means a partner in a partnership or pass-through entity that itself holds an interest directly, or through another indirect partner, in a partnership or pass-through entity.

(10) “Partnership level audit” means an examination by the internal revenue service at the partnership level pursuant to Subchapter C of Title 26, Subtitle F, Chapter 63 of the Internal Revenue Code, as enacted by the Bipartisan Budget Act of 2015, Public Law 114-74, which results in federal adjustments.

(11) “Reallocation adjustment” means a federal adjustment resulting from a partnership level audit or an administrative adjustment request that changes the shares of one or more items of partnership income, gain, loss, expense, or credit allocated to direct partners. A positive reallocation adjustment means the portion of a reallocation adjustment that would increase federal income for one or more direct partners, and a negative reallocation adjustment means the portion of a reallocation adjustment that would decrease federal income for one or more direct partners pursuant to regulations under 26 U.S.C. 6225.

(12) “Resident partner” means an individual, trust, or estate partner that is a resident of Montana as defined in 15-30-2101 for the relevant tax period.

(13) “Reviewed year” means the tax year of a partnership that is subject to a partnership level audit from which federal adjustments arise.

(14) “Tiered partner” means any partner that is a partnership or pass-through entity.

Section 2. State partnership representative. (1) With respect to an action required or permitted to be taken by a partnership under [sections 1 through 8] and a proceeding under 15-1-211 with respect to that action, the state partnership representative for the reviewed year has the sole authority to act on behalf of the partnership, and the partnership’s direct partners and indirect partners are bound by those actions.

(2) The state partnership representative for the reviewed year is the partnership’s federal partnership representative unless the partnership designates in writing another person as its state partnership representative.

(3) The department may establish reasonable qualifications and procedures for designating a person, other than the federal partnership representative, to be the state partnership representative.

Section 3. Reporting and payment requirements for partnerships subject to final federal adjustment and their direct partners. (1) Except for final federal adjustments that are reported under the procedures set forth in [section 4], the final federal adjustments required to be reported by taking those adjustments into account in the partnership return for the year of the adjustment or the distributive share of adjustments that have been reported as required under 15-30-2619, partnerships and direct partners shall report final federal adjustments arising from a partnership level audit or an administrative adjustment request pursuant to this section.

(2) No later than 90 days after the final determination date, the partnership shall:

(a) file a completed federal adjustments report, including information required by the department. A partnership that fails to file a timely completed federal adjustments report must be assessed a late file penalty as provided for in 15-30-3302(5)(d).

(b) notify each of its direct partners of their distributive share of the final federal adjustments, including information required by the department; and

(c) file an amended composite return for the reviewed year if direct partners participated in a composite tax return under 15-30-3312, file an amended information return for direct partners as required under 15-30-2619, and pay the additional amount of composite and withholding tax as required under 15-30-3312 and 15-30-3313 that would have been due had the final federal adjustments been reported properly as required.

(3) No later than 180 days after the final determination date, each direct partner that is taxed under chapter 30 or 31 shall:

(a) file an amended return for the reviewed year reporting their distributive share of the final federal adjustments reported to them under subsection (2)(b) as required under chapters 30 and 31; and

(b) pay any additional amount of tax due as if final federal adjustments had been properly reported, plus any penalty and interest due under 15-1-216, and less any credit for related amounts paid or withheld and remitted on behalf of the direct partner under subsection (2)(c).

Section 4. Election – partnership pays – rulemaking. (1) Subject to the limitations in subsection (2), an audited partnership making an election under this section shall:

(a) no later than 90 days after the final determination date, file a completed federal adjustments report, including information required by the department, and notify the department that it is making the election under this section. A partnership that fails to file a timely completed federal adjustments report must be assessed a late file penalty as provided for in 15-30-3302(5)(d).

(b) no later than 180 days after the final determination date, pay an amount, determined as follows, in lieu of taxes owed by its direct and indirect partners:

(i) exclude from final federal adjustments the distributive share of these adjustments reported to a direct exempt partner not subject to tax under 15-31-102(3);

(ii) for the total distributive shares of the remaining final federal adjustments reported to direct corporate partners subject to tax under 15-31-101, and to direct exempt partners subject to tax under 15-31-102(3), apportion and allocate the adjustments as provided in 15-31-301, and multiply the resulting amount by the appropriate tax rate under 15-31-121;

(iii) for the total distributive shares of the remaining final federal adjustments reported to nonresident direct partners subject to tax under 15-30-3311 or 15-30-2151, determine the amount of the adjustments that are Montana source income under 15-30-3311, and multiply the resulting amount by the highest tax rate under 15-30-2103; and

(iv) for the total distributive shares of the remaining final federal adjustments reported to tiered partners:

(A) determine the amount of the adjustments that would be subject to sourcing to Montana under 15-30-3302(6) and attributable to nonresident partners;

(B) determine the amount of the adjustments not attributable to nonresident partners; and

(C) determine the portion of the amount determined in subsection (1)(b)(iv)(B) that can be established, under regulations issued by the department, to be properly allocable to direct or indirect partners not subject to tax on the adjustments or that can be excluded under procedures for modified reporting and payment methods allowed under [section 5];

(v) multiply the total of the amounts determined in subsections (1)(b)(iv)(A) and (1)(b)(iv)(B) and reduce by the amount determined in subsection (1)(b)(iv)(C) by the highest tax rate under 15-30-2103 or the appropriate tax rate in 15-31-121;

(vi) for the total distributive shares of the remaining final federal adjustments reported to resident direct partners subject to tax under 15-30-3311, multiply that amount by the highest tax rate under 15-30-2103; and

(vii) add the amounts determined in subsections (1)(b)(ii) through (1)(b)(vi), including penalty and interest as provided in 15-1-216.

(2) Final federal adjustments subject to the election under this section exclude:

(a) the distributive share of final audit adjustments that under 15-31-301 must be included in the unitary business income of any direct or indirect corporate partner, provided that the audited partnership can reasonably determine this; and

(b) any final federal adjustments resulting from an administrative adjustment request.

(3) The direct and indirect partners of an audited partnership that are tiered partners, and all of the partners of those tiered partners that are subject to tax under chapter 30 or 31, are subject to the reporting and payment requirements of [section 3] and the tiered partners are entitled to make the election provided for in this section. The tiered partners or their partners shall make required reports and payments no later than 90 days after the time for filing and furnishing statements to tiered partners and their partners as established under 26 U.S.C. 6226 and the regulations thereunder. The department may promulgate regulations to establish procedures and interim time periods for the reports and payments required by tiered partners and their partners and for making the election under this section.

Section 5. Modified reporting and payment method. Under procedures adopted by and subject to the approval of the department, an audited partnership or tiered partner may enter into an agreement with the department to utilize an alternative reporting and payment method, including applicable time requirements or any other provision of [section 3 or 4], if the audited partnership or tiered partner demonstrates that the requested method will reasonably provide for the reporting and payment of taxes, penalties, and interest due under the provisions of [section 3 or 4]. Application for approval of an alternative reporting and payment method must be made by the audited partnership or tiered partner within the time for election as provided in [section 3 or 4], as appropriate.

Section 6. Effect of election by audited partnership or tiered partner and payment of amount due. (1) The election made pursuant to [section 4] is irrevocable, unless the department, in its discretion, determines otherwise.

(2) If properly reported and paid by the audited partnership or tiered partner, the amount determined in [section 4(1)(b)], will be treated as paid in lieu of taxes owed by its direct and indirect partners, to the extent applicable, on the same final federal adjustment. The direct partners or indirect partners may not take any deduction or credit for this amount or claim a refund of the amount in this state. Nothing in this section shall preclude a direct resident partner from claiming:

(a) a credit against taxes paid to this state pursuant to 15-30-3313; or

(b) any amounts paid by the audited partnership or tiered partner on the resident partner's behalf to another state or local tax jurisdiction in accordance with the provisions of 15-30-2302.

(3) Nothing in this section prevents the department from assessing direct partners or indirect partners for taxes owed, using the best information available, in the event that a partnership or tiered partner fails to timely make any report or payment required by this section for any reason.

Section 7. De minimis exception – rulemaking. The department may, at its discretion, adopt rules establishing a de minimis amount on which a taxpayer may not be required to comply with [sections 3 and 4].

Section 8. Estimated tax payments during course of federal audit. A taxpayer may make estimated payments to the department, following the process prescribed by the department, of the Montana individual income or corporate income tax expected to result from a pending internal revenue service audit, prior to the due date of the federal adjustments report, without having to file the report with the department. The estimated tax payments must be credited against any tax liability ultimately found to be due to this state and will limit the accrual of further statutory interest on that amount. If

the estimated tax payments exceed the final tax liability and statutory interest ultimately determined to be due, the taxpayer is entitled to a refund or credit for the excess, provided the taxpayer files a federal adjustments report or claim for refund or credit of tax pursuant to 15-30-2609 or 15-31-509, no later than 1 year following the final determination date.

Section 9. Section 15-30-2605, MCA, is amended to read:

“15-30-2605. Revision of return by department – statute of limitations – examination of records and persons. (1) If, in the opinion of the department, any return of a taxpayer is in any essential respect incorrect, it may revise the return.

(2) If a taxpayer does not file a return as required under this chapter, *including a federal adjustments report required under [section 3 or 4]*, the department may, at any time, audit the taxpayer or estimate the taxable income of the taxpayer from any information in its possession and, based upon the audit or estimate, assess the taxpayer for the taxes, penalties, and interest due the state.

(3) Except as provided in subsections (2) and (4), the amount of tax due under any return may be determined by the department within 3 years after the return was filed, regardless of whether the return was filed on or after the last day prescribed for filing. For the purposes of 15-30-2607 and this section, a tax return due under this chapter and filed before the last day prescribed by law or rule is considered to be filed on the last day prescribed for filing.

(4) If a taxpayer, with intent to evade the tax, purposely or knowingly files a false or fraudulent return, *including a federal adjustments report required under [section 3 or 4]*, that violates a provision of this chapter, the amount of tax due may be determined at any time after the return is filed and the tax may be collected at any time after it becomes due.

(5) The department, for the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of taxable income of any person where information has been obtained, may also examine or cause to have examined by any agent or representative designated by it for that purpose any books, papers, or records of memoranda bearing upon the matters required to be included in the return and may require the attendance of the person rendering the return or any officer or employee of the person or the attendance of any person having knowledge in the premises and may take testimony and require proof material for its information, with power to administer oaths to the person or persons.”

Section 10. Section 15-30-2606, MCA, is amended to read:

“15-30-2606. Tolling of statute of limitations. The running of the statute of limitations provided for under 15-30-2605 must be suspended during any period that the federal statute of limitations for collection of federal income tax has been suspended by written agreement signed by the taxpayer or when the taxpayer has instituted an action that has the effect of suspending the running of the federal statute of limitations and for 1 additional year. If the taxpayer fails to file an amended Montana return as required by 15-30-2619 *or a federal adjustments report required under [section 3 or 4]*, the statute of limitations does not apply until 3 years from the ~~date the federal changes become~~ final determination date or the *date the* amended federal return was filed. If the taxpayer omits from gross income an amount properly includable as gross income and the amount is in excess of 25% of the amount of adjusted gross income stated in the return, the statute of limitations does not apply for 2 additional years from the time specified in 15-30-2605.”

Section 11. Section 15-30-2609, MCA, is amended to read:

“15-30-2609. Credits and refunds – period of limitations. (1) If the department discovers from the examination of a return or upon a claim filed by a taxpayer or upon final judgment of a court that the amount of income tax collected is in excess of the amount due or that any penalty or interest was erroneously or illegally collected, the amount of the overpayment must be credited against any income tax, penalty, or interest then due from the taxpayer and the balance of the excess must be refunded to the taxpayer.

(2) (a) A refund or credit may not be allowed or paid with respect to the year for which a return is filed after expiration of the period provided by 15-30-2606 and 15-30-2607 or after 1 year from the date of the overpayment or filing, whichever is later, unless before the expiration of the period the taxpayer files a claim for refund or credit or the department has determined the existence of the overpayment and has approved the refund or credit.

(b) If an overpayment of tax results from a net operating loss carryback, the overpayment may be refunded or credited within the period that expires on the 15th day of the 40th month following the close of the tax year of the net operating loss if that period expires later than 3 years from the due date of the return for the year to which the net operating loss is carried back.

(c) *Except for a final federal adjustment required to be reported for federal purposes by taking those adjustments into account in the partnership return for the year of the adjustment, a taxpayer may file a claim for refund or credit of tax on or before the later of:*

(i) the expiration of the period provided for in subsection (2)(a); or

(ii) 1 year from the date a federal adjustments report described in [sections 3 and 4], was due to the department, including any extensions.

(3) Within 6 months after a claim for refund is filed, the department shall examine the claim and either approve or disapprove it. If the claim is approved, the credit or refund must be made to the taxpayer within 60 days after the claim is approved. If the claim is disallowed, the department shall notify the taxpayer and a review of the determination of the department may be pursued as provided in 15-1-211.

(4) (a) Interest is allowed on overpayments at the same rate as charged on delinquent taxes as provided in 15-1-216. Except as provided in subsection (4)(b), interest is payable from the due date of the return or from the date of the overpayment, whichever date is later, to the date the department approves refunding or crediting of the overpayment. With respect to tax paid by withholding or by estimated tax payments, the date of overpayment is the date on which the return for the tax year was due. Interest does not accrue on an overpayment if the taxpayer elects to have it applied to the taxpayer's estimated tax for the succeeding tax year. Interest does not accrue during any period for which the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment. Interest is not allowed if:

(i) the overpayment is refunded within 45 days from the date the return is due or the date the return is filed, whichever date is later;

(ii) the overpayment results from the carryback of a net operating loss; or

(iii) the amount of interest is less than \$1.

(b) Subject to the provisions of subsection (4)(a)(i), if the return is filed after the time prescribed for filing in 15-30-2604, including any extension, interest is payable from the date the return was filed.

(5) An overpayment not made incident to a bona fide and orderly discharge of an actual income tax liability or one reasonably assumed to be imposed by

this law is not considered an overpayment with respect to which interest is allowable.”

Section 12. Section 15-30-2619, MCA, is amended to read:

“15-30-2619. Furnishing copy of federal return – copy of share of income, credit, and deductions schedule – copies of federal corrections – filing amended return required. Each taxpayer shall, upon request of the department, furnish a copy of the return for the corresponding year that the taxpayer has filed or may file with the federal government, showing the taxpayer’s net income and how obtained and the several sources from which derived. *If Except as provided for in [section 3 or 4], if the amount of a taxpayer’s taxable income is changed or corrected by the United States internal revenue service or other competent authority, the taxpayer shall file an amended Montana return with the department within 90 180 days after receiving notice of the change or correction the final determination date. If Except as provided for in [section 3 or 4], if a taxpayer files an amended federal income tax return changing or correcting the taxpayer’s federal taxable income for a tax year, the taxpayer shall also file an amended Montana return with the department within 90 180 days after filing an amended federal income tax return. The department shall supply all necessary forms and shall, upon the request of the taxpayer, return all forms to the taxpayer after they have been examined by the department.”*

Section 13. Section 15-31-506, MCA, is amended to read:

“15-31-506. Copy of federal return required – report of amended federal return. Every corporation shall, upon request of the department of revenue, furnish a copy of its federal income tax return and the computation schedule filed for the taxable year or years that the department may specify in its request. *If Except as provided in [section 3 or 4], if the amount of a corporation’s taxable income reported on its federal income tax return or the computation schedule filed for a taxable tax year is changed or corrected by the United States internal revenue service or other competent authority, the corporation shall file an amended Montana return with the department within 90 180 days after receiving official notice of the change or correction the final determination date. A Except as provided in [section 4], a corporation filing an amended federal income tax return changing or correcting its taxable income for a taxable tax year shall also file an amended Montana return with the department within 90 180 days after filing an amended federal income tax return.”*

Section 14. Section 15-31-509, MCA, is amended to read:

“15-31-509. Periods of limitation. (1) Except as otherwise provided in 15-31-544 and this section, a deficiency may not be assessed or collected with respect to the year for which a return is filed unless the notice of additional tax proposed to be assessed is mailed within 3 years from the date that the return was filed. For the purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last day. When, before the expiration of the period prescribed for assessment of the tax, the taxpayer consents in writing to an assessment after the time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The limitations prescribed for giving notice of a proposed assessment of additional tax may not apply when:

(a) the taxpayer has by written agreement suspended the federal statute of limitations for collection of federal tax if the suspension of the limitation set forth in this section lasts:

(i) only as long as the suspension of the federal statute of limitation; or

(ii) until 1 year after the ~~federal changes have become~~ final *determination date* or the date an amended federal return is filed as a result of the suspension of the federal statute, whichever is the latest in time; or

(b) a taxpayer has failed to file an amended Montana return, as required by 15-31-506 or a *federal adjustments report* as provided in [section 3 or 4], until 3 years after the ~~federal changes become~~ final *determination date* or the date the amended federal return was filed.

(2) A refund or credit may not be allowed or paid with respect to the year for which a return is filed after 3 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment or filing, whichever is later, unless before the expiration of the period the taxpayer files a claim for the refund or credit or the department has determined the existence of the overpayment and has approved the refund or credit. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit may be filed or a credit or refund allowed in the event a claim is not filed is automatically extended.

(3) *Except for final federal adjustments required to be reported for federal purposes by taking those adjustments into account in the partnership return for the year of the adjustment, a taxpayer may file a claim for refund or credit of tax on or before the later of:*

(a) *the expiration of the period provided for in subsection (2), including any extensions; or*

(b) *1 year from the date a federal adjustments report described in [section 3 or 4], as applicable, was due to the department, including any extensions.*

(3)(4) If a claim for refund or credit is based upon an overpayment attributable to a net loss carryback adjustment as provided in 15-31-119, in lieu of the 3-year period provided for in subsection (1), the period must be the period that ends with the expiration of the 15th day of the 41st month following the end of the tax year of the net loss that results in the carryback.

(4)(5) If the year of the net operating loss is open under either state or federal waivers, the year to which the loss is carried back remains open for the purposes of the loss carryback and for 12 months following the expiration of the state or federal waiver, even though the claim would otherwise be barred under this section.”

Section 15. Section 15-31-544, MCA, is amended to read:

“15-31-544. Action on false or fraudulent return. Whenever a return is required to be filed and the taxpayer files a fraudulent return or fails to file the return, *including a federal adjustments report under [section 3 or 4]*, the department may at any time assess the tax or begin a proceeding in court for the collection of the tax without assessment.”

Section 16. Codification instruction. [Sections 1 through 8] are intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [sections 1 through 8].

Section 17. Effective date. [This act] is effective on passage and approval.

Section 18. Applicability. [This act] applies to tax adjustments made after [the effective date of this act].

Approved March 31, 2021

CHAPTER NO. 109

[HB 83]

AN ACT GENERALLY REVISING VEHICLE LAWS; REVISING SPECIAL PARKING PERMIT EXPIRATION DATES; REVISING CERTAIN DEFINITIONS; REVISING TRAVEL TRAILER STANDARDS; REVISING ODOMETER REPORTING REQUIREMENTS; AND AMENDING SECTIONS 49-4-305, 61-1-101, AND 61-3-206, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 49-4-305, MCA, is amended to read:

“49-4-305. Expiration of permit. (1) Except as provided in 49-4-303 and subsection (2) of this section, a special parking permit expires on the occurrence of either of the following:

(a) 3 5 years from the date of issuance, unless the permit was issued to a person who has a condition expected to improve within 6 months. A person may renew a permit if a licensed physician, a licensed chiropractor, or a licensed advanced practice registered nurse, as provided in 37-8-202, certifies that the person’s mobility disability still exists and that one of the criteria specified in 49-4-301 continues to be met.

(b) certification by a licensed physician, a licensed chiropractor, or a licensed advanced practice registered nurse that the person’s mobility disability no longer exists or that the criteria specified in 49-4-301 can no longer be met.

(2) A permit issued before October 1, 1993, expires on *the earlier of*:

(a) the death of the permittee; or

(b) certification by a licensed physician, a licensed chiropractor, or a licensed advanced practice registered nurse that the person’s mobility disability no longer exists or that the criteria specified in 49-4-301 can no longer be met; or

(c) *October 1, 2022.*”

Section 2. Section 61-1-101, MCA, is amended to read:

“61-1-101. Definitions. As used in this title, unless the context indicates otherwise, the following definitions apply:

(1) (a) “Authorized agent” means a person who has executed a written agreement with the department and is specifically authorized by the department to electronically access and update the department’s motor vehicle titling, registration, or driver records, using an approved automated interface, for specific functions or purposes on behalf of a third party.

(b) For purposes of this subsection (1), “person” means an individual, corporation, partnership, limited partnership, limited liability company, association, joint venture, state agency, local government unit, another state government, the United States, a political subdivision of this or another state, or any other legal or commercial entity.

(2) “Authorized agent agreement” means the written agreement executed between an authorized agent and the department that sets the technical and operational program standards, compliance criteria, payment options, and service expectations by which the authorized agent is required to operate in performing specific motor vehicle or driver-related record functions.

(3) “Autocycle” means a three-wheeled motorcycle that is equipped with safety belts, roll bars or roll hoops, a steering wheel, and seating that does not require the operator to straddle or sit astride it.

(4) “Bus” means a motor vehicle designed for carrying more than 10 passengers and used for the transportation of persons and any other motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

(5) (a) “Business entity” means a corporation, association, partnership, limited liability partnership, limited liability company, or other legal entity recognized under state law.

(b) The term does not include an individual.

(6) (a) “Camper” means a structure designed to be mounted in the cargo area of a truck or attached to an incomplete vehicle for the purpose of providing shelter for persons. The term includes but is not limited to a cab-over, half cab-over, noncab-over, telescopic, and telescopic cab-over.

(b) The term does not include a truck canopy cover or topper.

(7) “CDLIS driver record” means the electronic record of a person’s commercial driver’s license status and history stored as part of the commercial driver’s license system established under 49 U.S.C. 31309.

(8) “Certificate of title” means the paper record issued by the department or by the appropriate agency of another jurisdiction that establishes a verifiable record of ownership between an identified person or persons and the motor vehicle specifically described in the record and that provides notice of a perfected security interest in the motor vehicle.

(9) “Commercial driver’s license” means:

(a) a driver’s license issued under or granted by the laws of this state that authorizes a person to operate a class of commercial motor vehicle; or

(b) the privilege of a person to drive a commercial motor vehicle, whether or not the person holds a valid commercial driver’s license.

(10) (a) “Commercial motor vehicle” means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:

(i) has a gross combination weight rating or a gross combination weight of 26,001 pounds or more, whichever is greater, inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;

(ii) has a gross vehicle weight rating or a gross vehicle weight of 26,001 pounds or more, whichever is greater;

(iii) is designed to transport at least 16 passengers, including the driver;

(iv) is a school bus; or

(v) is of any size and is used in the transportation of hazardous materials.

(b) The following vehicles are not commercial motor vehicles:

(i) an authorized emergency vehicle:

(A) equipped with audible and visual signals as required under 61-9-401 and 61-9-402; and

(B) operated when responding to or returning from an emergency call or operated in another official capacity;

(ii) a vehicle:

(A) controlled and operated by a farmer, family member of the farmer, or person employed by the farmer;

(B) used to transport farm products, farm machinery, or farm supplies to or from the farm within Montana within 150 miles of the farm or, if there is a reciprocity agreement with a state adjoining Montana, within 150 miles of the farm, including any area within that perimeter that is in the adjoining state; and

(C) not used to transport goods for compensation or for hire; or

(iii) a vehicle operated for military purposes by active duty military personnel, a member of the military reserves, a member of the national guard on active duty, including personnel on full-time national guard duty, personnel in part-time national guard training, and national guard military technicians, or active duty United States coast guard personnel.

(c) For purposes of this subsection (10):

(i) “farmer” means a person who operates a farm or who is directly involved in the cultivation of land or crops or the raising of livestock owned by or under the direct control of that person;

(ii) “gross combination weight rating” means the value specified by the manufacturer as the loaded weight of a combination or articulated vehicle;

(iii) “gross vehicle weight rating” means the value specified by the manufacturer as the loaded weight of a single vehicle; and

(iv) “school bus” has the meaning provided in 49 CFR 383.5.

(11) “Commission” means the state transportation commission.

(12) “Custom-built motorcycle” means a motorcycle that is equipped with:

(a) an engine that was manufactured 20 years prior to the current calendar year and that has been altered from the manufacturer’s original design; or

(b) an engine that was manufactured to resemble an engine 20 or more years old and that has been constructed in whole or in part from nonoriginal materials.

(13) “Custom vehicle” means a motor vehicle other than a motorcycle that:

(a) (i) was manufactured with a model year after 1948 and that is at least 25 years old; or

(ii) was built to resemble a vehicle manufactured after 1948 and at least 25 years before the current calendar year, including a kit vehicle intended to resemble a vehicle manufactured after 1948 and that is at least 25 years old; and

(b) has been altered from the manufacturer’s original design or has a body constructed from nonoriginal materials.

(14) “Customer identification number” means:

(a) a driver’s license or identification card number when the customer is an individual who has been issued a driver’s license or identification card by a state driver licensing authority;

(b) a federal employer or tax identification number when the customer is a business entity that has been issued a federal employer or tax identification number;

(c) the identification number assigned by the secretary of state to a business entity authorized to do business in this state under Title 35 if the customer is a business entity that does not have a federal employer or tax identification number other than a social security number; or

(d) if the customer has not been issued one of the numbers described in subsections (14)(a) through (14)(c), a number assigned to the customer by the department when a transaction is initiated under this title.

(15) (a) “Dealer” means a person that, for commission or profit, engages in whole or in part in the business of buying, selling, exchanging, or accepting on consignment new or used motor vehicles, trailers, semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, off-highway vehicles, or special mobile equipment that is not registered in the name of the person.

(b) The term does not include the following:

(i) receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under a judgment or order of any court of competent jurisdiction;

(ii) employees of the persons included in subsection (15)(b)(i) when engaged in the specific performance of their duties as employees; or

(iii) public officers while performing or in the operation of their duties.

(16) “Declared weight” means the total unladen weight of a vehicle plus the weight of the maximum load to be carried on the vehicle as stated by the registrant in the application for registration.

(17) “Department” means the department of justice acting directly or through its duly authorized officers or agents.

(18) “Dolly or converter gear” means a device consisting of one or two axles with a fifth wheel and trailer tongue used to support the forward end of a semitrailer, converting a semitrailer into a trailer.

(19) “Domiciled” means a place where:

- (a) an individual establishes residence;
- (b) a business entity maintains its principal place of business;
- (c) the business entity’s registered agent maintains an address; or
- (d) a business entity most frequently uses, dispatches, or controls a motor vehicle, trailer, semitrailer, or pole trailer that it owns or leases.

(20) “Downgrade” means the removal of a person’s privilege to operate a commercial motor vehicle, as maintained by the department on the individual Montana driving record and the CDLIS driver record for that person.

(21) “Driver” means a person who drives or is in actual physical control of a vehicle.

(22) “Driver’s license” means a license or permit to operate a motor vehicle issued under or granted by the laws of this state, including:

- (a) any temporary license or learner license;
- (b) the privilege of any person to drive a motor vehicle, whether or not the person holds a valid license;
- (c) any nonresident’s driving privilege;
- (d) a motorcycle endorsement; or
- (e) a commercial driver’s license.

(23) “Electric personal assistive mobility device” means a device that has two nontandem wheels, is self-balancing, and is designed to transport only one person with an electric propulsion system that limits the maximum speed of the device to 12 1/2 miles an hour.

(24) “For hire” means an action performed for remuneration of any kind, whether paid or promised, either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived for transportation service.

(25) (a) “Golf cart” means a motor vehicle that is designed for use on a golf course to carry a person or persons and golf equipment and that has an average speed of less than 15 miles per hour.

(b) Except as provided in 61-3-201, a golf cart is exempt from titling, registration, and mandatory liability insurance requirements under this title.

(26) “Gross vehicle weight” means the weight of a vehicle without load plus the weight of any load on the vehicle.

(27) “Hazardous material” means:

- (a) any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under 49 CFR, part 172; or
- (b) any quantity of a material listed as a select agent or toxin in 42 CFR, part 73.

(28) “Highway” or “public highway” means the entire width between the boundary lines of every publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel.

(29) “Highway patrol officer” means a state officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(30) “Implement of husbandry” means a vehicle that is designed for agricultural purposes and exclusively used by the owner of the vehicle in the conduct of the owner’s agricultural operations.

(31) “Kit vehicle” is a motor vehicle assembled from a manufactured kit either as:

(a) a complete kit, consisting of a prefabricated body and chassis, to construct a new motor vehicle; or

(b) a kit with a prefabricated body to be mounted to an existing motor vehicle chassis and drivetrain, commonly referred to as a donor vehicle.

(32) "Light vehicle" means a motor vehicle commonly referred to as an automobile, van, sport utility vehicle, or truck having a manufacturer's rated capacity of 1 ton or less.

(33) "Low-speed electric vehicle" means a motor vehicle, on or by which a person may be transported, that:

(a) has four wheels;

(b) has a maximum speed of at least 20 miles an hour and no greater than 40 miles an hour as certified by the manufacturer;

(c) is propelled by its own power, using an electric motor or other device that transforms stored electrical energy into the motion of the vehicle;

(d) stores electricity in batteries, ultracapacitors, or similar devices, which are charged from the power grid or from renewable electrical energy sources;

(e) has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater;

(f) exhibits a manufacturer's compliance with 49 CFR, part 565, or displays a 17-character vehicle identification number as provided in 49 CFR, part 565; and

(g) is equipped as provided in 61-9-432.

(34) "Low-speed restricted driver's license" means a license limited to the operation of a low-speed electric vehicle or a golf cart issued under or granted by the laws of this state, including:

(a) a temporary license or learner license;

(b) the privilege of a person to drive a low-speed electric vehicle or golf cart under the authority of 61-5-122, whether or not the person holds a valid driver's license; and

(c) a nonresident's similarly restricted driving privilege.

(35) "Manufactured home" has the meaning provided in 15-24-201.

(36) "Manufacturer" includes any person engaged in the manufacture of motor vehicles, trailers, semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, or off-highway vehicles as a regular business.

(37) "Manufacturer's certificate of origin" means the original paper record produced and issued by the manufacturer of a vehicle or, if in a medium authorized by the department, an electronic record created and transmitted by the manufacturer of a vehicle to the manufacturer's agent or a licensed dealer. The record must establish the origin of the vehicle specifically described in the record and, upon assignment, transfers of ownership of the vehicle to the person or persons named in the certificate.

(38) (a) "Medium-speed electric vehicle" is a motor vehicle, on or by which a person may be transported, that:

(i) has a maximum speed of 45 miles an hour as certified by the manufacturer;

(ii) is propelled by its own power, using an electric motor or other device that transforms stored electrical energy into the motion of the vehicle;

(iii) stores electricity in batteries, ultracapacitors, or similar devices, which are charged from the power grid or from renewable electrical energy sources;

(iv) is fully enclosed and includes at least one door for entry;

(v) has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater;

(vi) exhibits a manufacturer's compliance with 49 CFR, part 565, or displays a 17-character vehicle identification number as provided in 49 CFR, part 565;

(vii) bears a sticker, affixed by the manufacturer or dealer, on the left side of the rear window that indicates the vehicle's maximum speed rating; and

(viii) as certified by the manufacturer, is equipped as provided in 61-9-432.

(b) A medium-speed electric vehicle must be treated as a light vehicle for purposes of titling and registration under Title 61, chapter 3.

(c) A medium-speed electric vehicle may not have a gross vehicle weight in excess of 5,000 pounds.

(39) "Mobile home" or "housetrailer" has the meaning provided in 15-24-201.

(40) "Montana resident" means:

(a) an individual who resides in Montana as determined under 1-1-215; or

(b) for the purposes of chapter 3, a business entity that maintains a principal place of business or a registered agent in this state.

(41) ~~(a) "Motorboat" means a vessel, including a personal watercraft or pontoon, propelled by any machinery, motor, or engine of any description, whether or not the machinery, motor, or engine is the principal source of propulsion. The term includes boats temporarily equipped with detachable motors or engines.~~

~~(b) The term does not include a vessel that has a valid marine document issued by the U.S. coast guard or any successor federal agency.~~

~~(a) "Motor carrier" means a person or corporation or its lessees, trustees, or receivers appointed by a court that are operating motor vehicles on a public highway in this state for the transportation of property for hire on a commercial basis.~~

~~(b) The term does not include motor carriers regulated under Title 69, chapter 12.~~

~~(42) (a) "Motor carrier" means a person or corporation or its lessees, trustees, or receivers appointed by a court that are operating motor vehicles on a public highway in this state for the transportation of property for hire on a commercial basis.~~

~~(b) The term does not include motor carriers regulated under Title 69, chapter 12. "Motor home" means a motor vehicle:~~

~~(a) designed to provide temporary living quarters, built as an integral part of or permanently attached to a self-propelled motor vehicle chassis or van;~~

~~(b) containing permanently installed independent life support systems that meet the NFPA 1192 standard on recreational vehicles; and~~

~~(c) providing at least four of the following types of facilities:~~

~~(i) cooking, refrigeration, or icebox;~~

~~(ii) self-contained toilet;~~

~~(iii) heating or air conditioning, or both;~~

~~(iv) potable water supply, including a faucet and sink; or~~

~~(v) separate 110-volt or 125-volt electrical power supply or a liquefied petroleum gas supply, or both.~~

~~(43) (a) "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the operator and that is designated to travel on not more than three wheels in contact with the ground. A motorcycle may carry one or more attachments and a seat for the conveyance of a passenger.~~

~~(b) A motorcycle designed for use on highways is a motor vehicle unless otherwise prescribed.~~

~~(c) A motorcycle designed for off-road recreational use is an off-highway vehicle unless it has been modified to meet the equipment standards specified in chapter 9 and has been registered for highway use.~~

~~(d) The term includes an autocycle.~~

~~(e) The term does not include a tractor, a bicycle or a moped as defined in 61-8-102, a motorized nonstandard vehicle, or a two- or three-wheeled all-terrain vehicle that is used exclusively on private property.~~

~~(a) "Motor vehicle" means:~~

~~(i) a vehicle propelled by its own power and designed or used to transport persons or property on the highways of the state;~~

~~(ii) a quadricycle if it is equipped for use on the highways as prescribed in chapter 9; or~~

~~(iii) a golf cart only if it is equipped for use on the highways as prescribed in chapter 9 and is operated pursuant to 61-8-391 or by a person with a low-speed restricted driver's license.~~

~~(b) The term does not include a bicycle or a moped as defined in 61-8-102, an electric personal assistive mobility device, a motorized nonstandard vehicle, or a motorized wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as a means of mobility for that person.~~

~~(44) (a) "Motor-driven cycle" means a motorcycle, including a motor scooter, with a motor that produces 5 horsepower or less.~~

~~(b) The term does not include a bicycle or a moped, as defined in 61-8-102, or a motorized nonstandard vehicle.~~

~~(a) "Motorboat" means a vessel, including a personal watercraft or pontoon, propelled by any machinery, motor, or engine of any description, whether or not the machinery, motor, or engine is the principal source of propulsion. The term includes boats temporarily equipped with detachable motors or engines.~~

~~(b) The term does not include a vessel that has a valid marine document issued by the United States coast guard or any successor federal agency.~~

~~(45) "Motor home" means a motor vehicle:~~

~~(a) designed to provide temporary living quarters, built as an integral part of or permanently attached to a self-propelled motor vehicle chassis or van;~~

~~(b) containing permanently installed independent life support systems that meet the ANSI/A119.2 standard; and~~

~~(c) providing at least four of the following types of facilities:~~

~~(i) cooking, refrigeration, or icebox;~~

~~(ii) self-contained toilet;~~

~~(iii) heating or air conditioning, or both;~~

~~(iv) potable water supply, including a faucet and sink; or~~

~~(v) separate 110-volt or 125-volt electrical power supply or a liquefied petroleum gas supply, or both.~~

~~(a) "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the operator and that is designated to travel on not more than three wheels in contact with the ground. A motorcycle may carry one or more attachments and a seat for the conveyance of a passenger.~~

~~(b) A motorcycle designed for use on highways is a motor vehicle unless otherwise prescribed.~~

~~(c) A motorcycle designed for off-road recreational use is an off-highway vehicle unless it has been modified to meet the equipment standards specified in chapter 9 and has been registered for highway use.~~

~~(d) The term includes an autocycle.~~

(e) *The term does not include a tractor, a bicycle or a moped as defined in 61-8-102, a motorized nonstandard vehicle, or a two- or three-wheeled all-terrain vehicle that is used exclusively on private property.*

(46) (a) *“Motorized nonstandard vehicle” means a vehicle, on or by which a person may be transported, that:*

(i) *is propelled by its own power, using an internal combustion engine or an electric motor;*

(ii) *has a wheelbase of less than 40 inches and a wheel diameter of less than 10 inches; and*

(iii) *does not display a manufacturer’s certification in accordance with 49 CFR, part 567, or have a 17-character vehicle identification number assigned by the manufacturer in accordance with 49 CFR, part 565.*

(b) *The term includes but is not limited to a motorized skateboard and a vehicle commonly known as a “pocket rocket”.*

(c) *The term does not include a moped as defined in 61-8-102, an electric personal assistive mobility device, or a motorized wheelchair or other low-powered, mechanically propelled vehicle designed specifically for use by a physically disabled person.*

(a) *“Motor-driven cycle” means a motorcycle, including a motor scooter, with a motor that produces 5 horsepower or less.*

(b) *The term does not include a bicycle or a moped, as defined in 61-8-102, or a motorized nonstandard vehicle.*

(47) (a) *“Motor vehicle” means:*

(i) *a vehicle propelled by its own power and designed or used to transport persons or property on the highways of the state;*

(ii) *a quadricycle if it is equipped for use on the highways as prescribed in chapter 9; or*

(iii) *a golf cart only if it is equipped for use on the highways as prescribed in chapter 9 and is operated pursuant to 61-8-391 or by a person with a low-speed restricted driver’s license.*

(b) *The term does not include a bicycle or a moped as defined in 61-8-102, an electric personal assistive mobility device, a motorized nonstandard vehicle, or a motorized wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as a means of mobility for that person.*

(a) *“Motorized nonstandard vehicle” means a vehicle, on or by which a person may be transported, that:*

(i) *is propelled by its own power, using an internal combustion engine or an electric motor;*

(ii) *has a wheelbase of less than 40 inches and a wheel diameter of less than 10 inches; and*

(iii) *does not display a manufacturer’s certification in accordance with 49 CFR, part 567, or have a 17-character vehicle identification number assigned by the manufacturer in accordance with 49 CFR, part 565.*

(b) *The term includes but is not limited to a motorized skateboard and a vehicle commonly known as a “pocket rocket”.*

(c) *The term does not include a moped as defined in 61-8-102, an electric personal assistive mobility device, or a motorized wheelchair or other low-powered, mechanically propelled vehicle designed specifically for use by a physically disabled person.*

(48) *“New motor vehicle” means a motor vehicle, regardless of the mileage of the vehicle, the legal or equitable title to which has never been transferred by a manufacturer, distributor, or dealer to another person as the result of a retail sale.*

(49) *“Nonresident” means a person who is not a Montana resident.*

(50) (a) “Not used for general transportation purposes” means the operation of a motor vehicle registered as a collector’s item, a custom vehicle, a street rod, or a custom-built motorcycle to or from a car or motorcycle club activity or event or an exhibit, show, cruise night, or parade, or for other occasional transportation activity.

(b) The term does not include operation of a motor vehicle for routine or ordinary household maintenance, employment, education, or other similar purposes.

(51) (a) “Off-highway vehicle” means a self-propelled vehicle designed for recreation or cross-country travel on public lands, trails, easements, lakes, rivers, or streams. The term includes but is not limited to motorcycles, quadricycles, dune buggies, amphibious vehicles, air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind.

(b) The term does not include:

(i) vehicles designed primarily for travel on, over, or in the water;

(ii) snowmobiles; or

(iii) motor vehicles designed to transport persons or property on the highways unless the vehicle is used for off-road recreation on public lands.

(52) “Operator” means a person who is in actual physical control of a motor vehicle.

(53) “Owner” means a person who holds the legal title to a vehicle. If a vehicle is the subject of an agreement for the conditional sale of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, or in the event a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security or otherwise, or in the event a mortgagor of a vehicle is entitled to possession, then the owner is the person in whom is vested the right of possession or control.

(54) “Person” means an individual, corporation, partnership, association, firm, or other legal entity.

(55) “Personal watercraft” means a vessel that uses an outboard motor or an inboard engine powering a water jet pump as its primary source of propulsion and that is designed to be operated by a person sitting, standing, or kneeling on the vessel rather than by the conventional method of sitting or standing in the vessel.

(56) “Pole trailer” means a vehicle without power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable generally of sustaining themselves as beams between the supporting connections.

(57) “Police officer” means an officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(58) (a) “Quadricycle” means a four-wheeled motor vehicle, designed for on-road or off-road use, having a seat or saddle on which the operator sits.

(b) The term does not include golf carts.

(59) “Railroad” means a carrier of persons or property on cars, other than streetcars, operated on stationary rails.

(60) (a) “Railroad train” or “train” means a steam engine or electric or other motor, with or without cars coupled to the engine, that is operated on rails.

(b) The term does not include streetcars.

(61) “Recreational vehicle” includes a motor home, travel trailer, or camper.

(62) “Registration” or “register” means the act or process of creating an electronic record, maintained by the department, of the assignment of a license plate or a set of license plates to and the issuance of a registration decal for a specific vehicle, the ownership of which has been established or is presumed in department records.

(63) “Registration decal” means an adhesive sticker produced by the department and issued by the department, its authorized agent, or a county treasurer to the owner of a motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat, personal watercraft, or snowmobile as proof of payment of all fees imposed for the registration period indicated on the sticker as recorded by the department under 61-3-101.

(64) “Registration receipt” means a paper record that is produced and issued or, if authorized by the department, an electronic record that is transmitted by the department, its authorized agent, or a county treasurer to the owner of a vehicle that identifies a vehicle, based on information maintained in the electronic record of title for the vehicle, and that provides evidence of the payment of all fees required to be paid for the registration of the vehicle for the registration period indicated in the receipt.

(65) “Retail sale” means the sale of a motor vehicle, trailer, semitrailer, pole trailer, travel trailer, motorboat, snowmobile, off-highway vehicle, or special mobile equipment by a dealer to a person for purposes other than resale.

(66) “Revocation” means the termination by action of the department of a person’s driver’s license, privilege to drive a motor vehicle on the public highways, and privilege to apply for and be issued a driver’s license for a period of time designated by law, during which the license or privilege may not be renewed, restored, or exercised. An application for a new license may be presented and acted on by the department after the expiration of the period of the revocation.

(67) “Roadway” means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event that a highway includes two or more separate roadways, the term refers to any roadway separately but not to all roadways collectively.

(68) (a) “Sailboat” means a vessel that uses a sail and wind as its primary source of propulsion.

(b) The term does not include a canoe or kayak propelled by wind.

(69) “School zone” means an area near a school beginning at the school’s front door, encompassing the campus and school property, and including the streets directly adjacent to the school property and for as many blocks surrounding the school as determined by the local authority establishing a special speed limit under 61-8-310(1)(d).

(70) “Sell” means to transfer ownership from one person to another person or from a dealer to another person for consideration.

(71) “Semitrailer” means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(72) “Snowmobile” means a self-propelled vehicle of an overall width of 48 inches or less, excluding accessories, that is designed primarily for travel on snow or ice, that may be steered by skis or runners, and that is not otherwise registered or licensed under the laws of the state of Montana.

(73) “Special mobile equipment” means a vehicle not designed for the transportation of persons or property on the highways but incidentally operated or moved over the highways, including road construction or maintenance machinery, ditch-digging apparatus, and well-boring apparatus. The fact that

equipment is permanently attached to a vehicle does not make the vehicle special mobile equipment. The enumeration in this subsection is partial and does not exclude other vehicles that are within the general terms of this subsection.

(74) (a) “Specially constructed vehicle” means a motor vehicle, including a motorcycle, that:

(i) was not originally constructed under a distinctive make, model, or type by a generally recognized manufacturer of motor vehicles;

(ii) has been structurally modified so that it does not have the same appearance as similar vehicles from a generally recognized manufacturer of motor vehicles;

(iii) has been constructed or assembled entirely from custom-built parts and materials not obtained from other vehicles;

(iv) has been constructed or assembled by using major component parts from one or more manufactured vehicles and that cannot be identified as a specific make or model; or

(v) has been constructed by the use of a kit that cannot be visually identified as a specific make or model.

(b) The term does not include a motor vehicle that has been repaired or restored to its original design by replacing parts.

(75) (a) “Sport utility vehicle” means a light vehicle designed to transport 10 or fewer persons that is constructed on a truck chassis or that has special features for occasional off-road use.

(b) The term does not include trucks having a manufacturer’s rated capacity of 1 ton or less.

(76) (a) “Stop”, when required, means complete cessation from movement.

(b) “Stop”, “stopping”, or “standing”, when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer, highway patrol officer, or traffic control sign or signal.

(77) “Storage lot” means property owned, leased, or rented by a dealer that is not contiguous to the dealer’s established place of business where a motor vehicle from the dealer’s inventory may be placed when space at the dealer’s established place of business is not available.

(78) “Street” means the entire width between the boundary lines of every publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel.

(79) “Street rod” means a motor vehicle, other than a motorcycle, that:

(a) was manufactured prior to 1949 or was built to resemble a vehicle manufactured before 1949, including a kit vehicle intended to resemble a vehicle manufactured before 1949; and

(b) has been altered from the manufacturer’s original design or has a body constructed from nonoriginal materials.

(80) “Suspension” means the temporary withdrawal by action of the department of a person’s driver’s license, privilege to drive a motor vehicle on the public highways, and privilege to apply for or be issued a driver’s license for a period of time designated by law.

(81) “Temporary registration permit” means a paper record:

(a) issued by the department, an authorized agent, a county treasurer, or a person, using a department-approved electronic interface after an electronic record has been transmitted to the department, that contains:

(i) required vehicle and owner information; and

(ii) the purpose for which the record was generated; and

(b) that, when placed in a durable license-plate style plastic pouch approved by the department and displayed as prescribed in 61-3-224, authorizes a person to operate the described motor vehicle, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for:

(i) 40 days from the date the record is issued or until the vehicle is registered under Title 23 or this title, whichever first occurs; or

(ii) 90 days from the date the record is issued for a permit issued pursuant to 61-3-303(3)(b).

(82) "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highways for purposes of travel.

(83) (a) "Trailer" means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that no part of its weight rests on the towing vehicle.

(b) The term does not include a mobile home or a manufactured home, as defined in 15-1-101.

(84) "Transaction summary receipt" means an electronic record produced and issued by the department, its authorized agent, or a county treasurer for which a paper receipt is issued. The record may be created by the department and transmitted to the owner of a vehicle, a secured party, or a lienholder. The record must contain a unique transaction record number and summarize and verify the electronic filing of the transaction described in the receipt on the electronic record of title maintained under 61-3-101.

(85) "Travel trailer" means a vehicle:

(a) that is ~~40~~ 46 feet or less in length;

(b) that is of a size or weight that does not require special permits when towed by a motor vehicle; and

~~(c) with gross trailer area of less than 320 square feet; and~~

~~(d)(c)~~ that is designed to provide temporary facilities for recreational, travel, or camping use and not used as a principal residence.

(86) "Truck" or "motortruck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

(87) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

(88) "Under the influence" has the meaning provided in 61-8-401.

(89) "Used motor vehicle" includes any motor vehicle that has been sold, bargained, exchanged, or given away or had its title transferred from the person who first took title to it from the manufacturer, importer, dealer, wholesaler, or agent of the manufacturer or importer and that has been used so as to have become what is commonly known as "secondhand" within the ordinary meaning of that term.

(90) "Van" means a motor vehicle designed for the transportation of at least six persons and not more than nine persons and intended for but not limited to family or personal transportation without compensation.

(91) (a) "Vehicle" means a device in, on, or by which any person or property may be transported or drawn on a public highway, except devices moved by animal power or used exclusively on stationary rails or tracks.

(b) The term does not include a manually or mechanically propelled wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as a means of mobility for that person.

(92) "Vehicle identification number" means the number, letters, or combination of numbers and letters assigned by the manufacturer, by the department, or in accordance with the laws of another state or country for

the purpose of identifying the motor vehicle or a component part of the motor vehicle.

(93) "Vessel" means every description of watercraft, unless otherwise defined by the department, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(94) "Wholesaler" means a person that for a commission or with intent to make a profit or gain of money or other thing of value sells, exchanges, or attempts to negotiate a sale or exchange of an interest in a used motor vehicle, trailer, semitrailer, pole trailer, travel trailer, motorboat, snowmobile, off-highway vehicle, or special mobile equipment only to dealers and auto auctions licensed under chapter 4, part 1."

Section 3. Section 61-3-206, MCA, is amended to read:

"61-3-206. Odometer disclosure requirements on transfer of vehicle – dealer to preserve record. (1) Except as provided in subsection (4), before executing any transfer of ownership document relating to a motor vehicle, each seller of a motor vehicle shall record on the certificate of title the odometer reading at the time of transfer or, if the certificate of title does not provide for the recording of the odometer reading, furnish to the purchaser a written statement, to be signed by the seller, that contains the following information:

- (a) the odometer reading at the time of transfer;
- (b) the date of transfer;
- (c) the seller's name and current address;
- (d) the purchaser's name and current address;
- (e) the motor vehicle year, make, model, body style, and identification number;

- (f) one of the following statements or certification:

- (i) a certification by the seller that, to the best of the seller's knowledge, the odometer reading reflects the actual miles or kilometers the vehicle has been driven;

- (ii) if the seller knows that the odometer reading reflects the amount of mileage in excess of the designed mechanical odometer limit of 99,999 miles or kilometers, the seller shall include a statement to that effect; or

- (iii) if the seller knows that the odometer reading differs from the number of miles or kilometers the motor vehicle has actually traveled and that the difference is greater than that caused by odometer calibration error, the seller shall include a statement that the odometer reading is not the actual mileage and should not be relied upon.

(2) The purchaser shall acknowledge receipt of the disclosure statement by signing it.

(3) For the purposes of this section, an odometer disclosure statement may be executed in electronic form and used with an electronic signature pursuant to Title 30, chapter 18, part 1.

(4) The seller of the following types of motor vehicles need not disclose the odometer reading of the vehicle as required in subsection (1):

- (a) a motor vehicle ~~that is 10 years old or older with a 2010 model year or earlier;~~

- (b) a motor vehicle with a 2011 model year or later that is 20 years old or older;

- ~~(b)(c)~~ (c) a vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, or sailboat that is not self-propelled;

- ~~(e)(d)~~ (d) a new motor vehicle transferred between dealers or wholesalers prior to its first retail sale, unless the motor vehicle has been used as a demonstrator;

- ~~(d)(e)~~ (e) a motor vehicle having a gross weight rating of more than 16,000 pounds; or

(e)(f) a motor vehicle sold directly by the manufacturer to an agency of the United States.

(5) A dealer, an auto auction, or a wholesaler licensed under chapter 4 of this title shall create a record of the information required in subsection (1) and shall maintain and preserve that record for at least 5 years after the date of sale of the motor vehicle to which the information pertains.”

Approved March 31, 2021

CHAPTER NO. 110

[HB 100]

AN ACT REVISING COMMUNITY COLLEGE DISTRICT AUDIT REQUIREMENTS; REQUIRING COMMUNITY COLLEGE DISTRICTS TO CONTRACT WITH A PRIVATE ACCOUNTING FIRM FOR AUDITS; REQUIRING A COMMUNITY COLLEGE DISTRICT TO PROVIDE ESTIMATED AUDIT COSTS TO THE BUDGET DIRECTOR AND TO PAY FOR ANY COSTS NOT COVERED BY LEGISLATIVE APPROPRIATION; AMENDING SECTIONS 5-13-402 AND 20-15-229, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5-13-402, MCA, is amended to read:

“5-13-402. Audit costs. (1) Prior to July 1 of the year preceding the regular session in which the legislature is adopting a state budget;:

(a) the legislative auditor shall advise each agency and the budget director of the estimated audit costs for the following biennium. Each agency shall include the estimated audit costs in its proposed budget submitted to the budget director pursuant to 17-7-112. The budget director shall notify the legislative auditor if the executive budget recommendation to the legislature for audit costs differs from that proposed by the legislative auditor.

(b) *the community college districts shall advise the budget director of the estimated audit costs for the following biennium. The budget director shall notify the community college districts if the executive budget recommendation to the legislature for audit costs differs from that proposed by the community college districts.*

(2) Not later than 60 days after adjournment of each legislature, the budget director shall provide to the legislative auditor a schedule reflecting, by fund, amounts appropriated to each agency for audit costs.

(3) The legislative auditor shall bill agencies for audit services that the legislative auditor considers necessary. The legislative auditor may not bill an agency for audit services in excess of amounts appropriated for audit services. Additional audit-related services may be provided by the legislative auditor at a cost agreed to by an agency and billed to the agency.”

Section 2. Section 20-15-229, MCA, is amended to read:

“20-15-229. Audit of district. A community college district is subject to audit by the legislative auditor in the same manner as a state agency. A community college district ~~may~~ *shall* contract for an audit with a private accounting firm, subject to approval of the legislative auditor. *A community college district is responsible for paying for any portion of contract costs not appropriated by the legislature. Each community college district shall provide a copy of its audit report to the legislative auditor.*”

Section 3. Effective date. [This act] is effective July 1, 2021.

Approved March 31, 2021

CHAPTER NO. 111

[HB 130]

AN ACT GENERALLY REVISING ALTERNATIVE PROJECT DELIVERY AND DESIGN-BUILD CONTRACTING LAWS; PROVIDING FOR A GENERAL CONTRACTOR CONSTRUCTION MANAGEMENT CONTRACTING PROCESS; REVISING DEFINITIONS; AMENDING SECTIONS 18-2-501, 18-8-204, 18-8-205, 60-2-112, 60-2-134, AND 60-2-137, MCA; AND PROVIDING A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. General contractor construction management contracting process – submission of proposals – duties. (1) After the commission, acting on the recommendation of the department, has identified a project for which the general contractor construction management contracting process will be used, and the commission has approved the selection criteria proposed by the department, the department shall prepare and advertise a request for qualifications.

(2) From the responders to the request for qualifications, the department shall prepare a short list of the responders that it believes are most qualified, not to exceed five responders on any single project.

(3) (a) The department shall announce the short list and issue a request for proposals to each of the prospective contractors on the short list.

(b) A technical and price proposal submitted in response to a request for proposals must contain detailed descriptions of the prospective contractor's approach to performing construction management during the preconstruction phase and the construction phase in accordance with the project delivery criteria package.

(4) (a) The department shall evaluate the technical and price proposals and make a written recommendation to the commission regarding the department's selection of the contractor to be awarded the preconstruction phase contract.

(b) After completion of the preconstruction services contract, the department shall make a written recommendation to the commission regarding award of the construction contract.

Section 2. Section 18-2-501, MCA, is amended to read:

“18-2-501. (Temporary) Definitions. As used in this part, unless the context clearly requires otherwise, the following definitions apply:

(1) (a) “Alternative project delivery contract” means a construction management contract, a ~~general contractor construction management~~ *general contractor construction management* contract, or a design-build contract.

(b) The term does not include a design-build contract awarded by the transportation commission under 60-2-111(3).

(2) “Construction management contract” means a contract in which the contractor acts as the public owner's construction manager and provides leadership and administration for the project, from planning and design, in cooperation with the designers and the project owners, to project startup and construction completion.

(3)(3) “Contractor” has the meaning provided in 18-4-123.

(4)(4) “Design-build contract” means a contract in which the designer-builder assumes the responsibility and the risk for architectural or engineering design and construction delivery under a single contract with the owner.

~~(5) “General contractor construction management contract” means a contract in which the general contractor, in addition to providing the preconstruction, budgeting, and scheduling services, procures necessary construction services, equipment, supplies, and materials through competitive bidding contracts with subcontractors and suppliers to construct the project.~~

(5) “General contractor construction management contract” means a contract in which the general contractor, in addition to providing the preconstruction, budgeting, and scheduling services, procures necessary construction services, equipment, supplies, and materials through competitive bidding contracts with subcontractors and suppliers to construct the project.

(6) “Governing body” means:

(a) the legislative authority of:

(i) a municipality, county, or consolidated city-county established pursuant to Title 7, chapter 1, 2, or 3;

(ii) a school district established pursuant to Title 20; or

(iii) an airport authority established pursuant to Title 67, chapter 11;

(b) the board of directors of a county water or sewer district established pursuant to Title 7, chapter 13, parts 22 and 23; or

(c) the trustees of a fire district established pursuant to Title 7, chapter 33, or the county commissioners or trustees of a fire service area established pursuant to 7-33-2401; or

(d) the transportation commission established in 2-15-2502.

(7) “Project” means any construction or any improvement of the land, a building, or another improvement that is suitable for use as a state or local governmental facility.

(8) “Publish” means publication of notice as provided for in 7-1-2121, 7-1-4127, 18-2-301, and 20-9-204.

(9) “State agency” has the meaning provided in 2-2-102. *This definition does not include the department of transportation.* (Terminates December 31, 2024--sec. 6, Ch. 54, L. 2017.)

18-2-501. (Effective January 1, 2025) Definitions. As used in this part, unless the context clearly requires otherwise, the following definitions apply:

(1) “Alternative project delivery contract” means a construction management contract, a ~~general contractor construction management~~ *general contractor construction management* contract, or a design-build contract.

(2) “Construction management contract” means a contract in which the contractor acts as the public owner’s construction manager and provides leadership and administration for the project, from planning and design, in cooperation with the designers and the project owners, to project startup and construction completion.

~~(3)~~(3) “Contractor” has the meaning provided in 18-4-123.

~~(4)~~(4) “Design-build contract” means a contract in which the designer-builder assumes the responsibility and the risk for architectural or engineering design and construction delivery under a single contract with the owner.

~~(5) “General contractor construction management contract” means a contract in which the general contractor, in addition to providing the preconstruction, budgeting, and scheduling services, procures necessary construction services, equipment, supplies, and materials through competitive bidding contracts with subcontractors and suppliers to construct the project.~~

(5) “General contractor construction management contract” means a contract in which the general contractor, in addition to providing the preconstruction, budgeting, and scheduling services, procures necessary

construction services, equipment, supplies, and materials through competitive bidding contracts with subcontractors and suppliers to construct the project.

(6) "Governing body" means:

(a) the legislative authority of:

(i) a municipality, county, or consolidated city-county established pursuant to Title 7, chapter 1, 2, or 3;

(ii) a school district established pursuant to Title 20; or

(iii) an airport authority established pursuant to Title 67, chapter 11;

(b) the board of directors of a county water or sewer district established pursuant to Title 7, chapter 13, parts 22 and 23; or

(c) the trustees of a fire district established pursuant to Title 7, chapter 33, or the county commissioners or trustees of a fire service area established pursuant to 7-33-2401.

(7) "Project" means any construction or any improvement of the land, a building, or another improvement that is suitable for use as a state or local governmental facility.

(8) "Publish" means publication of notice as provided for in 7-1-2121, 7-1-4127, 18-2-301, and 20-9-204.

(9) "State agency" has the meaning provided in 2-2-102, except that the department of transportation, provided for in 2-15-2501, is not considered a state agency."

Section 3. Section 18-8-204, MCA, is amended to read:

"18-8-204. Procedures for selection. (1) In the procurement of architectural, engineering, and land surveying services, the agency may encourage firms engaged in the lawful practice of their profession to submit annually or biennially a statement of qualifications and performance data. The agency shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and conduct discussions with one or more firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services.

(2) (a) The agency shall then select, based on criteria established under agency procedures and guidelines and the law, the firm considered most qualified to provide the services required for the proposed project.

(b) The agency procedures and guidelines must be available to the public and include at a minimum the following criteria as they relate to each firm:

(i) the qualifications of professional personnel to be assigned to the project;

(ii) capability to meet time and project budget requirements;

(iii) location;

(iv) present and projected workloads;

(v) related experience on similar projects; and

(vi) recent and current work for the agency.

(c) The agency shall follow the minimum criteria of this part if no other agency procedures are specifically adopted.

(3) After conducting an evaluation of firms pursuant to subsections (1) and (2)(b), a local agency may enter into a contract with one or more of those firms to provide architectural, engineering, or land surveying services on an as-needed basis for one or more projects and for a term to be mutually agreed to by the parties. Nothing in this subsection prevents a local agency from following the procurement procedures in this part for professional services for a particular project, unless a contract made pursuant to this subsection provides otherwise.

(4) The provisions of this section do not apply to procurement of architectural, engineering, and land surveying services for projects that the

~~department of transportation has determined~~ *are transportation commission has approved as part of the design-build contracting program authorized in 60-2-137.*

Section 4. Section 18-8-205, MCA, is amended to read:

"18-8-205. Negotiation of contract for services. (1) The agency shall negotiate a contract with the most qualified firm for architectural, engineering, and land surveying services at a price that the agency determines to be fair and reasonable. In making its determination, the agency shall take into account the estimated value of the services to be rendered, as well as the scope, complexity, and professional nature of the services.

(2) If the agency is unable to negotiate a satisfactory contract with the firm selected at a price the agency determines to be fair and reasonable, negotiations with that firm must be formally terminated and the agency shall select other firms in accordance with 18-8-204 and continue as directed in this section until an agreement is reached or the process is terminated.

(3) The provisions of this section do not apply to the negotiation of contracts for projects that the ~~department of transportation has determined~~ *are transportation commission has approved as part of the design-build contracting program authorized in 60-2-137.*

Section 5. Section 60-2-112, MCA, is amended to read:

"60-2-112. (Temporary) Competitive bidding – reciprocity.

(1) Except as provided in subsections (2) through (6), if the estimated cost of any work exceeds \$50,000, the commission shall award the contract by competitive bidding to the lowest responsible and responsive bidder. The award must be made upon the notice and terms that the commission prescribes by its rules. However, except when prohibited by federal law, the commission shall make awards and contracts in accordance with 18-1-102.

(2) The commission may award a contract by means other than competitive bidding if it determines that special circumstances so require. The commission shall specify the special circumstances in writing.

(3) The commission may enter into contracts with units of local government for the construction of projects without competitive bidding if it finds that the work can be accomplished at lower total costs, including total costs of labor, materials, supplies, equipment usage, engineering, supervision, clerical and accounting services, administrative costs, and reasonable estimates of other costs attributable to the project.

(4) The commission may delegate to the department the authority to enter, without competitive bidding, agreed-upon price contracts for projects costing \$50,000 or less.

(5) The commission may award a design-build contract under the design-build contracting program if the provisions of 60-2-137 have been met.

(6) The commission or the department may not enter into a contract for a state-funded highway project or a construction project with a bidder whose operations are not headquartered in the United States unless:

(a) the foreign country, or province or other political subdivision of that country, in which the bidder is headquartered affords companies based in the United States open, fair, and nondiscriminatory access to bidding on highway projects and construction projects located in the foreign country, or province or other political subdivision of that country; and

(b) the department has entered into a reciprocity agreement with or has exchanged letters of information with the foreign country, or province or other political subdivision of that country, that addresses:

(i) the equal and fair treatment of bids originating in the United States and in the foreign country, or province or other political subdivision of that country;

(ii) specific ownership requirements and tax policies in the United States and in the foreign country, or province or other political subdivision of that country, that may result in the unequal treatment of all bids received, regardless of their origin;

(iii) the means by which contractors from both the United States and the foreign country, or province or other political subdivision of that country, are notified of highway projects and construction projects available for bid; and

(iv) any other differences in public policy or procedure that may result in the unequal treatment of bids originating in the United States or in the foreign country, or province or other political subdivision of that country, for projects located in either the United States or the foreign country, or province or other political subdivision of that country.

(7) Subject to 60-2-119, the commission may award ~~alternative project delivery general contractor construction management~~ contracts in accordance with Title 18, chapter 2, part 5, ~~for projects that the department has determined are appropriate for those contracts. if the provisions of [section 1] have been met.~~

(8) For the purposes of subsection (6), “construction” has the meaning provided in 18-2-101. (Terminates December 31, 2024--sec. 6, Ch. 54, L. 2017.)

60-2-112. (Effective January 1, 2025) Competitive bidding – reciprocity. (1) Except as provided in subsections (2) through (6), if the estimated cost of any work exceeds \$50,000, the commission shall award the contract by competitive bidding to the lowest responsible and responsive bidder. The award must be made upon the notice and terms that the commission prescribes by its rules. However, except when prohibited by federal law, the commission shall make awards and contracts in accordance with 18-1-102.

(2) The commission may award a contract by means other than competitive bidding if it determines that special circumstances so require. The commission shall specify the special circumstances in writing.

(3) The commission may enter into contracts with units of local government for the construction of projects without competitive bidding if it finds that the work can be accomplished at lower total costs, including total costs of labor, materials, supplies, equipment usage, engineering, supervision, clerical and accounting services, administrative costs, and reasonable estimates of other costs attributable to the project.

(4) The commission may delegate to the department the authority to enter, without competitive bidding, agreed-upon price contracts for projects costing \$50,000 or less.

(5) The commission may award a design-build contract under the design-build contracting program if the provisions of 60-2-137 have been met.

(6) The commission or the department may not enter into a contract for a state-funded highway project or a construction project with a bidder whose operations are not headquartered in the United States unless:

(a) the foreign country, or province or other political subdivision of that country, in which the bidder is headquartered affords companies based in the United States open, fair, and nondiscriminatory access to bidding on highway projects and construction projects located in the foreign country, or province or other political subdivision of that country; and

(b) the department has entered into a reciprocity agreement with or has exchanged letters of information with the foreign country, or province or other political subdivision of that country, that addresses:

(i) the equal and fair treatment of bids originating in the United States and in the foreign country, or province or other political subdivision of that country;

(ii) specific ownership requirements and tax policies in the United States and in the foreign country, or province or other political subdivision of that country, that may result in the unequal treatment of all bids received, regardless of their origin;

(iii) the means by which contractors from both the United States and the foreign country, or province or other political subdivision of that country, are notified of highway projects and construction projects available for bid; and

(iv) any other differences in public policy or procedure that may result in the unequal treatment of bids originating in the United States or in the foreign country, or province or other political subdivision of that country, for projects located in either the United States or the foreign country, or province or other political subdivision of that country.

(7) For the purposes of subsection (6), “construction” has the meaning provided in 18-2-101.”

Section 6. Section 60-2-134, MCA, is amended to read:

“60-2-134. Definitions. For the purposes of 18-8-204, 18-8-205, 60-2-111, 60-2-112, 60-2-137, and this section, the following definitions apply:

(1) “Design-build contracting” means the process of entering into a single contract between the commission and a design-build contractor in which the design-build contractor agrees to design and build a highway, structure, or facility or any other items required in a request for proposals.

(2) “Design-build contractor” means an individual, partnership, corporation, joint venture, or other legally recognized entity that is appropriately licensed in Montana and that provides the necessary design and construction services, including contract administration.

(3) “Design-build criteria package” means the document provided by the department that contains the information necessary to guide a prospective design-build contractor in the preparation and submission of a proposal for a design-build project.

(4) “Request for proposals” means a part of the design-build *or alternative project delivery* criteria package that contains a detailed scope of work, including design concepts, technical requirements and specifications, the time allowed for design and construction, the department’s estimated cost of the project, the deadline for submitting a proposal, the selection criteria, and a copy of the contract.

(5) “Request for qualifications” means a part of the design-build *or alternative project delivery* criteria package that contains the desired minimum qualifications of the design-build contractor, a scope of work statement, the project requirements, the amount of reimbursement that the commission has determined will be paid to prospective design-build contractors who qualify for the short list but are not awarded a contract, and the selection criteria that the department will use in compiling the short list of prospective design-build contractors to consider.”

Section 7. Section 60-2-137, MCA, is amended to read:

“60-2-137. Design-build contracting process – submission of proposals – department’s duties. (1) Once the *commission, acting on a recommendation of the department*, has identified a project for which the design-build contracting process will be used, *and the commission has approved selection criteria proposed by the department*, the department shall prepare and advertise a request for qualifications.

(2) From the responders to the request for qualifications, the department shall prepare a short list of the responders that it believes are most qualified, not to exceed five responders on any single project.

(3) (a) The department shall announce the short list and issue a request for proposals to each of the prospective design-build contractors on the short list, who may then submit a technical and price proposal to the department.

(b) A technical and price proposal submitted in response to a request for proposals must contain detailed descriptions of the prospective design-build contractor's approach to designing, constructing, and managing the project in accordance with the design-build criteria package. The technical and price proposal must also include the prospective design-build contractor's conceptual design and construction sequence and schedule and the lump-sum price to complete the project.

(4) The department shall evaluate the technical and price proposals and make a written recommendation to the commission regarding the department's selection of the design-build contractor to be awarded the contract.

(5) The prospective design-build contractors who appeared on the department's short list but are not awarded the contract may be paid a stipend, in an amount determined by the commission, for costs incurred in submitting the response to the department's request for proposals."

Section 8. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 60, chapter 2, part 1, and the provisions of Title 60, chapter 2, part 1, apply to [section 1].

Section 9. Termination. [Section 1] terminates December 31, 2024.

Approved March 31, 2021

CHAPTER NO. 112

[HB 133]

AN ACT CREATING AN ANTILITTERING SIGN SPECIAL REVENUE ACCOUNT TO BE FUNDED BY DONATION; PROVIDING FOR THE MAKING AND INSTALLATION OF ANTILITTERING SIGNS PAID FOR BY DONATED MONEY; PROVIDING RULEMAKING AUTHORITY; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Antilittering signs. (1) (a) There is an antilittering sign special revenue account within the state special revenue fund established in 17-2-102.

(b) There must be paid into the account money received from donations for the making and installation of antilittering signs.

(c) Money in the account is statutorily appropriated, as provided in 17-7-502, to the department of transportation and may only be used for the design, making, installation, and maintenance of antilittering signs.

(2) The department shall:

(a) design a highway sign conveying in words or images an antilittering message;

(b) make known to the public the cost of making and installing antilittering signs, the method for donating money for antilittering signs, and a method for designating preferred locations for sign installation;

(c) make and install antilittering signs at appropriate locations on the public highways of the state. Only donated money may be used for this subsection (2)(c).

(3) The department may adopt rules to implement this section.

Section 2. Section 17-7-502, MCA, is amended to read:

“17-7-502. Statutory appropriations – definition – requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 5-13-404; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-108; 53-24-206; [section 1]; 60-11-115; 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-151; 76-13-150; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-2-526; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 33, Ch. 457, L. 2015,

the inclusion of 20-9-905 terminates December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates June 30, 2021; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-209 terminates September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027; pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; and pursuant to sec. 5, Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023.)”

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 60, chapter 5, and the provisions of Title 60, chapter 5, apply to [section 1].

Section 4. Effective date. [This act] is effective July 1, 2021.

Approved March 31, 2021

CHAPTER NO. 113

[HB 177]

AN ACT REVISING LICENSURE REQUIREMENTS FOR PROFESSIONS UNDER THE BOARD OF BEHAVIORAL HEALTH; PROVIDING ALTERNATE EDUCATIONAL PATHS AS DETERMINED BY THE BOARD BY RULE FOR SOCIAL WORKERS, PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, AND ADDICTION COUNSELORS; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 37-22-301, 37-23-202, 37-35-202, AND 37-37-201, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-22-301, MCA, is amended to read:

“37-22-301. License requirements – rulemaking – exemptions.

(1) An applicant to be a licensed clinical social worker:

(a) (i) must have a doctorate or master’s degree in social work from a program accredited by the council on social work education or approved by the board; ~~and~~ or

(ii) *if the applicant has not completed a degree listed in subsection (1)(a)(i), must have met the requirements established by the board by rule for additional postdegree social work experience equivalent to the provisions of subsections (1)(a)(i) and (1)(b); and*

(b) must have registered as a social worker licensure candidate, as provided in 37-22-313, and completed at least 24 months of supervised post-master’s degree work experience in psychotherapy, which must have included 3,000 hours of social work experience, of which at least 1,500 hours were in direct client contact, within the past 5 years.

(2) After completing the required supervised work experience as a social worker licensure candidate, the applicant shall:

(a) provide the board with three letters of reference from professionals licensed by the board or academic professors who have knowledge of the applicant’s professional performance;

(b) satisfactorily complete an examination prescribed by the board. An applicant who fails the examination may reapply to take the examination and may continue as a social worker licensure candidate, subject to the terms set by the board.

(c) submit a completed application required by the board and the application fee prescribed by the board.

(3) A licensed clinical social worker:

(a) is subject to the social work ethical standards adopted under 37-22-201;

(b) may engage in independent practice, as defined by the board, upon receiving a license; and

(c) may use the initials "LSW" or "LCSW" for "licensed social worker" or "licensed clinical social worker".

(4) An applicant is exempt from the examination requirement in subsection (2)(b) if the applicant:

(a) proves to the board that the applicant is licensed, certified, or registered in a state or territory of the United States under laws that have substantially the same requirements as this chapter; and

(b) has passed an examination similar to that required by the board.

(5) As a prerequisite to the issuance of a license, the board shall require the applicant to submit fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307. The board may require a criminal background check of applicants and determine the suitability for licensure as provided in 37-1-201 through 37-1-205 and 37-1-307.

(6) The board shall adopt rules to implement this section."

Section 2. Section 37-23-202, MCA, is amended to read:

"37-23-202. Licensure requirements. (1) An applicant for licensure must have satisfactorily:

(a) completed a planned graduate program of 60 semester hours, primarily counseling in nature, 6 semester hours of which were earned in an advanced counseling practicum that resulted in a graduate degree from an institution accredited to offer a graduate program in counseling;

(b) completed 3,000 hours of counseling practice supervised by a licensed professional counselor or licensed member of an allied mental health profession, at least half of which was postdegree. The applicant ~~must~~ *shall* have each supervisor endorse the application for licensure, attesting to the number of hours supervised.

(c) passed an examination prepared and administered by:

(i) the national board of certified counselors; or

(ii) the national academy of certified clinical mental health counselors; and

(d) completed an application.

(2) The board shall provide by rule for licensure of a person who possesses a graduate degree that consists of a minimum of 45 semester hours primarily related to counseling and that is from an institution accredited to offer a graduate program in counseling, by specifying:

(a) the additional graduate credit hours necessary to fulfill the requirements of subsection (1)(a) in counseling courses in an approved program within a period of 5 years; or

(b) *the number of postdegree counseling hours considered equivalent to the requirements for credit hours described in subsection (1)(a).*

(3) As a prerequisite to the issuance of a license, the board shall require the applicant to submit fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307.

(4) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust, and if the board determines that the applicant is not, the license may be denied.”

Section 3. Section 37-35-202, MCA, is amended to read:

“37-35-202. Licensure and registration requirements – examination – fees – fingerprint check. (1) To be eligible for licensure as a licensed addiction counselor, the applicant shall submit an application fee in an amount established by the board by rule and a written application on a form provided by the board that demonstrates that the applicant has completed the eligibility requirements and competency standards as defined by board rule.

(2) A person may apply for licensure as a licensed addiction counselor if the person has:

(a) received a baccalaureate or advanced degree in alcohol and drug studies, psychology, sociology, social work, or counseling, or a comparable degree from an accredited college or university; or

(b) received an associate of arts degree in alcohol and drug studies, addiction, or substance abuse from an accredited institution; or

(c) *if the person has not completed a degree listed in subsection (2)(a) or (2)(b), met the additional work experience requirements in an addiction treatment program set by the board by rule as equivalent and necessary to meet the provisions of subsection (2)(a) or (2)(b).*

(3) Prior to becoming eligible to begin the examination process, each person shall complete supervised work experience in an addiction treatment program as defined by the board, in a program approved by the board, or in a similar program recognized under the laws of another state.

(4) Each applicant shall successfully complete a competency examination, in writing only, as defined by rules adopted by the board. *The board shall provide by rule how much experience counts for the examination.*

(5) (a) Except as provided in ~~subsections subsection (5)(d) and (6)~~, an applicant who has completed the requirements of subsection (2) but has not completed the required supervised work experience may apply for registration as an addiction counselor licensure candidate.

(b) An application for registration as an addiction counselor licensure candidate must be approved if it is determined that:

(i) a complete application approved by the board has been submitted;

(ii) there is no legal or disciplinary action against the applicant in this or any other state;

(iii) the applicant for registration as an addiction counselor licensure candidate ~~may only function participated in training only~~ under the supervision of a supervisor who is trained in addiction counseling or a related field as defined by rule and who has an active license in good standing in Montana or any other state; and

(iv) the applicant has completed all educational *or work experience* requirements as prescribed in subsection (2)(a) ~~or~~, (2)(b), or (2)(c), *as applicable*.

(c) A person registered as an addiction counselor licensure candidate shall register annually until the person becomes a licensed addiction counselor. The board may limit the number of years that a person may act as an addiction counselor licensure candidate.

(d) A student is not required to register as an addiction counselor licensure candidate.

~~(6) The provisions of subsection (5) do not apply until the board has adopted rules implementing this section. The rules must provide for a waiver of the provisions of subsection (5) for a person who is engaged in a supervised work experience prior to the adoption of the rules.~~

(7)(6) (a) As a prerequisite to the issuance of a license and registration as an addiction counselor licensure candidate, the board shall require an applicant to submit fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307.

(b) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust and if the board determines that the applicant is not, the license may be denied.

(8)(7) A person holding a license to practice as a licensed addiction counselor in this state may use the title "licensed addiction counselor".

(9)(8) For the purposes of this section, "comparable degree" means a degree with accredited college course work, of which 6 credit hours must be in human behavior, sociology, psychology, or a similar emphasis, 3 credit hours must be in psychopathology or course work exploring patterns and courses of abnormal or deviant behavior, and 9 credit hours must be in counseling. For the 9 credit hours in counseling, 6 credit hours must be in group counseling and 3 credit hours must be in the theory of counseling. The credit hours specified in this subsection may be obtained in an associate or master's degree program if the applicant does not have a qualifying baccalaureate degree."

Section 4. Section 37-37-201, MCA, is amended to read:

"37-37-201. License requirements – exemptions. (1) An applicant for a license shall pay an application fee set by the board by rule. The board may provide a separate, combined fee for persons licensed by the board holding dual licenses. An applicant for a license under this section shall also complete an application on a form provided by the department and provide documentation to the board that the applicant:

(a) (i) has a master's degree or a doctoral degree in marriage and family therapy from a recognized educational institution or a degree from a program accredited by the commission on accreditation for marriage and family therapy education; or

(ii) has a graduate degree in an allied field from a recognized educational institution and graduate level work that the board determines to be the equivalent of a master's degree in marriage and family therapy or marriage and family counseling; or

(iii) *has met additional postdegree experience requirements set by the board by rule as being equivalent to the degree requirements in subsection (1)(a)(i) or (1)(a)(ii) if the applicant does not have a degree as provided in subsection (1)(a)(i) or (1)(a)(ii);*

(b) has successfully passed an examination prescribed by the board;

(c) has worked under the direct supervision of a qualified supervisor for at least 3,000 hours, including 1,000 hours of face-to-face client contact in the practice of marriage and family therapy, of which up to 500 hours may be accumulated while achieving the educational credentials listed in subsection (1)(a)(i) or (1)(a)(ii); and

(d) is of good moral character. Being of good moral character includes in its meaning that the applicant has not been convicted by a court of competent jurisdiction of a crime described by board rule as being of a nature that renders the applicant unfit to practice marriage and family therapy.

(2) As a prerequisite to the issuance of a license, the board shall require the applicant to submit fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307.

(3) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust, and if the board determines that the applicant is not, the license may be denied.

(4) An applicant is exempt from the examination requirement in subsection (1)(b) if the board is satisfied that:

(a) the applicant is licensed, certified, or registered under the laws of a state or territory of the United States that imposes substantially the same requirements as this chapter and has passed an examination similar to that required by the board; or

(b) the applicant is licensed as a clinical social worker under Title 37, chapter 22, or as a clinical professional counselor under Title 37, chapter 23, and has practiced marriage and family therapy within the state for a period prescribed by the board.

(5) A person is exempt from licensure as a marriage and family therapist if the person practices marriage and family therapy:

(a) under qualified supervision in a training institution or facility or other supervisory arrangements approved by the board and uses the title of intern;

(b) as part of the person's duties as a member of the clergy or priesthood;
or

(c) while registered as a social worker licensure candidate, professional counselor licensure candidate, or marriage and family therapist licensure candidate."

Section 5. Coordination instruction. If both Senate Bill No. 102 and [this act] are passed and approved and if both contain a section that amends 37-23-202, then [section 2 of this act], amending 37-23-202, is void.

Section 6. Coordination instruction. If both Senate Bill No. 166 and [this act] are passed and approved and if both contain a section that amend 37-35-202, then the sections amending 37-35-202 are void, and 37-35-202 must be amended as follows:

"37-35-202. Licensure and registration requirements – examination – fees – fingerprint check. (1) To be eligible for licensure as a licensed addiction counselor, the applicant shall submit an application fee in an amount established by the board by rule and a written application on a form provided by the board that demonstrates that the applicant has completed the eligibility requirements and competency standards as defined by board rule.

(2) ~~A person may apply for licensure as a licensed addiction counselor if the person has~~ *An applicant must meet one of the following degree requirements:*

(a) ~~received a minimum of~~ a baccalaureate or advanced degree ~~from an accredited college or university in one of the following areas: in~~

(i) alcohol and drug studies;;

(ii) psychology;;

(iii) sociology;;

(iv) social work; ~~or;~~

(v) counseling; ~~or a comparable degree from an accredited college or university; or~~

(vi) human services;

(vii) psychiatric rehabilitation; or

(viii) community health;

(b) ~~received a minimum of~~ an associate of arts degree ~~or a certificate from an accredited institution in one of the following areas:~~

(i) alcohol and drug studies;;

(ii) addiction;; or

(iii) substance abuse; ~~or from an accredited institution.~~

(c) a minimum of a baccalaureate or advanced degree from an accredited college or university in any area. Either as part of that degree or taken as courses outside the degree from an accredited college or university, the applicant must have the following:

(i) six semester credits in human behavior, sociology, psychology or a similar emphasis;

(ii) three semester credits in psychopathology or course work exploring patterns and courses of abnormal or deviant behavior; and

(iii) six semester credits in counseling. Three of these six credits must be in group counseling and three must be in the theory of counseling.

(d) if the person has not completed a degree listed in subsections (2)(a) through (2)(c), met the additional work experience requirements in an addiction treatment program set by the board by rule as equivalent and necessary to meet the provisions of (2)(a), (2)(b), or (2)(c).

(3) Prior to becoming eligible to begin the examination process, each ~~person~~ applicant shall complete supervised work experience in:

(a) an addiction treatment program as defined by the board; ~~in;~~

(b) a program approved by the board; ~~or;~~ or

(c) ~~in~~ a similar program recognized under the laws of another state.

(4) Each applicant for licensure as a licensed addiction counselor shall successfully complete a competency examination, ~~in writing only, as defined by rules adopted by the board pass a written examination prescribed by the board. The board shall provide by rule how much experience counts for the examination.~~

(5) (a) ~~Except as provided in subsections (5)(d) and (6), an applicant who has completed the requirements of subsection (2) but has not completed the required supervised work experience may apply for registration as an addiction counselor licensure candidate. A person who has completed the education required for licensure but who has not completed the supervised work experience required for licensure shall register as an addiction counselor license candidate in order to engage in addiction counseling and earn supervised work experience hours in this state.~~

(b) ~~An application for registration as an addiction counselor licensure candidate must be approved if it is determined that:~~

(i) ~~a complete application approved by the board has been submitted;~~

(ii) ~~there is no legal or disciplinary action against the applicant in this or any other state;~~

(iii) ~~the applicant for registration as an addiction counselor licensure candidate may only function under the supervision of a supervisor who is trained in addiction counseling or a related field as defined by rule and who has an active license in good standing in Montana or any other state; and~~

(iv) ~~the applicant has completed all educational requirements as prescribed in subsection (2)(a) or (2)(b).~~

(c)(b) A person registered as an addiction counselor licensure candidate shall register annually until the person becomes a licensed addiction counselor. The board may limit the number of years that a person may act as an addiction counselor licensure candidate.

(d)(c) A student is not required to register as an addiction counselor licensure candidate.

(6) ~~The provisions of subsection (5) do not apply until the board has adopted rules implementing this section. The rules must provide for a waiver of the provisions of subsection (5) for a person who is engaged in a supervised work experience prior to the adoption of the rules.~~

(7)(6) (a) As a prerequisite to the issuance of a license and registration as an addiction counselor licensure candidate, the board shall require an applicant to submit fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307. *The board may require a criminal background check of applicants and determine the suitability for licensure as provided in 37-1-201 through 37-1-205 and 37-1-307.*

(b) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust and if the board determines that the applicant is not, the license may be denied.

(8)(7) A person holding a license to practice as a licensed addiction counselor in this state may use the title “licensed addiction counselor”.

(9) ~~For the purposes of this section, “comparable degree” means a degree with accredited college course work, of which 6 credit hours must be in human behavior, sociology, psychology, or a similar emphasis, 3 credit hours must be in psychopathology or course work exploring patterns and courses of abnormal or deviant behavior, and 9 credit hours must be in counseling. For the 9 credit hours in counseling, 6 credit hours must be in group counseling and 3 credit hours must be in the theory of counseling. The credit hours specified in this subsection may be obtained in an associate or master’s degree program if the applicant does not have a qualifying baccalaureate degree.”~~

Approved March 31, 2021

CHAPTER NO. 114

[HB 213]

AN ACT CLARIFYING THE START OF APPRENTICESHIP WAGE RATES; AMENDING SECTION 18-2-416, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 18-2-416, MCA, is amended to read:

“18-2-416. Wages paid to registered apprentices. (1) (a) Only an apprentice whose indenture agreement is registered with the department under Title 39, chapter 6, or recognized by the department as being registered with an appropriate registration agency of another state or the federal government may be paid as provided in subsection (2) when working on a public works contract.

(b) An apprentice whose indenture agreement is not registered with or recognized by the department must be paid the full amount of the standard prevailing rate of wages, including any applicable travel allowances.

(c) *An apprenticeship’s rate of wages starts at the date of registration with the sponsor.*

(2) A recognized, registered apprentice must be paid the percentage of the standard prevailing rate of wages provided for in the apprenticeship standards applicable to that apprentice. The percentage amount applies to wage rates only and not to fringe benefits. The full amount of any applicable fringe benefits must be paid to the apprentice while the apprentice is working on the public works contract.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved March 31, 2021

CHAPTER NO. 115

[HB 214]

AN ACT PROVIDING THE BOARD OF HORSERACING DISCRETION IN ALLOCATING SOURCE MARKET FEES; PROVIDING THAT THE BOARD MAY ALLOCATE CERTAIN FEES TO THE OWNER BONUS PROGRAM AND THE BREEDER BONUS PROGRAM; AND AMENDING SECTION 23-4-302, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 23-4-302, MCA, is amended to read:

“23-4-302. Distribution of deposits – breakage. (1) Each licensee conducting the parimutuel system for a simulcast race meet shall distribute all funds deposited in any pool to the winner of the parimutuel pool, less an amount that in the case of exotic wagering on races may not exceed 26% and in all other races may not exceed 20% of the total deposits plus the odd cents of all redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of 10, known as “breakage”.

(2) Each licensee conducting the parimutuel system for a simulcast race meet shall distribute all funds deposited with the licensee in any pool for the simulcast race meet, less an amount that in the case of exotic wagering on these races may not exceed 26%, unless the signal originator percentage is higher, in which case the Montana simulcast licensee may adopt the same percentage withheld as the place where the signal originated, and that in all other of these races may not exceed 20% of the total deposits plus the odd cents of all redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of 10, known as “breakage”.

(3) Each licensee conducting a parimutuel system for a simulcast race meet shall deduct 1% of the total amount wagered on the race meet and deposit it in a state special revenue account. The board shall then distribute all funds collected under this subsection to live race purses or for other purposes that the board considers appropriate for the good of the existing horseracing industry.

(4) (a) Source market fees from licensed advance deposit wagering hub operators must be deposited by the board in the board’s state special revenue account.

(b) The board shall pay 80% of the source market fees generated between May 1 and the following April 30 to live race meet licensees based on each live race meet licensee’s percentage of the total annual on-track parimutuel handle during the previous live race season. Prior to the beginning of each year’s live race season, the correct percentage must be distributed by the board to each live race meet licensee to be used for race purses or other purposes that the board considers appropriate for the good of the horseracing industry.

(c) Ten percent of the source market fees paid to the board in a calendar year may be retained by the board for the payment of administrative expenses. One-half of the remaining 10% of the source market fees paid to the board in a calendar year ~~must~~ *may*, by January 31 of the following calendar year, be paid to the owner bonus program and the other one-half to the breeder bonus program.

(5) (a) The parimutuel network licensee conducting fantasy sports league wagering shall distribute all funds deposited in the pool to the winner of the parimutuel pool less the takeout amount of not more than 30% of the total deposits.

(b) The takeout amount must be distributed according to the yearly license agreement between the parimutuel facility licensee, the parimutuel network

licensee, and the board. No more than 10% of the amount collected under this subsection (5)(b) may be appropriated by the legislature for administration of this chapter. The remaining portion collected under this subsection (5)(b) must be deposited in a state special revenue account. The board shall then distribute this portion to live race purses and for other purposes that the board considers appropriate for the good of the existing horseracing industry.

(c) The odd cents of all redistribution based on each dollar deposited that exceeds a sum equal to the next lowest multiple of 10, known as “breakage”, as well as unclaimed winning tickets from each parimutuel pool, must be distributed by the board to live race purses or for other purposes that the board considers appropriate for the good of the existing horseracing industry.”

Approved March 31, 2021

CHAPTER NO. 116

[HB 232]

AN ACT PROVIDING CONFIDENTIALITY OF PERSONAL INFORMATION FOR STATE LOTTERY GAMES AND SPORTS GAMBLING; AND PROVIDING EXCEPTIONS FOR COURT ORDERS.

WHEREAS, the Legislature recognizes the individual privacy rights of a lottery participant and winner under Article II, section 10, of the Montana Constitution outweigh the public’s right to know under Article II, section 9; and

WHEREAS, this act legislatively recognizes this privacy interest.

Be it enacted by the Legislature of the State of Montana:

Section 1. Confidentiality of players. The personal information about a player who participates in lottery games and sports gambling as provided in this chapter is confidential and may not be disclosed to the public unless the player authorizes, in writing, the release of the information. Nothing in this section prohibits:

- (1) the state lottery from complying with 23-7-312; and
- (2) disclosure of the information through an order issued by a court of competent jurisdiction on a finding that the disclosure of the personal information is necessary because the merits of public disclosure clearly exceed the demand for individual privacy.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 23, chapter 7, part 3, and the provisions of Title 23, chapter 7, part 3, apply to [section 1].

Approved March 31, 2021

CHAPTER NO. 117

[HB 254]

AN ACT REVISING THE WRONGFUL DISCHARGE ACT; REVISING PROVISIONS RELATING TO ELEMENTS OF WRONGFUL DISCHARGE AND THE EMPLOYMENT RELATIONSHIP; PROVIDING FOR PROBATIONARY PERIODS; PROVIDING DEFINITIONS; AMENDING SECTIONS 39-2-903, 39-2-904, 39-2-905, 39-2-911, AND 39-2-912, MCA; REPEALING SECTIONS 39-2-703 AND 39-2-704, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Probationary period. (1) If an employer does not establish a specific probationary period or provide that there is no probationary period prior to or at the time the employee begins work, there is a probationary period of 12 months commencing on the date the employee begins work.

(2) An employer may extend a probationary period prior to the expiration of a probationary period, but the original probationary period together with any periods of extension may not exceed 18 months.

(3) If an employee has one or more leaves of absence during the original probationary period or any extension of the probationary period, the time of each leave of absence may not be a part of the probationary period unless the employer affirmatively elects to include each leave of absence as part of the probationary period.

Section 2. Section 39-2-903, MCA, is amended to read:

“39-2-903. Definitions. In this part, the following definitions apply:

(1) “Constructive discharge” means the voluntary termination of employment by an employee because of a situation created by an act or omission of the employer which an objective, reasonable person would find so intolerable that voluntary termination is the only reasonable alternative. Constructive discharge does not mean voluntary termination because of an employer’s refusal to promote the employee or improve wages, responsibilities, or other terms and conditions of employment.

(2) “Discharge” includes a constructive discharge as defined in subsection (1) and any other termination of employment, including resignation, elimination of the job, layoff for lack of work, failure to recall or rehire, and any other cutback in the number of employees for a legitimate business reason.

(3) “Employee” means a person who works for another for hire. The term does not include a person who is an independent contractor.

(4) “Fringe benefits” means the value of any employer-paid vacation leave, sick leave, medical insurance plan, disability insurance plan, life insurance plan, and pension benefit plan in force on the date of the termination.

(5) “Good cause” means *any* reasonable job-related grounds for *an* employee’s dismissal based on:

(a) *a the employee’s* failure to satisfactorily perform job duties;;

(b) *the employee’s* disruption of the employer’s operation;;

(c) *the employee’s material or repeated violation of an express provision of the employer’s written policies; or*

(d) ~~or~~ other legitimate business ~~reason~~ *reasons determined by the employer while exercising the employer’s reasonable business judgment.* The legal use of a lawful product by an individual off the employer’s premises during nonworking hours is not a legitimate business reason, unless the employer acts within the provisions of 39-2-313(3) or (4).

(6) “Leave of absence” means *an employee’s absence from work for a period of more than 5 consecutive working days for any reason other than holidays and vacations.*

(6)(7) “Lost wages” means the gross amount of wages that would have been reported to the internal revenue service as gross income on form W-2 and includes additional compensation deferred at the option of the employee.

(7)(8) “Public policy” means a policy in effect at the time of the discharge concerning the public health, safety, or welfare established by constitutional provision, statute, or administrative rule.”

Section 3. Section 39-2-904, MCA, is amended to read:

“39-2-904. Elements of wrongful discharge —presumptive probationary period. (1) A discharge is wrongful only if:

(a) it was in retaliation for the employee's refusal to violate public policy or for reporting a violation of public policy;

(b) the discharge was not for good cause and the employee had completed the employer's probationary period of employment; or

(c) the employer *materially violated the express provisions of its an express provision of its own written personnel policy prior to the discharge, and the violation deprived the employee of a fair and reasonable opportunity to remain in a position of employment with the employer.*

(2) (a) During a probationary period of employment, the employment may be terminated at the will of either the employer or the employee on notice to the other for any reason or for no reason.

(b) ~~If an employer does not establish a specific probationary period or provide that there is no probationary period prior to or at the time of hire, there is a probationary period of 6 months from the date of hire.~~

(3) *The employer has the broadest discretion when making a decision to discharge any managerial or supervisory employee."*

Section 4. Section 39-2-905, MCA, is amended to read:

"39-2-905. Remedies. (1) If an employer has committed a wrongful discharge, the employee may be awarded lost wages and fringe benefits for a period not to exceed 4 years from the date of discharge, together with interest on the lost wages and fringe benefits. ~~Interim~~ *The employee's interim earnings, derived from any new kind, nature, or type of work, hire, contractor status, or employment that did not exist at the time of discharge, including amounts the employee could have earned with reasonable diligence from the work, hire, contractor status, or employment, must be deducted from the amount awarded for lost wages. Before interim earnings are deducted from lost wages, there must be deducted from the interim earnings any reasonable amounts expended by the employee in searching for, obtaining, or relocating to new employment.*

(2) *Following any verdict or award in favor of the discharged employee, the district court shall consider any monetary payments, compensation, or benefits the employee received arising from or related to the discharge, including unemployment compensation or benefits and early retirement pay, and shall deduct those payments, compensation, and benefits from the amount awarded for lost wages before entering judgment.*

(3) The employee may recover punitive damages otherwise allowed by law if it is established by clear and convincing evidence that the employer engaged in actual fraud or actual malice in the discharge of the employee in violation of 39-2-904(1)(a).

(3)(4) There is no right under any legal theory to damages for wrongful discharge under this part for pain and suffering, emotional distress, compensatory damages, punitive damages, or any other form of damages, except as provided for in subsections (1) and (2)."

Section 5. Section 39-2-911, MCA, is amended to read:

"39-2-911. Limitation of actions. (1) An action under this part must be filed within 1 year after the date of discharge.

(2) If an employer maintains written internal procedures, other than those specified in 39-2-912, under which an employee may appeal a discharge within the organizational structure of the employer, the employee shall first exhaust those procedures prior to filing an action under this part. The employee's failure to initiate or exhaust available internal procedures is a defense to an action brought under this part. If the employer's internal procedures are not completed within 90 days from the date the employee initiates the internal procedures, the employee may file an action under this part and for purposes of this subsection the employer's internal procedures are considered exhausted.

The limitation period in subsection (1) is tolled until the procedures are exhausted. In no case may the provisions of the employer's internal procedures extend the limitation period in subsection (1) more than 120 days.

(3) If the employer maintains written internal procedures under which an employee may appeal a discharge within the organizational structure of the employer, the employer shall within 7 14 days of the date of the discharge notify the discharged employee *in writing or electronically* of the existence of ~~such the internal procedures and. The timeframe for the employee to initiate the procedures, if any, begins to run from the date the employer sends or provides a copy of the internal procedures in writing or electronically. A copy of the procedures must be considered provided to the employee if the employer sends a copy of the procedures to the employee's last-known postal mailing address or electronic mailing address, or the employee's attorney shall supply the discharged employee with a copy of them.~~ If the employer fails to comply with this subsection, the discharged employee need not comply with subsection (2).

(4) *If a plaintiff commences a civil action for wrongful discharge under this part, the plaintiff shall make service of process no later than 6 months after filing the complaint. If the plaintiff fails to make service of process within the 6-month period, the court, on motion or on its own initiative, shall dismiss the action without prejudice as to a defendant unless that defendant has made an appearance in the civil action. If the plaintiff fails to make service of process within the 6-month period, the remaining 1-year period of limitations for a civil action under this part resumes regardless of whether the civil action is dismissed."*

Section 6. Section 39-2-912, MCA, is amended to read:

"39-2-912. Exemptions. (1) This part does not apply to a discharge:

(1)(a) that is subject to any other state or federal statute that provides a procedure or remedy for contesting the dispute. The statutes include those that prohibit discharge for filing complaints, charges, or claims with administrative bodies or that prohibit unlawful discrimination based on race, national origin, sex, age, disability, creed, religion, political belief, color, marital status, and other similar grounds.

(2)(b) of an employee covered by a written collective bargaining agreement or a written contract of employment for a specific term.

(2) *For the purposes of this section, a contract for a specific term may contain a probationary period as provided for in [section 1] and may contain an automatic renewal clause that automatically renews the contract of employment for one or more successive terms."*

Section 7. Repealer. The following sections of the Montana Code Annotated are repealed:

39-2-703. Liability of railway corporation for negligence of fellow servants.

39-2-704. Liability of mining company for negligence of fellow servants.

Section 8. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 39, chapter 2, part 9, and the provisions of Title 39, chapter 2, part 9, apply to [section 1].

Section 9. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 10. Effective date. [This act] is effective on passage and approval.

Approved March 31, 2021

CHAPTER NO. 118

[HB 266]

AN ACT REVISING LICENSE PLATE LAWS; MANDATING ISSUANCE OF A CERTIFICATE OF WAIVER TO APPLICANTS WITH VEHICLES THAT CANNOT DISPLAY A FRONT LICENSE PLATE; AND AMENDING SECTION 61-3-301, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-3-301, MCA, is amended to read:

“61-3-301. Registration – license plate required – display. (1) (a) A person may not operate a motor vehicle, trailer, semitrailer, pole trailer, or travel trailer upon the public highways of Montana unless the motor vehicle, trailer, semitrailer, pole trailer, or travel trailer is properly registered and has the proper license plates conspicuously displayed on the motor vehicle, trailer, semitrailer, pole trailer, or travel trailer. A license plate must be securely fastened to prevent it from swinging and may not be obstructed from plain view.

(b) (i) Except as provided in 61-4-120, 61-4-129, and subsections (1)(b)(ii) through (1)(b)(iv) of this section, all motor vehicles must have one license plate displayed on the front and one license plate displayed on the rear of the motor vehicle.

(ii) A motorcycle, quadricycle, trailer, semitrailer, pole trailer, or travel trailer must have a single license plate displayed on the rear of the vehicle.

(iii) A custom vehicle ~~or or~~ a street rod registered under 61-3-320(1)(b) or (1)(c)(iii) may display a single license plate firmly attached to the rear exterior of the custom vehicle ~~or or~~ street rod.

(iv) If a person is not able to comply with the requirement that a front license plate be displayed because of the body construction of the motor vehicle, the person may submit to the highway patrol an application for a waiver along with a \$25 inspection fee. A certificate of waiver ~~may shall~~ be issued upon inspection of the vehicle by a highway patrol officer. ~~If a certificate of waiver is issued, the~~ The certificate must at all times be carried in the motor vehicle and must be displayed upon demand of a peace officer. Money collected from the inspection fee must be deposited in a highway revenue account in the state special revenue fund to the credit of the department of transportation.

(c) A person may not display on a motor vehicle, trailer, semitrailer, pole trailer, or travel trailer at the same time a number assigned to it under any motor vehicle law except as provided in this chapter.

(d) A low-speed electric vehicle or a golf cart operated by a person with a low-speed restricted driver's license must have special license plates, as provided in 61-3-332(9), displayed on the front and rear of the vehicle.

(2) A person may not purchase or display on a motor vehicle, trailer, semitrailer, pole trailer, or travel trailer a license plate bearing the number assigned to any county, as provided in 61-3-332, other than the county where the vehicle is domiciled or the county where the trailer, semitrailer, pole trailer, or travel trailer is domiciled at the time of application for registration.

(3) It is unlawful to:

(a) display license plates issued to one motor vehicle, trailer, semitrailer, pole trailer, or travel trailer on any other motor vehicle, trailer, semitrailer, pole trailer, or travel trailer unless legally transferred as provided by statute; or

(b) repaint old license plates to resemble current license plates.

(4) For the purposes of this section, “conspicuously displayed” means that the required license plates are obviously visible and firmly attached to:

(a) the front bumper and the rear bumper of a motor vehicle that is subject to subsection (1)(b)(i) and is equipped with front and rear bumpers; or

(b) a clearly visible location on the rear of a trailer, semitrailer, pole trailer, travel trailer, or motor vehicle that is subject to subsections (1)(b)(ii) through (1)(b)(iv).”

Approved March 31, 2021

CHAPTER NO. 119

[HB 270]

AN ACT REVISING DRIVER'S LICENSE REQUIREMENTS FOR SPOUSES OF ACTIVE DUTY MILITARY PERSONNEL; CLARIFYING THE SPOUSE EXEMPTION OF ACTIVE DUTY MILITARY PERSONNEL FROM DRIVER'S LICENSE REQUIREMENTS; AND AMENDING SECTION 61-5-104, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-5-104, MCA, is amended to read:

“61-5-104. Exemptions. (1) The following persons are exempt from licensure under this chapter:

(a) a person who is a member of the armed forces of the United States while operating a motor vehicle owned by or leased to the United States government and being operated on official business;

(b) a person who is a member of the armed forces of the United States on active duty in Montana who holds a valid license issued by another state and the spouse of the person who holds a valid license issued by another state; ~~and who is not employed in Montana, except as a member of the armed forces. If a spouse of a member of the armed forces becomes gainfully employed in Montana, the spouse must be licensed, as required by 61-5-102, within 90 days of becoming employed.~~

(c) a person on active duty in the armed forces of the United States and in immediate possession of a valid license issued to that person in a foreign country by the armed forces of the United States, for a period of 45 days from the date of the person's return to the United States;

(d) a person who temporarily drives, operates, or moves a road machine, farm tractor, as defined in 61-9-102, or implement of husbandry for use in intrastate commerce on a highway;

(e) a person who is a locomotive engineer, assistant engineer, conductor, brake tender, railroad utility person, or other member of the crew of a railroad locomotive or train being operated upon rails, including operation on a railroad crossing a public street, road, or highway. A person employed as described in this subsection is not required to display a driver's license to a law enforcement officer in connection with the operation of a railroad train within Montana.

(f) a person who temporarily drives, operates, or moves an off-highway vehicle on a forest development road in this state, as defined in 61-8-110, that has been designated and approved for off-highway vehicle use by the United States forest service if the person:

(i) is under 16 years of age but at least 12 years of age; and

(ii) at the time of driving, operating, or moving the off-highway vehicle, has in the person's possession a certificate showing the successful completion of an off-highway vehicle safety education course approved by the department

of fish, wildlife, and parks and is in the physical presence of a person who possesses a license issued under this chapter.

(2) A nonresident who is at least 15 years of age and who is in immediate possession of a valid operator's license issued to the nonresident by the nonresident's home state or country may operate a motor vehicle, except a commercial motor vehicle, in this state.

(3) (a) A nonresident who is in immediate possession of a valid commercial driver's license issued to the nonresident by the nonresident's home jurisdiction, in accordance with the licensing and testing standards of 49 CFR, part 383, may operate a commercial motor vehicle in this state.

(b) For the purpose of this chapter, "jurisdiction" means a state, territory, or possession of the United States, the District of Columbia, a province or territory of Canada, or the federal district of Mexico.

(4) A nonresident who is at least 18 years of age, whose home state or country does not require the licensing of operators, may operate a motor vehicle as an operator only, for a period of not more than 90 days in any calendar year, if the motor vehicle is registered in the home state or country of the nonresident.

(5) (a) A driver's license issued under this chapter to a person who enters the United States armed forces, if valid and in effect at the time that the person enters the service, continues in effect so long as the service continues, unless the license is suspended, revoked, or canceled for a cause as provided by law, and for up to 90 days following the date on which the licensee is honorably separated from the service.

(b) A person serving in the United States armed forces may renew the person's driver's license at any point of the person's service, and any renewed license continues in effect as long as the service continues, unless the license is suspended, revoked, or canceled for a cause as provided by law.

(c) A person serving in the United States armed forces may apply for a Montana driver's license upon meeting the requirements in 61-5-103, and this license continues in effect as long as the service continues, unless the license is suspended, revoked, or canceled for a cause as provided by law, and for up to 90 days following the date on which the licensee is honorably separated from the service."

Approved March 31, 2021

CHAPTER NO. 120

[HB 271]

AN ACT GENERALLY REVISING LAWS RELATED TO COUNTY ROADS; CLARIFYING THE PROCEDURE FOR ADOPTING A COUNTY ROAD; AMENDING SECTION 7-14-2101, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-14-2101, MCA, is amended to read:

"7-14-2101. General powers of county relating to roads and bridges – definitions. (1) The board of county commissioners, under the limitations and restrictions that are prescribed by law, may:

(a) (i) lay out, maintain, control, and manage county roads and bridges within the county;

(ii) subject to 15-10-420, levy taxes for the laying out, maintenance, control, and management of the county roads and bridges within the county as provided by law;

(b) (i) in the exercise of sound discretion, jointly with other counties, lay out, maintain, control, manage, and improve county roads and bridges in adjacent counties, wholly or in part as agreed upon between the boards of the counties concerned;

(ii) subject to 15-10-420, levy taxes for the laying out, maintenance, control, management, and improvement of county roads and bridges in adjacent counties or shared jointly with other counties, as agreed upon between the boards of the counties concerned and as provided by law;

(c) (i) enter into agreements for adjusted annual contributions over not more than 6 years toward the cost of joint highway or bridge construction projects entered into in cooperation with other counties, the state, or the United States;

(ii) subject to 15-10-420, place a joint project in the budget and levy taxes for a joint project as provided by law.

(2) (a) Following a public hearing, a board of county commissioners may accept by resolution a road that has not previously been considered a county road but that has been laid out, constructed, and maintained with state department of transportation or county funds.

(b) A survey is not required of an existing county road that is accepted by resolution by a board of county commissioners.

(c) A road that is abandoned by the state may be designated as a county road upon the acceptance and approval by resolution of a board of county commissioners.

(d) A road on a final subdivision plat that is dedicated to public use is not considered a county road until the board of county commissioners approves by resolution the adoption of the road as a county road as provided in subsection (4)(b)(ii).

(3) The board of county commissioners may adopt regulations for unincorporated areas within a county governing:

(a) the assignment of numerical physical addresses except for roads under the jurisdiction of a federal, state, or tribal entity if that entity objects to the assignment; and

(b) the naming of roads except roads under the jurisdiction of a federal, state, or tribal entity unless that entity consents to the naming.

(4) Unless the context requires otherwise, for the purposes of this chapter, the following definitions apply:

(a) "Bridge" includes rights-of-way or other interest in land, abutments, superstructures, piers, and approaches except dirt fills.

(b) "County road" means:

(i) a road that is petitioned by freeholders, approved by resolution, and opened by a board of county commissioners in accordance with this title;

(ii) a road that is dedicated for public use in the county and approved by resolution by a board of county commissioners;

(iii) a road that has been acquired by eminent domain pursuant to Title 70, chapter 30, and accepted by resolution as a county road by a board of county commissioners;

(iv) a road that has been gained by the county in an exchange with the state as provided in 60-4-201; or

(v) a road that has been the subject of a request under 7-14-2622 and for which a legal route has been recognized by a district court as provided in 7-14-2622."

Section 2. Applicability. [This act] applies to roads dedicated to public use on subdivision plats approved on or after [the effective date of this act].

Approved March 31, 2021

CHAPTER NO. 121

[HB 290]

AN ACT CREATING THE SELF-STORAGE INSURANCE ACT; PROVIDING FOR INSURANCE LICENSURE FOR OPERATORS OF SELF-STORAGE FACILITIES; PROVIDING RULEMAKING FOR THE COMMISSIONER OF INSURANCE; PROVIDING REQUIREMENTS FOR BROCHURES AND MATERIALS EXPLAINING SELF-STORAGE INSURANCE; PROVIDING FOR APPLICATIONS AND FEES TO SELL SELF-STORAGE INSURANCE; PROVIDING FOR OPERATOR LICENSE PENALTIES; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING DEFINITIONS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title – purpose. [Sections 1 through 7] may be cited as the “Self-Storage Insurance Act”. The purpose of this act is to coordinate with the Self-Storage Facilities Act, Title 70, chapter 6, part 6, and allow for operators of the facilities to offer self-storage insurance to their renters.

Section 2. Definitions. As used in [sections 1 through 7], the following definitions apply:

(1) “Authorized representative” means an individual authorized by an operator to sell or offer self-storage insurance coverage in accordance with [sections 1 through 7].

(2) “Location” means any physical location in this state.

(3) (a) “Operator” means a business entity that is the owner, operator, lessor, or sublessor of a self-storage facility or an agent or another person authorized to manage the facility or to receive rent from a renter under a rental agreement.

(b) The term does not include a warehouse operator if the warehouse operator issues a warehouse receipt, bill of lading, or other document of title for the personal property stored. The operator may be a resident or nonresident of this state.

(4) “Personal property” means movable property not affixed to land.

(5) “Rental agreement” means a written agreement or lease that establishes or modifies the terms, conditions, or rules concerning the use and occupancy of a leased space at a self-storage facility.

(6) “Renter” means a person entitled to the use of a leased space at a self-storage facility under a rental agreement or the person’s successors or assigns.

(7) “Self-storage facility” means real property consisting of individual storage spaces in which a renter customarily stores and removes personal property on a self-service basis.

(8) “Self-storage insurance” means insurance offered in connection with and incidental to the rental of a leased space at a self-storage facility and which provides coverage to renters for the loss of or damage to personal property occurring at the facility or when the property is in transit to or from the facility during the term of the rental agreement. Self-storage insurance coverage may be offered on a month-to-month or other periodic basis under an individual, commercial, or group policy.

(9) “Supervising entity” means a business entity that is a licensed insurer or insurance producer that is authorized by a licensed insurer to supervise the administration of a self-storage insurance program.

Section 3. Licensure of operators – rulemaking. (1) An operator must hold a limited lines insurance producer license in order to sell or offer self-storage insurance coverage. An operator is not required to hold a license solely to display and make available to renters and prospective renters brochures and other promotional materials created by or on behalf of an authorized insurer.

(2) A license issued under [sections 1 through 7] authorizes the operator and the employees and authorized representatives of the operator to sell and offer self-storage insurance coverage to renters at each location at which the operator conducts business.

(3) The supervising entity shall maintain a registry of the locations where the operator sells or offers self-storage insurance coverage in this state. On request by the commissioner and with 10 days’ notice to the supervising entity, the registry must be open to inspection and examination by the commissioner during regular business hours of the supervising entity.

(4) A license issued under [sections 1 through 7] authorizes the operator and its employees and authorized representatives to engage in those activities that are permitted in [sections 1 through 7].

(5) Operators and their employees and authorized representatives are exempt from all preclicensing examination and continuing education requirements.

(6) The commissioner may adopt rules to implement the provisions of [sections 1 through 7].

Section 4. Brochures and materials explaining self-storage coverage. (1) At each location where self-storage insurance coverage is offered to renters, written or electronic brochures or materials must be made available to renters that:

(a) disclose that self-storage insurance may provide a duplication of coverage already provided by a renter’s homeowner’s insurance policy, renter’s insurance policy, or other source of coverage;

(b) state that the enrollment by the renter in a self-storage insurance program offered by the operator is not required in order to rent a leased space at the self-storage facility;

(c) provide a copy of the actual self-storage insurance coverage, or summarize the material terms of the insurance coverage, including:

(i) the identity of the insurer;

(ii) the identity of the supervising entity, if different from the insurer;

(iii) the amount of any applicable deductible and how it is to be met;

(iv) benefits of the coverage; and

(v) key terms and conditions of the coverage;

(d) summarize the process for filing a claim; and

(e) state that a renter that purchases self-storage insurance coverage may cancel the coverage at any time and that the person paying the premium must receive a refund of any applicable unearned premium.

(2) The written or electronic brochures or materials required by this section are not subject to filing with or approval by the commissioner.

Section 5. Authority of operators. (1) An employee or authorized representative of an operator may sell and offer self-storage insurance coverage to a renter and is not subject to licensure as an insurance producer under this title provided that:

(a) the operator obtains a limited lines insurance producer license to authorize its employees or authorized representatives to sell and offer self-storage insurance coverage;

(b) the insurer issuing the self-storage insurance either directly supervises or appoints a supervising entity to supervise the administration of the program, including development of a training program for employees and authorized representatives of the operator. The training required by this subsection (1)(b) must comply with the following:

(i) the training must be delivered to employees and authorized representatives of an operator who are directly engaged in the activity of selling and offering self-storage insurance coverage;

(ii) if the training is provided in an electronic form, the supervising entity shall implement a supplemental education program regarding the self-storage insurance that is conducted and overseen by licensed insurance producers or adjusters; and

(iii) each employee and authorized representative who is directly engaged in the activity of selling and offering self-storage insurance must receive basic instruction about the self-storage insurance offered to renters and the disclosures required under [section 4(1)]; and

(c) employees and authorized representatives of an operator may not advertise, represent, or otherwise hold out to the public that they are nonlimited lines licensed insurance producers unless otherwise licensed.

(2) Employees or authorized representatives of an operator may not be compensated based primarily on the number of renters enrolled for self-storage insurance coverage but may receive compensation for activities under the limited lines insurance producer license that is incidental to their overall compensation.

(3) (a) The charges for self-storage insurance coverage may be billed and collected by the operator and its employees and authorized representatives. If billed by the operator, the charges for self-storage insurance coverage must be separately itemized on the renter's bill.

(b) Operators that are billing and collecting the charges are not required to maintain the funds in a segregated account if the operator is authorized by the insurer or supervising entity to hold the funds in an alternative manner and remits the premiums to the insurer or supervising entity within 60 days of receipt. All premiums received by an operator from a renter for the sale of self-storage insurance are considered funds held by the operator in a fiduciary capacity for the benefit of the insurer. Operators may receive compensation for billing and collection services.

Section 6. Application for operator license – fees. (1) An applicant for a license under [sections 1 through 7] shall file with the commissioner an application on forms prescribed by the commissioner. The applicant may be a resident or nonresident of this state.

(2) (a) The application must provide:

(i) the name, residence address, and other information required by the commissioner for an authorized representative of the operator or supervising entity that is designated by the applicant as the person responsible for the operator's compliance with the requirements of [sections 1 through 7]; and

(ii) the location of the operator's home office.

(b) If the operator derives more than 50% of its revenue from the sale of self-storage insurance, the information required by subsection (2)(a) must be provided for all officers, directors, and shareholders of record having beneficial ownership of 10% or more of any class of securities registered under federal securities law.

(3) Initial licenses issued under [sections 1 through 7] are valid for a period of 24 months.

(4) Each operator licensed under [sections 1 through 7] shall pay to the commissioner a fee determined by the commissioner as follows:

(a) for an operator that sells self-storage insurance at 10 or fewer locations in the state, the fee may not exceed \$100 for an initial license or for each renewal; and

(b) for an operator that sells self-storage insurance at more than 10 locations in the state, the fee may not exceed \$250 for an initial license or \$100 for each renewal.

Section 7. Suspension or revocation of operator license. If an operator or its employee or authorized representative violates any provision of [sections 1 through 7], the commissioner may do any of the following after notice and the opportunity for a hearing:

(1) impose fines not to exceed \$500 for each violation or \$5,000 in the aggregate for violations; or

(2) impose other penalties that the commissioner considers reasonable to carry out the purpose of [sections 1 through 7], including:

(a) suspending the privilege of transacting self-storage insurance under [sections 1 through 7] at specific business locations where violations have occurred; or

(b) suspending or revoking the ability of individual employees or authorized representatives to act under the license.

Section 8. Codification instruction. [Sections 1 through 7] are intended to be codified as a new part in Title 33, chapter 24, and the provisions of Title 33, chapter 24, apply to [sections 1 through 7].

Approved March 31, 2021

CHAPTER NO. 122

[HB 294]

ANACTREVISINGFEESFORAGRICULTURALSEEDLICENSES;REVISING FEE STRUCTURE FOR SEED DEALERS, SEED CONDITIONERS, AND SEED LABELERS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 80-5-130, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 80-5-130, MCA, is amended to read:

“80-5-130. Licensing – application – fee. (1) All facilities located in the state that condition agricultural seed shall obtain a license from the department for each facility. However, a seed grower, when conditioning only seed from that grower’s own production, is not required to be licensed under this part.

(2) Each seed conditioning plant shall post in a conspicuous location in the facility:

(a) its fees for conditioning services; and

(b) the license for the facility.

(3) A person whose name and address appear on the label of agricultural seed sold in Montana, as required by 80-5-123, shall obtain a seed labeler’s license from the department before doing business in Montana. The following persons, however, are excluded from the licensing requirements under this subsection:

(a) a Montana certified seed grower when labeling certified seed from that grower's own production;

(b) any person who updates germination test data by affixing to the package of seed a supplemental label bearing new germination data, the lot number, and the person's name and address; or

(c) a Montana grower who labels seed only of that labeler's own production with a gross annual sales value of \$5,000 or less.

(4) A person who sells agricultural seed in Montana shall obtain a seed dealer's license from the department for each place where seed is located or sold, except for:

(a) a person who sells seed only in sealed packages of 10 pounds or less;

(b) a person who sells seed that has a gross sales value of \$1,000 or less a year;

(c) a person who sells seed only to a Montana-licensed seed dealer, labeler, or conditioner; or

(d) a Montana grower selling only seed of that grower's own production with a gross annual sales value of \$5,000 or less.

(5) ~~(a) Except as provided in this subsection (5), the fee is \$55 a year for each type of license. The department may by rule adjust the license fee by type of license to maintain adequate funding for the administration of this part. The fee may not be less than \$55 a year or more than \$75 a year.~~

~~(b) Except as provided in this subsection (5)(b), the license fee for an out-of-state person selling seed in Montana is \$110 a year. The department may by rule adjust the license fee to maintain adequate funding for the administration of this part. The fee may not be less than \$110 a year or more than \$150 a year.~~

~~(c) Except as provided in this subsection (5)(c), the license fee for a Montana grower who sells, labels, or sells and labels only seed of that grower's own production is \$55 a year. The department may by rule adjust the license fee to maintain adequate funding for the administration of this part. The fee may not be less than \$55 a year or more than \$75 a year. The department may by rule adjust a license fee to maintain adequate funding for the administration of this part.~~

(a) The license fee may not be less than \$50 a year or more than \$200 a year for a person who is a Montana resident and who:

(i) sells, labels, or sells and labels seed;

(ii) is a seed dealer;

(iii) operates a seed conditioning plant; or

(iv) is a seed labeler.

(b) The license fee for a person who is a nonresident and who is:

(i) a seed dealer may not be less than \$100 or more than \$250 a year; or

(ii) a seed labeler may not be less than \$50 or more than \$200 a year.

(6) An application for a license under this section must be made in a manner and on forms provided by the department. The application must contain:

(a) the location of each seed conditioning plant if the application is for a seed conditioning plant license;

(b) a sample label if the application is for a seed labeler license; and

(c) a list of persons selling seed if required by department rule.

(7) Seed dealers shall provide with all shipments of agricultural seed a bill of lading or other evidence of delivery that includes:

(a) the names of:

(i) the seed dealer;

(ii) the shipper, if other than the seed dealer;

- (iii) the buyer; and
- (iv) the receiver, if other than the buyer; and
- (b) the destination where the seed will be first unloaded.”

Section 2. Effective date. [This act] is effective July 1, 2021.

Approved March 31, 2021

CHAPTER NO. 123

[HB 313]

AN ACT GENERALLY REVISING LAWS RELATED TO MEDICAL EXAMINERS AND CORONERS; CLARIFYING THE QUALIFICATIONS AND DUTIES OF MEDICAL EXAMINERS; REVISING PROCEDURES RELATED TO HUMAN DEATH INQUIRIES; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 44-3-201, 44-3-203, 44-3-204, 44-3-211, 46-4-122, AND 46-4-123, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 44-3-201, MCA, is amended to read:

“44-3-201. State *chief* medical examiner. A state *chief* medical examiner must be appointed by and serves at the pleasure of the attorney general. The state *chief* medical examiner must be a physician licensed to practice medicine in Montana and must be board-certified in forensic pathology. Once appointed, the state *chief* medical examiner is supervised by the director of the laboratory of criminalistics. Medical examiners must be free from undue personal, professional, or political influences as they objectively pursue and report the facts and opinions of their death investigations.”

Section 2. Section 44-3-203, MCA, is amended to read:

“44-3-203. Associate medical examiners – qualifications. Associate medical examiners, *including but not limited to locum tenens and per diem examiners*, must be physicians licensed to practice in Montana, must be board-certified in forensic pathology, and may continue their private practice during their appointment. Associate medical examiners are appointed by, are supervised by, and serve at the pleasure of the state *chief* medical examiner.”

Section 3. Section 44-3-204, MCA, is amended to read:

“44-3-204. Associate medical examiners – compensation. (1) Associate medical examiners may be paid for their services an amount ~~which~~ *that* the state *chief* medical examiner considers to be reasonable compensation and may be reimbursed for expenses actually incurred in the performance of their duties.

~~(2) The costs of services performed by associate medical examiners are chargeable to the county for which the service is performed.”~~

Section 4. Section 44-3-211, MCA, is amended to read:

“44-3-211. Duties of state *chief* medical examiner and deputy medical examiner. The duties of the state *chief* medical examiner *and deputy medical examiner* include but are not limited to the following:

- (1) providing assistance and consultation to associate medical examiners, coroners, and law enforcement officers;
- (2) providing court testimony when necessary to accomplish the purposes of this chapter;
- (3) stimulating and directing research in the field of forensic pathology;
- (4) maintaining an ongoing educational and training program for associate medical examiners, coroners, and law enforcement officers;
- (5) appointing associate medical examiners; and
- (6) performing autopsies as requested.”

Section 5. Section 46-4-122, MCA, is amended to read:

“46-4-122. Human deaths requiring inquiry by coroner – rulemaking. (1) The coroner shall inquire into and determine the cause and manner of death and all circumstances surrounding a human death:

(1)(a) that was caused or is suspected to have been caused:

(a)(i) in any degree by an injury, either recent or remote in origin; or

(b)(ii) by the deceased or any other person that was the result of an act or omission, including but not limited to:

(i)(A) a criminal or suspected criminal act;

(ii)(B) a medically suspicious death, unusual death, or death of unknown circumstances, including any fetal death; or

(iii)(C) an accidental death; or

(c)(iii) by an agent, disease, or medical condition that poses a threat to public health;

(2)(b) whenever the death occurred:

(a)(i) while the deceased was incarcerated in a prison or confined to a correctional or detention facility owned and operated by the state or a political subdivision of the state;

(b)(ii) while the deceased was being pursued, apprehended, or taken into custody by, or while in the custody of, any law enforcement agency or a peace officer;

(c)(iii) during or as a result of the deceased’s employment;

(d)(iv) less than 24 hours after the deceased was admitted to a medical facility or if the deceased was dead upon arrival at a medical facility; or

(e)(v) in a manner that was unattended or unwitnessed and the deceased was not attended by a physician at any time in the 30-day period prior to death;

(3)(c) if the dead human body is to be cremated or shipped into the state and lacks proper medical certification or burial or transmit permits; or

(4)(d) that occurred under suspicious circumstances.

(2) *In the case of a fetal death inquiry, the department of justice shall adopt rules governing the respectful transportation to and delivery of the fetus to the location where the autopsy will be performed. The rules must require that a fetus be transported in a crush-proof container that is labeled with the words “fragile--human remains inside”.*

Section 6. Section 46-4-123, MCA, is amended to read:

“46-4-123. Inquiry report. (1) The coroner shall make a full report of the facts discovered in all human deaths requiring an inquiry under the provisions of 46-4-122. ~~In the case of a fetal death inquiry under 46-4-122, the department of justice shall adopt rules for respectful transportation and delivery of the fetus to the place where the autopsy will be performed. The rules must require that a fetus be transported in a crush-proof container and be labeled with the words “fragile-human remains inside”. The report must be made in triplicate on a form provided by the division of forensic sciences of the department of justice. The coroner and the medical examiner shall each retain one copy and shall deliver the other copy to the county attorney. If the coroner orders an autopsy during the course of an inquiry, the coroner shall also provide the medical examiner with a copy of the autopsy report. The forms must be completed and distributed as provided in this section as promptly as practicable.~~

(2) *The inquiry report must be:*

(a) *made using the Montana coroner death management system, if implemented and operational by the local agency;*

(b) *initiated within 24 hours after the death investigation; and*

(c) *completed as promptly as reasonable and commensurate with the availability of investigation information, excluding confidential criminal justice information and any other investigative material not necessary to determine cause or manner of death until the case is closed or charges are filed.*

(3) *The coroner and the medical examiner must each have access to the system. The coroner shall make a copy of the system inquiry report available to the county attorney.*

Approved March 31, 2021

CHAPTER NO. 124

[HB 29]

AN ACT ADOPTING THE MOST RECENT FEDERAL MILITARY LAWS, REGULATIONS, AND CODES APPLICABLE TO THE GOVERNANCE OF THE MONTANA NATIONAL GUARD; AMENDING SECTION 10-1-104, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 10-1-104, MCA, is amended to read:

“10-1-104. Federal regulations to govern. (1) Federal laws and regulations, forms, precedents, and usages relating to and governing the armed forces of the United States and the national guard, as in effect on October 1, ~~2019~~ 2021, insofar as they are applicable and not inconsistent with the constitution and laws of this state or with a rule or regulation adopted pursuant to 10-1-105, apply to and govern the national guard of this state, including all members on active duty within the state as active duty guard/reserve (AGR) personnel under Title 32 of the United States Code.

(2) The Uniform Code of Military Justice, as in effect on October 1, ~~2019~~ 2021, including the regulations, manuals, forms, precedents, and usages implementing, interpreting, and complementing the code, is adopted for use by the national guard of this state and applies, insofar as the code is not otherwise inconsistent with the constitution and laws of this state, including the regulations, manuals, forms, precedents, and usages implementing, interpreting, and complementing the constitution and laws of this state, or with a rule or regulation adopted pursuant to 10-1-105, to the greatest extent practicable to govern the national guard of this state, including all members on active duty within the state as active duty guard/reserve (AGR) personnel under Title 32 of the United States Code when the members are serving other than in a federal capacity under Title 10 of the United States Code.”

Section 2. Applicability. [This act] applies to events that occur and proceedings begun on or after October 1, 2021.

Approved April 1, 2021

CHAPTER NO. 125

[HB 40]

AN ACT PROVIDING AN EXCEPTION TO MANDATORY DECONTAMINATION FOR VESSELS WITH BALLAST OR BLADDERS; AMENDING SECTION 80-7-1030, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 80-7-1030, MCA, is amended to read:

“80-7-1030. Mandatory decontamination for vessels with ballast or bladders – legislative finding – fees. (1) Except as provided in subsection (2) and in recognition that any interior portion of a vessel that may contain or

retain water presents a significant risk of transporting and spreading invasive species, the legislature finds that as part of quarantine measures implemented in the statewide invasive species management area established pursuant to 80-7-1015, a vessel with ballast or bladders must be decontaminated upon entering the state or crossing the continental divide into the Columbia River basin if the vessel is to be launched on waters of this state.

(2) Decontamination of a vessel with ballast or bladders is not required when the operator is able to provide proof that the vessel has not been launched in any water body for the preceding ~~30~~ 45 days *or meets other criteria determined by the department of fish, wildlife, and parks to render decontamination unnecessary*. The department of ~~fish, wildlife, and parks~~ shall establish, in writing, the standards for proof.

(3) Decontamination shall be performed in accordance with rules adopted pursuant to 80-7-1007.

(4) The department of fish, wildlife, and parks may certify private entities, tribes, and conservation districts to conduct decontamination pursuant to this section. If it does so, the department shall establish certification procedures, including a decontamination training course and requirements for maintaining certification.

(5) A fee of \$50 may be charged per vessel decontaminated by the department pursuant to this section. A private entity, tribe, or conservation district certified to decontaminate a vessel with ballast or bladders may charge a fee commensurate with the actual cost of the decontamination.

(6) A vessel with ballast or bladders that cannot be fully decontaminated must be locked to its trailer to prevent launch for a drying period determined by the department of fish, wildlife, and parks. The vessel may not be unlocked and allowed to launch until the drying time is complete. No one other than authorized department staff may remove the lock during the drying time. If a vessel requires a drying period, then the vessel must pass an inspection prior to launching in Montana waters in order to be considered decontaminated.

(7) A person in possession of a vessel with ballast or bladders shall carry proof of compliance with this section and provide it for inspection upon request of a department or its designee."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 1, 2021

CHAPTER NO. 126

[HB 56]

AN ACT INCREASING PENALTIES FOR FAILURE TO USE TIRE CHAINS OR APPROVED TRACTION DEVICES WHEN REQUIRED; REVISING THE AUTHORITY OF CERTAIN DEPARTMENT OF TRANSPORTATION EMPLOYEES REGARDING ISSUING A CITATION; AND AMENDING SECTIONS 61-9-520 AND 61-10-154, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-9-520, MCA, is amended to read:

"61-9-520. Violation of tire chain or traction device use -- penalty.

(1) A person violating the provisions of 61-9-406(6) and (7) is guilty of the nonmoving offense of failure to use chains or approved traction devices when required and upon conviction shall be punished by a fine of \$25, ~~and no jail sentence may be imposed. Bond for this offense shall be \$25.:~~

(a) \$250; or

(b) \$750 when the result of the violation of this section is an incident that causes the closure of all lanes in one or both directions of a highway.

(2) A violation of 61-9-406(6) and (7) is not a misdemeanor subject to 45-2-101, 61-9-511, 61-9-512, or 61-9-519."

Section 2. Section 61-10-154, MCA, is amended to read:

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

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

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

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

(c) any motor vehicle or vehicle combination used in intrastate commerce that has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight, whichever is greater, of 26,001 pounds or more and that is not a farm vehicle operating solely in Montana;

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

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

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

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

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

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

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

(b) issue summonses;

(c) accept bail;

(d) serve warrants for arrest;

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

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

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

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

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

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

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

(d) *for vehicle configurations subject to 61-10-141 and this section, the authority to issue a citation:*

(i) *pursuant to 61-9-520(1)(a) for violation of 61-9-406(6) when the vehicle configuration causes a lane blockage; and*

(ii) *pursuant to 61-9-520(1)(b) for violation of 61-9-406(6) when the vehicle configuration causes an incident that results in the closure of all lanes in one or both directions of a highway.*

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

(8) The department of transportation shall report to the transportation interim committee biennially, in accordance with 5-11-210, on its enforcement of the provisions of Title 15, chapter 70, part 4, pursuant to the authority provided in subsection (6)(c) and on any impacts that enforcement has had on the state special revenue fund.”

Approved April 1, 2021

CHAPTER NO. 127

[HB 65]

AN ACT REVISING THE DEFINITION OF A SECURITIES SALESPERSON TO INCLUDE SUPERVISORS; AMENDING SECTION 30-10-103, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 30-10-103, MCA, is amended to read:

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

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

(b) The term does not include:

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

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

(2) "Commissioner" means the securities commissioner provided for in 2-15-1901.

(3) (a) "Commodity" means:

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

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

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

(iv) foreign currency; and

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

(b) Commodity does not include:

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

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

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

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

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

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

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

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

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

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

(b) A federal covered adviser is not an investment adviser as defined in subsection (12).

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

(10) “Financial exploitation” means:

(a) the wrongful or unauthorized taking, withholding, appropriation, or use of money, assets, or property of a vulnerable person; or

(b) an act or omission taken by a person, including through the use of a power of attorney, guardianship, or conservatorship of a vulnerable person, to:

(i) obtain control through deception, intimidation, fraud, menace, or undue influence over the vulnerable person’s money, assets, or property to deprive the vulnerable person of the ownership, use, benefit, or possession of the vulnerable person’s money, assets, or property; or

(ii) convert money, assets, or property of the vulnerable person to deprive the vulnerable person of the ownership, use, benefit, or possession of the vulnerable person’s money, assets, or property.

(11) “Guaranteed” means guaranteed as to payment of principal, interest, or dividends.

(12) (a) “Investment adviser” means a person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities.

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

(i) as an integral component of other financially related services, provides the investment advisory services described in subsection (12)(a) to others for compensation, as part of a business; or

(ii) represents to any person that the financial planner or other person provides the investment advisory services described in subsection (12)(a) to others for compensation.

(c) The term does not include:

(i) an investment adviser representative;

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

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

(iv) a registered broker-dealer whose performance of services described in subsection (12)(a) is solely incidental to the conduct of business and for which the broker-dealer does not receive special compensation;

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

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

(vii) an engineer or teacher whose performance of the services described in subsection (12)(a) is solely incidental to the practice of the person's profession;

(viii) a federal covered adviser; or

(ix) other persons not within the intent of this subsection (12) as the commissioner may by rule or order designate.

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

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

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

(B) manages accounts or portfolios of clients;

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

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

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

(b) The term does not include a salesperson registered pursuant to 30-10-201(1) whose performance of the services described in subsection (13)(a) of this section is solely incidental to the conduct of business as a salesperson and for which the salesperson does not receive special compensation other than fees relating to the solicitation or offering of investment advisory services of a registered investment adviser or of a federal covered adviser who has made a notice filing under parts 1 through 3 and 10 of this chapter.

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

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

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

(17) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust in which the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.

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

(a) silver;

(b) gold;

(c) platinum;

(d) palladium;

(e) copper; and

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

(19) "Qualified individual" means a person who serves in a supervisory, compliance, or legal capacity for a broker-dealer or investment adviser.

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

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

(22) (a) "Salesperson" means an individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect sales of securities. *The term includes an individual who supervises another individual who falls within this definition. The term also includes but is not limited to the individual disclosed as the supervisor on a salesperson's form U4 of the uniform application for securities industry registration or transfer.* A partner, officer, or director of a broker-dealer or issuer is a salesperson only if the person otherwise ~~comes~~ falls within this definition.

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

(i) an issuer in:

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

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

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

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

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

(23) "Securities Act of 1933", "Securities Exchange Act of 1934", "Energy Policy Act of 2005", "Investment Advisors Act of 1940", and "Investment Company Act of 1940" mean the federal statutes of those names.

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

(i) note;

(ii) stock;

(iii) treasury stock;

(iv) bond;

(v) commodity investment contract;

(vi) commodity option;

(vii) debenture;

(viii) evidence of indebtedness;

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

(x) collateral-trust certificate;

(xi) preorganization certificate or subscription;

(xii) transferable shares;

(xiii) investment contract;

(xiv) voting-trust certificate;

(xv) certificate of deposit for a security;

(xvi) viatical settlement purchase agreement;

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

(xviii) in general:

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

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

(C) certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items in this subsection (24)(a)(xviii).

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

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

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

(27) "Vulnerable person" means:

(a) a person who is at least 60 years of age;

(b) a person who suffers from mental impairment because of frailties or dependencies typically related to advanced age, such as dementia or memory loss;

(c) a person who has a developmental disability as defined in 53-20-102; or

(d) a person with a mental disorder. For the purposes of this subsection (27)(d), "mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions. The term does not include:

(i) addiction to drugs or alcohol;

(ii) drug or alcohol intoxication;

(iii) intellectual disability; or

(iv) epilepsy. (Terminates June 30, 2021--sec. 55, Ch. 151, L. 2017.)

30-10-103. (Effective July 1, 2021) Definitions. When used in parts 1 through 3 of this chapter, unless the context requires otherwise, the following definitions apply:

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

(b) The term does not include:

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

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

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

(3) (a) "Commodity" means:

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

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

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

(iv) foreign currency; and

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

(b) Commodity does not include:

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

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

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

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

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

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

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

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

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

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

(b) A federal covered adviser is not an investment adviser as defined in subsection (12).

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

(10) “Financial exploitation” means:

(a) the wrongful or unauthorized taking, withholding, appropriation, or use of money, assets, or property of a vulnerable person; or

(b) an act or omission taken by a person, including through the use of a power of attorney, guardianship, or conservatorship of a vulnerable person, to:

(i) obtain control through deception, intimidation, fraud, menace, or undue influence over the vulnerable person’s money, assets, or property to deprive the vulnerable person of the ownership, use, benefit, or possession of the vulnerable person’s money, assets, or property; or

(ii) convert money, assets, or property of the vulnerable person to deprive the vulnerable person of the ownership, use, benefit, or possession of the vulnerable person’s money, assets, or property.

(11) “Guaranteed” means guaranteed as to payment of principal, interest, or dividends.

(12) (a) “Investment adviser” means a person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities.

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

(i) as an integral component of other financially related services, provides the investment advisory services described in subsection (12)(a) to others for compensation, as part of a business; or

(ii) represents to any person that the financial planner or other person provides the investment advisory services described in subsection (12)(a) to others for compensation.

(c) The term does not include:

(i) an investment adviser representative;

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

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

(iv) a registered broker-dealer whose performance of services described in subsection (12)(a) is solely incidental to the conduct of business and for which the broker-dealer does not receive special compensation;

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

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

(vii) an engineer or teacher whose performance of the services described in subsection (12)(a) is solely incidental to the practice of the person’s profession;

(viii) a federal covered adviser; or

(ix) other persons not within the intent of this subsection (12) as the commissioner may by rule or order designate.

(13) (a) “Investment adviser representative” means:

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

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

(B) manages accounts or portfolios of clients;

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

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

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

(b) The term does not include a salesperson registered pursuant to 30-10-201(1) whose performance of the services described in subsection (13)(a) of this section is solely incidental to the conduct of business as a salesperson and for which the salesperson does not receive special compensation other than fees relating to the solicitation or offering of investment advisory services of a registered investment adviser or of a federal covered adviser who has made a notice filing under parts 1 through 3 of this chapter.

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

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

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

(17) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust in which the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.

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

- (a) silver;
- (b) gold;
- (c) platinum;
- (d) palladium;
- (e) copper; and
- (f) other items as the commissioner may by rule or order specify.

(19) "Qualified individual" means a person who serves in a supervisory, compliance, or legal capacity for a broker-dealer or investment adviser.

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

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

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

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

- (i) an issuer in:
 - (A) effecting a transaction in a security exempted by 30-10-104(1), (2), (3), (8), (9), (10), or (11);
 - (B) effecting transactions exempted by 30-10-105, except when registration as a salesperson, pursuant to 30-10-201, is required by 30-10-105 or by any rule promulgated under 30-10-105;

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

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

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

(23) “Securities Act of 1933”, “Securities Exchange Act of 1934”, “Energy Policy Act of 2005”, “Investment Advisors Act of 1940”, and “Investment Company Act of 1940” mean the federal statutes of those names.

(24) (a) “Security” means any:

(i) note;

(ii) stock;

(iii) treasury stock;

(iv) bond;

(v) commodity investment contract;

(vi) commodity option;

(vii) debenture;

(viii) evidence of indebtedness;

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

(x) collateral-trust certificate;

(xi) preorganization certificate or subscription;

(xii) transferable shares;

(xiii) investment contract;

(xiv) voting-trust certificate;

(xv) certificate of deposit for a security;

(xvi) viatical settlement purchase agreement;

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

(xviii) in general:

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

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

(C) certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items in this subsection (24)(a)(xviii).

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

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

(26) “Transact”, “transact business”, or “transaction” includes the meanings of the terms “sale”, “sell”, and “offer”.

(27) “Vulnerable person” means:

(a) a person who is at least 60 years of age;

(b) a person who suffers from mental impairment because of frailties or dependencies typically related to advanced age, such as dementia or memory loss;

(c) a person who has a developmental disability as defined in 53-20-102; or

(d) a person with a mental disorder. For the purposes of this subsection (27)(d), “mental disorder” means any organic, mental, or emotional impairment that has substantial adverse effects on an individual’s cognitive or volitional functions. The term does not include:

- (i) addiction to drugs or alcohol;
- (ii) drug or alcohol intoxication;
- (iii) intellectual disability; or
- (iv) epilepsy.”

Section 2. Effective date. [This act] is effective July 1, 2021.

Approved April 1, 2021

CHAPTER NO. 128

[HB 76]

AN ACT GENERALLY REVISING ADMINISTRATIVE PROVISIONS OF THE VOLUNTARY EMPLOYEE BENEFIT ASSOCIATION ACT THAT ALLOWS PUBLIC EMPLOYEES TO USE UNUSED LEAVE FOR MEDICAL EXPENSES ON A TAX-EXEMPT BASIS; REVISING DEFINITIONS; CLARIFYING THE APPLICABILITY OF FEDERAL LAW AND WHAT CONSTITUTES THE PLAN DOCUMENT; CLARIFYING ACCOUNT ACCESS AND CONTRIBUTION PROVISIONS; REVISING DEATH BENEFIT PROVISIONS; AMENDING SECTIONS 2-18-1302, 2-18-1303, 2-18-1304, 2-18-1309, 2-18-1311, AND 2-18-1313, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-18-1302, MCA, is amended to read:

“2-18-1302. Purpose and intent. The legislature finds that escalating health care expenses, particularly the increasing cost of medical treatment and health insurance, constitute a substantial financial burden during and after an employee’s working career. The purpose of this part is to provide a means by which public employers may contribute to a plan established under a qualified tax-exempt trust organization to assist public employees; *and* their dependents; ~~and their beneficiaries~~ with paying for qualified health care expenses. Under the plan, employer contributions, investment earnings, and payments for qualified health care expenses are tax-exempt. The legislature also finds that centralized statewide administration offers a consistent approach and is more cost-effective, especially for smaller employers. However, the legislature does not intend to prohibit an employer from establishing a similar program as an alternative or in addition to participation in the statewide program provided for in this part. Additionally, the legislature intends to facilitate a grassroots process to determine plan participation.”

Section 2. Section 2-18-1303, MCA, is amended to read:

“2-18-1303. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) “Common association” means an association of employees established pursuant to 2-18-1310 for the purposes of employer and employee participation in the plan.

(2) “Contracting employer” means an employer who, pursuant to 2-18-1310, has contracted with the department to participate in the plan.

(3) “Department” means the department of administration established in 2-15-1001.

(4) “Dependent” means the tax-qualified dependent or child of the participant as determined under section 105(b) of the Internal Revenue Code, 26 U.S.C. 105(b).

(4)(5) (a) “Employee” means a person employed by an employer.

(b) The term does not include an independent contractor, a person hired by the employer under a personal services contract, or a student intern, as defined in 2-18-101.

(5)(6) “Employer” means a legally constituted department, board, commission, or any other administrative unit of state government, a county, an incorporated city or town, or any other political subdivision of the state, including a school district, or a unit of the university system.

(6)(7) “Health care expense trust account” or “account” means an account established for the payment of qualified health care expenses under the plan.

(7)(8) “Member” means an employee ~~who belongs to a voluntary employees’ beneficiary association established under 2-18-1310 whose work unit voted to establish a common association.~~

(9) “Participant” means a member who terminates employment and for whom an account is established.

(8)(10) “Plan” means the employee welfare benefit plan established under section 501(c)(9) of the Internal Revenue Code ~~section, 26 U.S.C. 501(c)(9),~~ pursuant to 2-18-1304.

(9)(11) “Qualified health care expenses” means expenses paid by a ~~member participant~~ for medical care, as defined by 26 U.S.C. 213(d), for the ~~member participant or the member’s participant’s spouse or dependent as defined by 26 U.S.C. 152.~~

Section 3. Section 2-18-1304, MCA, is amended to read:

“2-18-1304. Statewide employee welfare benefit plan established – health care expense trust accounts – investment of funds – account access – administrative expenses. (1) The department shall establish, through contracted services, a plan under a tax-exempt entity that qualifies as a voluntary employees’ beneficiary association trust pursuant to section 501(c)(9) of the Internal Revenue Code, 26 U.S.C. 501(c)(9). The plan must provide ~~members participants~~ with individual health care expense trust accounts to pay the qualified health care expenses ~~of members, their dependents, and their beneficiaries.~~

(2) The department shall determine what investment vehicles will be offered to plan ~~members participants~~. Each plan ~~member participant~~ is entitled to direct the investment of funds in the ~~member’s participant’s~~ account among the investment vehicles offered. The department shall provide for a default investment vehicle if a ~~member participant~~ fails to direct how funds are to be invested.

(3) At any time after a ~~member’s participant’s~~ account has been established, the ~~member participant~~ may access funds in the account in a manner prescribed by the department. The funds may be accessed only for the payment of qualified health care expenses and until the funds have been exhausted.

(4) Administrative expenses must be paid by the plan in a manner prescribed by the department.”

Section 4. Section 2-18-1309, MCA, is amended to read:

“2-18-1309. Administration of plan – content of plan document. (1) The department shall provide for the administration of the plan in the manner required to satisfy applicable tax qualification requirements of the Internal Revenue Code *and other applicable federal law*. If a statutory provision of this part conflicts with a qualification requirement of the Internal Revenue Code *or other applicable federal law* and any consequent federal regulations, the provision is either ineffective or must be interpreted to conform with the federal qualification requirements.

(2) For purposes of qualification pursuant to section 501(c)(9) of the Internal Revenue Code, 26 U.S.C. 501(c)(9), and any other applicable internal revenue service laws and regulations, the plan document is composed of this part, ~~and the rules adopted by the department to implement this part, and the regulations adopted by the internal revenue service to implement section 105 of the Internal Revenue Code, 26 U.S.C. 105.~~

Section 5. Section 2-18-1311, MCA, is amended to read:

“2-18-1311. Contributions of unused sick and vacation leave – other contributions not prohibited. (1) ~~In a manner prescribed by the department, a contracting employer shall provide for a plan member to annually designate how many hours, if any, of the member’s sick leave will be automatically converted to an employer contribution to the member’s account each pay period as provided for in this section.~~

~~(2) (a) Except as provided in subsection (2)(b), a member may annually convert only the sick leave hours in excess of 240 hours and no more than the maximum prescribed by the contracting employer.~~

~~(b)(1) When the member’s employment is terminated, the member’s unused sick leave balance may be converted, in whole or in part, to an a tax-free employer contribution to the member’s participant account pursuant to this section. For those amounts of sick leave not converted to employer contributions, the balance is allocated as required under 2-18-618(6).~~

~~(3)(2) The amount of the employer contribution to a member’s participant’s account for hours converted under this section must be equal to one-fourth of the pay attributed to the accumulated sick leave. The attributable pay must be computed on the basis of the employee’s salary or wage at the time that the sick leave is converted. A member participant may not later receive as sick leave credit or as a lump-sum payment amounts contributed to the member’s participant account pursuant to this section.~~

~~(3) At termination of employment, the member’s unused vacation leave balance may be converted to a tax-free employer contribution to the participant account as provided for in 2-18-617.~~

~~(4) This section does not prohibit an employer from making other contributions permitted by statute and federal law or from entering into an agreement with a member participant for employer contributions to a member participant account in addition to the contributions provided for under this section.”~~

Section 6. Section 2-18-1313, MCA, is amended to read:

“2-18-1313. Beneficiaries—death Death benefits. (1) A member may designate as a beneficiary an individual, charitable organization, or trust. The designation must be in a manner prescribed by the department.

~~(2)(1) Upon proof of a member’s participant’s death, if the deceased member’s participant’s account retains funds, the member’s designated beneficiary participant’s surviving spouse or dependent is entitled to use the account for qualified health care expenses or, to the extent allowable under applicable Internal Revenue Code sections, to receive a taxable lump-sum payment of the deceased member’s account balance incurred by the participant until the participant’s death or incurred by the surviving spouse or a surviving dependent until loss of tax-qualified status.~~

~~(2) The department shall prescribe by rule the disposition of a deceased member’s participant’s account if the member failed to designate a beneficiary or participant has no surviving designated beneficiary spouse or dependent.”~~

Section 7. Effective date. [This act] is effective on passage and approval.

Approved April 1, 2021

CHAPTER NO. 129

[HB 117]

AN ACT REVISING CLAIMS HISTORY INFORMATION THAT AN INSURER MAY CONSIDER IN TRANSACTING AUTOMOBILE INSURANCE POLICIES; ALLOWING A DISCOUNT BASED ON FAVORABLE ASPECTS OF THE INSURED'S CLAIMS HISTORY; AND AMENDING SECTIONS 33-16-201 AND 33-18-210, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 33-16-201, MCA, is amended to read:

"33-16-201. Standards applicable to rates. The following standards apply to the making and use of rates pertaining to all classes of insurance to which the provisions of this chapter are applicable:

(1) (a) Rates may not be excessive or inadequate, and they may not be unfairly discriminatory.

(b) A rate may not be held to be excessive unless the rate is unreasonably high for the insurance provided and a reasonable degree of competition does not exist in the area with respect to the classification to which the rate is applicable.

(c) A rate may not be held to be inadequate unless the rate is unreasonably low for the insurance provided and the continued use of the rate endangers the solvency of the insurer using the rate or unless the rate is unreasonably low for the insurance provided and the use of the rate by the insurer has, or if continued will have, the effect of destroying competition or creating a monopoly.

(2) (a) Consideration must be given, when applicable, to past and prospective loss experience within and outside this state, to revenue and profits from reserves, to conflagration and catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to past and prospective expenses, both countrywide and those specially applicable to this state, and to all other factors, including judgment factors, considered relevant within and outside this state. In the case of fire insurance rates, consideration may be given to the experience of the fire insurance business during the most recent 5-year period for which experience is available.

(b) Consideration may also be given in the making and use of rates to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers.

(3) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the operating methods of the insurer or group with respect to any kind of insurance or with respect to any subdivision or combination of insurance.

(4) (a) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for separate risks in accordance with rating plans that establish standards for measuring variations in hazards or expense provisions, or both. The standards may measure any difference among risks that have a probable effect upon losses or expenses. Classifications or modifications of classifications of risks may be established, based ~~upon~~ on size, expense, management, individual experience, location or dispersion of hazard, or any other reasonable considerations.

(b) Special risk classifications may be established for private passenger automobile policies. Special risk classifications may be based ~~upon~~ on favorable aspects of an insured individual's claims history ~~that is 3 years old~~

~~or older.~~ Special risk classifications may not be established based on adverse information contained in an insured individual's driving record that is 3 years old or older.

(c) Special risk classifications may be established for commercial automobile policies. Special risk classifications for commercial automobile policies may be based ~~upon~~ *on* favorable aspects of an insured's claims history ~~that is 5 years old or older.~~ Special risk classifications for commercial automobile policies *may not be established based on adverse information contained in an insured's claims history or applicable driving records that is 5 years old or older for an insured's adverse loss experience may not use more than the most recent 5 years of claims history that is available.*

(d) Classifications and modifications apply to all risks under the same or substantially the same circumstances or conditions.

(e) As used in subsection (4)(b), "private passenger automobile policy" means an automobile insurance policy issued to individuals or families but does not include policies known as commercial automobile policies."

Section 2. Section 33-18-210, MCA, is amended to read:

"33-18-210. Unfair discrimination and rebates prohibited for title, property, casualty, or surety insurance – exceptions – limitations.

(1) Except as provided in subsections (3), (4), and (11)(a), a title, property, casualty, or surety insurer or an employee, representative, or insurance producer of an insurer may not, as an inducement to purchase insurance or after insurance has been effected, pay, allow, or give or offer to pay, allow, or give, directly or indirectly, a:

(a) rebate, discount, abatement, credit, or reduction of the premium named in the insurance policy;

(b) special favor or advantage in the dividends or other benefits to accrue on the policy; or

(c) valuable consideration or inducement not specified in the policy, except to the extent provided for in an applicable filing with the commissioner as provided by law.

(2) Except as provided in subsections (3), (4), and (11)(a), an insured named in a policy or an employee of the insured may not knowingly receive or accept, directly or indirectly, a:

(a) rebate, discount, abatement, credit, or reduction of premium;

(b) special favor or advantage; or

(c) valuable consideration or inducement.

(3) The prohibitions in subsections (1) and (2) do not apply to a benefit provided for by a telematics agreement as provided in 33-23-221 through 33-23-226.

(4) The prohibitions under subsections (1) and (2) do not apply to an active, retired, or honorably separated member of the United States armed forces as described in 33-18-217(1)(a) or to a spouse, surviving spouse, dependent, or heir of a United States armed forces member as provided in 33-18-217.

(5) An insurer may not make or permit unfair discrimination in the premium or rates charged for insurance, in the dividends or other benefits payable on insurance, or in any other of the terms and conditions of the insurance either between insureds or property having like insuring or risk characteristics or between insureds because of race, color, creed, religion, or national origin.

(6) This section may not be construed as prohibiting the payment of commissions or other compensation to licensed insurance producers or as prohibiting an insurer from allowing or returning lawful dividends, savings, or unabsorbed premium deposits to its participating policyholders, members, or subscribers.

(7) An insurer may not make or permit unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless:

(a) the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for unfair discrimination; or

(b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

(8) An insurer may not make or permit unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a residential property risk or on the personal property contained in the residential property, because of the age of the residential property, unless:

(a) the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for unfair discrimination; or

(b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

(9) An insurer may not refuse to insure, refuse to continue to insure, or limit the amount of coverage available to an individual because of the sex or marital status of the individual. However, an insurer may take marital status into account for the purpose of defining persons eligible for dependents' benefits.

(10) An insurer may not terminate or modify coverage or refuse to issue or refuse to renew a property or casualty policy or contract of insurance solely because the applicant or insured or any employee of either is mentally or physically impaired. However, this subsection does not apply to accident and health insurance sold by a casualty insurer, and this subsection may not be interpreted to modify any other provision of law relating to the termination, modification, issuance, or renewal of any insurance policy or contract.

(11) (a) An insurer may not refuse to insure, refuse to continue to insure, charge higher rates, or limit the amount of coverage available to an individual under a private passenger automobile policy based solely on adverse information contained in an individual's *claims history and applicable* driving record that is 3 years old or older. An insurer may provide discounts to an insured under a private passenger automobile policy based on favorable aspects of an insured's claims history ~~that is 3 years old or older.~~

(b) ~~An insurer may not use more than the most recent 5 years of loss experience that is available when determining whether to refuse to insure, refuse to continue to insure, charge higher rates, or limit the amount of coverage available under a commercial automobile policy based solely on adverse information contained in the loss experience or an insured's driving records that is 5 years old or older.~~ An insurer may provide discounts to an insured under a commercial automobile policy based on favorable aspects of an insured's claims history ~~that is 5 years old or older.~~

(c) As used in subsection (11)(a), "private passenger automobile policy" means an automobile insurance policy issued to individuals or families but does not include policies known as commercial automobile policies.

(12) An insurer may not charge points or surcharge a private passenger motor vehicle policy because of a claim submitted under the insured's policy if the insured was not at fault.

(13) (a) An insurer that provides personal lines insurance for an insured may not consider the insured's inquiries or claims made to any insurer that

did not result in a payment by any insurer in considering an application for, renewal of, or change in an insurance policy as defined in 33-15-102.

(b) This subsection (13) does not apply to an insurer's consideration of a claim that was the basis for a criminal or civil insurance fraud action by a state or regulatory enforcement entity.

(c) (i) For the purposes of this subsection (13), the term "personal lines insurance" means vehicle insurance under 33-1-206(1)(a) and property insurance under 33-1-210 that is sold by an insurer for personal, family, or household purposes.

(ii) The term does not include disability insurance or insurance for commercial, business, or professional services, products, or activities."

Section 3. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Approved April 1, 2021

CHAPTER NO. 130

[HB 141]

AN ACT GENERALLY REVISING VEHICLE AND VESSEL TITLE TRANSFER LAWS; ALLOWING FOR TIME OF DEATH TRANSFER OF VEHICLE AND VESSEL TITLES; PROVIDING FOR A BENEFICIARY DESIGNATION; SPECIFYING METHODS FOR REVOKING A BENEFICIARY DESIGNATION; SPECIFYING METHOD OF EFFECTING TRANSFER; SPECIFYING TRANSFER AS NONPROBATE TRANSFER; AND AMENDING SECTIONS 61-3-202 AND 72-6-111, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Certificate of title -- transfer on death. (1) The owner or joint owners of a vehicle or vessel may arrange for nonprobate transfer of the vehicle's or vessel's title at the time of death of the owner or last surviving joint owner by completing the beneficiary designation on the application for certificate of title prescribed by the department.

(2) The beneficiary designation must include fields for the following information:

(a) the make, model, year, and vehicle identification number of the vehicle or vessel;

(b) the name and signature of the owner or every joint owner of the vehicle or vessel, signed under penalty of unsworn falsification as provided in 45-7-203; and

(c) the name of the beneficiary or the names of the beneficiaries of the vehicle or vessel.

(3) (a) A beneficiary designation is perfected when it is submitted to the department with an application for certificate of title and if it provides the information and signatures required in subsection (2).

(b) An instrument for the testamentary transfer of a vehicle or vessel does not invalidate a perfected beneficiary designation.

(4) The owner or joint owners of a vehicle or vessel may revoke a perfected beneficiary designation by:

(a) transferring the vehicle or vessel to the beneficiary or a third party before death; or

(b) submitting a new beneficiary designation with an application for certificate of title.

(5) (a) After the death of the owner or last surviving joint owner of a vehicle or vessel subject to a perfected beneficiary designation, the beneficiary may present the proof of death of the owner or joint owners of the vehicle or vessel listed as a beneficiary and identification of the beneficiary to the department, to the county treasurer's office, or to an authorized agent and:

(i) request a replacement title for the vehicle or vessel; or

(ii) effect transfer of the title of the vehicle or vessel as required by 61-3-220.

(b) The beneficiary does not acquire any use, ownership, economic, or other interest in the vehicle or vessel until the beneficiary has filed the documents required by subsection (4) and the department, the county treasurer's office, or an authorized agent has either issued a replacement title or effected the transfer of the title.

(6) This section does not limit the rights of a lienholder whose lien attached to the vehicle or vessel prior to the death of the owner or last surviving joint owner named on the beneficiary designation.

Section 2. Section 61-3-202, MCA, is amended to read:

"61-3-202. Certificate of title -- issuance -- contents -- joint ownership. (1) A certificate of title issued by the department must contain:

(a) the date issued;

(b) the name and address of the owner;

(c) the mileage disclosed by the transferor when ownership of the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile was transferred, including a notation that the record mileage is actual, not actual, or exceeds mechanical limits;

(d) the name and address of each secured party and lienholder, in the order of priority and perfection or, if the application was based on a surrendered certificate of title, in the order that the names and addresses are shown on the certificate of title;

(e) the title number assigned to the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile;

(f) the name of the jurisdiction in which the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile owner resides, the words "certificate of title", the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile identification number, the manufacturer's designated model year of manufacture, make, and model of the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile, and any required or carried-forward brands;

(g) the unique transaction record number, if available and assigned by the department; and

(h) any other data that the department prescribes.

(2) A certificate of title issued by the department is valid until canceled by the department upon:

(a) a transfer, in the electronic record, of title of any ownership interest shown in the certificate of title;

(b) notice received by the department of the surrender of the certificate of title to a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile to a title-issuing agency of another jurisdiction for an issuance of a title in that jurisdiction;

(c) the issuance of a duplicate certificate of title; or

(d) a determination by the department that the certificate of title contains a substantial error or that the person who requested issuance of the certificate of title paid the required fees and taxes with an insufficient funds check.

(3) (a) Whenever the conditions described in subsection (2)(d) occur, the department shall:

(i) give prompt written notice of the cancellation of the certificate of title to any owner, secured party, or lienholder of record; and

(ii) stop any change to the electronic record of title.

(b) The action taken by the department under subsection (3)(a) prevents the transfer of any ownership interest until the error is corrected or the fees and taxes have been paid.

(4) If the names and addresses of more than one owner are listed on the certificate of title, joint ownership with right of survivorship, and not as tenants in common; *and not as transfer on death*, is presumed.”

Section 3. Section 72-6-111, MCA, is amended to read:

“72-6-111. Nonprobate transfers on death. (1) A provision for a nonprobate transfer on death in an insurance policy, contract of employment, bond, mortgage, promissory note, certificated or uncertificated security, account agreement, custodial agreement, deposit agreement, compensation plan, pension plan, individual retirement plan, employee benefit plan, trust, conveyance, deed of gift, transfer on death deed, as defined in 72-6-402, marital property agreement, *beneficiary designation, as provided in [section 1]*, or other written instrument of a similar nature is nontestamentary. This subsection includes a written provision that:

(a) money or other benefits due to, controlled by, or owned by a decedent before death must be paid after the decedent’s death to a person whom the decedent designates either in the instrument or in a separate writing, including a will, executed either before or at the same time as the instrument or later;

(b) money due or to become due under the instrument ceases to be payable in the event of death of the promisee or the promisor before payment or demand; or

(c) any property controlled by or owned by the decedent before death that is the subject of the instrument passes to a person the decedent designates either in the instrument or in a separate writing, including a will, executed either before or at the same time as the instrument or later.

(2) This section does not limit rights of creditors under other laws of this state.”

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 61, chapter 3, part 2, and the provisions of Title 61, chapter 3, part 2, apply to [section 1].

Approved April 1, 2021

CHAPTER NO. 131

[HB 164]

AN ACT REVISING LAWS REGARDING TEMPORARY AUTOMATIC DOMESTIC RELATIONS ORDERS IN INVALIDITY OF MARRIAGE, DISSOLUTION OF MARRIAGE, AND LEGAL SEPARATION PROCEEDINGS; PROVIDING FOR THE ISSUANCE OF AUTOMATIC ECONOMIC RESTRAINING ORDERS; AND AMENDING SECTIONS 19-2-801, 40-4-105, AND 40-4-121, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Automatic economic restraining order. (1) On the filing of a petition for declaration of invalidity of marriage, a petition for dissolution of marriage, or a petition for legal separation, the clerk of the district court shall issue a summons and shall include with the summons an automatic economic restraining order that provides as follows:

“AUTOMATIC ECONOMIC RESTRAINING ORDER

It is hereby ordered:

(1) The parties are restrained from transferring, encumbering, concealing, or in any way disposing of, without the written consent of the other party or an order of the court, any marital property, except:

(a) for expenses necessary to reasonably maintain the marital standard of living or for the necessities of life, such as food, clothing, shelter, necessary health care expenses, transportation to and from work, and child care, taking into consideration additional living expenses arising out of a party obtaining a second household and current available income;

(b) in the customary and usual course of operating an existing business; or

(c) for the purpose of paying a reasonable amount for professional fees and costs relating to a proceeding under Title 40, chapter 1, part 4, Title 40, chapter 4, or Title 40, chapter 15.

(2) Each party shall file a notice with the court of any proposed extraordinary expenditure, proposed revocation of a nonprobate transfer, or proposed elimination of a right of survivorship to property at least 14 days before the action is taken.

(a) The notice must include:

(i) the proposed action and when the action is intended to occur;

(ii) how the proposed action may impact the marital estate; and

(iii) why the proposed action is necessary at that time.

(b) The notice is not sufficient unless the notice contains the following statement: “The moving party’s proposed action will be permitted without further proceedings or order of the court unless within 14 days of the date of filing of the notice you file with the court and serve on all persons entitled to notice a response objecting to the proposed action, which states the reasons for your objection.”

(c) If the other party files an objection to the proposed action before the expiration of the 14-day period, the party proposing to take the action is prohibited from taking the proposed action until the court rules on the proposed action.

(d) The burden of justifying the proposed action is on the party proposing the action. The court may award reasonable attorney fees if a party makes an unreasonable request for or an unreasonable objection to the proposed action.

(e) A “nonprobate transfer” means an instrument, other than a will, that makes a transfer of property on death, including a revocable trust, a pay-on-death account in a financial institution, a transfer on death registration of personal property, or a revocable transfer on death deed.

(3) The parties are restrained from:

(a) canceling jointly held credit cards or terminating signatory authority of the other party on a credit card;

(b) incurring unreasonable debt, including but not limited to further borrowing against any credit line secured by the family residence, further encumbering of any assets, or unreasonably using credit cards or cash advances against credit cards, except as provided for in subsections (1)(a) through (1)(c) or subsection (2);

(c) except as allowed by subsections (1)(a) through (1)(c) or subsection (2), making any withdrawal for any purpose or borrowing from any deferred compensation, retirement, profit-sharing, pension, death, or other employee benefit plan or employee savings plan or from any individual retirement account or Keogh account;

(d) except as allowed by subsections (1)(a) through (1)(c) or subsection (2), withdrawing or borrowing in any manner all or any part of the cash surrender value of any life insurance policies on either party or any of their children;

(e) changing or in any manner altering the beneficiary designation on any life insurance policies on either party or their children or changing or in any manner altering the beneficiary on any other account or asset;

(f) canceling, altering, or allowing to lapse any existing property, life, automobile, or health insurance policies insuring the parties' or children's property or persons;

(g) negotiating any instrument, check, draft, income tax refund, insurance payment, or dividends payable jointly to the parties or individually to the other party without the personal signature or prior written consent of the other party;

(h) opening, diverting, or withholding mail, e-mail, or other electronic communications addressed to the other party, except a party may open mail, e-mail, or other electronic communications addressed to both parties or submit a notice of change of the party's individual mail, e-mail, or other electronic address; and

(i) without objectively reasonable justification, intentionally or knowingly damaging or destroying the property of the parties or of either party during the pendency of this action, specifically including but not limited to any electronically stored materials, electronic communications, or financial records, without order of the court or written consent of the other party.

(4) Unless otherwise ordered by the court, a party is not restrained from:

(a) creating, modifying, or revoking a will;

(b) revoking or changing a power of attorney; or

(c) creating an unfunded revocable or irrevocable trust.

(5) This order does not adversely affect the rights, title, or interest of a purchaser, encumbrancer, or lessee for value if the purchaser, encumbrancer, or lessee does not have actual knowledge of this order.

(6) The court may expand, limit, modify, or revoke this order, and nothing prevents either party from requesting such relief. Furthermore, the parties, with joint agreement, may waive in writing some or all of the provisions of this order.

(7) The parties shall serve preliminary financial disclosures within 60 days of service of the petition for dissolution, declaration of invalidity of marriage, or legal separation pursuant to 40-4-252.

(8) This order is binding on the petitioner on filing of the petition, and this order is binding on the respondent on service of the petition.

(9) In issuing any temporary orders or in a final decree, the court may consider any action taken by the petitioner within a reasonable time prior to filing of the petition that would otherwise have constituted a violation of this order had this order been issued at the time.

(10) Except as otherwise ordered by the court, this order is dissolved on dismissal of the action or granting of the declaration of invalidity, dissolution of marriage, legal separation, or other final order.

(11) Failure to follow this automatic economic restraining order is subject to enforcement by the court, on a motion to the court. The court may issue any appropriate enforcement order as set forth in [section 1(4)], including, if appropriate, sanctions and all remedies for contempt of court."

(2) An automatic economic restraining order entered pursuant to this section, unless otherwise ordered by the court, is dissolved upon dismissal of the action or granting of the petition for declaration of invalidity, dissolution of marriage, legal separation, or other final order.

(3) Nothing in this section precludes a party from applying to the court for an order to expand, limit, modify, or revoke the automatic economic restraining order.

(4) If a party fails to comply with the automatic economic restraining order, the other party may move the court to grant an appropriate order, including, if appropriate, sanctions and all remedies for contempt of court.

Section 2. Section 19-2-801, MCA, is amended to read:

“19-2-801. Designation of beneficiary. (1) In the absence of any statutory beneficiaries, designated beneficiaries are the natural persons, charitable organizations, estate of the payment recipient, or trusts for the benefit of natural living persons that the member or payment recipient designates on the membership form provided by the board.

(2) Unless otherwise provided by this title or by a valid temporary restraining order issued pursuant to 40-4-121, *an order issued pursuant to [section 1], or an order issued pursuant to Title 40, chapter 15*, a member or payment recipient may revoke the designation and name different designated beneficiaries by filing with the board a new membership form provided by the board.

(3) If a person returns to covered employment in the same retirement system pursuant to 19-2-603, the person shall complete a new membership form and file it as provided in subsection (2). However, until the new membership form is filed, the board shall reference the membership form executed by the person prior to initial termination of membership for the same purposes as prior to termination. Beneficiaries designated on that membership form continue to be beneficiaries until the new membership form is filed.

(4) (a) Except as provided in subsections (4)(b) and (4)(c), the beneficiary designation on the most recent membership form filed with the board is effective for all purposes until the member retires.

(b) A member may elect to either override or retain the member’s existing beneficiary designation when completing a membership form for temporary or secondary employment with another employer within the same Title 19 retirement system.

(c) When a member retires, the designated beneficiaries or contingent annuitants named on the retirement application become effective.

(5) If a statutory or designated beneficiary predeceases the member or payment recipient, the predeceased beneficiary’s share must be paid to the remaining statutory or designated beneficiaries in amounts proportional to each remaining statutory or designated beneficiary’s original share.

(6) A statutory or designated beneficiary who renounces an interest in the payment rights of a member or payment recipient will be considered, with respect to that interest, as having predeceased the member or payment recipient.

(7) A contingent annuitant of a retired member who elected option 2, 3, or 4 pursuant to 19-3-1501, 19-5-701, 19-7-1001, or 19-8-801 may not renounce the contingent annuitant’s interest in the payment rights of the member.”

Section 3. Section 40-4-105, MCA, is amended to read:

“40-4-105. Procedure – commencement – pleadings – abolition of existing defenses. (1) The verified petition in a proceeding for dissolution of marriage or legal separation must allege that the marriage is irretrievably broken and must set forth:

(a) the age, occupation, and residence of each party and the party’s length of residence in this state;

(b) the date of the marriage and the place at which it was registered;

(c) that the jurisdictional requirements of 40-4-104 exist and that the marriage is irretrievably broken in that either:

(i) the parties have lived separate and apart for a period of more than 180 days preceding the commencement of this proceeding; or

(ii) there is serious marital discord that adversely affects the attitude of one or both of the parties towards the marriage, and there is no reasonable prospect of reconciliation;

(d) the names, ages, and addresses of all living children of the marriage and whether the wife is pregnant;

(e) any arrangements as to support of the children and maintenance of a spouse;

(f) a proposed parenting plan, if applicable; and

(g) the relief sought; and

(h) *the petitioner's acknowledgment that the automatic economic restraining order provided for in [section 1] applies to the petitioner on filing of the petition with the clerk of the district court.*

(2) Either or both parties to the marriage may initiate the proceeding.

(3) If a proceeding is commenced by one of the parties, the other party must be served in the manner provided by the Montana Rules of Civil Procedure and may within 21 days after the date of service file a verified response. A decree may not be entered until 21 days after the date of service.

(4) Previously existing defenses to divorce and legal separation, including but not limited to condonation, connivance, collusion, recrimination, insanity, and lapse of time, are abolished.

(5) The court may join additional parties proper for the exercise of its authority to implement this chapter.

[(6) The social security number, if known, of a person subject to a decree of dissolution or a support order must be recorded in the records relating to the matter. The social security number may be included in the state case registry and vital statistics reporting form filed pursuant to 40-5-908(1). The recordkeeper shall keep the social security number from this source confidential, except that the number may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.]

(7) Documents filed before the court containing financial account information must comply with the privacy protection requirements of Rule 5.2 of the Montana Rules of Civil Procedure. (Bracketed language terminates on occurrence of contingency--sec. 1, Ch. 27, L. 1999; sec. 12, Ch. 88, L. 2013.)"

Section 4. Section 40-4-121, MCA, is amended to read:

"40-4-121. Temporary order for maintenance or support, temporary injunction, or temporary restraining order. (1) In a proceeding for dissolution of marriage or for legal separation or in a proceeding for disposition of property or for maintenance or support following dissolution of the marriage by a court that lacked personal jurisdiction over the absent spouse, either party may move for temporary maintenance, temporary support of a child of the marriage entitled to support, or a temporary family support order. When a party is receiving public assistance, as defined in 40-5-201, for the minor children at issue or when a party receives public assistance during the life of a temporary family support order, the temporary family support order must designate separately the amounts of temporary child support and temporary maintenance, if any. The temporary child support order or the designated child support portion of the family support order must be determined as required in 40-4-204. The motion must be accompanied by an affidavit setting forth the factual basis for the motion, the amounts requested,

a list of marital estate liabilities, a statement of sources of income of the parties and of a child of the marriage entitled to support, and, in the case of a motion for a temporary family support order, a proposal designating the party responsible for paying each liability. If ordered by a court, a temporary family support order must, without prejudice, direct one or both parties to pay, out of certain income sources, liabilities of the marital estate during the pendency of the action, including maintenance liabilities for a party or support of a child of the marriage entitled to support. If income sources are insufficient to meet the marital estate periodic liabilities, the temporary family support order may direct that certain liabilities be paid from assets of the marital estate. At any time during the proceedings, the court may order any temporary family support payments to be designated as temporary maintenance, temporary child support, or partial property distribution, retroactive to the date of the motion for a temporary family support order. When a party obtains public assistance, as defined in 40-5-201, or applies for services under Title IV-D of the Social Security Act, after the court has issued a temporary family support order, the petitioner shall promptly move the court for designation of the parts, if any, of the temporary family support order that are maintenance and child support and the court shall promptly so designate, determining the child support obligation as required in 40-4-204.

(2) As a part of a motion for temporary maintenance, temporary support of a child, or a temporary family support order or by independent motion accompanied by affidavit, either party may request that the court issue a temporary injunction for any of the following relief:

~~(a) restraining a person from transferring, encumbering, concealing, or otherwise disposing of any property, except in the usual course of business or for the necessities of life, and if so restrained, requiring the person to notify the moving party of any proposed extraordinary expenditures made after the order is issued restricting, enhancing, ordering, or otherwise modifying or reaffirming the restrained or permitted provisions of the temporary economic restraining order pursuant to [section 1];~~

~~(b) restraining both parties from cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of any insurance or other coverage, including life, health, automobile, and disability coverage held for the benefit of a party or a child of a party for whom support may be ordered;~~

~~(e)(b) enjoining a party from molesting or disturbing the peace of the other party or of any family member or from stalking, as defined in 45-5-220;~~

~~(d)(c) excluding a party from the family home or from the home of the other party upon a showing that physical or emotional harm would otherwise result;~~

~~(e)(d) enjoining a party from removing a child from the jurisdiction of the court;~~

~~(f)(e) ordering a party to complete counseling, including alcohol or chemical dependency counseling or treatment;~~

~~(g)(f) providing other injunctive relief proper in the circumstances; and~~

~~(h)(g) providing additional relief available under Title 40, chapter 15.~~

~~(3) When the clerk of the district court issues a summons pursuant to this chapter, the clerk shall issue and include with the summons a temporary restraining order:~~

~~(a) restraining both parties from transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether jointly or separately held, without either the consent of the other party or an order of the court, except in the usual course of business or for the necessities of life. The restraining order must require each party to~~

notify the other party of any proposed extraordinary expenditures at least 5 business days before incurring the expenditures and to account to the court for all extraordinary expenditures made after service of the summons. However, the restraining order may not preclude either party from using any property to pay reasonable attorney fees in order to retain counsel in the proceeding.

~~(b)~~ —restraining both parties from cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of any insurance or other coverage, including life, health, automobile, and disability coverage held for the benefit of a party or a child of a party for whom support may be ordered. However, nothing in this subsection ~~(3)~~ adversely affects the rights, title, or interest of a purchaser, encumbrancer, or lessee for value if the purchaser, encumbrancer, or lessee does not have actual knowledge of the restraining order.

~~(4)~~(3) A person may seek the relief provided for in subsection (2) without filing a petition under this part for a dissolution of marriage or legal separation by filing a verified petition requesting relief under Title 27, chapter 19, part 3. Any temporary injunction entered under this subsection (3) must be for a fixed period of time, not to exceed 1 year, and may be modified as provided in Title 27, chapter 19, part 4, and 40-4-208, as appropriate.

~~(5)~~(4) The court may issue a temporary restraining order for a period not to exceed 21 days without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury will result to the moving party if an order is not issued until the time for responding has elapsed.

~~(6)~~(5) The party against whom a temporary injunction is sought must be served with notice and a copy of the motion and is entitled to a hearing on the motion. A response may be filed within 21 days after service of notice of motion or at the time specified in the temporary restraining order.

~~(7)~~(6) At the time of the hearing, the court shall:

(a) inform both parties that the temporary injunction may contain a provision or provisions that limit the rights of one or both parties relating to firearms under state law or a provision or provisions that may subject one or both parties to state or federal laws that limit their rights relating to firearms; and

(b) determine whether good cause exists for the injunction to continue for 1 year.

~~(8)~~(7) On the basis of the showing made and in conformity with 40-4-203 and 40-4-204, the court may issue a temporary injunction and an order for temporary maintenance, temporary child support, or temporary family support in amounts and on terms just and proper in the circumstance.

~~(9)~~(8) A temporary order or injunction, entered pursuant to Title 40, chapter 15, or this section:

(a) may be revoked or modified on a showing by affidavit of the facts necessary to revocation or modification of a final decree under 40-4-208;

(b) terminates upon order of the court or when the petition is voluntarily dismissed and, in the case of a temporary family support order, upon entry of the decree of dissolution; and

(c) when issued under this section, must conspicuously bear the following: "Violation of this order is a criminal offense under 45-5-220 or 45-5-626"²

~~(10)~~(9) When the petitioner has fled the parties' residence, notice of the petitioner's new residence must be withheld except by order of the court for good cause shown.

~~(11)~~(10) The court shall seal any qualified domestic relations order, as defined in section 414(p) of the Internal Revenue Code, 26 U.S.C. 414(p), that

is issued under this part except for access by the pension plan administrator of the plan for which benefits are being distributed by the order, the child support enforcement division, the parties, and each party's counsel of record."

Section 5. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 40, chapter 4, part 1, and the provisions of Title 40, chapter 4, part 1, apply to [section 1].

Approved April 1, 2021

CHAPTER NO. 132

[HB 198]

AN ACT GENERALLY REVISING LAWS RELATED TO WORKERS' COMPENSATION FOR BURIAL EXPENSES; INCREASING WORKERS' COMPENSATION BENEFITS PAID FOR BURIAL EXPENSES; AND AMENDING SECTION 39-71-725, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 39-71-725, MCA, is amended to read:

"39-71-725. Payment of burial expense. ~~There~~ There must be paid, in case of the death of an employee whose death is the result of an accidental injury arising out of the employment and happening in the course of the employment, the reasonable burial expenses of the employee; not exceeding ~~\$4,000~~ \$10,000. The payment is not a part of the compensation that might be paid but is a benefit in addition to and separate from compensation."

Approved April 1, 2021

CHAPTER NO. 133

[HB 220]

AN ACT ALLOWING SPECIAL DISTRICTS TO RECEIVE FEDERAL FUNDING DIRECTLY; AMENDING SECTION 7-11-1024, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Special districts – authority to receive federal funds.

Federal funds designated to a specific county under this part may be paid directly to a special district within the county pursuant to 7-11-1024.

Section 2. Section 7-11-1024, MCA, is amended to read:

"7-11-1024. Financing for special district. (1) The governing body shall make assessments or impose fees for the costs and expenses of the special district based upon a budget proposed by the governing body or separate board administering the district pursuant to 7-11-1021.

(2) For the purposes of this section, "assessable area" means the portion of a lot or parcel of land that is benefited by the special district. The assessable area may be less than but may not exceed the actual area of the lot or parcel.

(3) The governing body shall assess the percentage of the cost of the program or improvements:

(a) against the entire district as follows:

(i) each lot or parcel of land within the special district may be assessed for that part of the cost that its assessable area bears to the assessable area of the entire special district, exclusive of roads, streets, avenues, alleys, and public places;

(ii) if the governing body determines that the benefits derived from the program or improvements by each lot or parcel are substantially equivalent, the cost may be assessed equally to each lot or parcel located within the special district without regard to the assessable area of the lot or parcel;

(iii) each lot or parcel of land, including the improvements on the lot or parcel, may be assessed for that part of the cost of the special district that its taxable valuation bears to the total taxable valuation of the property of the district;

(iv) each lot or parcel of land may be assessed based on the lineal front footage of any part of the lot or parcel that is in the district and abuts the area to be improved or maintained;

(v) each lot or parcel of land within the district may be assessed for that part of the cost that the reasonably estimated vehicle trips generated for a lot or parcel of its size in its zoning classification bear to the reasonably estimated vehicle trips generated for all lots in the district based on their size and zoning classification;

(vi) each lot or parcel of land within the district may be assessed based on each family residential unit or one or more business units; or

(vii) any combination of the assessment options provided in subsections (3)(a)(i) through (3)(a)(vi) may be used for the special district as a whole; or

(b) based upon the character, kind, and quality of service for a residential or commercial unit, taking into consideration:

(i) the nature of the property or entity assessed;

(ii) a calculated basis for the program or service, including volume or weight;

(iii) the cost, incentives, or penalties applicable to the program or service practices; or

(iv) any combination of these factors.

(4) If property created as a condominium is subject to assessment, each unit within the condominium is considered a separate parcel of real property subject to separate assessment and the lien of the assessment. Each unit must be assessed for the unit's percentage of undivided interest in the common elements of the condominium. The percentage of the undivided ownership interest must be as set forth in the condominium declaration.

(5) *A governing body may, by resolution, instruct the state or any applicable federal agency to designate a special district as the recipient of federal funds to be used for the costs and expenses of the special district."*

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 17, chapter 3, part 2, and the provisions of Title 17, chapter 3, part 2, apply to [section 1].

Section 4. Effective date. [This act] is effective July 1, 2021.

Approved April 1, 2021

CHAPTER NO. 134

[HB 268]

AN ACT REVISING SPECIAL IMPROVEMENT DISTRICT LAWS FOR SANITARY AND STORM SEWERS; REVISING METROPOLITAN SANITARY AND/OR STORM SEWER DISTRICT LAWS; ALLOWING A COUNTY TO USE A TAX ASSESSMENT TO COLLECT OPERATIONAL COSTS INCURRED OR BILLED TO A DISTRICT; AND AMENDING SECTION 7-13-141, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Charges for services. (1) The board of county commissioners has authority by ordinance or resolution to fix and establish just and equitable rates, charges, and rentals for the services and benefits directly or indirectly afforded by any sanitary or storm sewer system or billed to a sanitary and/or storm sewer district formed under this chapter for the purposes of providing sanitary and/or storm sewer services to the district.

(2) The rates, charges, and rentals must be as closely equitable as possible in proportion to the services and benefits rendered and may take into consideration the quantity of sewage produced, the sewage concentration, water pollution qualities in general, and the cost to dispose of sewage and storm waters.

(3) The rates, charges, and rentals may be assessed against the owners in the district if the board of county commissioners passes a resolution to levy and assess the rates, charges, and rentals. The resolution must contain:

(a) a description of each lot or parcel of land with the name of the owner, if known; and

(b) the amount of each partial payment and the day when the payment becomes delinquent.

(4) All resolutions, signed by the presiding officer of the board, must be kept on file in the office of the county clerk.

Section 2. Section 7-13-141, MCA, is amended to read:

“7-13-141. Charges for services. (1) The board of county commissioners ~~shall have~~ *has* authority by ordinance or resolution to fix and establish just and equitable rates, charges, and rentals for the services and benefits directly or indirectly afforded by any sanitary or storm sewer system operated by, controlled by, and under the jurisdiction of a metropolitan sanitary and/or storm sewer district formed under this part ~~or billed to a metropolitan sanitary and/or storm sewer district formed under this part for the purposes of providing sanitary and/or storm sewer services to the district.~~

(2) ~~Such~~ *The* rates, charges, and rentals ~~shall~~ *must* be as nearly as possible equitable in proportion to the services and benefits rendered and may take into consideration:

(a) the quantity of sewage produced ~~and~~;

(b) its concentration and water pollution qualities in general; and

(c) the cost of disposal of sewage and storm waters.

(3) *The rates, charges, and rentals may be assessed against the owners in the district if the board of county commissioners passes a resolution to levy and assess the rates, charges, and rentals. The resolution must contain:*

(a) a description of each lot or parcel of land with the name of the owner, if known; and

(b) the amount of each partial payment and the day when the payment becomes delinquent.

(4) All resolutions, signed by the presiding officer of the board, must be kept on file in the office of the county clerk.”

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 7, chapter 12, part 23, and the provisions of Title 7, chapter 12, part 23, apply to [section 1].

Approved April 1, 2021

CHAPTER NO. 135

[HB 282]

AN ACT REVISING LAWS RELATING TO THE EMPLOYMENT OF MINORS; ALLOWING STUDENT-EMPLOYEES 16 YEARS OF AGE OR OLDER TO PERFORM WORK FUNCTIONS UNDER CERTAIN CIRCUMSTANCES; REVISING EXEMPTIONS IN AGRICULTURE TO ALLOW A STUDENT-LEARNER TO PERFORM REGULAR WORK FUNCTIONS; AND AMENDING SECTIONS 41-2-103, 41-2-107, 41-2-109, AND 41-2-110, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 41-2-103, MCA, is amended to read:

“41-2-103. Definitions. As used in this part, the following definitions apply:

- (1) “Agriculture” means:
 - (a) all aspects of farming, including the cultivation and tillage of the soil;
 - (b) (i) dairying; and
 - (ii) the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, including commodities defined as agricultural commodities in the federal Agricultural Marketing Act, 12 U.S.C. 1141j(g);
 - (c) the raising of livestock, bees, fur-bearing animals, or poultry; and
 - (d) any practices, including forestry or lumbering operations, performed by a farmer or on a farm as an incident to or in conjunction with farming operations, including preparation for market or delivery to storage, to market, or to carriers for transportation to market.

- (2) “Department” means the department of labor and industry provided for in 2-15-1701.

- (3) “Domestic service” means an occasional, irregular, or incidental nonhazardous occupational activity related to and conducted in or around a private residence, including but not limited to babysitting, pet sitting or similar household chore, and manual yard work. Domestic service specifically excludes industrial homework.

- (4) (a) “Employed” or “employment” means an occupation engaged in, permitted, or suffered, with or without compensation in money or other valuable consideration, whether paid to the minor or to some other person, including but not limited to occupations as servant, agent, subagent, or independent contractor.

- (b) The term does not include casual, community service, nonrevenue raising, uncompensated activities.

- (5) “Employer” includes an individual, partnership, association, corporation, business trust, person, or group of persons acting directly or indirectly in the interest of an employer in relation to an employee.

- (6) “Minor” means an individual under 18 years of age, except for an individual who:

- (a) has received a high school diploma or a high school equivalency diploma; **or**

- (b) is 16 years of age or older and is enrolled in a registered state or federal apprenticeship program; **or**

- (c) *is 16 years of age or older and is a student-employee under the direct and close supervision of a qualified and experienced person with experience in the occupation in which the minor is employed as provided in 41-2-110.*

(7) "Occupation" means:

- (a) an occupation, service, trade, business, or industry in which employees are employed;
- (b) any branch or group of industries in which employees are employed; or
- (c) any employment or class of employment in which employees are employed."

Section 2. Section 41-2-107, MCA, is amended to read:

"41-2-107. Prohibited employment of minors who are 16 and 17 years of age. Unless working as an apprentice, or student-learner, or *student-employee* under the provisions of 41-2-110, a minor 16 or 17 years of age may not be employed in or in connection with any of the following occupations:

- (1) manufacturing or storing explosives or articles containing explosive components;
- (2) logging and the operation of a sawmill, lath mill, or shingle mill;
- (3) the operation of power-driven woodworking machines;
- (4) an occupation involving exposure to a radioactive substance or ionizing radiation;
- (5) the operation of a freight elevator, except for a freight elevator permitted for use under the child labor provisions of the federal Fair Labor Standards Act of 1938, or other power-driven hoisting apparatus;
- (6) the operation of a power-driven metal forming, punching, and shearing machine;
- (7) a mining occupation;
- (8) slaughtering, meatpacking, meat processing, or rendering;
- (9) the operation of a power-driven bakery machine;
- (10) the operation of a power-driven paper products machine;
- (11) the manufacture of brick, tile, or similar products;
- (12) the operation of a circular saw, bandsaw, or guillotine shears;
- (13) a wrecking or demolition operation;
- (14) an excavation operation;
- (15) a roofing operation;
- (16) riding outside a motor vehicle to assist in transporting or delivering goods; and
- (17) a coal mining operation."

Section 3. Section 41-2-109, MCA, is amended to read:

"41-2-109. Exemptions from prohibited occupations in agriculture.

(1) The prohibitions from employment in agricultural operations provided for in 41-2-106(7) do not apply to the employment of a student-learner who is 14 or 15 years of age if all of the following requirements are met:

(a) The student-learner is enrolled in a K-12 career and vocational/technical education training program in agriculture under a recognized state or local educational authority or in a substantially similar program conducted by a private school.

(b) The student-learner is employed under a written agreement, providing that:

- (i) the work is incidental to training;
- (ii) the work is ~~intermittent, for short periods of time, and~~ under the direct and close supervision of a qualified and experienced person;
- (iii) safety instruction is given by the school and correlated by the employer with on-the-job training; and
- (iv) a schedule of organized and progressive work processes to be performed on the job has been prepared.

(c) The written agreement contains the name of the student-learner and is signed by the employer and by a person authorized to represent the educational authority or school.

(d) Copies of each agreement are kept on file both by the educational authority or school and by the employer.

(2) The prohibitions in 41-2-106(7) do not apply to the employment of a minor who is 14 or 15 years of age in those occupations in which the minor has successfully completed a work training program, including safety instruction and training in the use of machinery, under the 4-H program of the federal extension service, a program of the United States department of education, or a similar program if the safety program has been approved by the department and if the minor is employed outside school hours on the equipment for which the minor has been trained."

Section 4. Section 41-2-110, MCA, is amended to read:

"41-2-110. Exemptions from prohibited employment of minors who are 16 or 17 years of age. (1) The prohibitions in 41-2-107 do not apply to the employment of an apprentice, or student-learner, or *student-employee* who is 16 or 17 years of age if the minor is employed under the following conditions:

(a) for an apprentice, if:

(i) the minor is employed in a craft recognized as an apprenticeable trade;

(ii) the work is incidental to the minor's training;

(iii) the work is ~~intermittent, for short periods of time, and~~ under the direct and close supervision of a journeyman as a necessary part of the apprentice training; and

(iv) the minor is registered by the bureau of apprenticeship and training of the United States department of labor as employed in accordance with the standards established by that bureau or is registered by the department as employed in accordance with the standards of the department;

(b) for a student-learner, if:

(i) the student-learner is enrolled in a course of study and training in a cooperative vocational training program under a recognized state or local educational authority or in a course of study in a substantially similar program conducted by a private school;

(ii) the student-learner is employed under a written agreement, providing that:

(A) the work of the student-learner is incidental to the student-learner's training;

(B) the work is ~~intermittent, for short periods of time, and~~ under the direct and close supervision of a qualified and experienced person;

(C) safety instruction is given by the school and correlated by the employer with on-the-job training; and

(D) a schedule of organized and progressive work processes to be performed on the job has been prepared;

(iii) the written agreement contains the name of the student-learner and is signed by the employer and the school coordinator or principal; and

(iv) copies of each agreement are kept on file both by the educational authority or school and by the employer;;

(c) (i) for a student-employee, if:

(A) *the student-employee is under the direct and close supervision of a qualified and experienced person with experience in the occupation in which the minor is employed; and*

(B) *safety instruction is given by the employer of the student-employee.*

(ii) *A student-employee that qualifies under this subsection (1)(c) may perform any work function as required by the occupation.*

(2) This exemption for the employment of student-learners may be revoked by the department in any situation if the department finds that reasonable precautions have not been observed for the safety of minors employed under the exemption.

(3) A high school graduate who is 16 or 17 years of age may be employed in an occupation in which the graduate has completed training as a student-learner as provided in this section."

Approved April 1, 2021

CHAPTER NO. 136

[HB 283]

AN ACT REQUIRING WORKERS' COMPENSATION INSURANCE COVERAGE FOR VOLUNTEERS ENROLLED IN AN ELEMENTARY OR SECONDARY EDUCATIONAL INSTITUTION; ALLOWING THE BUSINESS PARTNER AND THE EDUCATIONAL INSTITUTION TO MUTUALLY DETERMINE AND AGREE IN WRITING WHETHER THE BUSINESS PARTNER OR THE EDUCATIONAL INSTITUTION ELECTS COVERAGE FOR THE VOLUNTEER; AND AMENDING SECTION 39-71-118, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. 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 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 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) 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.

(b) *A An elementary or secondary student who is not paid wages by the business partner or the educational institution in which the student is enrolled is a volunteer and is subject to the provisions of this chapter for whom coverage must be provided. The business partner and the educational institution shall mutually determine and agree in writing whether the business partner or the educational institution shall elect coverage for the student.*

(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."

Approved April 1, 2021

CHAPTER NO. 137

[HB 373]

AN ACT REVISING THE NATURAL RESOURCES OPERATIONS STATE SPECIAL REVENUE ACCOUNT; PROVIDING FOR A GENERAL FUND TRANSFER; AMENDING SECTION 15-38-301, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-38-301, MCA, is amended to read:

"15-38-301. Natural resources operations state special revenue account created – revenue allocated – appropriations from account.

(1) There is a natural resources operations state special revenue account within the state special revenue fund established in 17-2-102.

(2) Except to the extent required to be credited to the renewable resource loan debt service fund pursuant to 85-1-603, there must be paid into the natural resources operations state special revenue account:

(a) the interest income of the resource indemnity trust fund as provided in and subject to the conditions of 15-38-202;

(b) the metal mines license tax proceeds as provided in 15-37-117(1)(d);

(c) the oil and natural gas production tax as provided in 15-36-331;

(d) any fees or charges collected by the department pursuant to 85-1-616 for the servicing of loans, including arrangements for obtaining security interests; and

(e) fund transfers by the legislature.

(3) *On July 1 of each fiscal year, the state treasurer shall transfer the amount necessary when combined with available and unencumbered fund balance and anticipated revenue for the fiscal year, to fund the amount appropriated by the legislature in the general appropriation act from the state general fund to the natural resources operations state special revenue account for the sole purpose of funding the appropriations authorized by the legislature from the account. Prior to the closing of the fiscal year, the department shall reconcile anticipated revenue with actual revenue received. If revenue is received above the anticipated amount, the transfer in the following fiscal year shall adjust for the unanticipated amount. If revenue is received below the anticipated amount, the state treasurer shall transfer the amount of the revenue shortfall from the general fund to the natural resources operations state special revenue account.*

(3)(4) Appropriations may be made from the natural resources operations state special revenue account for administrative expenses, including salaries and expenses for personnel and equipment, office space, and other expenses necessarily incurred in the administration of natural resources operations.”

Section 2. Effective date. [This act] is effective July 1, 2021.

Section 3. Termination. [This act] terminates June 30, 2025.

Approved April 1, 2021

CHAPTER NO. 138

[HB 374]

AN ACT REVISING THE BASIC LIBRARY SERVICES ACCOUNT AND THE CONSERVATION DISTRICT ACCOUNT LAWS; PROVIDING FOR GENERAL FUND TRANSFERS; AMENDING SECTIONS 22-1-202 AND 76-15-106, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 22-1-202, MCA, is amended to read:

“22-1-202. Basic library services account. (1) There is a basic library services account in the state special revenue fund established by 17-2-102 to be administered by the state library for providing basic library services.

(2) *On July 1 of each fiscal year, the state treasurer shall transfer the amount necessary when combined with available and unencumbered fund balance and anticipated revenue for the fiscal year to fund the amount appropriated by the legislature in the general appropriation act from the state general fund to the basic library services special revenue account for the sole purpose of funding the appropriations authorized by the legislature from the account. Prior to the closing of the fiscal year, the department shall reconcile anticipated revenue with actual revenue received. If revenue is received above the anticipated amount, the transfer in the following fiscal year shall adjust for the unanticipated amount. If revenue is received below the anticipated amount, the state treasurer shall transfer the amount of the revenue shortfall from the general fund to the basic library services special revenue account.”*

Section 2. Section 76-15-106, MCA, is amended to read:

“76-15-106. Conservation district account. (1) There is a conservation district account in the state special revenue fund established by 17-2-102 to be administered by the department of natural resources and conservation for providing funding for conservation districts.

(2) *On July 1 of each fiscal year, the state treasurer shall transfer the amount necessary when combined with available and unencumbered fund balance and anticipated revenue for the fiscal year to fund the amount*

appropriated by the legislature in the general appropriation act from the state general fund to the conservation district special revenue account for the sole purpose of funding the appropriations authorized by the legislature from the account. Prior to the closing of the fiscal year, the department shall reconcile anticipated revenue with actual revenue received. If revenue is received above the anticipated amount, the transfer in the following fiscal year shall adjust for the unanticipated amount. If revenue is received below the anticipated amount, the state treasurer shall transfer the amount of the revenue shortfall from the general fund to the conservation district special revenue account.”

Section 3. Transfer of funds. The state treasurer shall transfer \$1 million from the general fund to the account in 76-15-106 within 10 days of the effective date provided for in [section 4(2)].

Section 4. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2021.

(2) [Section 3] and this section are effective on passage and approval.

Section 5. Termination. [This act] terminates June 30, 2023.

Approved April 1, 2021

CHAPTER NO. 139

[HB 425]

AN ACT EXTENDING THE TERMINATION DATE FOR THE CRIME VICTIMS COMPENSATION ACCOUNT; AMENDING SECTION 14, CHAPTER 374, LAWS OF 2009, SECTION 27, CHAPTER 285, LAWS OF 2015, AND SECTION 1, CHAPTER 292, LAWS OF 2015; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 14, Chapter 374, Laws of 2009, is amended to read:

“**Section 14. Termination.** [This act] terminates June 30, ~~2015~~ 2027.”

Section 2. Section 27, Chapter 285, Laws of 2015, is amended to read:

“**Section 14. Termination.** [This act] terminates June 30, ~~2015~~ ~~2021~~ 2027.”

Section 3. Section 1, Chapter 292, Laws of 2015, is amended to read:

“**Section 14. Termination.** [This act] terminates June 30, ~~2015~~ ~~2021~~ 2027.”

Section 4. Effective date. [This act] is effective on passage and approval.

Approved April 1, 2021

CHAPTER NO. 140

[SB 276]

AN ACT GENERALLY REVISING THE SECRETARY OF STATE'S PUBLIC RECORDS DUTIES; ELIMINATING THE REQUIREMENT FOR THE SECRETARY OF STATE TO APPROVE MICROFILM PROJECTS AND EQUIPMENT PURCHASES; ELIMINATING THE AUTHORITY FOR THE SECRETARY OF STATE TO OPERATE A CENTRAL MICROFILM UNIT; AND AMENDING SECTION 2-6-1101, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-6-1101, MCA, is amended to read:

“2-6-1101. Secretary of state – powers and duties – rulemaking authority. (†) To ensure the proper management and safeguarding of public records, the secretary of state shall:

(a)(1) establish guidelines based on accepted industry standards for managing public records;

(b)(2) upon request of another executive branch agency, review, analyze, and make recommendations regarding executive branch agency filing systems and procedures;

(c)(3) operate the state records center for the purpose of storing and servicing public records not retained in office space;

(d)(4) provide information and training materials for all phases of efficient and effective records management;

~~(e) approve microfilming projects and microfilm equipment purchases undertaken by all state agencies;~~

(f)(5) consult with the department of administration pursuant to 2-6-1102;

~~(g)(6) adopt rules regarding management of public records;~~

(h)(7) adopt rules to implement the objectives of the state records committee and local government records committee; and

(i)(8) upon request, assist and advise in the establishment of records management procedures in the legislative and judicial branches of state government and provide services similar to those available to the executive branch.

~~(2) In addition to the requirements under subsection (1), the secretary of state may operate a central microfilm unit to microfilm, on a cost recovery basis, all records approved for filming by the office of origin and the secretary of state.”~~

Approved April 8, 2021

CHAPTER NO. 141

[SB 262]

AN ACT GENERALLY REVISING CLASS 10 PROPERTY TAXATION OF FOREST LANDS; REVISING THE COMPOSITION AND DUTIES OF THE FOREST LANDS TAXATION ADVISORY COMMITTEE; PROVIDING FOR FULL REVIEW AND RECOMMENDATION OF CHANGES TO APPRAISAL METHODOLOGY AND VALUATIONS; AMENDING SECTION 15-44-103, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-44-103, MCA, is amended to read:

“15-44-103. Legislative intent – value of forest lands – valuation zones. (1) In order to encourage landowners of private forest lands to retain and improve their holdings of forest lands, to promote better forest practices, and to encourage the investment of capital in reforestation, forest lands must be classified and assessed under the provisions of this section.

(2) The forest productivity value of forest land must be determined by:

(a) capitalizing the value of the mean annual net wood production at the culmination of mean annual increment plus other agriculture-related income, if any; less

(b) annualized expenses, including but not limited to the establishment, protection, maintenance, improvement, and management of the crop over the rotation period.

(3) To determine the forest productivity value of forest lands, the department shall:

(a) divide the state into appropriate forest valuation zones, with each zone designated so as to recognize the uniqueness of marketing areas, timber types, growth rates, access, operability, and other pertinent factors of that zone; and

(b) establish a uniform system of forest land classification that takes into consideration the productive capacity of the site to grow forest products and furnish other associated agricultural uses.

(4) In computing the forest land productivity valuation for each forest valuation zone, the department shall determine the productive capacity value of all forest lands in each forest valuation zone using the formula $V = I/R$, where:

(a) V is the per-acre forest productivity value of the forest land;

(b) I is the per-acre net income of forest lands in each valuation zone and is determined by the department using the formula $I = (M \times SV) + AI - C$, where:

(i) I is the per-acre net income;

(ii) M is the mean annual net wood production;

(iii) SV is the stumpage value;

(iv) AI is the per-acre agriculture-related income; and

(v) C is the per-unit cost of the forest product and agricultural product produced, if any; and

(c) R is the capitalization rate determined by the department as provided in subsection (6).

(5) Net income must:

(a) be calculated for each year of a base period, which is the most recent 10-year period for which data is available prior to the date the revaluation cycle ends. Data referred to in subsection (4)(b) must be averaged.

(b) be based on a rolling average of stumpage value of timber harvested within the forest valuation zone and on the associated production cost data for the base period from sources considered appropriate by the department; and

(c) include agriculture-related net income for the same time period as the period used to determine average stumpage values.

(6) The capitalization rate must be calculated for each year of the base period and is the average capitalization rate determined by the department after consultation with the forest lands taxation advisory committee, plus the effective tax rate. The capitalization rate must be adopted by rule. However, the capitalization rate for each year of the base period ~~for tax years 2015 through 2020~~ may not be less than 8%.

(7) The effective tax rate must be calculated for each year of the base period by dividing the total estimated tax due on forest lands subject to the provisions of this section by the total forest value of those lands.

(8) For the purposes of this section, if forest service sales are used in the determination of stumpage values, the department shall take into account purchaser road credits.

(9) In determining the forest productivity value of forest lands and in computing the forest land valuation, the department shall use information and data provided by the university of Montana-Missoula.

(10) (a) There is a forest lands taxation advisory committee consisting of:

(i) four members with expertise in forest matters, one appointed by the majority leader of the senate, one by the minority leader of the senate, one by the majority leader of the house of representatives, and one by the minority leader of the house of representatives; and

(ii) ~~three five~~ members appointed by the governor, ~~one who is an~~ *two who are* industrial forest ~~landowner~~ *landowners*, ~~one who is a~~ *two who are* nonindustrial forest ~~landowner~~ *landowners*, and one who is a county commissioner.

(b) *The committee must be appointed and convened no later than July 1 of the year that is 2 years prior to the first year of each reappraisal cycle. The terms of the members expire on June 30 of the first year of each reappraisal cycle.*

(c) The advisory committee shall:

(i) review data required by subsections (2) through (6), (8), and (9), including data on productivity value, stumpage value, wood production, capitalization rate, net income, and agriculture-related income;

(ii) recommend to the department any adjustments to data if required by changes in government forest land programs, market conditions, or prevailing forest lands practices;

(iii) recommend appropriate base periods and averaging methods to the department;

(iv) verify for each forest valuation zone and forest land classification and subclassification under subsection (3) that the income determined in subsection (5) reasonably approximates that which the average Montana forest landowner could have attained; ~~and~~

(v) recommend forest land valuation techniques to the department; *and*

(vi) *report biennially on committee activity, in accordance with 5-11-210, to the revenue interim committee provided for in 5-5-227.*

(11) The members of the forest lands taxation advisory committee must be appointed and convened no later than July 15, 2021, for the specific purpose of reviewing appraisal methodology with the department. For the period of July 1, 2021, through December 31, 2022, the committee shall work with the department to fulfill the requirements of the committee as outlined in subsection (10)(c) and bring forward updates to the revenue interim committee and any recommended changes to the 2023 legislature. If the committee does not meet, the department or the committee shall inform the revenue interim committee."

Section 2. Effective date. [This act] is effective July 1, 2021.

Section 3. Termination. [Section 1(11)] terminates June 30, 2023.

Approved April 8, 2021

CHAPTER NO. 142

[SB 205]

AN ACT REVISING THE NAME OF THE STATE TAX APPEAL BOARD; CHANGING THE NAME OF THE STATE TAX APPEAL BOARD TO THE MONTANA TAX APPEAL BOARD; AND AMENDING SECTIONS 2-6-1007, 2-15-1015, 5-5-227, 5-5-228, 10-4-212, 15-1-101, 15-1-212, 15-1-213, 15-1-222, 15-1-303, 15-1-402, 15-2-101, 15-2-102, 15-2-103, 15-2-104, 15-2-106, 15-2-201, 15-2-301, 15-2-302, 15-2-303, 15-2-304, 15-2-305, 15-2-306, 15-6-135, 15-6-158, 15-6-231, 15-7-102, 15-7-139, 15-8-112, 15-8-113, 15-8-115, 15-8-202, 15-15-101, 15-15-103, 15-15-104, 15-15-201, 15-16-603, 15-23-102, 15-30-2607, 15-30-2608, 15-30-3113, 15-68-405, 15-68-805, 15-70-111, 16-11-149, 53-19-319, AND 61-11-510, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-6-1007, MCA, is amended to read:

"2-6-1007. Special fees allowable for certain information. (1) In addition to the fee allowed under 2-6-1006, the department of revenue may

charge an additional fee as reimbursement for the cost of developing and maintaining the property valuation and assessment system database from which the information is requested. The fee must be charged to persons, federal agencies, state agencies, and other entities requesting the database or any part of the database from any department property valuation and assessment system. The fee may not be charged to the governor's office of budget and program planning, the ~~state~~ *Montana* tax appeal board, or any legislative body or its members or staff.

(2) The department of revenue may not charge a fee for information provided from any department property valuation and assessment system database to a local taxing jurisdiction for use in taxation and other governmental functions or to an individual taxpayer concerning the taxpayer's property.

(3) All fees received by the department of revenue under 2-6-1006 and this section must be deposited in the property value improvement fund as provided in 15-1-521.

(4) In accordance with the fees allowed under 2-6-1006, the Montana historical society may charge fees as approved by its board of trustees for copies of materials contained in its collections, based on documentable curatorial duties as set forth in 22-3-101."

Section 2. Section 2-15-1015, MCA, is amended to read:

"2-15-1015. State *Montana* tax appeal board. There is a *state Montana* tax appeal board as provided in Title 15, chapter 2."

Section 3. Section 5-5-227, MCA, is amended to read:

"5-5-227. Revenue interim committee – powers and duties – revenue estimating and use of estimates. (1) The revenue interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the *state Montana* tax appeal board established in 2-15-1015 and for the department of revenue and the entities attached to the department for administrative purposes, except the division of the department that administers the Montana Alcoholic Beverage Code.

(2) (a) The committee must have prepared by December 1 for introduction during each regular session of the legislature in which a revenue bill is under consideration an estimate of the amount of revenue projected to be available for legislative appropriation.

(b) The committee may prepare for introduction during a special session of the legislature in which a revenue bill or an appropriation bill is under consideration an estimate of the amount of projected revenue. The revenue estimate is considered a subject specified in the call of a special session under 5-3-101.

(3) The committee's estimate, as introduced in the legislature, constitutes the legislature's current revenue estimate until amended or until final adoption of the estimate by both houses. It is intended that the legislature's estimates and the assumptions underlying the estimates will be used by all agencies with responsibilities for estimating revenue or costs, including the preparation of fiscal notes.

(4) The legislative services division shall provide staff assistance to the committee. The committee may request the assistance of the staffs of the office of the legislative fiscal analyst, the legislative auditor, the department of revenue, and any other agency that has information regarding any of the tax or revenue bases of the state.

(5) The committee shall review tax credits [scheduled to expire] as provided in 15-30-2303."

Section 4. Section 5-5-228, MCA, is amended to read:

"5-5-228. State administration and veterans' affairs interim committee. (1) The state administration and veterans' affairs interim

committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the public employee retirement plans and for the following executive branch agencies and, unless otherwise assigned by law, the entities attached to the agencies for administrative purposes:

(a) department of administration, except:

(i) the state compensation insurance fund provided for in 39-71-2313, including the board of directors of the state compensation insurance fund established in 2-15-1019;

(ii) the ~~state~~ *Montana* tax appeal board established in 2-15-1015;

(iii) the division of banking and financial institutions; and

(iv) the office of state public defender;

(b) department of military affairs; and

(c) office of the secretary of state.

(2) The committee shall:

(a) consider the actuarial and fiscal soundness of the state's public employee retirement systems, based on reports from the teachers' retirement board, the public employees' retirement board, and the board of investments, and study and evaluate the equity and benefit structure of the state's public employee retirement systems;

(b) establish principles of sound fiscal and public policy as guidelines;

(c) as necessary, develop legislation to keep the retirement systems consistent with sound policy principles; and

(d) publish, for legislators' use, information on the public employee retirement systems that the committee considers will be valuable to legislators when considering retirement legislation.

(3) The committee may:

(a) specify the date by which retirement board proposals affecting a retirement system must be submitted to the committee for the review pursuant to subsection (1); and

(b) request personnel from state agencies, including boards, political subdivisions, and the state public employee retirement systems, to furnish any information and render any assistance that the committee may request."

Section 5. Section 10-4-212, MCA, is amended to read:

"10-4-212. Provider considered a taxpayer under provisions for fee. Unless the context requires otherwise, the provisions of Title 15 referring to the audit and examination of reports and returns, determination of deficiency assessments, claims for refunds, penalties, interest, jeopardy assessments, warrants, conferences, appeals to the department of revenue, appeals to the ~~state~~ *Montana* tax appeal board, and procedures relating thereto apply to this part as if the fee were a tax imposed upon or measured by net income. The provisions apply to the subscriber liable for the fee and to the provider required to collect the fee. Any amount collected and required to be remitted to the department of revenue is considered a tax upon the provider required to collect it, and that provider is considered a taxpayer."

Section 6. Section 15-1-101, MCA, is amended to read:

"15-1-101. Definitions. (1) Except as otherwise specifically provided, when terms mentioned in this section are used in connection with taxation, they are defined in the following manner:

(a) The term "agricultural" refers to:

(i) the production of food, feed, and fiber commodities, livestock and poultry, bees, biological control insects, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes; and

(ii) the raising of domestic animals and wildlife in domestication or a captive environment.

(b) The term “assessed value” means the value of property as defined in 15-8-111.

(c) The term “average wholesale value” means the value to a dealer prior to reconditioning and the profit margin shown in national appraisal guides and manuals or the valuation schedules of the department.

(d) (i) The term “commercial”, when used to describe property, means property used or owned by a business, a trade, or a corporation as defined in 35-2-114 or used for the production of income, including industrial property defined in subsection (1)(j), and excluding property described in subsection (1)(d)(ii).

(ii) The following types of property are not commercial:

(A) agricultural lands;

(B) timberlands and forest lands;

(C) single-family residences and ancillary improvements and improvements necessary to the function of a bona fide farm, ranch, or stock operation;

(D) mobile homes and manufactured homes used exclusively as a residence except when held by a distributor or dealer as stock in trade; and

(E) all property described in 15-6-135.

(e) The term “comparable property” means property that:

(i) has similar use, function, and utility;

(ii) is influenced by the same set of economic trends and physical, governmental, and social factors; and

(iii) has the potential of a similar highest and best use.

(f) The term “credit” means solvent debts, secured or unsecured, owing to a person.

(g) (i) “Department”, except as provided in subsection (1)(g)(ii), means the department of revenue provided for in 2-15-1301.

(ii) In chapters 70 and 71, department means the department of transportation provided for in 2-15-2501.

(h) The terms “gas” and “natural gas” are synonymous and mean gas as defined in 82-1-111(2). The terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other natural gas found in any coal formation.

(i) The term “improvements” includes all buildings, structures, fences, and improvements situated upon, erected upon, or affixed to land. When the department determines that the permanency of location of a mobile home, manufactured home, or housetrailer has been established, the mobile home, manufactured home, or housetrailer is presumed to be an improvement to real property. A mobile home, manufactured home, or housetrailer may be determined to be permanently located only when it is attached to a foundation that cannot feasibly be relocated and only when the wheels are removed.

(j) “Industrial property” for purposes of this section includes all land used for industrial purposes, improvements, and buildings used to house the industrial process and all storage facilities. Under this section, industrial property does not include personal property classified and taxed under 15-6-135 or 15-6-138.

(k) The term “leasehold improvements” means improvements to mobile homes and mobile homes located on land owned by another person. This property is assessed under the appropriate classification, and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on leasehold improvements are a lien only on the leasehold improvements.

(l) The term “livestock” means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas, bison, ostriches, rheas, emus, and domestic ungulates.

(m) (i) The term “manufactured home” means a residential dwelling built in a factory in accordance with the United States department of housing and urban development code and the federal Manufactured Home Construction and Safety Standards.

(ii) A manufactured home does not include a mobile home, as defined in subsection (1)(o), or a mobile home or housetrailer constructed before the federal Manufactured Home Construction and Safety Standards went into effect on June 15, 1976.

(n) The term “market value” means the value of property as provided in 15-8-111.

(o) The term “mobile home” means forms of housing known as “trailers”, “housetrailer”, or “trailer coaches” exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any trailer, housetrailer, or trailer coach up to 8 feet in width or 45 feet in length used as a principal residence.

(p) The term “personal property” includes everything that is the subject of ownership but that is not included within the meaning of the terms “real estate” and “improvements” and “intangible personal property” as that term is defined in 15-6-218.

(q) The term “poultry” includes all chickens, turkeys, geese, ducks, and other birds raised in domestication to produce food or feathers.

(r) The term “property” includes money, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition may not be construed to authorize the taxation of the stocks of a company or corporation when the property of the company or corporation represented by the stocks is within the state and has been taxed.

(s) The term “real estate” includes:

(i) the possession of, claim to, ownership of, or right to the possession of land;

(ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and Title 15, chapter 23, part 8;

(iii) all timber belonging to individuals or corporations growing or being on the lands of the United States; and

(iv) all rights and privileges appertaining to mines, minerals, quarries, and timber.

(t) “Recreational” means hunting, fishing, swimming, boating, waterskiing, camping, biking, hiking, and winter sports, including but not limited to skiing, skating, and snowmobiling.

(u) “Research and development firm” means an entity incorporated under the laws of this state or a foreign corporation authorized to do business in this state whose principal purpose is to engage in theoretical analysis, exploration, and experimentation and the extension of investigative findings and theories of a scientific and technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

(v) The term “stock in trade” means any mobile home, manufactured home, or housetrailer that is listed by the dealer as inventory and that is offered for sale, is unoccupied, and is not located on a permanent foundation. Inventory does not have to be located at the business location of a dealer or a distributor.

(w) The term “taxable value” means the market value multiplied by the classification tax rate as provided for in Title 15, chapter 6, part 1.

(x) The term “taxes” in relation to property under 15-6-133, 15-6-134, or 15-6-143 is the amount owed by a taxpayer that is the market value multiplied by the tax rate multiplied by the applicable mills, exclusive of local fees and assessments.

(2) The phrase “municipal corporation” or “municipality” or “taxing unit” includes a county, city, incorporated town, township, school district, irrigation district, or drainage district or a person, persons, or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

(3) The term “state board”, “*Montana board*”, or “board” when used without other qualification means the *state Montana* tax appeal board.”

Section 7. Section 15-1-212, MCA, is amended to read:

“15-1-212. Mediation of valuation disputes – centrally assessed and industrial properties. (1) For appeals relating to the assessed value of centrally assessed property or industrial property that is assessed annually by the department, the objecting taxpayer may require that all issues raised in the complaint be the subject of a mediation proceeding conducted as provided in 26-1-813. The request for mediation must be accompanied by a fee of \$100, payable to the department for deposit in the general fund.

(2) If the taxpayer requests mediation, which must be granted, the request is to be included in the complaint filed with the *state Montana* tax appeal board pursuant to 15-2-302 or, if subsequent to the appeal, upon separate motion to the *state Montana* tax appeal board. If mediation is requested by the taxpayer, the mediation must be conducted no less than 60 days prior to the contested case hearing on all issues raised in the complaint, to be scheduled by the *state Montana* tax appeal board.

(3) The mediation proceeding must be conducted pursuant to 26-1-813 as a private, confidential, and informal dispute resolution. The mediation must be conducted by a person who is not a public employee and must be held at a privately owned facility. Because the mediation proceeding cannot result in a judgment or a compelled agreement, the proceeding is not a governmental operation, and until the dispute between the taxpayer and the department is resolved, either by agreement or through the appeal process, the records of the mediation proceeding may not be disclosed to the public.

(4) Within 45 days after the request for mediation, the mediator must have been selected by the parties and the parties must have scheduled a mediation proceeding unless waived by both parties. A mediation proceeding may not proceed past 120 days without the consent of the objecting taxpayer and the department. Each party is responsible for that party’s mediation costs and shall jointly share the costs of the mediator.

(5) A mediator is prohibited from conveying information from one party to another during the mediation unless the source party specifically allows the conveyance of the information.

(6) If the mediation is successful, the department shall value the property that was the subject of the objection as agreed to in the mediation.

(7) If the mediation is unsuccessful, the parties shall proceed to a contested case hearing as scheduled by the *state Montana* tax appeal board.”

Section 8. Section 15-1-213, MCA, is amended to read:

“15-1-213. Mediation of valuation disputes – other property taxpayers. (1) After a final decision of the county tax appeal board relating to the assessed value of property other than centrally assessed property or industrial property valued annually by the department, the objecting taxpayer may require that the assessed value be the subject of a mediation proceeding conducted as provided in 26-1-813. The request for mediation must be accompanied by a fee of \$100, payable to the department for deposit in the general fund.

(2) If the taxpayer requests mediation, which must be granted, the request is to be included in the complaint filed with the *state Montana* tax appeal board pursuant to 15-2-302 or, if subsequent to the appeal, upon separate motion to

the ~~state~~ *Montana* tax appeal board. If mediation is requested by the taxpayer, the mediation must be conducted no less than 60 days prior to the contested case hearing on all issues raised in the complaint, to be scheduled by the ~~state~~ *Montana* tax appeal board.

(3) The mediation proceeding must be conducted according to 15-1-212(2) through (6).”

Section 9. Section 15-1-222, MCA, is amended to read:

“15-1-222. Taxpayer bill of rights. The department of revenue shall in the course of performing its duties in the administration and collection of the state’s taxes ensure that:

(1) the taxpayer has the right to record any interview, meeting, or conference with auditors or any other representatives of the department;

(2) the taxpayer has the right to hire a representative of the taxpayer’s choice to represent the taxpayer’s interests before the department or any tax appeal board. The taxpayer has a right to obtain a representative at any time, except that the selection of a representative may not be used to unreasonably delay a field audit that is in progress. The representative must have written authorization from the taxpayer to receive from the department confidential information concerning the taxpayer. The department shall provide copies to the authorized representative of all information sent to the taxpayer and shall notify the authorized representative concerning contacts with the taxpayer.

(3) except as provided in subsection (5), the taxpayer has the right to be treated by the department in a similar manner as all similarly situated taxpayers regarding the administration and collection of taxes, imposition of penalties and interest, and available taxpayer remedies unless there is a rational basis for the department to distinguish them;

(4) the taxpayer has the right to obtain tax advice from the department. The taxpayer has a right to the waiver of penalties and interest, but not taxes, when the taxpayer has relied on written advice provided to the taxpayer by an employee of the department.

(5) at the discretion of the department, upon consideration of all facts relevant to the specific taxpayer, the taxpayer has the right to pay delinquent taxes, interest, and penalties on an installment basis. This subsection applies only to taxes collected by the department, provided the taxpayer meets reasonable criteria.

(6) the taxpayer has the right to a complete and accurate written description of the basis for any additional tax assessed by the department;

(7) the taxpayer has the right to a review by management level employees of the department for any additional taxes assessed by the department;

(8) the taxpayer has the right to a full explanation of the available procedures for review and appeal of additional tax assessments;

(9) the taxpayer, after the exhaustion of all appropriate administrative remedies, has the right to have the ~~state~~ *Montana* tax appeal board or a court, or both, review any final decision of the department assessing an additional tax. The taxpayer shall seek a review in a timely manner. A taxpayer is entitled to collect court costs and attorney fees from the department for frivolous or bad faith lawsuits as provided in 25-10-711.

(10) the taxpayer has the right to expect that the department will adhere to the same tax appeal deadlines as are required of the taxpayer unless otherwise provided by law;

(11) the taxpayer has the right to a full explanation of the department’s authority to collect delinquent taxes, including the procedures and notices that are required to protect the taxpayer;

(12) the taxpayer has the right to have certain property exempt from levy and seizure as provided in Title 25, chapter 13, part 6, and any other applicable provisions in Montana law;

(13) the taxpayer has the right to the immediate release of any lien the department has placed on property when the tax is paid or when the lien is the result of an error by the department;

(14) the taxpayer has the right to assistance from the department in complying with state and local tax laws that the department administers; and

(15) the taxpayer has the right to be guaranteed that an employee of the department is not paid, promoted, or in any way rewarded on the basis of assessments or collections from taxpayers.”

Section 10. Section 15-1-303, MCA, is amended to read:

“15-1-303. Penalty for refusal to furnish information. (1) If a person refuses to allow inspection of any books or records when requested by the department or refuses or neglects to furnish any information called for by the department in the performance of its official duties relating to the assessment and taxation of property, the department shall make a determination and assessment of the property that in its judgment appears to be just and equitable and may add to the assessment an amount not to exceed 20% of the assessment as a penalty for the refusal or neglect. The department shall immediately notify the person assessed of its action, either by mail or by personal service of the notice.

(2) Upon receiving an assessment made pursuant to subsection (1), the taxpayer has the following remedies:

(a) Within 30 days after receipt of the assessment, the taxpayer may request an informal conference with the department. At the conference, the taxpayer may present evidence in mitigation or extenuation of the failure to supply the information requested by the department. Within 10 days after the conference, the department shall notify the taxpayer by mail whether the assessment will be modified. The department may modify the penalty if the taxpayer presents sufficient evidence in mitigation or extenuation of the failure to supply the information sought by the department and if it finds that the taxpayer did not willfully refuse to supply the information.

(b) If the taxpayer is aggrieved as a result of the informal conference, the taxpayer may appeal to the county tax appeal board within 30 days after receipt of the decision of the department. The county tax appeal board has the authority to modify the:

(i) assessment only if it finds that the assessment exceeds 100% of the value of the property specified in 15-8-111; and

(ii) penalty if the taxpayer presents by a preponderance of the evidence facts in mitigation or extenuation of the failure to supply the information that the department sought.

(c) If the county tax appeal board modifies a penalty pursuant to subsection (2)(b)(ii), it may not reduce the penalty to less than 20% of the assessment or, if the assessment is modified pursuant to subsection (2)(b)(i), to less than 20% of the modified assessment.

(3) Either party aggrieved as a result of the decision of the county tax appeal board may appeal to the *state Montana* tax appeal board within 30 calendar days after receipt of the county tax appeal board's decision. When deciding an appeal brought under this subsection, the *state Montana* tax appeal board shall follow the provisions of subsections (2)(b) and (2)(c).

(4) Either party aggrieved as a result of the decision of the *state Montana* tax appeal board may seek judicial review pursuant to 15-2-303.”

Section 11. Section 15-1-402, MCA, is amended to read:

“15-1-402. Payment of property taxes or fees under protest. (1) (a) The person upon whom a property tax or fee is being imposed under this title may, before the property tax or fee becomes delinquent, pay under written protest that portion of the property tax or fee protested.

(b) The protested payment must:

(i) be made to the officer designated and authorized to collect it;

(ii) specify the grounds of protest; and

(iii) not exceed the difference between the payment for the immediately preceding tax year and the amount owing in the tax year protested unless a different amount results from the specified grounds of protest, which may include but are not limited to changes in assessment due to reappraisal under 15-7-111.

(c) If the protested property tax or fee is on property that is subject to central assessment pursuant to 15-23-101, the person shall report to the department the grounds of the protest and the amount of the protested payment for each county in which a protested payment was made.

(2) A person appealing a property tax or fee pursuant to Title 15, chapter 2 or 15, including a person appealing a property tax or fee on property that is annually assessed by the department or subject to central assessment pursuant to 15-23-101(1) or (2), shall pay the tax or fee under protest when due in order to receive a refund. If the tax or fee is not paid under protest when due, the appeal or mediation may continue but a tax or fee may not be refunded as a result of the appeal or mediation.

(3) If a protested property tax or fee is payable in installments, a subsequent installment portion considered unlawful by the *state Montana* tax appeal board need not be paid and an action or suit need not be commenced to recover the subsequent installment. The determination of the action or suit commenced to recover the first installment portion paid under protest determines the right of the party paying the subsequent installment to have it or any part of it refunded to the party or the right of the taxing authority to collect a subsequent installment not paid by the taxpayer plus interest from the date the subsequent installment was due.

(4) (a) Except as provided in subsection (4)(b), all property taxes and fees paid under protest to a county or municipality must be deposited by the treasurer of the county or municipality to the credit of a special fund to be designated as a protest fund and must be retained in the protest fund until the final determination of any action or suit to recover the taxes and fees unless they are released at the request of the county, municipality, or other local taxing jurisdiction pursuant to subsection (5). This section does not prohibit the investment of the money of this fund in the state unified investment program or in any manner provided in Title 7, chapter 6. The provision creating the special protest fund does not apply to any payments made under protest directly to the state.

(b) (i) Property taxes that are levied by the state against property that is centrally assessed pursuant to 15-23-101 and any protested taxes on industrial property that is annually assessed by the department in a school district that has elected to waive its right to protested taxes in a specific year pursuant to 15-1-409 must be remitted by the county treasurer to the department for deposit as provided in subsections (4)(b)(ii) through (4)(b)(iv).

(ii) The department shall deposit 50% of that portion of the funds levied for the university system pursuant to 15-10-109 in the state special revenue fund to the credit of the university system, and the other 50% of the funds levied pursuant to 15-10-109 must be deposited in a centrally assessed property tax state special revenue fund.

(iii) Fifty percent of the funds remaining after the deposit of university system funds must be deposited in the state general fund, and the other 50% must be deposited in a centrally assessed property tax state special revenue fund.

(iv) Fifty percent of the funds from a school district that has waived its right to protested taxes must be deposited in the state general fund, and the other 50% must be deposited in a school district property tax protest state special revenue fund.

(5) (a) Except as provided in subsections (5)(b) and (5)(c), the governing body of a taxing jurisdiction affected by the payment of taxes under protest in the second and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year of the protest. The decision in a previous year of a taxing jurisdiction to leave protested taxes in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled, except the first-year protest amount.

(b) The governing body of a taxing jurisdiction affected by the payment of taxes under protest on property that is centrally assessed pursuant to 15-23-101 or on industrial property that is assessed annually by the department in the first and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled. The decision in a previous year of a taxing jurisdiction to leave protested taxes of centrally assessed property in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled.

(c) The provisions of subsection (5)(b) do not apply to a school district that has elected to waive its right to its portion of protested taxes on centrally assessed property and on industrial property that is assessed annually by the department for that specific year as provided in 15-1-409.

(6) (a) If action before the county tax appeal board, *state Montana* tax appeal board, or district court is not commenced within the time specified or if the action is commenced and finally determined in favor of the department of revenue, county, municipality, or treasurer of the county or the municipality, the amount of the protested portions of the property tax or fee must be taken from the protest fund or the centrally assessed property tax state special revenue fund and deposited to the credit of the fund or funds to which the property tax belongs, less a pro rata deduction for the costs of administration of the protest fund and related expenses charged to the local government units.

(b) (i) If the action is finally determined adversely to the governmental entity levying the tax, then the treasurer of the municipality, county, or state entity levying the tax shall, upon receipt of a certified copy of the final judgment in the action and upon expiration of the time set forth for appeal of the final judgment, refund to the person in whose favor the judgment is rendered the amount of the protested portions of the property tax or fee that the person holding the judgment is entitled to recover, together with interest from the date of payment under protest. The department shall refund from the school district property tax protest state special revenue fund the protested portions of property taxes and interest to a taxpayer in a school district in which the school district has elected to waive its right to its portion of protested taxes for that specific year as provided in 15-1-409. If the amount available for the refund in the school district property tax protest state special revenue fund is

insufficient to refund the property tax payments, the department shall pay the remainder of the refund from the state general fund.

(ii) The taxing jurisdiction shall pay interest at the rate of interest earned by the pooled investment fund provided for in 17-6-203 for the applicable period.

(c) If the amount retained in the protest fund is insufficient to pay all sums due the taxpayer, the treasurer shall apply the available amount first to tax repayment, then to interest owed, and lastly to costs.

(d) (i) (A) If, after a final determination by the *state Montana* tax appeal board or a court or after settlement of an appeal, the final assessed value of a property that is centrally assessed under 15-23-101 or an industrial property that is annually assessed by the department is less than 75% of the department's original assessed value, the governing body may demand that the state refund from the general fund the protested taxes equivalent to the difference between the final determined assessed value and 75% of the original assessed value.

(B) For industrial property under subsection (6)(d)(i)(A) in which the school district has elected to waive its right to its portion of protested taxes for that specific year, the department shall refund from the school district property tax protest state special revenue fund the protested portions of property taxes and interest to a taxpayer.

(C) The provisions of subsection (6)(d)(i)(A) do not apply to protested taxes for which the taxpayer protests the classification of the property.

(ii) If the protest action is decided adversely to a taxing jurisdiction and the amount retained in the protest fund is insufficient to refund the tax payments and costs to which the taxpayer is entitled and for which local government units are responsible, the treasurer shall bill and the taxing jurisdiction shall refund to the treasurer that portion of the taxpayer refund, including tax payments and costs, for which the taxing jurisdiction is proratably responsible. The treasurer is not responsible for the amount required to be refunded by the state treasurer as provided in subsection (6)(b).

(iii) For an adverse protest action against the state for centrally assessed property, the department shall refund from the centrally assessed property tax state special revenue fund the amount of protested taxes and from the state general fund the amount of interest as required in subsection (6)(b). The amount refunded for an adverse protested action from the centrally assessed property tax state special revenue fund may not exceed the amount of protested taxes or fees required to be deposited for that action pursuant to subsections (4)(b)(ii) and (4)(b)(iii). If the amount available for the adverse protested action in the centrally assessed property tax state special revenue fund is insufficient to refund the tax payments to which the taxpayer is entitled and for which the state is responsible, the department shall pay the remainder of the refund proportionally from the state general fund and from money deposited in the state special revenue fund levied pursuant to 15-10-109.

(e) In satisfying the requirements of subsection (6)(d), the taxing jurisdiction, including the state, is allowed not more than 1 year from the beginning of the fiscal year following a final resolution of the protest. The taxpayer is entitled to interest on the unpaid balance at the rate referred to in subsection (6)(b) from the date of payment under protest until the date of final resolution of the protest and at the combined rate of the federal reserve discount rate quoted from the federal reserve bank in New York, New York, on the date of final resolution, plus 4 percentage points, from the date of final resolution of the protest until refund is made.

(7) A taxing jurisdiction, except the state, may satisfy the requirements of this section by use of funds from one or more of the following sources:

(a) imposition of a property tax to be collected by a special tax protest refund levy;

(b) the general fund or any other funds legally available to the governing body; and

(c) proceeds from the sale of bonds issued by a county, city, or school district for the purpose of deriving revenue for the repayment of tax protests lost by the taxing jurisdiction. The governing body of a county, city, or school district is authorized to issue the bonds pursuant to procedures established by law. The bonds may be issued without being submitted to an election. Property taxes may be levied to amortize the bonds.

(8) If the department revises an assessment that results in a refund of taxes of \$5 or less, a refund is not owed.”

Section 12. Section 15-2-101, MCA, is amended to read:

“15-2-101. State Montana tax appeal board – appointment of members – term of office. There is a *state Montana* tax appeal board composed of three members appointed by the governor for staggered terms with the advice and consent of the senate. However, a member appointed may serve until the next regular session of the legislature without the advice and consent of the senate. Each member shall hold office for a term of 6 years and until a successor shall be appointed and qualified. A vacancy must be filled by the governor subject to confirmation by the senate during the next legislative session. Succeeding appointments, except when made to fill a vacancy, must be made on or before January 31 during the session of the legislature preceding the commencement of the term for which the appointment is made.”

Section 13. Section 15-2-102, MCA, is amended to read:

“15-2-102. Qualification and compensation. (1) To be appointed a member of the *state Montana* tax appeal board, a person ~~shall~~ *must* possess knowledge of the subject of taxation and skill in matters relating to taxation. A member may not hold any other state office or any office under the government of the United States or under the government of any other state. The person shall devote the entire time to the duties of the office and may not hold any other position of trust or profit or engage in any occupation or business interfering or inconsistent with the person’s duties. The *state Montana* tax appeal board is attached to the department of administration for administrative purposes only as provided in 2-15-121. However, the board may hire its own personnel, and 2-15-121(2)(d) does not apply.

(2) *State Montana* tax appeal board members must be paid a salary within the occupational wage range for the occupation designated by the department of administration as provided in subsection (3). *State Montana* tax appeal board members must receive pay and pay adjustments consistent with those required by the legislature for state employees in 2-18-303 and 2-18-304. The member designated as presiding officer as provided for in 15-2-103 must receive an additional 5% in salary. All members of the board must receive travel expenses as provided for in 2-18-501 through 2-18-503 when away from the capital on official business.

(3) The department of administration shall determine the appropriate occupation for the *state Montana* tax appeal board members in the same manner that it determines the occupation for employees in state government pursuant to Title 2, chapter 18.

(4) The governor shall set the salary of the *state Montana* tax appeal board members within the occupational wage range established by the department of administration.”

Section 14. Section 15-2-103, MCA, is amended to read:

“15-2-103. Organization, quorum, sessions. The members of the *state Montana* tax appeal board shall, without delay, meet at the state capital, and the governor shall designate one of their members as presiding officer. A majority of the board constitutes a quorum. The board is in continuous session and must be open for the transaction of business every day except Saturdays, Sundays, and legal holidays; and the sessions of the board must stand and be considered to be adjourned from day to day without formal entry upon its records. The board may hold sessions or conduct hearings and investigations at other places than the capital when considered necessary to facilitate the performance of its duties or to accommodate parties in interest.”

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

“15-2-104. Employees – expenses – minutes – rules. The *state Montana* tax appeal board may appoint a secretary and employ other persons as experts, assistants, clerks, and stenographers as may be necessary to perform the duties that may be required of it. The total expenses of the board may not exceed, in the aggregate during any fiscal year, the amount appropriated for the board for all purposes by the legislature for that year. The secretary shall keep full and correct minutes of the transactions and proceedings of the board and may administer oaths and perform other duties as may be required. The board may adopt rules for the orderly and methodical performance of its duties as a tax appeal board and for conducting hearings and other proceedings before it.”

Section 16. Section 15-2-106, MCA, is amended to read:

“15-2-106. Seal. The *state Montana* tax appeal board shall have a seal and ~~such the seal shall~~ *must* have the following words engraved ~~thereon on it~~, “Tax Appeal Board of the State of Montana”. The board shall authenticate all of its orders, records, and proceedings with ~~such the seal~~, and the courts of this state shall take judicial notice of ~~such the seal~~.”

Section 17. Section 15-2-201, MCA, is amended to read:

“15-2-201. Powers and duties. (1) It is the duty of the *state Montana* tax appeal board to:

(a) prescribe rules for the tax appeal boards of the different counties in the performance of their duties and for this purpose may schedule meetings of county tax appeal boards, and it is the duty of all invited county tax appeal board members to attend if possible, and the cost of their attendance must be paid from the appropriation of the state tax appeal board;

(b) grant, at its discretion, whenever good cause is shown and the need for the hearing is not because of taxpayer negligence, permission to a county tax appeal board to meet beyond the normal time period provided for in 15-15-101(4) to hear an appeal;

(c) hear appeals from decisions of the county tax appeal boards;

(d) hear appeals from decisions of the department of revenue in regard to business licenses, property assessments, taxes, except determinations that an employer-employee relationship existed between the taxpayer and individuals subjecting the taxpayer to the requirements of chapter 30, part 25, and penalties.

(2) Oaths to witnesses in any investigation by the state tax appeal board may be administered by a member of the board or the member's agent. If a witness does not obey a summons to appear before the board or refuses to testify or answer any material questions or to produce records, books, papers, or documents when required to do so, that failure or refusal must be reported to the attorney general, who shall ~~thereupon then~~ institute proceedings in the proper district court to punish the witness for the neglect or refusal. A

person who testifies falsely in any material matter under consideration by the board is guilty of perjury and punished accordingly. Witnesses attending ~~shall~~ *must* receive the same compensation as witnesses in the district court. The compensation must be charged to the proper appropriation for the board.

(3) The state tax appeal board also has the duties of an appeal board relating to other matters as may be provided by law.”

Section 18. Section 15-2-301, MCA, is amended to read:

“15-2-301. Appeal of county tax appeal board decisions. (1) (a) The county tax appeal board shall mail a copy of its decision to the taxpayer and to the property assessment division of the department of revenue.

(b) If the appearance provisions of 15-15-103 have been complied with, a person or the department on behalf of the state or any municipal corporation aggrieved by the action of the county tax appeal board may appeal to the ~~state Montana~~ tax appeal board by filing with the ~~state Montana~~ board a notice of appeal within 30 calendar days after the receipt of the decision of the county board. The notice must specify the action complained of and the reasons assigned for the complaint.

(c) Notice of acceptance of an appeal must be given to the county board by the ~~state Montana~~ board.

(d) The ~~state Montana~~ board shall set the appeal for hearing either in its office in the capital or at the county seat as the ~~state Montana~~ board considers advisable to facilitate the performance of its duties or to accommodate parties in interest.

(e) The ~~state Montana~~ board shall give to the appellant and to the respondent at least 15 calendar days’ notice of the time and place of the hearing.

(2) (a) At the time of giving notice of acceptance of an appeal, the ~~state Montana~~ board may require the county board to certify to it the minutes of the proceedings resulting in the action and all testimony taken in connection with its proceedings.

(b) The ~~state Montana~~ board may, in its discretion, determine the appeal on the record if all parties receive a copy of the transcript and are permitted to submit additional sworn statements, or the ~~state Montana~~ board may hear further testimony.

(c) For industrial property that is assessed annually by the department, the ~~state Montana~~ board’s review must be de novo and conducted in accordance with the contested case provisions of the Montana Administrative Procedure Act.

(d) For the purpose of expediting its work, the ~~state Montana~~ board may refer any appeal to one of its members or to a designated hearings officer. The board member or hearings officer may exercise all the powers of the ~~state Montana~~ board in conducting a hearing and shall, as soon as possible after the hearing, report the proceedings, together with a transcript or a tape recording of the hearing, to the ~~state Montana~~ board. The ~~state Montana~~ board shall determine the appeal on the record.

(3) The ~~state Montana~~ tax appeal board ~~must~~ *shall* consider an independent appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate appraisers and the appraisal was conducted within 6 months of the valuation date. If the ~~state Montana~~ board does not use the appraisal provided by the taxpayer in conducting the appeal, the ~~state Montana~~ board ~~must~~ *shall* provide to the taxpayer the reason for not using the appraisal.

(4) In every hearing at a county seat throughout the state, the ~~state Montana~~ board or the member or hearings officer designated to conduct a hearing may employ a competent person to electronically record the testimony

received. The cost of electronically recording testimony may be paid out of the general appropriation for the board.

(5) Except as provided in subsection (2)(c) regarding industrial property, in connection with any appeal under this section, the *state Montana* board is not bound by common law and statutory rules of evidence or rules of discovery and may affirm, reverse, or modify any decision. To the extent that this section is in conflict with the Montana Administrative Procedure Act, this section supersedes that act. The *state Montana* board may not amend or repeal any administrative rule of the department. The *state Montana* board shall give an administrative rule full effect unless the *state Montana* board finds a rule arbitrary, capricious, or otherwise unlawful.

(6) The decision of the *state Montana* board is final and binding upon all interested parties unless reversed or modified by judicial review. Proceedings for judicial review of a decision of the *state Montana* board under this section are subject to the provisions of 15-2-303 and the Montana Administrative Procedure Act to the extent that it does not conflict with 15-2-303.

(7) Sections 15-6-134 and 15-7-111 may not be construed to prevent the department from implementing an order to change the valuation of property.”

Section 19. Section 15-2-302, MCA, is amended to read:

“15-2-302. Direct appeal from department decision to state Montana tax appeal board – hearing. (1) (a) An appeal of a final decision of the department of revenue involving one of the matters provided for in subsection (1)(b) must be made to the *state Montana* tax appeal board.

(b) Final decisions of the department for which appeals are provided in subsection (1)(a) are final decisions involving:

- (i) property centrally assessed under chapter 23;
- (ii) classification of property as new industrial property;
- (iii) any other tax, other than the property tax, imposed under this title; or
- (iv) any other matter in which the appeal is provided by law.

(2) A person may appeal the department’s annual assessment of an industrial property to the *state Montana* board as provided in this section or to the county tax appeal board for the county in which the property is located as provided in Title 15, chapter 15, part 1.

(3) The appeal is made by filing a complaint with the *state Montana* board within 30 days following receipt of notice of the department’s final decision. The complaint must set forth the grounds for relief and the nature of relief demanded. The *state Montana* board shall immediately transmit a copy of the complaint to the department.

(4) The department shall file with the *state Montana* board an answer within 30 days following filing of a complaint.

(5) The *state Montana* board shall conduct the appeal in accordance with the contested case provisions of the Montana Administrative Procedure Act. Parties to an appeal shall attempt to attain the objectives of discovery through informal consultation or communication before utilizing formal discovery procedures. Formal discovery procedures may not be utilized by a taxpayer or the department unless reasonable informal efforts to obtain the needed information have not been successful.

(6) The decision of the *state Montana* board is final and binding upon all interested parties unless reversed or modified by judicial review. Proceedings for judicial review of a decision of the *state Montana* board under this section are subject to the provisions of 15-2-303 and the Montana Administrative Procedure Act to the extent that it does not conflict with 15-2-303.”

Section 20. Section 15-2-303, MCA, is amended to read:

“15-2-303. Judicial review. (1) Any party to an appeal before the *state Montana* tax appeal board who is aggrieved by a final decision is entitled to judicial review under this part.

(2) Proceedings for review must be instituted by filing a petition in district court in the county in which the taxable property or some portion of it is located, except the taxpayer has the option to file in the district court of the first judicial district. A petition for judicial review must be filed within 60 days after service of the final decision of the *state Montana* tax appeal board or, if a rehearing is requested, within 60 days after service of the final decision. Copies of the petition must be promptly served on all parties of record. The department of revenue shall promptly notify the *state Montana* tax appeal board, in writing, of any judicial review, but failure to do so has no effect on the judicial review. The department of revenue shall, on request, submit to the *state Montana* tax appeal board a copy of all pleadings and documents.

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

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

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

Section 21. Section 15-2-304, MCA, is amended to read:

“15-2-304. Petition for interlocutory adjudication. (1) (a) Either party, within 30 days of the filing of an answer to an appeal before the *state Montana* tax appeal board, may file a petition for an interlocutory adjudication under 15-2-305. The petition may be filed with the district court:

(i) in the first judicial district;

(ii) in the county in which the taxable property is located; or

(iii) in cases not involving property taxes, in the county where the taxpayer resides or has the taxpayer's principal place of business in the state.

(b) The petition may raise any question involving procedure, the admissibility of evidence, or a substantive question of law raised by the pleadings within 30 days of filing an answer to the appeal with the *state Montana* tax appeal board.

(c) A nonpetitioning party shall respond to the petition within 30 days after service of the petition. The response may raise any question not raised in the petition involving procedure, the admissibility of evidence, or a substantive question of law.

(2) After the 30-day period specified in subsection (1)(b) but before arguments have been heard, the parties to the proceeding may jointly petition a district court to make an interlocutory adjudication as provided under 15-2-305. A petition for an adjudication must be signed by each party to the proceeding.

(3) In a petition under subsection (1) or (2), one party must be designated as the petitioner and every other party must be designated a respondent. The court may in its discretion grant a petition if it appears that the issues presented involve procedure, the admissibility of evidence, or a substantive question of law and do not require the determination of questions of fact and that the controversy would be more expeditiously resolved by an adjudication. If the court grants a petition, it shall rule on all issues presented in the petition and the response, regardless of whether a ruling on less than all of the issues is dispositive of the case.”

Section 22. Section 15-2-305, MCA, is amended to read:

“15-2-305. Jurisdiction to make interlocutory adjudication. A district court may make an interlocutory adjudication of an issue pending before the *state Montana* tax appeal board if that issue involves procedure, the admissibility of evidence, or a substantive question of law and does not require the determination of a question of fact. If the petition is granted, the district court shall rule on all issues presented in the petition and the response, regardless of whether a ruling on less than all of the issues is dispositive of the case. Appeals from the ruling of the court may be appealed as in other civil actions.”

Section 23. Section 15-2-306, MCA, is amended to read:

“15-2-306. Board may order refund. (1) In any appeal before the *state Montana* tax appeal board when a taxpayer has paid property taxes or fees under written protest and the taxes or fees are held by the treasurer of a unit of local government in a protest fund, the *state Montana* tax appeal board shall enter judgment, exclusive of costs, if the board finds that the property taxes or fees should be refunded.

(2) The *state Montana* tax appeal board’s judgment issued pursuant to subsection (1) must be held in abeyance:

(a) until the time period for appeal has passed; or

(b) if the final decision of the *state Montana* tax appeal board has been appealed in accordance with 15-2-303.”

Section 24. Section 15-6-135, MCA, is amended to read:

“15-6-135. Class five property – description – taxable percentage.

(1) Class five property includes:

(a) all property used and owned by cooperative rural electrical and cooperative rural telephone associations organized under the laws of Montana, except property owned by cooperative organizations described in 15-6-137(1)(a);

(b) air and water pollution control and carbon capture equipment as defined in this section;

(c) new industrial property as defined in this section;

(d) any personal or real property used primarily in the production of ethanol-blended gasoline during construction and for the first 3 years of its operation;

(e) all land and improvements and all personal property owned by a research and development firm, provided that the property is actively devoted to research and development;

(f) machinery and equipment used in electrolytic reduction facilities;

(g) all property used and owned by persons, firms, corporations, or other organizations that are engaged in the business of furnishing telecommunications services exclusively to rural areas or to rural areas and cities and towns of 1,200 permanent residents or less.

(2) (a) “Air and water pollution control and carbon capture equipment” means that portion of identifiable property, facilities, machinery, devices, or equipment certified as provided in subsections (2)(b) and (2)(c) and designed, constructed, under construction, or operated for removing, disposing, abating, treating, eliminating, destroying, neutralizing, stabilizing, rendering inert, storing, or preventing the creation of air or water pollutants that, except for the use of the item, would be released to the environment. This includes machinery, devices, or equipment used to capture carbon dioxide or other greenhouse gases. Reduction in pollutants obtained through operational techniques without specific facilities, machinery, devices, or equipment is not eligible for certification under this section.

(b) Requests for certification must be made on forms available from the department of revenue. Certification may not be granted unless the

applicant is in substantial compliance with all applicable rules, laws, orders, or permit conditions. Certification remains in effect only as long as substantial compliance continues.

(c) The department of environmental quality shall promulgate rules specifying procedures, including timeframes for certification application, and definitions necessary to identify air and water pollution control and carbon capture equipment for certification and compliance. The department of revenue shall promulgate rules pertaining to the valuation of qualifying air and water pollution control and carbon capture equipment. The department of environmental quality shall identify and track compliance in the use of certified air and water pollution control and carbon capture equipment and report continuous acts or patterns of noncompliance at a facility to the department of revenue. Casual or isolated incidents of noncompliance at a facility do not affect certification.

(d) To qualify for the exemption under subsection (5)(b), the air and water pollution control and carbon capture equipment must be placed into service after January 1, 2014, for the purposes of environmental benefit or to comply with state or federal pollution control regulations. If the air or water pollution control and carbon capture equipment enhances the performance of existing air and water pollution control and carbon capture equipment, only the market value of the enhancement is subject to the exemption under subsection (5)(b).

(e) Except as provided in subsection (2)(d), equipment that does not qualify for the exemption under subsection (5)(b) includes but is not limited to equipment placed into service to maintain, replace, or repair equipment installed on or before January 1, 2014.

(f) A person may appeal the certification, classification, and valuation of the property to the state *Montana* tax appeal board. Appeals on the property certification must name the department of environmental quality as the respondent, and appeals on the classification or valuation of the equipment must name the department of revenue as the respondent.

(3) (a) "New industrial property" means any new industrial plant, including land, buildings, machinery, and fixtures, used by new industries during the first 3 years of their operation. The property may not have been assessed within the state of Montana prior to July 1, 1961.

(b) New industrial property does not include:

(i) property used by retail or wholesale merchants, commercial services of any type, agriculture, trades, or professions unless the business or profession meets the requirements of subsection (4)(b)(v);

(ii) a plant that will create adverse impact on existing state, county, or municipal services; or

(iii) property used or employed in an industrial plant that has been in operation in this state for 3 years or longer.

(4) (a) "New industry" means any person, corporation, firm, partnership, association, or other group that establishes a new plant in Montana for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry.

(b) New industry includes only those industries that:

(i) manufacture, mill, mine, produce, process, or fabricate materials;

(ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state are extracted, processed, or made fit for use or are substantially altered or treated so as to create commercial products or materials;

(iii) engage in the mechanical or chemical transformation of materials or substances into new products in the manner defined as manufacturing in

the North American Industry Classification System Manual prepared by the United States office of management and budget;

(iv) engage in the transportation, warehousing, or distribution of commercial products or materials if 50% or more of an industry's gross sales or receipts are earned from outside the state; or

(v) earn 50% or more of their annual gross income from out-of-state sales.

(5) (a) Except as provided in subsection (5)(b), class five property is taxed at 3% of its market value.

(b) Air and water pollution control and carbon capture equipment placed in service after January 1, 2014, and that satisfies the criteria in subsection (2)(d) is exempt from taxation for a period of 10 years from the date of certification, after which the property is assessed at 100% of its taxable value."

Section 25. Section 15-6-158, MCA, is amended to read:

"15-6-158. Class fifteen property – description – taxable percentage. (1) Class fifteen property includes:

(a) carbon dioxide pipelines certified by the department of environmental quality under 15-24-3112 for the transportation of carbon dioxide for the purposes of sequestration or for use in closed-loop enhanced oil recovery operations;

(b) qualified liquid pipelines certified by the department of environmental quality under 15-24-3112;

(c) carbon sequestration equipment;

(d) equipment used in closed-loop enhanced oil recovery operations; and

(e) all property of pipelines, including pumping and compression equipment, carrying products other than carbon dioxide, that originate at facilities specified in 15-6-157(1), with at least 90% of the product carried by the pipeline originating at facilities specified in 15-6-157(1) and terminating at an existing pipeline or facility.

(2) For the purposes of this section, the following definitions apply:

(a) "Carbon dioxide pipeline" means a pipeline that transports carbon dioxide from a plant or facility that produces or captures carbon dioxide to a carbon sequestration point, including a closed-loop enhanced oil recovery operation.

(b) "Carbon sequestration" means the long-term storage of carbon dioxide from a carbon dioxide pipeline in geologic formations, including but not limited to deep saline formations, basalt or oil shale formations, depleted oil and gas reservoirs, unminable coal beds, and closed-loop enhanced oil recovery operations.

(c) "Carbon sequestration equipment" means the equipment used for carbon sequestration, including equipment used to inject carbon dioxide at the carbon sequestration point and equipment used to retain carbon dioxide in the sequestration location.

(d) "Carbon sequestration point" means the location where the carbon dioxide is to be confined for sequestration.

(e) "Closed-loop enhanced oil recovery operation" means all oil production equipment, as described in 15-6-138(1)(c), owned by an entity that owns or operates an operation that, after construction, installation, and testing has been completed and the full enhanced oil recovery process has been commenced, injects carbon dioxide to increase the amount of crude oil that can be recovered from a well and retains as much of the injected carbon dioxide as practicable, but not less than 85% of the carbon dioxide injected each year absent catastrophic or unforeseen occurrences.

(f) "Liquid pipeline" means a pipeline that is dedicated to using 90% of its pipeline capacity for transporting fuel or methane gas from a coal gasification

facility, biodiesel production facility, biogas production facility, or ethanol production facility.

(g) “Plant or facility that produces or captures carbon dioxide” means a facility that produces a flow of carbon dioxide that can be sequestered or used in a closed-loop enhanced oil recovery operation. This does not include wells from which the primary product is carbon dioxide.

(3) Class fifteen property does not include a carbon dioxide pipeline, liquid pipeline, or closed-loop enhanced oil recovery operation for which, during construction, the standard prevailing wages for heavy construction, as provided in 18-2-414, were not paid during the construction phase.

(4) (a) Except as provided in subsection (4)(b), class fifteen property is taxed at 3% of its market value.

(b) Carbon sequestration equipment placed in service after January 1, 2014, that is certified as provided in subsection (5) and that has a current granted tax abatement under 15-24-3111 is taxed at 1.5% of its reduced market value during the qualifying period provided for in 15-24-3111(7).

(5) (a) Requests for certification must be made on forms available from the department of revenue. Certification may not be granted unless the applicant is in substantial compliance with all applicable rules, laws, orders, or permit conditions. Certification remains in effect only as long as substantial compliance continues.

(b) The board of oil and gas conservation shall promulgate rules specifying procedures, including timeframes for certification application, and definitions necessary to identify carbon sequestration equipment for certification and compliance. The department of revenue shall promulgate rules pertaining to the valuation of carbon sequestration equipment. The board of oil and gas conservation shall identify and track compliance in the use of carbon sequestration equipment and report continuous acts or patterns of noncompliance at a facility to the department of revenue. Casual or isolated incidents of noncompliance at a facility do not affect certification.

(c) A person may appeal the certification, classification, and valuation of the property to the *state Montana* tax appeal board. Appeals on the property certification must name the board of oil and gas conservation as the respondent, and appeals on the classification or valuation of the equipment must name the department of revenue as the respondent.”

Section 26. Section 15-6-231, MCA, is amended to read:

“15-6-231. (Temporary) Periodic review of property tax exemption – dispute resolution – rulemaking. (1) Owners of real property shall apply to the department for a property tax exemption under 15-6-201(1)(b), (1)(e) through (1)(g), (1)(i), (1)(k), (1)(l), (1)(n), and (1)(o), 15-6-203, 15-6-209, 15-6-221, and 15-6-227.

(2) The department shall administer the provisions of subsection (1) by requiring real property owners or entities to submit:

(a) a renewal application and the accompanying fee provided for in 15-6-233 for each real property that is receiving tax-exempt status on April 30, 2015; and

(b) any further information deemed necessary by the department as established by rule for the purpose of making a determination of continued eligibility for tax-exempt status.

(c) (i) The initial renewal application must be submitted to the department no later than March 1, 2016. Subject to subsection (2)(c)(ii), the department shall require uniform renewal applications to be submitted on a cyclical basis as established by rule, and cyclical review must occur at least every 6 years.

(ii) A real property owner or entity that received a new exemption within 2 calendar years of the uniform renewal application deadline is not required to submit a renewal application during the property's first review cycle.

(3) The department shall review the information provided and shall approve or deny the application for exemption. If the department determines that the real property or a portion of the real property is no longer eligible for a property tax exemption, it shall send the owner or entity claiming the exemption a notice of the real property or portion of the real property that is subject to loss of eligibility by posted mail, by e-mail, or electronically. The owner or entity may seek review of the department's final determination with the state *Montana* tax appeal board.

(4) The department shall provide public notice to real property owners or entities for which it has a last-known address of their obligation to reapply for tax-exempt status under the provisions of subsection (2) by:

(a) sending through posted mail, by e-mail, or electronically a notice to real property owners or entities for which it has a last-known address; and

(b) publishing notices on its website and in publications of general circulation in Montana.

(5) The department shall establish uniform deadlines for owners or entities to reapply for tax-exempt status while maintaining consistency, uniform standards, and an orderly review process. The department shall consider the timeframe for certification of taxable value to taxing authorities under 15-10-202 when it establishes deadlines under this section.

(6) The department may grant a reasonable extension of time for a real property owner to comply with this section whenever, in its judgment, good cause exists.

(7) The department may adopt rules that are necessary to implement and administer the provisions of 15-6-233 and this section. (Terminates December 31, 2021--sec. 8, Ch. 372, L. 2015.)"

Section 27. Section 15-7-102, MCA, is amended to read:

"15-7-102. Notice of classification, market value, and taxable value to owners -- appeals. (1) (a) Except as provided in 15-7-138, the department shall mail or provide electronically to each owner or purchaser under contract for deed a notice that includes the land classification, market value, and taxable value of the land and improvements owned or being purchased. A notice must be mailed or, with property owner consent, provided electronically to the owner only if one or more of the following changes pertaining to the land or improvements have been made since the last notice:

(i) change in ownership;

(ii) change in classification;

(iii) change in valuation; or

(iv) addition or subtraction of personal property affixed to the land.

(b) The notice must include the following for the taxpayer's informational and informal classification and appraisal review purposes:

(i) a notice of the availability of all the property tax assistance programs available to property taxpayers, including the intangible land value assistance program provided for in 15-6-240, the property tax assistance programs provided for in Title 15, chapter 6, part 3, and the residential property tax credit for the elderly provided for in 15-30-2337 through 15-30-2341;

(ii) the total amount of mills levied against the property in the prior year;

(iii) a statement that the notice is not a tax bill; and

(iv) a taxpayer option to request an informal classification and appraisal review by checking a box on the notice and returning it to the department.

(c) When the department uses an appraisal method that values land and improvements as a unit, including the sales comparison approach for residential condominiums or the income approach for commercial property, the notice must contain a combined appraised value of land and improvements.

(d) Any misinformation provided in the information required by subsection (1)(b) does not affect the validity of the notice and may not be used as a basis for a challenge of the legality of the notice.

(2) (a) Except as provided in subsection (2)(c), the department shall assign each classification and appraisal to the correct owner or purchaser under contract for deed and mail or provide electronically the notice in written or electronic form, adopted by the department, containing sufficient information in a comprehensible manner designed to fully inform the taxpayer as to the classification and appraisal of the property and of changes over the prior tax year.

(b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an appeal of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in 15-1-402.

(c) The department is not required to mail or provide electronically the notice to a new owner or purchaser under contract for deed unless the department has received the realty transfer certificate from the clerk and recorder as provided in 15-7-304 and has processed the certificate before the notices required by subsection (2)(a) are mailed or provided electronically. The department shall notify the county tax appeal board of the date of the mailing or the date when the taxpayer is informed the information is available electronically.

(3) (a) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the market value of the property as determined by the department or with the classification of the land or improvements, the owner may request an informal classification and appraisal review by submitting an objection on written or electronic forms provided by the department for that purpose or by checking a box on the notice and returning it to the department in a manner prescribed by the department.

(i) For property other than class three property described in 15-6-133, class four property described in 15-6-134, and class ten property described in 15-6-143, the objection must be submitted within 30 days from the date on the notice.

(ii) For class three property described in 15-6-133 and class four property described in 15-6-134, the objection may be made only once each valuation cycle. An objection must be made in writing or by checking a box on the notice within 30 days from the date on the classification and appraisal notice for a reduction in the appraised value to be considered for both years of the 2-year valuation cycle. An objection made more than 30 days from the date of the classification and appraisal notice will be applicable only for the second year of the 2-year valuation cycle. For an objection to apply to the second year of the valuation cycle, the taxpayer must make the objection in writing or by checking a box on the notice no later than June 1 of the second year of the valuation cycle or, if a classification and appraisal notice is received in the second year of the valuation cycle, within 30 days from the date on the notice.

(iii) For class ten property described in 15-6-143, the objection may be made at any time but only once each valuation cycle. An objection must be made in writing or by checking a box on the notice within 30 days from the date on the classification and appraisal notice for a reduction in the appraised value to be considered for all years of the 6-year appraisal cycle. An objection made more than 30 days after the date of the classification and appraisal notice

applies only for the subsequent remaining years of the 6-year reappraisal cycle. For an objection to apply to any subsequent year of the valuation cycle, the taxpayer must make the objection in writing or by checking a box on the notice no later than June 1 of the year for which the value is being appealed or, if a classification and appraisal notice is received after the first year of the valuation cycle, within 30 days from the date on the notice.

(b) If the objection relates to residential or commercial property and the objector agrees to the confidentiality requirements, the department shall provide to the objector, by posted mail or electronically, within 8 weeks of submission of the objection, the following information:

(i) the methodology and sources of data used by the department in the valuation of the property; and

(ii) if the department uses a blend of evaluations developed from various sources, the reasons that the methodology was used.

(c) At the request of the objector, and only if the objector signs a written or electronic confidentiality agreement, the department shall provide in written or electronic form:

(i) comparable sales data used by the department to value the property; and

(ii) sales data used by the department to value residential property in the property taxpayer's market model area.

(d) For properties valued using the income approach as one approximation of market value, notice must be provided that the taxpayer will be given a form to acknowledge confidentiality requirements for the receipt of all aggregate model output that the department used in the valuation model for the property.

(e) The review must be conducted informally and is not subject to the contested case procedures of the Montana Administrative Procedure Act. As a part of the review, the department may consider the actual selling price of the property and other relevant information presented by the taxpayer in support of the taxpayer's opinion as to the market value of the property. The department shall consider an independent appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate appraisers and the appraisal was completed within 6 months of the valuation date pursuant to 15-8-201. If the department does not use the appraisal provided by the taxpayer in conducting the appeal, the department must provide to the taxpayer the reason for not using the appraisal. The department shall give reasonable notice to the taxpayer of the time and place of the review.

(f) After the review, the department shall determine the correct appraisal and classification of the land or improvements and notify the taxpayer of its determination by mail or electronically. The department may not determine an appraised value that is higher than the value that was the subject of the objection unless the reason for an increase was the result of a physical change in the property or caused by an error in the description of the property or data available for the property that is kept by the department and used for calculating the appraised value. In the notification, the department shall state its reasons for revising the classification or appraisal. When the proper appraisal and classification have been determined, the land must be classified and the improvements appraised in the manner ordered by the department.

(4) Whether a review as provided in subsection (3) is held or not, the department may not adjust an appraisal or classification upon the taxpayer's objection unless:

(a) the taxpayer has submitted an objection on written or electronic forms provided by the department or by checking a box on the notice; and

(b) the department has provided to the objector by mail or electronically its stated reason in writing for making the adjustment.

(5) A taxpayer's written objection or objection made by checking a box on the notice and supplemental information provided by a taxpayer that elects to check a box on the notice to a classification or appraisal and the department's notification to the taxpayer of its determination and the reason for that determination are public records. The department shall make the records available for inspection during regular office hours.

(6) If a property owner feels aggrieved by the classification or appraisal made by the department after the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal board and then to the *state Montana* tax appeal board, whose findings are final subject to the right of review in the courts. The appeal to the county tax appeal board, pursuant to 15-15-102, must be filed within 30 days from the date on the notice of the department's determination. A county tax appeal board or the *state Montana* tax appeal board may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the *state Montana* tax appeal board determines that an adjustment should be made, the department shall adjust the base value of the property in accordance with the board's order."

Section 28. Section 15-7-139, MCA, is amended to read:

"15-7-139. Requirements for entry on property by property valuation staff employed by department – authority to estimate value of property not entered – rules. (1) Subject to the conditions and restriction of this section, the provisions of 45-6-203 do not apply to property valuation staff employed by the department and acting within the course and scope of the employees' official duties.

(2) A person qualified under subsection (1) may enter private land to appraise or audit property for property tax purposes.

(3) (a) No later than November 30 of each year, the department shall publish in a newspaper of general circulation in each county a notice that the department may enter property for the purpose of appraising or auditing property.

(b) The published notice must indicate:

(i) that a landowner may require that the landowner or the landowner's agent be present when the person qualified in subsection (1) enters the land to appraise or audit property;

(ii) that the landowner shall notify the department in writing of the landowner's requirement that the landowner or landowner's agent be present; and

(iii) that the landowner's written notice must be mailed to the department at an address specified and be postmarked not more than 30 days following the date of publication of the notice. The department may grant a reasonable extension of time for returning the written notice.

(4) The written notice described in subsection (3)(b)(ii) must be legible and include:

(a) the landowner's full name;

(b) the mailing address and property address; and

(c) a telephone number at which an appraiser may contact the landowner during normal business hours.

(5) When the department receives a written notice as described in subsection (4), the department shall contact the landowner or the landowner's agent to establish a date and time for entering the land to appraise or audit the property.

(6) If a landowner or the landowner's agent prevents a person qualified under subsection (1) from entering land to appraise or audit property or fails or refuses to establish a date and time for entering the land pursuant to subsection (5), the department shall estimate the value of the real and personal property located on the land.

(7) A county tax appeal board and the *state Montana* tax appeal board may not adjust the estimated value of the real or personal property determined under subsection (6) unless the landowner or the landowner's agent:

(a) gives permission to the department to enter the land to appraise or audit the property; or

(b) provides to the department and files with the county tax appeal board or the *state Montana* tax appeal board an appraisal of the property conducted by an appraiser who is certified by the Montana board of real estate appraisers. The appraisal must be conducted in accordance with current uniform standards of professional appraisal practice established for certified real estate appraisers under 37-54-403. The appraisal must be conducted within 1 year of the reappraisal valuation date provided for in 15-7-103(6) and must establish a separate market value for each improvement and the land.

(8) A person qualified under subsection (1) who enters land pursuant to this section shall carry on the person identification sufficient to identify the person and the person's employer and shall present the identification upon request.

(9) The authority granted by this section does not authorize entry into improvements, personal property, or buildings or structures without the permission of the owner or the owner's agent.

(10) Vehicular access to perform appraisals and audits is limited to established roads and trails, unless approval for other vehicular access is granted by the landowner.

(11) The department shall adopt rules that are necessary to implement 15-7-140 and this section. The rules must, at a minimum, establish procedures for granting a reasonable extension of time for landowners to respond to notices from the department."

Section 29. Section 15-8-112, MCA, is amended to read:

"15-8-112. Assessments to be made on classification and appraisal.

(1) The assessments of all lands, all city and town lots, and all improvements must be made on the classification and appraisal as made or caused to be made by the department.

(2) The percentage basis of assessed value as provided for in chapter 6, part 1, is determined and assigned by the department when it makes its annual assessment of the property that it is required to assess centrally. The department shall apportion the assessments to the various counties, and its determination is final except as to the right of review in the *state Montana* tax appeal board or the proper court."

Section 30. Section 15-8-113, MCA, is amended to read:

"15-8-113. Appeal from percentage assignment. If any taxpayer disagrees with the percentage assignment made by the department, the taxpayer may appeal to the county tax appeal board on the percentage assignment the same as a taxpayer may now appeal on valuations and also may appeal from the county tax appeal board to the *state Montana* tax appeal board, whose findings are final except as to the right of review in the proper courts."

Section 31. Section 15-8-115, MCA, is amended to read:

"15-8-115. Department to defend property tax appeals – costs and judgments. (1) Except as provided in 15-8-202, the department is the

party defendant in any proceeding before a county tax appeal board, the *state Montana* tax appeal board, or a court of law that seeks to dispute or adjust an action of the department under 15-8-101 arising from the exercise of the department's duties as prescribed by law or administrative rule. For the purposes of proceedings before county tax appeal boards, service on the department may be obtained by serving the person designated to receive service for the department.

(2) Costs, if any, must be assessed against the department and not against a local taxing unit.

(3) In a suit brought in a court of this state for the refund of taxes paid under protest in which the taxes paid are held by the treasurer of a unit of local government in a protest fund, the court shall enter judgment, exclusive of costs, against the treasurer if the court finds the taxes should be refunded."

Section 32. Section 15-8-202, MCA, is amended to read:

"15-8-202. Motor vehicle assessment by department of justice.

(1) (a) The department of justice shall determine the registration fee on light vehicles in accordance with 61-3-321 and 61-3-562.

(b) For the purposes of the local option motor vehicle tax under 61-3-537, the department of justice shall assess all light vehicles in accordance with 61-3-503.

(c) The department of justice shall determine the registration fee for all buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors in accordance with 61-3-321 and 61-3-529.

(d) Taxes and registration fees on a motor vehicle under this subsection (1) must be assessed or imposed in each year on the person to whom the vehicle is registered.

(2) (a) The department of justice is authorized to appear in any proceeding before a county tax appeal board, the *state Montana* tax appeal board, or a court that seeks to dispute an assessment made by the department pursuant to the authority granted under this section.

(b) For the purposes of proceedings before county tax appeal boards or the *state Montana* tax appeal board, service of the application required under 15-15-201 must be made on the attorney general. A copy of any application giving rise to a proceeding before a county tax appeal board or the *state Montana* tax appeal board must also be served on the county treasurer of the county in which the vehicle that is the subject of the proceeding was registered."

Section 33. Section 15-15-101, MCA, is amended to read:

"15-15-101. County tax appeal board – meetings and compensation.

(1) The board of county commissioners of each county shall appoint a county tax appeal board, with a minimum of three members and with the members to serve staggered terms of 3 years each. The members of each county tax appeal board must be residents of the county in which they serve.

(2) (a) The members receive compensation as provided in subsection (2)(b) and travel expenses, as provided for in 2-18-501 through 2-18-503, only when the county tax appeal board meets to hear taxpayers' appeals from property tax assessments or when they are attending meetings called by the *state Montana* tax appeal board. Travel expenses and compensation must be paid from the appropriation to the *state Montana* tax appeal board.

(b) (i) The daily compensation for a member is as follows:

(A) \$45 for 4 hours of work or less; and

(B) \$90 for more than 4 hours of work.

(ii) For the purpose of calculating work hours in this subsection (2)(b), work includes hearing tax appeals, deliberating with other board members, and attending meetings called by the *state Montana* tax appeal board.

(3) Office space and equipment for the county tax appeal boards must be furnished by the county. All other incidental expenses must be paid from the appropriation of the ~~state~~ *Montana* tax appeal board.

(4) The county tax appeal board shall hold an organizational meeting each year on the date of its first scheduled hearing, immediately before conducting the business for which the hearing was otherwise scheduled. At the organizational meeting, the members shall choose one member as the presiding officer of the board. The county tax appeal board shall continue in session from July 1 of the current tax year until December 31 of the current tax year to hear protests concerning assessments made by the department until the business of hearing protests is disposed of and, as provided in 15-2-201, may meet after December 31.

(5) In counties that have appointed more than three members to the county tax appeal board, only three members shall hear each appeal. The presiding officer shall select the three members hearing each appeal.

(6) In connection with an appeal, the county tax appeal board may change any assessment or fix the assessment at some other level. Upon notification by the county tax appeal board, the county clerk and recorder shall publish a notice to taxpayers, giving the time the county tax appeal board will be in session to hear scheduled protests concerning assessments and the latest date the county tax appeal board may take applications for the hearings. The notice must be published in a newspaper if any is printed in the county or, if none, then in the manner that the county tax appeal board directs. The notice must be published by May 15 of the current tax year.

(7) Challenges to a department rule governing the assessment of property or to an assessment procedure apply only to the taxpayer bringing the challenge and may not apply to all similarly situated taxpayers unless an action is brought in the district court as provided in 15-1-406.”

Section 34. Section 15-15-103, MCA, is amended to read:

“15-15-103. Examination of applicant – failure to hear application.

(1) Before the county tax appeal board grants any application or makes any reduction applied for, it shall examine on oath the person or agent making the application with regard to the value of the property of the person. A reduction may not be made unless the applicant makes an application, as provided in 15-15-102, and attends the county board hearing. An appeal of the county board’s decision may not be made to the ~~state~~ *Montana* tax appeal board unless the person or the person’s agent has exhausted the remedies available through the county board. In order to exhaust the remedies, the person or the person’s agent shall attend the county board hearing. On written request by the person or the person’s agent and on the written concurrence of the department, the county board may waive the requirement that the person or the person’s agent attend the hearing. The testimony of all witnesses at the hearing must be electronically recorded and preserved for 1 year. If the decision of the county board is appealed, the record of the proceedings, including the electronic recording of all testimony, must be forwarded, together with all exhibits, to the ~~state~~ *Montana* board. The date of the hearing, the proceedings before the county board, and the decision must be entered upon the minutes of the county board, and the county board shall notify the applicant of its decision by mail within 3 days. A copy of the minutes of the county board must be transmitted to the ~~state~~ *Montana* board no later than 3 days after the county board holds its final hearing of the year.

(2) (a) Except as provided in 15-15-201, if a county board refuses or fails to hear a taxpayer’s timely application for a reduction in valuation of property, the taxpayer’s application is considered to be granted on the day following the

county board's final meeting for that year. The department shall enter the appraisal or classification sought in the application in the property tax record. An application is not automatically granted for the following appeals:

- (i) those listed in 15-2-302(1); and
- (ii) if a taxpayer's appeal from the department's determination of classification or appraisal made pursuant to 15-7-102 was not received in time, as provided for in 15-15-102, to be considered by the county board during its current session.

(b) The county board shall provide written notification of each application that was automatically granted pursuant to subsection (2)(a) to the department, the *state Montana* board, and any affected municipal corporation. The notice must include the name of the taxpayer and a description of the subject property.

(3) The county tax appeal board shall consider an independent appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate appraisers and the appraisal was conducted within 6 months of the valuation date. If the county tax appeal board does not use the appraisal provided by the taxpayer in conducting the appeal, the county board *must shall* provide to the taxpayer the reason for not using the appraisal."

Section 35. Section 15-15-104, MCA, is amended to read:

"15-15-104. Appeal to state Montana tax appeal board. (1) If the appearance provisions of 15-15-103(1) have been complied with, a person or the department, on behalf of the state, or any municipal corporation aggrieved by the action of any county tax appeal board may appeal to the *state Montana* board under 15-2-301.

(2) If an appeal has been automatically granted by a county tax appeal board pursuant to 15-15-103(2), the department, on behalf of the state, or any municipal corporation aggrieved by the action may appeal to the *state Montana* tax appeal board under 15-2-301. The time for filing an appeal commences on receipt by the department of the written notification required by 15-15-103(2)(b)."

Section 36. Section 15-15-201, MCA, is amended to read:

"15-15-201. Motor vehicle tax appeals – payment and protest of local option taxes or fees in lieu of tax on motor vehicles. (1) (a) A taxpayer who seeks to appeal the imposition of local option taxes on light vehicles or fees in lieu of tax assessed against a motor vehicle and imposed by the department of justice under authority of 15-8-202 shall file a written application for the appeal not later than 30 days after receipt of the renewal notice from the department as provided in 61-3-535. The application must be on a form prescribed by the department of justice in consultation with the *state Montana* tax appeal board.

(b) The application must include a specific explanation of the basis for the taxpayer's appeal. The basis for appeal must be related to the factors to be considered and applied by the department of justice under 61-3-503 and 61-3-529 and established by the department's rulemaking authority in 61-14-101.

(2) (a) The treasurer of the county or municipality is not required to deposit local option vehicle taxes or fees in lieu of tax on a motor vehicle paid under protest in the special fund designated as a protest fund as required for property taxes under 15-1-402. The taxes or fees paid under protest may be reported and distributed in the same manner as those received without protest.

(b) If a refund is payable as a result of the taxpayer prevailing in a tax appeal or court proceeding concerning the protested motor vehicle taxes or fees, a refund may be made in accordance with 15-16-603.

(3) (a) A motor vehicle tax appeal may be heard by the county tax appeal board during its next regularly scheduled session if the application for the appeal was filed by December 1. If during its current session, a county tax appeal board refuses or fails to hear a taxpayer's application that was timely filed by December 1, then the taxpayer's application is considered to be granted on the day following the board's final meeting for that year.

(b) A motor vehicle tax appeal filed after December 1 may be held over by the board to a session in the following year. If a taxpayer's application that was timely filed after December 1 of the current session of the county tax appeal board is held over to a session in the following year and if the county tax appeal board refuses or fails to hear the application during the following session, then the application is considered to be granted on the day following the board's final meeting for that year."

Section 37. Section 15-16-603, MCA, is amended to read:

"15-16-603. Refund of taxes – limitations on refunds. (1) Subject to the provisions in subsections (2) and (3), a board of county commissioners shall order a refund:

(a) on a tax, penalty, interest, or cost paid more than once or erroneously or illegally collected if an appeal pursuant to 15-1-402 was not available;

(b) on a tax paid for which a refund is allowed under 15-16-612 or 15-16-613;

(c) on a tax, penalty, or interest collected as a result of an error in the description or location of real property or improvements or for duplicate taxes paid as determined by the department of revenue;

(d) on net or gross proceeds tax, centrally assessed property tax, penalty, or interest when the department of revenue notifies the board of county commissioners of an assessment revision completed pursuant to 15-8-601;

(e) upon entry of a decision either by the district court or by the *state Montana* tax appeal board under 15-2-306 that has not been appealed to a higher court; or

(f) on a decision that a refund is payable as a result of a taxpayer prevailing in a motor vehicle tax or fee proceeding under 15-15-201.

(2) The taxpayer shall prove that a refund is due under subsection (1)(a) or (1)(b).

(3) (a) A refund may not be granted under subsection (1)(a) or (1)(b) unless the taxpayer or a representative of the taxpayer files a written claim with the board of county commissioners within 10 years after the date when the second half of the taxes would have become delinquent if the taxes had not been paid.

(b) The refund required under subsection (1)(c) must be made for 5 tax years or for the duration of the error, whichever period is shorter.

(c) A refund may not be made under subsection (1)(c) unless the taxpayer allowed the department of revenue access to the taxpayer's property for the purposes of appraising the property."

Section 38. Section 15-23-102, MCA, is amended to read:

"15-23-102. Independent appraisal option. (1) The department of revenue may have property subject to the provisions of this chapter assessed by a qualified independent appraiser when both the department and the owner of the property subject to the assessment agree in writing:

(a) on a particular independent appraiser to do an appraisal;

(b) to share the costs of the independent appraisal; and

(c) to accept the results of the appraisal.

(2) Appeals from the decision of the department are subject to mediation under 15-1-212 and may be taken to the *state Montana* tax appeal board."

Section 39. Section 15-30-2607, MCA, is amended to read:

“15-30-2607. Application for revision – appeal. An application for revision may be filed with the department by a taxpayer within 3 years from the last day prescribed for filing the return as provided in 15-30-2605(3), regardless of whether the return was filed on or after the last day prescribed for filing. If the department has revised a return pursuant to 15-30-2605(3), the taxpayer may revise the same return until the liability for that tax year is finally determined. If the taxpayer is not satisfied with the action taken by the department, the taxpayer may appeal to the *state Montana* tax appeal board.”

Section 40. Section 15-30-2608, MCA, is amended to read:

“15-30-2608. Judicial review. (1) The determination of the *state Montana* tax appeal board may be reviewed in the district court for Lewis and Clark County or the county in which the taxpayer resides or in which the taxpayer’s principal office or place of business is located by a complaint filed by the taxpayer or the department within 60 days after the receipt of notice of the determination. Proceedings for review must be otherwise as specified under the Montana Administrative Procedure Act.

(2) The remedies provided by this chapter for the collection of the tax must be stayed, and an assessment, distraint, or proceedings in court for collection of the taxes may not be made, begun, or prosecuted until 90 days after the court action is finally determined. From any determination of the court, an appeal to the supreme court may be taken by either party.”

Section 41. Section 15-30-3113, MCA, is amended to read:

“15-30-3113. (Temporary) Review determination – termination – confidentiality. (1) Subject to subsection (7), the department is authorized to examine any books, papers, records, or memoranda relevant to determining whether a student scholarship organization is in compliance with 15-30-3102, 15-30-3103, and 15-30-3105.

(2) If a student scholarship organization is not in compliance, the department shall provide to the organization written notice of the specific failures and the organization has 30 days from the date of the notice to correct deficiencies. If the organization fails to correct all deficiencies, the department shall provide a final written notice of the failure to the organization. The organization may appeal the department’s determination of failure to comply according to the uniform dispute review procedure in 15-1-211 within 30 days of the date of the notice.

(3) (a) If a student scholarship organization does not seek review under 15-1-211 or if the dispute is not resolved, the department shall issue a final department decision.

(b) The final department decision for a student scholarship organization must provide that the student scholarship organization:

(i) will be removed from the list of eligible student scholarship organizations provided in 15-30-3106 and notified of the removal; and

(ii) shall within 15 calendar days of receipt of notice from the department of removal from the eligible list cease all operations as a student scholarship organization and transfer all scholarship account funds to a properly operating student scholarship organization.

(4) A student scholarship organization that receives a final department decision may seek review of the decision from the *state Montana* tax appeal board pursuant to 15-2-302.

(5) Either party aggrieved as a result of the decision of the *state Montana* tax appeal board may seek judicial review pursuant to 15-2-303.

(6) If a student scholarship organization files an appeal pursuant to this section, the organization may continue to operate until the decision of the court is final.

(7) The identity of donors who make donations to the educational improvement account provided for in 20-9-905 or donations to a student scholarship organization is confidential tax information that is subject to the provisions of 15-30-2618. (Terminates December 31, 2023--sec. 33, Ch. 457, L. 2015.)”

Section 42. Section 15-68-405, MCA, is amended to read:

“15-68-405. Revocation or suspension of permit – appeal. (1) Subject to the provisions of subsection (2), the department may, for reasonable cause, revoke or suspend any permit held by a person that fails to comply with the provisions of this chapter.

(2) The department shall provide dispute resolution on a proposed revocation or suspension pursuant to 15-1-211.

(3) If a permit is revoked, the department may not issue a new permit except upon application accompanied by reasonable evidence of the intention of the applicant to comply with the provisions of this chapter. The department may require security in addition to that authorized by 15-68-512 in an amount reasonably necessary to ensure compliance with this chapter as a condition for the issuance of a new permit to the applicant.

(4) A person aggrieved by the department’s final decision to revoke a permit, as provided in subsection (1), may appeal the decision to the *state Montana* tax appeal board within 30 days after the date on which the department issued its final decision.”

Section 43. Section 15-68-805, MCA, is amended to read:

“15-68-805. Revocation of corporate license – appeal. (1) If a corporation authorized to do business within this state and required to pay the taxes imposed under this chapter fails to comply with any of the provisions of this chapter or any rule of the department, the department may, for reasonable cause, certify to the secretary of state a copy of an order finding that the corporation has failed to comply with specific statutory provisions or rules.

(2) The secretary of state shall, upon receipt of the certification, revoke the certificate authorizing the corporation to do business within this state and may issue a new certificate only when the corporation has obtained from the department an order finding that the corporation has complied with its obligations under this chapter.

(3) An order authorized in this section may not be made until the corporation is given an opportunity for dispute resolution as provided in 15-1-211.

(4) A final decision of the department may be appealed to the *state Montana* tax appeal board.”

Section 44. Section 15-70-111, MCA, is amended to read:

“15-70-111. Judicial review and appeals. Any final written determination by the director of the department of transportation under this chapter may be appealed to the *state Montana* tax appeal board which may, upon the record of a hearing, affirm, modify, or reverse the decision of the department. Any party aggrieved by the decision of the board may petition for judicial review by the district court of Lewis and Clark County, and an appeal may be taken from the judgment of the district court to the supreme court.”

Section 45. Section 16-11-149, MCA, is amended to read:

“16-11-149. Hearings before department. (1) A person aggrieved by any action of the department or its authorized agents taken to enforce the tax provisions of this part, except for a revocation of a license pursuant to

16-11-144, may apply to the department, in writing, for a hearing or rehearing within 30 days after the action of the department or its authorized agents.

(2) The department shall promptly consider the application, set the application for hearing, and notify the applicant of the time and place fixed for the hearing or rehearing, which may be at its office or in the county of the applicant. After the hearing or rehearing, the department may make any further or other order on the grounds that it may consider proper and lawful and shall furnish a copy to the applicant.

(3) The department, on its own initiative, may order a contested case hearing on any matter concerned with licensing, as defined in 2-4-102, in connection with the administration of this part upon at least 10 days' notice in writing to the person or persons to be investigated.

(4) A person may appeal a final order of the department to the *state Montana* tax appeal board as provided in 15-2-302."

Section 46. Section 53-19-319, MCA, is amended to read:

"53-19-319. Service provider considered taxpayer under provisions for fee. Unless the context requires otherwise, the provisions of Title 15 referring to the audit and examination of reports and returns, determination of deficiency assessments, claims for refunds, penalties and interest, jeopardy assessments, warrants, conferences, appeals to the department, appeals to the *state Montana* tax appeal board, and procedures relating to the application of this part apply as if the fee imposed in this part were a tax imposed upon or measured by net income. The provisions apply to the subscriber liable for the fee and to the service provider required to collect the fee. Any amount collected and required to be remitted to the department is considered a tax upon the service provider required to collect it, and the service provider is considered a taxpayer."

Section 47. Section 61-11-510, MCA, is amended to read:

"61-11-510. Prerequisites to disclosure. (1) Prior to the disclosure of personal information or highly restricted personal information, as provided in 61-11-507, 61-11-508, or 61-11-509, the department shall require the requester to complete and submit an application, in a form prescribed by the department, identifying the requester and specifying the statutorily recognized uses for which the personal information or highly restricted personal information is being sought.

(2) The department shall require the requester to provide identification acceptable to the department.

(3) (a) The department shall collect the appropriate fees paid by the requester and shall determine the amount of the fees in accordance with 61-3-101, 61-11-105, and this subsection (3), and as appropriate, in accordance with the terms of a contract between the department and the requester.

(b) The department shall ensure that fees established by policy or contract:

(i) recover the department's cost and expenses as provided in 2-6-1006 and 61-3-101;

(ii) include an additional amount necessary to compensate the department for costs associated with developing and maintaining the database from which information is requested; and

(iii) incorporate, when applicable, the convenience fee established under 2-17-1103.

(c) Except as provided in 61-11-105(5)(b) and subsection (3)(d) of this section, the department shall charge a fee to any person, including a representative of a federal, state, or local government entity or member of the news media who requests information under this section.

(d) The department may not charge a fee for information requested by the governor's office of budget and program planning, the ~~state~~ *Montana* tax appeal board, any legislative branch agency or committee, or any criminal justice agency, as defined in 44-5-103."

Section 48. Name change – direction to code commissioner. Wherever a reference to the "state tax appeal board" appears in legislation enacted by the 2021 legislature, the code commissioner is directed to change it to a reference to the "Montana tax appeal board".

Section 49. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Approved April 8, 2021

CHAPTER NO. 143

[SB 200]

AN ACT REVISING THE UNIFORM REAL PROPERTY TRANSFER ON DEATH ACT; APPLYING RULES OF CONSTRUCTION APPLICABLE TO WILLS AND APPLYING RULES APPLICABLE TO OTHER NONPROBATE TRANSFERS TO TRANSFER ON DEATH DEEDS; REVISING THE OPTIONAL TRANSFER ON DEATH DEED; REVISING THE OPTIONAL FORM OF REVOCATION; AND AMENDING SECTIONS 72-6-412, 72-6-415, AND 72-6-416, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 72-6-412, MCA, is amended to read:

"72-6-412. Effect of transfer on death deed at transferor's death.

(1) Except as otherwise provided in the transfer on death deed, in 72-2-712, 72-2-716, 72-2-813, 72-2-814, 72-6-112, or in this section, and subject to chapter 2, part 2, of this title, on the death of the transferor, the following rules apply to property that is the subject of a transfer on death deed and owned by the transferor at death:

(a) Subject to subsection (1)(b), the interest in the property is transferred to the designated beneficiary in accordance with the deed.

(b) The interest of a designated beneficiary is contingent on the designated beneficiary surviving the transferor. The interest of a designated beneficiary that fails to survive the transferor lapses.

(c) Subject to subsection (1)(d), concurrent interests are transferred to the beneficiaries in equal and undivided shares with no right of survivorship.

(d) If the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property, the share of one which lapses or fails for any reason is transferred to the other, or to the others in proportion to the interest of each in the remaining part of the property held concurrently.

(2) Subject to Title 70, chapter 21, a beneficiary takes the property subject to all conveyances, encumbrances, assignments, contracts, mortgages, liens, and other interests to which the property is subject at the transferor's death. For purposes of this subsection and Title 70, chapter 21, the recording of the transfer on death deed is deemed to have occurred at the transferor's death.

(3) If a transferor is a joint owner and is:

(a) survived by one or more other joint owners, the property that is the subject of a transfer on death deed belongs to the surviving joint owner or owners with right of survivorship; or

(b) the last surviving joint owner, the transfer on death deed is effective.

(4) A transfer on death deed transfers property without covenant or warranty of title even if the deed contains a contrary provision.”

Section 2. Section 72-6-415, MCA, is amended to read:

“72-6-415. Optional form of transfer on death deed. The following form may be used to create a transfer on death deed. The other sections of this part govern the effect of this or any other instrument used to create a transfer on death deed:

(front of form)

REVOCABLE TRANSFER ON DEATH DEED

NOTICE TO OWNER

You should carefully read all information on the other side of this form. You May Want to Consult a Lawyer Before Using This Form.

This form must be recorded before your death, or it will not be effective.

IDENTIFYING INFORMATION

Owner or Owners Making This Deed:

Printed name

Mailing address

Printed name

Mailing address

Legal description of the property:

PRIMARY BENEFICIARY

I designate the following beneficiary if the beneficiary survives me.

Printed name

Mailing address, if available

ALTERNATE BENEFICIARY - Optional

If my primary beneficiary does not survive me, I designate the following alternate beneficiary if that beneficiary survives me.

Printed name

Mailing address, if available

TRANSFER ON DEATH

At my death, I transfer my interest in the described property to the beneficiaries as designated above.

Before my death, I have the right to revoke this deed.

SIGNATURE OF OWNER OR OWNERS MAKING THIS DEED

{{SEAL}}

Signature

Date

{{SEAL}}

Signature

Date

ACKNOWLEDGMENT

(insert acknowledgment for deed here)

(back of form)

COMMON QUESTIONS ABOUT THE USE OF THIS FORM

What does the Transfer on Death (TOD) deed do? When you die, this deed transfers the described property, subject to any liens or mortgages (or other encumbrances) on the property at your death. Probate is not required. The TOD deed has no effect until you die. You can revoke it at any time. You are also free to transfer the property to someone else during your lifetime. If you do not own any interest in the property when you die, this deed will have no effect.

How do I make a TOD deed? Complete this form. Have it acknowledged before a notary public or other individual authorized by law to take acknowledgments. Record the form in each county where any part of the property is located. The form has no effect unless it is acknowledged and recorded before your death.

Is the “legal description” of the property necessary? Yes.

How do I find the “legal description” of the property? This information may be on the deed you received when you became an owner of the property. This information may also be available in the office of the county clerk and recorder for the county where the property is located. If you are not absolutely sure, consult a lawyer.

Can I change my mind before I record the TOD deed? Yes. If you have not yet recorded the deed and want to change your mind, simply tear up or otherwise destroy the deed.

How do I “record” the TOD deed? Take the completed and acknowledged form to the office of the county clerk and recorder of the county where the property is located. Follow the instructions given by the county clerk and recorder to make the form part of the official property records. If the property is in more than one county, you should record the deed in each county.

Can I later revoke the TOD deed if I change my mind? Yes. You can revoke the TOD deed. No one, including the beneficiaries, can prevent you from revoking the deed.

How do I revoke the TOD deed after it is recorded? There are three ways to revoke a recorded TOD deed:

(1) Complete and acknowledge a revocation form, and record it in each county where the property is located.

(2) Complete and acknowledge a new TOD deed that disposes of the same property, and record it in each county where the property is located.

(3) Transfer the property to someone else during your lifetime by a recorded deed that expressly revokes the TOD deed. You may not revoke the TOD deed by will.

I am being pressured to complete this form. What should I do? Do not complete this form under pressure. Seek help from a trusted family member, friend, or lawyer.

Do I need to tell the beneficiaries about the TOD deed? No, but it is recommended. Secrecy can cause later complications and might make it easier for others to commit fraud.

I have other questions about this form. What should I do? This form is designed to fit some but not all situations. If you have other questions, you are encouraged to consult a lawyer.”

Section 3. Section 72-6-416, MCA, is amended to read:

“72-6-416. Optional form of revocation. The following form may be used to create an instrument of revocation under this part. The other sections of this part govern the effect of this or any other instrument used to revoke a transfer on death deed.

(front of form)

REVOCATION OF TRANSFER ON DEATH DEED

NOTICE TO OWNER

This revocation must be recorded before you die or it will not be effective. This revocation is effective only as to the interests in the property of owners who sign this revocation.

IDENTIFYING INFORMATION

Owner or Owners of Property Making This Revocation:

Printed name

Mailing address

Printed name

Mailing address

Legal description of the property:

REVOCATION

I revoke all my previous transfers of this property by transfer on death deed.

SIGNATURE OF OWNER OR OWNERS MAKING THIS REVOCATION

{(SEAL)}

Signature

Date

{(SEAL)}

Signature

Date

ACKNOWLEDGMENT

(insert acknowledgment here)

(back of form)

COMMON QUESTIONS ABOUT THE USE OF THIS FORM

How do I use this form to revoke a Transfer on Death (TOD) deed? Complete this form. Have it acknowledged before a notary public or other individual authorized to take acknowledgments. Record the form in the public records in the office of the county clerk and recorder of each county where the property is located. The form must be acknowledged and recorded before your death or it has no effect.

How do I find the “legal description” of the property? This information may be on the TOD deed. It may also be available in the office of the county clerk and recorder for the county where the property is located. If you are not absolutely sure, consult a lawyer.

How do I “record” the form? Take the completed and acknowledged form to the office of the county clerk and recorder of deeds of the county where the property is located. Follow the instructions given by the county clerk and recorder to make the form part of the official property records. If the property is located in more than one county, you should record the form in each of those counties.

I am being pressured to complete this form. What should I do? Do not complete this form under pressure. Seek help from a trusted family member, friend, or lawyer.

I have other questions about this form. What should I do? This form is designed to fit some but not all situations. If you have other questions, consult a lawyer.”

Approved April 8, 2021

CHAPTER NO. 144

[SB 170]

AN ACT REQUIRING ANNUAL VOTER REGISTRATION LIST MAINTENANCE; AND AMENDING SECTION 13-2-220, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-2-220, MCA, is amended to read:

“13-2-220. Maintenance of active and inactive voter registration lists for elections – rules by secretary of state. (1) The rules adopted by the secretary of state under 13-2-108 must include the following procedures, at least one of which an election administrator shall follow ~~in every odd-numbered year annually~~:

(a) compare the entire list of registered electors against the national change of address files and provide appropriate confirmation notice to those individuals whose addresses have apparently changed;

(b) mail a nonforwardable, first-class, “return if undeliverable--address correction requested” notice to all registered electors of each jurisdiction to

confirm their addresses and provide the appropriate confirmation notice to those individuals who return the notices;

(c) mail a targeted mailing to electors who failed to vote in the preceding federal general election, applicants who failed to provide required information on registration forms, and provisionally registered electors by:

(i) sending the list of nonvoters a nonforwardable notice, followed by the appropriate forwardable confirmation notice to those electors who appear to have moved from their addresses of record;

(ii) comparing the list of nonvoters against the national change of address files, followed by the appropriate confirmation notices to those electors who appear to have moved from their addresses of record;

(iii) sending forwardable confirmation notices; or

(iv) making a door-to-door canvass.

(2) An individual who submits an application for an absentee ballot for a federal general election or who completes and returns the address confirmation notice specified in 13-13-212(4) during the calendar year in which a federal general election is held is not subject to the procedure in subsection (1)(c) unless the individual's ballot for a federal general election is returned as undeliverable and the election administrator is not able to contact the elector through the most expedient means available to resolve the issue.

(3) Any notices returned as undeliverable to the election administrator or any notices to which the elector fails to respond after the election administrator uses the procedures provided in subsection (1) must be followed within 30 days by an appropriate confirmation notice that is a forwardable, first-class, postage-paid, self-addressed, return notice. If the elector fails to respond within 30 days of the final confirmation notice, after the 30th day, the election administrator shall move the elector to the inactive list.

(4) A procedure used by an election administrator pursuant to this section must be completed at least 90 days before a primary or general election for federal office.

(5) An elector's registration may be reactivated pursuant to 13-2-222 or may be canceled pursuant to 13-2-402."

Approved April 8, 2021

CHAPTER NO. 145

[SB 154]

AN ACT GENERALLY REVISING THE COLLECTION OF DELINQUENT COAL GROSS PROCEEDS PROPERTY TAXES; PROVIDING FOR THE SUSPENSION OF DELINQUENT COAL GROSS PROCEEDS PROPERTY TAXES, INTEREST, AND PENALTIES BY THE GOVERNING BODY OF A COUNTY; AUTHORIZING GROSS PROCEEDS OBLIGATIONS TO BE SECURED BY REVENUE FROM INSTALLMENT PAYMENTS; AMENDING SECTIONS 7-6-1101, 7-6-1102, 7-6-1103, 7-6-1105, 7-6-1111, 7-6-1112, 7-6-1115, 15-16-102, 15-16-119, 15-16-301, 15-16-303, 15-16-401, 15-16-402, 15-16-404, 15-16-801, 15-17-122, 15-17-911, AND 15-23-704, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Suspension of collection of coal gross proceeds taxes, interest, and penalties – local government discretion – payment plan.

(1) After receiving written consent from the department, the governing body of a county or consolidated local government unit may suspend collection of

delinquent coal gross proceeds taxes, interest, and penalties and enter into a payment plan that allows a coal producer to make installment payments of the delinquent coal gross proceeds taxes, interest, and penalties.

(2) The suspension must be in the best interest of the people of the county or consolidated local government. The governing body may refuse to suspend delinquent coal gross proceeds taxes, interest, and penalties if it determines that the suspension is not in the best interest of the county.

(3) In order for the governing body to grant a suspension and allow installment payments pursuant to this section, after receiving written consent from the department it shall adopt a resolution:

(a) providing notice, as set forth in 7-1-2121;

(b) holding a public hearing; and

(c) notifying the governor's office of budget and program planning and the department of revenue about a proposed action to suspend delinquent coal gross proceeds taxes, interest, and penalties.

(4) The governor's office of budget and program planning and the department of revenue shall consult with the governing body regarding the impact on programs that would result from the proposed granting of the suspension, and the governing body shall consider the information before reaching a final decision.

(5) The resolution must state that the suspension is in the best interest of the people of the county or consolidated local government, based on full disclosure of all pertinent financial information by the coal gross proceeds taxpayer as required by the local government.

(6) Any taxing authority affected by the suspension may issue gross proceeds obligations under Title 7, chapter 6, part 11. The governing body of a county or consolidated local government unit may require a coal producer to pledge additional collateral to secure payment as consideration for a payment plan.

Section 2. Application of suspension and installment arrangement.

The suspension of delinquent coal gross proceeds taxes pursuant to [section 1] applies to the portion allocated to the state, county, and school district shares in the same manner as the distributions are calculated in 15-23-703.

Section 3. Section 7-6-1101, MCA, is amended to read:

"7-6-1101. Definitions. As used in this part, unless the context clearly requires otherwise, the following definitions apply:

(1) "Governing body" means the legislative authority of a local government, by whatever name designated.

(2) "*Gross proceeds obligations*" are tax anticipation notes or revenue anticipation notes that mature at a time not to exceed 5 years from the date issued and are secured by the collection of certain coal gross proceeds taxes, interest, and penalties pursuant to [section 1].

(2)(3) "Local government" means any city, town, county, consolidated city-county, or school district.

(3)(4) "Ordinance" means an ordinance or resolution of the local government.

(4)(5) "Short-term obligations" are tax anticipation notes or revenue anticipation notes that mature at a time not to exceed 13 months from the date issued."

Section 4. Section 7-6-1102, MCA, is amended to read:

"7-6-1102. Short-term Gross proceeds and short-term obligations authorized. A local government may issue and sell *gross proceeds obligations* or short-term obligations as provided in this part in anticipation of taxes or revenues budgeted to be received and appropriated for expenditure during the

fiscal year in which the obligations are issued. The proceeds of the obligations may be expended solely for the purposes for which the taxes or revenues were appropriated and for costs and expenses incident to the issuance and sale thereof. Pending expenditure, the proceeds may be invested as provided by law. The principal and interest on short-term obligations must be repaid from the money derived from the taxes and revenues in anticipation of which they were issued, income from investment of the proceeds of the obligations, and any money otherwise legally available for this purpose."

Section 5. Section 7-6-1103, MCA, is amended to read:

"7-6-1103. Issuance and sale of gross proceeds obligations and short-term obligations – procedure. (1) The issuance of *gross proceeds obligations* or short-term obligations must be authorized by an ordinance of the governing body that fixes the maximum amount of the obligations to be issued or, if applicable, the maximum amount that may be outstanding at any time, the maximum term and interest rate or rates to be borne by the obligations, the manner of sale, the maximum price, the form including bearer or registered as provided in Title 17, chapter 5, part 11, the terms, the conditions, and the covenants of the obligations. *Short-term Gross proceeds obligations* or short-term obligations issued under this section must bear fixed or variable rate or rates of interest that the governing body considers to be in the best interests of the local government. Variable rates of interest may be fixed in relationship to the standard or index that the governing body designates.

(2) The governing body may sell the *gross proceeds obligations* or short-term obligations at par or at a discount:

(a) at private negotiated sale to the board of investments as provided in Title 17, chapter 5, part 16; or

(b) at public sale to any other person. Any public sale must be noticed as provided in 7-7-4434."

Section 6. Section 7-6-1105, MCA, is amended to read:

"7-6-1105. Refunding and renewal of short-term obligations. (1) *Gross proceeds obligations* may, from time to time, be renewed or refunded by the issuance of *gross proceeds obligations*. *Gross proceeds obligations* may not be renewed or refunded to a date later than 5 years from the end of the fiscal year in which the original short-term obligation was issued.

(2) Short-term obligations may, from time to time, be renewed or refunded by the issuance of short-term obligations. Short-term obligations may not be renewed or refunded to a date later than 6 months from the end of the fiscal year in which the original short-term obligation was issued."

Section 7. Section 7-6-1111, MCA, is amended to read:

"7-6-1111. Short-term Gross proceeds and short-term obligations – security. (1) *Gross proceeds obligations* are not general obligations of the local government and are collectible only from the collection of coal gross proceeds taxes, interest, and penalties pursuant to [section 1].

(2) Short-term obligations are general obligations of the local government and must be secured by the taxes and revenues in anticipation of which the short-term obligations were issued and in such other manner as set forth in the ordinance authorizing their issuance."

Section 8. Section 7-6-1112, MCA, is amended to read:

"7-6-1112. Funds for payment of principal and interest. For the purpose of providing funds for the payment of principal of and interest on *gross proceeds obligations* or short-term obligations, the governing body may authorize the creation of a special fund or funds and provide for the payment from authorized sources to such funds of amounts sufficient to meet principal and interest requirements."

Section 9. Section 7-6-1115, MCA, is amended to read:

"7-6-1115. Local government debt limitations not to apply to short-term obligations. The debt limitations for local governments in Title 7, chapter 7, and Title 20, chapter 9, do not apply to *gross proceeds obligations* or short-term obligations issued in accordance with this part."

Section 10. Section 15-16-102, MCA, is amended to read:

"15-16-102. Time for payment – penalty for delinquency. Unless suspended or canceled under the provisions of 10-1-606, [section 1], or Title 15, chapter 24, part 17, all taxes levied and assessed in the state of Montana, except assessments made for special improvements in cities and towns payable under 15-16-103, are payable as follows:

(1) One-half of the taxes are payable on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, and one-half are payable on or before 5 p.m. on May 31 of each year.

(2) Unless one-half of the taxes are paid on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, the amount payable is delinquent and draws interest at the rate of 5/6 of 1% a month from and after the delinquency until paid and 2% must be added to the delinquent taxes as a penalty.

(3) All taxes due and not paid on or before 5 p.m. on May 31 of each year are delinquent and draw interest at the rate of 5/6 of 1% a month from and after the delinquency until paid, and 2% must be added to the delinquent taxes as a penalty.

(4) (a) If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without penalty or interest on or before 5 p.m. of the next business day in accordance with 1-1-307.

(b) If taxes on property qualifying under the property tax assistance program provided for in 15-6-305 are paid within 20 calendar days of the date on which the taxes are due, the taxes may be paid without penalty or interest. If a tax payment is made later than 20 days after the taxes were due, the penalty must be paid and interest accrues from the date on which the taxes were due.

(5) (a) A taxpayer may pay current year taxes without paying delinquent taxes. The county treasurer shall accept a partial payment equal to the delinquent taxes, including penalty and interest, for one or more full tax years if taxes currently due for the current tax year have been paid. Payment of taxes for delinquent taxes must be applied to the taxes that have been delinquent the longest. The payment of taxes for the current tax year is not a redemption of the property tax lien for any delinquent tax year.

(b) A payment by a co-owner of an undivided ownership interest that is subject to a separate assessment otherwise meeting the requirements of subsection (5)(a) is not a partial payment.

(6) The penalty and interest on delinquent assessment payments for specific parcels of land may be waived by resolution of the city council. A copy of the resolution must be certified to the county treasurer.

(7) If the department revises an assessment that results in an additional tax of \$5 or less, an additional tax is not owed and a new tax bill does not need to be prepared.

(8) The county treasurer may accept a partial payment of centrally assessed property taxes as provided in 76-3-207."

Section 11. Section 15-16-119, MCA, is amended to read:

"15-16-119. Taxation of personal property – duty of department – collection by department of administration. (1) If the taxes on personal property are not a lien upon real property in the same county in an amount

sufficient to secure the payment of the taxes, the department shall assess the property and compute the tax for the assessment. The department shall notify the county treasurer of the assessment and the amount of taxes due. To compute the taxes due on the personal property, the department shall use the appropriate mills levied during the previous year.

(2) The county treasurer shall notify the person against whom the tax is assessed and any other person having a properly perfected security interest of record of the amount and due date of the tax. The tax is due and payable 30 days from the date the treasurer mails the notice. Taxes not paid within 30 days become delinquent, and the penalty and interest provisions of 15-16-101 must be applied.

(3) The county treasurer shall, after the tax becomes delinquent, either proceed under subsection (7) or levy upon and take into possession the personal property against which a tax is assessed or any other personal property in the hands of the delinquent taxpayer. The county treasurer may proceed to sell the property in the same manner as property is sold on execution by the sheriff.

(4) The county treasurer shall, for the purpose of making the levy and sale, direct the sheriff to make the levy and sale. The sheriff, undersheriff, or any deputy sheriff of the county is ex officio a deputy county treasurer for sale purposes and may receive payment of the taxes, penalty, and interest. The sheriff is entitled to the fees, mileage, and costs as provided in 7-32-2141 and 7-32-2143, which must be assessed against the delinquent taxpayer.

(5) The county treasurer and the treasurer's sureties are liable on the treasurer's official bond for all taxes on personal property remaining uncollected by reason of the willful failure and neglect of the treasurer to levy upon and sell the personal property for the taxes levied upon the property, including penalty and interest.

(6) Failure by the sheriff, undersheriff, or deputy sheriff acting as a deputy county treasurer to make the levy and sale results in a levy against the official bond of the sheriff, undersheriff, or deputy sheriff for payment of the delinquent tax, including penalty and interest.

(7) The county treasurer shall give the board of county commissioners a list of delinquent personal property taxpayers and the taxes due. The board may order the county treasurer to verify the list under oath and to send a copy of the list to the department of administration for collection under Title 17, chapter 4, part 1.

(8) The provisions of this section do not apply to property for which delinquent *coal gross proceeds taxes* or property taxes have been suspended or canceled under the provisions of *[section 1]* or Title 15, chapter 24, part 17."

Section 12. Section 15-16-301, MCA, is amended to read:

"15-16-301. Delinquent list – list of taxes suspended or canceled – real property. (1) On the third Monday of June of each year, the county treasurer shall make a report to the county clerk and recorder in detail, showing the amount of taxes collected and a complete list of all persons and property then owing taxes. The report may be submitted to the county clerk and recorder electronically.

(2) The county treasurer shall make a separate report to the county clerk and recorder showing the amount of taxes suspended or canceled under the provisions of *[section 1]* or Title 15, chapter 24, part 17, during the 1-year period immediately preceding the date of the report.

(3) The county clerk and recorder shall compare the reports with the books of the county treasurer and shall keep a record of the reports in the county clerk and recorder's office."

Section 13. Section 15-16-303, MCA, is amended to read:

“15-16-303. Treasurer charged with delinquent taxes. After settlement with the county treasurer as prescribed in 15-16-302, the county clerk and recorder ~~must~~ *shall* charge the treasurer with the amount of taxes due on the delinquent tax list, minus taxes suspended or canceled under the provisions of *[section 1]* or Title 15, chapter 24, part 17, and within 3 days thereafter deliver the list, duly certified, to the county treasurer.”

Section 14. Section 15-16-401, MCA, is amended to read:

“15-16-401. Tax due as a judgment or lien. Unless suspended or canceled under the provisions of *[section 1]* or Title 15, chapter 24, part 17, every tax has the effect of a judgment against the person, and every lien created by this title has the force and effect of an execution duly levied against all personal property in the possession of the person assessed from and after the date the assessment is made. The county treasurer may issue a writ of execution for delinquent personal property taxes, unless suspended or canceled under the provisions of *[section 1]* or Title 15, chapter 24, part 17, and deliver the writ to the sheriff of any county in the state in which the property or some part of the property is located. Writs of execution may be issued at the same time to different counties. The sheriff shall proceed upon the writ in all respects, with like effect, and in the same manner prescribed by law in respect to executions issued against property upon judgments of a court of record. The sheriff is entitled to the fees, mileage, and costs as provided in 7-32-2141 and 7-32-2143, which must be assessed against the delinquent taxpayer. The judgment is not satisfied nor the lien removed until the taxes are paid or the property sold for the payment of the taxes.”

Section 15. Section 15-16-402, MCA, is amended to read:

“15-16-402. Tax on personal property lien on realty – separate assessment – filing of mortgage satisfaction. (1) The tax due on personal property is a prior lien upon the personal property. The lien has precedence over any other lien, claim, or demand upon the personal property. Except as provided in subsection (2), the tax on personal property is also a lien upon the real property of the owner of the personal property on and after January 1 of each year.

(2) The taxes on personal property based on a taxable value up to and including \$10,000 are a first and prior lien upon the real property of the owner of the personal property. Taxes on personal property based on a taxable value in excess of \$10,000 are a first and prior lien upon the real property of the owner unless the owner or holder of any mortgage or other lien upon the real property appearing of record in the office of the clerk and recorder of the county where the real property is situated, at or before the time the personal property tax attached to the real property, has filed a notice as provided in subsection (3). If the notice is filed, the personal property taxes on the taxable value in excess of \$10,000 are not a lien upon the owner's real property. The county treasurer shall, at the request of a mortgagee or lienholder, issue a statement of the personal property tax due on the taxable value up to and including \$10,000. Personal property taxes on a taxable value up to \$10,000 may be paid, redeemed from a tax lien sale as provided by law, or discharged separately from any personal property taxes in excess of that amount. Payment of the taxes on a taxable value up to \$10,000, as provided in this subsection, discharge the tax lien upon the personal property of the owner to the extent of the payment in the order that the person paying the tax directs.

(3) The holder of any mortgage or lien upon real property who desires to obtain the benefits of this section shall file each year in the office of the county treasurer of the county and with the department a notice giving:

- (a) the name and address of the mortgagee and holder of the mortgage or lien;
- (b) the name of the reputed owner of the land;
- (c) the description of the land;
- (d) the date of record and expiration of the mortgage or lien;
- (e) the amount of the mortgage or lien; and
- (f) a statement that the holder claims the benefit of the provisions of this section.

(4) The notice is ineffectual as to any taxes that are a lien upon real property prior to the filing of the notice as provided in subsection (3).

(5) A holder of a mortgage on real property upon which personal property taxes are a lien under this section, when the owner of the real property and personal property has failed to pay taxes due on the real property and personal property for 1 or more years, may file with the department a written request to have the personal property and real property of the owner separately assessed. The request must be made by certified mail at least 10 days prior to January 1 in the year for which property is assessed. Upon receipt by the department of the request, the department shall make a separate assessment of real and personal property of the owner of the property, and the personal property taxes may not be a lien upon the mortgaged real property. The personal property taxes must be collected in the manner provided by law for other personal property.

(6) The holder of a mortgage or lien upon real property who files a certificate of satisfaction and the proof and acknowledgment of filing the certificate, as provided for in 71-1-211, shall file a copy of the certificate and the proof and acknowledgment with:

- (a) the county treasurer if the holder has filed a notice under subsection (3); and
- (b) the department if the holder has filed a written request under subsection (5).

(7) The provisions of this section do not apply to property for which delinquent property taxes have been suspended or canceled under the provisions of [section 1] or Title 15, chapter 24, part 17.”

Section 16. Section 15-16-404, MCA, is amended to read:

“15-16-404. County lien on moneys of taxpayer. The county has a general lien, dependent on possession, upon any moneys in its possession belonging to any taxpayer for any amounts due the county for any delinquent personal property taxes that are not a lien on real estate of the taxpayer and that are not delinquent personal property taxes suspended or canceled under the provisions of [section 1] or Title 15, chapter 24, part 17. Due notice shall be given the lienholder, if known.”

Section 17. Section 15-16-801, MCA, is amended to read:

“15-16-801. Payment of suspended delinquent property taxes. If collection of delinquent *coal gross proceeds* or property taxes has been suspended in accordance with [section 1] or Title 15, chapter 24, part 17, but the *coal gross proceeds taxpayer* or purchaser of the commercial property fails to comply with any of the provisions of the resolution granting suspension under [section 1] or Title 15, chapter 24, part 17, the governing body that adopted the resolution may revoke the suspension. Upon revocation, the tax lien for the delinquent taxes, penalties, and interest is reinstated. Penalties and interest are to be calculated from the date of delinquency as if there had been no suspension of collection of the delinquent taxes.”

Section 18. Section 15-17-122, MCA, is amended to read:

“15-17-122. Notice of pending attachment of tax lien. (1) The county treasurer shall publish or post a notice of a pending attachment of a tax lien. The notice must include:

(a) the specific date on which the county will attach a property tax lien to property on which the taxes are delinquent; and

(b) a statement that the delinquent taxes, including penalties, interest, and costs, are a lien upon the property and that unless the delinquent taxes, penalties, interest, and costs are paid prior to the specified date, a tax lien will be attached and may be assigned to a third party.

(2) The notice required in subsection (1) must also include a statement that a list of each property on which the taxes are delinquent is on file in the office of the county treasurer and open to inspection. The list must include:

(a) the name and address of the person to whom the delinquent taxes are assessed;

(b) the amounts of the delinquent taxes, all accrued penalties, interest, and other costs; and

(c) a statement that penalties, interest, and costs will be added to delinquent taxes.

(3) The notice must be given as provided in 7-1-2121. The notice must be first published or posted on or before the last Monday in June.

(4) The provisions of this section do not apply to property for which delinquent property taxes have been suspended or canceled under the provisions of *[section 1]* or Title 15, chapter 24, part 17.”

Section 19. Section 15-17-911, MCA, is amended to read:

“15-17-911. Sale of personal property for delinquent taxes – fee – disposition of proceeds – unsold property. (1) The tax on personal property may be collected and payment enforced by the seizure and sale of any personal property in the possession of the person assessed. Seizure and sale are authorized at any time after the date the taxes become delinquent or by the institution of a civil action for its collection in any court of competent jurisdiction. A resort to one method does not bar the right to resort to any other method. Any of the methods provided may be used until the full amount of the tax is collected.

(2) The provisions of 15-16-119 and this section apply to a seizure and sale under subsection (1).

(3) (a) A sale under subsection (1) must be:

(i) conducted at public auction;

(ii) conducted under the provisions of 25-13-701(1)(b); and

(iii) noticed as a treasurer’s sale of personal property seized for taxes.

(b) The return on the levy and sale must be signed by the sheriff or deputy sheriff as ex officio deputy county treasurer.

(4) (a) The county treasurer shall charge \$25 or a fee set by the county commissioners, plus the cost, as defined in 15-17-121, of the collection of delinquent personal property taxes. The cost must be assessed against the delinquent taxpayer and is in addition to any sheriff’s fees, mileage, and costs charged under subsection (4)(b).

(b) The sheriff is entitled to the fees, mileage, and costs as provided in 7-32-2141 and 7-32-2143, which must be assessed against the delinquent taxpayer.

(5) On payment of the price bid for any property sold as provided in this section, delivery of the property, with a bill of sale, vests the title of the property in the purchaser.

(6) (a) After sale of the property, the proceeds of the sale must be used first to reimburse the county for all costs and charges incurred in seizing the property and conducting the sale. Any excess, up to the total amount of the taxes owed, must be distributed proportionally to the funds that would have received the taxes if they had been paid before becoming delinquent. Any remaining excess, up to the amount of the penalty and interest owed, must then be distributed proportionally to the fund that would have received the penalty and interest if they had been paid in full.

(b) Any money collected in excess of the delinquent tax, penalties, interest, costs, and charges must be returned to the person owning the property prior to the sale, if known. If the person does not claim the excess immediately following the sale, the treasurer shall deposit the money in the county treasury for a period of 1 year from the date of sale. If the person has not claimed the excess within 1 year from the date of sale, the county treasurer shall deposit the amount in the county general fund and the person has no claim to it.

(7) Any property seized for the purpose of liquidating a delinquency by a tax lien sale that remains unsold following a sale may be left at the place of sale at the risk of the owner.

(8) The provisions of this section do not apply to property for which delinquent property taxes have been suspended or canceled under the provisions of *[section 1]* or Title 15, chapter 24, part 17.

(9) The county commission, in its discretion, may cancel any personal property taxes, including penalty, interest, costs, and charges that remain unsatisfied after the property upon which the taxes were assessed had been seized and sold. If the taxes are canceled, one copy of the order of cancellation must be filed with the county clerk and recorder and one copy with the county treasurer.”

Section 20. Section 15-23-704, MCA, is amended to read:

“15-23-704. Lien of tax – enforcement of payment. The tax on gross proceeds from coal must be levied as taxes on other forms of property, and this tax and the severance tax on coal production are each a lien upon the coal mine and a prior lien upon all personal property and improvements used to produce the coal. *These Unless suspended under the provisions of [section 1],* taxes may be collected by the seizure and sale of the *property used as collateral in consideration of a payment plan and* personal property on which the tax is a lien as provided under 15-16-119 and 15-17-911.”

Section 21. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 15, chapter 23, part 7, and the provisions of Title 15, chapter 23, part 7, apply to [sections 1 and 2].

Section 22. Effective date. [This act] is effective on passage and approval.

Section 23. Retroactive applicability – applicability. [This act] applies:

(1) retroactively, within the meaning of 1-2-109, to installment payments of delinquent coal gross proceeds taxes, interest, and penalties that were due on or before [the effective date of this act]; and

(2) to installment payments of delinquent coal gross proceeds taxes, interest, and penalties due after [the effective date of this act].

Approved April 8, 2021

CHAPTER NO. 146

[SB 152]

AN ACT REVISING THE LICENSING OF OPERATORS OF PUBLIC SWIMMING POOLS TO ALLOW FOR IN-PERSON, ONLINE, OR OTHER VIRTUAL TRAINING METHODS; AND AMENDING SECTION 50-53-103, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 50-53-103, MCA, is amended to read:

“50-53-103. Department rules. (1) The department shall adopt rules relating to the operation of public swimming pools and public bathing places, including rules:

(a) setting standards to ensure sanitation and safety in public swimming pools and public bathing places to protect public health and safety;

(b) imposing reasonable fees for review of plans relating to the design, construction, reconstruction, alteration, conversion, repair, and installation of equipment and for plan review when plan review is conducted by the department;

(c) relating to the licensing of operators of public swimming pools and public bathing places, *including allowing for training courses, testing, and recertification for cardiopulmonary resuscitation or pool operator certification to be conducted in person, online, or through other virtual methods;*

(d) providing procedures for the enforcement of the laws and rules relating to public swimming pools and public bathing places;

(e) relating to cooperative agreements between the department and local boards of health; and

(f) setting performance standards for local boards of health, local health officers, and sanitarians to meet as a condition to receipt of funds provided by the department pursuant to 50-53-218.

(2) Any rule relating to the design, construction, reconstruction, alteration, conversion, repair, inspection, or use of buildings or installation of equipment in buildings is effective only when it has been adopted by the department of labor and industry as part of the state building code and filed with the secretary of state pursuant to 50-60-204.”

Approved April 8, 2021

CHAPTER NO. 147

[SB 128]

AN ACT PROHIBITING THE CONDITIONING OF THE LEGISLATIVE AUDITOR'S EMPLOYMENT BASED ON THE REVIEW, RECOMMENDATION, OR FEEDBACK OF A STATE AGENCY; AMENDING SECTIONS 5-13-302 AND 5-13-303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5-13-302, MCA, is amended to read:

“5-13-302. Appointment and qualifications. (1) (a) The committee shall appoint the legislative auditor and set the legislative auditor's salary in accordance with the rules for classification and pay adopted by the legislative council.

(b) *The legislative auditor's employment may not be conditioned based on the review, recommendation, or feedback of a state agency. However, this*

subsection (1)(b) does not prevent the legislative auditor from seeking feedback of state agencies for the purposes of evaluating the performance of employees of the legislative audit division.

(2) The legislative auditor shall hold a degree from an accredited college or university with a major in accounting or an allied field and shall have at least 2 years' experience in the field of governmental accounting and auditing."

Section 2. Section 5-13-303, MCA, is amended to read:

"5-13-303. Term and removal. (1) The legislative auditor is responsible solely to the legislature. The legislative auditor shall hold office for a term of 2 years beginning with July 1 of each even-numbered year.

(2) (a) *The committee may not condition the legislative auditor's reemployment after a 2-year period based on the review, recommendation, or feedback of a state agency.*

(b) The committee may remove the legislative auditor for misfeasance, malfeasance, or nonfeasance in office at any time after notice and hearing."

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

Approved April 8, 2021

CHAPTER NO. 148

[SB 126]

AN ACT REVISING PROPERTY VALUATION APPEALS LAWS FOR RESIDENTIAL PROPERTY; PROVIDING THAT CERTAIN INDEPENDENT APPRAISALS PRESUME TO PROVIDE THE PROPERTY VALUE UNLESS THE DEPARTMENT OF REVENUE PROVIDES EVIDENCE OF ANOTHER VALUE; AMENDING SECTION 15-2-301, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-2-301, MCA, is amended to read:

"15-2-301. Appeal of county tax appeal board decisions. (1) (a) The county tax appeal board shall mail a copy of its decision to the taxpayer and to the property assessment division of the department of revenue.

(b) If the appearance provisions of 15-15-103 have been complied with, a person or the department on behalf of the state or any municipal corporation aggrieved by the action of the county tax appeal board may appeal to the state tax appeal board by filing with the state board a notice of appeal within 30 calendar days after the receipt of the decision of the county board. The notice must specify the action complained of and the reasons assigned for the complaint.

(c) Notice of acceptance of an appeal must be given to the county board by the state board.

(d) The state board shall set the appeal for hearing either in its office in the capital or at the county seat as the state board considers advisable to facilitate the performance of its duties or to accommodate parties in interest.

(e) The state board shall give to the appellant and to the respondent at least 15 calendar days' notice of the time and place of the hearing.

(2) (a) At the time of giving notice of acceptance of an appeal, the state board may require the county board to certify to it the minutes of the proceedings resulting in the action and all testimony taken in connection with its proceedings.

(b) The state board may, in its discretion, determine the appeal on the record if all parties receive a copy of the transcript and are permitted to submit additional sworn statements, or the state board may hear further testimony.

(c) For industrial property that is assessed annually by the department, the state board's review must be de novo and conducted in accordance with the contested case provisions of the Montana Administrative Procedure Act.

(d) For the purpose of expediting its work, the state board may refer any appeal to one of its members or to a designated hearings officer. The board member or hearings officer may exercise all the powers of the state board in conducting a hearing and shall, as soon as possible after the hearing, report the proceedings, together with a transcript or a tape recording of the hearing, to the state board. The state board shall determine the appeal on the record.

(3) (a) ~~The~~ *Except as provided in subsection (3)(b), the state tax appeal board must shall* consider an independent appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate appraisers and the appraisal was conducted within 6 months of the valuation date. If the state board does not use the appraisal provided by the taxpayer in conducting the appeal, the state board ~~must shall~~ provide to the taxpayer the reason for not using the appraisal.

(b) If the appeal is an appeal of the valuation of residential property, the state board shall consider an independent appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate appraisers and uses values obtained within the timeframe provided for in subsection (3)(a). The appraisal that is provided by the taxpayer is presumed to establish assessed value in the state board proceeding unless the department provides sufficient evidence to rebut the presumption of correctness, including another independent appraisal or other compelling valuation evidence. The state board shall address the taxpayer's independent appraisal and the department's valuation evidence in the decision.

(4) In every hearing at a county seat throughout the state, the state board or the member or hearings officer designated to conduct a hearing may employ a competent person to electronically record the testimony received. The cost of electronically recording testimony may be paid out of the general appropriation for the board.

(5) Except as provided in subsection (2)(c) regarding industrial property, in connection with any appeal under this section, the state board is not bound by common law and statutory rules of evidence or rules of discovery and may affirm, reverse, or modify any decision. To the extent that this section is in conflict with the Montana Administrative Procedure Act, this section supersedes that act. The state board may not amend or repeal any administrative rule of the department. The state board shall give an administrative rule full effect unless the state board finds a rule arbitrary, capricious, or otherwise unlawful.

(6) The decision of the state board is final and binding upon all interested parties unless reversed or modified by judicial review. Proceedings for judicial review of a decision of the state board under this section are subject to the provisions of 15-2-303 and the Montana Administrative Procedure Act to the extent that it does not conflict with 15-2-303.

(7) Sections 15-6-134 and 15-7-111 may not be construed to prevent the department from implementing an order to change the valuation of property."

Section 2. Applicability. [This act] applies to appeals filed on or after [the effective date of this act].

Approved April 8, 2021

CHAPTER NO. 149

[SB 115]

AN ACT CLARIFYING THE APPROVAL PROCESS FOR LAND AND WATER-RELATED ACQUISITIONS BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS; REQUIRING CERTAIN EASEMENTS TO BE APPROVED BY THE BOARD OF LAND COMMISSIONERS; AND AMENDING SECTION 87-1-209, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-1-209, MCA, is amended to read:

“87-1-209. Acquisition and sale of lands or waters. (1) (a) Subject to 87-1-218 and subsection (8) of this section, the department, with the consent of the commission or the board and, ~~in the case of land acquisition involving more than 100 acres or \$100,000 in value, the approval of the board of land commissioners, may acquire, may acquire for the purpose listed in subsection (1)(b):~~

(i) ~~land or water by purchase, lease, agreement, gift, transfer, or devise and may acquire easements upon lands or waters for the purposes listed in this subsection. In the case of land acquisition involving more than 500 acres or land or water acquisition of more than \$1 million in value, the approval of the board of land commissioners is also required.~~

(ii) ~~easements on lands or waters. In the case of easements for which more than \$1 million in state funds will be used for the acquisition, the approval of the board of land commissioners is also required. The department shall inform the board of land commissioners of the pending easement once it receives initial endorsement from the commission or board.~~

(b) The department may develop, operate, and maintain acquired lands or waters:

(a)(i) for fish hatcheries or nursery ponds;

(b)(ii) as lands or water suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or protection;

(c)(iii) for public hunting, fishing, or trapping areas;

(d)(iv) to capture, propagate, transport, buy, sell, or exchange any game, birds, fish, fish eggs, or fur-bearing animals needed for propagation or stocking purposes or to exercise control measures of undesirable species;

(e)(v) for state parks and outdoor recreation;

(f)(vi) to extend and consolidate by exchange, lands or waters suitable for these purposes.

(2) The department, with the consent of the board, may acquire by condemnation, as provided in Title 70, chapter 30, lands or structures for the preservation of historic or archaeological sites that are threatened with destruction or alteration.

(3) (a) Subject to section 2(3), Chapter 560, Laws of 2005, the department, with the consent of the commission or the board, may dispose of lands and water rights acquired by it on those terms after public notice as required by subsection (3)(b) of this section, without regard to other laws that provide for sale or disposal of state lands and with or without reservation, as it considers necessary and advisable. The department, with the consent of the commission or the board, may convey department lands and water rights for full market value to other governmental entities or to adjacent landowners without regard to the requirements of subsection (3)(b) or (3)(c) if the land is less than 10 acres or if the full market value of the interest to be conveyed is less than \$20,000. When the department conveys land or water rights to another governmental

entity or to an adjacent landowner pursuant to this subsection, the department, in addition to giving notice pursuant to subsection (3)(b), shall give notice by mail to the landowners whose property adjoins the department property being conveyed.

(b) Subject to section 2(3), Chapter 560, Laws of 2005, notice of sale describing the lands or waters to be disposed of must be published once a week for 3 successive weeks in a newspaper with general circulation printed and published in the county where the lands or waters are situated or, if a newspaper is not published in that county, then in any newspaper with general circulation in that county.

(c) The notice must advertise for cash bids to be presented to the director within 60 days from the date of the first publication. Each bid must be accompanied by a cashier's check or cash deposit in an amount equal to 10% of the amount bid. The highest bid must be accepted upon payment of the balance due within 10 days after mailing notice by certified mail to the highest bidder. If that bidder defaults on payment of the balance due, then the next highest bidders must be similarly notified in succession until a sale is completed. Deposits must be returned to the unsuccessful bidders except bidders defaulting after notification.

(d) The department shall reserve the right to reject any bids that do not equal or exceed the full market value of the lands and waters as determined by the department. If the department does not receive a bid that equals or exceeds fair market value, it may then sell the lands or water rights at private sale. The price accepted on any private sale must exceed the highest bid rejected in the bid process.

(4) When necessary and advisable for the management and use of department property, the director is authorized to grant or acquire from willing sellers right-of-way easements for purposes of utilities, roads, drainage facilities, ditches for water conveyance, and pipelines if the full market value of the interest to be acquired is less than \$20,000. Whenever possible, easements must include a weed management plan. Approval of the commission or the board is not required for grants and acquisitions made pursuant to this subsection. In granting any right-of-way pursuant to this subsection, the department shall obtain a fair market value, but the department is not otherwise required to follow the disposal requirements of subsection (3). The director shall report any easement grant or acquisition made pursuant to this subsection to the commission or the board at its next regular meeting.

(5) The department shall convey lands and water rights without covenants of warranty by deed executed by the governor or in the governor's absence or disability by the lieutenant governor, attested by the secretary of state and further countersigned by the director.

(6) Subject to 87-1-218, the department, with the consent of the commission, is authorized to utilize the installment contract method to facilitate the acquisition of wildlife management areas in which game and nongame fur-bearing animals and game and nongame birds may breed and replenish and areas that provide access to fishing sites for the public. The total cost of installment contracts may not exceed the cost of purchases authorized by the department and appropriated by the legislature.

(7) The department is authorized to enter into leases of land under its control in exchange for services to be provided by the lessee on the leased land.

(8) Approval of the board for the acquisition or disposal of land or water pursuant to this section is required only for land and water administered under Title 23, chapter 1, or Title 23, chapter 2, parts 1 and 4."

Approved April 8, 2021

CHAPTER NO. 150

[SB 109]

AN ACT REQUIRING SCHOOL DISTRICTS TO IDENTIFY GIFTED AND TALENTED CHILDREN; AMENDING SECTION 20-7-902, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-7-902, MCA, is amended to read:

“20-7-902. School district programs to identify and serve the gifted and talented child. (1) A school district may *shall* identify gifted and talented children and devise programs to serve them:

(2) ~~In identifying gifted and talented children, the school district shall:~~

(a) ~~consult with professionally qualified persons and the parents of children being evaluated;~~

(b) ~~consider a child’s demonstrated or potential gifts or talents; and~~

(c) ~~use comprehensive and appropriate assessment methods including objective measures and professional assessment measures; provide educational services to gifted and talented students that are commensurate to student needs and foster a positive self-image.~~

(2) *A school district shall provide structured support and assistance to teachers in identifying and meeting the diverse student needs of gifted and talented students and a framework for considering a full range of alternatives for addressing student needs.”*

Section 2. Effective date. [This act] is effective July 1, 2021.

Approved April 8, 2021

CHAPTER NO. 151

[SB 75]

AN ACT REVISING AND CLARIFYING SCHOOL FUNDING LAWS RELATED TO MINIMUM AGGREGATE HOURS AND UNFORESEEN EMERGENCIES; ALLOWING INSTRUCTION ON A SATURDAY TO MAKE UP INSTRUCTIONAL TIME LOST DUE TO AN UNFORESEEN EMERGENCY; REDEFINING WHAT CONSTITUTES A REASONABLE EFFORT TO MAKE UP INSTRUCTIONAL TIME LOST DUE TO AN UNFORESEEN EMERGENCY; AMENDING SECTIONS 20-1-301, 20-1-303, 20-9-802, 20-9-805, AND 20-9-806, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-1-301, MCA, is amended to read:

“20-1-301. School fiscal year. (1) The school fiscal year begins on July 1 and ends on June 30. At least the minimum aggregate hours required in subsection (2) must be conducted during each school fiscal year, except that 1,050 aggregate hours of pupil instruction for graduating seniors may be sufficient. The minimum aggregate hours required in subsection (2) are not required for any pupil demonstrating proficiency pursuant to 20-9-311(4)(d).

(2) The minimum aggregate hours required by grade are:

(a) 360 hours for a half-time kindergarten program or 720 hours for a full-time kindergarten program, as provided in 20-7-117;

(b) 720 hours for grades 1 through 3; and

(c) 1,080 hours for grades 4 through 12.

(3) ~~For~~ *Except for a circumstance related to an unforeseen emergency pursuant to Title 20, chapter 9, part 8, for any elementary or high school district that fails to provide for at least the minimum aggregate hours, as listed in subsections (1) and (2), to any pupil not demonstrating proficiency pursuant to 20-9-311(4)(d), the superintendent of public instruction shall reduce the direct state BASE aid for the district for that school year by two times an hourly rate, as calculated by the office of public instruction, for the aggregate hours missed by each pupil not demonstrating proficiency pursuant to 20-9-311(4)(d)."*

Section 2. Section 20-1-303, MCA, is amended to read:

"20-1-303. Conduct of school on Saturday or Sunday prohibited – exceptions. (1) Except as provided in subsections (2) and (3), pupil instruction may not be conducted on Saturday or Sunday.

(2) In emergencies, *including during reasonable efforts of the trustees to make up aggregate hours of instruction lost during a declaration of emergency by the trustees under 20-9-806*, pupil instruction may be conducted on a Saturday when it is approved by the trustees of the school district ~~in accordance with the policies adopted by the board of public education.~~

(3) Pupil instruction may *also* be held on a Saturday at the discretion of a school district for the purpose of providing additional pupil instruction *beyond the minimum aggregate hours of instruction required in 20-1-301*, provided that:

(a) ~~Saturday school is not a pupil instruction day and does not count toward minimum aggregate hours of pupil instruction provided for in 20-1-301; and~~

(b) student attendance is voluntary."

Section 3. Section 20-9-802, MCA, is amended to read:

"20-9-802. Definitions. As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Declaration of emergency" means a declaration by a board of trustees that an unforeseen emergency has occurred in the district.

(2) "Reasonable effort" means the rescheduling or extension of the school district's instructional calendar ~~in an effort to attain the minimum aggregate hours required by law~~ *by to make up at least 75% of the hours of pupil instruction lost due to an unforeseen emergency through any combination of the following:*

(a) ~~extending the school year 12 hours for 1st through 3rd grades and 18 hours for 4th through 12th grades or the equivalent aggregate hours of pupil instruction beyond the last scheduled day; or~~

(b) ~~the use of scheduled vacation days in the district's adopted school calendar pursuant to 20-1-302;~~

(c) ~~the conduct of pupil instruction on Saturdays as provided in 20-1-303; or~~

(d) ~~extending instructional hours during the school day as provided in 20-1-302.~~

(3) "School day" means the school day set by the trustees as provided in 20-1-302.

(4) "Unforeseen emergency" means a fire, flood, explosion, storm, earthquake, riot, insurrection, community disaster, or act of God or a combination of the foregoing that acts as a principal cause for a school district's inability to conduct ~~1 or more scheduled school days~~ *a portion of the minimum aggregate hours of instruction required by 20-1-301."*

Section 4. Section 20-9-805, MCA, is amended to read:

"20-9-805. Rate of reduction in annual apportionment entitlement BASE aid. (1) Except as provided in 20-9-806(2), for each hour short of the minimum number of aggregate hours required by law that a school district fails

to conduct by reason of one or more unforeseen emergencies, the superintendent of public instruction shall reduce the ~~equalization apportionment and entitlement~~ *BASE aid* of the district for that school year by a proportionate amount.

(2) Kindergarten, grade 1 through 3, and grade 4 through 12 programs must be considered separately for the purpose of computing compliance with minimum aggregate hour requirements and any loss of ~~apportionment~~ *BASE aid*."

Section 5. Section 20-9-806, MCA, is amended to read:

"20-9-806. School closure by declaration of emergency. (1) (a) Except as provided in subsection (2), if a school is closed by reason of an unforeseen emergency that results in a declaration of emergency by the board of trustees, the trustees may later adopt a resolution that a reasonable effort has been made to reschedule the pupil-instruction time lost because of the unforeseen emergency. If the trustees adopt the resolution, the pupil-instruction time lost during the closure need not be rescheduled to meet the minimum requirement for aggregate hours that a school district must conduct during the school year in order to be entitled to full ~~annual equalization apportionment~~ *BASE aid*.

(b) ~~At least 3 school days or the equivalent aggregate hours~~ *75% of the pupil-instruction time lost due to the unforeseen emergency* must have been made up before the trustees can declare that a reasonable effort has been made.

(2) The board of trustees may close school for 1 school day each school year because of an unforeseen emergency and may not be required to reschedule the pupil-instruction time lost because of the unforeseen emergency. *The 1-school-day closure under this subsection is not subject to the reduction in BASE aid pursuant to 20-9-805."*

Section 6. Effective date. [This act] is effective on passage and approval.

Section 7. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to school fiscal years beginning on or after July 1, 2020.

Approved April 8, 2021

CHAPTER NO. 152

[SB 53]

AN ACT REDUCING PERMITTING REQUIREMENTS TO MINE DECORATIVE ROCK THAT DOES NOT PRODUCE ACID OR OTHER POLLUTANTS, DEFINING THE TERM DECORATIVE ROCK; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 82-4-301, 82-4-303, 82-4-335, 82-4-337, 82-4-338, 82-4-339, AND 82-4-342, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 82-4-301, MCA, is amended to read:

"82-4-301. Legislative intent and findings. (1) The legislature, mindful of its constitutional obligations under Article II, section 3, and Article IX of the Montana constitution, has enacted this part.

(2) It is the legislature's intent that:

(a) the requirements of this part provide adequate remedies for the protection of the environmental life support system from degradation and provide adequate remedies to prevent unreasonable depletion and degradation of natural resources;

(b) tailings storage facilities are designed, operated, monitored, and closed in a manner that:

- (i) meets state-of-practice engineering design standards;
- (ii) uses applicable, appropriate, and current technologies and techniques as are practicable given site-specific conditions and concerns; and
- (iii) provides protection of human health and the environment; and

(c) the regulation of tailings storage facilities is not prescriptive in detail but allows for adaptive management using evolving best engineering practices based on the recommendations of qualified, experienced engineers.

(3) The extraction of mineral by mining is a basic and essential activity making an important contribution to the economy of the state and the nation. At the same time, proper reclamation of mined land and former exploration areas not brought to mining stage is necessary to prevent undesirable land and surface water conditions detrimental to the general welfare, health, safety, ecology, and property rights of the citizens of the state. Mining and exploration for minerals take place in diverse areas where geological, topographical, climatic, biological, and sociological conditions are significantly different, and the specifications for reclamation and tailings storage facilities must vary accordingly. It is not practical to extract minerals or explore for minerals required by our society without disturbing the surface or subsurface of the earth and without producing waste materials, and the very character of many types of mining operations precludes complete restoration of the land to its original condition. The legislature finds that land reclamation and tailings storage as provided in this part will allow exploration for and mining of valuable minerals while adequately providing for the subsequent beneficial use of the lands to be reclaimed.

(4) The legislature finds that the mining of rock products from or just below the ground surface not containing sulfides is subject to fewer permitting requirements than other minerals because:

(a) the mining of nonsulfide rock products from or just below the ground surface creates fewer and more limited environmental concerns than the mining of other minerals;

(b) nonsulfide rock products are typically used in their natural state and not subject to chemical processing; and

(c) water quality and quantity are not significantly affected by mining of nonsulfide rock products from or just below the ground surface."

Section 2. Section 82-4-303, MCA, is amended to read:

"82-4-303. Definitions. As used in this part, unless the context indicates otherwise, the following definitions apply:

(1) "Abandonment of surface or underground mining" may be presumed when it is shown that continued operation will not resume.

(2) "Amendment" means a change to an approved operating or reclamation plan. A major amendment is an amendment that may significantly affect the human environment. A minor amendment is an amendment that will not significantly affect the human environment.

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

(4) "Certification" means, with regard to tailings storage facilities, a statement of opinion by a professional engineer that the work on a tailings storage facility has been conducted in accordance with the normal standard of care within dam engineering practice. Certification does not constitute a warranty or guarantee of facts or conditions certified.

(5) "Completeness" means that an application contains information addressing each applicable permit requirement as listed in this part or rules adopted pursuant to this part in sufficient detail for the department to make

a decision as to adequacy of the application to meet the requirements of this part.

(6) “Constructor” means the company or companies constructing the built components of a tailings storage facility, including but not limited to embankment dams, surface water diversion structures, tailings distribution systems, reclaim water systems, and monitoring instrumentation.

(7) “Cyanide ore-processing reagent” means cyanide or a cyanide compound used as a reagent in leaching operations.

(8) “Department” means the department of environmental quality provided for in 2-15-3501.

(9) “Disturbed land” means the area of land or surface water that has been disturbed, beginning at the date of the issuance of the permit. The term includes the area from which the overburden, tailings, waste materials, or minerals have been removed and tailings ponds, waste dumps, roads, conveyor systems, load-out facilities, leach dumps, and all similar excavations or coverings that result from the operation and that have not been previously reclaimed under the reclamation plan.

(10) “Engineer of record” means a qualified engineer who is the lead designer for a tailings storage facility.

(11) “Expansion” means, with regard to tailings storage facilities, a change in the size, height, or configuration of or a contiguous addition to an existing tailings storage facility that increases or may increase the storage capacity of the impoundment above the currently permitted capacity.

(12) “Exploration” means:

(a) all activities that are conducted on or beneath the surface of lands and that result in material disturbance of the surface for the purpose of determining the presence, location, extent, depth, grade, and economic viability of mineralization in those lands, if any, other than mining for production and economic exploitation; and

(b) all roads made for the purpose of facilitating exploration, except as noted in 82-4-310.

(13) “Independent review engineer” means a licensed engineer who is a recognized expert in tailings storage facility design, construction, operation, and closure.

(14) “Material deviation” means a failure to follow a condition in a design document, corrective action plan, schedule, or tailings operation, maintenance, and surveillance manual that could reasonably be expected to substantively impair a tailings storage facility from performing as intended.

(15) “Maximum credible earthquake” means the most severe earthquake that can be expected at a site based on geologic and seismological evidence, including a review of all historic earthquake data of events sufficiently nearby to influence the site, all faults in the area, and attenuations from causative faults to the site.

(16) “Mineral” means any ore, rock, or substance, other than oil, gas, bentonite, clay, coal, sand, gravel, peat, soil materials, or uranium, that is taken from below the surface or from the surface of the earth for the purpose of milling, concentration, refinement, smelting, manufacturing, or other subsequent use or processing or for stockpiling for future use, refinement, or smelting.

(17) “Mining” commences when the operator first mines ores or minerals in commercial quantities for sale, beneficiation, refining, or other processing or disposition or first takes bulk samples for metallurgical testing in excess of the aggregate of 10,000 short tons.

(18) "Observational method" means a continuous, managed, and integrated process of design, construction control, monitoring, and review enabling appropriate, previously defined modifications to be incorporated during and after construction.

(19) "Operator" means a person who has an operating permit issued under 82-4-335.

(20) "Ore processing" means milling, heap leaching, flotation, vat leaching, or other standard hard-rock mineral concentration processes.

(21) "Panel" means the tailings storage facility independent review panel created for each new or expanded tailings storage facility.

(22) "Person" means any person, corporation, firm, association, partnership, or other legal entity engaged in exploration for or mining of minerals on or below the surface of the earth, reprocessing of tailings or waste materials, or operation of a hard-rock mill.

(23) "Placer deposit" means:

(a) naturally occurring, scattered, or unconsolidated valuable minerals in gravel, glacial, eolian, colluvial, or alluvial deposits lying above bedrock; or

(b) all forms of deposit except veins of quartz and other rock in place.

(24) "Placer or dredge mining" means the mining of minerals from a placer deposit by a person or persons.

(25) "Practicable" means available and capable of being implemented after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

(26) "Professional engineer" means a registered professional engineer licensed to practice in Montana under Title 37, chapter 67, part 3.

(27) "Qualified engineer" means a professional engineer who has a minimum of 10 years of direct experience with the design and construction of tailings storage facilities and has the appropriate professional and educational credentials to effectively determine appropriate parameters for the safe design, construction, operation, and closure of a tailings storage facility.

(28) "Reclamation plan" means the operator's written proposal, as required and approved by the department, for reclamation of the land that will be disturbed. The proposal must include, to the extent practical at the time of application for an operating permit:

(a) a statement of the proposed subsequent use of the land after reclamation, which may include use of the land as an industrial site not necessarily related to mining;

(b) plans for surface gradient restoration to a surface suitable for the proposed subsequent use of the land after reclamation is completed and the proposed method of accomplishment;

(c) the manner and type of revegetation or other surface treatment of disturbed areas;

(d) procedures proposed to avoid foreseeable situations of public nuisance, endangerment of public safety, damage to human life or property, or unnecessary damage to flora and fauna in or adjacent to the area;

(e) the method of disposal of mining debris;

(f) the method of diverting surface waters around the disturbed areas when necessary to prevent pollution of those waters or unnecessary erosion;

(g) the method of reclamation of stream channels and stream banks to control erosion, siltation, and pollution;

(h) maps and other supporting documents that may be reasonably required by the department; and

(i) a time schedule for reclamation that meets the requirements of 82-4-336.

(29) (a) "Rock products" means decorative rock, building stone, riprap, mineral aggregates, and other minerals produced by typical quarrying activities or collected from or just below the ground surface *that do not contain sulfides with the potential to produce acid, toxic, or otherwise pollutive solutions*

(b) *The term does not include talc, gypsum, limestone, metalliferous ores, gemstones, or materials extracted by underground mining.*

(30) (a) "Small miner" means a person, firm, or corporation that engages in mining activity that is not exempt from this part pursuant to 82-4-310, that engages in the business of reprocessing of tailings or waste materials, that, except as provided in 82-4-310, knowingly allows other persons to engage in mining activities on land owned or controlled by the person, firm, or corporation, that does not hold an operating permit under [section 4] or 82-4-335 except for a permit issued under 82-4-335(3) 82-4-335(2) or a an operating permit that meets the criteria of subsection (30)(c) of this section, and that conducts:

(i) an operation that results in not more than 5 acres of the earth's surface being disturbed and unreclaimed; or

(ii) two operations that disturb and leave unreclaimed less than 5 acres for each operation if the respective mining properties are:

(A) the only operations engaged in by the person, firm, or corporation; and

(B) at least 1 mile apart at their closest point.

(b) For the purpose of this definition only, the department shall, in computing the area covered by the operation:

(i) exclude access or haulage roads that are required by a local, state, or federal agency having jurisdiction over that road to be constructed to certain specifications if that public agency notifies the department in writing that it desires to have the road remain in use and will maintain it after mining ceases; and

(ii) exclude access roads for which the person, firm, or corporation submits a bond to the department in the amount of the estimated total cost of reclamation along with a description of the location of the road and the specifications to which it will be constructed.

(c) A small miner may hold an operating permit that allows disturbance of 100 acres or less. The permit may be amended to add new disturbance areas, but the total area permitted for disturbance may not exceed 100 acres at any time.

(31) "Soil materials" means earth material found in the upper soil layers that will support plant growth.

(32) (a) "Surface mining" means all or any part of the process involved in mining of minerals by removing the overburden and mining directly from the mineral deposits exposed, including but not limited to open-pit mining of minerals naturally exposed at the surface of the earth, mining by the auger method, and all similar methods by which earth or minerals exposed at the surface are removed in the course of mining.

(b) Surface mining does not include the extraction of oil, gas, bentonite, clay, coal, sand, gravel, peat, soil materials, or uranium or excavation or grading conducted for onsite farming, onsite road construction, or other onsite building construction.

(33) "Tailings" means the residual materials remaining after a milling process that separates the valuable fraction from the uneconomic fraction of an ore mined by an operator.

(34) (a) "Tailings storage facility" means a facility that temporarily or permanently stores tailings, including the impoundment, embankment, tailings distribution works, reclaim water works, monitoring devices, storm water diversions, and other ancillary structures.

- (b) The term does not include a facility that:
 - (i) stores 50 acre-feet or less of free water or process solution;
 - (ii) is wholly contained below surrounding grade with no man-made structures retaining tailings, water, or process solution or underground mines that use tailings as backfill; or
 - (iii) stores dry stack or filtered tailings.
- (35) "Underground mining" means all methods of mining other than surface mining.
- (36) "Unit of surface-mined area" means that area of land and surface water included within an operating permit actually disturbed by surface mining during each 12-month period of time, beginning at the date of the issuance of the permit. The term includes the area from which overburden or minerals have been removed, the area covered by mining debris, and all additional areas used in surface mining or underground mining operations that by virtue of mining use are susceptible to erosion in excess of the surrounding undisturbed portions of land.

(37) "Vegetative cover" means the type of vegetation, grass, shrubs, trees, or any other form of natural cover considered suitable at time of reclamation."

Section 3. Section 82-4-335, MCA, is amended to read:

"82-4-335. Operating permit – limitation – fees. (1) A person may not engage in mining, ore processing, or reprocessing of tailings or waste material, construct or operate a hard-rock mill, use cyanide ore-processing reagents or other metal leaching solvents or reagents, or disturb land in anticipation of those activities in the state without first obtaining a final operating permit from the department. Except as provided in ~~subsection (2); [section 4]~~, a separate final operating permit is required for each complex.

~~(2) – (a) A person who engages in the mining of rock products or a landowner who allows another person to engage in the mining of rock products from the landowner's land may obtain an operating permit for multiple sites if each of the multiple sites does not:~~

~~(i) operate within 100 feet of surface water or in ground water or impact any wetland, surface water, or ground water;~~

~~(ii) have any water impounding structures other than for storm water control;~~

~~(iii) have the potential to produce acid, toxic, or otherwise pollutive solutions;~~

~~(iv) adversely impact a member of or the critical habitat of a member of a wildlife species that is listed as threatened or endangered under the Endangered Species Act of 1973; or~~

~~(v) impact significant historic or archaeological features.~~

~~(b) A landowner who is a permittee and who allows another person to mine on the landowner's land remains responsible for compliance with this part, the rules adopted pursuant to this part, and the permit for all mining activities conducted on sites permitted pursuant to this subsection (2) with the landowner's permission. The performance bond required under this part is and must be conditioned upon compliance with this part, the rules adopted pursuant to this part, and the permit of the landowner and any person who mines with the landowner's consent.~~

~~(3)(2) A small miner who intends to use a cyanide ore-processing reagent or other metal leaching solvents or reagents shall obtain an operating permit for that part of the small miner's operation where the cyanide ore-processing reagent or other metal leaching solvents or reagents will be used or disposed of.~~

(4)(3) (a) Prior to receiving an operating permit from the department, a person shall pay the basic permit fee of \$500. The department may require a person who is applying for a permit pursuant to subsection (1) to pay an additional fee not to exceed the actual amount of contractor and employee expenses beyond the normal operating expenses of the department whenever those expenses are reasonably necessary to provide for timely and adequate review of the application, including any environmental review conducted under Title 75, chapter 1, parts 1 and 2. The board may further define these expenses by rule. Whenever the department determines that an additional fee is necessary and the additional fee will exceed \$5,000, the department shall notify the applicant that a fee must be paid and submit to the applicant an itemized estimate of the proposed expenses. The department shall provide the applicant an opportunity to review the department's estimated expenses. The applicant may indicate which proposed expenses the applicant considers duplicative or excessive, if any.

(b) (i) Subject to subsection ~~(4)(b)(ii)~~ (3)(b)(ii), a contractor shall, at the request of the applicant, directly submit invoices of contractor expenses to the applicant.

(ii) A contractor's work is assigned, reviewed, accepted, or rejected by the department pursuant to this section.

~~(5)(4)~~ The person shall submit an application on a form provided by the department, which must contain the following information and any other pertinent data required by rule:

(a) the name and address of the operator, the engineer of record if applicable, and, if a corporation or other business entity, the name and address of its officers, directors, owners of 10% or more of any class of voting stock, partners, and the like and its resident agent for service of process, if required by law;

(b) the minerals expected to be mined;

(c) a proposed reclamation plan;

(d) the expected starting date of operations;

(e) a map showing the specific area to be mined and the boundaries of the land that will be disturbed, the topographic detail, the location and names of all streams, roads, railroads, and utility lines on or immediately adjacent to the area, and the location of proposed access roads to be built;

(f) the names and addresses of the owners of record and any purchasers under contracts for deed of the surface of the land within the permit area and the owners of record and any purchasers under contracts for deed of all surface area within one-half mile of any part of the permit area, provided that the department is not required to verify this information;

(g) the names and addresses of the present owners of record and any purchasers under contracts for deed of all minerals in the land within the permit area, provided that the department is not required to verify this information;

(h) the source of the applicant's legal right to mine the mineral on the land affected by the permit, provided that the department is not required to verify this information;

(i) the types of access roads to be built and manner of reclamation of road sites on abandonment;

(j) a plan that will provide, within limits of normal operating procedures of the industry, for completion of the operation;

(k) ground water and surface water hydrologic data gathered from a sufficient number of sources and length of time to characterize the hydrologic regime;

(l) a plan detailing the design, operation, and monitoring of impounding structures, including but not limited to tailings impoundments and water reservoirs, sufficient to ensure that the structures are safe and stable. For a tailings storage facility, this requirement is met by submission of a design document pursuant to 82-4-376, a panel report pursuant to 82-4-377, and a tailings operation, maintenance, and surveillance manual pursuant to 82-4-379 prior to issuance of a draft permit.

(m) a plan identifying methods to be used to monitor for the accidental discharge of objectionable materials and remedial action plans to be used to control and mitigate discharges to surface or ground water;

(n) an evaluation of the expected life of any tailings impoundment or waste area and the potential for expansion of the tailings impoundment or waste site. For a tailings storage facility, this requirement is met by submission of a design document pursuant to 82-4-376, a panel report pursuant to 82-4-377, and a tailings operation, maintenance, and surveillance manual pursuant to 82-4-379 prior to issuance of a draft permit.

(o) an assessment of the potential for the postmining use of mine-related facilities for other industrial purposes, including evidence of consultation with the county commission of the county or counties where the mine or mine-related facilities will be located.

(6)(5) Except as provided in subsection (8) (7), the permit provided for in subsection (1) for a large-scale mineral development, as defined in 90-6-302, must be conditioned to provide that activities under the permit may not commence until the impact plan is approved under 90-6-307 and until the permittee has provided a written guarantee to the department and to the hard-rock mining impact board of compliance within the time schedule with the commitment made in the approved impact plan, as provided in 90-6-307. If the permittee does not comply with that commitment within the time scheduled, the department, upon receipt of written notice from the hard-rock mining impact board, shall suspend the permit until it receives written notice from the hard-rock mining impact board that the permittee is in compliance.

(7)(6) When the department determines that a permittee has become or will become a large-scale mineral developer pursuant to 82-4-339 and 90-6-302 and provides notice as required under 82-4-339, within 6 months of receiving the notice, the permittee shall provide the department with proof that the permittee has obtained a waiver of the impact plan requirement from the hard-rock mining impact board or that the permittee has filed an impact plan with the hard-rock mining impact board and the appropriate county or counties. If the permittee does not file the required proof or if the hard-rock mining impact board certifies to the department that the permittee has failed to comply with the hard-rock mining impact review and implementation requirements in Title 90, chapter 6, parts 3 and 4, the department shall suspend the permit until the permittee files the required proof or until the hard-rock mining impact board certifies that the permittee has complied with the hard-rock mining impact review and implementation requirements.

(8)(7) Compliance with 90-6-307 is not required for exploration and bulk sampling for metallurgical testing when the aggregate samples are less than 10,000 tons.

(9)(8) A person may not be issued an operating permit if:

(a) that person's failure, or the failure of any firm or business association of which that person was a principal or controlling member, to comply with the provisions of this part, the rules adopted under this part, or a permit or license issued under this part has resulted in either the receipt of bond proceeds by

the department or the completion of reclamation by the person's surety or by the department, unless that person meets the conditions described in 82-4-360;

(b) that person has not paid a penalty for which the department has obtained a judgment pursuant to 82-4-361;

(c) that person has failed to post a reclamation bond required by 82-4-305; or

(d) that person has failed to comply with an abatement order issued pursuant to 82-4-362, unless the department has completed the abatement and the person has reimbursed the department for the cost of abatement.

~~(10)(9)~~ (9) A person may not be issued a permit under this part unless, at the time of submission of a bond, the person provides the current information required in subsection ~~(5)(a)~~ (4)(a) and:

(a) (i) certifies that the person is not currently in violation in this state of any law, rule, or regulation of this state or of the United States pertaining to air quality, water quality, or mined land reclamation; or

(ii) presents a certification by the administering agency that the violation is in the process of being corrected to the agency's satisfaction or is the subject of a bona fide administrative or judicial appeal; and

(b) if the person is a partnership, corporation, or other business association, provides the certification required by subsection ~~(10)(a)(i) or (10)(a)(ii)~~ (9)(a)(i) or (9)(a)(ii), as applicable, for any partners, officers, directors, owners of 10% or more of any class of voting stock, and business association members."

Section 4. Operating permit – rock products – fees. (1) A person may not engage in mining of rock products or disturb land in anticipation of mining rock products before obtaining a final operating permit from the department pursuant to this section.

(2) (a) A person mining rock products or a landowner allowing another person to mine rock products from the landowner's land may obtain an operating permit for a single site or multiple sites if the operation or operations cumulatively disturb no more than 100 acres of the earth's surface and the single site or each of the multiple sites do not:

(i) operate within 100 feet of surface water or in ground water or impact any wetland, surface water, or ground water;

(ii) have any water impounding structures other than for storm water control;

(iii) adversely impact a member of or the critical habitat of a member of a wildlife species that is listed as threatened or endangered under the Endangered Species Act of 1973; or

(iv) impact significant historic or archaeological features.

(b) A landowner who is a permittee and allows another person to mine on the landowner's land is responsible for compliance with this part, the rules adopted pursuant to this part, and the permit for mining activities conducted on sites permitted pursuant to this subsection (2) with the landowner's permission. The performance bond required under this part is and must be conditioned upon compliance with this part, the rules adopted pursuant to this part, and the permit of the landowner and any person who mines with the landowner's consent.

(3) (a) Prior to receiving a final operating permit from the department, a person shall pay a basic permit application fee of \$500. The department may require a person applying for a permit pursuant to subsection (1) to pay an additional fee not to exceed the actual amount of contractor and employee expenses beyond the normal operating expenses of the department whenever those expenses are reasonably necessary to provide for timely and adequate review of the application, including any environmental review conducted

under Title 75, chapter 1, parts 1 and 2. The board may further define these expenses by rule. Whenever the department determines that an additional fee is necessary and the additional fee will exceed \$2,000, the department shall notify the applicant that a fee must be paid and submit to the applicant an itemized estimate of the proposed expenses. The department shall provide the applicant an opportunity to review the department's estimated expenses. The applicant may indicate which proposed expenses the applicant considers duplicative or excessive, if any.

(b) (i) Subject to subsection (3)(b)(ii), a contractor shall, at the request of the applicant, directly submit invoices of contractor expenses to the applicant.

(ii) A contractor's work is assigned, reviewed, accepted, or rejected by the department pursuant to this section.

(4) The person shall submit an application on a form provided by the department, which must contain the following information and any other pertinent data required by rule:

(a) the name and address of the operator, and, if a corporation or other business entity, the name and address of its officers, directors, owners of 10% or more of any class of voting stock, partners, and the like and its resident agent for service of process, if required by law;

(b) the rock products expected to be mined;

(c) a proposed reclamation plan;

(d) the expected starting date of operations;

(e) a map showing the specific area to be mined and the boundaries of the land that will be disturbed, the topographic detail, the location and names of all streams, roads, railroads, and utility lines on or immediately adjacent to the area, and the location of proposed access roads to be built;

(f) the names and addresses of the owners of record and any purchasers under contracts for deed of the surface of the land within the permit area, provided that the department is not required to verify this information;

(g) the names and addresses of the present owners of record and any purchasers under contracts for deed of all minerals in the land within the permit area, provided that the department is not required to verify this information;

(h) the source of the applicant's legal right to mine the mineral on the land affected by the permit, provided that the department is not required to verify this information;

(i) the types of access roads to be built and manner of reclamation of road sites on abandonment;

(j) a plan that will provide, within limits of normal operating procedures of the industry, for completion of the operation;

(5) A person may not be issued an operating permit if:

(a) that person's failure, or the failure of any firm or business association of which that person was a principal or controlling member, to comply with the provisions of this part, the rules adopted under this part, or a permit or license issued under this part has resulted in either the receipt of bond proceeds by the department or the completion of reclamation by the person's surety or by the department, unless that person meets the conditions described in 82-4-360;

(b) that person has not paid a penalty for which the department has obtained a judgment pursuant to 82-4-361;

(c) that person has failed to post a reclamation bond required by 82-4-305;

or

(d) that person has failed to comply with an abatement order issued pursuant to 82-4-362, unless the department has completed the abatement and the person has reimbursed the department for the cost of abatement.

(6) A person may not be issued a permit under this part unless, at the time of submission of a bond, the person provides the current information required in subsection (4)(a) and:

(a) (i) certifies that the person is not currently in violation in this state of any law, rule, or regulation of this state or of the United States pertaining to air quality, water quality, or mined land reclamation; or

(ii) presents a certification by the administering agency that the violation is in the process of being corrected to the agency's satisfaction or is the subject of a bona fide administrative or judicial appeal; and

(b) if the person is a partnership, corporation, or other business association, provides the certification required by 82-4-335(9)(a)(i) or (9)(a)(ii), as applicable, for any partners, officers, directors, owners of 10% or more of any class of voting stock, and business association members.

(7) The department's action on an application submitted under this section does not require an environmental review under Title 75, chapter 1, for the following:

(a) an application for a new permit resulting in less than 15 acres of total disturbance;

(b) an application to amend a permit resulting in less than 15 acres of total disturbance; and

(c) an application to amend a permit that has been analyzed under Title 75, chapter 1, that results in less than 25 acres of new disturbance.

Section 5. Section 82-4-337, MCA, is amended to read:

"82-4-337. Inspection—issuance of operating permit—modification, amendment, or revision. (1) (a) The department shall review all applications for operating permits for completeness and compliance with the requirements of this part and rules adopted pursuant to this part within:

(i) *for rock products, 60 days of receipt of the initial application and within 20 days of receipt of responses to notices of deficiencies. If an applicant for a rock products operating permit responds to a notice of deficiency more than 1 year after its receipt, the department has 60 days to review the response to the notice of deficiency.*

(ii) *for all other applications not covered under subsection (1)(a)(i), 90 days of receipt of the initial application and within 30 days of receipt of responses to notices of deficiencies.*

(b) The department's initial notice must note all deficiency issues, and the department may not in a later notice raise an issue pertaining to the initial application that was not raised in the initial notice. The department shall notify the applicant concerning completeness and compliance as soon as possible. An application is considered complete and compliant unless the applicant is notified of deficiencies within the appropriate review period.

(b)(c) The review for completeness and compliance is limited to areas in regard to which the department has statutory authority.

(c)(d) When providing notice of deficiencies, the department shall identify each section in this part or rules adopted pursuant to this part related to the deficiency.

(d)(e) When an application is complete and compliant, the department shall:

(i) declare in writing that the application is complete and compliant;

(ii) detail in writing the substantive requirements of this part and how the application complies with those requirements;

(iii) when an application submitted after October 1, 2015, includes a tailings storage facility, verify the receipt of the certified design document

pursuant to 82-4-376, the panel report pursuant to 82-4-377, and the tailings operation, maintenance, and surveillance manual pursuant to 82-4-379; and

(iv) issue a draft permit. The department may, as a condition of issuing the draft permit, require that the applicant obtain other permits required by law but not provided for in this part. However, the department may not withhold issuance of the draft permit in the absence of those permits.

(e)(f) Prior to issuance of a draft permit, the department shall inspect the site. If the site is not accessible because of extended adverse weather conditions, the department shall inspect the site at the first available opportunity and may extend the time period prescribed in subsection (1)(a) by a term agreed to by the applicant.

(f)(g) Issuance of the draft permit as a final permit is the proposed state action subject to review required by Title 75, chapter 1.

(g)(h) If the applicant is not notified that there are deficiencies or inadequacies in the application or that the application is compliant within the time period required by subsection (1)(a), the final operating permit must be issued upon receipt of the bond as required in 82-4-338 and pursuant to the requirements of subsection (1)(h) (1)(i) of this section. The department shall promptly notify the applicant of the form and amount of bond that will be required. After the department notifies the applicant of deficiencies in the application within the time period required by subsection (1)(a), no further action by the department is required until the applicant has responded to the deficiency notification.

(h)(i) Except as provided in subsection (1)(g), (1)(h), a final permit may not be issued until:

(i) sufficient bond has been submitted pursuant to 82-4-338;

(ii) the information and certification have been submitted pursuant to 82-4-335(10) 82-4-335(9);

(iii) the department has found that permit issuance is not prohibited by 82-4-335(9) 82-4-335(8) or 82-4-341(7);

(iv) the review pursuant to Title 75, chapter 1, is completed or 1 year has elapsed after the date the draft permit was issued, whichever is less. The applicant may by written waiver extend this time period.

(v) the department has made a determination that the application and the final permit meet the substantive requirements of this part and the rules adopted pursuant to this part.

(i)(j) If the department decides to hire a third-party contractor to prepare an environmental impact statement on the application, the department shall prepare a list of no fewer than four contractors acceptable to the department and shall provide the applicant with a copy of the list. The applicant shall provide the department with a list of at least 50% of the contractors from the department's list. The department shall select its contractor from the list provided by the applicant.

(2) (a) After issuance of a draft permit but prior to receiving a final permit, an applicant may propose modifications to the application. If the proposed modifications substantially change the proposed plan of operation or reclamation, the department may terminate the draft permit and review the application as modified pursuant to subsection (1) for completeness and compliance and issuance of a new draft permit.

(b) The department shall consult with the applicant before placing stipulations in a draft or final permit. Permit stipulations in a draft or final permit may, unless the applicant consents, address only compliance issues within the substantive requirements of this part or rules adopted pursuant to this part. For a stipulation imposed without the applicant's consent, the department shall provide to the applicant in writing the reason for the

stipulation, a citation to the statute or rule that gives the department the authority to impose the stipulation, and, for a stipulation imposed in the final permit that was not contained in the draft permit, the reason that the stipulation was not contained in the draft permit.

(c) Within 40 days of the completion of the review required by Title 75, chapter 1, or 1 year from the date the draft permit is issued, whichever is less, the department shall issue its bond determination.

(d) When the department prepares an environmental review jointly with a federal agency acting under the National Environmental Policy Act, the applicant may by written waiver extend the 1-year deadline contained in subsection ~~(1)(h)(iv)~~; *(1)(i)(iv)*.

(e) Upon submission of the bond and subject to subsection ~~(1)(h)~~; *(1)(i)*, the department shall issue the final permit.

(3) The final operating permit must be granted for the period required to complete the operation and is valid until the operation authorized by the permit is completed or abandoned, unless the permit is suspended or revoked by the department as provided in this part.

(4) The final operating permit must provide that the reclamation plan may be modified by the department, upon proper application of the permittee or after timely notice and opportunity for hearing, at any time during the term of the permit and for any of the following reasons:

(a) to modify the requirements so that they will not conflict with existing laws;

(b) when the previously adopted reclamation plan is impossible or impracticable to implement and maintain;

(c) when significant environmental problem situations not permitted under the terms of regulatory permits held by the permittee are revealed by field inspection and the department has the authority to address them under the provisions of this part.

(5) (a) The modification of a final operating permit may be a major or minor permit amendment or a permit revision. A modification of the operating permit, including a modification necessary to comply with the requirements of existing law as interpreted by a court of competent jurisdiction must be processed in accordance with the procedures for an application for a permit amendment or revision that are established pursuant to 82-4-342 and this section.

(b) The modification of an operating permit may not be finalized and an existing bond amount may not be increased until the permit modification procedures and analysis described in subsection (5)(a) are completed."

Section 6. Section 82-4-338, MCA, is amended to read:

"82-4-338. Performance bond. (1) (a) An applicant for an exploration license or operating permit shall file with the department a bond payable to the state of Montana with surety satisfactory to the department in the sum to be determined by the department of not less than \$200 for each acre or fraction of an acre of the disturbed land, conditioned upon the faithful performance of the requirements of this part, the rules of the board, and the permit. In lieu of a bond, the applicant may file with the department a cash deposit, an assignment of a certificate of deposit, an irrevocable letter of credit, or other surety acceptable to the department. The bond may not be less than the estimated cost to the state to ensure compliance with Title 75, chapters 2 and 5, this part, the rules, and the permit, including the potential cost of department management, operation, and maintenance of the site upon temporary or permanent operator insolvency or abandonment, [during a suspension authorized pursuant to 82-4-341(8)(b)(ii) or] until full bond liquidation can be effected.

(b) A public or governmental agency may not be required to post a bond under the provisions of this part.

(c) A blanket performance bond covering two or more operations may be accepted by the department. A blanket bond must adequately secure the estimated total number of acres of disturbed land.

(d) (i) For an exploration license or operating permit authorizing activities on federal land within the state, the department may accept a bond payable to the state of Montana and the federal agency administering the land. The bond must provide at least the same amount of financial guarantee as required by this part.

(ii) The bond must provide that the department may forfeit the bond without the concurrence of the federal land management agency. The bond may provide that the federal land management agency may forfeit the bond without the concurrence of the department. Upon forfeiture by either agency, the bond must be payable to the department and may also be payable to the federal land management agency. If the bond is payable to the department and the federal land management agency, the department, before accepting the bond, shall enter into an agreement or memorandum of understanding with the federal land management agency providing for administration of the bond funds in a manner that will allow the department to provide for compliance with the requirements of this part, the rules adopted under this part, and the permit.

(iii) The department may not enter into an agreement or memorandum of understanding with a federal land management agency that would require the department to impose requirements on an operator that are more stringent than state law and rules.

(2) (a) The department may calculate one or more reclamation plan components within its jurisdiction with the assistance of one or more third-party contractors selected jointly by the department and the applicant and compensated by the applicant when, based on relevant past experience, the department determines that additional expertise is necessary to calculate the bond amount for reclamation plan components. The department may contract for assistance pursuant to this subsection in determining bond amounts for the initial bond and for any subsequent bond review and adjustment. The mine owner is responsible for the first \$5,000 in contractor services provided under this subsection. The mine owner and the department are each responsible for 50% of any amount over \$5,000.

(b) To select a third-party contractor as authorized in subsection (2)(a), the department shall prepare a list of no fewer than four contractors acceptable to the department and shall provide the applicant with a copy of the list. The applicant shall provide the department with a list of at least 50% of the contractors from the department's list. The department shall select its contractor from the list provided by the applicant.

(3) (a) The department shall conduct an overview of the amount of each bond annually and shall conduct a comprehensive bond review at least every 5 years. The department may conduct additional comprehensive bond reviews if, after modification of a reclamation or operation plan, an annual overview, or an inspection of the permit area, the department determines that an increase of the bond level may be necessary. The department shall consult with the licensee or permittee if a review indicates that the bond level should be adjusted. When determined by the department that the set bonding level of a permit or license does not represent the present costs of compliance with this part, the rules, and the permit, the department shall modify the bonding requirements of that permit or license. The licensee or permittee must have 60

days to negotiate the preliminary bond determination with the department, at the end of which time period the department shall issue the proposed bond determination. The department shall give the licensee or permittee a copy of the bond calculations that form the basis for the proposed bond determination and, for operating permits, publish notice of the proposed bond determination in a newspaper of general circulation in the county in which the operation is located. The department shall issue a final bond determination in 30 days. Unless the licensee or permittee requests a hearing under subsection (3)(b), the licensee or permittee shall post bond with the department in the amount represented by the final bond determination no later than 30 days after issuance of the final bond determination. If the licensee or permittee demonstrates that, through the exercise of reasonable diligence, the licensee or permittee will not be able to post the bond within 30 days, the department shall grant a 30-day extension of the deadline.

(b) The permittee or any person with an interest that may be adversely affected may obtain a contested case hearing before the board under the provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, on the final bond determination by filing with the department, within 30 days of the issuance of the final bond determination, a written request for hearing stating the reason for the request. The request for hearing must specify the amount of bond increase, if any, that the licensee or permittee considers appropriate and state the reasons that the licensee or permittee considers the department's final bond determination to be excessive. As a condition precedent to any right to request a hearing, the licensee or permittee shall post bond with the department in the amount of the bond increase that the licensee or permittee has stated is appropriate in the request for hearing or the amount that is one-half of the increase contained in the department's final bond determination, whichever amount is greater. If the board determines that additional bond is necessary, the licensee or permittee shall post bond in the amount determined by the board within 30 days of receipt of the board's decision. If the licensee or permittee demonstrates that, through the exercise of reasonable diligence, the licensee or permittee will not be able to post the bond within 30 days, the department shall grant a reasonable extension of the deadline.

(c) If a licensee or permittee fails to post bond in accordance with subsection (3)(a) or (3)(b) in the required amounts by the required deadlines, the license or permit is suspended by operation of law and the licensee or permittee shall immediately cease mining and exploration operations until the required bond is posted with and approved by the department.

(4) A bond filed in accordance with the provisions of this part may not be released by the department until the provisions of this part, the rules adopted pursuant to this part, and the permit have been fulfilled.

(5) A bond filed for an operating permit obtained under 82-4-335 or *[section 4]* may not be released or decreased until the public has been provided an opportunity for a hearing and a hearing has been held if requested. The department shall provide reasonable statewide and local notice of the opportunity for a hearing, including but not limited to publishing the notice in newspapers of general daily circulation.

(6) Except as provided in subsection (7), all bonds required in accordance with the provisions of this section must be based upon reasonably foreseeable activities that the applicant may conduct in order to comply with conditions of an operating permit or license. Bonds may be required only for anticipated activities as described in subsection (1). Only those activities that themselves or in conjunction with other activities have a reasonable possibility of occurring

may be bonded. Bond calculations, including calculations for the initial bond or for subsequent bond reviews and adjustments, may not include amounts for any occurrence or contingency that is not a reasonably foreseeable result of any activity conducted by the applicant.

(7) (a) If the department determines, based on unanticipated circumstances that are discovered following the issuance of a mining permit, that a substantial and imminent danger to public health, public safety, or the environment exists or that there is a reasonable probability that a violation of water quality standards will occur, the department may require an operator to submit an amended reclamation plan to address the danger and to post a temporary bond to guarantee the performance of the amended portion of the reclamation plan. The temporary bond may only be required if the anticipated costs associated with the plan amendment would increase the total bond amount for the current plan by more than 10%, as determined in subsection (7)(b).

(b) (i) In determining the need for the temporary bond and the amount of the temporary bond under subsection (7)(a), the department shall select a third-party contractor in consultation with the operator pursuant to subsection (7)(b)(ii) to provide:

(A) a technical engineering analysis and report on the substantial and imminent danger to public health, public safety, or the environment identified in subsection (7)(a); and

(B) the estimated costs of addressing the potential danger in order to establish the amount of the temporary bond.

(ii) The department shall provide the operator with a list of at least four qualified third-party contractors. The operator shall select two qualified third-party contractors from that list. The department shall select its contractor from the list provided by the operator. The operator shall reimburse the department for the reasonable costs of the third-party contractor.

(c) An approved interim amended reclamation plan and interim bond must remain in effect until the earlier of:

(i) the date that a revised reclamation plan is approved pursuant to 82-4-337 and a permanent bond for the revised reclamation plan is submitted and accepted pursuant to this section; or

(ii) 2 years following the date of submission of a complete application pursuant to 82-4-337 to modify the reclamation plan provision or remedy the conditions that created the need to amend the reclamation plan unless the department approves or denies the complete application within 2 years of submission. The applicant may agree to an extension of this deadline.

(d) Except as provided in subsection (8), the process provided for in this subsection (7) is not subject to the provisions of Title 75, chapter 1.

(8) (a) In determining whether to require amendment of a reclamation plan under subsection (7)(a), the department shall prepare or require the permittee to prepare a written analysis of changes in the reclamation plan that may eliminate or mitigate to an acceptable level the environmental condition. The analysis must include an assessment of the effectiveness of the changes and any potential negative environmental impacts of the changes. The department shall prepare an environmental impact statement pursuant to Title 75, chapter 1, only if the department determines that the changes would not mitigate the condition to an acceptable level or may have potentially significant negative environmental impacts.

(b) If the department determines that preparation of an environmental impact statement is necessary, the permittee shall pay the department's costs pursuant to 75-1-205.

(9) At the applicant's discretion, bonding in addition to that required by this section may be posted. These unobligated bonds may, on the applicant's request, be applied to future bonds required by this section.

(10) (a) If the department determines that there exists at an area permitted or licensed under this part an imminent danger to public health, public safety, or the environment caused by a violation of this part, the rules adopted pursuant to this part, or the permit or license and if the permittee or licensee fails or refuses to expeditiously abate the danger, the department may immediately suspend the permit or license, enter the site, and abate the danger. The department may thereafter institute proceedings to revoke the license or permit, declare the permittee or licensee in default, and forfeit a portion of the bond, not to exceed \$150,000 or 10% of the bond, whichever is less, to be used to abate the danger. The department shall notify the surety of the forfeiture and the forfeiture amount by certified mail, and the surety shall pay the forfeiture amount to the department within 30 days of receipt of the notice. The department shall, as a condition of any termination of the suspension and revocation proceedings, require that the permittee or licensee reimburse the surety, with interest, for any amount paid to and expended by the department pursuant to this subsection (10) and for the actual cost of the surety's expenses in responding to the department's forfeiture demand.

(b) If the department is unable to permanently abate the imminent danger using the amount forfeited under subsection (10)(a), the department may forfeit additional amounts under the procedure provided in subsection (10)(a).

(c) The department shall return to the surety any money received from the surety pursuant to this subsection (10) and not used by the department to abate the imminent danger. The amount not returned to the surety must be credited to the surety and reduces the penal amount of the bond on a dollar-for-dollar basis.

(d) Any interest accrued on bond proceeds that is not required to abate the imminent danger determined in subsection (10)(a) must be returned to the surety, unless otherwise agreed to in writing by the surety.

(11) If a bond is terminated as a result of the action or inaction of a licensee or permittee or is canceled or otherwise terminated by the surety issuing the bond and the licensee or permittee fails to post a new bond for the entire amount of the terminated bond within 30 days following the notice of termination provided to the department, then the license or permit must be immediately suspended without further action by the department. (Bracketed language in subsection (1)(a) terminates June 30, 2026--sec. 6, Ch. 458, L. 2019.)"

Section 7. Section 82-4-339, MCA, is amended to read:

"82-4-339. Annual report of activities by permittee – fee – notice of large-scale mineral developer status. (1) Within 30 days after completion or abandonment of operations on an area under permit or within 30 days after each anniversary date of the permit, whichever is earlier, or at a later date that may be provided by rules of the board and each year after that date until reclamation is completed and approved, the permittee shall pay the annual fee of \$100 and shall file a report of activities completed during the preceding year on a form prescribed by the department. The report must:

(a) identify the permittee and the permit number;

(b) locate the operation by subdivision, section, township, and range and with relation to the nearest town or other well-known geographic feature;

(c) estimate acreage to be newly disturbed by operation in the next 12-month period;

(d) include the number of persons on the payroll for the previous permit year and for the next permit year at intervals that the department considers sufficient to enable a determination of the permittee's status under 90-6-302(4);

(e) update the information required in ~~82-4-335(5)(a)~~; ~~82-4-335(4)(a)~~; and

(f) update any maps previously submitted or specifically requested by the department. The maps must show:

(i) the permit area;

(ii) the unit of disturbed land;

(iii) the area to be disturbed during the next 12-month period;

(iv) if completed, the date of completion of operations;

(v) if not completed, the additional area estimated to be further disturbed by the operation within the following permit year; and

(vi) the date of beginning, amount, and current status of reclamation performed during the previous 12 months.

(2) Whenever the department determines that the permittee has become or will, during the next permit year, become a large-scale mineral developer, it shall immediately serve written notice of that fact on the permittee, the hard-rock mining impact board, and the county or counties in which the operation is located."

Section 8. Section 82-4-342, MCA, is amended to read:

"82-4-342. Amendment to operating permits. (1) During the term of an operating permit issued under this part, an operator may apply for a permit revision as described in subsections (5)(g) through (5)(j) or an amendment to the permit. The operator may not apply for an amendment to delete disturbed acreage except following reclamation, as required under 82-4-336, and bond release for the disturbance, as required under 82-4-338.

(2) (a) The board may by rule establish criteria for the classification of amendments as major or minor. The board shall adopt rules establishing requirements for the content of applications for revisions and major and minor amendments and the procedures for processing revisions and minor amendments.

(b) An amendment must be considered minor if:

(i) it is for the purpose of retention of mine-related facilities that are valuable for postmining use;

(ii) evidence is submitted showing that a local government has requested retention of the mine-related facilities for a postmining use; and

(iii) the postmining use of the mine-related facilities meets the requirements provided for in 82-4-336.

(3) Applications for major amendments must be processed pursuant to 82-4-337.

(4) The department shall review an application for a revision or a minor amendment and provide a notice of decision on the adequacy of the application within 30 days. If the department does not respond within 30 days, then the permit is revised or amended in accordance with the application.

(5) The department is not required to prepare an environmental assessment or an environmental impact statement for the following categories of action and permit revisions:

(a) actions that qualify for a categorical exclusion as defined by rule or justified by a programmatic review pursuant to Title 75, chapter 1;

(b) administrative actions, such as routine, clerical, or similar functions of a department, including but not limited to administrative procurement, contracts for consulting services, and personnel actions;

(c) repair or maintenance of the permittee's equipment or facilities;

(d) investigation and enforcement actions, such as data collection, inspection of facilities, or enforcement of environmental standards;

(e) ministerial actions, such as actions in which the agency does not exercise discretion, but acts upon a given state of facts in a prescribed manner;

(f) approval of actions that are primarily social or economic in nature and that do not otherwise affect the human environment;

(g) changes in a permit boundary that increase disturbed acres that are insignificant in impact relative to the entire operation, provided that the increase is less than 25 acres or 10% of the permitted area, whichever is less;

(h) changes to an approved reclamation plan if the changes are consistent with this part and rules adopted pursuant to this part;

(i) changes in an approved operating plan for an activity that was previously permitted if the changes will be insignificant relative to the entire operation and the changes are consistent with subsection (5)(g);

(j) changes in a permit for the purpose of retention of mine-related facilities that are valuable for postmining use; ~~and~~

(k) modifications to a tailings storage facility that result in a minor expansion to the facility if:

(i) the proposed modification is certified by the seal of the engineer of record;

(ii) the capacity increase resulting from the expansion is no greater than 15% of the capacity of the existing tailings storage facility; and

(iii) the modification complies with 82-4-376(2)(l) and (2)(dd) and is exempt under subsection (5)(g), (5)(h), or (5)(i) of this section; ~~and~~

(l) *applications for rock product permits and amendments pursuant to [section 4].*"

Section 9. Codification instruction. [Section 4] is intended to be codified as an integral part of Title 82, chapter 4, part 3, and the provisions of Title 82, chapter 4, part 3, apply to [section 4].

Approved April 8, 2021

CHAPTER NO. 153

[SB 38]

AN ACT GENERALLY REVISING LAWS RELATED TO RECREATIONAL TRAIL PROGRAMS ADMINISTERED BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS; EXPANDING USES OF, AUTHORIZING A MATCH REQUIREMENT FOR, AND PROVIDING FOR DISBURSEMENT OF SUMMER MOTORIZED RECREATION TRAIL GRANT FUNDS; RENAMING THE SNOWMOBILE TRAIL PASS AS THE WINTER TRAIL PASS; REVISING WINTER TRAIL PASS PURCHASE REQUIREMENTS AND REVENUE DISTRIBUTION; AMENDING SECTIONS 23-2-113, 23-2-631, 23-2-634, 23-2-636, 23-2-641, 23-2-642, 61-3-321, AND 87-1-601, MCA; REPEALING SECTION 23-2-615, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 23-2-113, MCA, is amended to read:

"23-2-113. Summer motorized recreation trail grant program – rulemaking. (1) There is a summer motorized recreation trail grant program by which the department may grant funds deposited in the account established in 23-2-112 to private clubs and organizations for the following purposes:

(a) to mark or sign, maintain, and improve summer motorized recreation trails; and

(b) to mitigate and eradicate noxious weeds along summer motorized recreation trails; and

(c) to provide motorized safety and ethics education.

(2) *The department may require an applicant to provide a 10% match in cash or donated services to be eligible to receive a grant.*

(2)(3) In utilizing funds pursuant to this section, the department shall consider the recommendations of the ~~state trails off-highway vehicle~~ advisory committee established pursuant to 23 U.S.C. 206.

(4) *After awarding a grant pursuant to this section, the department shall distribute 50% of the funding to the entity receiving the award with the other 50% to be distributed on receipt by the department of expense receipts and proof of completion of the project for which the money is awarded.*

(3)(5) The department may adopt rules to implement the provisions of 23-2-110 through 23-2-113."

Section 2. Section 23-2-631, MCA, is amended to read:

"23-2-631. Operation on public roads, streets, and highways. (1) A person may not operate a snowmobile upon a controlled-access highway or facility at any time. Snowmobile operation is permitted on the roadway or shoulder of any public road or highway, state highway, county road, or city street located within the boundaries of any municipality only in the event that:

(a) the street, road, or highway is drifted or covered by snow to the extent that travel on the street, road, or highway by other motor vehicles is impractical or impossible;

(b) the operator has received permission or is otherwise authorized for that travel by the municipality in the case of town or city streets, the board of county commissioners for county roads, or the state highway patrol for all other highways; or

(c) operation has been authorized on municipal streets by a municipal ordinance.

(2) A snowmobile may make a direct crossing of a street or highway whenever the crossing is necessary to get to another authorized area of operation. The crossing must be made at an angle of approximately 90 degrees to the direction of traffic at a place where no obstruction prevents a quick and safe crossing. The snowmobile must make a complete stop before entering upon any part of the traffic way, and the operator shall yield the right-of-way to all oncoming traffic.

(3) A snowmobile may not be operated upon a public street or highway when permitted to do so by ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-617, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644~~ *this part* unless equipped with at least one headlamp and one taillamp, which must be lighted at all times during operation, and unless equipped with a suitable braking device operable by either hand or foot.

(4) (a) Unless operation is otherwise allowed under subsection (4)(b) or (4)(c), the operator of a snowmobile who operates the snowmobile upon a public roadway, street, or highway when allowed to do so under the provisions of ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-617, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644~~ *this part* must have in possession a license to drive a motor vehicle as required by the laws of the state of Montana.

(b) The operator of a snowmobile may operate the snowmobile upon a public roadway, street, or highway when allowed to do so under the provisions of ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-617, 23-2-621, 23-2-622,~~

~~23-2-631 through 23-2-635, and 23-2-641 through 23-2-644~~ *this part* if the operator:

(i) has in possession a certificate showing the successful completion of a Montana-approved snowmobile safety education course; and

(ii) is in the physical presence and under the supervision of a person who is 18 years of age or older.

(c) An operator who crosses a street, road, or highway, who operates a snowmobile upon a street, road, or highway that is drifted or covered with snow to the extent that travel on the street, road, or highway by other motor vehicles is impractical or impossible, or who operates a snowmobile in any other areas of the state where operation is lawfully permitted is not required to apply for or possess a driver's license under the laws of the state of Montana."

Section 3. Section 23-2-634, MCA, is amended to read:

"23-2-634. Regulation of snowmobile noise. (1) Except as provided in this section, each snowmobile must be equipped at all times with noise-suppression devices, including an exhaust muffler in good working order and in constant operation. A snowmobile may not be modified by any person in any manner that will amplify or otherwise increase total noise emissions to a level greater than that emitted by the snowmobile as originally constructed, regardless of date of manufacture.

(2) Each person who owns or operates a snowmobile manufactured after June 30, 1972, but prior to June 30, 1975, shall maintain the machine in such a manner that it will not exceed a sound level limitation of 82 dbA measured at 50 feet.

(3) A snowmobile manufactured after June 30, 1975, except snowmobiles designated for competition purposes only, may not be sold or offered for sale unless that machine has been certified by the manufacturer as being able to conform to a sound level limitation of not more than 78 dbA measured at 50 feet. Each person who owns or operates a snowmobile manufactured after June 30, 1975, shall maintain the machine in a manner so that it will not exceed a sound level limitation of 78 dbA measured at 50 feet.

(4) A manufacturer who certifies that a new snowmobile can comply with the noise limitation requirements of ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-617, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644~~ *this part* shall affix a permanent notice of that certification to every snowmobile offered for sale in the state of Montana.

(5) In certifying that a new snowmobile can comply with the noise limitation requirements of ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-617, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644~~ *this part*, a manufacturer shall make the certification based upon measurements made in accordance with SAE recommended practice J192, as amended. The department, in enforcing the provisions of this section, shall make measurements of snowmobile noise in accordance with applicable practices used by the international snowmobile manufacturers association or with other standards for measurement of sound level that the department may adopt.

(6) This section does not apply to organized races or similar competitive events held on:

(a) private lands or waters, with the permission of the owner, lessee, or custodian of the land or waters; or

(b) public lands or waters, with the consent of the public agency having the authority to grant consent."

Section 4. Section 23-2-636, MCA, is amended to read:

“23-2-636. Snowmobile Winter trail pass – fees – penalties.

(1) Except for snowmobiles for which a nonresident temporary-use permit is purchased pursuant to 23-2-615 and except as provided in subsection (4), to be eligible to operate a snowmobile or a dog sled or to use motorized equipment or mechanical transport in snowmobile areas groomed with a grant or funding assistance awarded by the department, a person shall first purchase a snowmobile winter trail pass for:

(a) \$20, if the snowmobile or motorized equipment is registered in Montana pursuant to 61-3-321 or the person operating the dog sled or mechanical transport is a resident as determined under 1-1-215. A trail pass purchased pursuant to this subsection (1)(a) is valid for up to 2 years from the date of purchase but no later than June 30 of the second year.; or

(b) \$35, if the snowmobile or motorized equipment is exempt from registration in Montana pursuant to 61-3-321 or the person operating the dog sled or mechanical transport is not a resident as determined under 1-1-215. This subsection (1)(b) does not apply to motorized equipment exempt from registration in Montana pursuant to 61-3-321(14). A trail pass purchased pursuant to this subsection (1)(b) is valid for up to 1 year from the date of purchase but no later than June 30 of the following year.

(2) The trail pass is valid for 2 years from the date of purchase and must be affixed in a conspicuous place to each snowmobile, dog sled, motorized equipment, or mechanical transport used. A trail pass expires on June 30 of the second year and is not transferable between a snowmobile, dog sled, motorized equipment, or mechanical transport. If a snowmobile is sold with an affixed trail pass, the trail pass may continue to be used by the purchaser of the snowmobile until it expires.

(3) Application for the issuance of the trail pass must be made at locations and on forms prescribed by the department.

(4) The purchase of a trail pass is not required for:

(a) A person renting a snowmobile registered pursuant to 61-3-321(11)(c), is not required to purchase a snowmobile trail pass but the person shall carry proof of rental if operating a the snowmobile in a snowmobile area that otherwise requires a trail pass pursuant to subsection (1);

(b) a person participating in a sanctioned dog sled race; or

(c) motorized equipment exempt from registration in Montana pursuant to 61-3-321(14).

(5) Money Except for 50 cents, which is a search and rescue surcharge deposited pursuant to 87-1-601, money collected by payment of fees under this section must be deposited in the state special revenue fund to the credit of the department and used as follows:

(a) \$2 must be remitted to the vendor who sold the trail pass if the vendor is not the department;

(b) \$1 \$1.50 must be used for the enforcement of snowmobile laws pursuant to this part; and

(c) the remainder must be used by the department to award grants or funding assistance to snowmobile area operators for the grooming of snowmobile areas for the statewide snowmobile trail grooming program.

(6) The failure to affix the trail pass as required by this section or the making of false statements in obtaining the trail pass is a misdemeanor, punishable by a fine of not less than \$25 or more than \$100.

(7) To be eligible for a snowmobile trail pass pursuant to this section, an all-terrain vehicle must have a wheel base of less than 50 inches in width

and be equipped with tracks instead of wheels while operating on a groomed snowmobile trail administered by the department.

(8) For the purposes of this section:

(a) “motorized equipment” means any motorized equipment allowed by a snowmobile area operator; and

(b) “snowmobile” includes snowmobiles used for demonstration purposes by snowmobile dealers.”

Section 5. Section 23-2-641, MCA, is amended to read:

“23-2-641. Enforcement. (1) With respect to the sale of any new snowmobile that is subject to the provisions of ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-617, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644~~ *this part*, the attorney general shall, upon the request of the department, sue for the recovery of the penalties provided in 23-2-642 and bring an action for a restraining order or temporary or permanent injunction against a person who sells or offers to sell a new snowmobile that does not satisfy the sound level limitations imposed by ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-617, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644~~ *this part*.

(2) (a) The department is a criminal justice agency for the purpose of obtaining the technical assistance and support services provided by the board of crime control under the provisions of 44-7-101. Authorized officers of the department are granted peace officer status with the power:

(i) of search, seizure, and arrest;

(ii) to investigate activities in this state regulated by this part and rules of the department and the fish and wildlife commission; and

(iii) to report violations to the county attorney of the county in which they occur.

(b) Sheriffs and their deputies of the various counties of the state, the Montana highway patrol, authorized officers of the department, and the police of each municipality shall enforce the provisions of this part.”

Section 6. Section 23-2-642, MCA, is amended to read:

“23-2-642. Penalties. (1) The failure to display a current registration decal on a snowmobile is a misdemeanor, punishable by a fine in an amount equal to five times the applicable registration fee payable under 61-3-321.

(2) A person who violates any other provision of ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-617, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644~~ *this part* or a rule adopted pursuant to ~~those sections~~ *this part* shall pay a civil penalty of not less than \$15 or more than \$500 for each separate violation. If the violation is willful, the person shall pay a civil penalty of not less than \$50 or more than \$1,000 for each separate violation.

(3) A manufacturer who certifies that a new snowmobile meets the sound level limitations imposed by ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-617, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644~~ *this part* is subject to the penalty provisions of subsection (2) if the machine so certified does not meet the appropriate sound level limitation. For the purposes of this section, each sale of a new snowmobile that does not meet the sound level limitations imposed by ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-617, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644~~ *this part* constitutes a separate violation.”

Section 7. Section 61-3-321, MCA, is amended to read:

“61-3-321. Registration fees of vehicles and vessels – certain vehicles exempt from registration fees – disposition of fees – definition.

(1) Except as otherwise provided in this section, registration fees must be paid

upon registration or, if applicable, renewal of registration of motor vehicles, snowmobiles, watercraft, trailers, semitrailers, and pole trailers as provided in subsections (2) through (20).

(2) (a) Except as provided in subsection (2)(b), unless a light vehicle is permanently registered under 61-3-562, the annual registration fee for light vehicles, trucks, and buses that weigh 1 ton or less and for logging trucks that weigh 1 ton or less is as follows:

- (i) if the vehicle is 4 or less years old, \$217;
- (ii) if the vehicle is 5 through 10 years old, \$87; and
- (iii) if the vehicle is 11 or more years old, \$28.

(b) For a light vehicle with a manufacturer's suggested retail price of more than \$150,000 that is 10 years old or less, the annual registration fee is the amount provided for in subsection (2)(a) plus \$825.

(3) (a) Except as provided in subsections (3)(b) and (15), the one-time registration fee based on the declared weight of a trailer, semitrailer, or pole trailer is as follows:

- (i) if the declared weight is less than 6,000 pounds, \$61.25; or
- (ii) if the declared weight is 6,000 pounds or more, \$148.25.

(b) For a trailer, semitrailer, or pole trailer that is registered under 61-3-701, the annual registration fee based on the declared weight is as follows:

- (i) if the declared weight is less than 6,000 pounds, \$30; or
- (ii) if the declared weight is 6,000 pounds or more, \$60.

(4) Except as provided in subsection (15), the one-time registration fee for motor vehicles owned and operated solely as collector's items pursuant to 61-3-411, based on the weight of the vehicle, is as follows:

- (a) 2,850 pounds and over, \$10; and
- (b) under 2,850 pounds, \$5.

(5) (a) Except as provided in subsections (5)(b) and (15), the one-time registration fee for off-highway vehicles other than a quadricycle or motorcycle is \$61.25.

(b) Whenever a valid summer motorized recreation trail pass issued pursuant to 23-2-111 is affixed to an off-highway vehicle other than a quadricycle or motorcycle, the one-time registration fee is \$41.25.

(6) The annual registration fee for heavy trucks, buses, and logging trucks in excess of 1 ton is \$22.75.

(7) (a) Except as provided in subsection (7)(c), the annual registration fee for a motor home, based on the age of the motor home, is as follows:

- (i) less than 2 years old, \$282.50;
- (ii) 2 years old and less than 5 years old, \$224.25;
- (iii) 5 years old and less than 8 years old, \$132.50; and
- (iv) 8 years old and older, \$97.50.

(b) The owner of a motor home that is 11 years old or older and that is subject to the registration fee under this section may permanently register the motor home upon payment of:

- (i) a one-time registration fee of \$237.50;
- (ii) unless a new set of license plates is being issued, an insurance verification fee of \$5, which must be deposited in the account established under 61-6-158;
- (iii) if applicable, five times the renewal fees for personalized license plates under 61-3-406; and
- (iv) if applicable, the donation fee for a generic specialty license plate under 61-3-480 or a collegiate license plate under 61-3-465.

(c) For a motor home with a manufacturer's suggested retail price of more than \$300,000 that is 10 years old or less, the annual registration fee is the amount provided in subsection (7)(a) plus \$800.

(8) (a) (i) Except as provided in subsections (8)(b), (8)(c), and (15), the one-time registration fee for motorcycles and quadricycles registered for use on the public highways is \$53.25, the one-time registration fee for motorcycles and quadricycles registered for off-highway use is \$53.25, and the one-time registration fee for motorcycles and quadricycles registered for both off-road use and for use on the public highways is \$114.50.

(ii) An additional fee of \$16 must be collected for the registration of each motorcycle or quadricycle as a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002.

(b) (i) The annual registration fee for motorcycles and quadricycles registered for use on the public highways under 61-3-701 is \$44.

(ii) The annual registration fee for motorcycles and quadricycles registered for off-highway use under 61-3-701 is \$44.

(iii) The annual registration fee for motorcycles and quadricycles registered for both off-road use and for use on the public highways under 61-3-701 is \$88.

(iv) An additional safety fee of \$7 must be collected annually for each motorcycle or quadricycle registered under 61-3-701. The safety fee must be deposited in the state motorcycle safety account provided for in 20-25-1002.

(c) Whenever a valid summer motorized recreation trail pass issued pursuant to 23-2-111 is affixed to a motorcycle or quadricycle, the one-time registration fee for motorcycles and quadricycles registered for:

(i) use on the public highways is \$33.25; and

(ii) both off-road use and for use on the public highways is \$94.50.

(9) Except as provided in subsection (15), the one-time registration fee for travel trailers, based on the length of the travel trailer, is as follows:

(a) under 16 feet in length, \$72; and

(b) 16 feet in length or longer, \$152.

(10) Except as provided in subsection (15), the one-time registration fee for a motorboat, sailboat, personal watercraft, or motorized pontoon required to be numbered under 23-2-512 is as follows:

(a) for a personal watercraft or a motorboat, sailboat, or motorized pontoon less than 16 feet in length, \$65.50;

(b) for a motorboat, sailboat, or motorized pontoon at least 16 feet in length but less than 19 feet in length, \$125.50; and

(c) for a motorboat, sailboat, or motorized pontoon 19 feet in length or longer, \$295.50.

(11) (a) Except as provided in subsections (11)(b), (11)(c), and (15), the one-time registration fee for a snowmobile is \$60.50.

(b) Whenever a valid ~~snowmobile~~ *winter* trail pass issued pursuant to 23-2-636 is affixed to a snowmobile, the one-time registration fee is \$40.50.

(c) (i) A snowmobile that is licensed by a Montana business and is owned exclusively for the purpose of daily rental to customers is assessed:

(A) a fee of \$40.50 in the first year of registration; and

(B) if the business reregisters the snowmobile for a second year, a fee of \$20.

(ii) If the business reregisters the snowmobile for a third year, the snowmobile must be permanently registered and the business is assessed the registration fee imposed in subsection (11)(a).

(12) (a) The one-time registration fee for a low-speed electric vehicle is \$25.

(b) The one-time registration fee for a golf cart that is owned by a person who has or is applying for a low-speed restricted driver's license is \$25.

(c) The one-time registration fee for golf carts authorized to operate on certain public streets and highways pursuant to 61-8-391 is \$25. Upon receipt of the fee, the department shall issue the owner a decal, which must be displayed visibly on the golf cart.

(13) (a) Except as provided in subsection (13)(b), a fee of \$10 must be collected when a new set of standard license plates, a new single standard license plate, or a replacement set of special license plates required under 61-3-332 is issued. The \$10 fee imposed under this subsection does not apply when previously issued license plates are transferred under 61-3-335. All registration fees imposed under this section must be paid if the vehicle to which the plates are transferred is not currently registered.

(b) An additional fee of \$15 must be collected if a vehicle owner elects to keep the same license plate number from license plates issued before January 1, 2010, when replacement of those plates is required under 61-3-332(3).

(c) The fees imposed in this subsection (13) must be deposited in the account established under 61-6-158, except that \$2 of the fee imposed in subsection (13)(a) must be deposited in the state general fund.

(14) The provisions of this part with respect to the payment of registration fees do not apply to and are not binding upon motor vehicles, trailers, semitrailers, snowmobiles, watercraft, or tractors owned or controlled by the United States of America or any state, county, city, or special district, as defined in 18-8-202, or to a vehicle or vessel that meets the description of property exempt from taxation under 15-6-201(1)(a), (1)(d), (1)(e), (1)(g), (1)(h), (1)(i), (1)(k), (1)(l), (1)(n), or (1)(o), 15-6-203, or 15-6-215, except as provided in 61-3-520.

(15) Whenever ownership of a trailer, semitrailer, pole trailer, off-highway vehicle, motorcycle, quadricycle, travel trailer, motor home, motorboat, sailboat, personal watercraft, motorized pontoon, snowmobile, motor vehicle owned and operated solely as a collector's item pursuant to 61-3-411, or low-speed electric vehicle is transferred, the new owner shall title and register the vehicle or vessel as required by this chapter and pay the fees imposed under this section.

(16) A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section.

(17) Except as otherwise provided in this section, revenue collected under this section must be deposited in the state general fund.

(18) The fees imposed by subsections (2) through (12) are not required to be paid by a dealer for the enumerated vehicles or vessels that constitute inventory of the dealership.

(19) (a) Unless a person exercises the option in either subsection (19)(b) or (19)(c), an additional fee of \$9 must be collected for each light vehicle registered under this part. This fee must be accounted for and transmitted separately from the registration fee. Of the \$9 fee:

(i) \$6.74 must be deposited in the state special revenue account established in 23-1-105 and used for state parks;

(ii) 50 cents must be deposited in an account in the state special revenue fund to the credit of the department of fish, wildlife, and parks and used for fishing access sites;

(iii) \$1.37 must be deposited in the trails and recreation facilities state special revenue account established in 23-2-108; and

(iv) 39 cents must be deposited in the Montana heritage preservation and development account established in 22-3-1004 and used for the operation of state-owned facilities at Virginia City and Nevada City.

(b) A person who registers a light vehicle may, at the time of annual registration, certify that the person does not intend to use the vehicle to visit

state parks and fishing access sites and may make a written election not to pay the additional \$9 fee provided for in subsection (19)(a). If a written election is made, the fee may not be collected.

(c) (i) A person who registers one or more light vehicles may, at the time of annual registration, certify that the person does not intend to use any of the vehicles to visit state parks and fishing access sites and may make a written election not to pay the additional \$9 fee provided for in subsection (19)(a). If a written election is made, the fee may not be collected at any subsequent annual registration unless the person makes the written election to pay the additional fee on one or more of the light vehicles.

(ii) The written election not to pay the additional fee on a light vehicle expires if the vehicle is registered to a different person.

(20) For each light vehicle, trailer, semitrailer, pole trailer, heavy truck, motor home, motorcycle, quadricycle, and travel trailer subject to a registration fee under this section, an additional fee of \$10 must be collected and forwarded to the state for deposit in the account established in 44-1-504.

(21) (a) If a person exercises the option in subsection (21)(b), an additional fee of \$5 must be collected for each light vehicle registered under this part. This fee must be accounted for and transmitted separately from the registration fee. The fee must be deposited in an account in the state special revenue fund. Funds in the account are statutorily appropriated, as provided in 17-7-502, to the department of transportation and must be allocated as provided in 60-3-309.

(b) A person who registers one or more light vehicles may, at the time of annual registration, make a written or electronic election to pay the additional \$5 fee provided for in subsection (21)(a).

(22) This section does not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is governed by 61-3-721.

(23) (a) The \$800 and \$825 amounts collected based on the manufacturer's suggested retail price in subsections (2) and (7) are exempt from the provisions of 15-1-122 and must be deposited in the motor vehicle division administration account established in 61-3-112.

(b) By August 15 of each year, beginning in the fiscal year beginning July 1, 2019, the department of justice shall deposit into the general fund an amount equal to the fiscal yearend balance minus 25% of the current fiscal year appropriation for the account established in 61-3-112.

(24) For the purposes of this section, "manufacturer's suggested retail price" means the price suggested by a manufacturer for each given type, style, or model of a light vehicle or motor home produced and first made available for retail sale by the manufacturer."

Section 8. Section 87-1-601, MCA, is amended to read:

"87-1-601. Use of fish and game money. (1) (a) Except as provided in 87-1-290, 87-1-293, 87-1-623, and subsections (8) and (10) of this section, all money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from damages collected for violations of the fish and game laws of this state, or from appropriations or received by the department from any other state source must be turned over to the department of revenue and placed in the state special revenue fund to the credit of the department.

(b) Any money received from federal sources must be deposited in the federal special revenue fund to the credit of the department.

(c) All interest earned on money from the following sources must be placed in the state special revenue fund to the credit of the department:

(i) the general license account;

(ii) the license drawing account;
(iii) accounts established to administer the provisions of 87-1-246, 87-1-258, 87-1-605, 87-2-411, 87-2-722, and 87-2-724; and

(iv) money received from the sale of any other hunting and fishing license.

(2) Except as provided in 87-2-411, the money described in subsection (1) must be exclusively set apart and made available for the payment of all salaries, per diem, fees, expenses, and expenditures authorized to be made by the department under the terms of this title. The money described in subsection (1) must be spent for those purposes by the department, subject to appropriation by the legislature.

(3) Any reference to the fish and game fund in Title 87 means fish and game money in the state special revenue fund and the federal special revenue fund.

(4) Except as provided in subsections (8) and (9), all money collected or received from fines and forfeited bonds, except money collected or received by a justice's court, that relates to violations of state fish and game laws under Title 87 must be deposited by the department of revenue and credited to the department in a state special revenue fund account for this purpose. Out of any fine imposed by a court for the violation of the fish and game laws, the costs of prosecution must be paid to the county where the trial was held in any case in which the fine is not imposed in addition to the costs of prosecution.

(5) (a) Except as provided in 87-1-621, section 2(3), Chapter 560, Laws of 2005, and subsection (6) of this section, money must be deposited in an account in the permanent fund if it is received by the department from:

(i) the sale of surplus real property;

(ii) exploration or development of oil, gas, or mineral deposits from lands acquired by the department, except royalties or other compensation based on production; and

(iii) leases of interests in department real property not contemplated at the time of acquisition.

(b) The interest derived from the account, but not the principal, may be used only for the purpose of operation, development, and maintenance of real property of the department and only upon appropriation by the legislature. If the use of money as set forth in this section would result in violation of applicable federal laws or state statutes specifically naming the department or money received by the department, then the use of this money must be limited in the manner, method, and amount to those uses that do not result in a violation.

(6) Money received from the sale or lease of lands acquired and managed for the purposes of Title 23, chapter 1, must be deposited in the state special revenue fund in the account established for miscellaneous funds received for state parks and may be used only for the purposes of Title 23, chapter 1.

(7) Money received from the collection of license drawing applications is subject to the deposit requirements of 17-6-105(6) unless the department has submitted and received approval for a modified deposit schedule pursuant to 17-6-105(8).

(8) Money collected or received from fines or forfeited bonds for the violation of 77-1-801, 77-1-806, or rules adopted under 77-1-804 must be deposited in the state general fund.

(9) The department of revenue shall deposit in the state general fund one-half of the money received from the fines imposed pursuant to Title 87, chapter 6.

(10) (a) The department shall deposit all money received from the search and rescue ~~surcharge~~ *surcharges* in 23-2-636 and 87-2-202 in a state special

revenue account to the credit of the department for search and rescue purposes as provided for in 10-3-801.

(b) Upon certification by the department of reimbursement requests submitted by the department of military affairs for search and rescue missions involving persons engaged in hunting, fishing, or trapping, the department may transfer funds from the special revenue account to the search and rescue account provided for in 10-3-801 to reimburse counties for the costs of those missions as provided in 10-3-801.

(c) Using funds in the department's search and rescue account that are not already committed to reimbursement for search and rescue missions, the department may provide matching funds to the department of military affairs to reimburse counties for search and rescue training and equipment costs up to the proportion that the number of search and rescue missions involving persons engaged in hunting, fishing, or trapping bears to the statewide total of search and rescue missions.

(d) Any money deposited in the special revenue account is available for reimbursement of search and rescue missions and to provide matching funds to reimburse counties for search and rescue training and equipment costs."

Section 9. Repealer. The following sections of the Montana Code Annotated are repealed:

23-2-615. Nonresident temporary-use snowmobile permits -- use of fees.

Section 10. Effective date. [This act] is effective on passage and approval.

Approved April 8, 2021

CHAPTER NO. 154

[SB 13]

AN ACT REVISING WATER RIGHT ADJUDICATION LAWS; INTEGRATING EXAMINATION OF EXEMPT RIGHTS INTO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION PERFORMANCE BENCHMARKS RELATED TO WATER RIGHT ADJUDICATION; ALLOWING EXEMPT RIGHTS TO BE PUBLISHED IN THE SAME SUPPLEMENTAL PRELIMINARY DECREE AS OTHER CLAIMS; AMENDING SECTIONS 85-2-231 AND 85-2-271, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 85-2-231, MCA, is amended to read:

"85-2-231. Temporary preliminary decree, preliminary decree, and supplemental preliminary decree. (1) A water judge may issue a temporary preliminary decree prior to the issuance of a preliminary decree if the temporary preliminary decree is necessary for the orderly adjudication or administration of water rights.

(2) (a) The water judge shall issue a preliminary decree. The preliminary decree must be based on:

(i) the statements of claim before the water judge, including all claims filed pursuant to 85-2-222 for a preliminary decree issued after June 30, 2019;

(ii) the data submitted by the department;

(iii) the contents of compacts approved by the Montana legislature and the tribe or federal agency or, lacking an approved compact, the filings for federal and Indian reserved rights; and

(iv) any additional data obtained by the water judge.

(b) The preliminary decree must be issued within 90 days after the close of the special filing period set out in 85-2-702(3) or as soon after the close of that period as is reasonably feasible.

(c) In a basin in which a water judge has issued a preliminary decree prior to July 1, 2019, the water judge shall issue a supplemental preliminary decree; ~~containing only those that includes but is not limited to~~ claims for exempt rights, as defined in 85-2-222, that were not included in a preliminary decree and for which notice has not been provided under 85-2-233(6).

(d) The water judge may issue an interlocutory decree if an interlocutory decree is otherwise necessary for the orderly administration of water rights.

(3) A temporary preliminary decree may be issued for any hydrologically interrelated portion of a water division, including but not limited to a basin, subbasin, drainage, subdrainage, stream, or single source of supply of water, or any claim or group of claims at a time different from the issuance of other temporary preliminary decrees.

(4) The temporary preliminary decree, preliminary decree, or supplemental preliminary decree must contain the information and make the determinations, findings, and conclusions required for the final decree under 85-2-234.

(5) If the water judge is satisfied that the report of the water master meets the requirements for the preliminary decree and is satisfied with the conclusions contained in the report, the water judge shall adopt the report as the preliminary decree. If the water judge is not satisfied, the water judge may recommit the report to the master with instructions or modify the report and issue the preliminary decree.

(6) The department shall examine claims in basins that were verified rather than examined as ordered by the water court. The objection and hearing provisions of Title 85, chapter 2, part 2, apply to these claims. (Subsection (6) terminates June 30, 2028--sec. 10, Ch. 269, L. 2015.)"

Section 2. Section 85-2-271, MCA, is amended to read:

"85-2-271. (Temporary) Benchmarks – action taken if not met – claims examination priority. (1) (a) The water court shall prioritize basins for the purpose of claims examination and reexamination by the department.

(b) The chief water judge has the authority to order that reexamination be completed for a certain basin in a higher priority than claims examination. If the chief water judge issues an order requiring the department to reexamine claims rather than examining claims, the number of claims that were reexamined must be counted against the amount of claims that the department is required to examine for that period.

(2) (a) The benchmarks that are provided in subsection (2)(b) must be met. If the benchmarks are not met, money for water adjudication may not be included in the department's base budget.

(b) The benchmarks are as follows:

(i) the department shall reexamine 10,000 verified claims by June 30, 2017;

(ii) the department shall reexamine 30,000 verified claims by June 30, 2019;

(iii) the department shall *examine or* reexamine ~~60,000 verified~~ 65,000 claims by June 30, ~~2021~~ 2022; ~~and~~

(iv) the department shall *examine or* reexamine ~~90,000 verified~~ 85,000 claims by June 30, 2023;

(v) *the department shall examine or reexamine 95,000 claims by June 30, 2024; and*

(vi) the department shall examine or reexamine all timely filed claims by June 30, 2025. (Terminates June 30, 2028--secs. 10, 11, Ch. 269, L. 2015.)”

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

Approved April 8, 2021

CHAPTER NO. 155

[HB 37]

AN ACT CLARIFYING REQUIREMENTS FOR THE MEDICALLY NEEDY MEDICAID PROGRAM; ESTABLISHING THAT ELIGIBLE INDIVIDUALS MAY NOT BE REQUIRED TO QUALIFY THROUGH ONLY ONE METHOD FOR THE PROGRAM; CLARIFYING THAT MEDICAL EXPENSES FOR HOME AND COMMUNITY-BASED SERVICES WAIVER PARTICIPANTS MUST BE COUNTED IN THE SAME MANNER AS MEDICAL EXPENSES FOR OTHER MEDICALLY NEEDY INDIVIDUALS; AMENDING SECTIONS 53-4-1110, 53-6-113, AND 53-6-131, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 53-4-1110, MCA, is amended to read:

“53-4-1110. (Temporary) Exemption from resource test. An otherwise applicable eligibility resource test provided for in 53-6-113(6) and 53-6-131(8)(9) does not apply to plan applicants. (Terminates June 30, 2025, on occurrence of contingency--sec. 48, Ch. 415, L. 2019.)

53-4-1110. (Effective on occurrence of contingency) Exemption from resource test. An otherwise applicable eligibility resource test provided for in 53-6-113(6) and 53-6-131(7)(8) does not apply to plan applicants.”

Section 2. Section 53-6-113, MCA, is amended to read:

“53-6-113. Department to adopt rules. (1) The department shall adopt appropriate rules necessary for the administration of the Montana medicaid program as provided for in this part and that may be required by federal laws and regulations governing state participation in medicaid under Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as amended.

(2) The department shall adopt rules that are necessary to further define for the purposes of this part the services provided under 53-6-101 and to provide that services being used are medically necessary and that the services are the most efficient and cost-effective available. The rules may establish the amount, scope, and duration of services provided under the Montana medicaid program, including the items and components constituting the services.

(3) The department shall establish by rule the rates for reimbursement of services provided under this part. The department may in its discretion set rates of reimbursement that it determines necessary for the purposes of the program. In establishing rates of reimbursement, the department may consider but is not limited to considering:

- (a) the availability of appropriated funds;
- (b) the actual cost of services;
- (c) the quality of services;
- (d) the professional knowledge and skills necessary for the delivery of services; and

- (e) the availability of services.

(4) The department shall specify by rule those professionals who may deliver or direct the delivery of particular services.

(5) The department may provide by rule for payment by a recipient of a portion of the reimbursements established by the department for services provided under this part.

(6) (a) The department may adopt rules consistent with this part to govern eligibility for the Montana medicaid program, including the medicaid program provided for in 53-6-195. Rules may include but are not limited to financial standards and criteria for income and resources, treatment of resources, nonfinancial criteria, family responsibilities, residency, application, termination, definition of terms, confidentiality of applicant and recipient information, and cooperation 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.

(b) The department may not apply financial criteria below \$15,000 for resources other than income in determining the eligibility of a child under 19 years of age for poverty level-related children's medicaid coverage groups, as provided in 42 U.S.C. 1396a(l)(1)(B) through (l)(1)(D).

(c) The department may not apply financial criteria below \$15,000 for an individual and \$30,000 for a couple for resources other than income in determining the eligibility of individuals for the medicaid program for workers with disabilities provided for in 53-6-195.

(d) (i) *The department may not adopt rules or policies requiring a person who is eligible for medicaid pursuant to 53-6-131(1)(e)(ii)(A) to:*

(A) make only a cash payment to qualify for medicaid under that subsection; or

(B) only incur medical expenses as a means of qualifying for medicaid under that subsection.

(ii) If a person eligible for medicaid under 53-6-131(1)(e)(ii)(A) is participating in a home and community-based services waiver, the department shall count as an eligible medical expense any medical service or item that a nonwaiver medicaid member is allowed to count as a medical expense to qualify for medicaid under 53-6-131(1)(e)(ii)(A).

(iii) Nothing in this subsection (6)(d) may be construed as preventing a person from making only a cash payment to qualify for medicaid pursuant to 53-6-131(1)(e)(ii)(A).

(7) The department may adopt rules limiting eligibility based on criteria more restrictive than that provided in 53-6-131 if required by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, or if funds appropriated are not sufficient to provide medical care for all eligible persons.

(8) The department may adopt rules necessary for the administration of medicaid managed care systems. Rules to be adopted may include but are not limited to rules concerning:

(a) participation in managed care;

(b) selection and qualifications for providers of managed care; and

(c) standards for the provision of managed care.

(9) Subject to subsection (6), the department shall establish by rule income limits for eligibility for extended medical assistance of persons receiving section 1931 medicaid benefits, as defined in 53-4-602, who lose eligibility because of increased income to the assistance unit, as that term is defined in the rules of the department, as provided in 53-6-134, and shall also establish by rule the length of time for which extended medical assistance will be provided. The department, in exercising its discretion to set income limits and duration of assistance, may consider the amount of funds appropriated by the legislature.

(10) Unless required by federal law or regulation, the department may not adopt rules that exclude a child from medicaid services or require prior

authorization for a child to access medicaid services if the child would be eligible for or able to access the services without prior authorization if the child was not in foster care.”

Section 3. Section 53-6-131, MCA, is amended to read:

“53-6-131. (Temporary) Eligibility requirements. (1) Medical assistance under the Montana medicaid program may be granted to a U.S. citizen or a qualified alien as defined in 8 U.S.C. 1641 who is determined by the department of public health and human services to be a Montana resident and, in its discretion, to be eligible as follows:

(a) The person receives or is considered to be receiving supplemental security income benefits under Title XVI of the Social Security Act, 42 U.S.C. 1381, et seq., and does not have income or resources in excess of the applicable medical assistance limits.

(b) The person would be eligible for assistance under the program described in subsection (1)(a) if that person were to apply for that assistance.

(c) The person is in a medical facility that is a medicaid provider and, but for residence in the facility, the person would be receiving assistance under the program in subsection (1)(a).

(d) The person is:

(i) under 21 years of age and in foster care under the supervision of the state or was in foster care under the supervision of the state and has been adopted as a child with special needs; or

(ii) under 18 years of age and is in a guardianship subsidized by the department pursuant to 41-3-444.

(e) The person meets the nonfinancial criteria of the categories in subsections (1)(a) through (1)(d) and:

(i) the person’s income does not exceed the income level specified for federally aided categories of assistance and the person’s resources are within the resource standards of the federal supplemental security income program; or

(ii) the person, while having income greater than the medically needy income level specified for federally aided categories of assistance:

(A) has an adjusted income level, after incurring medical expenses, that does not exceed the medically needy income level specified for federally aided categories of assistance or, alternatively, has paid in cash to the department the amount by which the person’s income exceeds the medically needy income level specified for federally aided categories of assistance; and

(B) (I) in the case of a person who meets the nonfinancial criteria for medical assistance because the person is aged, blind, or disabled, has resources that do not exceed the resource standards of the federal supplemental security income program; or

(II) in the case of a person who meets the nonfinancial criteria for medical assistance because the person is pregnant, is an infant or child, or is the caretaker of an infant or child, has resources that do not exceed the resource standards adopted by the department.

(f) The person is a qualified pregnant woman or a child as defined in 42 U.S.C. 1396d(n).

(g) The person is under 19 years of age and lives with a family having a combined income that does not exceed 185% of the federal poverty level. The department may establish lower income levels to the extent necessary to maximize federal matching funds provided for in 53-4-1104.

(2) The department shall require an applicant to provide proof of the applicant’s residency in this state.

(3) (a) The department may establish income and resource limitations. Limitations of income and resources must be within the amounts permitted by federal law for the medicaid program. Any otherwise applicable eligibility resource test prescribed by the department does not apply to enrollees in the healthy Montana kids plan provided for in 53-4-1104.

(b) The department may not count as a resource an individual retirement account that was established by a person participating in the medicaid program for workers with disabilities provided for in 53-6-195 if:

(i) the person is no longer eligible for coverage under 53-6-195; and

(ii) the individual retirement account was established during the time the person was receiving benefits through the medicaid program for workers with disabilities.

(4) *(a) The department may not require a person who is eligible for medicaid under subsection (1)(e)(ii)(A) to:*

(i) make only a cash payment to qualify for medicaid under that subsection;

or

(ii) only incur medical expenses as a means of qualifying for medicaid under that subsection.

(b) If a person eligible for medicaid under subsection (1)(e)(ii)(A) is participating in a home and community-based services waiver, the department shall count as an eligible medical expense any medical service or item that a nonwaiver medicaid applicant is allowed to count as a medical expense to qualify for medicaid under subsection (1)(e)(ii)(A).

(c) Nothing in this subsection (4) may be construed as preventing a person from making only a cash payment to qualify for medicaid pursuant to subsection (1)(e)(ii)(A).

(4)(5) The Montana medicaid program shall pay, as required by federal law, the premiums necessary for medicaid-eligible persons participating in the medicare program and may, within the discretion of the department, pay all or a portion of the medicare premiums, deductibles, and coinsurance for a qualified medicare-eligible person or for a qualified disabled and working individual, as defined in section 6408(d)(2) of the federal Omnibus Budget Reconciliation Act of 1989, Public Law 101-239, who:

(a) has income that does not exceed income standards as may be required by the Social Security Act; and

(b) has resources that do not exceed standards that the department determines reasonable for purposes of the program.

(5)(6) The department may pay a medicaid-eligible person's expenses for premiums, coinsurance, and similar costs for health insurance or other available health coverage, as provided in 42 U.S.C. 1396b(a)(1).

(6)(7) In accordance with waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department of public health and human services may grant eligibility for basic medicaid benefits as described in 53-6-101 to an individual receiving section 1931 medicaid benefits, as defined in 53-4-602, as the specified caretaker relative of a dependent child under the section 1931 medicaid program. A recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage, as provided in 53-6-101.

(7)(8) The department, under the Montana medicaid program, may provide, if a waiver is not available from the federal government, medicaid and other assistance mandated by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, and not specifically listed in this part to categories of persons that may be designated by the act for receipt of assistance.

(8)(9) Notwithstanding any other provision of this chapter, medical assistance must be provided to infants and pregnant women whose family income does not exceed income standards adopted by the department that comply with the requirements of 42 U.S.C. 1396a(l)(2)(A)(i) and whose family resources do not exceed standards that the department determines reasonable for purposes of the program.

(9)(10) Subject to appropriations, the department may cooperate with and make grants to a nonprofit corporation that uses donated funds to provide basic preventive and primary health care medical benefits to children whose families are ineligible for the Montana medicaid program and who are ineligible for any other health care coverage, are under 19 years of age, and are enrolled in school if of school age.

(10)(11) A person described in subsection (8) (9) must be provided continuous eligibility for medical assistance, as authorized in 42 U.S.C. 1396a(e)(5) through (e)(7).

(11)(12) Full medical assistance under the Montana medicaid program may be granted to an individual during the period in which the individual requires treatment of breast or cervical cancer, or both, or of a precancerous condition of the breast or cervix, if the individual:

(a) has been screened for breast and cervical cancer under the Montana breast and cervical health program funded by the centers for disease control and prevention program established under Title XV of the Public Health Service Act, 42 U.S.C. 300k, or in accordance with federal requirements;

(b) needs treatment for breast or cervical cancer, or both, or a precancerous condition of the breast or cervix;

(c) is not otherwise covered under creditable coverage, as provided by federal law or regulation;

(d) is not eligible for medical assistance under any mandatory categorically needy eligibility group; and

(e) has not attained 65 years of age.

(12)(13) Subject to the limitation in 53-6-195, the department shall provide medicaid coverage to workers with disabilities as provided in 53-6-195 and in accordance with 42 U.S.C. 1396a(a)(10)(A)(ii)(XIII) and (r)(2) and 42 U.S.C. 1396o.

(13)(14) Nothing in subsection (1) may be construed as allowing the department to deny enrollment for a reason that is impermissible under federal law or regulation. (Terminates June 30, 2025, on occurrence of contingency--sec. 48, Ch. 415, L. 2019.)

53-6-131. (Effective on occurrence of contingency) Eligibility requirements. (1) Medical assistance under the Montana medicaid program may be granted to a person who is determined by the department of public health and human services, in its discretion, to be eligible as follows:

(a) The person receives or is considered to be receiving supplemental security income benefits under Title XVI of the Social Security Act, 42 U.S.C. 1381, et seq., and does not have income or resources in excess of the applicable medical assistance limits.

(b) The person would be eligible for assistance under the program described in subsection (1)(a) if that person were to apply for that assistance.

(c) The person is in a medical facility that is a medicaid provider and, but for residence in the facility, the person would be receiving assistance under the program in subsection (1)(a).

(d) The person is:

(i) under 21 years of age and in foster care under the supervision of the state or was in foster care under the supervision of the state and has been adopted as a child with special needs; or

(ii) under 18 years of age and is in a guardianship subsidized by the department pursuant to 41-3-444.

(e) The person meets the nonfinancial criteria of the categories in subsections (1)(a) through (1)(d) and:

(i) the person's income does not exceed the income level specified for federally aided categories of assistance and the person's resources are within the resource standards of the federal supplemental security income program; or

(ii) the person, while having income greater than the medically needy income level specified for federally aided categories of assistance:

(A) has an adjusted income level, after incurring medical expenses, that does not exceed the medically needy income level specified for federally aided categories of assistance or, alternatively, has paid in cash to the department the amount by which the person's income exceeds the medically needy income level specified for federally aided categories of assistance; and

(B) (I) in the case of a person who meets the nonfinancial criteria for medical assistance because the person is aged, blind, or disabled, has resources that do not exceed the resource standards of the federal supplemental security income program; or

(II) in the case of a person who meets the nonfinancial criteria for medical assistance because the person is pregnant, is an infant or child, or is the caretaker of an infant or child, has resources that do not exceed the resource standards adopted by the department.

(f) The person is a qualified pregnant woman or a child as defined in 42 U.S.C. 1396d(n).

(g) The person is under 19 years of age and lives with a family having a combined income that does not exceed 185% of the federal poverty level. The department may establish lower income levels to the extent necessary to maximize federal matching funds provided for in 53-4-1104.

(2) (a) The department may establish income and resource limitations. Limitations of income and resources must be within the amounts permitted by federal law for the medicaid program. Any otherwise applicable eligibility resource test prescribed by the department does not apply to enrollees in the healthy Montana kids plan provided for in 53-4-1104.

(b) The department may not count as a resource an individual retirement account that was established by a person participating in the medicaid program for workers with disabilities provided for in 53-6-195 if:

(i) the person is no longer eligible for coverage under 53-6-195; and

(ii) the individual retirement account was established during the time the person was receiving benefits through the medicaid program for workers with disabilities.

(3) The Montana medicaid program shall pay, as required by federal law, the premiums necessary for medicaid-eligible persons participating in the medicare program and may, within the discretion of the department, pay all or a portion of the medicare premiums, deductibles, and coinsurance for a qualified medicare-eligible person or for a qualified disabled and working individual, as defined in section 6408(d)(2) of the federal Omnibus Budget Reconciliation Act of 1989, Public Law 101-239, who:

(a) has income that does not exceed income standards as may be required by the Social Security Act; and

(b) has resources that do not exceed standards that the department determines reasonable for purposes of the program.

(4) (a) *The department may not require a person who is eligible for medicaid under subsection (1)(e)(ii)(A) to:*

(i) *make only a cash payment to qualify for medicaid under that subsection;*
or

(ii) *only incur medical expenses as a means of qualifying for medicaid under that subsection.*

(b) If a person eligible for medicaid under subsection (1)(e)(ii)(A) is participating in a home and community-based services waiver, the department shall count as an eligible medical expense any medical service or item that a nonwaiver medicaid applicant is allowed to count as a medical expense to qualify for medicaid under subsection (1)(e)(ii)(A).

(c) *Nothing in this subsection (4) may be construed as preventing a person from making only a cash payment to qualify for medicaid pursuant to subsection (1)(e)(ii)(A).*

~~(4)~~(5) The department may pay a medicaid-eligible person's expenses for premiums, coinsurance, and similar costs for health insurance or other available health coverage, as provided in 42 U.S.C. 1396b(a)(1).

~~(5)~~(6) In accordance with waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department of public health and human services may grant eligibility for basic medicaid benefits as described in 53-6-101 to an individual receiving section 1931 medicaid benefits, as defined in 53-4-602, as the specified caretaker relative of a dependent child under the section 1931 medicaid program. A recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage, as provided in 53-6-101.

~~(6)~~(7) The department, under the Montana medicaid program, may provide, if a waiver is not available from the federal government, medicaid and other assistance mandated by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, and not specifically listed in this part to categories of persons that may be designated by the act for receipt of assistance.

~~(7)~~(8) Notwithstanding any other provision of this chapter, medical assistance must be provided to infants and pregnant women whose family income does not exceed income standards adopted by the department that comply with the requirements of 42 U.S.C. 1396a(l)(2)(A)(i) and whose family resources do not exceed standards that the department determines reasonable for purposes of the program.

~~(8)~~(9) Subject to appropriations, the department may cooperate with and make grants to a nonprofit corporation that uses donated funds to provide basic preventive and primary health care medical benefits to children whose families are ineligible for the Montana medicaid program and who are ineligible for any other health care coverage, are under 19 years of age, and are enrolled in school if of school age.

~~(9)~~(10) A person described in subsection ~~(7)~~ (8) must be provided continuous eligibility for medical assistance, as authorized in 42 U.S.C. 1396a(e)(5) through (e)(7).

~~(10)~~(11) Full medical assistance under the Montana medicaid program may be granted to an individual during the period in which the individual requires treatment of breast or cervical cancer, or both, or of a precancerous condition of the breast or cervix, if the individual:

(a) has been screened for breast and cervical cancer under the Montana breast and cervical health program funded by the centers for disease control and prevention program established under Title XV of the Public Health Service Act, 42 U.S.C. 300k, or in accordance with federal requirements;

(b) needs treatment for breast or cervical cancer, or both, or a precancerous condition of the breast or cervix;

(c) is not otherwise covered under creditable coverage, as provided by federal law or regulation;

(d) is not eligible for medical assistance under any mandatory categorically needy eligibility group; and

(e) has not attained 65 years of age.

(11)(12) Subject to the limitation in 53-6-195, the department shall provide medicaid coverage to workers with disabilities as provided in 53-6-195 and in accordance with 42 U.S.C. 1396a(a)(10)(A)(ii)(XIII) and (r)(2) and 42 U.S.C. 1396o.”

Section 4. Effective date. [This act] is effective July 1, 2021.

Approved April 8, 2021

CHAPTER NO. 156

[HB 39]

AN ACT PROVIDING FOR CONTINUED INTERIM LEGISLATIVE REVIEW OF CHILD PROTECTIVE SERVICES MATTERS; REQUIRING REPORTING ON THE RESULTS OF PILOT PROJECTS FOR CHILD ABUSE AND NEGLECT PROCEEDINGS; ESTABLISHING CONDITIONS FOR APPOINTMENT OF A WORKING GROUP; PROVIDING FOR WORKING GROUP MEMBERSHIP AND DUTIES; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Emergency protective service hearings -- findings -- report to interim committee -- working group. (1) The legislature finds that district courts concerned about high numbers of child abuse and neglect cases have undertaken federally grant-funded pilot projects to institute prehearing conferences and quicker show cause hearings in order to improve:

(a) the manner and timeliness with which the cases are handled; and

(b) the outcomes for children and families involved in the child protective services system.

(2) The legislature further finds that the district courts and the office of court administrator are collecting data to evaluate the effectiveness of the pilot projects, including whether the pilot projects have led to quicker reunification of families or resulted in permanency for children more quickly.

(3) The legislature further finds that the information collected as part of the pilot projects would assist the legislature in determining effective approaches to:

(a) reducing the number of children in out-of-home care;

(b) reducing the length of time children who are removed from the home spend in out-of-home care;

(c) providing for family reunification; and

(d) ensuring that children are placed in a permanent and stable living situation in the quickest and safest manner possible.

(4) The office of the court administrator and the district courts involved in the pilot projects shall report the results of the pilot projects to the 2021-2022 children, families, health, and human services interim committee no later than September 30, 2021.

(5) (a) If the preliminary results indicate that the pilot projects improved outcomes in child abuse and neglect proceedings, the interim committee shall create a working group to undertake the following activities during the 2021-2022 interim:

(i) determine whether the elements of the pilot projects could be replicated in other areas of the state;

(ii) evaluate whether existing child abuse and neglect statutes must be revised to implement the pilot projects more widely;

(iii) assess, to the degree possible, the costs of implementing the pilot projects more widely; and

(iv) make recommendations to the committee on legislation, funding, and other elements needed to carry out the pilot projects in other regions of the state.

(b) The working group must be composed of:

(i) at least two committee members, one from each political party as selected by the presiding officer of the committee;

(ii) one representative each of:

(A) a county attorney's office;

(B) the office of state public defender;

(C) court-appointed special advocates;

(D) the department of public health and human services;

(E) district court judges;

(F) the court improvement program; and

(G) the public; and

(iii) one person with experience in requirements and procedures relating to the Indian Child Welfare Act.

(c) (i) The presiding officer of the committee shall appoint the nonlegislative members based on recommendations from associations or agencies representing the entities listed in subsection (5)(b). Appointees should have experience with child abuse and neglect proceedings.

(ii) At least two of the appointees must be from rural communities.

(6) (a) A nonlegislative member of the working group who is not a full-time salaried officer or employee of the state or a political subdivision of the state is entitled to salary and expenses to the same extent as a legislative member.

(b) A working group member who is a full-time salaried officer or employee of the state or of a political subdivision of the state is entitled to reimbursement for travel expenses as provided for in 2-18-501 through 2-18-503.

(7) The children, families, health, and human services interim committee shall report to the legislature, as provided in 5-11-210, on the recommendations of the working group.

Section 2. Appropriation. There is appropriated \$10,000 from the general fund to the legislative services division for the biennium beginning July 1, 2021, for the working group provided for in [section 1].

Section 3. Effective date. [This act] is effective July 1, 2021.

Approved April 8, 2021

CHAPTER NO. 157

[HB 58]

AN ACT EXTENDING THE APPLICATION OF THE BOND VALIDATING ACT; AMENDING SECTION 17-5-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 17-5-205, MCA, is amended to read:

“17-5-205. Application. The application of the Bond Validating Act, Title 17, chapter 5, part 2, is extended to bonds issued and proceedings taken prior to ~~April 18, 2019~~ *[the effective date of this act].”*

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 8, 2021

CHAPTER NO. 158

[HB 71]

AN ACT REVISING CERTAIN CAMPAIGN FINANCE REPORTING DEADLINES FOR MUNICIPAL CANDIDATES AND POLITICAL COMMITTEES; AMENDING SECTION 13-37-226, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-37-226, MCA, is amended to read:

“13-37-226. Time for filing reports. (1) Except as provided in 13-37-206 and 13-37-225(3), a candidate shall file reports required by 13-37-225(1)(a) containing the information required by 13-37-229, 13-37-231, and 13-37-232 as follows:

(a) quarterly, due on the 5th day following a calendar quarter, beginning with the calendar quarter in which funds are received or expended during the year or years prior to the election year that the candidate expects to be on the ballot and ending in the final quarter of the year preceding the year of an election in which the candidate participates;

(b) *except as provided in subsection (4)(a)*, the 20th day of March, April, May, June, August, September, October, and November in the year of an election in which the candidate participates;

(c) within 2 business days of receiving a contribution of \$100 or more if received between the 15th day of the month preceding an election in which the candidate participates and the day of the election;

(d) within 2 business days of making an expenditure of \$100 or more if made between the 15th day of the month preceding an election in which the candidate participates and the day of the election;

(e) semiannually on the 10th day of March and September, starting in the year following an election in which the candidate participates until the candidate files a closing report as specified in 13-37-228(3); and

(f) as provided by subsection (3).

(2) Except as provided in 13-37-206, 13-37-225(3), and 13-37-227, a political committee shall file reports required by 13-35-225(1)(a) containing the information required by 13-37-229, 13-37-231, and 13-37-232 as follows:

(a) quarterly, due on the 5th day following a calendar quarter, beginning with the calendar quarter in which the political committee receives a contribution or makes an expenditure after an individual becomes a candidate or an issue becomes a ballot issue, as defined in 13-1-101(6)(b), and ending in the final quarter of the year preceding the year in which the candidate or the ballot issue appears on the ballot;

(b) *except as provided in subsection (4)(b)*, the 30th day of March, April, May, June, August, September, October, and November in the year of an election in which the political committee participates;

(c) within 2 business days of receiving a contribution, except as provided in 13-37-232, of \$500 or more if received between the 25th day of the month

before an election in which the political committee participates and the day of the election; ~~and~~

(d) within 2 business days of making an expenditure of \$500 or more that is made between the 25th day of the month before an election in which the political committee participates and the day of the election;

(e) quarterly, due on the 5th day following a calendar quarter, beginning in the calendar quarter following a year of an election in which the political committee participates until the political committee files a closing report as specified in 13-37-228(3); and

(f) as provided by subsection (3).

(3) In addition to the reports required by subsections (1), ~~and~~ (2), *and* (4), if a candidate or a political committee participates in a special election, the candidate or political committee shall file reports as follows:

(a) a report on the 60th, 35th, and 12th days preceding the date of the special election; and

(b) 20 days after the special election.

(4) *(a) A candidate for a municipal office who participates in an election held in an odd-numbered year shall file the reports required in subsection (1) on the 20th day of June, July, August, September, October, and November of the year of the election in which the candidate participates.*

(b) A political committee that participates in a municipal election held in an odd-numbered year shall file the reports required in subsection (2) on the 30th day of June, July, August, September, October, and November of the year of the election in which the committee participates.

~~(4)(5)~~ Except as provided by 13-37-206, candidates for a local office and political committees that receive contributions or make expenditures referencing a particular local issue or a local candidate shall file the reports specified in subsections (1) through ~~(3)~~ (4) only if the total amount of contributions received or the total amount of funds expended for all elections in a campaign exceeds \$500.

~~(5)(6)~~ A report required by this section must cover contributions received and expenditures made pursuant to the time periods specified in 13-37-228.

~~(6)(7)~~ A political committee may file a closing report prior to the date in 13-37-228(3) and after the complete termination of its contribution and expenditure activity during an election cycle.

~~(7)(8)~~ For the purposes of this section:

(a) a candidate participates in an election by attempting to secure nomination or election to an office that appears on the ballot; and

(b) a political committee participates in an election by receiving a contribution or making an expenditure.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 8, 2021

CHAPTER NO. 159

[HB 95]

AN ACT REVISING THE CONFIDENTIALITY OF ETHICS COMPLAINTS; REMOVING CONFIDENTIALITY PROVISIONS RELATED TO ETHICS COMPLAINTS CONCERNING PUBLIC EMPLOYEES OR UNELECTED PUBLIC OFFICERS; REPEALING SECTION 2-2-140, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Repealer. The following sections of the Montana Code Annotated are repealed:

2-2-140. Complaint -- confidentiality.

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 8, 2021

CHAPTER NO. 160

[HB 139]

AN ACT REVISING DEATH CERTIFICATE FEES AND PROVIDING FOR THEIR USE AS A FUNDING SOURCE OF THE BOARD OF FUNERAL SERVICE; REQUIRING THE BOARD TO REPORT TO THE ECONOMIC AFFAIRS INTERIM COMMITTEE; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 7-4-2631 AND 50-15-111, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Special revenue account -- use of funds -- reporting requirement. (1) The department shall deposit in the state special revenue fund for use by the board the death certificate fees transferred to the department pursuant to 7-4-2631 and 50-15-111.

(2) The revenue received by the board under subsection (1) must be used by the board for the general administration of the board.

(3) The board may not reduce license fees to offset revenue raised by the death certificate fee.

(4) Any amount in excess of the amount allowed for board costs under 37-1-134 must be deposited in the state general fund.

(5) The board shall report to the economic affairs interim committee as provided in 5-11-210 on the status of the special revenue account and fees charged as a funding source for the board.

Section 2. Section 7-4-2631, MCA, is amended to read:

"7-4-2631. Fees of county clerk. (1) Except as provided in 7-2-2803(4), 7-4-2632, and 7-4-2637, and this section, the county clerks shall charge, for the use of their respective counties:

(a) for filing and indexing each writ of attachment, execution, certificate of sale, lien, or other instrument required by law to be filed and indexed, \$5;

(b) for filing of subdivision and townsite plats, \$25 plus:

(i) for each lot up to and including 100, 50 cents;

(ii) for each additional lot in excess of 100, 25 cents;

(c) for filing certificates of surveys and amendments thereto, \$25 plus 50 cents per tract or lot;

(d) for each page of a document required to be filed with a subdivision, townsite plat, or certificate of survey for which a filing fee is not otherwise set by law, \$1;

(e) for a copy of a record or paper:

(i) for the first page of any document, 50 cents, and 25 cents for each subsequent page; and

(ii) for each certification with seal affixed, \$2;

(f) for searching an index record of files of the office for each year when required in abstracting or otherwise, 50 cents;

(g) for administering an oath with certificate and seal, no charge;

(h) for taking and certifying an acknowledgment, with seal affixed, for signature to it, no charge;

(i) for filing, indexing, or other services provided for by Title 30, chapter 9A, part 5, the fees prescribed under those sections;

(j) for recording each stock subscription and contract, stock certificate, and articles of incorporation for water users' associations, \$3;

(k) for filing a copy of notarial commission and issuing a certificate of official character of such notary public, \$2;

(l) for each certified copy of a birth certificate, \$8, ~~and for each certified copy of a death certificate, \$5, and for each certified copy of a death certificate, \$7;~~

~~(m)~~(m) for electronic storage of minutes of an administrative board, district, or commission pursuant to 7-1-204, 7-11-1030, 7-13-2350, 7-22-2113, 7-33-2112, or 76-15-324, no charge; *and*

~~(n)~~(n) for filing, recording, or indexing any other instrument not expressly provided for in this section or 7-4-2632, the same fee provided in this section or 7-4-2632 for a similar service.

(2) The county clerks shall charge, for the use of their respective counties, the fee as provided in 7-4-2632 for recording and indexing the following:

(a) each certificate of location of a quartz or placer mining claim or millsite claim, including a certificate that the instrument has been recorded with the seal affixed; *and*

(b) each affidavit of annual labor on a mining claim, including a certificate that the instrument has been recorded with the seal affixed.

(3) State agencies submitting documents to be put of record shall pay the fees provided for in this section. If a state agency or political subdivision has requested an account with the county clerk, any applicable fees must be paid on a periodic basis.

(4) *(a) A county shall transfer \$2 of each fee collected for a death certificate issued under subsection (1)(l) to the department of revenue for deposit in the account in the state special revenue fund to the credit of the board of funeral service.*

(b) The fee must be transferred monthly unless the department and the county have agreed to a different transfer schedule."

Section 3. Section 50-15-111, MCA, is amended to read:

"50-15-111. Certified copy fee fees – transfer. (1) The department shall prescribe, by rule, a fee for:

(a) a certified copy of certificates or records *other than a death certificate*;

(b) a search of files or records when a copy is not made;

(c) a copy of information provided for statistical or administrative purposes as allowed by law;

(d) the replacement of a birth certificate subsequent to adoption, legitimation, paternity determination or acknowledgment, or court order;

(e) filing a delayed registration of a vital event;

(f) the amendment of a vital record, after 1 year from the date of filing; *and*

(g) other services specified by this chapter or by rule.

(2) *(a) The minimum fee for a death certificate must be:*

(i) \$16 for each certified copy, including any additional certified copies requested at the same time as the first certified copy; and

(ii) \$14 for each informational copy of a death certificate.

(b) The department may, by rule, prescribe a fee for a death certificate that is higher than the minimum fee listed in subsection (2)(a).

(2)(3) Fees received under subsection (1) must be deposited in the state special revenue fund to be used by the department for:

- (a) the maintenance of indexes to vital records;
- (b) the preservation of vital records; and
- (c) the administration of the system of vital statistics.

(4) *For fees received under subsection (2)(a), the department shall:*

(a) *transfer \$1 of each fee to the department of labor and industry for use as provided in [section 1]; and*

(b) *deposit the remainder of the fee in the state special revenue fund to be used by the department for the purposes listed in subsection (3)."*

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 37, chapter 19, part 2, and the provisions of Title 37, chapter 19, part 2, apply to [section 1].

Section 5. Effective date. [This act] is effective July 1, 2021.

Approved April 8, 2021

CHAPTER NO. 161

[HB 157]

AN ACT GENERALLY REVISING ALCOHOL LICENSING LAWS; ALLOWING A BREWERY OR WINERY TO BE LOCATED ADJACENT TO AN ON-PREMISES RETAIL LICENSE IF THE LICENSEES MAINTAIN ADEQUATE PHYSICAL SEPARATION; DEFINING ADEQUATE PHYSICAL SEPARATION; ALLOWING AN APPLICANT FOR AN ON-PREMISES ALCOHOL LICENSE TO HAVE A SPOUSE THAT HAS AN OWNERSHIP INTEREST IN ONE OR MORE MANUFACTURER LICENSES; AMENDING SECTIONS 16-3-311 AND 16-4-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 16-3-311, MCA, is amended to read:

"16-3-311. Suitable premises for licensed retail establishments.

(1) A licensed retailer may use a part of a building as premises licensed for on-premises consumption of alcoholic beverages. ~~The~~ *Except as provided in subsection (3), the* premises must be separated from the rest of the building by permanent walls but may have inside access during lawful hours of operation to the rest of the building even if the businesses or uses in the other part of the building are unrelated to the operation of the premises in which the alcoholic beverages are served.

(2) A licensee whose premises did not meet the requirements of this section on September 24, 1992, shall meet the requirements when an alteration to the premises has been completed and the department has approved the alteration. An alteration is any structural change in a premises. A cosmetic change, such as painting, carpeting, or other interior decorating, is not considered an alteration under this section.

(3) *An on-premises consumption retailer may be located adjacent to a brewery or winery if the licensees are able to maintain control of their respective premises through adequate physical separation.*

(4) (a) *For the purposes of this section, "adequate physical separation" means:*

(i) *the premises of the retailer and the premises of the brewery or winery are secured after business hours from each other and from any other business,*

including but not limited to prohibiting a customer from accessing a brewery sample room and purchasing alcohol after the brewery tasting room hours of operation as specified in 16-3-213(2)(b); and

(ii) the separation may include doors, gates, or windows that may be left open during business hours.

(b) The term does not require permanent floor-to-ceiling walls."

Section 2. Section 16-4-401, MCA, is amended to read:

"16-4-401. License as privilege – criteria for decision on application. (1) A license under this code is a privilege that the state may grant to an applicant and is not a right to which any applicant is entitled.

(2) Except as provided in 16-4-311 and subsection (6) of this section and subject to subsection (8), in the case of a license that permits on-premises consumption, the department shall find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) if the applicant is an individual:

(i) and the application is approved, the applicant will not possess an ownership interest in more than three establishments licensed under this chapter for all-beverages sales. However, resort retail all-beverages licenses issued under 16-4-213 do not count toward this limit.

(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;

(iii) the applicant or any member of the applicant's immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages, *except that an applicant's spouse may possess an ownership interest in one or more manufacturer licenses;*

(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; and

(v) the applicant is not under 19 years of age;

(b) if the applicant is a publicly traded corporation:

(i) each owner of 10% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (2)(a). If no single owner owns more than 10% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (2)(a).

(ii) each individual who has control over the operation of the license meets the requirements for an individual applicant listed in subsection (2)(a);

(iii) each person who shares in the profits or liabilities of a license meets the requirements for an individual applicant listed in subsection (2)(a). This subsection (2)(b)(iii) does not apply to a shareholder of a corporation who owns less than 10% of the outstanding stock in that corporation except that the provisions of subsection (8) apply.

(iv) the corporation is authorized to do business in Montana;

(c) if the applicant is a privately held corporation:

(i) each owner of 10% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (2)(a). If no single owner owns more than 10% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (2)(a), and the owners of 51% of the outstanding stock must meet the requirements of subsection (2)(a).

(ii) each individual who has control over the operation of the license meets the requirements for an individual applicant listed in subsection (2)(a);

(iii) each person who shares in the profits or liabilities of a license meets the requirements for an individual applicant listed in subsection (2)(a). This subsection (2)(c)(iii) does not apply to a shareholder of a corporation who owns less than 10% of the outstanding stock in that corporation except that the provisions of subsection (8) apply.

(iv) the corporation is authorized to do business in Montana;

(d) if the applicant is a general partnership, each partner must meet the requirements of subsection (2)(a);

(e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all limited partners whose ownership interest in the partnership equals or exceeds 10% must meet the requirements of subsection (2)(a). If no single limited partner's interest equals or exceeds 10%, then 51% of all limited partners must meet the requirements of subsection (2)(a).

(f) if the applicant is a limited liability company, all managing members and those members whose ownership interest in the company equals or exceeds 10% must meet the requirements of subsection (2)(a). If no single member's interest equals or exceeds 10%, then 51% of all members must meet the requirements of subsection (2)(a).

(3) In the case of a license that permits only off-premises consumption and subject to subsection (8), the department shall find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) if the applicant is an individual:

(i) and the application is approved, the applicant will not possess an ownership interest in more than three establishments licensed under this chapter for all-beverages sales;

(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;

(iii) the applicant or any member of the applicant's immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;

(iv) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, the applicant's rights have been restored;

(v) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; and

(vi) the applicant is not under 19 years of age;

(b) if the applicant is a publicly traded corporation:

(i) each owner of 10% or more of the outstanding stock meets the requirements for an individual listed in subsection (3)(a). If no single owner owns more than 10% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (3)(a).

(ii) the corporation is authorized to do business in Montana;

(c) if the applicant is a privately held corporation:

(i) each owner of 10% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (3)(a). If no single owner owns more than 10% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (3)(a), and

the owners of 51% of the outstanding stock must meet the requirements of subsection (3)(a).

(ii) the corporation is authorized to do business in Montana;

(d) if the applicant is a general partnership, each partner must meet the requirements of subsection (3)(a);

(e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all limited partners whose ownership interest in the partnership equals or exceeds 10% must meet the requirements of subsection (3)(a). If no single limited partner's interest equals or exceeds 10%, then 51% of all limited partners must meet the requirements of subsection (3)(a).

(f) if the applicant is a limited liability company, all managing members and those members whose ownership interest in the company equals or exceeds 10% must meet the requirements of subsection (3)(a). If no single member's interest equals or exceeds 10%, then 51% of all members must meet the requirements of subsection (3)(a).

(4) Subject to 16-4-311, in the case of a license that permits the manufacture, importing, or wholesaling of an alcoholic beverage, the department shall find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) if the applicant is an individual:

(i) the applicant has no ownership interest in any establishment licensed under this chapter for retail alcoholic beverages sales;

(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;

(iii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, the applicant's rights have been restored;

(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments;

(v) the applicant is not under 19 years of age; and

(vi) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or controlled by a manufacturer of an alcoholic beverage;

(b) if the applicant is a publicly traded corporation:

(i) each owner of 10% or more of the outstanding stock meets the requirements for an individual listed in subsection (4)(a). If no single owner owns more than 10% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (4)(a).

(ii) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or controlled by a manufacturer of an alcoholic beverage; and

(iii) the corporation is authorized to do business in Montana;

(c) if the applicant is a privately held corporation:

(i) each owner of 10% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (4)(a). If no single owner owns more than 10% of the outstanding stock, the applicant must designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (4)(a) and the owners of 51% of the outstanding stock must meet the requirements of subsection (4)(a).

(ii) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or controlled by a manufacturer of an alcoholic beverage; and

(iii) the corporation is authorized to do business in Montana;

(d) if the applicant is a general partnership, each partner must meet the requirements of subsection (4)(a);

(e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all limited partners whose ownership interest in the partnership equals or exceeds 10% must meet the requirements of subsection (4)(a). If no single limited partner's interest equals or exceeds 10%, then 51% of all limited partners must meet the requirements of subsection (4)(a).

(f) if the applicant is a limited liability company, all managing members and those members whose ownership interest in the company equals or exceeds 10% must meet the requirements of subsection (4)(a). If no single member's interest equals or exceeds 10%, then 51% of all members must meet the requirements of subsection (4)(a).

(5) In the case of a corporate applicant, the requirements of subsections (2)(b), (3)(b), and (4)(b) apply separately to each class of stock.

(6) The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant to 16-4-302.

(7) An applicant's source of funding must be from a suitable source. A lender or other source of money or credit may be found unsuitable if the source:

(a) is a person whose prior financial or other activities or criminal record:

(i) poses a threat to the public interest of the state;

(ii) poses a threat to the effective regulation and control of alcoholic beverages; or

(iii) creates a danger of illegal practices, methods, or activities in the conduct of the licensed business; or

(b) has been convicted of a felony offense within 5 years of the date of application or is on probation or parole or under deferred prosecution for committing a felony offense.

(8) (a) An individual applying for an all-beverages license or having any ownership interest in an entity applying for an all-beverages license may not, if the application were to be approved, own an interest in more than half the total number of allowable all-beverages licenses in any quota area described in 16-4-201.

(b) If two or more individuals through business or family relationship share in the profits or liabilities of all-beverages licenses, the aggregate number of licenses in which they share profits or liabilities may not exceed half the total number of allowable all-beverages licenses in the specific quota area in which the all-beverages licenses will be held."

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

Approved April 8, 2021

CHAPTER NO. 162

[HB 224]

AN ACT ALLOWING THE SNARING OF WOLVES BY LICENSED TRAPPERS;
AND AMENDING SECTION 87-1-901, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-1-901, MCA, is amended to read:

"87-1-901. Gray wolf management -- rulemaking -- reporting.

(1) Except as provided in subsection (2), the commission shall establish by

rule hunting and trapping seasons for wolves. *Trapping seasons must allow for the use of snares by the holder of a trapping license.* For game management purposes, the commission may authorize:

(a) the issuance of more than one Class E-1 or Class E-2 wolf hunting license to an applicant; and

(b) the trapping *or snaring* of more than one wolf by the holder of a trapping license.

(2) The commission shall adopt rules to allow a landowner or the landowner's agent to take a wolf on the landowner's property at any time without the purchase of a Class E-1 or Class E-2 wolf license when the wolf is a potential threat to human safety, livestock, or dogs. The rules must:

(a) be consistent with the Montana gray wolf conservation and management plan and the adaptive management principles of the commission and the department for the Montana gray wolf population;

(b) require a landowner or the landowner's agent who takes a wolf pursuant to this subsection (2) to promptly report the taking to the department and to preserve the carcass of the wolf;

(c) establish a quota each year for the total number of wolves that may be taken pursuant to this subsection (2); and

(d) allow the commission to issue a moratorium on the taking of wolves pursuant to this subsection (2) before a quota is reached if the commission determines that circumstances require a limitation of the total number of wolves taken.

(3) Public land permittees who have experienced livestock depredation must obtain a special kill permit authorized in 87-5-131(3)(b) to take a wolf on public land without the purchase of a Class E-1 or Class E-2 license.

(4) The department shall report annually to the environmental quality council regarding the implementation of 87-5-131, 87-5-132, and this section."

Approved April 8, 2021

CHAPTER NO. 163

[HB 225]

AN ACT GENERALLY REVISING WOLF TRAPPING SEASON LAWS; ESTABLISHING THE OPEN AND CLOSE OF WOLF TRAPPING SEASON; PROVIDING EXCEPTIONS; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 87-1-304, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-1-304, MCA, is amended to read:

"87-1-304. Fixing of seasons and bag and possession limits.

(1) Subject to the provisions of 87-5-302 and ~~subsection~~ *subsections (7) and (8)* of this section, the commission may:

(a) fix seasons, bag limits, possession limits, and season limits;

(b) open or close or shorten or lengthen seasons on any species of game, bird, fish, or fur-bearing animal as defined by 87-2-101;

(c) declare areas open to the hunting of deer, antelope, elk, moose, sheep, goat, mountain lion, bear, wild buffalo or bison, and wolf by persons holding an archery stamp and the required license, permit, or tag and designate times when only bows and arrows may be used to hunt deer, antelope, elk, moose, sheep, goat, mountain lion, bear, wild buffalo or bison, and wolf in those areas;

(d) subject to the provisions of 87-1-301(6), restrict areas and species to hunting with only specified hunting arms, including bow and arrow, for the reasons of safety or of providing diverse hunting opportunities and experiences; and

(e) declare areas open to special license holders only and issue special licenses in a limited number when the commission determines, after proper investigation, that a special season is necessary to ensure the maintenance of an adequate supply of game birds, fish, or animals or fur-bearing animals. The commission may declare a special season and issue special licenses when game birds, animals, or fur-bearing animals are causing damage to private property or when a written complaint of damage has been filed with the commission by the owner of that property. In determining to whom special licenses must be issued, the commission may, when more applications are received than the number of animals to be killed, award permits to those chosen under a drawing system. The procedures used for awarding the permits from the drawing system must be determined by the commission.

(2) The commission may adopt rules governing the use of livestock and vehicles by archers during special archery seasons.

(3) Subject to the provisions of 87-5-302 and subsection (7) of this section, the commission may divide the state into fish and game districts and create fish, game, or fur-bearing animal districts throughout the state. The commission may declare a closed season for hunting, fishing, or trapping in any of those districts and later may open those districts to hunting, fishing, or trapping.

(4) The commission may declare a closed season on any species of game, fish, game birds, or fur-bearing animals threatened with undue depletion from any cause. The commission may close any area or district of any stream, public lake, or public water or portions thereof to hunting, trapping, or fishing for limited periods of time when necessary to protect a recently stocked area, district, water, spawning waters, spawn-taking waters, or spawn-taking stations or to prevent the undue depletion of fish, game, fur-bearing animals, game birds, and nongame birds. The commission may open the area or district upon consent of a majority of the property owners affected.

(5) The commission may authorize the director to open or close any special season upon 12 hours' notice to the public.

(6) The commission may declare certain fishing waters closed to fishing except by persons under 15 years of age. The purpose of this subsection is to provide suitable fishing waters for the exclusive use and enjoyment of juveniles under 15 years of age, at times and in areas the commission in its discretion considers advisable and consistent with its policies relating to fishing.

(7) In an area immediately adjacent to a national park, the commission may not:

(a) prohibit the hunting or trapping of wolves; or

(b) close the area to wolf hunting or trapping unless a wolf harvest quota established by the commission for that area has been met.

(8) *The commission may authorize a wolf trapping season that opens the first Monday after Thanksgiving and closes March 15 of the following calendar year, except that the commission may adjust the dates for specific wolf management units based on regional recommendations."*

Approved April 8, 2021

CHAPTER NO. 164

[HB 304]

AN ACT CLARIFYING THE DEFINITION OF COMMUNITY LAND TRUSTS THAT OWN LAND TO PRESERVE AFFORDABLE HOUSING; AND AMENDING SECTION 70-23-102, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 70-23-102, MCA, is amended to read:

“70-23-102. Definitions. In this chapter, unless the context requires otherwise, the following definitions apply:

(1) “Association of unit owners” means all the unit owners acting as a group in accordance with the declaration and bylaws.

(2) “Borrower” means a mortgagor, grantor as defined in 71-1-303, or other debtor.

(3) “Building” means a multiple-unit building or buildings comprising a part of the property.

(4) “Common elements” means the general common elements and the limited common elements.

(5) “Common expenses” means:

(a) expenses of administration, maintenance, repair, or replacement of the common elements;

(b) expenses agreed upon as common by all the unit owners; and

(c) expenses declared common by 70-23-610 and 70-23-612 or by the declaration or the bylaws of the particular condominium.

(6) “Community land trust” means a nonprofit organization ~~exempt from taxation~~ under section 501(c)(3) of the Internal Revenue Code that holds title to land beneath individually owned ~~housing~~ units, *including but not limited to single-family homes, townhomes, condominiums, and multi-unit rental properties* for the purpose of preserving affordable housing.

(7) “Condominium” means the ownership of single units with common elements located on property submitted to the provisions of this chapter. The term does not include a townhome; ~~or a townhouse, a community land trust, or a housing unit located on land belonging to a community land trust.~~

(8) “Conversion” means a change in the character of residential real property from one or more parcels of land with attached condominium units to one or more parcels of land with attached townhome or townhouse units without a change to the undivided interest of the unit owners.

(9) “Declaration” means the instrument by which the property is submitted to the provisions of this chapter.

(10) “General common elements”, unless otherwise provided in a declaration or by consent of all the unit owners, means:

(a) the land on which the building is located, except any portion of the land included in a unit or made a limited common element by the declaration;

(b) the foundations, columns, girders, beams, supports, mainwalls, roofs, halls, corridors, lobbies, stairs, fire escapes, entrances, and exits of the building;

(c) the basements, yards, gardens, parking areas, and outside storage spaces, private pathways, sidewalks, and private roads;

(d) installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, waste disposal, and incinerating;

(e) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and installations existing for common use;

(f) the premises for the lodging of janitors or caretakers of the property; and

(g) all other elements of the building necessary or convenient to its existence, maintenance, and safety or normally in common use.

(11) “Lienholder” means a person holding a security interest, including a mortgagee, beneficiary of a trust indenture, or other creditor who holds a mortgage, trust indenture, or other instrument that encumbers real property.

(12) “Limited common elements” means those common elements designated in the declaration or by agreement of all the unit owners as reserved for the use of a certain unit or number of units to the exclusion of the other units.

(13) “Majority” or “majority of the unit owners”, unless otherwise provided in the declaration, means the owners of more than 50% in the aggregate of the undivided ownership interests in the general common elements as the percentage of interest in the element appertaining to each unit is expressed in the declaration. Whenever a percentage of the unit owners is specified, percentage means the percentage in the aggregate of undivided ownership.

(14) “Manager” means the manager, board of managers, or other person in charge of the administration of or managing the property.

(15) “Project” means a real estate condominium project whereby a condominium of two or more units located on property submitted to the provisions of this chapter is offered or proposed to be offered for sale.

(16) “Property” means the land, all buildings, improvements, and structures on the land, and all easements, rights, and appurtenances belonging to the land that are submitted to the provisions of this chapter.

(17) “Recording officer” means the county officer charged with the duty of filing and recording deeds and mortgages or other instruments or documents affecting the title to real property.

(18) “Townhome” or “townhouse” means property that is owned subject to an arrangement under which persons own their own units and hold separate title to the land beneath their units, but under which they may jointly own the common areas and facilities.

(19) “Unit” means a part of the property including one or more rooms occupying one or more floors or a part or parts of the property intended for any type of independent use and with a direct exit to a public street or highway or to a common area or area leading to a public street or highway.

(20) “Unit designation” means the number, letter, or combination of numbers and letters designating a unit in the declaration.

(21) “Unit owner” means the person owning a unit in fee simple absolute individually or as co-owner in any real estate tenancy relationship recognized under the laws of this state. However, for all purposes, including the exercise of voting rights, provided by lease filed with the presiding officer of the association of unit owners, a lessee of a unit must be considered a unit owner.”

Approved April 8, 2021

CHAPTER NO. 165

[HB 309]

AN ACT GENERALLY REVISING LAWS RELATED TO ABANDONED VEHICLES; AUTHORIZING A TRIBAL LAW ENFORCEMENT AGENCY TO TAKE AN ABANDONED VEHICLE INTO CUSTODY IN CERTAIN CIRCUMSTANCES; PROVIDING THAT A VEHICLE TAKEN INTO POSSESSION BY LAW ENFORCEMENT BECAUSE A DRIVER WAS ARRESTED MAY BE TREATED AS ABANDONED AFTER 60 DAYS; AND AMENDING SECTIONS 61-12-401, 61-12-402, 61-12-404, AND 61-12-405, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-12-401, MCA, is amended to read:

“61-12-401. Taking vehicle into custody. (1) The following law enforcement agencies may take into custody any vehicle found abandoned for

a period of 48 hours or more on a public highway or for a period of 5 days or more on a city street, public property, or private property:

(a) the Montana highway patrol if the vehicle is on the right-of-way of any public highway other than a county road;

(b) the sheriff of the county if the vehicle is on the right-of-way of any county road;

(c) the city police if the vehicle is on a city street;

(d) *a tribal law enforcement agency if the tribal government has entered into a cooperative agreement with the Montana highway patrol, the sheriff of a county, or the city police. When a cooperative agreement for law enforcement has been entered into, the tribal law enforcement agency has the same authority to take a vehicle into custody and is subject to the same requirements under this part as the applicable agency identified in subsections (1)(a) through (1)(c).*

(2) The Montana highway patrol, sheriff of the county, or city police, or tribal law enforcement agency may use their personnel, equipment, and facilities for the removal and storage of the vehicle or may hire other personnel, equipment, and facilities for those purposes.

(3) If the Montana highway patrol, the sheriff of the county, or the chief of police of the city, or the tribal law enforcement agency of the reservation in which the vehicle is being stored has hired other personnel, equipment, and facilities to remove and store a vehicle, the Montana highway patrol, sheriff, or chief of police, or tribal law enforcement agency shall:

(a) pay the person hired to remove the vehicle an amount not to exceed the amount for a removal charge established by rules adopted by the department of environmental quality and may request reimbursement of the hired removal charge from the motor vehicle recycling and disposal program of the department of environmental quality in an amount and manner established by rules adopted by the department of environmental quality for this purpose; or

(b) authorize the person hired to remove the vehicle to submit directly to the department of environmental quality a claim for payment to be made directly to the person hired to remove the vehicle.

(4) (a) At the request of the owner or person in lawful possession or control of the private property, the sheriff of the county in which the vehicle is located or, the city police of the city in which the vehicle is located, or the tribal law enforcement agency of the reservation in which the vehicle is located may remove and hold it in the manner and upon the conditions provided in subsections (1) and (2).

(b) A private landowner owning property considered to be part of ways of this state open to the public, as defined in 61-8-101, who can demonstrate meeting the 5-day waiting period in subsection (1) by calling one of the law enforcement agencies listed in subsection (1) at the start of the 5-day period may remove the abandoned vehicle within the conditions provided for in subsections (1) and (2)."

Section 2. Section 61-12-402, MCA, is amended to read:

"61-12-402. (Temporary) Notice to owner. (1) Within 72 hours after a vehicle is removed and held by or at the direction of the Montana highway patrol, the highway patrol shall notify the sheriff of the county or the chief of police of the city in which the vehicle is being stored of where and when the vehicle was taken into custody and of where the vehicle is being stored. In addition, the Montana highway patrol shall furnish the sheriff or the chief of police:

(a) a complete description of the vehicle, including year, make, model, serial number, and license number if available;

(b) any costs incurred to that date in the removal, storage, and custody of the vehicle; and

(c) any available information concerning the vehicle's ownership.

(2) The highway patrol shall notify the sheriff of the county or the chief of police of the city in which the vehicle was taken into custody of the location at which the vehicle is being stored if the vehicle was removed to a different county.

(3) The sheriff or the city police in the jurisdiction where the vehicle is being stored shall make reasonable efforts to ascertain the name and address of the owner, lienholder, or person entitled to possession of the vehicle taken into custody under 61-12-401. If a name and address are ascertained, the sheriff or the city police shall notify the owner, lienholder, or person of the location of the vehicle.

(4) If the vehicle is registered in the office of the department, notice is considered to have been given when a certified letter addressed to the registered owner of the vehicle and lienholder, if any, at the latest address shown by the records in the office of the department, return receipt requested and postage prepaid, is mailed at least 30 days before the vehicle is sold *as provided in 61-12-404(1)(a) or at least 60 days before the vehicle is sold as provided in 61-12-404(1)(b)*.

(5) If the identity of the last-registered owner cannot be determined, if the registration does not contain an address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice by one publication in one newspaper of general circulation in the county where the motor vehicle is being stored is sufficient to meet all requirements of notice pursuant to this part. The notice by publication may contain multiple listings of abandoned vehicles. The notice must be provided in the same manner as prescribed in 25-13-701(1)(b).

(6) If the abandoned vehicle is in the possession of a motor vehicle wrecking facility licensed under 75-10-511, the wrecking facility may make the required search to ascertain the name and address of the owner, lienholder, or person entitled to possession of the vehicle and shall give the notices required in subsections (3) through (5). The wrecking facility shall deliver to the sheriff or the city police a certificate describing the efforts made to ascertain the name and address of the owner, lienholder, or person entitled to possession of the vehicle and shall deliver to the sheriff or the city police proof of the notice given.

(7) (a) (i) A vehicle found by law enforcement officials to be a junk vehicle, as defined in 75-10-501, and that has a value of \$500 or less may be directly submitted for disposal in accordance with the provisions of Title 75, chapter 10, part 5, upon a release given by the sheriff or the city police. The county representative designated to implement the county motor vehicle recycling and disposal program pursuant to 75-10-521 for the county where the vehicle is being stored shall determine the value of the vehicle. In the release, the sheriff or the city police shall include a description of the vehicle, including year, make, model, serial number, and license number if available. If the vehicle is being stored by a motor vehicle wrecking facility, the sheriff or the city police shall transmit the release to the motor vehicle wrecking facility and the facility shall consider the release to meet the requirements for records under 61-3-225 and 75-10-512. If the vehicle is being stored by a qualified tow truck operator, as defined in 61-8-903, the sheriff or the city police shall transmit the release to the operator. Vehicles described in this section may be submitted for disposal without notice and without a required holding period.

(ii) A junk nonmotorized vehicle, as defined in 75-10-501, may be submitted for disposal as provided in this subsection (7)(a) pursuant to the same provisions as a junk vehicle if the county has agreed to accept junk nonmotorized vehicles for disposal pursuant to 75-10-521(10).

(b) A licensed vehicle that otherwise meets the definition of a junk vehicle, as defined in 75-10-501, and that has a value of \$500 or less may be directly submitted for disposal as provided in subsection (7)(a). (Terminates June 30, 2021--sec. 5, Ch. 427, L. 2019.)

61-12-402. (Effective July 1, 2021) Notice to owner. (1) Within 72 hours after a vehicle is removed and held by or at the direction of the Montana highway patrol, the highway patrol shall notify the sheriff of the county or the chief of police of the city in which the vehicle is being stored of where and when the vehicle was taken into custody and of where the vehicle is being stored. In addition, the Montana highway patrol shall furnish the sheriff or the chief of police:

(a) a complete description of the vehicle, including year, make, model, serial number, and license number if available;

(b) any costs incurred to that date in the removal, storage, and custody of the vehicle; and

(c) any available information concerning the vehicle's ownership.

(2) The highway patrol shall notify the sheriff of the county or the chief of police of the city in which the vehicle was taken into custody of the location at which the vehicle is being stored if the vehicle was removed to a different county.

(3) The sheriff or the city police in the jurisdiction where the vehicle is being stored shall make reasonable efforts to ascertain the name and address of the owner, lienholder, or person entitled to possession of the vehicle taken into custody under 61-12-401. If a name and address are ascertained, the sheriff or the city police shall notify the owner, lienholder, or person of the location of the vehicle.

(4) If the vehicle is registered in the office of the department, notice is considered to have been given when a certified letter addressed to the registered owner of the vehicle and lienholder, if any, at the latest address shown by the records in the office of the department, return receipt requested and postage prepaid, is mailed at least 30 days before the vehicle is sold *as provided in 61-12-404(1)(a) or at least 60 days before the vehicle is sold as provided in 61-12-404(1)(b)*.

(5) If the identity of the last-registered owner cannot be determined, if the registration does not contain an address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice by one publication in one newspaper of general circulation in the county where the motor vehicle is being stored is sufficient to meet all requirements of notice pursuant to this part. The notice by publication may contain multiple listings of abandoned vehicles. The notice must be provided in the same manner as prescribed in 25-13-701(1)(b).

(6) If the abandoned vehicle is in the possession of a motor vehicle wrecking facility licensed under 75-10-511, the wrecking facility may make the required search to ascertain the name and address of the owner, lienholder, or person entitled to possession of the vehicle and shall give the notices required in subsections (3) through (5). The wrecking facility shall deliver to the sheriff or the city police a certificate describing the efforts made to ascertain the name and address of the owner, lienholder, or person entitled to possession of the vehicle and shall deliver to the sheriff or the city police proof of the notice given.

(7) (a) A vehicle found by law enforcement officials to be a junk vehicle, as defined by 75-10-501, and that has a value of \$500 or less may be directly submitted for disposal in accordance with the provisions of Title 75, chapter 10, part 5, upon a release given by the sheriff or the city police. The county representative designated to implement the county motor vehicle recycling and disposal program pursuant to 75-10-521 for the county where the vehicle is being stored shall determine the value of the vehicle. In the release, the sheriff or the city police shall include a description of the vehicle, including year, make, model, serial number, and license number if available. If the vehicle is being stored by a motor vehicle wrecking facility, the sheriff or the city police shall transmit the release to the motor vehicle wrecking facility and the facility shall consider the release to meet the requirements for records under 61-3-225 and 75-10-512. If the vehicle is being stored by a qualified tow truck operator, as defined in 61-8-903, the sheriff or the city police shall transmit the release to the operator. Vehicles described in this section may be submitted for disposal without notice and without a required holding period.

(b) A licensed vehicle that otherwise meets the definition of a junk vehicle, as defined in 75-10-501, and that has a value of \$500 or less may be directly submitted for disposal as provided in subsection (7)(a)."

Section 3. Section 61-12-404, MCA, is amended to read:

"61-12-404. Sale or release of vehicle if not reclaimed. (1) (a) *If Except as provided in subsection (1)(b), if a vehicle is not reclaimed, as provided in 61-12-403, within 30 days after notification by certified mail or prescribed publication, the sheriff of the county or the city police of the city in which the vehicle is being stored may sell it at public auction in the manner provided in 25-13-701 through 25-13-709.*

(b) *When a vehicle is taken into custody as a result of the arrest of the driver of the vehicle, the owner, lienholder, or person entitled to possession of the vehicle has 60 days after notification by certified mail or prescribed publication to reclaim the vehicle as provided in 61-12-403. If the vehicle is not reclaimed within 60 days after notification, the vehicle may be considered abandoned and may be sold under the provisions of this section.*

(2) If the sheriff or city police elect not to sell a vehicle under subsection (1)(a) or (1)(b) and the vehicle is being stored by a qualified tow truck operator, as defined in 61-8-903, the sheriff or city police shall release the vehicle to the qualified tow truck operator.

(3) After a vehicle has been sold pursuant to subsection (1)(a) or (1)(b) or released pursuant to subsection (2), the former owner or person entitled to possession has no further right, title, claim, or interest in or to the vehicle."

Section 4. Section 61-12-405, MCA, is amended to read:

"61-12-405. Certificate of sale or release. (1) (a) If a vehicle is sold as provided in 61-12-404(1)(a) or (1)(b), the sheriff or the city police at the time of the payment of the purchase price shall execute a certificate of sale in duplicate and shall deliver the original certificate to the purchaser and retain the copy.

(b) The certificate of sale must contain the name and address of the purchaser, the date of sale, the consideration paid, a description of the vehicle, and a stipulation that no warranty is made as to the condition or title of the vehicle.

(2) (a) If a vehicle is released as provided in 61-12-404(2), the sheriff or city police shall execute a certificate of release to the qualified tow truck operator in duplicate and shall deliver the original certificate to the operator and retain the copy.

(b) The certificate of release must contain the name and address of the operator, the date of release, a description of the vehicle, including year, make,

model, serial number, and license number if available, and a stipulation that no warranty is made as to the condition or title of the vehicle.”

Section 5. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Approved April 8, 2021

CHAPTER NO. 166

[HB 353]

AN ACT AUTHORIZING THE ISSUANCE OF REPLACEMENT HUNTING LICENSES, PERMITS, AND TAGS FOR HARVESTED GAME ANIMALS DETERMINED TO BE UNFIT FOR HUMAN CONSUMPTION; AMENDING SECTIONS 87-2-104 AND 87-6-304, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-2-104, MCA, is amended to read:

“87-2-104. Number of licenses, permits, or tags allowed – fees.

(1) The department may prescribe rules and regulations for the issuance or sale of a replacement license, permit, or tag if the original license, permit, or tag is lost, stolen, or destroyed upon payment of a fee not to exceed \$5.

(2) *The department shall issue a replacement license, permit, or tag to a person who lawfully harvested a game animal, but the meat of the animal was determined by the department to be unfit for human consumption due to disease or prior injury. To obtain a replacement license, permit, or tag pursuant to this subsection, the person:*

(a) *shall surrender the entire animal determined to be unfit for human consumption; and*

(b) *may choose to be issued the replacement for the same license year or the next license year.*

(2)(3) When authorized by the commission for game management purposes, the department may:

(a) issue more than one Class A-3 resident deer A, Class A-4 resident deer B, Class B-7 nonresident deer A, Class B-8 nonresident deer B, Class E-1 resident wolf, Class E-2 nonresident wolf, or special antelope license to an applicant;

(b) issue a special antlerless moose license, a special cow or calf bison license, or one or more special adult ewe mountain sheep licenses to an applicant; and

(c) issue one or more Class A-9 resident antlerless elk B tag licenses or Class B-12 nonresident antlerless elk B tag licenses to an applicant. Unless otherwise reduced pursuant to subsection (4) (5), the fee for a Class B-12 license is \$270.

(3)(4) For all of the game management licenses issued under subsection (2) (3), the commission shall determine the hunting districts or portions of hunting districts for which the licenses are to be issued, the number of licenses to be issued, and all terms and conditions for the use of the licenses.

(4)(5) The fee for a resident or nonresident license of any class issued under subsection (2) (3) may be reduced annually by the department.”

Section 2. Section 87-6-304, MCA, is amended to read:

“87-6-304. License, permit, or tag offenses. (1) A person may not apply for, purchase, or possess more than one license, permit, or tag of any one

class or more than one special license for any one species listed in 87-2-701. This provision does not apply to Class B-4, Class B-5, or Class E-2 licenses or to licenses issued under 87-2-104(2)(3) for game management purposes. However, when more than one license, permit, or tag is authorized by the commission, a person may not apply for, purchase, or possess more licenses, permits, or tags than are authorized.

(2) The holder of a replacement license, permit, or tag may not make the replacement license, permit, or tag available for use by another person.

(3) Except as provided in 87-6-305(2), a person to whom a license or permit has been issued may not fish, hunt for any game bird or game animal, or attempt to hunt for any fur-bearing animal in this state unless the person is carrying the required license or permit at the time.

(4) A person may not refuse to exhibit a license or permit and the identification used in purchasing a license or permit for inspection to a warden or other officer requesting to see it.

(5) A person may not at any time alter or change a license in any material manner or loan or transfer any license to another person. A person other than the person to whom a license is issued may not use the license. A person may not attach the person's license to a game animal killed by another person.

(6) A person convicted of a violation of this section shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, except as provided in subsection (7), the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(7) A person convicted under subsection (1), (2), or (5) of unlawfully procuring, possessing, using, or transferring a replacement license, permit, or tag shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture of bond or bail unless a court imposes a longer period. For each subsequent violation, the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for the same period of time imposed by the court for the person's previous violation plus an additional 24 months."

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

Approved April 8, 2021

CHAPTER NO. 167

[HB 437]

AN ACT REMOVING REFERENCES TO AND REPEALING THE BOARD OF RESEARCH AND COMMERCIALIZATION TECHNOLOGY; AMENDING SECTION 90-1-120, MCA; REPEALING SECTION 2-15-1819, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 90-1-120, MCA, is amended to read:

"90-1-120. Trade activities. The department of commerce through its state trade expansion program or an equivalent program shall:

(1) promote the state through trade show delegations at key events regionally, nationally, and globally;

(2) work with the Montana agriculture development council, the tourism advisory council, the Montana manufacturing extension center, ~~the Montana board of research and commercialization technology~~, the state workforce innovation board, and other state and national entities to improve funding for and access to supportive services for rural-based, veteran-owned, minority-owned, and women-owned businesses;

(3) work with local chambers of commerce, the governor's office of economic development, certified regional development corporations, and other economic development organizations in this state to inform citizens in this state in the most cost-effective manner possible of the services available through the department."

Section 2. Repealer. The following sections of the Montana Code Annotated are repealed:

2-15-1819. Board of research and commercialization technology.

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

Approved April 8, 2021

CHAPTER NO. 168

[HB 566]

AN ACT CLARIFYING EXISTING GUARANTOR EXONERATION LAW; AND AMENDING SECTION 28-11-211, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 28-11-211, MCA, is amended to read:

"28-11-211. When guarantor exonerated. (1) A guarantor is exonerated, except so far as the guarantor may be indemnified by the principal, if by any act of the creditor *not authorized by the original guaranty instrument* or without the *separate* consent of the guarantor, the original obligation of the principal is altered in any respect or the remedies or rights of the creditor against the principal in respect to the original obligation are in any way impaired or suspended.

(2) A promise by a creditor that for any cause is void or voidable by the creditor at the creditor's option does not alter the obligation or suspend or impair the remedy within the meaning of subsection (1)."

Approved April 8, 2021

CHAPTER NO. 169

[HB 594]

AN ACT EXEMPTING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FROM ENVIRONMENTAL REVIEW RELATED TO GRANTS FOR FOREST MANAGEMENT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Exemption from environmental review. The department is exempt from the provisions of Title 75, chapter 1, parts 1 and 2, when granting federal, state, or private funds for authorized grant activities on private, county, or municipal lands to conserve habitat, reduce wildfire risk, or improve forest health.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 76, chapter 13, and the provisions of Title 76, chapter 13, apply to [section 1].

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

Approved April 8, 2021

CHAPTER NO. 170

[SB 60]

AN ACT REQUIRING TRAPPER EDUCATION FOR RESIDENT TRAPPERS; PROVIDING EXCEPTIONS; PROVIDING INSTRUCTOR CERTIFICATION REQUIREMENTS; ESTABLISHING THE TRAPPER EDUCATION COMMITTEE; CREATING A SEPARATE FURBEARER HUNTING LICENSE FOR RESIDENTS WHO DON'T TRAP; STANDARDIZING REFERENCES TO THE HUNTER SAFETY AND EDUCATION COURSE; AMENDING SECTIONS 87-2-102, 87-2-105, 87-2-514, AND 87-2-601, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Trapper education required. (1) (a) Except as provided in subsection (2), a Class C trapper's license may not be issued to a resident unless the license agent processing the application determines proof of:

(i) the applicant's purchase of a trapper's license in three prior trapping seasons; or

(ii) completion of a trapper education course established pursuant to this section or otherwise approved by the trapper education committee.

(b) Neither the department nor a license agent is required to provide records of past Montana trapper's license purchases prior to 1990 or for trapping licenses purchased in another state.

(2) A resident is not required to complete a trapper education course if the resident:

(a) is trapping for the purposes of livestock or property protection; or

(b) completes the advanced level of the youth trapper camp offered by the Montana trappers association.

(3) The department shall provide a trapper education course that includes field instruction and classroom or online instruction and incorporates the trapper education manual from the Montana trappers association in the course resources. The course must:

(a) include but is not limited to instruction in trapping ethics, best practices, equipment, regulations, and avoidance of nontarget species;

(b) meet the requirements of rule or law for certification to trap wolves; and

(c) be reviewed and, as needed, revised by the trapper education committee established in subsection (6).

(4) To successfully complete a trapper education course, a person must pass a final exam. Upon successful completion, the department shall issue that person a certificate of completion.

(5) To be certified to teach a trapper education course established pursuant to this section, an instructor shall:

(a) pass a background check conducted by the department; and

(b) be deemed competent by the trapper education committee established in subsection (6) to give instruction in ethical and humane trapping methods.

(6) The department shall establish a trapper education committee consisting of three active, certified trapper instructors, two of whom are members of the Montana trappers association, and three department staff knowledgeable in trapping. The committee shall review and revise trapper education course content and certify new trapper education instructors.

(7) As part of the department's trapper licensing procedures, the department shall notify the public of the requirements of this section.

Section 2. Class C-4--resident license to hunt bobcat, wolverine, and Canada lynx. Except as otherwise provided in this chapter, a resident, as defined in 87-2-102, who is 12 years of age or older, upon making application and payment of a fee of \$20 to the department, may receive a Class C-4 license that authorizes the holder to hunt bobcat, wolverine, and Canada lynx within the state at the times and in the manner provided by law and the regulations of the commission and at the places that may be designated in the license.

Section 3. Section 87-2-102, MCA, is amended to read:

"87-2-102. Resident defined. In determining whether a person is a resident for the purpose of issuing resident hunting, fishing, and trapping licenses, the following provisions apply:

(1) (a) A member of the regular armed forces of the United States, a member's spouse or dependent, as defined in 15-30-2115, who resides in the member's household, or a member of the armed forces of a foreign government attached to the regular armed forces of the United States is considered a resident for the purposes of this chapter if:

(i) the member was a resident of Montana under the provisions of subsection (4) and continues to meet the residency criteria of subsections (4)(b) through (4)(e); or

(ii) the member is currently stationed in and assigned to active duty in Montana, has resided in Montana for at least 30 days, and presents official assignment orders and proof of completion of a hunter safety *and education* course approved by the department; as provided in 87-2-105, *or a certificate verifying the successful completion of a hunter safety course in any state or province, or, if applicable, proof of completion of a trapper education course pursuant to [section 1].* The 30-day residence requirement is waived in time of war. Reassignment to another state, United States territory, or country terminates Montana residency for purposes of this section, except that a reassigned member continues to qualify as a resident if the member's spouse and dependents continue to physically reside in Montana and the member continues to meet the residency criteria of subsections (4)(b) through (4)(e). The designation of Montana by a member of the regular armed forces as a "home of record" or "home of residence" in that member's armed forces records does not determine the member's residency for purposes of this section.

(b) A member of the regular armed forces of the United States who is otherwise considered a Montana resident pursuant to subsection (1)(a)(i) does not forfeit that status as a resident because the member, by virtue of that membership, also possesses, has applied for, or has received resident hunting, fishing, or trapping privileges in another state or country.

(2) A person who has physically resided in Montana as the person's principal or primary home or place of abode for 180 consecutive days and who meets the criteria of subsection (4) immediately before making application for any license is eligible to receive resident hunting, fishing, and trapping licenses. As used in this section, a vacant lot or a premises used solely for business purposes is not considered a principal or primary home or place of abode.

(3) A person who obtains residency under subsection (2) may continue to be a resident for purposes of this section by physically residing in Montana as the person's principal or primary home or place of abode for not less than 120 days a year and by meeting the criteria of subsection (4) prior to making application for any resident hunting, fishing, or trapping license.

(4) In addition to the requirements of subsection (2) or (3), a person shall meet the following criteria to be considered a resident for purposes of this section:

(a) the person's principal or primary home or place of abode is in Montana;

(b) the person files Montana state income tax returns as a resident if required to file;

(c) the person licenses and titles in Montana as required by law any vehicles that the person owns and operates in Montana;

(d) except as provided in subsection (1)(b), the person does not possess or apply for any resident hunting, fishing, or trapping licenses from another state or country or exercise resident hunting, fishing, or trapping privileges in another state or country; and

(e) if the person registers to vote, the person registers only in Montana.

(5) A student who is enrolled full-time in a postsecondary educational institution out of state and who would qualify for Montana resident tuition or who otherwise meets the residence requirements of subsection (2) or (3) is considered a resident for purposes of this section.

(6) An enrollee of a job corps camp located within the state of Montana is, after a period of 30 days within Montana, considered a resident for the purpose of making application for a fishing license as long as the person remains an enrollee in a Montana camp.

(7) A person who does not reside in Montana but who meets all of the following requirements is a resident for purposes of obtaining hunting and fishing licenses:

(a) The person's principal employment is within this state and the income from this employment is the principal source of the applicant's family income.

(b) The person is required to pay and has paid Montana income tax in a timely manner and proper amount.

(c) The person has been employed within this state on a full-time basis for at least 12 consecutive months immediately preceding each application.

(d) The person's state of residency has laws substantially similar to this subsection (7).

(8) An unmarried minor is considered a resident for the purposes of this section if the minor's parents, legal guardian, or parent with joint custody, sole custody, or visitation rights is a resident for purposes of this section. The minor is considered a resident for purposes of this section regardless of whether the minor resides primarily in the state or otherwise qualifies as a resident. The resident parent or guardian of the minor may be required to show proof of the parental, guardianship, or custodial relationship to the minor.

(9) A person is not considered a resident for the purposes of this section if the person:

(a) claims residence in any other state or country for any purpose; or

(b) is an absentee property owner paying property tax on property in Montana.

(10) A license agent is not considered a representative of the state for the purpose of determining a license applicant's residence status."

Section 4. Section 87-2-105, MCA, is amended to read:

"87-2-105. Safety instruction *Hunter safety and education required.*

(1) Except for a youth who qualifies for a license pursuant to 87-2-805(4) or a person who has been issued an apprentice hunting certificate pursuant to

87-2-810, a hunting license may not be issued to a person born after January 1, 1985, unless the person authorized to issue the license determines proof of completion of:

(a) a Montana hunter safety and education course established in subsection (4) or (6);

(b) a hunter safety course in any other state or province; or

(c) a Montana hunter safety and education course that qualifies the person for a provisional certificate as provided in 87-2-126.

(2) A hunting license may not be issued to a member of the regular armed forces of the United States or to a member of the armed forces of a foreign government attached to the armed forces of the United States who is assigned to active duty in Montana and who is otherwise considered a resident under 87-2-102(1) or to a member's spouse or dependent, as defined in 15-30-2115, who resides in the member's household, unless the person authorized to issue the license determines proof of completion of a hunter safety *and education* course approved by the department or a hunter safety course in any state or province.

(3) A bow and arrow license may not be issued to a resident or nonresident unless the person authorized to issue the license receives an archery license issued for a prior hunting season or determines proof of completion of a bowhunter education course from the national bowhunter education foundation or any other bowhunter education program approved by the department. Neither the department nor the license agent is required to provide records of past archery license purchases. As part of the department's bow and arrow licensing procedures, the department shall notify the public regarding bowhunter education requirements.

(4) The department shall provide for a hunter safety and education course that includes instruction in the safe handling of firearms and for that purpose may cooperate with any reputable organization having as one of its objectives the promotion of hunter safety and education. The department may designate as an instructor any person it finds to be competent to give instructions in hunter safety and education, including the handling of firearms. A person appointed shall give the course of instruction and shall issue a certificate of completion from Montana's hunter safety and education course to a person successfully completing the course.

(5) The department shall provide for a course of instruction from the national bowhunter education foundation or any other bowhunter education program approved by the department and for that purpose may cooperate with any reputable organization having as one of its objectives the promotion of safety in the handling of bow hunting tackle. The department may designate as an instructor any person it finds to be competent to give bowhunter education instruction. A person appointed shall give the course of instruction and shall issue a certificate of completion to a person successfully completing the course.

(6) The department may develop an adult hunter safety and education course.

(7) The department may adopt rules regarding how a person authorized to issue a license determines proof of completion of a required course."

Section 5. Section 87-2-514, MCA, is amended to read:

"87-2-514. Nonresident relative of resident allowed to purchase nonresident licenses at reduced cost – definitions. (1) For the purposes of this section, the following definitions apply:

(a) "Nonresident relative of a resident" means a person born in Montana who is the natural or adoptive child, sibling, or parent of a resident but is not a resident.

(b) "Resident" means a resident as defined in 87-2-102.

(2) Except as otherwise provided in this chapter, a nonresident relative of a resident who meets the qualifications of subsection (4) may purchase the following at one-half the cost:

- (a) a Class B nonresident fishing license;
- (b) a Class B-1 nonresident upland game bird license;
- (c) one of the following:
 - (i) a Class B-10 nonresident big game combination license;
 - (ii) a Class B-11 nonresident deer combination license; or
 - (iii) a nonresident elk-only combination license;
- (d) if available:
 - (i) a Class B-8 nonresident deer B tag;
 - (ii) a Class B-12 nonresident antlerless elk B tag license.

(3) Class B-10 and Class B-11 licenses sold pursuant to subsection (2) are not included in the limit on the number of available Class B-10 and Class B-11 licenses issued pursuant to 87-2-505 and 87-2-510. Nonresident elk-only combination licenses sold pursuant to subsection (2) are in addition to nonresident elk-only combination licenses available for sale pursuant to 87-2-511.

(4) To qualify for a license pursuant to subsection (2), a nonresident relative of a resident shall apply at any department regional office or at the department's state office in Helena and present proof of the following:

(a) a birth certificate verifying the applicant's birth in Montana or documentation that the applicant was born to parents who were residents at the time of birth;

(b) evidence that the person previously held a Montana resident hunting or fishing license or has passed a hunter safety *and education* course in Montana pursuant to 87-2-105; and

(c) proof that the applicant is a nonresident relative of a resident.

(5) Of the fee paid for a hunting license purchased pursuant to subsection (2), 28.5% must be deposited in the account established in 87-1-290."

Section 6. Section 87-2-601, MCA, is amended to read:

"87-2-601. Class C—trapper's license. Except as otherwise provided in this chapter, a resident, as defined in 87-2-102, who is 12 years of age or older, upon making application and payment of a fee of \$20 to the department, may receive a Class C license that authorizes the holder to trap fur-bearing animals ~~and hunt bobcat, wolverine, and Canada lynx~~ within the state at the times and in the manner provided by law and the regulations of the commission and at the places that may be designated in the license. *This license includes the Class C-4 license to hunt bobcat, wolverine, and Canada lynx established in [section 2].*"

Section 7. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 87, chapter 2, part 1, and the provisions of Title 87, chapter 2, part 1, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 87, chapter 2, part 6, and the provisions of Title 87, chapter 2, part 6, apply to [section 2].

Section 8. Effective date. [This act] is effective March 1, 2022.

Approved April 8, 2021

CHAPTER NO. 171

[HB 13]

AN ACT APPROPRIATING FUNDS TO IMPLEMENT PAY REVISIONS AND AN INCREASE IN THE LONGEVITY ALLOWANCE; REVISING THE LONGEVITY ALLOWANCE FOR EACH EMPLOYEE WHO HAS COMPLETED 25 YEARS OF UNINTERRUPTED STATE SERVICE BY 0.5% OF THE EMPLOYEE'S BASE SALARY; AMENDING SECTIONS 2-18-303 AND 2-18-304, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-18-303, MCA, is amended to read:

"2-18-303. Procedures for administering broadband pay plan.

(1) On the first day of the first complete pay period in fiscal year ~~2020~~ 2022, each employee is entitled to the amount of the employee's base salary as it was on June 30, ~~2019~~ 2021.

(2) To the extent that the plan applies to employees within a collective bargaining unit, the implementation of the plan is a negotiable subject under 39-31-305.

(3) Effective on the first day of the first complete pay period that includes ~~January 1, 2020~~ November 15, 2022, the base salary of each employee must be increased by ~~50 cents~~ 55 cents an hour. ~~Effective on the first day of the first complete pay period that includes January 1, 2021, the base salary of each employee must be increased by 50 cents an hour.~~

(4) (a) (i) A member of a bargaining unit may not receive the pay adjustment provided for in subsection (3) until the employer's collective bargaining representative receives written notice that the employee's collective bargaining unit has ratified a collective bargaining agreement.

(ii) If ratification of a collective bargaining agreement, as required by subsection (4)(a)(i), is not completed by the date on which a legislatively authorized pay increase is implemented, members of the bargaining unit must continue to receive the compensation that they were receiving until an agreement is ratified.

(b) Methods of administration consistent with the purpose of this part and necessary to properly implement the pay adjustments provided for in this section may be provided for in collective bargaining agreements.

(5) (a) Montana highway patrol officer base salaries must be established through the broadband pay plan. Before January 1 of each odd-numbered year, the department shall, after seeking the advice of the Montana highway patrol, conduct a salary survey to be used in establishing the base salary for existing and entry-level highway patrol officer positions. The county sheriff's offices in the following consolidated governments and counties are the labor market for purposes of the survey: Butte-Silver Bow, Cascade, Yellowstone, Missoula, Lewis and Clark, Gallatin, Flathead, and Dawson. The base salary for existing and entry-level highway patrol officer positions must then be determined by the department of justice, using the results of the salary survey and the department of justice pay plan guidelines. Base or biennial salary increases under this subsection are exclusive of and not in addition to any increases otherwise awarded to other state employees after July 1, 2006.

(b) To the extent that the plan applies to employees within a collective bargaining unit, the implementation of the plan is a negotiable subject under 39-31-305.

(c) The department of justice shall submit the salary survey to the office of budget and program planning as a part of the information required by 17-7-111.

(d) The salary survey and plan must be completed at least 6 months before the start of each regular legislative session."

Section 2. Section 2-18-304, MCA, is amended to read:

"2-18-304. Longevity allowance. (1) (a) In addition to the compensation provided for in 2-18-303, each employee who has completed 5 years of uninterrupted state service must receive 1.5% of the employee's base salary multiplied by the number of completed, contiguous 5-year periods of uninterrupted state service.

(b) In addition to the longevity allowance provided under subsection (1)(a), each employee who has completed 10 years of uninterrupted state service, 15 years of uninterrupted state service, ~~or 20 years of uninterrupted state service,~~ *or 25 years of uninterrupted state service* must receive an additional 0.5% of the employee's base salary for each of those additional 5 years of uninterrupted service.

(c) Service to the state is not interrupted by authorized leaves of absence.

(2) (a) For the purpose of determining years of service under this section, an employee must be credited with 1 year of service for each period of:

(i) 2,080 hours of service following the employee's date of employment; an employee must be credited with 80 hours of service for each biweekly pay period in which the employee is in a pay status or on an authorized leave of absence without pay, regardless of the number of hours of service in the pay period; or

(ii) 12 uninterrupted calendar months following the employee's date of employment in which the employee was in a pay status or on an authorized leave of absence without pay, regardless of the number of hours of service in any month. An employee of a school at a state institution or the university system must be credited with 1 year of service if the employee is employed for an entire academic year.

(b) State agencies, other than the university system and a school at a state institution, shall use the method provided in subsection (2)(a)(i) to calculate years of service under this section.

(3) For the purposes of calculating longevity, employment as a short-term worker does not apply toward years of service."

Section 3. Appropriations. (1) The following money for the indicated fiscal year is appropriated to the listed agencies to implement the adjustment provided in 2-18-303:

Fiscal Year 2023	General Fund	State Special	Federal Special	Proprietary
Legislative Branch				
	\$103,675	\$18,986		
Consumer Counsel		\$4,886		
Judicial Branch				
	\$337,897	\$11,336	\$330	
Executive Branch				
	\$4,266,008	\$3,413,362	\$2,232,127	\$80,515
Total	\$4,707,580	\$3,448,570	\$2,232,457	\$80,515

(2) The following money for the indicated fiscal years is appropriated to the listed agencies to implement the adjustment provided in 2-18-304:

Fiscal Year 2022

	General Fund	State Special	Federal Special	Proprietary
Legislative Branch	\$6,934	\$2,946		
Consumer Counsel		\$716		
Judicial Branch	\$5,661			
Executive Branch	\$171,858	\$490,940	\$340,704	\$3,159
Montana University System	\$42,622		\$704	
Total	\$227,075	\$494,602	\$341,408	\$3,159

Fiscal Year 2023

	General Fund	State Special	Federal Special	Proprietary
Legislative Branch	\$6,934	\$2,946		
Consumer Counsel		\$716		
Judicial Branch	\$5,661			
Executive Branch	\$171,858	\$490,940	\$340,704	\$3,159
Montana University System	\$42,622		\$704	
Total	\$227,075	\$494,602	\$341,408	\$3,159

(3) The following money for the indicated fiscal year is appropriated to the Montana university system for the sole purpose of increasing employee pay.

Fiscal Year 2023

	General Fund	State Special	Federal Special	Proprietary
Montana University System	\$2,313,211	\$431	\$19,514	

(4) The following money is appropriated for the biennium beginning July 1, 2021, to the office of budget and program planning from the designated state fund, to be distributed to agencies when personnel vacancies do not occur, retirement costs exceed agency resources, or other contingencies arise:

General Fund	\$1,000,000
State Special Revenue	\$500,000
Federal Special Revenue	\$250,000
Proprietary Funds	\$50,000

(5) For the biennium beginning July 1, 2021, there is appropriated \$75,000 from the general fund to the department of administration for a labor-management training initiative.

(6) The total pay increase provided for in 2-18-303(3) may not be less than \$10.4 million.

Section 4. Effective date. [This act] is effective July 1, 2021.

Approved April 11, 2021

CHAPTER NO. 172

[HB 81]

AN ACT GENERALLY REVISING LAWS RELATED TO THE ADMINISTRATION OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEMS ADMINISTERED BY THE PUBLIC EMPLOYEES' RETIREMENT BOARD; REVISING PROVISIONS RELATED TO ALTERNATE PAYEE RIGHTS UNDER FAMILY LAW ORDERS, REQUIRED BENEFIT DISTRIBUTIONS UNDER FEDERAL LAW, AND MILITARY SERVICE PURCHASE ELIGIBILITY; CLARIFYING WHEN GUARANTEED ANNUAL BENEFIT ADJUSTMENTS MAY COMMENCE; CLARIFYING THE AMOUNT OF THE GUARANTEED ANNUAL BENEFIT ADJUSTMENT PAYABLE UNDER THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM DEFINED BENEFIT PLAN; CLARIFYING PROVISIONS GOVERNING LONG-TERM DISABILITY BENEFIT PAYMENTS UNDER THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM DEFINED CONTRIBUTION PLAN; AMENDING SECTIONS 19-2-907, 19-2-908, 19-2-1007, 19-3-503, 19-3-1605, 19-3-2114, 19-3-2124, 19-3-2141, 19-5-410, 19-6-801, 19-7-803, 19-8-901, 19-9-403, AND 19-13-403, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 19-2-907, MCA, is amended to read:

“19-2-907. Alternate payees – family law orders – rulemaking. (1) A participant in a retirement system may have the participant's rights modified or recognized by a family law order.

(2) For purposes of this section:

(a) “family law order” means a judgment, decree, or order of a court of competent jurisdiction under Title 40 concerning child support, parental support, spousal maintenance, or marital property rights that includes a transfer of all or a portion of a participant's payment rights in a retirement system to an alternate payee in compliance with this section and with section 414(p) of the Internal Revenue Code, 26 U.S.C. 414(p); and

(b) “participant” means an identified person who is a member or an actual or potential beneficiary, survivor, or contingent annuitant of a retirement system or plan designated pursuant to Title 19, chapter 3, 5, 6, 7, 8, 9, 13, or 17.

(3) A family law order must identify a participant and an alternate payee by full name, current address, date of birth, and social security number. An alternate payee's rights and interests granted in compliance with this section are not subject to assignment, execution, garnishment, attachment, or other process. An alternate payee's rights or interests may be modified only by a family law order amending the family law order that established the right or interest.

(4) Except as provided in subsection (6)(a), a family law order may not require:

(a) a type or form of benefit, option, or payment not available to the affected participant under the appropriate retirement system or plan; or

(b) an amount or duration of payment greater than that available to a participant under the appropriate retirement system or plan.

(5) With respect to a defined benefit plan, a family law order may provide for payment to an alternate payee only as follows:

(a) Retirement benefit payments or refunds may be apportioned by directing payment of either a percentage of the amount payable or a fixed amount of no more than the amount payable to the participant. Payments to an alternate payee may be limited to a specific amount each month if the number of payments is specified.

(b) The maximum amount of disability or survivorship benefits that may be paid to alternate payees is the monthly benefit amount that would have been payable on the date of termination of service if the member had retired without disability or death. The maximum amount paid may be zero, depending on the member's age and service credit at the time of disability or death. Conversion of a disability retirement to a service retirement pursuant to 19-2-406(5), 19-3-1015(2), 19-6-612(2), or 19-8-712(2) does not increase the maximum monthly amount that may be paid to an alternate payee.

(c) Retirement benefit adjustments for which a participant is eligible after retirement may be paid as a percentage only if existing benefit payments are paid as a percentage. The adjustments must be paid as a percentage in the same ratio as existing benefit payments unless the family law order specifies that the alternate payee is not entitled to benefit adjustments.

(d) The participant may be required to choose a specified form of benefit payment or designate a beneficiary or contingent annuitant if the retirement system or plan allows for that option.

(6) With respect to a defined contribution plan, a family law order may provide for payment to an alternate payee only as follows:

(a) The vested account of the participant may be apportioned by directing payment of either a percentage or a fixed amount. The total amount paid may not exceed the amount in the participant's vested account. The alternate payee may receive the payment only as a direct payment, rollover, or transfer. The alternate payee's portion must be totally disbursed to the alternate payee as soon as administratively feasible upon the board's approval of the family law order.

(b) If the participant is receiving periodic payments or an annuity provided under the plan, those payments may be apportioned as a percentage of the amount payable to the participant. Payments to the alternate payee may be limited to a specific amount each month if the number of payments is specified. Payments may not total more than the amount payable to the payee.

(7) The duration of monthly payments paid from a defined benefit or defined contribution plan participant to an alternate payee may not exceed the lifetime of the appropriate participant. The duration of the monthly payments may be further limited only to a specified maximum time, the life of the alternate payee, or the life of another specified participant. *The Unless a family law order specifies the alternate payee's rights and interests revert to the participant upon the alternate payee's death, the alternate payee's rights and interests survive the alternate payee's death and may be transferred by inheritance or by designation of a beneficiary.*

(8) The board may assess a participant or an alternate payee for all costs of reviewing and administering a family law order, including reasonable attorney fees. The board may adopt rules to implement this section.

(9) Each family law order establishing a final obligation concerning payments by the retirement system must contain a statement that the order is subject to review and approval by the board.

(10) The board shall adopt rules to provide for the administration of family law orders."

Section 2. Section 19-2-908, MCA, is amended to read:

“19-2-908. Time of commencement of benefit – rulemaking. (1) (a) The board shall grant a benefit to any active or inactive member who is vested, or the member’s statutory or designated beneficiary, who has fulfilled all eligibility requirements, terminated service, and filed the appropriate written application with the board. However, the board may, on its own accord and without a written application, begin benefit payments to a member or beneficiary in order to comply with section 401(a)(9) of the Internal Revenue Code.

(b) A member may apply for retirement benefits before termination from employment, but commencement of the benefits must be as provided in this section.

(2) (a) Except as provided in subsection (2)(b), the service retirement benefit may commence on the first day of the month following the eligible member’s last day of employment or, if requested by the member in writing, on the first day of a later month.

(b) If an elected official’s term of office expires before the 15th day of the month, the official may elect that service retirement benefits from a defined benefit plan commence on the first day of the month following the official’s last full month in office. An official electing this option shall file a written application with the board. An official electing this option may not earn membership service, service credit, or compensation for purposes of calculating highest average compensation or final average compensation, as defined under the provisions of the appropriate retirement system, in the partial month ending the official’s term, and compensation earned in that partial month is not subject to employer or employee contributions.

(3) (a) Subject to the provisions of subsection (3)(b), the disability retirement benefit payable to a member must commence on the day following the member’s termination from employment.

(b) If a disabled member continues with a purchase of service or chooses to purchase service following termination of employment, the member’s disability benefit may not commence until the service purchase is completed.

(4) If a member begins receiving retirement benefits payments later than when the member is initially eligible, the guaranteed annual benefit adjustment payable pursuant to 19-3-1605, 19-5-901, 19-6-710, 19-6-711, 19-7-711, 19-8-1105, 19-9-1009, 19-9-1010, 19-9-1013, 19-13-1010, and 19-13-1011 does not commence until January 1 of the year after the year in which the member ~~begins to receive the member’s retirement benefit payment~~ *has received a monthly retirement benefit payment in each of the year’s 12 months*. The guaranteed annual benefit adjustment may not be paid retroactively.

(5) A designated beneficiary eligible to receive a death payment may instead elect a survivorship benefit if the designated beneficiary is a natural person and notifies the board of the designated beneficiary’s election in writing within 90 days after the designated beneficiary receives notice that the designated beneficiary is eligible to receive a death payment. Monthly survivorship benefits from a defined benefit plan must commence on the day following the death of the member.

(6) Estimated and finalized benefit payments must be issued as provided in rules adopted by the board.

(7) With respect to the defined contribution plan, the board shall adopt rules regarding the commencement of benefits that are consistent with applicable provisions of the Internal Revenue Code and its implementing regulations.”

Section 3. Section 19-2-1007, MCA, is amended to read:

“19-2-1007. Required distributions. The benefits payable by a retirement system or plan subject to this chapter are subject to the requirements of section 401(a)(9) of the Internal Revenue Code as follows:

(1) (a) Benefits must begin by ~~the later of~~ April 1 of the calendar year following ~~the later of~~:

(i) the calendar year in which the member reaches 70 1/2 years of age *if the member was born before July 1, 1949, or 72 years of age if the member was born after June 30, 1949;* or ~~April 1 of~~

(ii) the calendar year following the calendar year in which the member terminates employment.

(b) If a member fails to apply for retirement benefits by April 1 of the year following the calendar year in which ~~the member attains age 70 1/2 or April 1st of the year following the calendar year in which the member terminates employment, whichever is later~~ *benefits must begin under subsection (1)(a),* the board shall begin distribution of the ~~benefit~~ *benefits* as required by the retirement system or plan to which the member belongs or, subject to subsection (2), as an option 4 benefit in chapters 3, 5, 7, and 8 of this title.

(2) The member's entire interest in a retirement system or plan must be distributed over the life of the member or the lives of the member and a designated beneficiary or over a period not extending beyond the life expectancy of the member or the life expectancy of the member and a designated beneficiary. Death benefits must be distributed in accordance with section 401(a)(9) of the Internal Revenue Code and the regulations implementing that section.

(3) The life expectancy of a member or the member's beneficiary may not be recalculated after payment of the benefits has begun.

(4) When a member dies after distribution of benefits has begun, the remaining portion of the member's interest must be distributed beginning within 3 months of notification to the board of the death of the member and, if necessary, the identification of the beneficiary pursuant to 19-2-802 and must be distributed at least as rapidly as under the method of distribution prior to the member's death.

(5) When a member dies before distribution of benefits has begun, the entire interest of the member must be distributed within 5 years of the member's death. The 5-year payment rule does not apply to any portion of the member's interest that is payable to a designated beneficiary over the life or life expectancy of the beneficiary and that begins within 1 year after the date of the member's death. The 5-year payment rule does not apply to any portion of the member's interest that is payable to a surviving spouse, that is payable over the life or life expectancy of the spouse, and that begins no later than the date the member would have reached 70 1/2 years of age *if the member was born before July 1, 1949, or 72 years of age if the member was born after June 30, 1949.* Distributions to a member's beneficiary must begin as soon as administratively feasible, but must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died. If the beneficiary has not elected the form of payment by that date, payment to the beneficiary must be made in the form of a lifetime monthly benefit payment if the beneficiary is eligible for a monthly benefit or in a lump sum if that is the only benefit payable to the beneficiary.

(6) The benefits payable must meet the minimum distribution incidental benefit requirements of section 401(a)(9) (G) of the Internal Revenue Code.”

Section 4. Section 19-3-503, MCA, is amended to read:

“19-3-503. Application to purchase military service. (1) (a) Except as provided in subsection (1)(b) and subject to 19-3-514, a member with at

least 5 years of membership service may, at any time prior to retirement, file a written application with the board to purchase service credit and membership service for up to 5 years of the member's active service in the armed forces of the United States, including the first special service force or the American merchant marine in oceangoing service during the period of armed conflict, December 7, 1941, to August 15, 1945.

(b) A member is not eligible to purchase active military service credit and membership service under subsection (1)(a) if the member:

~~(i) has retired from active duty in the armed forces of the United States, including the first special service force or the American merchant marine in oceangoing service during the period of armed conflict, December 7, 1941, to August 15, 1945, with a military service retirement benefit based on that military service;~~

~~(ii) is eligible, pursuant to 19-2-707, to receive credit in the system for that service under 19-2-707; or~~

~~(iii) is eligible to receive credit for that service in any other retirement system or plan.~~

(2) (a) Except as provided in subsection (2)(b) and subject to 19-3-514, a member with at least 5 years of membership service may, at any time prior to retirement, file a written application with the board to purchase service credit and membership service for up to 5 years of the member's reserve military service in the armed forces of the United States.

(b) A member is not eligible to purchase reserve military service credit and membership service under subsection (2)(a) if the member is eligible; ~~pursuant to 19-2-707, to receive credit in the system for that service under 19-2-707.~~

(3) To purchase service credit and membership service under this section, the member shall pay the actuarial cost of the member's active or reserve military service credit based on the system's most recent actuarial valuation."

Section 5. Section 19-3-1605, MCA, is amended to read:

"19-3-1605. Guaranteed annual benefit adjustment. (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by the applicable percentage provided in subsection (4).

(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than an annualized increase of the applicable percentage provided in subsection (4), then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of the applicable percentage in the benefit paid since the preceding January.

(b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than an annualized increase of the applicable percentage provided in subsection (4), then the benefit increase provided under this section must be 0%.

(c) If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of the original payee that occurred since the preceding January, the new recipient's monthly benefit must be increased to the applicable percentage provided in subsection (4)(b) more than the amount that the contingent annuitant would have received had the contingent annuitant received a benefit during the preceding January.

(3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in

this section if the benefit's commencement date is at least 12 months prior to January 1 of the year in which the adjustment is to be made.

(4) (a) Subject to subsection (5), the applicable percentage rate is 1.5% for benefit recipients hired or assuming office:

(i) before July 1, 2007;

(ii) on or after July 1, 2007, and prior to July 1, 2013, if the benefit recipient is an existing member of a benefit plan for which the applicable percentage before July 1, 2013, was either 3% or 1.5%; or

(iii) on or after July 1, 2013.

(b) The applicable percentage rate for a contingent annuitant described in subsection (2)(c) is the same as the applicable percentage rate applicable to the original payee under subsection (4)(a). *The applicable percentage increase under subsection (1) is 3% if the member was hired or assumed office:*

(i) before July 1, 2007; or

(ii) on or after July 1, 2007, and before July 1, 2013, and the benefit recipient is a member of a retirement system provided for in this title, and the guaranteed annual benefit adjustment provision for that member under that system is a 3% benefit increase.

(b) *The applicable percentage increase under subsection (1) is 1.5% if the member was hired or assumed office on or after July 1, 2007, and before June 30, 2013, and the benefit recipient is not otherwise covered under subsection (4)(a)(ii).*

(c) *The applicable percentage increase under subsection (1) is 1.5% if the member was hired or assumed office on or after July 1, 2013, subject to reduction as provided in subsection (5).*

(5) (a) Except as provided in subsection (5)(b), if the most recent actuarial valuation of the retirement system shows that retirement system liabilities are less than 90% funded, the applicable percentage rate increase in subsection (4)(c) must be reduced by 0.1% for each 2% below that 90% funding level.

(b) If the amortization period is 40 years or greater, the applicable percentage rate is increase in subsection (4)(c) must be reduced to 0% and the retirement allowance may not be increased.

(6) The board shall adopt rules to administer the provisions of this section."

Section 6. Section 19-3-2114, MCA, is amended to read:

"19-3-2114. Amount available to transfer. (1) (a) ~~For an employee who was an active member of the system on the day before the effective date of the defined contribution plan and who elects to transfer to the plan:~~

~~(i) for amounts contributed prior to July 1, 2002, the board shall transfer from the defined benefit plan to the member's retirement account the employee's contributions and the percentage of the employer's contributions specified in subsection (1)(b), plus 8% compounded annual interest on the total of the transferred employee and employer contributions from the month that the contributions were received; and~~

~~(ii) for amounts contributed on or after July 1, 2002, the board shall transfer from the defined benefit plan to the member's retirement account an amount equal to the amount that would have been allocated to the member's account pursuant to 19-3-2117, plus 8% compounded annual interest from the month that the contributions were received.~~

~~(b) Based on the contribution amount historically available to pay unfunded liabilities in the defined benefit plan and the transferring member's years of membership service, the percentage of the employer contributions that may be transferred are as follows:~~

Years of membership service	Percentage of employer contributions available to transfer
Less than 5 years	65.53%
5 to 9 years	58.59%
10 to 14 years	55.26%
15 to 19 years	55.42%
20 or more years	57.53%

(2) For an employee hired on or after the effective date of the defined contribution plan who elects to become a member of the plan, the board shall transfer from the defined benefit plan to the member's retirement account an amount equal to the amount that would have been allocated to the member's account pursuant to 19-3-2117 had the employee become a plan member on the employee's hire date, plus:

(a) ~~8% compounded annual interest from the initial month that the contributions were received through the last month that the contributions were received prior to July 1, 2011; and~~

(b) ~~7.75% compounded annual interest from July 1, 2011, forward compounded annual interest equal to the assumed rate of return on investments adopted by the board as of the effective date of the transfer.~~

(3) For an employee who was an inactive member of the defined benefit plan on the date that the defined contribution plan became effective and who after that date became an active member and elected to transfer to the defined contribution plan:

(a) ~~for amounts contributed prior to July 1, 2002, the board shall transfer from the defined benefit plan to the member's retirement account the employee's contributions and the percentage of the employer's contributions specified in subsection (1)(b), plus 8% compounded annual interest on the total of the transferred employee and employer contributions from the month that the contributions were received; and~~

(b) ~~for amounts contributed on or after July 1, 2002, the board shall transfer from the defined benefit plan to the member's retirement account an amount equal to the amount that would have been allocated to the member's account pursuant to 19-3-2117, plus:~~

(i) ~~8% compounded annual interest from the initial month that the contributions were received through the last month that the contributions were received prior to July 1, 2011; and~~

(ii) ~~7.75% compounded annual interest from July 1, 2011, forward."~~

Section 7. Section 19-3-2124, MCA, is amended to read:

"19-3-2124. Distribution options for plan members – rulemaking – minimum distribution requirements – restrictions. (1) Subject to 19-3-2116, 19-3-2126, and 19-3-2142, a member may, after termination of service, leave the member's vested account balance in the plan, and the member is eligible for a distribution as provided in this section.

(2) After termination of service and upon filing a written application with the board, a member may, if provided for by the board, select a distribution option offered pursuant to a contract negotiated by the board with a plan vendor or vendors.

(3) A member who is less than 70 1/2 years of age *if the member was born before July 1, 1949, or less than 72 years of age if the member was born after June 30, 1949*, who returns to service may not continue to receive a distribution under this section while actively employed in a covered position.

(4) The board shall adopt rules to administer this section and to provide that distributions comply with the minimum distribution requirements established in the Internal Revenue Code and applicable under 19-2-1007.”

Section 8. Section 19-3-2141, MCA, is amended to read:

“19-3-2141. Long-term disability plan – benefit amount – eligibility – administration and rulemaking. (1) For members hired prior to July 1, 2011:

(a) except as provided in subsection (1)(b), a disabled member eligible under the provisions of this section is entitled to a disability benefit equal to one fifty-sixth of the member’s highest average compensation, as defined in 19-3-108, multiplied by the member’s years of service credit, including any service credit purchased under 19-3-513;

(b) an eligible member with at least 25 years of membership service is entitled to a disability benefit equal to 2% of the member’s highest average compensation, as defined in 19-3-108, multiplied by the member’s years of service credit, including any service credit purchased under 19-3-513.

(2) For members hired on or after July 1, 2011, the monthly disability benefit payable to a disabled member eligible under the provisions of this section who has:

(a) more than 5 but less than 10 years of membership service is equal to 1.5% of the member’s highest average compensation multiplied by the member’s years of service credit, including any additional service credit purchased under 19-3-513;

(b) 10 or more but less than 30 years of membership service is equal to one fifty-sixth of the member’s highest average compensation multiplied by the member’s years of service credit, including any additional service credit purchased under 19-3-513; or

(c) 30 or more years of membership service is equal to 2% of the member’s highest average compensation multiplied by the member’s years of service credit, including any additional service credit purchased under 19-3-513.

(3) Payment of the disability benefit provided in this section is subject to the following:

(a) the member must be vested in the plan as provided in 19-3-2116;

(b) for members hired prior to July 1, 2011:

(i) if the member’s disability occurred when the member was 60 years of age or less, the benefit may be paid only until the member reaches 65 years of age; and

(ii) if the member’s disability occurred after the member reached 60 years of age, the benefit may be paid for no more than 5 years;

(c) for members hired on or after July 1, 2011:

(i) if the member’s disability occurred when the member was less than 65 years of age, the benefit may be paid only until the member reaches 70 years of age; and

(ii) if the member’s disability occurred after the member reached 65 years of age, the benefit may be paid for no more than 5 years;

(d) *the provisions of 19-3-1103 and 19-3-1104; and*

~~(d)~~(e) the member shall satisfy the other applicable requirements of this section and the board’s rules adopted to implement this section.

(4) Application for a disability benefit must be made in accordance with 19-2-406.

(5) The board shall make determinations on disability claims and conduct medical reviews in a manner consistent with the provisions of 19-2-406 and 19-3-1015. A member may seek review of a board determination as provided in rules adopted by the board.

(6) If a member receiving a disability benefit under this section dies, the disability benefit payments cease and the member's beneficiary is entitled to death benefits only as provided for in 19-3-2125. Any disability benefits paid in error after the member's death may be recovered by the board pursuant to 19-2-903.

(7) The board shall establish a long-term disability plan trust fund from which disability benefit costs pursuant to this section must be paid. The trust fund must be entirely separate and distinct from the defined benefit plan trust fund.

(8) The board shall perform the duties, exercise the powers, and adopt reasonable rules to implement the provisions of this section."

Section 9. Section 19-5-410, MCA, is amended to read:

"19-5-410. Application to purchase military service credit. (1) (a) Except as provided in subsection (1)(b) and subject to 19-5-411, a member with at least 5 years of membership service may, at any time prior to retirement, file a written application with the board to purchase service credit and membership service for up to 5 years of the member's active service in the armed forces of the United States.

(b) A member is not eligible to purchase active military service credit and membership service under subsection (1)(a) if the member:

~~(i) has retired from active duty in the armed forces of the United States with military retirement benefits based on that military service;~~

~~(ii) is eligible, pursuant to 19-2-707, to receive credit in the system for that service under 19-2-707; or~~

~~(iii) is eligible to receive credit for that service in any other retirement system or plan.~~

(2) (a) Except as provided in subsection (2)(b) and subject to 19-5-411, a member with at least 5 years of membership service may, at any time prior to retirement, file a written application with the board to purchase service credit and membership service for up to 5 years of the member's reserve military service in the armed forces of the United States.

(b) A member is not eligible to purchase reserve military service credit and membership service under subsection (2)(a) if the member is eligible; ~~pursuant to 19-2-707, to receive credit in the system for that service under 19-2-707.~~

(3) To purchase service credit and membership service under this section, the member shall pay the actuarial cost of the member's active or reserve military service credit based on the system's most recent actuarial valuation."

Section 10. Section 19-6-801, MCA, is amended to read:

"19-6-801. Application to purchase military service. (1) (a) Except as provided in subsection (1)(b) and subject to 19-6-805, an eligible member may, at any time prior to retirement, file a written application with the board to purchase service credit and membership service for up to 5 years of the member's active service in the armed forces of the United States.

(b) A member is not eligible to purchase active military service credit and membership service under subsection (1)(a) if the member:

~~(i) has retired from active duty in the armed forces of the United States with military retirement benefits based on that military service;~~

~~(ii) is eligible, pursuant to 19-2-707, to receive credit in the system for that service under 19-2-707; or~~

~~(iii) is eligible to receive credit for that service in any other retirement system or plan.~~

(2) (a) Except as provided in subsection (3) and subject to subsection (2)(b) and 19-6-805, a member may, at any time prior to retirement, file a

written application with the board to purchase service credit and membership service for up to 5 years of the member's reserve military service in the armed forces of the United States.

(b) A member must have at least the following years of membership service to apply to purchase service credit under subsection (2)(a):

(i) for a member hired before July 1, 2013, 5 years; and

(ii) for a member hired on or after July 1, 2013, 10 years.

(3) A member is not eligible to purchase reserve military service credit and membership service under subsection (2)(a) if the member is eligible; ~~pursuant to 19-2-707~~, to receive credit in the system for that service *under 19-2-707*.

(4) To purchase service credit and membership service under this section:

(a) a member with at least 15 years of service credit who is not covered by 19-6-710 shall contribute the amount determined by the board to be due based on the member's compensation and regular contribution rate in the member's 16th year for the 1st year purchased and, for each subsequent year purchased, an amount based on the member's compensation and contribution rate in each of as many years succeeding the member's 16th year as are required to complete the purchase, with regular interest from the date the member becomes eligible for this benefit to the date the purchase is complete. The combined total of active and reserve military service credit and membership service that a member may purchase may be no more than the member's service credit in excess of 15 years or 5 years, whichever is less.

(b) (i) a member with at least 5 years of membership service who is covered by 19-6-710 shall pay the actuarial cost of the member's active or reserve military service credit based on the system's most recent actuarial valuation;

(ii) a member with at least 10 years of membership service who is covered by 19-6-712 shall pay the actuarial cost of the member's active or reserve military service credit based on the system's most recent actuarial valuation."

Section 11. Section 19-7-803, MCA, is amended to read:

"19-7-803. Application to purchase military service. (1) (a) Except as provided in subsection (1)(b) and subject to 19-7-805, a member with at least 5 years of membership service may, at any time prior to retirement, file a written application with the board to purchase service credit and membership service for up to 5 years of the member's active service in the armed forces of the United States.

(b) A member is not eligible to purchase active military service credit and membership service under subsection (1)(a) if the member:

~~(i) has retired from active duty in the armed forces of the United States with military retirement benefits based on that military service;~~

~~(ii) is eligible, pursuant to 19-2-707, to receive credit in the system for that service under 19-2-707; or~~

~~(iii) is eligible to receive credit for that service in any other retirement system or plan.~~

(2) (a) Except as provided in subsection (2)(b) and subject to 19-7-805, a member with at least 5 years of membership service may, at any time prior to retirement, file a written application with the board to purchase service credit and membership service for up to 5 years of the member's reserve military service in the armed forces of the United States.

(b) A member is not eligible to purchase reserve military service credit and membership service under subsection (2)(a) if the member is eligible; ~~pursuant to 19-2-707~~, to receive credit in the system for that service *under 19-2-707*.

(3) To purchase service credit and membership service under this section, the member shall pay the actuarial cost of the member's active or reserve military service credit based on the system's most recent actuarial valuation."

Section 12. Section 19-8-901, MCA, is amended to read:

"19-8-901. Application to purchase military service. (1) (a) Except as provided in subsection (1)(b) and subject to 19-8-906, a member with at least 5 years of membership service may, at any time prior to retirement, file a written application with the board to purchase service credit and membership service for up to 5 years of the member's active service in the armed forces of the United States.

(b) A member is not eligible to purchase active military service credit and membership service under subsection (1)(a) if the member:

~~(i) has retired from active duty in the armed forces of the United States with military retirement benefits based on that military service;~~

~~(ii) is eligible, pursuant to 19-2-707, to receive credit in the system for that service under 19-2-707; or~~

~~(iii) is eligible to receive credit for that service in any other retirement system or plan.~~

(2) (a) Except as provided in subsection (2)(b) and subject to 19-8-906, a member with at least 5 years of membership service may, at any time prior to retirement, file a written application with the board to purchase service credit and membership service for up to 5 years of the member's reserve military service in the armed forces of the United States.

(b) A member is not eligible to purchase reserve military service credit and membership service under subsection (2)(a) if the member is eligible; ~~pursuant to 19-2-707, to receive credit in the system for that service under 19-2-707.~~

(3) To purchase service credit and membership service under this section, the member shall pay the actuarial cost of the member's active or reserve military service based on the system's most recent actuarial valuation."

Section 13. Section 19-9-403, MCA, is amended to read:

"19-9-403. Application to purchase military service. (1) (a) Except as provided in subsection (1)(b) and subject to 19-9-406, a member with at least 5 years of membership service may, at any time prior to retirement, file a written application with the board to purchase service credit and membership service for up to 5 years of the member's active duty service in the armed forces of the United States.

(b) A member is not eligible to purchase active military service credit and membership service under subsection (1)(a) if the member:

~~(i) has retired from active duty in the armed forces of the United States with a military retirement benefit based on that military service;~~

~~(ii) is eligible, pursuant to 19-2-707, to receive credit in the system for that service under 19-2-707; or~~

~~(iii) is eligible to receive credit for that service in any other retirement system or plan.~~

(2) (a) Except as provided in subsection (2)(b) and subject to 19-9-406, a member with at least 5 years of membership service may, at any time prior to retirement, file a written application with the board to purchase service credit and membership service for up to 5 years of the member's reserve military service in the armed forces of the United States.

(b) A member is not eligible to purchase reserve military service credit and membership service under subsection (2)(a) if the member is eligible; ~~pursuant to 19-2-707, to receive credit in the system for that service under 19-2-707.~~

(3) To purchase service credit and membership service under this section, the member shall pay the actuarial cost of the member's active or reserve military service credit based on the system's most recent actuarial valuation."

Section 14. Section 19-13-403, MCA, is amended to read:

"19-13-403. Application to purchase military service. (1) (a) Except as provided in subsection (1)(b) and subject to 19-13-406, a member with at least 5 years of membership service may, at any time prior to retirement, file a written application with the board to purchase service credit and membership service for up to 5 years of the member's active duty service in the armed forces of the United States.

(b) A member is not eligible to purchase active military service credit and membership service under subsection (1)(a) if the member:

~~(i) has retired from active duty in the armed forces of the United States with military retirement benefits based on that military service;~~

~~(ii) is eligible, pursuant to 19-2-707, to receive credit in the system for that service under 19-2-707; or~~

~~(iii) is eligible to receive credit for that service in any other retirement system or plan.~~

(2) (a) Except as provided in subsection (2)(b) and subject to 19-13-406, a member with at least 5 years of membership service may, at any time prior to retirement, file a written application with the board to purchase service credit and membership service for up to 5 years of the member's reserve military service in the armed forces of the United States.

(b) A member is not eligible to purchase reserve military service credit and membership service under subsection (2)(a) if the member is eligible; ~~pursuant to 19-2-707,~~ to receive credit in the system for that service *under 19-2-707*.

(3) To purchase service credit and membership service under this section, the member shall pay the actuarial cost of the service credit based on the system's most recent actuarial valuation."

Section 15. Effective date. [This act] is effective July 1, 2021.

Approved April 11, 2021

CHAPTER NO. 173

[HB 88]

AN ACT GENERALLY REVISING ADMINISTRATIVE PROVISIONS OF THE TEACHERS' RETIREMENT SYSTEM; CLARIFYING THE DEFINITION OF EARNED COMPENSATION; CLARIFYING EMPLOYER REPORTING REQUIREMENTS; REVISING MANDATORY DISTRIBUTION PROVISIONS TO CONFORM WITH FEDERAL LAW; CORRECTING THE REFERENCED TIME PERIOD FOR REPORTING COMPENSATION EARNED BY A DISABLED MEMBER; AMENDING SECTIONS 19-20-101, 19-20-208, 19-20-303, 19-20-703, AND 19-20-905, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 19-20-101, MCA, is amended to read:

"19-20-101. Definitions. As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Accumulated contributions" or "account balance" means the sum of all the amounts deducted from the compensation of a member or paid by a

member and credited to the member's individual account in the annuity savings account, together with interest, minus any amount deducted for correction of errors and the aggregate amount of all retirement benefit payments and refunds of accumulated contributions paid to or on behalf of the member.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality table and interest rate assumption set by the retirement board.

(3) "Alternate beneficiary" means an estate or an individual not designated as a beneficiary but that becomes a beneficiary pursuant to 19-20-1005.

(4) "Average final compensation" means a member's highest average earned compensation, determined pursuant to 19-20-805, on which all required contributions have been made.

(5) "Beneficiary designation" means the process that the retirement system prescribes pursuant to this chapter by which a person authorized by law designates one or more beneficiaries.

(6) "Beneficiary designation record" means either the hard copy form or electronic record prescribed by the retirement system and used by a person authorized by law to designate one or more beneficiaries.

(7) "Benefit recipient" means a retired member, a joint annuitant, or a beneficiary who is receiving a retirement allowance.

(8) "Contingent beneficiary" means a designated beneficiary with the right to receive any benefit or refund of accumulated contributions payable if there is no eligible primary beneficiary.

(9) "Creditable service" is that service defined by 19-20-401.

(10) "Date of termination" or "termination date" means the last date on which a member performed service in a position reportable to the retirement system.

(11) "Designated beneficiary" means one or more primary beneficiaries or contingent beneficiaries designated pursuant to 19-20-1006.

(12) (a) "Earned compensation" means, except as limited by subsections (12)(b) and (12)(c) or by 19-20-715, remuneration paid for the service of a member out of funds controlled by an employer before any pretax deductions allowed under the Internal Revenue Code are deducted.

(b) Earned compensation does not include:

(i) direct employer premium payments on behalf of members for medical, pharmaceutical, disability, life, vision, dental, or any other insurance;

(ii) any direct employer payment or reimbursement for:

(A) professional membership dues;

(B) maintenance;

(C) housing;

(D) day care;

(E) automobile, travel, lodging, or entertaining expenses; or

(F) any similar form of maintenance, allowance, or expenses;

(iii) the imputed value of health, life, or disability insurance or any other fringe benefits;

(iv) any noncash benefit provided by an employer to or on behalf of a member;

(v) termination pay unless included pursuant to 19-20-716;

(vi) compensation paid to a member from a plan for the deferral of compensation under section 457(f) of the Internal Revenue Code, 26 U.S.C. 457(f);

(vii) payment for sick, annual, or other types of leave paid to a member prior to termination from employment or accrued in excess of that normally allowed;

(viii) incentive or bonus payments paid to a member that are not part of a series of annual payments;

(ix) a professional stipend paid pursuant to 20-4-134; or

(x) any similar payment or reimbursement made to or on behalf of a member by an employer;

(c) (i) Adding a direct employer-paid or noncash benefit to an employee's contract or subtracting the same or a similar amount as a pretax deduction is considered a fringe benefit and not earned compensation.

(ii) *Cash paid in lieu of any direct employer-paid or noncash benefit that has previously been or would be paid or provided to or on behalf of the employee at the employee's request or direction is considered a fringe benefit and not earned compensation.*

(13) "Employer" means:

(a) the state of Montana;

(b) a public school district, as provided in 20-6-101 and 20-6-701;

(c) the office of public instruction;

(d) the board of public education;

(e) an education cooperative;

(f) the Montana school for the deaf and blind, as described in 20-8-101;

(g) the Montana youth challenge program, as defined in 10-1-101;

(h) a state youth correctional facility, as defined in 41-5-103;

(i) the Montana university system;

(j) a community college; or

(k) any other agency, political subdivision, or instrumentality of the state that employs a person who is designated a member of the retirement system pursuant to 19-20-302.

(14) "Extra duty service" means service in an educational services capacity that is not compensated as part of the normally assigned duties and functions of a school district teacher, administrator, or other employee but is regularly assigned to one or more school district teachers, administrators, or other employees as part of the regular operation of the school district's curricular and extracurricular programs.

(15) "Full-time service" means service that is:

(a) at least 180 days in a fiscal year;

(b) at least 140 hours a month during at least 9 months in a fiscal year; or

(c) at least 1,080 hours in a fiscal year under an alternative school calendar adopted by a school board and reported to the office of public instruction as required by 20-1-302. The standard for full-time service for a school district operating under an alternative school calendar must be applied uniformly to all employees of the school district required to be reported to the retirement system.

(16) "Individual" means a human being.

(17) "Internal Revenue Code" has the meaning provided in 15-30-2101.

(18) "Joint annuitant" means the one person that a retired member who has elected an optional allowance under 19-20-702(2), (4), or (5) has designated to receive a retirement allowance upon the death of the retired member.

(19) "Member" means a person who has an individual account in the annuity savings account. Unless otherwise specified, "member" refers to a tier one member or a tier two member.

(20) "Normal form" or "normal form benefit" means a monthly retirement benefit payable only for the lifetime of the retired member.

(21) "Normal retirement age" means an age no earlier than 60 years of age.

(22) “Part-time service” means service that is not full-time service. Part-time service must be credited in the proportion that the actual time worked compares to full-time service.

(23) “Position reportable to the retirement system” means a position in which an individual performs duties that would entitle the person to active membership in the retirement system under the provisions of 19-20-302.

(24) “Primary beneficiary” means a designated beneficiary with a first right to receive any benefit or refund of accumulated contributions payable upon the death of the individual authorized by law to make the designation.

(25) “Regular interest” means interest at a rate set by the retirement board in accordance with 19-20-501(2).

(26) “Retired”, “retired member”, or “retiree” means a person who is considered in retired member status under the provisions of 19-20-810.

(27) “Retirement allowance” or “retirement benefit” means a monthly payment due to a retired member who has qualified for service or disability retirement or due to a joint annuitant or beneficiary.

(28) “Retirement board” or “board” means the retirement system’s governing board provided for in 2-15-1010.

(29) “Retirement system”, “system”, or “plan” means the teachers’ retirement system of the state of Montana provided for in 19-20-102.

(30) “Service” means the performance of duties that would entitle the person to active membership in the retirement system under the provisions of 19-20-302.

(31) “Termination” or “terminate” means that the employment relationship between the member and the member’s employer has been terminated as required in 19-20-810.

(32) (a) “Termination pay” means any form of bona fide vacation leave, sick leave, severance pay, amounts provided under a window or early retirement incentive plan, or other payments contingent on the employee terminating employment.

(b) Termination pay does not include:

(i) amounts that are not wages under section 3121 of the Internal Revenue Code, determined without regard to the wage base limitation; and

(ii) amounts that are payable to a member from a plan for the deferral of compensation under section 457(f) of the Internal Revenue Code, 26 U.S.C. 457(f).

(33) “Tier one member” means a person who became a member before July 1, 2013, and who has not withdrawn the member’s account balance.

(34) “Tier two member” means a person who became a member on or after July 1, 2013, or who, after withdrawing the member’s account balance, became a member again after July 1, 2013.

(35) “Vested” means that a member has been credited with at least 5 full years of membership service upon which contributions have been made and has a right to a future retirement benefit.

(36) “Written application” or “written election” means a written instrument, required by statute or the rules of the board, properly signed and filed with the board, that contains all the required information, including documentation that the board considers necessary.”

Section 2. Section 19-20-208, MCA, is amended to read:

“19-20-208. Duties and liability of employer. (1) Each employer shall:

(a) (i) *each month, report the name, social security number, time worked, and gross earnings of each employed member; and*

(ii) pick up the contributions of each employed member at the rate prescribed pursuant to 19-20-602 and 19-20-608; and transmit the contributions ~~each month~~ to the executive director of the retirement board;

(b) transmit to the executive director of the retirement board the employer's contributions prescribed by 19-20-605 and 19-20-609, at the time that the employee contributions are transmitted;

(c) keep records and, as required by the retirement board, furnish information to the board that is required in the discharge of the board's duties;

(d) upon the employment of a person who is required to become a member of the retirement system, inform the person of the rights and obligations relating to the retirement system;

(e) each month, report the name, social security number, time worked, and gross earnings of each retired member of the system who has been employed in a position that is reportable to the retirement system pursuant to 19-20-731;

(f) whenever applicable, inform an employee of the right to elect to participate in the university system retirement program under Title 19, chapter 21; *and*

(g) at the request of the retirement board, certify the names of all persons who are eligible for membership or who are members of the retirement system;

~~(h) notify the retirement board of the employment of a person eligible for membership and forward the person's membership application to the board; and~~

~~(i) if the employer has converted to earned compensation amounts excluded from earned compensation, for each retiring member, certify to the board the amounts reported to the system in each of the 5 years preceding the member's retirement.~~

(2) An employer that fails to timely or accurately report the employment of, time worked by, or compensation paid to a retired member as required under subsection (1)(e) is jointly and severally liable with the retired member for repayment to the retirement system of retirement benefits paid to which the member was not entitled, plus interest.

(3) An employer ~~must~~ *shall* submit a wage and contribution report to the retirement system every month, including for any month in which the employer does not pay compensation reportable to the retirement system."

Section 3. Section 19-20-303, MCA, is amended to read:

"19-20-303. Inactive membership -- dormant membership status.

(1) A nonvested or vested member's active membership in the retirement system terminates and the member becomes an inactive member when the member ceases to be employed in a position reportable to the retirement system.

(2) A vested member becomes an inactive member of the teachers' retirement system if the member becomes an active member of another retirement or pension system supported wholly or in part by the money of another government agency, except the federal social security retirement system, and the membership in the other retirement system would allow credit for the same employment service in both retirement systems. However, the member may not be excluded from active membership in the teachers' retirement system solely because the person is receiving or is eligible to receive retirement benefits from another retirement system.

(3) A vested inactive member must be transferred to dormant membership status if the member fails to take one of the following actions by April 1 following the calendar year in which the member attains the age of 70 1/2 *if the member was born before July 1, 1949, or the age of 72 if the member was born on or after July 1, 1949:*

(a) elect to terminate membership by withdrawing from the retirement system and taking a refund of the member's accumulated contributions under 19-20-603;

(b) apply to receive retirement benefits under part 8 or part 9 of this chapter; or

(c) return to active membership.

(4) A nonvested inactive member must be transferred to dormant membership status if the member fails to take one of the following actions within 7 years after becoming an inactive member:

(a) elect to terminate membership by withdrawing from the retirement system and taking a refund of the member's accumulated contributions under 19-20-603; or

(b) return to active membership.

(5) With respect to a member in dormant membership status:

(a) the retirement system shall no longer attempt to locate or contact the member or send communications or annual statements to the member; and

(b) the retirement system shall transfer the amount in the member's annuity savings account to the pension accumulation account and the amount may not be credited with additional interest while the member is in a dormant membership status.

(6) If a vested inactive member in dormant membership status takes an action described in subsection (3), the member is no longer in dormant membership status and the retirement system shall restore the member's account balance to the member's annuity savings account and credit the account balance with the interest that would have been earned if the amount had remained in the annuity savings account.

(7) If a nonvested inactive member takes an action described in subsection (4), the member is no longer in dormant membership status and the retirement system shall restore the member's account balance to the member's annuity savings account and credit the account balance with the interest that would have been earned if the amount had remained in the annuity savings account.

(8) Nothing in this section affects the rights, benefits, obligations, or liabilities provided for under this chapter if a member dies in a dormant membership status."

Section 4. Section 19-20-703, MCA, is amended to read:

"19-20-703. Payments to be monthly. (1) All retirement allowances must be paid in equal monthly installments.

(2) Except as provided in subsection (5), the retirement allowance may commence:

(a) no earlier than the first day of the month following the member's termination date or on the first day of the month following the date when the member first becomes eligible, whichever date is later; or

(b) if requested by the inactive member in writing:

(i) on the first day of a later month; or

(ii) on the first day of the month following the member's 60th birthday.

(3) Distribution of an inactive member's benefit must begin by the later of the April 1 following the calendar year in which a member attains *the age of 70 1/2 if the member was born before July 1, 1949, or the age of 72 if the member was born on or after July 1, 1949*, or April 1 of the year following the calendar year in which the member terminates. If a member fails to apply for retirement benefits by the later of either of those dates, the board shall begin distribution of the monthly benefit as provided in 19-20-702(3)(a)(i).

(4) The life expectancy of a member or the member's joint annuitant may not be recalculated after benefits commence.

(5) If a member terminates within 30 days of the last day of the school year, the member is considered to have terminated at the end of the member's contract, and the retirement allowance may not commence earlier than the first day of the month following the last scheduled pupil-instruction day or pupil-instruction-related day as described in 20-1-304, whichever is later."

Section 5. Section 19-20-905, MCA, is amended to read:

"19-20-905. Cancellation of allowance and restoration of membership. (1) If a disabled retiree is employed in a position reportable to the retirement system and earns compensation in any *fiscal calendar* year in excess of the limitation provided in 19-20-904, the retiree's retirement allowance must cease and the retiree must again become an active member of the retirement system effective on the first day of the month following the month in which the earnings limitation was exceeded.

(2) If the member is restored to active membership on or after the attainment of the age of 55 years, the member's retirement allowance upon subsequent retirement may not exceed the retirement allowance that the member would have received had the member remained in service during the period of the member's previous retirement or the sum of the retirement allowance that the member was receiving immediately prior to the member's last restoration to service and the retirement allowance that the member would have received on account of the member's service since the member's last restoration had the member entered service at that time as a new member."

Section 6. Effective date. [This act] is effective July 1, 2021.

Approved April 11, 2021

CHAPTER NO. 174

[HB 195]

AN ACT REVISING CLAIMS HISTORY INFORMATION THAT AN INSURER MAY CONSIDER IN TRANSACTING RESIDENTIAL PROPERTY INSURANCE POLICIES; LIMITING THE PERIOD FOR WHICH ADVERSE CLAIMS HISTORY MAY BE USED IN ISSUING, RENEWING, OR RATING RESIDENTIAL PROPERTY INSURANCE; ALLOWING A DISCOUNT BASED ON FAVORABLE ASPECTS OF THE INSURED'S CLAIMS HISTORY; AND AMENDING SECTIONS 33-16-201 AND 33-18-210, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 33-16-201, MCA, is amended to read:

"33-16-201. Standards applicable to rates. The following standards apply to the making and use of rates pertaining to all classes of insurance to which the provisions of this chapter are applicable:

(1) (a) Rates may not be excessive or inadequate, and they may not be unfairly discriminatory.

(b) A rate may not be held to be excessive unless the rate is unreasonably high for the insurance provided and a reasonable degree of competition does not exist in the area with respect to the classification to which the rate is applicable.

(c) A rate may not be held to be inadequate unless the rate is unreasonably low for the insurance provided and the continued use of the rate endangers the solvency of the insurer using the rate or unless the rate is unreasonably low for the insurance provided and the use of the rate by the insurer has, or if continued will have, the effect of destroying competition or creating a monopoly.

(2) (a) Consideration must be given, when applicable, to past and prospective loss experience within and outside this state, to revenue and profits from reserves, to conflagration and catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to past and prospective expenses, both countrywide and those specially applicable to this state, and to all other factors, including judgment factors, considered relevant within and outside this state. In the case of fire insurance rates, consideration may be given to the experience of the fire insurance business during the most recent 5-year period for which experience is available.

(b) Consideration may also be given in the making and use of rates to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers.

(3) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the operating methods of the insurer or group with respect to any kind of insurance or with respect to any subdivision or combination of insurance.

(4) (a) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for separate risks in accordance with rating plans that establish standards for measuring variations in hazards or expense provisions, or both. The standards may measure any difference among risks that have a probable effect upon losses or expenses. Classifications or modifications of classifications of risks may be established, based upon size, expense, management, individual experience, location or dispersion of hazard, or any other reasonable considerations.

(b) Special risk classifications may be established for private passenger automobile policies. Special risk classifications may be based upon favorable aspects of an insured individual's claims history that is 3 years old or older. Special risk classifications may not be established based on adverse information contained in an insured individual's driving record that is 3 years old or older.

(c) Special risk classifications may be established for commercial automobile policies. Special risk classifications for commercial automobile policies may be based upon favorable aspects of an insured's claims history that is 5 years old or older. Special risk classifications for commercial automobile policies established for an insured's adverse loss experience may not use more than the most recent 5 years of claims history that is available.

(d) *Special risk classifications may be established for personal homeowner policies. Special risk classifications may be based upon favorable aspects of an insured individual's claims history. Special risk classifications may not be established based on adverse information contained in an insured individual's claims history that is 7 years old or older.*

(d)(e) Classifications and modifications apply to all risks under the same or substantially the same circumstances or conditions.

(e)(f) As used in subsection (4)(b), "private passenger automobile policy" means an automobile insurance policy issued to individuals or families but does not include policies known as commercial automobile policies.

(g) *As used in subsection (4)(d), "personal homeowner policies" means property insurance under 33-1-210 that is sold by an insurer for personal, family, or household purposes."*

Section 2. Section 33-18-210, MCA, is amended to read:

"33-18-210. Unfair discrimination and rebates prohibited for title, property, casualty, or surety insurance – exceptions – limitations.

(1) Except as provided in subsections (3), (4), and (11)(a), a title, property,

casualty, or surety insurer or an employee, representative, or insurance producer of an insurer may not, as an inducement to purchase insurance or after insurance has been effected, pay, allow, or give or offer to pay, allow, or give, directly or indirectly, a:

(a) rebate, discount, abatement, credit, or reduction of the premium named in the insurance policy;

(b) special favor or advantage in the dividends or other benefits to accrue on the policy; or

(c) valuable consideration or inducement not specified in the policy, except to the extent provided for in an applicable filing with the commissioner as provided by law.

(2) Except as provided in subsections (3), (4), and (11)(a), an insured named in a policy or an employee of the insured may not knowingly receive or accept, directly or indirectly, a:

(a) rebate, discount, abatement, credit, or reduction of premium;

(b) special favor or advantage; or

(c) valuable consideration or inducement.

(3) The prohibitions in subsections (1) and (2) do not apply to a benefit provided for by a telematics agreement as provided in 33-23-221 through 33-23-226.

(4) The prohibitions under subsections (1) and (2) do not apply to an active, retired, or honorably separated member of the United States armed forces as described in 33-18-217(1)(a) or to a spouse, surviving spouse, dependent, or heir of a United States armed forces member as provided in 33-18-217.

(5) An insurer may not make or permit unfair discrimination in the premium or rates charged for insurance, in the dividends or other benefits payable on insurance, or in any other of the terms and conditions of the insurance either between insureds or property having like insuring or risk characteristics or between insureds because of race, color, creed, religion, or national origin.

(6) This section may not be construed as prohibiting the payment of commissions or other compensation to licensed insurance producers or as prohibiting an insurer from allowing or returning lawful dividends, savings, or unabsorbed premium deposits to its participating policyholders, members, or subscribers.

(7) An insurer may not make or permit unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless:

(a) the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for unfair discrimination; or

(b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

(8) An insurer may not make or permit unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a residential property risk or on the personal property contained in the residential property, because of the age of the residential property, unless:

(a) the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for unfair discrimination; or

(b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

(9) An insurer may not refuse to insure, refuse to continue to insure, or limit the amount of coverage available to an individual because of the sex or marital status of the individual. However, an insurer may take marital status into account for the purpose of defining persons eligible for dependents' benefits.

(10) An insurer may not terminate or modify coverage or refuse to issue or refuse to renew a property or casualty policy or contract of insurance solely because the applicant or insured or any employee of either is mentally or physically impaired. However, this subsection does not apply to accident and health insurance sold by a casualty insurer, and this subsection may not be interpreted to modify any other provision of law relating to the termination, modification, issuance, or renewal of any insurance policy or contract.

(11) (a) An insurer may not refuse to insure, refuse to continue to insure, charge higher rates, or limit the amount of coverage available to an individual under a private passenger automobile policy based solely on adverse information contained in an individual's driving record that is 3 years old or older. An insurer may provide discounts to an insured under a private passenger automobile policy based on favorable aspects of an insured's claims history that is 3 years old or older.

(b) An insurer may not use more than the most recent 5 years of loss experience that is available when determining whether to refuse to insure, refuse to continue to insure, charge higher rates, or limit the amount of coverage available under a commercial automobile policy. An insurer may provide discounts to an insured under a commercial automobile policy based on favorable aspects of an insured's claims history that is 5 years old or older.

(c) *An insurer may not refuse to insure, refuse to continue to insure, charge higher rates, or limit the amount of coverage available under a personal homeowner policy based solely on adverse information contained in the loss experience that is 7 years old or older. An insurer may provide discounts to an insured under a personal homeowner policy based on favorable aspects of an insured's claims history.*

(d) As used in subsection (11)(a), "private passenger automobile policy" means an automobile insurance policy issued to individuals or families but does not include policies known as commercial automobile policies.

(e) *As used in subsection (11)(c), "personal homeowner policy" means property insurance under 33-1-210 that is sold by an insurer for personal, family, or household purposes.*

(12) An insurer may not charge points or surcharge a private passenger motor vehicle policy because of a claim submitted under the insured's policy if the insured was not at fault.

(13) (a) An insurer that provides personal lines insurance for an insured may not consider the insured's inquiries or claims made to any insurer that did not result in a payment by any insurer in considering an application for, renewal of, or change in an insurance policy as defined in 33-15-102.

(b) This subsection (13) does not apply to an insurer's consideration of a claim that was the basis for a criminal or civil insurance fraud action by a state or regulatory enforcement entity.

(c) (i) For the purposes of this subsection (13), the term "personal lines insurance" means vehicle insurance under 33-1-206(1)(a) and property insurance under 33-1-210 that is sold by an insurer for personal, family, or household purposes.

(ii) The term does not include disability insurance or insurance for commercial, business, or professional services, products, or activities."

Section 3. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Approved April 11, 2021

CHAPTER NO. 175

[HB 208]

AN ACT GENERALLY REVISING MENTAL HEALTH SERVICES LAWS FOR WOMEN RELINQUISHING A CHILD FOR ADOPTION; ESTABLISHING REQUIREMENTS RELATED TO MENTAL HEALTH SERVICES FOR WOMEN PLANNING TO RELINQUISH A CHILD FOR ADOPTION; REQUIRING WOMEN TO BE NOTIFIED OF THE AVAILABILITY OF OUTPATIENT MENTAL HEALTH SERVICES; ALLOWING ADOPTIVE PARENTS TO PAY COSTS RELATED TO OUTPATIENT MENTAL HEALTH SERVICES; AND AMENDING SECTIONS 42-2-408, 42-2-409, 42-2-412, 42-2-604, 42-4-102, 42-4-103, 42-4-405, 42-7-101, 42-7-102, AND 52-8-104, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 42-2-408, MCA, is amended to read:

“42-2-408. Time and prerequisites for execution of relinquishment and consent to adoption – copy of preplacement evaluation – notarization. (1) A parent whose consent to the adoption of a child is required may execute a relinquishment and consent to adoption only after the following criteria have been met:

- (a) the child has been born;
- (b) not less than 72 hours have elapsed since the birth of the child;
- (c) the parent has received ~~counseling~~ *adoptive decision support services* in accordance with 42-2-409; and
- (d) in a direct parental placement adoption:
 - (i) the parent has been informed that fees for any required counseling and legal fees are allowable expenses that may be paid by a prospective adoptive parent under 42-7-101, subject to the limitations set in 42-7-102;
 - (ii) if the parent is a minor, the parent has been represented by separate legal counsel; and
 - (iii) prior to the execution of the relinquishment, the parent has been provided a copy of the preplacement evaluation prepared pursuant to 42-3-204 pertaining to the prospective adoptive parent.

(2) A guardian may execute a relinquishment and consent to adopt at any time after being authorized by a court.

(3) The department or a licensed child-placing agency may execute a consent for the adoption at any time before or during the hearing on the petition for adoption.

(4) A child whose consent is required may execute a consent at any time before or during the hearing on the petition to adopt.

(5) Except as provided in this section, a relinquishment and consent to adopt must be a separate instrument executed before a notary public.

(6) If the person from whom a relinquishment and consent to adopt is required is a member of the armed services or is in prison, the relinquishment may be executed and acknowledged before any person authorized by law to administer oaths.”

Section 2. Section 42-2-409, MCA, is amended to read:

~~“42-2-409. Counseling requirements~~ *Adoptive decision support services.* (1) ~~Counseling of the birth mother is required in~~ *In department, agency, and direct parental placement adoptions, the birth mother must receive the adoptive decision support services required under this section.* If any other parent is involved in an adoptive placement, ~~counseling of that parent is adoptive decision support services are encouraged for that parent.~~

(2) ~~Counseling~~ *Adoptive decision support services* must be performed provided by a person employed by the department or by a staff person of a licensed child-placing agency designated to provide ~~this type of the counseling services.~~ Unless the ~~counseling~~ requirement is waived for good cause by a court, a minimum of 3 hours of ~~counseling~~ *adoptive decision support services* must be ~~completed~~ *provided* prior to execution of a relinquishment of parental rights and consent to adopt. A relinquishment and consent to adopt executed prior to ~~completion~~ *provision of the required counseling services* is void.

(3) ~~During counseling, the counselor~~ *The person providing adoptive decision support services* shall offer an explanation of:

(a) adoption procedures and options that are available to a parent through the department or licensed child-placing agencies;

(b) adoption procedures and options that are available to a parent through direct parental placement adoptions, including the right to an attorney and that legal expenses are an allowable expense that may be paid by a prospective adoptive parent as provided in 42-7-101 and 42-7-102;

(c) the alternative of parenting rather than relinquishing the child for adoption;

(d) the resources that are available to provide assistance or support for the parent and the child if the parent chooses not to relinquish the child;

(e) the legal and personal effect and impact of terminating parental rights and of adoption;

(f) the options for contact and communication between the birth family and the adoptive family;

(g) postadoptive issues, including grief and loss, and the existence of ~~a~~ *any* postadoptive counseling and support program *offered pursuant to 42-4-211*;

(h) *the option for obtaining medically necessary prenatal and postnatal outpatient mental health services. The person shall provide a list of state mental health resources.*

~~(h)~~(i) the reasons for and importance of providing accurate medical and social history information under 42-3-101;

~~(i)~~(j) the operation of the confidential intermediary program; and

~~(j)~~(k) the fact that the adoptee may be provided with a copy of the original birth certificate upon request after reaching 18 years of age unless the birth parent has specifically requested in writing that the vital statistics bureau withhold release of the original birth certificate. The birth parent may change the request at any time by notifying the vital statistics bureau in writing of the change.

(4) ~~The counselor~~ *person providing adoptive decision support services* shall prepare a written report containing a description of the topics covered and the number of hours of counseling. The report must specifically include the ~~counselor's~~ *person's* opinion of whether or not the parent understood all of the issues and was capable of informed consent. The report must, on request, be released to the person counseled, to the department, to an agency, or with the consent of the person counseled, to an attorney for the prospective adoptive parents.”

Section 3. Section 42-2-412, MCA, is amended to read:

“42-2-412. Content of relinquishment and consent to adopt. (1) A relinquishment and consent to adopt must be in writing and must contain:

(a) the date, place, and time of the execution of relinquishment and consent to adopt;

(b) the name, date of birth, and current mailing address of the individual executing the relinquishment and consent to adopt;

(c) the date of birth and the name of the child to be adopted; and

(d) the name, address, and telephone numbers of the department or agency to which the child is being relinquished or the name, address, and telephone numbers of the prospective adoptive parent with whom the individual executing the relinquishment and consent has placed or intends to place the child for adoption.

(2) A relinquishment and consent to adopt executed by a parent or guardian must state that the parent or guardian executing the document is voluntarily and unequivocally consenting to the:

(a) permanent transfer of legal and physical custody of the child to the department or agency for the purposes of adoption; or

(b) transfer of permanent legal and physical custody to, and the adoption of the child by, a specific identified adoptive parent whom the parent or guardian has selected.

(3) A relinquishment and consent to adopt must state:

(a) that after the document is signed or confirmed in substantial compliance with this section, it is final and, except under a circumstance stated in 42-2-411, may not be revoked or set aside for any reason, including the failure of an adoptive parent to permit the individual executing the relinquishment and consent to adopt to visit or communicate with the child;

(b) that the relinquishment will result in the extinguishment of all parental rights and obligations that the individual executing the relinquishment and consent to adopt has with respect to the child, except for arrearages of child support unless the arrearages are waived by the person to whom they are owed, and that the relinquishment will remain valid whether or not any agreement for visitation or communication with the child is later performed;

(c) that the individual executing the relinquishment and consent to adopt has:

(i) received a copy of the relinquishment and consent to adopt;

(ii) received a copy of a written agreement by the department, agency, or prospective adoptive parent to accept temporary custody and to provide support and care to the child until an adoption petition is granted or denied;

(iii) if required, received *counseling adoptive decision support* services pursuant to 42-2-409 explaining the meaning and consequences of an adoption and *informing the individual of the option for obtaining medically necessary prenatal and postnatal outpatient services*;

(d) in direct parental placement adoptions, that the individual has:

(i) if a minor parent, been advised by a lawyer who is not representing the adoptive parent;

(ii) if an adult, been advised of the right to have a lawyer who is not representing the adoptive parent;

(iii) been advised that the attorney fees are allowable expenses that can be paid by the prospective adoptive parents; and

(iv) been provided with a copy of the prospective adoptive parent's preplacement evaluation;

(e) in agency and direct parental placement adoptions, that the individual has:

(i) been advised of the obligation to provide the medical and social history information required under 42-3-101 pertaining to disclosures; and

(ii) not received or been promised any money or anything of value for execution of the relinquishment and consent to adopt, except for payments authorized by 42-7-101 and 42-7-102.

(4) A relinquishment and consent to adopt may provide that the individual who is relinquishing waives notice of any proceeding for adoption."

Section 4. Notification of availability of mental health services. A health care provider providing primary or prenatal care to a birth mother shall inform the birth mother of the availability of medically necessary outpatient mental health services.

Section 5. Section 42-2-604, MCA, is amended to read:

"42-2-604. Contents of petition for termination of parental rights.

(1) The petition for termination of parental rights must state:

(a) the identity of the petitioner;

(b) the date and location of the birth of the child;

(c) the date of the relinquishment by the birth mother or relinquishing parent;

(d) the current location of the child;

(e) the names and locations, if known, of any putative or presumed father of the child;

(f) whether a parent is one from whom consent is not required;

(g) whether court orders from any other proceeding have been issued terminating parental rights to the child that is the subject of the petition;

(h) any other evidence supporting termination of the legal rights that a person has with regard to the child; and

(i) a request for temporary custody of the child prior to the adoption.

(2) The petitioner shall file with the petition for termination of parental rights the following documents received in support of the petition:

(a) any relinquishments and consents to adoption;

(b) any denials of paternity;

(c) any acknowledgments of paternity and denial of parental rights;

(d) any affidavits from the putative father registry that have been executed by the department;

(e) a ~~counseling~~ *adoptive decision support services* report required under 42-2-409;

(f) proof of prior service of any notice or acknowledgment of service or waiver of service received; and

(g) proof of compliance with the Indian Child Welfare Act of 1978 and Interstate Compact on the Placement of Children, if applicable."

Section 6. Section 42-4-102, MCA, is amended to read:

"42-4-102. Duties of placing parent. (1) A parent who is directly placing a child for adoption shall execute a voluntary relinquishment and consent to adopt, including:

(a) receiving the ~~counseling~~ *adoptive decision support services* required by 42-2-409; and

(b) if the parent is a minor, being advised by legal counsel other than the attorney representing the prospective adoptive parent.

(2) A placing parent shall identify and provide information on the location of any other legal parent or guardian of the child and any other person required to receive notice under 42-2-605, including:

(a) any current spouse;

(b) any spouse who is the other birth parent and to whom the parent was married at the probable time of conception or birth of the child; and

(c) any adoptive parent.

(3) A placing parent shall identify and provide information pertaining to any Indian heritage of the child that would bring the child within the jurisdiction of the Indian Child Welfare Act, 25 U.S.C. 1901, et seq.

(4) A parent placing a child for adoption in a direct parental placement adoption shall provide:

(a) the disclosures of medical and social history required pursuant to 42-3-101;

(b) a certified copy of the child's birth certificate or other document certifying the place and date of the child's birth; and

(c) a certified copy of any existing court orders pertaining to custody or visitation of the child.

(5) A parent placing a child for adoption in a direct parental placement adoption shall file a notice of parental placement.

(6) A parent placing a child for adoption in a direct parental placement adoption shall file a disclosure of all disbursements made to or for the benefit of the parent by the prospective adoptive parent or any person acting on behalf of the prospective adoptive parent.

(7) Subject to the limitations set in 42-7-102, ~~counseling~~ expenses for *adoptive decision support services, postadoptive counseling, outpatient mental health services*, legal fees, and the reasonable costs of preparing reports documenting the required disclosures of medical and social history and the disclosures documenting disbursements are allowable expenses that can be paid for by the prospective adoptive parent."

Section 7. Section 42-4-103, MCA, is amended to read:

"42-4-103. Direct parental placement – information to be filed.

(1) A parent who proposes to place a child for adoption with a prospective adoptive parent who resides in Montana and who is not the child's stepparent or an extended family member shall file with the court of the county in which the prospective adoptive parent or the parent making the placement resides the following:

(a) a notice of parental placement containing the following information:

(i) the name and address of the placing parent;

(ii) the name and address of each prospective adoptive parent;

(iii) the name and address or expected date and place of birth of the child;

(iv) the identity and information on the location of any other legal parent or guardian of the child and any other person required to receive notice under 42-2-605, including any current spouse, any spouse who is the other birth parent and to whom the parent was married at the probable time of conception or birth of the child, and any adoptive parent;

(v) all relevant information pertaining to any Indian heritage of the child that would bring the child within the jurisdiction of the Indian Child Welfare Act, 25 U.S.C. 1901, et seq.; and

(vi) the name and address of counsel, a guardian ad litem, or other representative, if any, of each of the parties mentioned in subsections (1)(a)(i) through (1)(a)(iii);

(b) a relinquishment and consent to adoption of the child by the adoptive parent;

(c) the ~~counseling~~ *adoptive decision support services* report required by 42-2-409;

(d) the medical and social history disclosures required by 42-3-101;

(e) a report of disbursements identifying all payments made to or to the benefit of the placing parent by the prospective adoptive parent or anyone acting on the parent's behalf that contains a statement by each person furnishing

information in the report attesting to the truthfulness of the information furnished by that person;

(f) a certified copy of the child's birth certificate or other document certifying the place and date of the child's birth;

(g) a certified copy of any existing court orders pertaining to custody or visitation of the child; and

(h) the preplacement evaluation.

(2) The notice of parental placement must be signed by the parent making the placement."

Section 8. Section 42-4-405, MCA, is amended to read:

"42-4-405. Procedure. Except as otherwise provided in this part, the procedure and law for adoption of a child set forth in this title is applicable in proceedings for the adoption of an adult. The provisions concerning the *counseling adoptive decision support services* requirement, preplacement evaluation, postplacement supervision period, and postplacement evaluation are not applicable to the adoption of an adult."

Section 9. Section 42-7-101, MCA, is amended to read:

"42-7-101. Fees related to placement for adoption by parent.

(1) Reasonable adoption fees may be paid by the adoptive parent for the actual cost of services. The cost of services must relate to:

(a) a petition for adoption;

(b) placement of a child;

(c) medical care or services, *including cost-sharing amounts for medically necessary prenatal and postnatal outpatient mental health services*;

(d) prenatal care;

(e) foster care;

(f) a preplacement evaluation;

(g) counseling related to providing information necessary to make an informed decision to voluntarily relinquish a child;

(h) travel or temporary living costs for the birth mother;

(i) legal fees incurred for services on behalf of the placing parent;

(j) the reasonable costs incurred by a placing parent in a direct parental placement adoption to document the disclosures of medical and social history required by 42-3-101; and

(k) other reasonable costs related to adoption that do not include education, vehicles, salary or wages, vacations, or permanent housing for the birth parent.

(2) A birth parent or a provider of a service listed in subsection (1) may receive or accept a payment authorized by subsection (1). The payment may not be made contingent on the placement of a child for adoption or upon relinquishment of and consent to adoption of the child. If the adoption is not completed, a person who is authorized by subsection (1) to make a specific payment is not liable for that payment unless the person has agreed in a signed writing with a birth parent or a provider of a service to make the payment regardless of the outcome of the proceeding for adoption."

Section 10. Section 42-7-102, MCA, is amended to read:

"42-7-102. Limitations on payment of counseling and legal certain fees. (1) A prospective adoptive parent may pay counseling expenses for a combined maximum of 10 hours of *counseling adoptive decision support services provided pursuant to 42-2-409 and postadoptive counseling provided pursuant to 42-4-211.*

(2) *A prospective adoptive parent may pay cost-sharing expenses for prenatal or postnatal outpatient mental health services provided to the birth mother. Expenses under this subsection are limited to a total of 15 outpatient*

mental health counseling sessions during the prenatal period and the 5 years following the birth of the child.

(2)(3) A prospective adoptive parent may pay for legal costs entailed for providing legal counsel for one birth parent unless the birth parents elect joint representation. The right of a relinquishing parent to legal counsel paid by the prospective adoptive parent continues only until the relinquishment becomes irrevocable. An attorney may not represent both a birth parent and a prospective adoptive parent.”

Section 11. Section 52-8-104, MCA, is amended to read:

“52-8-104. Requirements for licensure. The department may issue licenses to agencies meeting the following minimum requirements:

(1) The chief function of the agency or a specific program within the agency must be the care and placement of children.

(2) The agency operates on a nonprofit basis and is financially responsible in and for its operation.

(3) The agency meets the requirements as designated by the department by rule.

(4) The directing or managing personnel of the agency must be qualified both on the basis of professional educational experience and character.

(5) The agency shall maintain complete records of the children and adoptive or foster parents with which the agency deals. Adoption records must be maintained in accordance with 42-6-101.

(6) The agency shall maintain and use an in-state office for making a social study of the child, particularly with regard to the physical and mental condition of the child and the child’s family background.

(7) The agency shall maintain and use an in-state office for conducting a preplacement evaluation for adoptive parents or a home study for foster parents, particularly with regard to the physical and mental health, emotional stability, and personal integrity of the adoptive or foster parents and their ability to promote the child’s welfare.

(8) The agency must have the ability to provide education for adoptive or foster parents and ~~counseling~~ *adoptive decision support services* for placing parents as required in 42-2-409 and department rules.

(9) The agency shall agree to cooperate with courts having jurisdiction in adoptive or foster care matters and with other public agencies having to deal with the welfare of children.

(10) The agency shall, annually, submit a full, complete, and true financial statement to the department, and the statement must contain a full accounting of the operations of the agency during the preceding year.”

Section 12. Codification instruction. [Section 4] is intended to be codified as an integral part of Title 42, chapter 2, part 4, and the provisions of Title 42, chapter 2, part 4, apply to [section 4].

Approved April 11, 2021

CHAPTER NO. 176

[HB 275]

AN ACT ESTABLISHING REQUIREMENTS FOR THE USE OF MONEY APPROPRIATED FOR MEDICAID HOME AND COMMUNITY-BASED SERVICES WAIVER SLOTS; PROVIDING DIRECTION TO THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES ON THE 0208 WAIVER FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Use of waiver funding. (1) The department shall use money appropriated for home and community-based services waiver slots for the purpose of:

(a) creating waiver slots as authorized by the legislature; or
(b) addressing workforce shortages or other barriers to creating the number of waiver slots authorized by the legislature.

(2) Unencumbered funds appropriated for home and community-based services waiver slots for use by a particular division may not be transferred to another department division or program. The money must be used for the program for which it was appropriated or be reverted to the fund from which it was appropriated.

(3) The department shall report annually to the legislative finance committee in accordance with 5-11-210 on the status of appropriations for home and community-based services waiver slots.

Section 2. Direction to the department of public health and human services. The legislature directs the department of public health and human services to submit to the centers for medicare and medicaid services, by no later than September 30, 2021, a request for an amendment to the medicaid home and community-based services 0208 waiver for individuals with developmental disabilities that:

(1) allows individuals and providers to use the entirety of each individual's cost plan to provide services that the individual needs to be successful in the community, not to exceed the amount of medicaid waiver appropriations in House Bill No. 2;

(2) provides the flexibility necessary to enable the provision of professional services to an individual; and

(3) provides a sufficient number of emergency slots throughout the state to accommodate individuals who may go into crisis.

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 53, chapter 6, part 4, and the provisions of Title 53, chapter 6, part 4, apply to [section 1].

Section 4. Effective date. [This act] is effective July 1, 2021.

Approved April 11, 2021

CHAPTER NO. 177

[HB 293]

AN ACT GENERALLY REVISING LAWS RELATED TO PROVIDING FOR THE UNIFORM TRUST DECANTING ACT; ESTABLISHING THE SCOPE OF THE ACT; REQUIRING DECANTING POWER TO BE USED IN ACCORDANCE WITH FIDUCIARY DUTIES; ESTABLISHING WHICH TRUSTS ARE GOVERNED BY THE ACT; REQUIRING NOTICE WHEN EXERCISING THE DECANTING POWER; SPECIFYING HOW NOTICE WORKS; PROVIDING FOR JUDICIAL INVOLVEMENT; REQUIRING THE DECANTING POWER BE MADE IN A SIGNED RECORD; PROVIDING REQUIREMENTS FOR THE SIGNED RECORD; PROVIDING FOR DECANTING IN CASES OF EXPANDED AND LIMITED DISTRIBUTIVE DISCRETION AND FOR TRUSTS FOR BENEFICIARIES WITH DISABILITIES AND FOR TRUSTS FOR CARE OF ANIMALS; PROTECTING CHARITABLE INTERESTS; PROVIDING LIMITATIONS ON DECANTING; LIMITING CHANGES IN AN AUTHORIZED

FIDUCIARY'S COMPENSATION; LIMITING USE OF DECANTING POWER FOR RELIEF FROM LIABILITY OR INDEMNIFICATION; LIMITING LIABILITY FOR CERTAIN TRUSTEES AND OTHER PERSONS; LIMITING USE OF DECANTING POWER TO MODIFY GRANTS OF POWER TO REMOVE OR REPLACE A FIDUCIARY; PROVIDING TAX-RELATED LIMITATIONS; PROVIDING FOR DURATIONS OF SECOND TRUSTS; ALLOWING USE OF DECANTING POWER WHETHER OR NOT A FIRST TRUST'S DISCRETIONARY DISTRIBUTION STANDARD COULD COMPEL A DISTRIBUTION OF PRINCIPAL; PROVIDING FOR DETERMINATIONS OF A SETTLOR'S INTENT; AND PROVIDING FOR LATER-DISCOVERED PROPERTY.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 30] may be cited as the "Uniform Trust Decanting Act".

Section 2. Definitions. In [sections 1 through 30]:

(1) "Appointive property" has the meaning in section 72-7-102(2).

(2) "Ascertainable standard" means a standard relating to an individual's health, education, support, or maintenance within the meaning of 26 U.S.C. 2041(b)(1) (A), as amended, or 26 U.S.C. 2514(c)(1), as amended, and any applicable regulations.

(3) "Authorized fiduciary" means:

(a) a trustee or other fiduciary, other than a settlor, that has discretion to distribute or direct a trustee to distribute part or all of the principal of the first trust to one or more current beneficiaries;

(b) a special fiduciary appointed under [section 9]; or

(c) a special-needs fiduciary under [section 13].

(4) "Beneficiary" means a person that:

(a) has a present or future, vested or contingent, beneficial interest in a trust;

(b) holds a power of appointment over trust property; or

(c) is an identified charitable organization that will or may receive distributions under the terms of the trust.

(5) "Charitable interest" means an interest in a trust that:

(a) is held by an identified charitable organization and makes the organization a qualified beneficiary;

(b) benefits only charitable organizations and, if the interest were held by an identified charitable organization, would make the organization a qualified beneficiary; or

(c) is held solely for charitable purposes and, if the interest were held by an identified charitable organization, would make the organization a qualified beneficiary.

(6) "Charitable organization" means:

(a) a person, other than an individual, organized and operated exclusively for charitable purposes; or

(b) a government or governmental subdivision, agency, or instrumentality, to the extent it holds funds exclusively for a charitable purpose.

(7) "Charitable purpose" means the relief of poverty, the advancement of education or religion, the promotion of health, a municipal or other governmental purpose, or another purpose the achievement of which is beneficial to the community.

(8) "Court" means the court in this state having jurisdiction in matters relating to trusts.

(9) “Current beneficiary” means a beneficiary that on the date the beneficiary’s qualification is determined is a distributee or permissible distributee of trust income or principal. The term includes the holder of a presently exercisable general power of appointment but does not include a person that is a beneficiary only because the person holds any other power of appointment.

(10) “Decanting power” or “the decanting power” means the power of an authorized fiduciary under [sections 1 through 30] to distribute property of a first trust to one or more second trusts or to modify the terms of the first trust.

(11) “Expanded distributive discretion” means a discretionary power of distribution that is not limited to an ascertainable standard or a reasonably definite standard.

(12) “First trust” means a trust over which an authorized fiduciary may exercise the decanting power.

(13) “First-trust instrument” means the trust instrument for a first trust.

(14) “General power of appointment” has the meaning in section 72-7-102(6).

(15) “Jurisdiction”, with respect to a geographic area, includes a state or country.

(16) “Person” has the meaning in section 72-38-103(12).

(17) “Power of appointment” has the meaning in section 72-7-102(13).

(18) “Powerholder” has the meaning in section 72-7-102(14).

(19) “Presently exercisable power of appointment” means a power of appointment exercisable by the powerholder at the relevant time. The term:

(a) includes a power of appointment exercisable only after the occurrence of a specified event, the satisfaction of an ascertainable standard, or the passage of a specified time only after:

- (i) the occurrence of the specified event;
- (ii) the satisfaction of the ascertainable standard; or
- (iii) the passage of the specified time; and

(b) does not include a power exercisable only at the powerholder’s death.

(20) “Qualified beneficiary” means a beneficiary that on the date the beneficiary’s qualification is determined:

(a) is a distributee or permissible distributee of trust income or principal;

(b) would be a distributee or permissible distributee of trust income or principal if the interests of the distributees described in subsection (20)(a) terminated on that date without causing the trust to terminate; or

(c) would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.

(21) “Reasonably definite standard” means a clearly measurable standard under which a holder of a power of distribution is legally accountable within the meaning of 26 U.S.C. 674(b)(5)(A), as amended, and any applicable regulations.

(22) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(23) “Second trust” means:

(a) a first trust after modification under [sections 1 through 30]; or

(b) a trust to which a distribution of property from a first trust is or may be made under [sections 1 through 30].

(24) “Second-trust instrument” means the trust instrument for a second trust.

(25) “Settlor”, except as otherwise provided in [section 25], means a person, including a testator, that creates or contributes property to a trust. If more than one person creates or contributes property to a trust, each person is a settlor

of the portion of the trust property attributable to the person's contribution except to the extent another person has power to revoke or withdraw that portion.

(26) "Sign" means, with present intent to authenticate or adopt a record:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic symbol, sound, or process.

(27) "State" has the meaning in section 72-38-103(20).

(28) "Terms of the trust" means:

(a) except as otherwise provided in subsection (28)(b), the manifestation of the settlor's intent regarding a trust's provisions as:

(i) expressed in the trust instrument; or

(ii) established by other evidence that would be admissible in a judicial proceeding; or

(b) the trust's provisions as established, determined, or amended by:

(i) a trustee or other person in accordance with applicable law;

(ii) a court order; or

(iii) a nonjudicial settlement agreement under 72-38-111.

(29) "Trust instrument" means a record executed by the settlor to create a trust or by any person to create a second trust that contains some or all of the terms of the trust, including any amendments.

Section 3. Scope. (1) Except as provided in subsections (2) and (3), [sections 1 through 30] applies to an express trust that is irrevocable or revocable by the settlor only with the consent of the trustee or a person holding an adverse interest.

(2) [Sections 1 through 30] does not apply to a trust held solely for charitable purposes.

(3) Subject to [section 15], a trust instrument may restrict or prohibit exercise of the decanting power.

(4) [Sections 1 through 30] does not limit the power of a trustee, powerholder, or other person to distribute or appoint property in further trust or to modify a trust under the trust instrument, law of this state other than [sections 1 through 30], common law, a court order, or a nonjudicial settlement agreement.

(5) [Sections 1 through 30] does not affect the ability of a settlor to provide in a trust instrument for the distribution of the trust property or appointment in further trust of the trust property or for modification of the trust instrument.

Section 4. Fiduciary duty. (1) In exercising the decanting power, an authorized fiduciary shall act in accordance with its fiduciary duties, including the duty to act in accordance with the purposes of the first trust.

(2) [Sections 1 through 30] does not create or imply a duty to exercise the decanting power or to inform beneficiaries about the applicability of [sections 1 through 30].

(3) Except as otherwise provided in a first-trust instrument, for purposes of [sections 1 through 30] and sections 72-38-801 and 72-38-802(1), the terms of the first trust are deemed to include the decanting power.

Section 5. Application – governing law. [Sections 1 through 30] applies to a trust created before, on, or after [the effective date of sections 1 through 30] that:

(1) has its principal place of administration in this state, including a trust whose principal place of administration has been changed to this state; or

(2) provides by its trust instrument that is governed by the law of this state or is governed by the law of this state for the purpose of:

- (a) administration, including administration of a trust whose governing law for purposes of administration has been changed to the law of this state;
- (b) construction of terms of the trust; or
- (c) determining the meaning or effect of terms of the trust.

Section 6. Reasonable reliance. A trustee or other person that reasonably relies on the validity of a distribution of part or all of the property of a trust to another trust, or a modification of a trust, under [sections 1 through 30], law of this state other than [sections 1 through 30], or the law of another jurisdiction is not liable to any person for any action or failure to act as a result of the reliance.

Section 7. Notice – exercise of decanting power. (1) In this section, a notice period begins on the day notice is given under subsection (3) and ends 60 days after the day notice is given.

(2) Except as otherwise provided in [sections 1 through 30], an authorized fiduciary may exercise the decanting power without the consent of any person and without court approval.

(3) Except as otherwise provided in subsection (6), an authorized fiduciary shall give notice in a record of the intended exercise of the decanting power not later than 60 days, exclusive of the day notice is given, before the exercise to:

- (a) each settlor of the first trust, if living or then in existence;
- (b) each qualified beneficiary of the first trust;
- (c) each holder of a presently exercisable power of appointment over any part or all of the first trust;
- (d) each person that currently has the right to remove or replace the authorized fiduciary;
- (e) each other fiduciary of the first trust;
- (f) each fiduciary of the second trust; and
- (g) the attorney general, if [section 14(2)] applies.

(4) An authorized fiduciary is not required to give notice under subsection (3) to a person that is not known to the fiduciary or is known to the fiduciary but cannot be located by the fiduciary after reasonable diligence.

(5) A notice under subsection (3) must:

- (a) specify the manner in which the authorized fiduciary intends to exercise the decanting power;
- (b) specify the proposed effective date for exercise of the power;
- (c) include a copy of the first-trust instrument; and
- (d) include a copy of all second-trust instruments.

(6) The decanting power may be exercised before expiration of the notice period under subsection (1) if all persons entitled to receive notice waive the period in a signed record.

(7) The receipt of notice, waiver of the notice period, or expiration of the notice period does not affect the right of a person to file an application under [section 9] asserting that:

(a) an attempted exercise of the decanting power is ineffective because it did not comply with [sections 1 through 30] or was an abuse of discretion or breach of fiduciary duty; or

(b) [section 22] applies to the exercise of the decanting power.

(8) An exercise of the decanting power is not ineffective because of the failure to give notice to one or more persons under subsection (3) if the authorized fiduciary acted with reasonable care to comply with subsection (3).

Section 8. Representation. (1) Notice to a person with authority to represent and bind another person under a first-trust instrument or Title 72, chapter 38, part 3, has the same effect as notice given directly to the person represented.

(2) Consent of or waiver by a person with authority to represent and bind another person under a first-trust instrument or Title 72, chapter 38, part 3, is binding on the person represented unless the person represented objects to the representation before the consent or waiver otherwise would become effective.

(3) A person with authority to represent and bind another person under a first-trust instrument or Title 72, chapter 38, part 3, may file an application under [section 9] on behalf of the person represented.

(4) A settlor may not represent or bind a beneficiary under [sections 1 through 30].

Section 9. Court involvement. (1) On application of an authorized fiduciary, a person entitled to notice under [section 7(3)], a beneficiary, or with respect to a charitable interest the attorney general or other person that has standing to enforce the charitable interest, the court may:

(a) provide instructions to the authorized fiduciary regarding whether a proposed exercise of the decanting power is permitted under [sections 1 through 30] and consistent with the fiduciary duties of the authorized fiduciary;

(b) appoint a special fiduciary and authorize the special fiduciary to determine whether the decanting power should be exercised under [sections 1 through 30] and to exercise the decanting power;

(c) approve an exercise of the decanting power;

(d) determine that a proposed or attempted exercise of the decanting power is ineffective because:

(i) after applying [section 22], the proposed or attempted exercise does not or did not comply with [sections 1 through 30]; or

(ii) the proposed or attempted exercise would be or was an abuse of the fiduciary's discretion or a breach of fiduciary duty;

(e) determine the extent to which [section 22] applies to a prior exercise of the decanting power;

(f) provide instructions to the trustee regarding the application of [section 22] to a prior exercise of the decanting power; or

(g) order other relief to carry out the purposes of [sections 1 through 30].

(2) On application of an authorized fiduciary, the court may approve:

(a) an increase in the fiduciary's compensation under [section 16]; or

(b) a modification under [section 18] of a provision granting a person the right to remove or replace the fiduciary.

Section 10. Formalities. An exercise of the decanting power must be made in a record signed by an authorized fiduciary. The signed record must, directly or by reference to the notice required by [section 7], identify the first trust and the second trust or trusts and state the property of the first trust being distributed to each second trust and the property, if any, that remains in the first trust.

Section 11. Decanting power under expanded distributive discretion. (1) In this section:

(a) "Noncontingent right" means a right that is not subject to the exercise of discretion or the occurrence of a specified event that is not certain to occur. The term does not include a right held by a beneficiary if any person has discretion to distribute property subject to the right to any person other than the beneficiary or the beneficiary's estate.

(b) "Presumptive remainder beneficiary" means a qualified beneficiary other than a current beneficiary.

(c) "Successor beneficiary" means a beneficiary that is not a qualified beneficiary on the date the beneficiary's qualification is determined. The term does not include a person that is a beneficiary only because the person holds a nongeneral power of appointment.

(d) “Vested interest” means:

(i) a right to a mandatory distribution that is a noncontingent right as of the date of the exercise of the decanting power;

(ii) a current and noncontingent right, annually or more frequently, to a mandatory distribution of income, a specified dollar amount, or a percentage of value of some or all of the trust property;

(iii) a current and noncontingent right, annually or more frequently, to withdraw income, a specified dollar amount, or a percentage of value of some or all of the trust property;

(iv) a presently exercisable general power of appointment; or

(v) a right to receive an ascertainable part of the trust property on the trust’s termination which is not subject to the exercise of discretion or to the occurrence of a specified event that is not certain to occur.

(2) Subject to subsection (3) and [section 14], an authorized fiduciary that has expanded distributive discretion over the principal of a first trust for the benefit of one or more current beneficiaries may exercise the decanting power over the principal of the first trust.

(3) Subject to [section 13], in an exercise of the decanting power under this section, a second trust may not:

(a) include as a current beneficiary a person that is not a current beneficiary of the first trust, except as otherwise provided in subsection (4);

(b) include as a presumptive remainder beneficiary or successor beneficiary a person that is not a current beneficiary, presumptive remainder beneficiary, or successor beneficiary of the first trust, except as otherwise provided in subsection (4); or

(c) reduce or eliminate a vested interest.

(4) Subject to subsection (3)(c) and [section 14], in an exercise of the decanting power under this section, a second trust may be a trust created or administered under the law of any jurisdiction and may:

(a) retain a power of appointment granted in the first trust;

(b) omit a power of appointment granted in the first trust, other than a presently exercisable general power of appointment;

(c) create or modify a power of appointment if the powerholder is a current beneficiary of the first trust and the authorized fiduciary has expanded distributive discretion to distribute principal to the beneficiary; and

(d) create or modify a power of appointment if the powerholder is a presumptive remainder beneficiary or successor beneficiary of the first trust, but the exercise of the power may take effect only after the powerholder becomes, or would have become if then living, a current beneficiary.

(5) A power of appointment described in subsections (4)(a) through (4)(d) may be general or nongeneral. The class of permissible appointees in favor of which the power may be exercised may be broader than or different from the beneficiaries of the first trust.

(6) If an authorized fiduciary has expanded distributive discretion over part but not all of the principal of a first trust, the fiduciary may exercise the decanting power under this section over that part of the principal over which the authorized fiduciary has expanded distributive discretion.

Section 12. Decanting power under limited distributive discretion.

(1) In this section, “limited distributive discretion” means a discretionary power of distribution that is limited to an ascertainable standard or a reasonably definite standard.

(2) An authorized fiduciary that has limited distributive discretion over the principal of the first trust for benefit of one or more current beneficiaries may exercise the decanting power over the principal of the first trust.

(3) Under this section and subject to [section 14], a second trust may be created or administered under the law of any jurisdiction. Under this section, the second trusts, in the aggregate, must grant each beneficiary of the first trust beneficial interests that are substantially similar to the beneficial interests of the beneficiary in the first trust.

(4) A power to make a distribution under a second trust for the benefit of a beneficiary who is an individual is substantially similar to a power under the first trust to make a distribution directly to the beneficiary. A distribution is for the benefit of a beneficiary if:

- (a) the distribution is applied for the benefit of the beneficiary;
- (b) the beneficiary is under a legal disability or the trustee reasonably believes the beneficiary is incapacitated, and the distribution is made as permitted under the Montana Uniform Trust Code; or
- (c) the distribution is made as permitted under the terms of the first-trust instrument and the second-trust instrument for the benefit of the beneficiary.

(5) If an authorized fiduciary has limited distributive discretion over part but not all of the principal of a first trust, the fiduciary may exercise the decanting power under this section over that part of the principal over which the authorized fiduciary has limited distributive discretion.

Section 13. Trust for beneficiary with disability. (1) In this section:

(a) “Beneficiary with a disability” means a beneficiary of a first trust who the special-needs fiduciary believes may qualify for governmental benefits based on disability, whether or not the beneficiary currently receives those benefits or is an individual who has been adjudicated incapacitated.

(b) “Governmental benefits” means financial aid or services from a state, federal, or other public agency.

(c) “Special-needs fiduciary” means, with respect to a trust that has a beneficiary with a disability:

(i) a trustee or other fiduciary, other than a settlor, that has discretion to distribute part or all of the principal of a first trust to one or more current beneficiaries;

(ii) if no trustee or fiduciary has discretion under subsection (1)(c)(i), a trustee or other fiduciary, other than a settlor, that has discretion to distribute part or all of the income of the first trust to one or more current beneficiaries; or

(iii) if no trustee or fiduciary has discretion under subsections (1)(c)(i) and (1)(c)(ii), a trustee or other fiduciary, other than a settlor, that is required to distribute part or all of the income or principal of the first trust to one or more current beneficiaries.

(d) “Special-needs trust” means a trust the trustee believes would not be considered a resource for purposes of determining whether a beneficiary with a disability is eligible for governmental benefits.

(2) A special-needs fiduciary may exercise the decanting power under [section 11] over the principal of the first trust as if the fiduciary had authority to distribute principal to a beneficiary with a disability subject to expanded distributive discretion if:

(a) a second trust is a special-needs trust that benefits the beneficiary with a disability; and

(b) the special-needs fiduciary determines that exercise of the decanting power will further the purposes of the first trust.

(3) In an exercise of the decanting power under this section, the following rules apply:

(a) Notwithstanding [section 11(3)(b)], the interest in the second trust of a beneficiary with a disability may:

(i) be a pooled trust as defined by medicaid law for the benefit of the beneficiary with a disability under 42 U.S.C. 1396p(d)(4)(C), as amended; or

(ii) contain payback provisions complying with reimbursement requirements of medicaid law under 42 U.S.C. 1396p(d)(4)(A), as amended.

(b) [Section 11(3)(c)] does not apply to the interests of the beneficiary with a disability.

(c) Except as affected by any change to the interests of the beneficiary with a disability, the second trust, or if there are two or more second trusts, the second trusts in the aggregate, must grant each other beneficiary of the first trust beneficial interests in the second trusts that are substantially similar to the beneficiary's beneficial interests in the first trust.

Section 14. Protection of charitable interest. (1) In this section:

(a) "Determinable charitable interest" means a charitable interest that is a right to a mandatory distribution currently, periodically, on the occurrence of a specified event, or after the passage of a specified time and which is unconditional or will be held solely for charitable purposes.

(b) "Unconditional" means not subject to the occurrence of a specified event that is not certain to occur, other than a requirement in a trust instrument that a charitable organization be in existence or qualify under a particular provision of the United States Internal Revenue Code of 1986, as amended, on the date of the distribution, if the charitable organization meets the requirement on the date of determination.

(2) If a first trust contains a determinable charitable interest, the attorney general has the rights of a qualified beneficiary and may represent and bind the charitable interest.

(3) If a first trust contains a charitable interest, the second trust or trusts may not:

(a) diminish the charitable interest;

(b) diminish the interest of an identified charitable organization that holds the charitable interest;

(c) alter any charitable purpose stated in the first-trust instrument; or

(d) alter any condition or restriction related to the charitable interest.

(4) If there are two or more second trusts, the second trusts must be treated as one trust for purposes of determining whether the exercise of the decanting power diminishes the charitable interest or diminishes the interest of an identified charitable organization for purposes of subsection (3).

(5) If a first trust contains a determinable charitable interest, the second trust or trusts that include a charitable interest pursuant to subsection (3) must be administered under the law of this state unless:

(a) the attorney general, after receiving notice under [section 7], fails to object in a signed record delivered to the authorized fiduciary within the notice period;

(b) the attorney general consents in a signed record to the second trust or trusts being administered under the law of another jurisdiction; or

(c) the court approves the exercise of the decanting power.

(6) [Sections 1 through 30] does not limit the powers and duties of the attorney general under law of this state other than [sections 1 through 30].

Section 15. Trust limitation on decanting. (1) An authorized fiduciary may not exercise the decanting power to the extent the first-trust instrument expressly prohibits exercise of:

(a) the decanting power; or

(b) a power granted by state law to the fiduciary to distribute part or all of the principal of the trust to another trust or to modify the trust.

(2) Exercise of the decanting power is subject to any restriction in the first-trust instrument that expressly applies to exercise of:

- (a) the decanting power; or
- (b) a power granted by state law to a fiduciary to distribute part or all of the principal of the trust to another trust or to modify the trust.

(3) A general prohibition of the amendment or revocation of a first trust, a spendthrift clause, or a clause restraining the voluntary or involuntary transfer of a beneficiary's interest does not preclude exercise of the decanting power.

(4) Subject to subsections (1) and (2), an authorized fiduciary may exercise the decanting power under [sections 1 through 30] even if the first-trust instrument permits the authorized fiduciary or another person to modify the first-trust instrument or to distribute part or all of the principal of the first trust to another trust.

(5) If a first-trust instrument contains an express prohibition described in subsection (1) or an express restriction described in subsection (2), the provision must be included in the second-trust instrument.

Section 16. Change in compensation. (1) If a first-trust instrument specifies an authorized fiduciary's compensation, the fiduciary may not exercise the decanting power to increase the fiduciary's compensation above the specified compensation unless:

- (a) all qualified beneficiaries of the second trust consent to the increase in a signed record; or
- (b) the increase is approved by the court.

(2) If a first-trust instrument does not specify an authorized fiduciary's compensation, the fiduciary may not exercise the decanting power to increase the fiduciary's compensation above the compensation permitted by the Montana Uniform Trust Code unless:

- (a) all qualified beneficiaries of the second trust consent to the increase in a signed record; or
- (b) the increase is approved by the court.

(3) A change in an authorized fiduciary's compensation that is incidental to other changes made by the exercise of the decanting power is not an increase in the fiduciary's compensation for purposes of subsections (1) and (2).

Section 17. Relief from liability and indemnification. (1) Except as otherwise provided in this section, a second-trust instrument may not relieve an authorized fiduciary from liability for breach of trust to a greater extent than the first-trust instrument.

(2) A second-trust instrument may provide for indemnification of an authorized fiduciary of the first trust or another person acting in a fiduciary capacity under the first trust for any liability or claim that would have been payable from the first trust if the decanting power had not been exercised.

(3) A second-trust instrument may not reduce fiduciary liability in the aggregate.

(4) Subject to subsection (3), a second-trust instrument may divide and reallocate fiduciary powers among fiduciaries, including one or more trustees, distribution advisors, investment advisors, trust protectors, or other persons, and relieve a fiduciary from liability for an act or failure to act of another fiduciary as permitted by law of this state other than [sections 1 through 30].

Section 18. Removal or replacement of authorized fiduciary. An authorized fiduciary may not exercise the decanting power to modify a provision in a first-trust instrument granting another person power to remove or replace the fiduciary unless:

(1) the person holding the power consents to the modification in a signed record and the modification applies only to the person;

(2) the person holding the power and the qualified beneficiaries of the second trust consent to the modification in a signed record and the modification grants a substantially similar power to another person; or

(3) the court approves the modification and the modification grants a substantially similar power to another person.

Section 19. Tax-related limitations. (1) In this section:

(a) “Grantor trust” means a trust as to which a settlor of a first trust is considered the owner under 26 U.S.C. 671 through 677, as amended, or 26 U.S.C. 679, as amended.

(b) “Internal Revenue Code” means the United States Internal Revenue Code of 1986, as amended.

(c) “Nongrantor trust” means a trust that is not a grantor trust.

(d) “Qualified benefits property” means property subject to the minimum distribution requirements of 26 U.S.C. 401(a)(9), as amended, and any applicable regulations, or to any similar requirements that refer to 26 U.S.C. 401(a)(9) or the regulations.

(2) An exercise of the decanting power is subject to the following limitations:

(a) If a first trust contains property that qualified, or would have qualified but for provisions of [sections 1 through 30] other than this section, for a marital deduction for purposes of the gift or estate tax under the Internal Revenue Code or a state gift, estate, or inheritance tax, the second-trust instrument may not include or omit any term that, if included in or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying for the deduction, or would have reduced the amount of the deduction, under the same provisions of the Internal Revenue Code or state law under which the transfer qualified.

(b) If the first trust contains property that qualified, or would have qualified but for provisions of [sections 1 through 30] other than this section, for a charitable deduction for purposes of the income, gift, or estate tax under the Internal Revenue Code or a state income, gift, estate, or inheritance tax, the second-trust instrument may not include or omit any term that, if included in or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying for the deduction, or would have reduced the amount of the deduction, under the same provisions of the Internal Revenue Code or state law under which the transfer qualified.

(c) If the first trust contains property that qualified, or would have qualified but for provisions of [sections 1 through 30] other than this section, for the exclusion from the gift tax described in 26 U.S.C. 2503(b), as amended, the second-trust instrument may not include or omit a term that, if included in or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying under 26 U.S.C. 2503(b), as amended. If the first trust contains property that qualified, or would have qualified but for provisions of [sections 1 through 30] other than this section, for the exclusion from the gift tax described in 26 U.S.C. 2503(b), as amended, by application of 26 U.S.C. 2503(c), as amended, the second-trust instrument may not include or omit a term that, if included or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying under 26 U.S.C. 2503(c), as amended.

(d) If the property of the first trust includes shares of stock in an S corporation, as defined in 26 U.S.C. 1361, as amended, and the first trust is, or but for provisions of [sections 1 through 30] other than this section would be, a permitted shareholder under any provision of 26 U.S.C. 1361, as amended, an authorized fiduciary may exercise the power with respect to part or all of the S-corporation stock only if any second trust receiving the stock is a permitted shareholder under 26 U.S.C. 1361(c)(2), as amended. If the property of the first trust includes shares of stock in an S corporation and the first trust is, or but for provisions of [sections 1 through 30] other than this section would be, a qualified subchapter-S trust within the meaning of 26 U.S.C. 1361(d), as amended, the second-trust instrument may not include or omit a term that prevents the second trust from qualifying as a qualified subchapter-S trust.

(e) If the first trust contains property that qualified, or would have qualified but for provisions of [sections 1 through 30] other than this section, for a zero inclusion ratio for purposes of the generation-skipping transfer tax under 26 U.S.C. 2642(c), as amended, the second-trust instrument may not include or omit a term that, if included in or omitted from the first-trust instrument, would have prevented the transfer to the first trust from qualifying for a zero inclusion ratio under 26 U.S.C. 2642(c), as amended.

(f) If the first trust is directly or indirectly the beneficiary of qualified benefits property, the second-trust instrument may not include or omit any term that, if included in or omitted from the first-trust instrument, would have increased the minimum distributions required with respect to the qualified benefits property under 26 U.S.C. 401(a)(9), as amended, and any applicable regulations, or any similar requirements that refer to 26 U.S.C. 401(a)(9), as amended, or the regulations. If an attempted exercise of the decanting power violates the preceding sentence, the trustee is deemed to have held the qualified benefits property and any reinvested distributions of the property as a separate share from the date of the exercise of the power and [section 22] applies to the separate share.

(g) If the first trust qualifies as a grantor trust because of the application of 26 U.S.C. 672(f)(2)(A), as amended, the second trust may not include or omit a term that, if included in or omitted from the first-trust instrument, would have prevented the first trust from qualifying under 26 U.S.C. 672(f)(2)(A), as amended.

(h) In this subsection (2)(h), “tax benefit” means a federal or state tax deduction, exemption, exclusion, or other benefit not otherwise listed in this section, except for a benefit arising from being a grantor trust. Subject to subsection (2)(h)(i) and (2)(h)(ii) below, a second-trust instrument may not include or omit a term that, if included in or omitted from the first-trust instrument, would have prevented qualification for a tax benefit if:

(i) the first-trust instrument expressly indicates an intent to qualify for the benefit or the first-trust instrument clearly is designed to enable the first trust to qualify for the benefit; and

(ii) the transfer of property held by the first trust or the first trust qualified, or but for provisions of [sections 1 through 30] other than this section, would have qualified for the tax benefit.

(i) Subject to subsection (2)(d):

(i) except as otherwise provided in subsection (2)(g), the second trust may be a nongrantor trust, even if the first trust is a grantor trust; and

(ii) except as otherwise provided in subsection (2)(j), the second trust may be a grantor trust, even if the first trust is a nongrantor trust.

(j) An authorized fiduciary may not exercise the decanting power if a settlor objects in a signed record delivered to the fiduciary within the notice period and:

(i) the first trust and a second trust are both grantor trusts, in whole or in part, the first trust grants the settlor or another person the power to cause the first trust to cease to be a grantor trust, and the second trust does not grant an equivalent power to the settlor or other person; or

(ii) the first trust is a nongrantor trust and a second trust is a grantor trust, in whole or in part, with respect to the settlor, unless:

(A) the settlor has the power at all times to cause the second trust to cease to be a grantor trust; or

(B) the first-trust instrument contains a provision granting the settlor or another person a power that would cause the first trust to cease to be a grantor trust and the second-trust instrument contains the same provision.

Section 20. Duration of second trust. (1) Subject to subsection (2), a second trust may have a duration that is the same as or different from the duration of the first trust.

(2) To the extent that property of a second trust is attributable to property of the first trust, the property of the second trust is subject to any rules governing maximum perpetuity, accumulation, or suspension of the power of alienation, which apply to property of the first trust.

Section 21. Need to distribute not required. An authorized fiduciary may exercise the decanting power whether or not under the first trust's discretionary distribution standard the fiduciary would have made or could have been compelled to make a discretionary distribution of principal at the time of the exercise.

Section 22. Saving provision. (1) If exercise of the decanting power would be effective under [sections 1 through 30] except that the second-trust instrument in part does not comply with [sections 1 through 30], the exercise of the power is effective and the following rules apply with respect to the principal of the second trust attributable to the exercise of the power:

(a) A provision in the second-trust instrument that is not permitted under [sections 1 through 30] is void to the extent necessary to comply with [sections 1 through 30].

(b) A provision required by [sections 1 through 30] to be in the second-trust instrument that is not contained in the instrument is deemed to be included in the instrument to the extent necessary to comply with [sections 1 through 30].

(2) If a trustee or other fiduciary of a second trust determines that subsection (1) applies to a prior exercise of the decanting power, the fiduciary shall take corrective action consistent with the fiduciary's duties.

Section 23. Trust for care of animal. (1) In this section:

(a) "Animal trust" means a trust or an interest in a trust created to provide for the care of one or more animals.

(b) "Protector" means a person appointed in an animal trust to enforce the trust on behalf of the animal or, if no such person is appointed in the trust, a person appointed by the court for that purpose.

(2) The decanting power may be exercised over an animal trust that has a protector to the extent the trust could be decanted under [sections 1 through 30] if each animal that benefits from the trust were an individual, if the protector consents in a signed record to the exercise of the power.

(3) A protector for an animal has the rights under [sections 1 through 30] of a qualified beneficiary.

(4) Notwithstanding any other provision of [sections 1 through 30], if a first trust is an animal trust, in an exercise of the decanting power, the second

trust must provide that trust property may be applied only to its intended purpose for the period the first trust benefitted the animal.

Section 24. Terms of second trust. A reference in Title 72, chapter 38, to a trust instrument or terms of the trust includes a second-trust instrument and the terms of the second trust.

Section 25. Settlor. (1) For purposes of law of this state other than [sections 1 through 30] and subject to subsection (2), a settlor of a first trust is deemed to be the settlor of the second trust with respect to the portion of the principal of the first trust subject to the exercise of the decanting power.

(2) In determining settlor intent with respect to a second trust, the intent of a settlor of the first trust, a settlor of the second trust, and the authorized fiduciary may be considered.

Section 26. Later-discovered property. (1) Except as otherwise provided in subsection (3), if exercise of the decanting power was intended to distribute all the principal of the first trust to one or more second trusts, later-discovered property belonging to the first trust and property paid to or acquired by the first trust after the exercise of the power is part of the trust estate of the second trust or trusts.

(2) Except as otherwise provided in subsection (3), if exercise of the decanting power was intended to distribute less than all the principal of the first trust to one or more second trusts, later-discovered property belonging to the first trust or property paid to or acquired by the first trust after exercise of the power remains part of the trust estate of the first trust.

(3) An authorized fiduciary may provide in an exercise of the decanting power or by the terms of a second trust for disposition of later-discovered property belonging to the first trust or property paid to or acquired by the first trust after exercise of the power.

Section 27. Obligations. A debt, liability, or other obligation enforceable against property of a first trust is enforceable to the same extent against the property when held by the second trust after exercise of the decanting power.

Section 28. Uniformity of application and construction. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 29. Relation to electronic signatures in global and national commerce act. [Sections 1 through 30] modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001, et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. 7003(b).

Section 30. Common law of trusts – principles of equity. The common law of trusts and principles of equity supplement [sections 1 through 30] except to the extent modified by [sections 1 through 30] or another statute of this state.

Section 31. Severability. If any provision of [this act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of [this act] which can be given effect without the invalid provision or application, and to this end the provisions of [this act] are severable.

Section 32. Codification instruction. [Sections 1 through 30] are intended to be codified as an integral part of Title 72, and the provisions of Title 72 apply to [sections 1 through 30].

Approved April 11, 2021

CHAPTER NO. 178

[HB 295]

AN ACT CLARIFYING THAT LICENSED THERAPISTS AND CLINICAL SOCIAL WORKERS MAY USE PSYCHOTHERAPEUTIC TECHNIQUES TO TREAT CHRONIC PAIN; AMENDING SECTIONS 37-22-102, 37-22-307, 37-22-308, AND 37-23-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-22-102, MCA, is amended to read:

“37-22-102. Definitions. As used in this chapter, the following definitions apply:

(1) “Board” means the board of behavioral health established in 2-15-1744.
(2) “Department” means the department of labor and industry.
(3) “Licensee” means a person licensed under this chapter as a licensed baccalaureate social worker, a licensed master’s social worker, or a licensed clinical social worker.

(4) “Psychotherapy” means the use of psychosocial methods within a professional relationship to assist a person to achieve a better psychosocial adaptation and to modify internal and external conditions that affect individuals, groups, or families in respect to behavior, emotions, and thinking concerning their interpersonal processes.

(5) “Social work” means the professional practice directed toward helping people achieve more adequate, satisfying, and productive social adjustments. The practice of social work involves special knowledge of social resources, human capabilities, and the roles that individual motivation and social influences play in determining behavior and involves diagnoses and the application of social work techniques, including:

(a) counseling and using psychotherapy with individuals, families, or groups;

(b) *using psychotherapeutic techniques to treat an individual’s perception of chronic pain;*

~~(b)~~(c) providing information and referral services;

~~(c)~~(d) providing, arranging, or supervising the provision of social services;

~~(d)~~(e) explaining and interpreting the psychosocial aspects in the situations of individuals, families, or groups;

~~(e)~~(f) helping communities to organize to provide or improve social and health services;

~~(f)~~(g) research or teaching related to social work; and

~~(g)~~(h) administering, evaluating, and assessing tests if the licensee is qualified to administer the test and make the evaluation and assessment.

(6) “Social worker licensure candidate” means a person who is registered pursuant to 37-22-313 to engage in social work and earn supervised work experience necessary for licensure.”

Section 2. Section 37-22-307, MCA, is amended to read:

“37-22-307. Licensed baccalaureate social worker requirements – exemption – rulemaking. (1) An applicant to be a licensed baccalaureate social worker:

(a) must have a bachelor’s degree in social work from a program accredited by the council on social work education or a program approved by the board by rule; and

(b) must have registered as a social worker licensure candidate, as provided in 37-22-313, and completed supervised work experience as specified

in the training and supervision plan submitted to the board and approved by the board. Some of the required hours must be in direct client contact.

(2) After completing the required supervised work experience as a social worker licensure candidate, the applicant shall:

(a) provide the board with three letters of reference from professionals licensed by the board or academic professors who have knowledge of the applicant's professional performance;

(b) satisfactorily complete an examination prescribed by the board by rule. An applicant who fails the examination may reapply to take the examination and may continue as a social worker licensure candidate, subject to the terms set by the board.

(c) submit a completed application required by the board and the application fee prescribed by the board; and

(d) submit fingerprints for the purpose of fingerprint checks as provided in 37-1-307. The board may require a criminal background check of applicants and determine the suitability for licensure as provided in 37-1-201 through 37-1-205 and 37-1-307.

(3) A licensed baccalaureate social worker:

(a) is subject to the social work ethical standards adopted under 37-22-201;

(b) may engage in social work activities as provided in 37-22-102(5)(b) through (5)(g) (5)(c) through (5)(h);

(c) may engage in practice, as defined by the board, upon receiving a license; and

(d) may use the initials "LBSW" for "licensed baccalaureate social worker".

(4) An applicant is exempt from the examination requirement in subsection (2)(c) if the applicant:

(a) proves to the board that the applicant is licensed, certified, or registered in a state or territory of the United States under laws that have substantially the same requirements as this chapter; and

(b) has passed an examination similar to that required by the board.

(5) Individuals who demonstrate to the board on or before May 1, 2021, that they meet the applicable work and education experience as provided in subsection (1) are exempt from examination procedures provided in subsection (2)(b) and may be licensed under this section.

(6) The board may require a criminal background check of applicants and shall adopt rules to implement this section."

Section 3. Section 37-22-308, MCA, is amended to read:

"37-22-308. Licensed master's social worker requirements -- rulemaking -- exemption. (1) An applicant to be a licensed master's social worker:

(a) must have a master's degree in social work from a program accredited by the council on social work education or a program approved by the board by rule; and

(b) must have registered as a social worker licensure candidate, as provided in 37-22-313, and completed supervised work experience as specified in the training and supervision plan submitted to the board and approved by the board. Some of the required hours must be in direct client contact.

(2) After completing the required supervised work experience as a social worker licensure candidate, the applicant shall:

(a) provide the board with three letters of reference from professionals licensed by the board or academic professors who have knowledge of the applicant's professional performance;

(b) satisfactorily complete an examination prescribed by the board by rule. An applicant who fails the examination may reapply to take the examination

and may continue as a social worker licensure candidate, subject to the terms set by the board.

(c) submit a completed application required by the board and the application fee prescribed by the board by rule; and

(d) submit fingerprints for the purpose of fingerprint checks as provided in 37-1-307. The board may require a criminal background check of applicants and determine the suitability for licensure as provided in 37-1-201 through 37-1-205 and 37-1-307.

(3) A licensed master's social worker:

(a) is subject to the social work ethical standards adopted under 37-22-201;

(b) may engage in social work activities as provided in 37-22-102~~(5)(b) through (5)(g)~~ *(5)(c) through (5)(h)*;

(c) may engage in practice, as defined by the board, upon receiving a license; and

(d) may use the initials "LMSW" for "licensed master's social worker".

(4) An applicant is exempt from the examination requirement in subsection (2)(c) if the applicant:

(a) proves to the board that the applicant is licensed, certified, or registered in a state or territory of the United States under laws that have substantially the same requirements as this chapter; and

(b) has passed an examination similar to that required by the board.

(5) Individuals who demonstrate to the board on or before May 1, 2021, that they meet the applicable work and education experience as provided in subsection (1) are exempt from examination procedures provided in subsection (2)(b) and may be licensed under this section.

(6) The board may require a criminal background check of applicants and shall adopt rules to implement this section."

Section 4. Section 37-23-102, MCA, is amended to read:

"37-23-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Board" means the board of behavioral health established in 2-15-1744.

(2) "Licensee" means a person licensed under this chapter.

(3) "Professional counseling" means engaging in methods and techniques that include:

(a) counseling, which means the therapeutic process of:

(i) conducting assessments and diagnoses for the purpose of establishing treatment goals and objectives; or

(ii) planning, implementing, and evaluating treatment plans that use treatment interventions to facilitate human development and to identify and remediate mental, emotional, or behavioral disorders and associated distresses that interfere with mental health;

(b) assessment, which means selecting, administering, scoring, and interpreting instruments, including psychological tests, evaluations, and assessments, designed to assess an individual's aptitudes, attitudes, abilities, achievement, interests, and personal characteristics and using nonstandardized methods and techniques for understanding human behavior in relation to coping with, adapting to, or changing life situations;

(c) counseling treatment intervention, which means those cognitive, affective, behavioral, and systemic counseling strategies, techniques, and methods common to the behavioral sciences that are specifically implemented in the context of a therapeutic relationship, *including techniques to treat the perception of chronic pain*. Other treatment interventions include developmental counseling, guidance, and consulting to facilitate normal growth and development, including educational and career development.

(d) referral, which means evaluating information to identify needs or problems of an individual and to determine the advisability of referral to other specialists, informing the individual of the judgment, and communicating as requested or considered appropriate with the referral sources.

(4) “Professional counselor licensure candidate” means a person who is registered pursuant to 37-23-213 to engage in professional counseling and earn supervised work experience necessary for licensure.”

Section 5. Effective date. [This act] is effective on passage and approval.

Approved April 11, 2021

CHAPTER NO. 179

[HB 396]

AN ACT CLARIFYING THE DEFINITION OF COMMERCIAL FEED TO INCLUDE THE USE OF HEMP PRODUCTS; AMENDING SECTIONS 80-9-101, 80-9-201, AND 80-9-202, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 80-9-101, MCA, is amended to read:

“80-9-101. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) “AOAC international” means the association of official analytical chemists.

(2) “Brand name” means any word, name, symbol, or device or any combination of them identifying the commercial feed of a licensee or registrant and distinguishing it from that of others.

(3) (a) “Commercial feed” means all materials or combinations of materials that are distributed or intended for distribution for use as feed or for mixing in feed, unless the materials are specifically excluded by law.

(b) *The term includes the addition of hemp or a substance derived from hemp for use as feed or for mixing in feed for:*

(i) *a pet, specialty pet, or horse; or*

(ii) *for other livestock.*

~~(b)(c)~~ The term does not include unmixed whole seeds and physically altered entire unmixed seeds when those seeds are not chemically changed or adulterated within the meaning of 80-9-204. The department may by rule exclude from this definition or from specific provisions of this chapter commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when those commodities, compounds, or substances are not intermixed with other materials and are not adulterated within the meaning of 80-9-204.

(4) “Contract feeder” means a person who, as an independent contractor, feeds commercial feed to animals pursuant to a contract under which the commercial feed is supplied, furnished, or otherwise provided to that person and under which that person’s remuneration is determined completely or in part by feed consumption, mortality, profits, or amount or quality of product.

(5) “Customer formula feed” means commercial feed that consists of a mixture of commercial feeds or feed ingredients, each batch of which is manufactured according to the specific instructions of the final purchaser.

(6) “Distribute” means to offer for sale, sell, exchange, or barter commercial feed or to supply, furnish, or otherwise provide commercial feed to a contract feeder.

(7) “Drug” means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals, other than humans, and articles other than feed intended to affect the structure or function of the animal body.

(8) “Facility” means something that is built, installed, or established to serve a particular purpose.

(9) “Feed ingredient” means each of the constituent materials making up a commercial feed or a noncommercial feed.

(10) “Guarantor” means a person whose name and principal mailing address appear on the label and who guarantees the information contained on the label as required by 80-9-202. The person may or may not also be the manufacturer.

(11) “*Hemp*” means all parts and varieties of the plant *Cannabis sativa L.* containing no greater than 0.3% tetrahydrocannabinol.

~~(11)~~(12) “Label” means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed or on the invoice or delivery slip with which a commercial feed is distributed.

~~(12)~~(13) “Labeling” means all labels and other written, printed, or graphic matter upon a commercial feed, any of its containers, or its wrapper or accompanying the commercial feed.

~~(13)~~(14) “Manufacture” means to grind, mix, blend, or further process a commercial feed.

~~(14)~~(15) “Mineral feed” means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.

~~(15)~~(16) (a) “Noncommercial feed” means all materials or combinations of materials that are used as feed or for mixing in feed and that are not intended for distribution, unless the materials are specifically excluded by law.

(b) The term does not include unmixed whole seeds and physically altered entire unmixed seeds when those seeds are not chemically changed or adulterated within the meaning of 80-9-204. The department may by rule exclude from this definition or from specific provisions of this chapter commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when those commodities, compounds, or substances are not intermixed with other materials and are not adulterated within the meaning of 80-9-204.

~~(16)~~(17) “Official sample” means a sample of feed taken by the department in accordance with the provisions of 80-9-301.

~~(17)~~(18) “Percent” or “percentage” means percentage by weights.

~~(18)~~(19) “Person” means an individual, partnership, corporation, or association.

~~(19)~~(20) “Pet” means any domesticated animal normally maintained in or near the household of its owner.

~~(20)~~(21) “Pet food” means any commercial feed prepared and distributed for consumption by pets.

~~(21)~~(22) (a) “Pet treat” means any commercial feed intended for pets and specialty pets that is not intended to provide complete and balanced nutrition and is fed intermittently for training, reward, enjoyment, or other purposes. Pet treats are classified as a type of pet food and specialty pet food by the department.

(b) A pet treat intended for a cat or a dog that is manufactured in this state and does not contain any medication or drug or meat, poultry, fish, or their byproduct as an ingredient qualifies for certain licensing exemptions and limited labeling and registration requirements under this chapter.

(22)(23) “Product name” means the name of the commercial feed that identifies it as to kind, class, or specific use.

(23)(24) “Quantity statement” means the net weight or mass; net volume, either liquid or dry; or count.

(24)(25) “Specialty pet” means any domesticated animal pet normally maintained in a cage or tank, including but not limited to gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes, and turtles.

(25)(26) “Specialty pet food” means any commercial feed prepared and distributed for consumption by specialty pets.

(26)(27) “Supplier” means a person who distributes commercial feed into Montana.

(27)(28) “Ton” means a net weight of 2,000 pounds avoirdupois.”

Section 2. Section 80-9-201, MCA, is amended to read:

“80-9-201. Licenses and registration. (1) Except as provided in subsection (4)(b), a license is required of a facility or person:

- (a) who manufactures commercial feed in this state;
- (b) who distributes commercial feed in or into this state; or
- (c) whose name appears on the label of a commercial feed as guarantor.

(2) (a) A separate license is required for each facility that manufactures commercial feed within this state or for each facility that distributes commercial feed in or into this state. A facility or person that manufactures, distributes, or is a guarantor for commercial feed must be licensed once annually pursuant to this section.

(b) (i) Except as otherwise provided in this subsection (2)(b)(i), all new applicants shall pay a nonrefundable fee of \$100 each calendar year for a license for each facility. The department may by rule adjust the license fee to maintain adequate funding for the administration of this part. The fee may not be less than \$100 a year or more than \$110 a year.

(ii) Except as otherwise provided in this subsection (2)(b)(ii), license renewals received by the department prior to January 1 of each year must be accompanied by a nonrefundable renewal fee of \$75 for each license. The department may by rule adjust the license fee to maintain adequate funding for the administration of this part. The fee may not be less than \$75 a year or more than \$85 a year.

(3) Applicants for licensure shall file with the department information on forms provided by the department, including the following:

- (a) the applicant’s name and place of business;
- (b) the mailing address and physical location of the facility to be licensed;
- (c) an indication of whether the facility to be licensed manufactures feed, distributes feed, or both; and

(d) an indication of whether or not the person applying for licensure is a guarantor.

(4) (a) A license granted under this section remains in force until the end of the calendar year for which it is issued or until canceled by the licensee or by the department for cause. The department may collect a \$25 late penalty fee for a license renewal application received after January 1 of any year. A license is nontransferable, and license fees are nonrefundable.

(b) A license is not required for a person who:

- (i) distributes only pet food or specialty pet food; or
- (ii) manufactures pet treats as defined in ~~80-9-101(21)(b)~~ 80-9-101(22)(b) whose total annual sales do not exceed \$25,000.

(5) A person who manufactures for distribution or who distributes commercial feed in this state shall, upon written request by the department, submit the following information regarding products distributed in this state:

- (a) a list of feed products;
- (b) all labeling, promotional material, and claims for any feed product;
- (c) analytical methods for ingredients claimed or listed on a label, if the methods are not available from AOAC international; and
- (d) replicated data performed by a reputable investigator whose work is recognized as acceptable by the department, verifying any claims for effectiveness of a feed product.

(6) (a) A person may not manufacture for distribution or distribute in this state a pet food, specialty pet food, or pet treat that has not been registered under this section by the manufacturer or the guarantor. Except as otherwise provided in subsection (6)(b), the application for registration must be accompanied by a nonrefundable fee of:

- (i) \$50 for each pet food or specialty pet food; or
- (ii) \$25 for each set of up to 20 individual pet treat products that meet the definition provided in ~~80-9-101(21)(b)~~: *80-9-101(22)(b)*.

(b) The department may by rule adjust the registration fee to maintain adequate funding for the administration of this part. The fee may not be less than \$50 a year or more than \$60 a year for a pet food or specialty pet food and not less than \$25 a year or more than an additional \$10 a year added to the original assessed amount calculated in subsection (6)(a)(ii) for pet treats as defined in ~~80-9-101(21)(b)~~: *80-9-101(22)(b)*.

(c) The registration of pet food, specialty pet food, and pet treats is for a period of 1 year starting January 1 and ending December 31 of each year.

(7) An applicant for registration of pet food, specialty pet food, or pet treats shall file with the department the following information:

- (a) the applicant's name and address; and
- (b) a complete standard list of all products being registered.

(8) The department may refuse registration of pet food, specialty pet food, or pet treats that is not in compliance with this chapter and may cancel any registration subsequently found to not be in compliance with this chapter. A registration may not be refused or canceled unless the registrant has been given an opportunity to be heard before the department and to amend the application in order to comply with this chapter."

Section 3. Section 80-9-202, MCA, is amended to read:

"80-9-202. Labeling. (1) A commercial feed, except a customer formula feed, must be accompanied by a label containing:

- (a) the quantity statement;
- (b) the product name and any brand name under which the commercial feed is distributed;

(c) the guaranteed analysis stated in terms the department by rule determines are required to advise the user of the composition of the feed or to support claims made in the labeling. The substances or elements guaranteed must be determinable by laboratory methods such as the methods published by AOAC international. Pet treats as defined in ~~80-9-101(21)(b)~~ *80-9-101(22)(b)* are exempt from the guaranteed analysis requirement of this subsection (1)(c).

(d) the common or usual name of each ingredient used in the manufacture of the commercial feed. The department by rule may permit the use of a collective term for a group of ingredients that perform a similar function, or it may exempt commercial feeds or any group of them from this requirement of an ingredient statement if it finds that the statement is not required in the interest of consumers.

(e) the name and principal mailing address of the manufacturer, the person responsible for distributing the commercial feed, or the guarantor;

(f) adequate directions for use for all commercial feeds containing drugs. The department may by rule require directions for the use of other commercial feeds when necessary for their safe and effective use.

(g) precautionary statements that the department by rule determines are necessary for safe and effective use of the commercial feed.

(2) A customer formula feed must be accompanied by a label, invoice, delivery slip, or other shipping document containing:

(a) the name and address of the manufacturer or guarantor;

(b) the name and address of the purchaser;

(c) the date of delivery;

(d) the specific agreed to composition of the feed or a list of the ingredients, but not necessarily the percentage of each ingredient;

(e) adequate directions for use for all customer formula feed containing drugs. The department may by rule require directions for the use of other customer formula feeds when necessary for their safe and effective use.

(f) precautionary statements that the department by rule determines are necessary for safe and effective use of the feeds;

(g) in cases when a drug-containing product is used in a customer formula feed:

(i) the purpose of the drug in the form of a claim statement; and

(ii) the established name of each active drug ingredient and the level of each drug used in the final mixture, expressed in accordance with the association of American feed control officials model feed regulations, as published in that organization's official publication and adopted by department rule."

Section 4. Effective dates – contingency. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 1(3)(b)(ii)] is effective on the date that the director of the Montana department of agriculture certifies to the code commissioner that the food and drug administration has approved hemp or any substance derived from hemp as an approved additive or defined ingredient in animal food or medicated feed for livestock.

Approved April 11, 2021

CHAPTER NO. 180

[HB 548]

AN ACT GENERALLY REVISING GAMBLING LAWS RELATING TO DICE GAMES; ALLOWING PATRON DICE GAMES; REVISING THE DICE GAME OF CEE-LO TO BE INCLUDED IN PATRON DICE GAMES; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 23-5-112 AND 23-5-160, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 23-5-112, MCA, is amended to read:

"23-5-112. Definitions. Unless the context requires otherwise, the following definitions apply to parts 1 through 8 of this chapter:

(1) "Antique gambling device" means:

(a) an illegal gambling device manufactured prior to 1994; or

(b) any gambling device which, at any present time, is 30 years old or older.

(2) "Applicant" means a person who has applied for a license or permit issued by the department pursuant to parts 1 through 8 of this chapter.

(3) “Application” means a written request for a license or permit issued by the department. The department shall adopt rules describing the forms and information required for issuance of a license.

(4) “Associated gambling business” means a person who provides a service or product to a licensed gambling business and who:

- (a) has a reason to possess or maintain control over gambling devices;
- (b) has access to proprietary information or gambling tax information; or
- (c) is a party in processing gambling transactions.

(5) “Authorized equipment” means, with respect to live keno or bingo, equipment that may be inspected by the department and that randomly selects the numbers.

(6) “Bingo” means a gambling activity played for prizes with a card bearing a printed design of 5 columns. The letters B-I-N-G-O must appear above the design, with each letter above one of the columns. More than 75 numbers may not be used. One or more numbers may appear in each square, except for the center square, which may be considered a free play. Numbers must be randomly drawn using authorized equipment until the game is won by the person or persons who first cover one or more previously designated arrangements of numbers on the bingo card.

(7) “Bingo caller” means a person 18 years of age or older who, using authorized equipment, announces the order of the numbers drawn in live bingo.

(8) “Bingo session” means all activities incidental to a series of bingo games conducted by a licensed operator beginning when the first bingo ball is drawn in the first game of bingo.

(9) “Card game table” or “table” means a live card game table:

(a) authorized by permit and made available to the public on the premises of a licensed gambling operator; or

(b) operated by a senior citizen center.

(10) “Card game tournament” means a gambling activity for which a permit has been issued involving participants who pay valuable consideration for the opportunity to compete against each other in a series of live card games conducted over a designated period of time.

(11) “Dealer” means a person with a dealer’s license issued under part 3 of this chapter.

(12) “Department” means the department of justice.

(13) “Distributor” means a person who:

(a) purchases or obtains from a licensed manufacturer, distributor, route operator, or operator equipment of any kind for use in gambling activities; and

(b) sells the equipment to a licensed manufacturer, distributor, route operator, or operator.

(14) (a) “Gambling” or “gambling activity” means risking any money, credit, deposit, check, property, or other thing of value for a gain that is contingent in whole or in part upon lot, chance, or the operation of a gambling device or gambling enterprise.

(b) The term does not mean conducting or participating in:

(i) promotional games of chance;

(ii) amusement games regulated by Title 23, chapter 6, part 1; or

(iii) social card games of bridge, hearts, pinochle, pitch, rummy, solo, and whist played solely for prizes of minimal value, as defined by department rule; or

(iv) *patron dice games as defined in this section.*

(15) “Gambling device” means a mechanical, electromechanical, or electronic device, machine, slot machine, instrument, apparatus, contrivance, scheme, or system used or intended for use in any gambling activity.

(16) “Gambling enterprise” means an activity, scheme, or agreement or an attempted activity, scheme, or agreement to provide gambling or a gambling device to the public.

(17) (a) “Gift enterprise” means a gambling activity in which persons have qualified to obtain property to be awarded by purchasing or agreeing to purchase goods or services.

(b) The term does not mean:

(i) a cash or merchandise attendance prize or premium that county fair commissioners of agricultural fairs and rodeo associations may give away at public drawings at fairs and rodeos;

(ii) a promotional game of chance;

(iii) an amusement game regulated under Title 23, chapter 6;

(iv) a savings promotion raffle offered by a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized to do business and accept deposits in this state under state or federal law and conducted in compliance with 23-5-413 that entitles individual members or depositors equal chances to win a designated prize by depositing a sum of money during a specified savings period; or

(v) an entry into a raffle as a result of paying membership dues or making a purchase of an item offered during a fundraising event held by a nonprofit organization.

(18) “Gross proceeds” means gross revenue received less prizes paid out.

(19) “Heads or tails” means a gambling activity in which players attempt to predict the outcome of a coin toss. Those who are incorrect are eliminated and those who are correct continue to another round until one winning player remains and is awarded a prize.

(20) “House player” means a person participating in a card game who has a financial relationship with the operator, card room contractor, or dealer or who has received money or chips from the operator, card room contractor, or dealer to participate in a card game.

(21) “Illegal gambling device” means a gambling device not specifically authorized by statute or by the rules of the department. The term includes:

(a) a ticket or card, by whatever name known, containing concealed numbers or symbols that may match numbers or symbols designated in advance as prize winners, including a pull tab, punchboard, push card, tip board, pickle ticket, break-open, or jar game, except for one used under Title 23, chapter 7, under part 5 of this chapter, in a bingo game approved by the department under part 4 of this chapter, or in a promotional game of chance approved by the department; and

(b) an apparatus, implement, or device, by whatever name known, specifically designed to be used in conducting an illegal gambling enterprise, including a faro box, faro layout, roulette wheel, roulette table, craps table, or slot machine, except as provided in 23-5-153.

(22) “Illegal gambling enterprise” means a gambling enterprise that violates or is not specifically authorized by a statute or a rule of the department. The term includes:

(a) a card game, by whatever name known, involving any bank or fund from which a participant may win money or other consideration and that receives money or other consideration lost by the participant and includes the card games of blackjack, twenty-one, jacks or better, baccarat, or chemin de fer;

(b) ~~a dice game~~ *games, by whatever name known, in which a participant wagers on the outcome of the roll of one or more dice, including known as craps, hazard, or chuck-a-luck, but not including patron dice games or activities* authorized by 23-5-160;

(c) credit gambling; and

(d) internet gambling.

(23) (a) "Internet gambling", by whatever name known, includes but is not limited to the conduct of any legal or illegal gambling enterprise through the use of communications technology that allows a person using money, paper checks, electronic checks, electronic transfers of money, credit cards, debit cards, or any other instrumentality to transmit to a computer information to assist in the placing of a bet or wager and corresponding information related to the display of the game, game outcomes, or other similar information.

(b) The term does not include the operation of a simulcast facility or advance deposit wagering with a licensed advance deposit wagering hub operator allowed by Title 23, chapter 4, the state lottery provided for in Title 23, chapter 7, or a raffle authorized under Title 23, chapter 5, part 4, that is sponsored by a nonprofit organization and that is registered with the department. If all aspects of the gaming are conducted on Indian lands in conformity with federal statutes and with administrative regulations of the national Indian gaming commission, the term does not include class II gaming or class III gaming as defined by 25 U.S.C. 2703.

(24) "Keno" means a game of chance in which prizes are awarded using a card with 8 horizontal rows and 10 columns on which a player may pick up to 10 numbers. A keno caller, using authorized equipment, shall select at random at least 20 numbers out of numbers between 1 and 80, inclusive.

(25) "Keno caller" means a person 18 years of age or older who, using authorized equipment, announces the order of the numbers drawn in live keno.

(26) "License" means a license for an operator, dealer, card room contractor, manufacturer of devices not legal in Montana, sports tab game seller, manufacturer of electronic live bingo or keno equipment, other manufacturer, distributor, or route operator that is issued to a person by the department.

(27) "Licensee" means a person who has received a license from the department.

(28) "Live card game" or "card game" means a card game that is played in public between persons on the premises of a licensed gambling operator or in a senior citizen center.

(29) (a) "Lottery" means a scheme, by whatever name known, for the disposal or distribution of property among persons who have paid or promised to pay valuable consideration for the chance of obtaining the property or a portion of it or for a share or interest in the property upon an agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance.

(b) The term does not mean lotteries authorized under Title 23, chapter 7.

(30) "Manufacturer" means a person who:

(a) assembles from raw materials or subparts a completed piece of equipment or pieces of equipment of any kind to be used as a gambling device and who sells the equipment directly to a licensed distributor, route operator, or operator;

(b) possesses gambling devices or components of gambling devices for the purpose of testing them; or

(c) purchases gambling devices or components from licensed manufacturers, distributors, route operators, or operators as trade-ins or to

refurbish, rebuild, or repair to sell to licensed manufacturers, distributors, route operators, or operators.

(31) “Nonprofit organization” means an organization established as a nonprofit to support charitable, religious, scholastic, educational, veterans’, fraternal, beneficial, civic, senior citizens’, or service organizations’ charitable activities, scholarships or educational grants, or community service projects.

(32) “Operator” means a person who purchases, receives, or acquires, by lease or otherwise, and operates or controls for use in public a gambling device or gambling enterprise authorized under parts 1 through 8 of this chapter.

(33) (a) *“Patron dice games” means dice games involving wagers played by two or more patrons over 18 years of age on the premises of a licensed gambling operator that the licensee does not promote, and in which the licensee does not participate or acquire a financial interest either as the bank of the game or as the source of credit for players.*

(b) *The term does not include:*

(i) *an illegal gambling enterprise as defined in this section; or*

(ii) *activities authorized by 23-5-160.*

(33)(34) “Permit” means approval from the department to make available for public play a gambling device or gambling enterprise approved by the department pursuant to parts 1 through 8 of this chapter.

(34)(35) “Person” or “persons” means both natural and artificial persons and all partnerships, corporations, associations, clubs, fraternal orders, and societies, including religious and charitable organizations.

(35)(36) “Premises” means the physical building or property within or upon which a licensed gambling activity occurs, as stated on an operator’s license application and approved by the department.

(36)(37) “Promotional game of chance” means a scheme, by whatever name known, for the disposal or distribution of property among persons who have not paid or are not expected to pay any valuable consideration or who have not purchased or are not expected to purchase any goods or services for a chance to obtain the property, a portion of it, or a share in it. The property is disposed of or distributed by simulating a gambling enterprise authorized by parts 1 through 8 of this chapter or by operating a device or enterprise approved by the department that was manufactured or intended for use for purposes other than gambling.

(37)(38) “Public gambling” means gambling conducted in:

(a) a place, building, or conveyance to which the public has access or may be permitted to have access;

(b) a place of public resort, including but not limited to a facility owned, managed, or operated by a partnership, corporation, association, club, fraternal order, or society, including a religious or charitable organization; or

(c) a place, building, or conveyance to which the public does not have access if players are publicly solicited or the gambling activity is conducted in a predominantly commercial manner.

(38)(39) “Raffle” means a form of lottery in which each participant pays valuable consideration for a ticket to become eligible to win a prize. Winners must be determined by a random selection process approved by department rule.

(39)(40) “Route operator” means a person who:

(a) purchases from a licensed manufacturer, route operator, or distributor equipment of any kind for use in a gambling activity;

(b) leases the equipment to a licensed operator for use by the public; and

(c) may sell to a licensed operator equipment that had previously been authorized to be operated on a premises and may sell gambling equipment to a distributor or manufacturer.

(40)(41) “Senior citizen center” means a facility operated by a nonprofit or governmental organization that provides services to senior citizens in the form of daytime or evening educational or recreational activities and does not provide living accommodations to senior citizens. Services qualifying under this definition must be recognized in the state plan on aging adopted by the department of public health and human services.

(41)(42) (a) “Slot machine” means a mechanical, electrical, electronic, or other gambling device, contrivance, or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon payment of any valuable consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the gambling device to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner.

(b) This definition does not apply to video gambling machines authorized under part 6 of this chapter.

(42)(43) “Video gambling machine” is a gambling device specifically authorized by part 6 of this chapter and the rules of the department.”

Section 2. Section 23-5-160, MCA, is amended to read:

“23-5-160. Shaking dice for a drink or music or in a shake-a-day game – cee-lo authorized. (1) It is legal for a customer in an establishment licensed for the sale of alcoholic beverages to be consumed on the premises to shake or choose one or more dice, alone or with an owner or employee of the establishment, to determine whether the customer or the establishment shall pay for the customer’s drink or to determine whether the customer or the establishment shall immediately pay a predetermined amount of money, not to exceed \$2, for music from a jukebox in the establishment.

(2) It is legal for a customer in an establishment licensed for the sale of alcoholic beverages to be consumed on the premises to play the dice game commonly known as shake-a-day, in which a customer may once each day pay an amount of money predetermined by the establishment, but not more than 50 cents, and shake a number of dice predetermined by the establishment in an attempt to roll certain combinations simulating poker hands predetermined by the establishment. If one of the combinations is rolled, the customer may win merchandise or a portion or all of the money paid to play the game since the last winning combination was rolled. The establishment may, before a game begins, ~~limit the amount that will be won~~ *set and post a percentage of the pot that will be set aside* ~~and use the remaining money played on that game to start the pot for the next game,~~ thus enhancing the incentive to play the next game in the early stages of the next game. All money paid to play games must be paid out as winnings. An establishment may offer to the public more than one shake-a-day game at any given time.

(3) (a) ~~It is legal for a customer in an establishment licensed for the sale of alcoholic beverages to be consumed on the premises to play a dice game commonly known as cee-lo in which customers may play with three six-sided dice, with or without a bank, in which the first player to roll a winning combination wins. The dice combination of 4-5-6 is treated as a winning combination. Customers shall agree on rules before playing cee-lo. Games of cee-lo may include dice rolls that establish a point and may include games in which two or more players will roll and compare their points to determine~~

a winner. Cee-lo may also be known as “see-low”, “four-five-six”, “three dice game”, and “pair and a point”.

(b) (i) In banking games, one customer serves as a banker on a rotating basis. The banker covers the individual bets of the other customers who are playing, each of whom competes directly with the bank. Customers bet against the banker, and dice rolls establish a point for the customer.

(ii) In nonbanking games, each customer has equal status and rules must be agreed upon for the customers to pool their bets, bet amount, and attempt to win from a common pot. Each customer shall then roll all dice at once and shall continue until a recognized combination is rolled. Whichever customer rolls the best combination wins the entire pot and a new round may begin.

(c) A person under 18 years of age may not play cee-lo.

(d) An establishment in which cee-lo is played under this section may not:

(i) have a financial interest in the game, including but not limited to being the bank in the game;

(ii) extend credit to any customer who wishes to participate in the game; or

(iii) participate or otherwise be involved in the game.

(4) Nothing in this section authorizes the dice game of craps or any other dice game not specifically described in this section.”

Approved April 11, 2021

CHAPTER NO. 181

[SB 58]

AN ACT TRANSFERRING FUNDS TO THE LIVESTOCK LOSS REDUCTION RESTRICTED SPECIAL REVENUE ACCOUNT; REPEALING THE SUNSET PROVISION ON THE ACCOUNT AND FUND TRANSFER; PROVIDING RULEMAKING AUTHORITY; REPEALING SECTION 8, CHAPTER 349, LAWS OF 2015, AND SECTION 6, CHAPTER 284, LAWS OF 2017; AMENDING SECTION 15-1-122, MCA; PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-1-122, MCA, is amended to read:

~~“15-1-122. (Temporary bracketed language effective July 1, 2023)~~

Fund transfers. (1) There is transferred from the state general fund to the adoption services account, provided for in 42-2-105, a base amount of \$59,209, and the amount of the transfer must be increased by 10% in each succeeding fiscal year.

(2) For each fiscal year, there is transferred from the state general fund to the accounts, entities, or recipients indicated the following amounts:

(a) to the motor vehicle recycling and disposal program provided for in Title 75, chapter 10, part 5, 1.48% of the motor vehicle revenue deposited in the state general fund in each fiscal year. The amount of 9.48% of the allocation in each fiscal year must be used for the purpose of reimbursing the hired removal of abandoned vehicles. Any portion of the allocation not used for abandoned vehicle removal reimbursement must be used as provided in 75-10-532.

(b) to the noxious weed state special revenue account provided for in 80-7-816, 1.50% of the motor vehicle revenue deposited in the state general fund in each fiscal year;

(c) to the department of fish, wildlife, and parks:

(i) 0.46% of the motor vehicle revenue deposited in the state general fund, with the applicable percentage to be:

(A) used to:

~~(I) acquire and maintain pumpout equipment and other boat facilities; 4.8% in each fiscal year;~~

~~(H) administer and enforce the provisions of Title 23, chapter 2, part 5; 19.1% in each fiscal year;~~

~~(HH) enforce the provisions of 23-2-804, 11.1% in each fiscal year; and~~

~~(IV) develop and implement a comprehensive program and to plan appropriate off-highway vehicle recreational use, 16.7% in each fiscal year; and~~

~~(B) deposited in the state special revenue fund established in 23-1-105 in an amount equal to 48.3% in each fiscal year;~~

~~(ii) 0.10% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 50% of the amount to be used for enforcing the purposes of Title 23, chapter 2, part 6, and 50% of the amount designated for use in the development, maintenance, and operation of snowmobile facilities; and~~

~~(iii) 0.16% of the motor vehicle revenue deposited in the state general fund in each fiscal year to be deposited in the motorboat account to be used as provided in 23-2-533;~~

~~(d) 0.81% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 24.55% to be deposited in the state veterans' cemetery account provided for in 10-2-603 and with 75.45% to be deposited in the veterans' services account provided for in 10-2-112(1); and~~

~~(e) to the search and rescue account provided for in 10-3-801, 0.04% of the motor vehicle revenue deposited in the state general fund in each fiscal year.~~

~~(3) The amount of \$300,000 is transferred from the state general fund to the livestock loss [reduction and] mitigation restricted state special revenue account provided for in 81-1-112 in each fiscal year.~~

~~(4) For fiscal years 2018 through 2021, there is transferred \$2 million on an annual basis from the state general fund to the sage grouse stewardship account provided for in 76-22-109.~~

~~(5) For the purposes of this section, "motor vehicle revenue deposited in the state general fund" means revenue received from:~~

~~(a) fees for issuing a motor vehicle title paid pursuant to 61-3-203;~~

~~(b) fees, fees in lieu of taxes, and taxes for vehicles, vessels, and snowmobiles registered or reregistered pursuant to 61-3-321 and 61-3-562;~~

~~(c) GVW fees for vehicles registered for licensing pursuant to Title 61, chapter 3, part 3; and~~

~~(d) all money collected pursuant to 15-1-504(3).~~

~~(6) Except as provided in subsection (4), the amounts transferred from the general fund to the designated recipient must be appropriated as state special revenue in the general appropriations act for the designated purposes. (Terminates June 30, 2021--sec. 8, Ch. 360, L. 2017; bracketed language in subsection (3) effective July 1, 2023--sec. 6, Ch. 284, L. 2017.)~~

~~"15-1-122. (Effective July 1, 2021--bracketed language effective July 1, 2023) Fund transfers.~~ (1) There is transferred from the state general fund to the adoption services account, provided for in 42-2-105, a base amount of \$59,209, and the amount of the transfer must be increased by 10% in each succeeding fiscal year.

(2) For each fiscal year, there is transferred from the state general fund to the accounts, entities, or recipients indicated the following amounts:

(a) to the motor vehicle recycling and disposal program provided for in Title 75, chapter 10, part 5, 1.48% of the motor vehicle revenue deposited in the state general fund in each fiscal year. The amount of 9.48% of the allocation in each fiscal year must be used for the purpose of reimbursing the hired removal of abandoned vehicles. Any portion of the allocation not used for abandoned vehicle removal reimbursement must be used as provided in 75-10-532.

(b) to the noxious weed state special revenue account provided for in 80-7-816, 1.50% of the motor vehicle revenue deposited in the state general fund in each fiscal year;

(c) to the department of fish, wildlife, and parks:

(i) 0.46% of the motor vehicle revenue deposited in the state general fund, with the applicable percentage to be:

(A) used to:

(I) acquire and maintain pumpout equipment and other boat facilities, 4.8% in each fiscal year;

(II) administer and enforce the provisions of Title 23, chapter 2, part 5, 19.1% in each fiscal year;

(III) enforce the provisions of 23-2-804, 11.1% in each fiscal year; and

(IV) develop and implement a comprehensive program and to plan appropriate off-highway vehicle recreational use, 16.7% in each fiscal year; and

(B) deposited in the state special revenue fund established in 23-1-105 in an amount equal to 48.3% in each fiscal year;

(ii) 0.10% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 50% of the amount to be used for enforcing the purposes of Title 23, chapter 2, part 6, and 50% of the amount designated for use in the development, maintenance, and operation of snowmobile facilities; and

(iii) 0.16% of the motor vehicle revenue deposited in the state general fund in each fiscal year to be deposited in the motorboat account to be used as provided in 23-2-533;

(d) 0.81% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 24.55% to be deposited in the state veterans' cemetery account provided for in 10-2-603 and with 75.45% to be deposited in the veterans' services account provided for in 10-2-112(1); and

(e) to the search and rescue account provided for in 10-3-801, 0.04% of the motor vehicle revenue deposited in the state general fund in each fiscal year.

(3) ~~The~~ *In each fiscal year, the amount of:*

(a) \$300,000 is transferred from the state general fund to the livestock loss ~~reduction and~~ mitigation restricted state special revenue account provided for in 81-1-112 ~~in each fiscal year;~~ *and*

(b) *\$100,000 is transferred from the state general fund to the livestock loss reduction restricted state special revenue account provided for in 81-1-113.*

(4) For the purposes of this section, "motor vehicle revenue deposited in the state general fund" means revenue received from:

(a) fees for issuing a motor vehicle title paid pursuant to 61-3-203;

(b) fees, fees in lieu of taxes, and taxes for vehicles, vessels, and snowmobiles registered or reregistered pursuant to 61-3-321 and 61-3-562;

(c) GVW fees for vehicles registered for licensing pursuant to Title 61, chapter 3, part 3; and

(d) all money collected pursuant to 15-1-504(3).

(5) The amounts transferred from the general fund to the designated recipient must be appropriated as state special revenue in the general appropriations act for the designated purposes. ~~(Bracketed language in subsection (3) effective July 1, 2023--sec. 6, Ch. 284, L. 2017.)~~

Section 2. Repealer. Section 8, Chapter 349, Laws of 2015, and Section 6, Chapter 284, Laws of 2017, are repealed.

Section 3. Effective date. [This act] is effective July 1, 2021.

Approved April 10, 2021

CHAPTER NO. 182

[SB 113]

AN ACT PROVIDING THAT BILLS REFERRED BY THE LEGISLATURE TO A VOTE OF THE PEOPLE MUST HAVE A TITLE OF NO MORE THAN 100 WORDS, EXCLUDING SECTION NUMBERS OF STATUTES BEING AMENDED OR REPEALED; AND AMENDING SECTION 5-4-102, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5-4-102, MCA, is amended to read:

“5-4-102. Limitation on title of referred legislation. All bills referred by the legislature to a vote of the people ~~shall~~ *must* have a title of no more than 100 words, *exclusive of section numbers of any statutes being amended or repealed.*”

Approved April 10, 2021

CHAPTER NO. 183

[SB 120]

AN ACT PROVIDING THAT A TIE VOTE BY THE LEGISLATIVE AUDIT COMMITTEE DOES NOT NEGATE THE LEGISLATIVE AUDITOR'S CONTINUED EMPLOYMENT OR REAPPOINTMENT; AMENDING SECTIONS 5-13-302 AND 5-13-303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5-13-302, MCA, is amended to read:

“5-13-302. Appointment and qualifications. (1) (a) The committee shall appoint the legislative auditor and set the legislative auditor's salary in accordance with the rules for classification and pay adopted by the legislative council.

(b) *A tie vote by the committee does not negate approval of the legislative auditor's continued employment after initial appointment or reappointment.*

(2) The legislative auditor shall hold a degree from an accredited college or university with a major in accounting or an allied field and shall have at least 2 years' experience in the field of governmental accounting and auditing.”

Section 2. Section 5-13-303, MCA, is amended to read:

“5-13-303. Term and removal. (1) The legislative auditor is responsible solely to the legislature.

(2) (a) The legislative auditor shall hold office for a term of 2 years beginning with July 1 of each even-numbered year.

(b) *A tie vote by the committee does not negate approval of the legislative auditor's continued employment after initial appointment or reappointment after a 2-year period.*

(c) The committee may remove the legislative auditor for misfeasance, nonfeasance, or nonfeasance in office at any time after notice and hearing.”

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

Approved April 10, 2021

CHAPTER NO. 184

[SB 127]

AN ACT REVISING LAWS ON THE SELECTION OF MUNICIPAL COURT JUDGES; ELIMINATING THE ABILITY OF A MUNICIPAL COURT JUDGE TO APPOINT A PART-TIME ASSISTANT JUDGE; AMENDING SECTION 3-6-201, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 3-6-201, MCA, is amended to read:

“3-6-201. Number of judges – election – term of office – chief judge – duties of chief judge – assistant judge. (1) The governing body of a city shall determine by ordinance the number of judges required to operate the municipal court.

(2) A municipal court judge ~~who is not a part-time assistant judge appointed under subsection (6)~~ must be elected at the general election, as provided in 13-1-104(3). The judge’s term commences on the first Monday in January following the election. The judge shall hold office for the term of 4 years and until a successor is elected and qualified.

(3) Except as provided in subsection (2), all elections of municipal court judges are governed by the laws applicable to the election of district court judges.

(4) (a) If there is more than one municipal court judge, the judges shall adopt a procedure by which they either:

(i) select a chief municipal court judge at the beginning of each calendar year; or

(ii) select a chief municipal court judge for a specific period of time.

(b) If the judges cannot agree, the judge with the most seniority shall serve as the chief municipal court judge.

(5) The chief municipal court judge shall provide for the efficient management of the court, in cooperation with the other judge or judges, if any, and shall:

(a) maintain a central docket of the court’s cases;

(b) provide for the distribution of cases from the central docket among the judges, if there is more than one judge, in order to equalize the work of the judges;

(c) request the jurors needed for cases set for jury trial;

(d) if there is more than one judge, temporarily reassign or substitute judges among the departments as necessary to carry out the business of the court; and

(e) supervise and control the court’s personnel and the administration of the court.

~~(6) A municipal court judge may, with the approval of the governing body of the city, appoint a part-time assistant judge, who must have the same qualifications as a judge pro tempore under 3-6-204, to serve during the municipal court judge’s term of office. An order by a part-time assistant judge has the same force and effect as an order of a municipal court judge.”~~

Section 2. Effective date. [This act] is effective 1 year after passage and approval.

Approved April 10, 2021

CHAPTER NO. 185

[SB 145]

AN ACT REQUIRING HOMEOWNERS' ASSOCIATIONS AND CONDOMINIUM ASSOCIATIONS TO ALLOW MEETINGS BY REMOTE MEANS UNLESS THE GOVERNING DOCUMENTS OF THE ASSOCIATION PROVIDE OTHERWISE; AND AMENDING SECTION 35-2-526, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Homeowners association – remote meetings. (1) Unless the terms of the articles of incorporation or bylaws provide otherwise, a homeowners' association or an association of unit owners may hold a meeting by remote means.

(2) For the purposes of this section, the following definitions apply:

(a) "Association of unit owners" has the meaning provided in 70-23-102, except that the unit owners do not have to have submitted their property to the provisions of Title 70, chapter 23, and the association is organized under the provisions of Title 35, chapter 2.

(b) "Homeowners' association" means a corporation organized under the provisions of Title 35, chapter 2, that is responsible for the operation of a community or a mobile home subdivision in which:

(i) the voting membership is made up of parcel owners or their agents, or a combination of parcel owners and their agents;

(ii) membership is a mandatory condition of parcel ownership; and

(iii) the corporation is authorized to impose assessments that, if unpaid, may become a lien on the parcel.

(c) "Remote means" includes telephone audio, teleconference, or videoconference.

Section 2. Section 35-2-526, MCA, is amended to read:

"35-2-526. Annual and regular meetings. (1) A corporation with members shall hold a membership meeting annually at a time stated in or fixed in accordance with the bylaws.

(2) A corporation with members may hold regular membership meetings at the times stated in or fixed in accordance with the bylaws.

(3) Annual and regular membership meetings may be held in the state or out of the state, at the place stated in or fixed in accordance with the bylaws. If a place is not stated in or fixed in accordance with the bylaws, annual and regular meetings must be held at the corporation's principal office. ~~To~~ *Except as provided in [section 1],* to the extent authorized in the articles or bylaws, the board may determine that an annual meeting of members will be held solely by means of remote communication.

(4) At the annual meeting:

(a) the president and chief financial officer shall report on the activities and financial condition of the corporation; and

(b) the members shall consider and act upon other matters that are raised consistent with the notice and voting requirements of 35-2-530 and 35-2-538(2).

(5) At regular meetings, the members shall consider and act upon matters raised consistent with the notice and voting requirements of 35-2-530 and 35-2-538(2).

(6) The failure to hold an annual or regular meeting at a time stated in or fixed in accordance with a corporation's bylaws does not affect the validity of any corporate action.

(7) ~~If~~ *Except as provided in [section 1],* if permitted by the bylaws, members may participate in a meeting of the members by means of a conference

telephone call or similar remote communication. Unless otherwise provided in the articles or bylaws, participation in this manner constitutes presence in person at a meeting.”

Section 3. Association of unit owners – remote meetings. (1) Unless the terms of the declaration or the bylaws provide otherwise, an association of unit owners may hold a meeting by remote means.

(2) For the purposes of this section, “remote means” includes telephone audio, teleconference, or videoconference.

Section 4. Unincorporated homeowners’ association – remote meetings. (1) Unless the bylaws or other governing documents adopted by the members of the association provide otherwise, an unincorporated homeowners’ association may hold a meeting by remote means.

(2) For the purposes of this section, the following definitions apply:

(a) “Remote means” includes telephone audio, teleconference, or videoconference.

(b) “Unincorporated homeowners’ association” means an unincorporated entity that is responsible for the operation of a community or a mobile home subdivision in which:

(i) the voting membership is made up of parcel owners or their agents, or a combination of parcel owners and their agents;

(ii) membership is a mandatory condition of parcel ownership; and

(iii) the entity is authorized to impose assessments that, if unpaid, may become a lien on the parcel.

Section 5. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 35, chapter 2, part 5, and the provisions of Title 35, chapter 2, part 5, apply to [section 1].

(2) [Section 3] is intended to be codified as an integral part of Title 70, chapter 23, part 3, and the provisions of Title 70, chapter 23, part 3, apply to [section 3].

(3) [Section 4] is intended to be codified as an integral part of Title 35, and the provisions of Title 35 apply to [section 4].

Approved April 10, 2021

CHAPTER NO. 186

[SB 193]

AN ACT PROVIDING FOR THE SALE OF TAX-DEED LAND AT AN AMOUNT LESS THAN APPRAISED VALUE; PROVIDING THAT THE SALE ONLY TAKES PLACE IF THE TAX-DEED LAND DID NOT SELL IN TWO CONSECUTIVE AUCTIONS; AND AMENDING SECTIONS 7-8-2301 AND 7-8-2513, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-8-2301, MCA, is amended to read:

“7-8-2301. Disposal of county tax-deed land. (1) Whenever the county acquires land by tax deed, it is the duty of the board of county commissioners, within 6 months after acquiring title, to enter an order to:

(a) sell the land at public auction;

(b) donate the land to a municipality, as provided in subsection (3), if the land is within the incorporated boundaries of the municipality;

(c) donate the land or sell the land at a reduced price to a corporation as provided in subsection (3); or

(d) retain the land for the county as provided in subsection (3).

(2) When tax-deed land is to be sold, the sale may not be made for a price less than the sales price determined and fixed by the board prior to making the order of sale. The sales price may be set in an amount sufficient to recover the full amount of taxes, assessments, penalties, and interest due at the time the tax deed was issued to the county plus the county's costs in taking the tax deed and in conducting the sale and additional taxes due, if any, at the time of the sale.

(3) A board of county commissioners may, upon expiration of the repurchase period provided for in 7-8-2303:

- (a) sell the land as provided in subsections (2), ~~and~~ (4), ~~and~~ (5);
- (b) donate the land to a municipality with the consent of the municipality;
- (c) donate the land or sell the land at a reduced price to a corporation for the purpose of constructing:
 - (i) a multifamily housing development operated by the corporation for low-income housing;

- (ii) single-family houses. Upon completion of a house, the corporation shall sell the property to a low-income person who meets the eligibility requirements of the corporation. Once the sale is completed, the property becomes subject to taxation.

- (iii) improvements to real property or modifying, altering, or repairing improvements to real property that will enable the corporation, subject to the restrictions of Article X, section 6, of the Montana constitution, to pursue purposes specified in the articles of incorporation of the corporation, including the sale, lease, rental, or other use of the donated land and improvements;

- (d) retain the land for the county.

(4) If bids are not received at a sale of tax-deed land, the board shall order another auction sale of the land under this part within 6 months and may, if required by the circumstances, redetermine the sales price of the land determined under subsection (2). In the period of time between the auction conducted under subsection (1), in which there were not any qualifying bids for the land, and an auction held pursuant to this subsection, the land is retained by the county and is subject to the provisions of part 25.

(5) If a bid is not received at the sale conducted under subsection (4), the board may:

- (a) dispose of the land as provided in part 25; *or*
 - (b) *at any time after the auction, sell the property by auction and accept as the purchase price an amount less than the appraised value of the property.*

(6) Notwithstanding the amount of the sales price fixed by the board prior to the auction conducted under subsection (1)(a), if the successful sale bidder is the delinquent taxpayer or the taxpayer's successor in interest, the taxpayer's agent, or a member of the taxpayer's immediate family, the purchase price may not be less than the amount necessary to pay, in full, the taxes, assessments, penalties, and interest due on the land at the time of taking the tax deed plus interest on the full amount at the rate provided for in 15-16-102 from the date of the tax deed to the date of the repurchase as well as the costs of the county in taking the tax deed and additional taxes or assessments due, if any, at the time of repurchase.

(7) Land that is transferred pursuant to subsection (3)(c) must be used to permanently provide low-income housing. The transfer of the property may contain a reversionary clause to reflect this condition."

Section 2. Section 7-8-2513, MCA, is amended to read:

"7-8-2513. Appraisal of land required – exception – challenge – restrictions. (1) The county commissioners shall, before they sell, exchange, or lease lands with an estimated value of more than \$20,000 under the provisions

of this part, have the lands appraised by a disinterested certified general real estate appraiser to determine the value of the lands for the purpose of the sale, exchange, or lease.

(2) For the purposes of this section, a renewal of the lease is considered an initial lease if the renewal is for a term exceeding 5 years.

(3) The board of county commissioners may lease mineral interests in land, whether the interests are severed or not, without an appraisal as required by subsection (1).

(4) A taxpayer who believes that the appraised value under this section is less than the actual value of the property may challenge the appraised value. The procedure provided in 7-8-2215 must be followed when a challenge of the appraised value of real property under this part is filed.

(5) Except as otherwise provided by law, the board of county commissioners may not under the provisions of this part sell, exchange, or lease lands appraised pursuant to subsection (1) for less than the appraised value.

(6) *This section does not apply to land acquired by tax deed that failed to sell for appraised value as provided in 7-8-2301(5)(b)."*

Approved April 10, 2021

CHAPTER NO. 187

[SB 221]

AN ACT GENERALLY REVISING LAWS RELATED TO RURAL IMPROVEMENT DISTRICTS; PROVIDING A PROCESS TO DISSOLVE A RURAL IMPROVEMENT DISTRICT; AND ALLOWING PROTESTS TO BE RECEIVED REGARDING THE DISSOLUTION OF A RURAL IMPROVEMENT DISTRICT.

Be it enacted by the Legislature of the State of Montana:

Section 1. Dissolution of district. (1) A district created under this part may be dissolved if:

- (a) the dissolution of the district is considered to be in the best interest of the county and the inhabitants of the district;
- (b) the purpose for creating the district has been fulfilled; or
- (c) the work and improvements engaged in under the authority of the district have been completed or otherwise secured.

(2) At any time required for the public interest or convenience, the board of county commissioners may pass a resolution of intention to dissolve a district except as provided in subsection (3).

(3) If a district lacks sufficient funds to liquidate all existing charges against the district prior to the date of the dissolution, the district may not be dissolved.

(4) After the passage of the resolution provided for in subsection (2), the county clerk shall publish notice, pursuant to 7-1-2121, of the intention to dissolve the district. A copy of the notice must be mailed, pursuant to 7-1-2122, to each person, firm, or corporation or the agent of the person, firm, or corporation owning real property within the district listed in the owner's name on the last-completed assessment roll for state, county, and school district taxes.

(5) The notice required in subsection (4) must specify:

- (a) the boundaries of the district to be dissolved;
- (b) the date of the passage of the resolution of intention to dissolve as provided in subsection (2);

(c) the date set for the passage of the resolution of dissolution; and
(d) that the resolution to dissolve may be passed unless the county clerk receives written protest as provided in subsection (6) and [section 2] in advance from the owners of property in the district.

(6) (a) If a written protest against the dissolution of the district as provided in [section 2] is received, further proceedings may not be taken for a period of 6 months from the date when the protest was received by the county clerk if the board of county commissioners finds the protest is made by owners of property in the district assessed for more than 50% of the cost of the improvements or, if the costs of the improvements within the district have been met, 50% of the annual maintenance as determined by the method or methods of assessment in the resolution of intention to create the district.

(b) Property owned by a government entity must be considered the same as any other property in the district in determining whether or not sufficient protests have been filed as provided in subsection (6)(a).

(7) The decision of the board of county commissioners to pass a resolution to dissolve the district pursuant to this section is final and conclusive.

(8) Except as provided in subsection (9), any assets remaining after all debts and obligations of the district have been paid, discharged, or irrevocably settled must be:

(a) deposited in the general fund of the local government;
(b) in the case of multicounty districts, divided in accordance with their interlocal agreement and deposited in the general fund of each county; or

(c) transferred to a new improvement district that has been created to provide improvements to substantially the same area as provided by the dissolved improved district.

(9) If the remaining assets of the dissolved district are derived from private grants or gifts that restrict the use of those funds, the funds must be returned to the grantor or donor.

(10) (a) As used in this section, "owner" means the record owner of fee simple title to the property as of the date a protest is filed.

(b) The term does not include a tenant or other holder of a leasehold interest in the property.

Section 2. Right to protest dissolution of district. (1) (a) Except as provided in subsection (1)(b), any owner of property liable for the assessments within the district may make written protest against the dissolution of the district at any time within 30 days of the date of first publication of the notice of passage of a resolution of intention to dissolve the district as provided in [section 1(4)]. The protest must be in writing, identify the property in the district owned by the protestor, and, except as provided in 7-12-2141, be signed by all owners of the property. The protest must be delivered to the county clerk who shall endorse on the protest document the date of its receipt by the county clerk.

(b) If the time period described in subsection (1)(a) includes a holiday as enumerated in 1-1-216, other than a Sunday, the period must be extended for an additional 2 days.

(2) (a) As used in this section, "owner" means the record owner of fee simple title to the property as of the date a protest is filed.

(b) The term does not include a tenant or other holder of a leasehold interest in the property.

Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 7, chapter 12, part 21, and the provisions of Title 7, chapter 12, part 21, apply to [sections 1 and 2].

Approved April 10, 2021

CHAPTER NO. 188

[SB 305]

AN ACT REVISING SCHOOL FUNDING LAWS RELATED TO STATE LANDS REIMBURSEMENT BLOCK GRANTS; EXTENDING THE SUNSET ON THE BLOCK GRANTS; AMENDING SECTION 20-9-640, MCA; AMENDING SECTION 20, CHAPTER 416, LAWS OF 2017, AND SECTION 2, CHAPTER 475, LAWS OF 2019; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-9-640, MCA, is amended to read:

“20-9-640. (Temporary) State lands reimbursement block grant.

(1) (a) For fiscal years ~~2018, 2019, 2020, and 2021~~ *2022 and 2023*, the office of public instruction shall provide a state lands reimbursement block grant of ~~\$100,000~~ *\$75,000* to each school district in a county with greater than 20% of the county’s land area composed of state school trust lands.

(b) The electronic reporting system that is used by the office of public instruction and school districts must be used to allocate the block grant amount into each district’s general fund BASE budget as an anticipated revenue source.

(2) Each year, 70% of each district’s block grant must be distributed in December and 30% of each district’s block grant must be distributed in May at the same time that guaranteed tax base aid is distributed. (Terminates June 30, ~~2021--sec. 2, Ch. 475, L. 2019 2023.~~)”

Section 2. Section 20, Chapter 416, Laws of 2017, is amended to read:

“Section 20. Termination. [Section 4] terminates June 30, ~~2019~~ *2023.*”

Section 3. Section 2, Chapter 475, Laws of 2019, is amended to read:

“Section 2. Section 20, Chapter 416, Laws of 2017, is amended to read:

“Section 20. Termination. [Section 4] terminates June 30, ~~2019~~ *2023.*”

Section 4. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 1] is effective July 1, 2021.

Section 5. Termination. [This act] terminates June 30, 2023.

Approved April 10, 2021

CHAPTER NO. 189

[SB 131]

AN ACT PROVIDING FOR MILK PRICE FORWARD CONTRACTS; CLARIFYING THAT MILK PRICE FORWARD CONTRACTS DO NOT VIOLATE FAIR TRADE PRACTICES; PROVIDING A DEFINITION; AMENDING SECTIONS 81-23-101 AND 81-23-303, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 81-23-101, MCA, is amended to read:

“81-23-101. Definitions. (1) Unless the context requires otherwise, in this chapter, the following definitions apply:

(a) “Board” means the board of milk control provided for in 2-15-3105.

(b) (i) “Class” refers to the classes of utilization of milk that the board defines by rule.

(ii) In adopting rules under this subsection (1)(b), the board shall use the current definitions of classes of utilization of milk that are found in 7 CFR, part 1000.40, except that the board may combine any of the classes of milk provided for in the federal definitions into a single class.

(c) “Consumer” means a person or an agency, other than a dealer, who purchases milk for consumption or use.

(d) “Dealer” means a producer, distributor, producer-distributor, jobber, or independent contractor.

(e) (i) “Distributor” means a person purchasing milk from any source, either in bulk or in packages, and distributing it for consumption in this state. The term includes what are commonly known as jobbers and independent contractors.

(ii) The term does not include a person purchasing milk from a dealer licensed under this chapter for resale over the counter at retail or for consumption on the premises.

(f) “Licensee” means a person who holds a license from the board.

(g) “Market” means an area of the state designated by the board as a natural marketing area.

(h) “Milk” means the lacteal secretion of a dairy animal or animals, including those secretions when raw and when cooled, pasteurized, standardized, homogenized, recombined, concentrated fresh, or otherwise processed and all of which are designated as grade A by a constituted health authority and including those secretions that are in any manner rendered sterile or aseptic, notwithstanding whether they are regulated by any health authority of this or any other state or nation.

(i) *“Milk price forward contract” means a voluntary agreement between a distributor and a producer to establish a mechanism to adjust a future producer price on a future delivery of milk at a future date, as a means of hedging the future milk price received by the producer.*

~~(j)~~(j) “Person” means an individual, firm, corporation, or cooperative association or the dairy operated by the department of corrections at the Montana state prison.

~~(k)~~(k) “Producer” means a person who produces milk for consumption in this state and sells it to a distributor.

~~(l)~~(l) “Producer prices” means those prices at which milk owned by a producer is sold in bulk to a distributor.

~~(m)~~(m) “Producer-distributor” means a person both producing and distributing milk for consumption in this state.

~~(n)~~(n) “Retailer” means a person selling milk in bulk or in packages over the counter at retail or for consumption on the premises and includes but is not limited to retail stores of all types, restaurants, boardinghouses, fraternities, sororities, confectioneries, public and private schools, including colleges and universities, and both public and private institutions and instrumentalities of all types and description.

(2) The board may assign new milk products not provided for under 7 CFR, part 1000.40, to the class that the board considers proper.”

Section 2. Section 81-23-303, MCA, is amended to read:

“81-23-303. Rules of fair trade practices. (1) The board may adopt reasonable rules governing fair trade practices as they pertain to the transaction of business among licensees under this chapter and among licensees and the general public. Except for provisions regarding the requirement for first call on Montana milk supplies, as provided in 81-23-302(10), ~~and~~ rules adopted pursuant to 81-23-302(11), *and as provided in subsection (2)*, fair trade practice rules must contain but are not limited to provisions prohibiting the following

methods of doing business that are unfair, unlawful, and not in the public interest:

(1)(a) the payment, allowance, or acceptance of secret rebates, secret refunds, or unearned discounts by a person, whether in the form of money or otherwise;

(2)(b) the giving of milk, cream, dairy products, services, or articles of any kind, except to bona fide charities, for the purpose of securing or retaining the fluid milk or fluid cream business of a customer;

(3)(c) the extension to certain customers of special prices or services not available to all customers who purchase milk of like quantity under like terms and conditions; and

(4)(d) the payment of a price lower than the applicable producer price, established by the board, by a distributor to a producer for milk that is distributed to any person, including agencies of the federal, state, or local government.

(2) *A payment subject to a milk price forward contract that is less than the minimum producer price is not a violation of this section."*

Section 3. Effective date. [This act] is effective July 1, 2021.

Approved April 11, 2021

CHAPTER NO. 190

[SB 161]

AN ACT GENERALLY REVISING SUBDIVISION LAWS; ALLOWING AN EXPEDITED REVIEW FOR SUBDIVISIONS THAT MEET CERTAIN REQUIREMENTS; EXEMPTING CERTAIN SUBDIVISIONS IN CITIES AND TOWNS FROM CERTAIN REVIEWS; ALLOWING A COUNTY TO ADOPT EXPEDITED REVIEW PROVISIONS; REQUIRING THE LOCAL GOVERNMENT TO HOLD A HEARING TO APPROVE OR DENY A SUBDIVISION APPLICATION FOR EXPEDITED REVIEW; CLARIFYING THE AMOUNT OF TIME WITHIN WHICH A PERSON MAY BRING ACTION TO CHALLENGE THE APPROVAL, IMPOSITION OF CONDITIONS, OR DENIAL OF A PRELIMINARY PLAT AND ACTIONS TAKEN ON A FINAL PLAT; AND AMENDING SECTION 76-3-625, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Expedited review for certain subdivisions. (1) Except as provided in subsection (9), a subdivision application, regardless of the number of lots, that meets the requirements provided in subsection (3) is entitled to the expedited review process provided in this section at the applicant's request.

(2) A subdivision application that meets the requirements provided in subsection (3) is exempt from:

(a) the preparation of an environmental assessment as required in 76-3-603; and

(b) the review criteria listed in 76-3-608(3)(a).

(3) A subdivision qualifies for the expedited review process provided in this section if the proposed subdivision:

(a) is within:

(i) an incorporated city or town or consolidated city-county government and is subject to an adopted growth policy pursuant to Title 76, chapter 1, and adopted zoning regulations pursuant to Title 76, chapter 2, part 3; or

(ii) a county water and/or sewer district created under 7-13-2203 that provides both water and sewer services and is subject to an adopted growth policy as provided in Title 76, chapter 1, and zoning regulations pursuant to Title 76, chapter 2, part 2, that, at a minimum, address development intensity through minimum lot sizes or densities, bulk and dimensional requirements, and use standards;

(b) complies with zoning regulations adopted pursuant to 76-2-203 or 76-2-304 and complies with the design standards and other subdivision regulations adopted pursuant to 76-3-504 without the need for variances or other deviations to adopted standards; and

(c) includes in its proposal plans for the onsite development of or extension to public infrastructure in accordance with adopted ordinances and regulations.

(4) On submission for expedited review under this section, the subdivision application must be reviewed for required elements and sufficiency of information as provided in 76-3-601(1) through (3) to determine whether the application complies with zoning regulations adopted pursuant to 76-2-203 or 76-2-304 and complies with the design standards and other subdivision regulations adopted pursuant to 76-3-504 without the need for variances or other deviations to adopted standards and includes in its proposal plans for the onsite development of or extension to public infrastructure in accordance with adopted ordinances and regulations.

(5) The governing body shall:

(a) hold a hearing on the subdivision application within 35 working days of a determination by the reviewing agent or agency that the application contains required elements and sufficient information for review as provided in subsection (3);

(b) provide notice for the hearing required in subsection (5)(a) by publication in a newspaper of general circulation in the county not less than 15 days prior to the date of the hearing;

(c) approve the application unless public comment or other information demonstrates the application does not comply with:

(i) adopted zoning regulations, design standards, and other requirements of subdivision regulations adopted pursuant to 76-3-504 without the need for variances or other deviations to adopted standards; or

(ii) adopted ordinances or regulations for the onsite development of or extension to public infrastructure; and

(d) provide to the applicant and the public a written statement within 30 days of the decision to approve or deny a proposed subdivision for expedited review as allowed in this section that provides:

(i) the facts and conclusions that the governing body relied on in making its decision to approve or deny the application; and

(ii) the conditions that apply to the preliminary plat approval that must be satisfied before the final plat may be approved.

(6) The governing body may:

(a) with the agreement of the applicant, grant one extension of the review period allowed in subsection (5)(a) not to exceed 180 calendar days;

(b) adopt conditions of approval only to ensure an approved subdivision application is completed in accordance with the approved application and any applicable requirements pursuant to Title 76, chapter 4; or

(c) delegate to its reviewing agent or agency the requirement to hold a public hearing on the subdivision application as required in this section.

(7) A local governing body may not adopt zoning regulations pursuant to 76-2-203 or 76-2-304, subdivision regulations pursuant to 76-3-504, or other

ordinances or regulations that restrict the use of the expedited subdivision review process as provided in this section.

(8) (a) Except as modified in this section, subdivision applications meeting the requirements for an expedited review remain subject to the provisions of 76-3-608(3)(b) through (3)(d) and 76-3-608(6) through (10), 76-3-610 through 76-3-614, 76-3-621, and 76-3-625.

(b) The provisions of this section supersede any provision of this chapter that is in conflict with any provision of this section.

(9) A subdivision located outside of the boundaries of an incorporated city or town may not utilize the expedited review process provided in this section unless the board of county commissioners of the county where the subdivision is located has voted to allow the provisions of this section to apply to subdivisions located outside the boundaries of an incorporated city or town.

Section 2. Section 76-3-625, MCA, is amended to read:

“76-3-625. Violations – actions against governing body. (1) A person who has filed with the governing body an application for a subdivision under this chapter may bring an action in district court to sue the governing body to recover actual damages caused by a final action, decision, or order of the governing body or a regulation adopted pursuant to this chapter *within 180 days of the final action, decision, order, or adoption of a regulation*. The governing body’s decision, based on the record as a whole, must be sustained unless the decision being challenged is arbitrary, capricious, or unlawful.

(2) (a) A party identified in subsection (3) who is aggrieved by a decision of the governing body to approve, conditionally approve, or deny an application and preliminary plat for a proposed subdivision ~~or a final subdivision plat~~ may, within 30 days from the date of the written decision, appeal to the district court in the county in which the property involved is located *to challenge the approval, imposition of conditions, or denial of the preliminary plat*.

(b) *A party identified in subsection (3) who is aggrieved by any other final decision of the governing body regarding a subdivision may, within 30 days from the date of the written decision, appeal to the district court in the county in which the property involved is located to challenge the decision.*

(c) ~~The~~ A petition allowed in subsections (2)(a) and (2)(b) must specify the grounds upon which the appeal is made. The governing body’s decision, based on the record as a whole, must be sustained unless the decision being challenged is arbitrary, capricious, or unlawful.

(3) The following parties may appeal under the provisions of subsection (2):

(a) the subdivider;

(b) a landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the county or municipality where the subdivision is proposed if that landowner can show a likelihood of material injury to the landowner’s property or its value;

(c) the county commissioners of the county where the subdivision is proposed; and

(d) (i) a first-class municipality, as described in 7-1-4111, if a subdivision is proposed within 3 miles of its limits;

(ii) a second-class municipality, as described in 7-1-4111, if a subdivision is proposed within 2 miles of its limits; and

(iii) a third-class municipality or a town, as described in 7-1-4111, if a subdivision is proposed within 1 mile of its limits.

(4) For the purposes of this section, “aggrieved” means a person who can demonstrate a specific personal and legal interest, as distinguished from

a general interest, who has been or is likely to be specially and injuriously affected by the decision.”

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 76, chapter 3, part 6, and the provisions of Title 76, chapter 3, part 6, apply to [section 1].

Approved April 11, 2021

CHAPTER NO. 191

[SB 339]

AN ACT SOLELY CORRECTING AN ERRONEOUS CAMPAIGN FINANCE STATUTORY REFERENCE; AMENDING SECTION 13-37-226, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-37-226, MCA, is amended to read:

“13-37-226. Time for filing reports. (1) Except as provided in 13-37-206 and 13-37-225(3), a candidate shall file reports required by 13-37-225(1)(a) containing the information required by 13-37-229, 13-37-231, and 13-37-232 as follows:

(a) quarterly, due on the 5th day following a calendar quarter, beginning with the calendar quarter in which funds are received or expended during the year or years prior to the election year that the candidate expects to be on the ballot and ending in the final quarter of the year preceding the year of an election in which the candidate participates;

(b) the 20th day of March, April, May, June, August, September, October, and November in the year of an election in which the candidate participates;

(c) within 2 business days of receiving a contribution of \$100 or more if received between the 15th day of the month preceding an election in which the candidate participates and the day of the election;

(d) within 2 business days of making an expenditure of \$100 or more if made between the 15th day of the month preceding an election in which the candidate participates and the day of the election;

(e) semiannually on the 10th day of March and September, starting in the year following an election in which the candidate participates until the candidate files a closing report as specified in 13-37-228(3); and

(f) as provided by subsection (3).

(2) Except as provided in 13-37-206, 13-37-225(3), and 13-37-227, a political committee shall file reports required by ~~13-37-225(1)(a)~~ 13-37-225(1)(a) containing the information required by 13-37-229, 13-37-231, and 13-37-232 as follows:

(a) quarterly, due on the 5th day following a calendar quarter, beginning with the calendar quarter in which the political committee receives a contribution or makes an expenditure after an individual becomes a candidate or an issue becomes a ballot issue, as defined in 13-1-101(6)(b), and ending in the final quarter of the year preceding the year in which the candidate or the ballot issue appears on the ballot;

(b) the 30th day of March, April, May, June, August, September, October, and November in the year of an election in which the political committee participates;

(c) within 2 business days of receiving a contribution, except as provided in 13-37-232, of \$500 or more if received between the 25th day of the month before an election in which the political committee participates and the day of the election; and

(d) within 2 business days of making an expenditure of \$500 or more that is made between the 25th day of the month before an election in which the political committee participates and the day of the election;

(e) quarterly, due on the 5th day following a calendar quarter, beginning in the calendar quarter following a year of an election in which the political committee participates until the political committee files a closing report as specified in 13-37-228(3); and

(f) as provided by subsection (3).

(3) In addition to the reports required by subsections (1) and (2), if a candidate or a political committee participates in a special election, the candidate or political committee shall file reports as follows:

(a) a report on the 60th, 35th, and 12th days preceding the date of the special election; and

(b) 20 days after the special election.

(4) Except as provided by 13-37-206, candidates for a local office and political committees that receive contributions or make expenditures referencing a particular local issue or a local candidate shall file the reports specified in subsections (1) through (3) only if the total amount of contributions received or the total amount of funds expended for all elections in a campaign exceeds \$500.

(5) A report required by this section must cover contributions received and expenditures made pursuant to the time periods specified in 13-37-228.

(6) A political committee may file a closing report prior to the date in 13-37-228(3) and after the complete termination of its contribution and expenditure activity during an election cycle.

(7) For the purposes of this section:

(a) a candidate participates in an election by attempting to secure nomination or election to an office that appears on the ballot; and

(b) a political committee participates in an election by receiving a contribution or making an expenditure.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 11, 2021

CHAPTER NO. 192

[HB 152]

AN ACT REQUIRING DRAIN PLUGS TO BE DISENGAGED AFTER VESSELS, EQUIPMENT, OR OTHER ITEMS ARE USED IN BODIES OF WATER INSIDE AQUATIC INVASIVE SPECIES MANAGEMENT AREAS; DEFINING DRAIN PLUG; ESTABLISHING THAT FAILING TO DISENGAGE A DRAIN PLUG IS NOT A PRIMARY OFFENSE; AMENDING SECTIONS 80-7-1003, 80-7-1010, 80-7-1015, AND 80-7-1019, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 80-7-1003, MCA, is amended to read:

“80-7-1003. Definitions. As used in this part, the following definitions apply:

(1) “Departments” means the department of agriculture, the department of fish, wildlife, and parks, the department of natural resources and conservation, and the department of transportation.

(2) “Drain plug” means a valve or device used to control the drainage of water from a compartment designed to hold water, such as a bilge, livewell, or

ballast tank. The term does not include a permanently sealed device, like those used to prevent water from filling a pontoon, unless the compartment the device is permanently sealed to is compromised and contains water.

(2)(3) “Equipment” means an implement or machinery that has been wholly or partially immersed in surface waters, including but not limited to boat lifts, trailers transporting vessels, floating docks, pilings, dredge pipes, and buoys.

(3)(4) “Invasive species” means, upon the mutual agreement of the directors of the departments, a nonnative, aquatic species that has caused, is causing, or is likely to cause harm to the economy, environment, recreational opportunities, or human health.

(4)(5) “Invasive species management area” means a designation made by a department under 80-7-1008 for a specific area or for a body or bodies of water for a specific or indeterminate amount of time that regulates invasive species or potential carriers of invasive species within the boundaries of that area.

(5)(6) “Person” means an individual, partnership, corporation, association, limited partnership, limited liability company, governmental subdivision, agency, or public or private organization of any character.

(6)(7) “Tributaries to the Columbia River” means all water bodies in Montana from which water drains into the Columbia River.

(7)(8) “Vessel” has the meaning provided in 61-1-101.”

Section 2. Section 80-7-1010, MCA, is amended to read:

“80-7-1010. Invasive species management area – regulation.

(1) The owner, operator, or person in possession of any vessel or equipment authorized for use in an invasive species management area shall comply with any regulations imposed pursuant to 80-7-1008(3)(b) and provide proof of compliance upon request of a department or its designee.

(2) After use in a body of water within an invasive species management area, all vessels, equipment, bait containers, livewells, bilges, and other boating-related equipment, excluding marine sanitary systems, must be drained in a way that does not impact any state waters *and the drain plug disengaged to drain the water before leaving the boat launch or parking area and being transported on land or a public highway, as defined in 61-1-101, except where allowed by the department of fish, wildlife, and parks. After draining the water, the drain plug may be reengaged. If a drain plug does not exist or a drain plug cannot be disengaged to comply with this subsection, reasonable measures must be taken to dry or drain all compartments or spaces that hold water.*

Section 3. Section 80-7-1015, MCA, is amended to read:

“80-7-1015. Statewide invasive species management area. (1) There is established a statewide invasive species management area for the purpose of preventing the introduction, importation, and infestation of invasive species through the mandatory inspection of vessels and equipment entering the state and, except as provided in 80-7-1030, the mandatory decontamination of any vessel or equipment on or in which an invasive species is detected.

(2) To the greatest extent possible, the department of transportation shall cooperate with the department of fish, wildlife, and parks to utilize ports of entry or adjacent department of transportation facilities as locations for check stations established pursuant to this section.

(3) As far as practical, signs indicating that the statewide invasive species management area is in place must be posted in an effective manner along the boundaries of and within the state. The signs must include information about the specific regulations that apply to the area. The signs must be paid

for with funds from the invasive species account established in 80-7-1004. The departments may coordinate with any other governmental entity for the posting of signs.

(4) At a check station established pursuant to this section, the departments may examine vessels and equipment for the presence of an invasive species and compliance with this section and rules adopted pursuant to 80-7-1007. Except as provided in 80-7-1030, examination of any interior portion of a vessel or equipment that may contain water, including bilges, livewells, and bait containers, for compliance may occur only if inspection of interior portions is included as part of quarantine measures established pursuant to rules adopted under 80-7-1007.

(5) The owner, operator, or person in possession of a vessel or equipment shall:

(a) comply with this section and rules imposed under 80-7-1007; and

(b) stop at any check station established pursuant to this section unless a medical emergency makes stopping likely to result in death or serious bodily injury.

(6) Except as provided in 80-7-1030, if during an inspection of a vessel or equipment the presence of an invasive species is detected, that vessel or equipment may not leave the check station without authorization until it is cleaned and decontaminated in a manner established in accordance with rules adopted pursuant to 80-7-1007. Every effort must be made to ensure decontamination of the vessel or equipment as expeditiously as possible.

(7) After use in a body of water within the statewide invasive species management area, all vessels, equipment, bait containers, livewells, bilges, and other boating-related equipment, excluding marine sanitary systems, must be drained in a way that does not impact any state waters *and the drain plug disengaged to drain the water before leaving the boat launch or parking area and being transported on land or on a public highway*, as defined in 61-1-101, except when allowed by the department of fish, wildlife, and parks. *After draining the water, the drain plug may be reengaged. If a drain plug does not exist or a drain plug cannot be disengaged to comply with this subsection, reasonable measures must be taken to dry or drain all compartments or spaces that hold water.*

Section 4. Section 80-7-1019, MCA, is amended to read:

“80-7-1019. Enforcement. (1) ~~A~~ *Except as provided in subsection (2), a peace officer, as defined in 45-2-101, may:*

(1)(a) stop the driver of a vehicle transporting a vessel or equipment on receiving a complaint or observing that the driver failed to stop at a check station as required under this part;

(2)(b) upon particularized suspicion that a vessel or equipment is infested with an invasive species, require the driver of a vehicle transporting a vessel or equipment to submit the vessel or equipment to an inspection. The peace officer may conduct mandatory inspections of any interior portion of a vessel or equipment that may contain water for compliance with this part and rules adopted under this part only if:

(a)(i) the peace officer obtains a search warrant, as defined in 46-1-202; or

(b)(ii) the vessel or equipment is physically located within the boundaries of an invasive species management area established under 80-7-1008 or the statewide invasive species management area established in 80-7-1015 and use of mandatory inspections has been included in quarantine measures established pursuant to 80-7-1008(3)(b)(i) or rules adopted under 80-7-1007.

(3)(c) cite a person for a violation of this part.

(2) (a) *A peace officer may not require a driver who may be in violation of the requirements of 80-7-1010(2) and 80-7-1015(7) to stop except on reasonable cause to believe:*

(i) *that the driver violated a traffic regulation or another provision of this part; or*

(ii) *that the driver's vehicle is unsafe or not equipped as required by law.*

(b) *A driver found to be in violation of 80-7-1010(2) or 80-7-1015(7) may correct the violation in the presence of the officer and be deemed in compliance. A correction made pursuant to this subsection (2)(b) may not impact any state waters."*

Section 5. Applicability. [This act] applies to violations charged on or after [the effective date of this act].

Approved April 14, 2021

CHAPTER NO. 193

[HB 173]

AN ACT ESTABLISHING A FIRE HAZARD REDUCTION FUND; REQUIRING THE DEPOSIT OF REVENUE FROM FORFEITED FIRE HAZARD REDUCTION PERFORMANCE BONDS INTO A STATE SPECIAL REVENUE FUND FOR AUTHORIZATION, MANAGEMENT, AND COMPLETION OF FIRE HAZARD REDUCTION ACTIVITIES; CREATING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502 AND 76-13-410, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Fire hazard reduction fund. (1) There is a fire hazard reduction fund in the state special revenue fund established in 17-2-102.

(2) There is deposited in the fund all revenue from forfeited performance bonds provided for in 76-13-410.

(3) The fund is statutorily appropriated, as provided in 17-7-502, to the department of natural resources and conservation for the purposes of authorizing, managing, and completing fire hazard reduction activities pursuant to this part.

Section 2. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations – definition – requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 5-13-404; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404;

19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-151; 76-13-150; [section 1]; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-2-526; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates June 30, 2021; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-209 terminates September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027; pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; and pursuant to sec. 5, Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023.)"

Section 3. Section 76-13-410, MCA, is amended to read:

"76-13-410. Failure to comply. (1) If a person fails, refuses, or neglects to properly reduce or manage the fire hazard in accordance with the requirements of 76-13-407 and 76-13-408, the person may be enjoined from further cutting, clearing, and construction operations until the department has found the person to be in compliance with 76-13-407 and 76-13-408. The department may initiate the proceedings and may obtain a temporary restraining order,

injunction, or writ of mandate. The proceedings must be conducted in the district court of the county where the land is located.

(2) If a person claims to have a minimum slash hazard but the department's inspection determines otherwise, the hazard reduction requirements of this part apply.

(3) If a person fails to comply with 76-13-407 or 76-13-408 and fails to comply within 30 days after being notified to do so by the department, the department may complete, direct, or authorize the fire hazard reduction or management at the expense of the contractor or of the owner of the timber or other forest products cut or produced from the land upon which the unabated fire hazard remains.

(4) (a) The cost and expense of the fire hazard reduction or management work, plus 20% of the cost and expense of the work as a penalty, constitute a lien upon the forest products cut or produced from the land and upon the real and personal property of the contractor. If payment of the sum demanded is not made to the department within 15 days of its written demand, the performance bond required by 76-13-408 and 76-13-409, upon notice to the contractor, must be automatically forfeited to the extent needed to cover the cost and expenses of reducing or managing the fire hazard, plus a penalty of 20% of the cost and expenses. If the bond is insufficient to cover the cost, expenses, and penalty, the department may bring legal action on behalf of the state to recover the cost, expenses, and penalty.

(b) *Revenue from forfeited performance bonds required by 76-13-408 and 76-13-409 must be deposited into the fire hazard reduction fund established in [section 1].*

(5) In addition to other remedies provided in this part, the department may, after notice, require a person to show cause why the department should not withhold the issuance of any further fire hazard reduction agreement or exemption certificate to a person that:

(a) harvests timber without a valid fire hazard reduction agreement; or

(b) has forfeited the performance bond on a fire hazard reduction agreement within the 2 preceding years and fails, refuses, or neglects to properly reduce or manage the fire hazard in accordance with 76-13-407 or 76-13-408 within 30 days after being notified by the department.

(6) If the person fails to show sufficient cause as required by subsection (5), the department may withhold the issuance of any further fire hazard reduction agreement or exemption certificate for a period not to exceed 3 years."

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 76, chapter 13, part 4, and the provisions of Title 76, chapter 13, part 4, apply to [section 1].

Section 5. Effective date. [This act] is effective on passage and approval.

Approved April 14, 2021

CHAPTER NO. 194

[HB 226]

AN ACT GENERALLY REVISING ALCOHOL LAWS TO ALLOW CURBSIDE PICKUP; AUTHORIZING CERTAIN LICENSEES AND LIQUOR STORE AGENTS TO OFFER CURBSIDE PICKUP TO CUSTOMERS; PROVIDING REQUIREMENTS FOR CURBSIDE PICKUP; PROVIDING EXCEPTIONS FOR DOCK SALES; PROVIDING HOURS FOR CURBSIDE PICKUP; PROVIDING DEFINITIONS; AMENDING SECTIONS 16-1-106, 16-2-106,

16-3-213, 16-3-214, 16-3-219, 16-3-303, 16-3-411, 16-3-418, 16-4-105, 16-4-110, 16-4-115, 16-4-201, 16-4-208, 16-4-209, 16-4-213, 16-4-312, AND 16-4-420, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Curbside pickup. (1) Licensed entities and agency liquor stores provided under subsection (3) may offer curbside pickup.

(2) Curbside pickup constitutes the sale of alcoholic beverages in original packaging, prepared servings, or growlers that was ordered online or through the phone for pickup from the licensee or agency liquor store during normal business hours and within 300 feet of the licensed premises or agency liquor stores, including a drive-through window. Curbside pickup is intended for consumption somewhere other than the pickup location. It is not intended for delivery to residences or other businesses, including but not limited to restaurants or hotels.

(3) This only applies to licenses issued under 16-3-213, 16-3-214, 16-3-411, 16-4-105, 16-4-110, 16-4-115, 16-4-201, 16-4-208, 16-4-209, 16-4-213, 16-4-312, and 16-4-420 and agency liquor stores under 16-2-101.

Section 2. Section 16-1-106, MCA, is amended to read:

“16-1-106. Definitions. As used in this code, the following definitions apply:

(1) “Agency franchise agreement” means an agreement between the department and a person appointed to sell liquor and table wine as a commission merchant rather than as an employee.

(2) “Agency liquor store” means a store operated under an agency franchise agreement in accordance with this code for the purpose of selling liquor at either the posted or the retail price for off-premises consumption.

(3) “Alcohol” means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.

(4) “Alcoholic beverage” means a compound produced and sold for human consumption as a drink that contains more than 0.5% of alcohol by volume.

(5) (a) “Beer” means:

(i) a malt beverage containing not more than 8.75% of alcohol by volume; or

(ii) an alcoholic beverage containing not more than 14% alcohol by volume:

(A) that is made by the alcoholic fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted cereal grain; and

(B) in which the sugars used for fermentation of the alcoholic beverage are at least 75% derived from malted cereal grain measured as a percentage of the total dry weight of the fermentable ingredients.

(b) The term does not include a caffeinated or stimulant-enhanced malt beverage.

(6) “Beer importer” means a person other than a brewer who imports malt beverages.

(7) “Brewer” means a person who produces malt beverages.

(8) “Caffeinated or stimulant-enhanced malt beverage” means:

(a) a beverage:

(i) that is fermented in a manner similar to beer and from which some or all of the fermented alcohol has been removed and replaced with distilled ethyl alcohol;

(ii) that contains at least 0.5% of alcohol by volume;

(iii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of beer as described in 27 CFR 25.55; and

(iv) to which is added caffeine or other stimulants, including but not limited to guarana, ginseng, and taurine; or

(b) a beverage:

(i) that contains at least 0.5% of alcohol by volume;

(ii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of beer as described in 27 CFR 25.55;

(iii) to which is added a flavor or other ingredient containing alcohol, except for a hop extract;

(iv) to which is added caffeine or other stimulants, including but not limited to guarana, ginseng, and taurine;

(v) for which the producer is required to file a formula for approval with the United States alcohol and tobacco tax and trade bureau pursuant to 27 CFR 25.55; and

(vi) that is not exempt pursuant to 27 CFR 25.55(f).

(9) "Community" means:

(a) in an incorporated city or town, the area within the incorporated city or town boundaries;

(b) in an unincorporated city or area, the area identified by the federal bureau of the census as a community for census purposes; and

(c) in a consolidated local government, the area of the consolidated local government not otherwise incorporated.

(10) "Concessionaire" means an entity that has a concession agreement with a licensed entity.

(11) "*Curbside pickup*" means the sale of alcoholic beverages that meets the requirements of [section 1].

(12) "Department" means the department of revenue, unless otherwise specified, and includes the department of justice with respect to receiving and processing, but not granting or denying, an application under a contract entered into under 16-1-302.

(13) "Growler" means any ~~refillable, resealable~~ fillable, sealable container complying with federal law.

(14) "Hard cider" means an alcoholic beverage that is made from the alcoholic fermentation of the juices of apples or pears and that contains not less than 0.5% of alcohol by volume and not more than 6.9% of alcohol by volume, including but not limited to flavored, sparkling, or carbonated cider.

(15) "Immediate family" means a spouse, dependent children, or dependent parents.

(16) "Import" means to transfer beer or table wine from outside the state of Montana into the state of Montana.

(17) "Liquor" means an alcoholic beverage except beer and table wine. The term includes a caffeinated or stimulant-enhanced malt beverage.

(18) "Malt beverage" means an alcoholic beverage made by the fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted barley with or without hops or their parts or their products and with or without other malted cereals and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared from carbohydrates and with or without other wholesome products suitable for human food consumption.

(19) (a) "*Original package*" means the sealed container in which a manufacturer packages its product for retail sale.

(b) The term includes but is not limited to:

(i) bottles;

(ii) cans; and

(iii) kegs.

(18)(20) "Package" means a container or receptacle used for holding an alcoholic beverage.

(19)(21) "Posted price" means the wholesale price of liquor for sale to persons who hold liquor licenses as fixed and determined by the department and in addition an excise and license tax as provided in this code. In the case of sacramental wine sold in agency liquor stores, the wholesale price may not exceed the sum of the department's cost to acquire the sacramental wine, the department's current freight rate to agency liquor stores, and a 20% markup.

(22) *"Prepared serving" means a container of alcoholic beverages, filled at the time of sale and sealed with a lid, for consumption at a place other than the licensee's premises.*

(20)(23) "Proof gallon" means a U.S. gallon of liquor at 60 degrees on the Fahrenheit scale that contains 50% of alcohol by volume.

(21)(24) "Public place" means a place, building, or conveyance to which the public has or may be permitted to have access and any place of public resort.

(22)(25) "Retail price" means the price established by an agent for the sale of liquor to persons who do not hold liquor licenses. The retail price may not be less than the department's posted price.

(23)(26) "Rules" means rules adopted by the department or the department of justice pursuant to this code.

(24)(27) "Sacramental wine" means wine that contains more than 0.5% but not more than 24% of alcohol by volume that is manufactured and sold exclusively for use as sacramental wine or for other religious purposes.

(25)(28) "Special event", as it relates to an application for a beer and wine special permit, means a short, infrequent, out-of-the-ordinary occurrence, such as a picnic, fair, reception, or sporting contest.

(26)(29) "State liquor warehouse" means a building owned or under control of the department for the purpose of receiving, storing, transporting, or selling alcoholic beverages to agency liquor stores.

(27)(30) "Storage depot" means a building or structure owned or operated by a brewer at any point in the state of Montana off and away from the premises of a brewery, which building or structure is equipped with refrigeration or cooling apparatus for the storage of beer and from which a brewer may sell or distribute beer as permitted by this code.

(28)(31) "Subwarehouse" means a building or structure owned or operated by a licensed beer wholesaler or table wine distributor, located at a site in Montana other than the site of the beer wholesaler's or table wine distributor's warehouse or principal place of business, and used for the receiving, storage, and distribution of beer or table wine as permitted by this code.

(29)(32) "Table wine" means wine that contains not more than 16% of alcohol by volume and includes cider.

(30)(33) "Table wine distributor" means a person importing into or purchasing in Montana table wine or sacramental wine for sale or resale to retailers licensed in Montana.

(31)(34) "Warehouse" means a building or structure located in Montana that is owned or operated by a licensed beer wholesaler or table wine distributor for the receiving, storage, and distribution of beer or table wine as permitted by this code.

(32)(35) "Wine" means an alcoholic beverage made from or containing the normal alcoholic fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction, except as may occur in the usual cellar treatment of clarifying and aging, and that contains more than 0.5% but not more than 24% of alcohol by volume. Wine may be ameliorated

to correct natural deficiencies, sweetened, and fortified in accordance with applicable federal regulations and the customs and practices of the industry. Other alcoholic beverages not defined in this subsection but made in the manner of wine and labeled and sold as wine in accordance with federal regulations are also wine.”

Section 3. Section 16-2-106, MCA, is amended to read:

“16-2-106. Sales by agent. A liquor store agent may sell to any person any liquor and table wine that the person is entitled to purchase in conformity with the provisions of this code and the rules implementing this code. An agent may, under the terms and conditions that the agent establishes, deliver liquor and table wine purchased from the agent’s agency liquor store. *An agent may sell liquor through curbside pickup in original packaging.*”

Section 4. Section 16-3-213, MCA, is amended to read:

“16-3-213. Brewers or beer importers not to retail beer – small brewery exceptions. (1) Except as provided for small breweries in subsection (2), it is unlawful for any brewer or breweries or beer importer to have or own any permit to sell or retail beer at any place or premises. It is the intention of this section to prohibit brewers and beer importers from engaging in the retail sale of beer. This section does not prohibit breweries from selling and delivering beer manufactured by them, in original packages, at either wholesale or retail.

(2) (a) For the purposes of this section, a “small brewery” is a brewery that has an annual nationwide production of not less than 100 barrels or more than 60,000 barrels, including:

- (i) the production of all affiliated manufacturers; and
- (ii) beer purchased from any other beer producer to be sold by the brewery.

(b) A small brewery may, at one location for each brewery license and at no more than three locations including affiliated manufacturers, provide samples of beer that were brewed and fermented on the premises in a sample room located on the licensed premises. The samples may be provided with or without charge between the hours of 10 a.m. and 8 p.m. No more than 48 ounces of malt beverage may be sold or given to each individual customer during a business day *for consumption on the premises or in prepared servings through curbside pickup, provided that the 48-ounce limit may not in any way limit a small brewery’s sales as provided in 16-3-214(1)(a)(iii).* No more than 2,000 barrels may be provided annually for on-premises consumption including all affiliated manufacturers.

(3) For the purposes of this section, “affiliated manufacturer” means a manufacturer of beer:

(a) that one or more members of the manufacturing entity have more than a majority share interest in or that controls directly or indirectly another beer manufacturing entity;

(b) for which the business operations conducted between or among entities are interrelated or interdependent to the extent that the net income of one entity cannot reasonably be determined without reference to operations of the other entity; or

(c) of which the brand names, products, recipes, merchandise, trade name, trademarks, labels, or logos are identical or nearly identical.”

Section 5. Section 16-3-214, MCA, is amended to read:

“16-3-214. Beer sales by brewers – sample room exception.

(1) Subject to the limitations and restrictions contained in this code, a brewer who manufactures less than 60,000 barrels of beer a year, upon payment of the annual license fee imposed by 16-4-501 and upon presenting satisfactory evidence to the department as required by 16-4-101, must be licensed by the

department, in accordance with the provisions of this code and rules prescribed by the department, to:

- (a) sell and deliver beer from its storage depot or brewery to:
 - (i) a wholesaler;
 - (ii) licensed retailers if the brewer uses the brewer's own equipment, trucks, and employees to deliver the beer and if:
 - (A) individual deliveries, other than draught beer, are limited to the case equivalent of 8 barrels a day to each licensed retailer; and
 - (B) the total amount of beer sold or delivered directly to all retailers does not exceed 10,000 barrels a year; or
 - (iii) the public, *including curbside pickup between 8 a.m. and 2 a.m. in original packaging or growlers*;
 - (b) provide its own products for consumption on its licensed premises without charge or, if it is a small brewery, provide its own products at a sample room as provided in 16-3-213; or
 - (c) do any one or more of the acts of sale and delivery of beer as provided in this code.
- (2) A brewery may not use a common carrier for delivery of the brewery's product to the public or to licensed retailers.
- (3) A brewery may import or purchase, upon terms and conditions the department may require, necessary flavors and other nonbeverage ingredients containing alcohol for blending or manufacturing purposes.
- (4) An additional license fee may not be imposed on a brewery providing its own products on its licensed premises for consumption on the premises.
- (5) This section does not prohibit a licensed brewer from shipping and selling beer directly to a wholesaler in this state under the provisions of 16-3-230."

Section 6. Section 16-3-219, MCA, is amended to read:

"16-3-219. Dock sales restricted – exceptions. Beer (1) *Except as provided in subsections (2) through (4), beer or wine* may not be delivered to a licensed retailer at any location other than the retailer's licensed premises; **except:**

(2) *An all-beverages licensee may personally or through an employee obtain from any wholesaler's warehouse any quantity of beer as the all-beverages licensee and wholesaler may agree to buy and sell.*

(3) *Retailers other than an all-beverages licensee may personally or through an employee obtain from the wholesaler's warehouse any quantity of beer as the retailer and wholesaler may agree to buy and sell only within the territory of the wholesaler in which the retailer is located.*

(4) *When a beer wholesaler's trucks and equipment are incapable of delivering beer to a retail licensee's premises due to the unique physical location of the retail licensee's premises, examples of which are premises located on an island or atop a mountain, the beer wholesaler and retail licensee may seek prior department approval for an alternative delivery arrangement on a form provided by the department. If the department approves the alternative delivery arrangement request, the department shall provide the beer wholesaler and the retail licensee a written summary of the conditions of the approved delivery arrangement. Failure to comply with the approved alternative delivery arrangement may subject the beer wholesaler and/or retail licensee to administrative action that a retailer located within the territory for which a wholesaler has been appointed to distribute a brand may personally or through an employee obtain from the wholesaler's warehouse quantities of beer not exceeding three barrels in packaged or draft form. An all-beverages licensee may upon presentation of the licensee's license or a photocopy of the license*

~~personally obtain from any wholesaler's warehouse the quantities of beer as the licensee and the wholesaler may agree to buy and sell."~~

Section 7. Section 16-3-303, MCA, is amended to read:

"16-3-303. Sale of beer by retailer for consumption off premises. It is lawful for an on-premises retailer to sell or furnish beer to the public in its original package, *prepared servings*, or in growlers, and the beer must be taken away from the premises of the retailer for consumption off the premises of the retailer. Growlers may not be filled in advance of sale and may be furnished by the consumer."

Section 8. Section 16-3-411, MCA, is amended to read:

"16-3-411. Winery. (1) A winery located in Montana and licensed pursuant to 16-4-107 may:

(a) import in bulk, bottle, produce, blend, store, transport, or export wine it produces;

(b) sell wine it produces at wholesale to wine distributors;

(c) sell wine it produces at retail at the winery directly to the consumer for consumption on or off the premises;

(d) provide, without charge, wine it produces for consumption at the winery;

(e) purchase from the department or its licensees brandy or other distilled spirits for fortifying wine it produces;

(f) obtain a special event permit under 16-4-301;

(g) perform those operations and cellar treatments that are permitted for bonded winery premises under applicable regulations of the United States department of the treasury;

(h) sell wine at the winery to a licensed retailer who presents the retailer's license or a photocopy of the license; ~~or~~

(i) obtain a direct shipment endorsement to ship table wine as provided in Title 16, chapter 4, part 11, directly to an individual in Montana who is at least 21 years of age; or

(j) offer wine in its original packaging, prepared servings, or growlers for curbside pickup between 8 a.m. and 2 a.m.

(2) (a) A winery licensed pursuant to 16-4-107 may sell and deliver wine produced by the winery directly to licensed retailers if the winery:

(i) uses the winery's own equipment, trucks, and employees to deliver the wine and the wine delivered pursuant to this subsection (2)(a)(i) does not exceed 4,500 cases a year;

(ii) contracts with a licensed table wine distributor to ship and deliver the winery's wine to the retailer; or

(iii) contracts with a common carrier to ship and deliver the winery's wine to the retailer and:

(A) the wine shipped and delivered by common carrier is shipped directly from the producer's winery or bonded warehouse;

(B) individual shipments delivered by common carrier are limited to three cases a day for each licensed retailer; and

(C) the shipments delivered by common carrier do not exceed 4,500 cases a year.

(b) If a winery uses a common carrier for delivery of the wine to licensed table wine distributors and retailers, the shipment must be:

(i) in boxes that are marked with the words: "Wine Shipment From Montana-Licensed Winery to Montana Licensee";

(ii) delivered to the premises of a licensed table wine distributor or licensed retailer who is in good standing; and

(iii) signed for by the wine distributor or retailer or its employee or agent.

(c) In addition to any records required to be maintained under 16-4-107, a winery that distributes wine within the state under this subsection (2) shall maintain records of all sales and shipments. The winery shall, pursuant to 16-1-411, electronically file a report in the manner and form prescribed by the department, reporting the amount of wine or hard cider, or both, that it shipped in the state during the preceding period, including the names and addresses of consignees or retailers, and other information that the department may determine to be necessary to ensure that distribution of wine or hard cider, or both, within this state conforms to the requirements of this code.”

Section 9. Section 16-3-418, MCA, is amended to read:

“16-3-418. Dual appointments – equal support – alternate supplier – dock sales. (1) (a) A supplier may appoint one or more table wine distributors to distribute its table wines in a specified territory. If the supplier appoints two or more table wine distributors to sell its table wines in the same or overlapping territories, the supplier shall offer the same prices, delivery, terms, and promotional support to each table wine distributor.

(b) A supplier may not appoint more than one table wine distributor to distribute its hard cider in a specified territory.

(c) For the purposes of this subsection (1), “table wine” has the meaning assigned in 16-1-106, but does not include hard cider.

(2) (a) ~~The holder of an all-beverages license under chapter 4, part 2, may, upon presentation of the license or a photocopy of the license, personally obtain from any distributor’s warehouse a quantity of table wine that the licensee may agree to buy and that the distributor may agree to sell.~~

~~(b) The holder of a license that permits on-premises consumption of alcoholic beverages under 16-4-401(2) may, upon presentation of the license or a photocopy of the license, personally or through an employee, obtain from a winery, as provided in 16-3-411(1)(h), a quantity of table wine that the licensee may agree to buy and that the winery may agree to sell. Except as provided in subsections (2)(b) through (2)(d), table wine may not be delivered to a licensed retailer or liquor store agent at any location other than the retailer’s licensed premises or agency liquor store.~~

~~(b) An all-beverages licensee may personally or through an employee obtain from any distributor’s warehouse any quantity of table wine as the all-beverages licensee and distributor may agree to buy and sell.~~

~~(c) Liquor store agents or retailers other than all-beverages licensees may personally or through an employee obtain from the distributor’s warehouse any quantity of table wine as the agent or retailer and distributor may agree to buy and sell only within the territory of the distributor in which the agent’s liquor store or retailer is located.~~

~~(d) When a table wine distributor’s trucks and equipment are incapable of delivering table wine to a retail licensee’s premises due to the unique physical location of the retail licensee’s premises, examples of which are premises located on an island or atop a mountain, the table wine distributor and retail licensee may seek prior department approval for an alternative delivery arrangement on a form provided by the department. If the department approves the alternative delivery arrangement request, the department shall provide the table wine distributor and the retail licensee a written summary of the conditions of the approved delivery arrangement. Failure to comply with the approved alternative delivery arrangement may subject the table wine distributor and/or retail licensee to administrative action.”~~

Section 10. Section 16-4-105, MCA, is amended to read:

“16-4-105. Limit on retail beer licenses – wine license amendments – limitation on use of license – exceptions – competitive bidding – rulemaking. (1) Except as provided in 16-4-109, 16-4-110, 16-4-115, 16-4-420,

and chapter 4, part 3, of this title, a license to sell beer at retail or beer and wine at retail, in accordance with the provisions of this code and the rules of the department, may be issued to any person or business entity that is approved by the department, subject to the following exceptions:

(a) The number of retail beer licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within 5 miles of the corporate limits of the cities and towns must be determined on the basis of population prescribed in 16-4-502 as follows:

(i) in incorporated towns of 500 inhabitants or fewer and within 5 miles of the corporate limits of the towns, not more than one retail beer license;

(ii) in incorporated cities or incorporated towns of more than 500 inhabitants and not more than 2,000 inhabitants and within 5 miles of the corporate limits of the cities or towns, one retail beer license for every 500 inhabitants;

(iii) in incorporated cities of more than 2,000 inhabitants and within 5 miles of the corporate limits of the cities, four retail beer licenses for the first 2,000 inhabitants, two additional retail beer licenses for the next 2,000 inhabitants or major fraction of 2,000 inhabitants, and one additional retail beer license for each additional 2,000 inhabitants.

(b) The number of inhabitants in each incorporated city or incorporated town, exclusive of the number of inhabitants residing within 5 miles of the corporate limits of the city or town, governs the number of retail beer licenses that may be issued for use within the city or town and within 5 miles of the corporate limits of the city or town. The distance of 5 miles from the corporate limits of an incorporated city or incorporated town must be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town. A license that is restricted by quota limitations in this section may not be located farther than:

(i) the county boundary within which the incorporated city or incorporated town is located; or

(ii) the line that separates the incorporated city's or incorporated town's boundary from another incorporated city or incorporated town as specified in this section.

(c) (i) When the 5-mile boundary of one incorporated city or incorporated town overlaps the 5-mile boundary of another incorporated city or incorporated town, the quota area for each city or town terminates in a straight line equidistant between each city or town.

(ii) If there are more than two overlapping quota areas, the quota area for each city or town terminates from the center of the overlap in a straight line to the intersecting exterior point of overlap. Licenses existing as of November 24, 2017, will be designated as belonging to whichever quota area they are in as a result of the straight line equidistant between each city or town, except for the following:

(A) In the Helena and East Helena previously combined quota area, the straight line will be drawn connecting the two outermost edges of the Helena corporate boundaries and extend outward to the quota area boundaries. Any license existing as of November 24, 2017, with a physical address of Helena will become a Helena license or with a physical address of East Helena will become an East Helena license, regardless of where it falls in the new quota areas.

(B) In the Pinesdale and Hamilton previously combined quota area, the straight line will be drawn along Mill Creek road to the quota area boundaries.

(C) In the Polson and Ronan quota areas, the straight line will be drawn from U.S. highway 93 west on Pablo West road to the quota area boundary and east on Clairmont road extending out to the quota area boundary. Any license

existing as of November 24, 2017, within the Polson quota area will become a Polson license, regardless of where it falls in the new quota areas. Any license existing as of November 24, 2017, within the Ronan quota area will become a Ronan license, regardless of where it falls in the new quota areas.

(d) Retail beer licenses of issue on March 7, 1947, and retail beer licenses issued under 16-4-110 that are in excess of the limitations in this section are renewable, but new licenses may not be issued in violation of the limitations.

(e) The limitations do not prevent the issuance of a nontransferable and nonassignable retail beer license to an enlisted persons', noncommissioned officers', or officers' club located on a state or federal military reservation on May 13, 1985, or to a post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization if the veterans' or fraternal organization has been in existence for a period of 5 years or more prior to January 1, 1949.

(f) The number of retail beer licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within 5 miles of the corporate limits or for use at premises situated within any unincorporated area must be determined by the department in its discretion, except that a retail beer license may not be issued for any premises so situated unless the department determines that the issuance of the license is required by public convenience and necessity pursuant to 16-4-203. Subsection (7) (8) does not apply to licenses issued under this subsection (1)(f). The owner of the license whose premises are situated outside of an incorporated city or incorporated town may offer gambling, regardless of when the license was issued, if the owner and premises qualify under Title 23, chapter 5, part 3, 5, or 6.

(2) (a) For a period of 12 years after November 24, 2017, existing licenses or licenses that resulted from applications in process as of November 24, 2017, in either of two quota areas that were established as provided in subsection (1)(c) may be transferred between the two quota areas if they were part of the combined quota area prior to November 24, 2017.

(b) If any new retail beer licenses are allowed by separating a combined quota area that existed as of November 24, 2017, as provided in subsection (1)(c), the department shall publish the availability of no more than one new beer license a year until the quota has been reached.

(c) If any new retail beer licenses are allowed by license transfers as provided in subsection (2)(a), the department may publish the availability of more than one new license a year until the quota has been reached.

(3) A license issued under subsection (1)(f) that becomes located within 5 miles of an incorporated city or town because of annexation after April 15, 2005, may not be transferred to another location within the city quota area any sooner than 5 years from the date of the annexation.

(4) When the department determines that a quota area is eligible for a new retail beer license under subsection (1) or (2)(b), the department shall use a competitive bidding process as provided in 16-4-430 to determine the party afforded the opportunity to apply for the new license.

(5) Except as provided in subsection (2)(b), when more than one new beer license becomes available at the same time in the same quota area, the department shall conduct a separate competitive bidding process at separate times for each available license.

(6) A person holding a license to sell beer for consumption on the premises at retail may apply to the department for an amendment to the license permitting the holder to sell wine as well as beer. The department may issue an amendment if it finds, on a satisfactory showing by the applicant, that the

sale of wine for consumption on the premises would be supplementary to a restaurant or prepared-food business. Except for beer and wine licenses issued pursuant to 16-4-420, a person holding a beer and wine license may sell wine for consumption on or off the premises. Nonretention of the beer license, for whatever reason, means automatic loss of the wine amendment license.

(7) *A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in original packaging, prepared servings, or growlers.*

(7)(8) Except as provided in subsection (1)(f), a license issued pursuant to this section after October 1, 1997, must have a conspicuous notice that the license may not be used for premises where gambling is conducted.

(8)(9) An applicant for a license issued through a competitive bidding process in 16-4-430 shall pay a \$25,000 new license fee and in subsequent years pay the annual fee for the license as provided in 16-4-501.

(9)(10) The department may adopt rules to implement this section."

Section 11. Section 16-4-110, MCA, is amended to read:

"16-4-110. Beer license for tribal alcoholic beverages licensee or enlisted personnel, noncommissioned officers', or officers' club.

(1) Upon application and qualification, the department shall issue a license to sell beer for consumption on the premises to:

(a) a tribal alcoholic beverages licensee who operates the business within the exterior boundaries of a Montana Indian reservation under a tribal license issued prior to January 1, 1985;

(b) an enlisted personnel, noncommissioned officers', or officers' club located on a state or federal military reservation in Montana on May 13, 1985.

(2) A license issued under the provisions of subsection (1) is not subject to the quota limitations of 16-4-105.

(3) Upon application and approval by the department, a license issued under subsection (1)(a) may be transferred to another qualified applicant, but only to a location within the quota area and the exterior boundaries of the Montana Indian reservation for which the license was originally issued.

(4) A license issued under this section is subject to all statutes and rules governing licenses to sell beer at retail for on-premises consumption.

(5) *A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in original packaging, prepared servings, or growlers."*

Section 12. Section 16-4-115, MCA, is amended to read:

"16-4-115. Beer and wine licenses for off-premises consumption.

(1) A retail license to sell beer or table wine, or both, in the original packages for off-premises consumption may be issued only to a person, firm, or corporation that is approved by the department as a person, firm, or corporation qualified to sell beer or table wine, or both. If the premises proposed for licensing are operated in conjunction with another business, that business must be a grocery store or drugstore licensed as a pharmacy. The number of licenses that the department may issue is not limited by the provisions of 16-4-105 but must be determined by the department in the exercise of its sound discretion, and the department may in the exercise of its sound discretion grant or deny an application for any license or suspend or revoke any license for cause.

(2) Upon receipt of a completed application for a license under this section, accompanied by the necessary license fee as provided in 16-4-501, the department shall request that the department of justice make a background investigation of all matters relating to the application.

(3) Based on the results of the investigation or in exercising its sound discretion as provided in subsection (1), the department shall determine whether:

(a) the applicant is qualified to receive a license;

(b) the applicant's premises are suitable for the carrying on of the business; and

(c) the requirements of this code and the rules promulgated by the department are met and complied with.

(4) License applications submitted under this section are not subject to the provisions of 16-4-203 and 16-4-207.

(5) If the premises proposed for licensing under this section are a new or remodeled structure, the department may issue a conditional license prior to completion of the premises upon reasonable evidence that the premises will be suitable for the carrying on of business.

(6) *A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in original packaging.*

Section 13. Section 16-4-201, MCA, is amended to read:

"16-4-201. All-beverages license quota. (1) Except as otherwise provided by law, a license to sell liquor, beer, and table wine at retail, an all-beverages license, in accordance with the provisions of this code and the rules of the department, may be issued to any person who is approved by the department as a fit and proper person to sell alcoholic beverages, except that the number of all-beverages licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within 5 miles of the corporate limits of those cities and towns must be determined on the basis of population prescribed in 16-4-502 as follows:

(a) in incorporated towns of 500 inhabitants or fewer and within 5 miles of the corporate limits of the towns, not more than two retail licenses;

(b) in incorporated cities or incorporated towns of more than 500 inhabitants and not more than 3,000 inhabitants and within 5 miles of the corporate limits of the cities and towns, three retail licenses for the first 1,000 inhabitants and one retail license for each additional 1,000 inhabitants;

(c) in incorporated cities of more than 3,000 inhabitants and within 5 miles of the corporate limits of the cities, five retail licenses for the first 3,000 inhabitants and one retail license for each additional 1,500 inhabitants.

(2) The number of inhabitants in each incorporated city or incorporated town, exclusive of the number of inhabitants residing within 5 miles of the corporate limits of the city or town, governs the number of retail licenses that may be issued for use within the city or town and within 5 miles of the corporate limits of the city or town. The distance of 5 miles from the corporate limits of any incorporated city or incorporated town must be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town. A license that is restricted by quota limitations in this section may not be located farther than:

(a) the county boundary within which the incorporated city or incorporated town is located; or

(b) the line that separates the incorporated city's or incorporated town's boundary from another incorporated city or incorporated town as specified in this section.

(3) (a) When the 5-mile boundary of one incorporated city or incorporated town overlaps the 5-mile boundary of another incorporated city or incorporated town, the quota area for each city or town terminates in a straight line equidistant between each city or town.

(b) If there are more than two overlapping quota areas, the quota area for each city or town terminates from the center of the overlap in a straight line to the intersecting exterior point of overlap. Licenses existing as of November 24, 2017, will be designated as belonging to whichever quota area they are in

as a result of the straight line equidistant between each city or town, except for the following:

(i) In the Helena and East Helena previously combined quota area, the straight line will be drawn connecting the two outermost edges of the Helena corporate boundaries and extend outward to the quota area boundaries. Any license existing as of November 24, 2017, with a physical address of Helena will become a Helena license or with a physical address of East Helena will become an East Helena license, regardless of where it falls in the new quota areas.

(ii) In the Pinesdale and Hamilton previously combined quota area, the straight line will be drawn along Mill Creek road to the quota area boundaries.

(iii) In the Polson and Ronan quota areas, the straight line will be drawn from U.S. highway 93 west on Pablo West road to the quota area boundary and east on Clairmont road extending out to the quota area boundary. Any license existing as of November 24, 2017, within the Polson quota area will become a Polson license, regardless of where it falls in the new quota areas. Any license existing as of November 24, 2017, within the Ronan quota area will become a Ronan license, regardless of where it falls in the new quota areas.

(4) For a period of 12 years after November 24, 2017, existing licenses or licenses that resulted from applications in process as of November 24, 2017, in either of two quota areas that were established as provided in subsection (3) may be transferred between the two quota areas if they were part of the combined quota area prior to November 24, 2017.

(5) (a) If any new retail all-beverages licenses are allowed by separating a combined quota area that existed as of November 24, 2017, as provided in subsection (3), the department shall publish the availability of no more than one new retail all-beverages license a year until the quota has been reached. The department shall use a competitive bidding process as provided in 16-4-430 to determine the party afforded the opportunity to apply for the new license.

(b) If any new all-beverages licenses are allowed by license transfers as provided in subsection (4), the department may publish the availability of more than one new license a year until the quota has been reached.

(6) Except as provided in subsection (5)(a), when more than one new all-beverages license becomes available at the same time in the same quota area, the department shall conduct a separate competitive bidding process at separate times for each available license.

(7) Retail all-beverages licenses of issue on March 7, 1947, and all-beverages licenses issued under 16-4-209 that are in excess of the limitations in subsections (1) and (2) are renewable, but new licenses may not be issued in violation of the limitations.

(8) The limitations in subsections (1) and (2) do not prevent the issuance of a nontransferable and nonassignable, as to ownership only, retail license to:

(a) an enlisted personnel, noncommissioned officers', or officers' club located on a state or federal military reservation on May 13, 1985;

(b) any post of a nationally chartered veterans' organization or any lodge of a recognized national fraternal organization if the veterans' or fraternal organization has been in existence for a period of 5 years or more prior to January 1, 1949; or

(c) a continuing care retirement community as provided in 16-4-315.

(9) The number of retail all-beverages licenses that the department may issue for use at premises situated more than 5 miles outside of any incorporated city or incorporated town may not be more than one license for each 750 in population of the county after excluding the population of incorporated cities and incorporated towns in the county.

(10) An all-beverages license issued under subsection (9) that becomes located within 5 miles of an incorporated city or town because of annexation after April 15, 2005, may not be transferred to another location within the city quota area any sooner than 5 years from the date of annexation.

(11) *A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in original packaging, prepared servings, or growlers.*

~~(11)~~(12) The department may adopt rules to implement this section.”

Section 14. Section 16-4-208, MCA, is amended to read:

“16-4-208. Airport all-beverages license. (1) The department of revenue shall issue one all-beverages license, to be known as a public airport all-beverages license, for use at each publicly owned airport served by scheduled airlines and enplaning and deplaning a minimum total of 20,000 passengers annually when:

(a) application is made;

(b) upon finding that this license is justified by public convenience and necessity, including the convenience and necessity of the public traveling by scheduled airlines; and

(c) following a hearing as provided in 16-4-207.

(2) Application ~~shall~~ *must* be made by the agency owning and operating the airport. The agency owning and operating the airport may lease the airport all-beverages license to an individual or entity approved by the department.

(3) A public airport all-beverages license and all retail alcoholic beverage sales ~~thereunder shall~~ *under it must* be subject to all statutes and rules governing all-beverages licenses.

(4) The department of revenue shall issue a public airport all-beverages license to a qualified applicant regardless of the number of all-beverages licenses already issued within the all-beverages license quota area in which the airport is situated.

(5) *A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in original packaging, prepared servings, or growlers.”*

Section 15. Section 16-4-209, MCA, is amended to read:

“16-4-209. All-beverages license for tribal alcoholic beverages licensee or enlisted personnel, noncommissioned officers’, or officers’ club. (1) Upon application and qualification, the department shall issue an all-beverages license to:

(a) a tribal alcoholic beverages licensee who operates the business within the exterior boundaries of a Montana Indian reservation under a tribal license issued prior to January 1, 1985;

(b) an enlisted personnel, noncommissioned officers’, or officers’ club located on a state or federal military reservation in Montana on May 13, 1985.

(2) A license issued under the provisions of subsection (1) is not subject to the quota limitations of 16-4-201.

(3) Upon application and approval by the department, a license issued under subsection (1)(a) may be transferred to another qualified applicant, but the license may be transferred only to a location within the quota area and the exterior boundaries of the Montana Indian reservation for which the license was originally issued.

(4) A license issued under this section is subject to all statutes and rules governing all-beverages licenses.

(5) *A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in original packaging, prepared servings, or growlers.”*

Section 16. Section 16-4-213, MCA, is amended to read:

“16-4-213. Resort retail all-beverages licenses. (1) After a resort area has been approved, applications may be filed with the department for the issuance of resort retail all-beverages licenses within the resort area.

(2) (a) Except as provided in subsections (2)(b) and (2)(c), the department may issue one resort retail all-beverages license for the first 100 accommodation units and an additional license for each additional 50 accommodation units within an approved resort area as long as the recreational facilities under 16-4-212 have also been completed.

(b) For a resort area with a perimeter containing at least 1,000 contiguous acres that has a current actual valuation of completed recreational facilities, including land and improvements, of not less than \$30 million, the department may issue up to 10 resort retail all-beverages licenses regardless of the number of accommodation units.

(c) A resort area designation application to the department that received approval prior to January 1, 1999, is entitled to the issuance of one resort retail all-beverages license for a \$20,000 license fee. Any additional resort retail all-beverages licenses issued to a resort area under this subsection (2)(c) must meet the accommodation unit requirement in subsection (2)(a) of this section and pay the license fee and renewal fees as provided in 16-4-501.

(d) For purposes of this code, "accommodation unit" means a unit that is available for short-term guest rental and includes:

- (i) a single-family home;
- (ii) a single unit of an apartment, condominium, or multiplex;
- (iii) a single room of a hotel or motel; or
- (iv) similar living space for occupants making up a single household. A space under this subsection (2)(d)(iv) must be distinctly separated from other living spaces within the building and have its own sleeping, bath, and toilet facilities.

(3) Regardless of how many resort area all-beverages licenses are issued in a resort area, no more than 20 gambling machine permits may be issued for the resort area.

(4) A resort retail all-beverages license within the resort area:

- (a) is subject to all other requirements of an all-beverages license in this code;
- (b) is not subject to the quota limitations set forth in 16-4-201; and
- (c) is transferable to another location within the boundaries of the resort area or to another owner to be used at a location within the boundaries of the resort area.

(5) For licenses issued under this section, the delivery of alcohol is allowed to the accommodation units on the designated resort area property as long as the purchaser is present, the purchaser's age is verified, and the purchaser is not intoxicated.

(6) *A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in original packaging, prepared servings, or growlers.*

(6)(7) Employees of the resort licensee who sell, serve, or deliver alcohol must be trained as provided in 16-4-1005."

Section 17. Section 16-4-312, MCA, is amended to read:

"16-4-312. Domestic distillery. (1) A distillery located in Montana and licensed pursuant to 16-4-311 may:

- (a) import necessary products in bulk;
- (b) bottle, produce, blend, store, transport, or export liquor that it produces;
- (c) perform those operations that are permitted for bonded distillery premises under applicable regulations of the United States department of the treasury.

(2) (a) A distillery that is located in Montana and licensed pursuant to 16-4-311 shall sell liquor to the department under this code, and the department shall include the distillery's liquor as a listed product.

(b) The distillery may use a common carrier for delivery of the liquor to the department.

(c) A distillery that produces liquor within the state under this subsection (2) shall maintain records of all sales and shipments. The distillery shall furnish monthly and other reports concerning quantities and prices of liquor that it ships to the department and other information that the department may determine to be necessary to ensure that distribution of liquor within this state conforms to the requirements of this code.

(3) A microdistillery may:

(a) provide, with or without charge, not more than 2 ounces of liquor that it produces at the microdistillery to consumers for ~~consumption on the premises prepared servings though curbside pickup~~ between 10 a.m. and 8 p.m. ~~or consumption on the premises between 10 a.m. and 8 p.m.; or A microdistillery may not sell or give more than 2 ounces of liquor to an individual for on-premises consumption during a business day.~~

(b) sell liquor *in original packaging* that it produces at retail at the distillery *between the hours of 8 a.m. and 2 a.m.* directly to the consumer, *including curbside pickup*, for off-premises consumption if:

(i) not more than 1.75 liters a day is sold to an individual; and

(ii) the minimum retail price as determined by the department is charged."

Section 18. Section 16-4-420, MCA, is amended to read:

"16-4-420. Restaurant beer and wine license -- competitive bidding -- rulemaking. (1) The department shall issue a restaurant beer and wine license to an applicant whenever the department determines that the applicant, in addition to satisfying the requirements of this section, meets the following qualifications and conditions:

(a) the applicant complies with the licensing criteria provided in 16-4-401 for an on-premises consumption license;

(b) the applicant operates a restaurant at the location where the restaurant beer and wine license will be used or satisfies the department that:

(i) the applicant intends to open a restaurant that will meet the requirements of subsection (6) and intends to operate the restaurant so that at least 65% of the restaurant's gross income during its first year of operation is expected to be the result of the sale of food;

(ii) the restaurant beer and wine license will be used in conjunction with that restaurant, that the restaurant will serve beer and wine only to a patron who orders food, and that beer and wine purchases will be stated on the food bill; and

(iii) the restaurant will serve beer and wine from a service bar, as service bar is defined by the department by rule;

(c) the applicant understands and acknowledges in writing on the application that this license prohibits the applicant from being licensed to conduct any gaming or gambling activity or operate any gambling machines and that if any gaming or gambling activity or machine exists at the location where the restaurant beer and wine license will be used, the activity must be discontinued or the machines must be removed before the restaurant beer and wine license takes effect; and

(d) the applicant states the planned seating capacity of the restaurant, if it is to be built, or the current seating capacity if the restaurant is operating.

(2) (a) A restaurant that has an existing retail license for the sale of beer, wine, or any other alcoholic beverage may not be considered for a restaurant beer and wine license at the same location.

(b) (i) An on-premises retail licensee who sells the licensee's existing retail license may not apply for a license under this section for a period of 1 year from the date that license is transferred to a new purchaser.

(ii) A person, including an individual, with an ownership interest in an existing on-premises retail license that is being transferred to a new purchaser may not attain an ownership interest in a license applied for under this section for a period of 1 year from the date that the existing on-premises retail license is transferred to a new purchaser.

(3) A completed application for a license under this section and the appropriate application fee, as provided in subsection (11), must be submitted to the department. The department shall investigate the items relating to the application as described in subsections (3)(a) and (3)(b). Based on the results of the investigation and the exercise of its sound discretion, the department shall determine whether:

(a) the applicant is qualified to receive a license; and

(b) (i) the applicant's premises are suitable for the carrying on of the business;

(ii) the applicant is qualified to receive a license prior to a determination that the applicant's premises are suitable for carrying on with the business in accordance with 16-4-417; or

(iii) if the applicant has already been issued a license, the proposed premises are suitable for the carrying on of the business and the seating capacity stated on the application is correct.

(4) An application for a beer and wine license submitted under this section is subject to the provisions of 16-4-203, 16-4-207, and 16-4-405.

(5) If a premises proposed for licensing under this section is a new or remodeled structure, then the department may issue a license prior to completion of the premises based on reasonable evidence, including a statement from the applicant's architect or contractor confirming that the seating capacity stated on the application is correct, that the premises will be suitable for the carrying on of business as a bona fide restaurant, as defined in subsection (6). If a license is issued without a premises, the license will immediately be placed on nonuse status until the premises are approved subject to 16-4-417.

(6) (a) For purposes of this section, "restaurant" means a public eating place:

(i) where individually priced meals are prepared and served for on-premises consumption;

(ii) where at least 65% of the restaurant's annual gross income from the operation must be from the sale of food and not from the sale of alcoholic beverages. Each year after a license is issued, the applicant shall file with the department a statement, in a form approved by the department, attesting that at least 65% of the gross income of the restaurant during the prior year resulted from the sale of food.

(iii) that has a dining room, a kitchen, and the number and kinds of employees necessary for the preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for use as a full-service restaurant; and

(iv) that serves an evening dinner meal at least 4 days a week for at least 2 hours a day between the hours of 5 p.m. and 11 p.m. The provisions of subsection (6)(b) and this subsection (6)(a)(iv) do not apply to a restaurant for

which a restaurant beer and wine license is in effect as of April 9, 2009, or to subsequent renewals of that license.

(b) The term does not mean a fast-food restaurant that, excluding any carry-out business, serves a majority of its food and drink in throw-away containers not reused in the same restaurant.

(7) (a) A restaurant beer and wine license not issued through a competitive bidding process as provided in 16-4-430 may be transferred, on approval by the department, from the original applicant to a new owner of the restaurant only after 1 year of use by the original owner, unless that transfer is due to the death of an owner.

(b) A license issued under this section may be jointly owned, and the license may pass to the surviving joint tenant upon the death of the other tenant. However, the license may not be transferred to any other person or entity by operation of the laws of inheritance or succession or any other laws allowing the transfer of property upon the death of the owner in this state or in another state.

(c) An estate may, upon the sale of a restaurant that is property of the estate and with the approval of the department, transfer a restaurant beer and wine license to a new owner.

(8) (a) The department shall issue a restaurant beer and wine license to a qualified applicant:

(i) except as provided in subsection (8)(c), for a restaurant located in a quota area with a population of 5,000 persons or fewer, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(ii) for a restaurant located in a quota area with a population of 5,001 to 20,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 160% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iii) for a restaurant located in a quota area with a population of 20,001 to 60,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 100% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iv) for a restaurant located in a quota area with a population of 60,001 persons or more, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105; and

(v) for a restaurant located in a quota area that is also a resort community, as defined in 7-6-1501, if the number of restaurant beer and wine licenses issued in the quota area that is also a resort community is equal to or less than 200% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105.

(b) In determining the number of restaurant beer and wine licenses that may be issued under this subsection (8) based on the percentage amounts described in subsections (8)(a)(i) through (8)(a)(v), the department shall round to the nearer whole number.

(c) If the department has issued the number of restaurant beer and wine licenses authorized for a quota area under subsection (8)(a)(i), there must be a one-time adjustment of four additional licenses for that quota area.

(d) (i) When the 5-mile boundary of one incorporated city or incorporated town overlaps the 5-mile boundary of another incorporated city or incorporated town, the quota area for each city or town terminates in a straight line equidistant between each city or town. A license that is restricted by quota limitations in this section may not be located farther than:

(A) the county boundary within which the incorporated city or incorporated town is located; or

(B) the line that separates the incorporated city's or incorporated town's boundary from another incorporated city or incorporated town as specified in this section.

(ii) If there are more than two overlapping quota areas, the quota area for each city or town terminates from the center of the overlap in a straight line to the intersecting exterior point of overlap. Licenses existing as of November 24, 2017, will be designated as belonging to whichever quota area they are in as a result of the straight line equidistant between each city or town, except for the following:

(A) In the Helena and East Helena previously combined quota area, the straight line will be drawn connecting the two outermost edges of the Helena corporate boundaries and extend outward to the quota area boundaries. Any license existing as of November 24, 2017, with a physical address of Helena will become a Helena license or with a physical address of East Helena will become an East Helena license, regardless of where it falls in the new quota areas.

(B) In the Pinesdale and Hamilton previously combined quota area, the straight line will be drawn along Mill Creek road to the quota area boundaries.

(C) In the Polson and Ronan quota areas, the straight line will be drawn from U.S. highway 93 west on Pablo West road to the quota area boundary and east on Clairmont road extending out to the quota area boundary. Any license existing as of November 24, 2017, within the Polson quota area will become a Polson license, regardless of where it falls in the new quota areas. Any license existing as of November 24, 2017, within the Ronan quota area will become a Ronan license, regardless of where it falls in the new quota areas.

(9) (a) For a period of 12 years after November 24, 2017, existing licenses or licenses that resulted from applications in process as of November 24, 2017, in either of two quota areas that were established as provided in 16-4-105 and subsection (8)(d) of this section may be transferred between the two quota areas if they were part of the combined quota area prior to November 24, 2017.

(b) If any new restaurant beer and wine licenses are allowed by separating a combined quota area that existed as of November 24, 2017, as provided in 16-4-105 and subsection (9)(a) of this section, the department shall publish the availability of no more than one new restaurant beer and wine license a year until the quota has been reached.

(c) If any new restaurant beer and wine licenses are allowed by license transfers as provided in subsection (9)(a), the department may publish the availability of more than one new license a year until the quota has been reached.

(10) Except as provided in subsection (9)(b), when more than one new restaurant beer and wine license becomes available at the same time in the same quota area, the department shall conduct a separate competitive bidding process at separate times for each available license.

(11) When a restaurant beer and wine license becomes available by the initial issuance of licenses under this section or as the result of an increase in the population in a quota area, the nonrenewal of a restaurant beer and wine license, or the lapse or revocation of a license by the department, then the

department shall advertise the availability of the license in the quota area for which it is available.

(12) When the department determines that a quota area is eligible for a new restaurant beer and wine license under subsection (9) or (11), the department shall use a competitive bidding process as provided in 16-4-430 to determine the party afforded the opportunity to apply for a new license.

(13) ~~Under a restaurant beer and wine license, beer~~ *Beer and wine may not be sold for off-premises consumption, including curbside pickup, during the hours of 11 a.m. and 11 p.m. in original packaging, prepared servings, or growlers. If offering off-premises sales, food must also be ordered, the beer or wine must be stated on the food bill, and the sales must count toward the 65% limit as provided in this section.*

(14) An application for a restaurant beer and wine license must be accompanied by a fee equal to 20% of the initial licensing fee. If the department does not decide either to grant or to deny the license within 4 months of receipt of a complete application, the department shall pay interest on the application fee at the rate of 1% a month until a license is issued or the application is denied. Interest may not accrue during any period that the processing of an application is delayed by reason of a protest filed pursuant to 16-4-203 or 16-4-207. If the department denies an application, the application fee, plus any interest, less a processing fee established by rule, must be refunded to the applicant. Upon the issuance of a license, the licensee shall pay the balance of the initial licensing fee. The amount of the initial licensing fee is determined according to the following schedule:

(a) \$5,000 for restaurants with a stated seating capacity of 60 persons or fewer;

(b) \$10,000 for restaurants with a stated seating capacity of 61 to 100 persons; or

(c) \$20,000 for restaurants with a stated seating capacity of 101 persons or more.

(15) The annual fee for a restaurant beer and wine license is \$400.

(16) If a restaurant licensed under this part increases the stated seating capacity of the licensed restaurant or if the department determines that a licensee has increased the stated seating capacity of the licensed restaurant, then the licensee shall pay to the department the difference between the fees paid at the time of filing the original application and issuance of a license and the applicable fees for the additional seating.

(17) The number of beer and wine licenses issued to restaurants with a stated seating capacity of 101 persons or more may not exceed 25% of the total licenses issued.

(18) Possession of a restaurant beer and wine license is not a qualification for licensure of any gaming or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant with a restaurant beer and wine license.

(19) The department may adopt rules to implement this section."

Section 19. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 16, chapter 3, part 3, and the provisions of Title 16, chapter 3, part 3, apply to [section 1].

Section 20. Effective date. [This act] is effective on passage and approval.

Approved April 14, 2021

CHAPTER NO. 195

[HB 243]

AN ACT GENERALLY REVISING LAWS RELATED TO LAW ENFORCEMENT OFFICERS; ALLOWING A RESERVE OFFICER TO SERVE AS A COURT OFFICER IN A MUNICIPAL COURT; REVISING THE DEFINITION OF RESERVE OFFICER TO INCLUDE A PART-TIME, PAID MEMBER OF A LAW ENFORCEMENT AGENCY WHO SERVES AS A COURT OFFICER; REVISING LIMITATIONS ON DUTIES OR ACTIVITIES OF RESERVE OFFICERS; AMENDING SECTIONS 3-6-303, 7-32-201, AND 7-32-216, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 3-6-303, MCA, is amended to read:

“3-6-303. Officers of court. (1) The chief of police of the city is the executive officer of the municipal court. The chief of police shall serve all process and execute all orders of the court, either in person or by subordinate police officer, who shall execute process in the chief’s name.

(2) The chief of police, with the approval of the judge, shall appoint one or more police officers or reserve officers, as defined in 7-32-201, as court officers, one of whom shall attend the sessions of the court and perform all duties in connection with the court that the judge may require.”

Section 2. Section 7-32-201, MCA, is amended to read:

“7-32-201. Definitions. As used in this part, the following definitions apply:

(1) “Auxiliary officer” means an unsworn, part-time, volunteer member of a law enforcement agency who may perform but is not limited to the performance of such functions as civil defense, search and rescue, office duties, crowd and traffic control, and crime prevention activities.

(2) “Council” means the Montana public safety officer standards and training council established in 2-15-2029.

(3) “General law enforcement duties” means patrol operations performed for detection, prevention, and suppression of crime and the enforcement of criminal and traffic codes of this state and its local governments.

(4) “Law enforcement agency” means a law enforcement service provided directly by a local government.

(5) “Law enforcement officer” means a sworn, full-time, employed member of a law enforcement agency who is a peace officer, as defined in 46-1-202, and has arrest authority, as described in 46-6-210.

(6) “Reserve officer” means a sworn, part-time, volunteer member of a law enforcement agency or a part-time, paid member of a law enforcement agency serving as a court officer as provided in 3-6-303. The volunteer member or the part-time paid member who is a peace officer, as defined in 46-1-202, and has arrest authority, as described in 46-6-210, only when authorized to perform these functions as a representative of the law enforcement agency.

(7) “Special services officer” means an unsworn, part-time, volunteer member of a law enforcement agency who may perform functions, other than general law enforcement duties, that require specialized skills, training, and qualifications, who may be required to train with a firearm, and who may carry a firearm while on assigned duty as provided in 7-32-239.”

Section 3. Section 7-32-216, MCA, is amended to read:

“7-32-216. Limitations on activities of reserve officers. (1) A reserve officer may serve as a peace officer only on the orders and at the direction of the chief law enforcement administrator of the local government.

(2) ~~A~~ *Except for a reserve officer serving as a court officer as provided in 3-6-303*, a reserve officer may act only in a supplementary capacity to the law enforcement agency.

(3) Reserve officers:

(a) are subordinate to full-time law enforcement officers; and

(b) may not serve unless supervised by a full-time law enforcement officer whose span of control would be considered within reasonable limits.”

Section 4. Effective date. [This act] is effective on passage and approval.

Approved April 14, 2021

CHAPTER NO. 196

[HB 310]

AN ACT GENERALLY REVISING SEXUAL ASSAULT REPORTING LAWS; ALLOWING A SEXUAL ASSAULT VICTIM THE RIGHT TO KNOW THE STATUS OF THE VICTIM'S EVIDENCE KIT; AND AMENDING SECTION 46-15-406, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-15-406, MCA, is amended to read:

“46-15-406. Notice of rights for victims of sexual assault. The department of justice shall prepare a model form for use by health care facilities and law enforcement agencies that details the statutory rights of victims of sexual assault. These rights include the following:

(1) a victim may receive a sexual assault medical forensic examination and have evidence collected using a sexual assault evidence kit even if the victim does not want to participate in a criminal investigation;

(2) a victim may not be billed for the cost of administering the sexual assault medical forensic examination or collecting evidence for the sexual assault evidence kit;

(3) on request by a sexual assault victim to the investigating law enforcement agency, the victim may receive the following information:

(a) contact information for the officer investigating the case;

(b) the current status of the case;

(c) *the current status of the sexual assault evidence kit;*

(~~e~~)(d) whether the case has been submitted to the office of the prosecuting attorney for review;

(~~d~~)(e) whether the case has been closed and the documented reason for closure;

(~~e~~)(f) if available, contact information for a local community-based victim services program;

(~~f~~)(g) notifications of the victim's legal rights, including the right to file a petition requesting an order of protection; and

(~~g~~)(h) the notices required by 46-24-203, 46-24-204, and 46-24-206.”

Approved April 14, 2021

CHAPTER NO. 197

[HB 446]

AN ACT DEFINING PROSTHETIC DEVICE OR PROSTHESIS FOR WORKERS' COMPENSATION INSURANCE; PROVIDING THAT A PROSTHETIC DEVICE OR PROSTHESIS IS AN ARTIFICIAL SUBSTITUTE FOR A MISSING BODY PART; AMENDING SECTIONS 39-71-116, 39-71-119, AND 39-71-1101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 39-71-116, MCA, is amended to read:

“39-71-116. Definitions. Unless the context otherwise requires, in this chapter, the following definitions apply:

(1) “Actual wage loss” means that the wages that a worker earns or is qualified to earn after the worker reaches maximum healing are less than the actual wages the worker received at the time of the injury.

(2) “Administer and pay” includes all actions by the state fund under the Workers' Compensation Act necessary to:

- (a) investigation, review, and settlement of claims;
- (b) payment of benefits;
- (c) setting of reserves;
- (d) furnishing of services and facilities; and
- (e) use of actuarial, audit, accounting, vocational rehabilitation, and legal services.

(3) “Aid or sustenance” means a public or private subsidy made to provide a means of support, maintenance, or subsistence for the recipient.

(4) “Beneficiary” means:

(a) a surviving spouse living with or legally entitled to be supported by the deceased at the time of injury;

(b) an unmarried child under 18 years of age;

(c) an unmarried child under 22 years of age who is a full-time student in an accredited school or is enrolled in an accredited apprenticeship program;

(d) an invalid child over 18 years of age who is dependent, as defined in 26 U.S.C. 152, upon the decedent for support at the time of injury;

(e) a parent who is dependent, as defined in 26 U.S.C. 152, upon the decedent for support at the time of the injury if a beneficiary, as defined in subsections (4)(a) through (4)(d), does not exist; and

(f) a brother or sister under 18 years of age if dependent, as defined in 26 U.S.C. 152, upon the decedent for support at the time of the injury but only until the age of 18 years and only when a beneficiary, as defined in subsections (4)(a) through (4)(e), does not exist.

(5) “Business partner” means the community, governmental entity, or business organization that provides the premises for work-based learning activities for students.

(6) “Casual employment” means employment not in the usual course of the trade, business, profession, or occupation of the employer.

(7) “Child” includes a posthumous child, a dependent stepchild, and a child legally adopted prior to the injury.

(8) (a) “Claims examiner” means an individual who, as a paid employee of the department, of a plan No. 1, 2, or 3 insurer, or of an administrator licensed under Title 33, chapter 17, examines claims under chapter 71 to:

- (i) determine liability;

- (ii) apply the requirements of this title;
- (iii) settle workers' compensation or occupational disease claims; or
- (iv) determine survivor benefits.

(b) The term does not include an adjuster as defined in 33-17-102.

(9) (a) "Construction industry" means the major group of general contractors and operative builders, heavy construction (other than building construction) contractors, and special trade contractors listed in major group 23 in the North American Industry Classification System Manual.

(b) The term does not include office workers, design professionals, salespersons, estimators, or any other related employment that is not directly involved on a regular basis in the provision of physical labor at a construction or renovation site.

(10) "Days" means calendar days, unless otherwise specified.

(11) "Department" means the department of labor and industry.

(12) "Direct result" means that a diagnosed condition was caused or aggravated by an injury or occupational disease.

(13) "Fiscal year" means the period of time between July 1 and the succeeding June 30.

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

(15) (a) "Household or domestic employment" means employment of persons other than members of the household for the purpose of tending to the aid and comfort of the employer or members of the employer's family, including but not limited to housecleaning and yard work.

(b) The term does not include employment beyond the scope of normal household or domestic duties, such as home health care or domiciliary care.

(16) (a) "Indemnity benefits" means any payment made directly to the worker or the worker's beneficiaries, other than a medical benefit. The term includes payments made pursuant to a reservation of rights.

(b) The term does not include stay-at-work/return-to-work assistance, auxiliary benefits, or expense reimbursements for items such as meals, travel, or lodging.

(17) "Insurer" means an employer bound by compensation plan No. 1, an insurance company transacting business under compensation plan No. 2, or the state fund under compensation plan No. 3.

(18) "Invalid" means one who is physically or mentally incapacitated.

(19) "Limited liability company" has the meaning provided in 35-8-102.

(20) "Maintenance care" means treatment designed to provide the optimum state of health while minimizing recurrence of the clinical status.

(21) "Medical stability", "maximum medical improvement", "maximum healing", or "maximum medical healing" means a point in the healing process when further material functional improvement would not be reasonably expected from primary medical services.

(22) "Objective medical findings" means medical evidence, including range of motion, atrophy, muscle strength, muscle spasm, or other diagnostic evidence, substantiated by clinical findings.

(23) (a) "Occupational disease" means harm, damage, or death arising out of or contracted in the course and scope of employment caused by events occurring on more than a single day or work shift.

(b) The term does not include a physical or mental condition arising from emotional or mental stress or from a nonphysical stimulus or activity.

(24) "Order" means any decision, rule, direction, requirement, or standard of the department or any other determination arrived at by the department.

(25) “Palliative care” means treatment designed to reduce or ease symptoms without curing the underlying cause of the symptoms.

(26) “Payroll”, “annual payroll”, or “annual payroll for the preceding year” means the average annual payroll of the employer for the preceding calendar year or, if the employer has not operated a sufficient or any length of time during the calendar year, 12 times the average monthly payroll for the current year. However, an estimate may be made by the department for any employer starting in business if average payrolls are not available. This estimate must be adjusted by additional payment by the employer or refund by the department, as the case may actually be, on December 31 of the current year. An employer’s payroll must be computed by calculating all wages, as defined in 39-71-123, that are paid by an employer.

(27) “Permanent partial disability” means a physical condition in which a worker, after reaching maximum medical healing:

(a) has a permanent impairment, as determined by the sixth edition of the American medical association’s Guides to the Evaluation of Permanent Impairment, that is established by objective medical findings for the ratable condition. The ratable condition must be a direct result of the compensable injury or occupational disease and may not be based exclusively on complaints of pain.

(b) is able to return to work in some capacity but the permanent impairment impairs the worker’s ability to work; and

(c) has an actual wage loss as a result of the injury.

(28) “Permanent total disability” means a physical condition resulting from injury as defined in this chapter, after a worker reaches maximum medical healing, in which a worker does not have a reasonable prospect of physically performing regular employment. Lack of immediate job openings is not a factor to be considered in determining if a worker is permanently totally disabled.

(29) “Primary medical services” means treatment prescribed by the treating physician, for conditions resulting from the injury or occupational disease, necessary for achieving medical stability.

(30) “Prosthetic device” or “prosthesis” means an artificial substitute for a missing body part.

(30)(31) “Public corporation” means the state or a county, municipal corporation, school district, city, city under a commission form of government or special charter, town, or village.

(31)(32) “Reasonably safe place to work” means that the place of employment has been made as free from danger to the life or safety of the employee as the nature of the employment will reasonably permit.

(32)(33) “Reasonably safe tools or appliances” are tools and appliances that are adapted to and that are reasonably safe for use for the particular purpose for which they are furnished.

(33)(34) “Regular employment” means work on a recurring basis performed for remuneration in a trade, business, profession, or other occupation in this state.

(34)(35) (a) “Secondary medical services” means those medical services or appliances that are considered not medically necessary for medical stability. The services and appliances include but are not limited to spas or hot tubs, work hardening, physical restoration programs and other restoration programs designed to address disability and not impairment, or equipment offered by individuals, clinics, groups, hospitals, or rehabilitation facilities.

(b) (i) As used in this subsection (34) (35), “disability” means a condition in which a worker’s ability to engage in gainful employment is diminished as a result of physical restrictions resulting from an injury. The restrictions may be

combined with factors, such as the worker's age, education, work history, and other factors that affect the worker's ability to engage in gainful employment.

(ii) Disability does not mean a purely medical condition.

(35)(36) "Sole proprietor" means the person who has the exclusive legal right or title to or ownership of a business enterprise.

(36)(37) "State's average weekly wage" means the mean weekly earnings of all employees under covered employment, as defined and established annually by the department before July 1 and rounded to the nearest whole dollar number.

(37)(38) "Temporary partial disability" means a physical condition resulting from an injury, as defined in 39-71-119, in which a worker, prior to maximum healing:

(a) is temporarily unable to return to the position held at the time of injury because of a medically determined physical restriction;

(b) returns to work in a modified or alternative employment; and

(c) suffers a partial wage loss.

(38)(39) "Temporary service contractor" means a person, firm, association, partnership, limited liability company, or corporation conducting business that hires its own employees and assigns them to clients to fill a work assignment with a finite ending date to support or supplement the client's workforce in situations resulting from employee absences, skill shortages, seasonal workloads, and special assignments and projects.

(39)(40) "Temporary total disability" means a physical condition resulting from an injury, as defined in this chapter, that results in total loss of wages and exists until the injured worker reaches maximum medical healing.

(40)(41) "Temporary worker" means a worker whose services are furnished to another on a part-time or temporary basis to fill a work assignment with a finite ending date to support or supplement a workforce in situations resulting from employee absences, skill shortages, seasonal workloads, and special assignments and projects.

(41)(42) "Treating physician" means the person who, subject to the requirements of 39-71-1101, is primarily responsible for delivery and coordination of the worker's medical services for the treatment of a worker's compensable injury or occupational disease and is:

(a) a physician licensed by the state of Montana under Title 37, chapter 3, and has admitting privileges to practice in one or more hospitals, if any, in the area where the physician is located;

(b) a chiropractor licensed by the state of Montana under Title 37, chapter 12;

(c) a physician assistant licensed by the state of Montana under Title 37, chapter 20, if there is not a treating physician, as provided for in subsection (41) (42)(a), in the area where the physician assistant is located;

(d) an osteopath licensed by the state of Montana under Title 37, chapter 3;

(e) a dentist licensed by the state of Montana under Title 37, chapter 4;

(f) for a claimant residing out of state or upon approval of the insurer, a treating physician defined in subsections (41) (42)(a) through (41) (42)(e) who is licensed or certified in another state; or

(g) an advanced practice registered nurse licensed by the state of Montana under Title 37, chapter 8.

(42)(43) "Work-based learning activities" means job training and work experience conducted on the premises of a business partner as a component of school-based learning activities authorized by an elementary, secondary, or postsecondary educational institution.

(43)(44) "Year", unless otherwise specified, means calendar year."

Section 2. Section 39-71-119, MCA, is amended to read:

“39-71-119. Injury and accident defined. (1) “Injury” or “injured” means:

- (a) internal or external physical harm to the body that is established by objective medical findings;
- (b) damage to prosthetic devices;
- (c) ~~or damage to~~ appliances, except for damage to eyeglasses, contact lenses, dentures, or hearing aids; or

(c)(d) death.

(2) An injury is caused by an accident. An accident is:

- (a) an unexpected traumatic incident or unusual strain;
- (b) identifiable by time and place of occurrence;
- (c) identifiable by member or part of the body affected; and
- (d) caused by a specific event on a single day or during a single work shift.

(3) “Injury” or “injured” does not mean a physical or mental condition arising from:

- (a) emotional or mental stress; or
- (b) a nonphysical stimulus or activity.

(4) “Injury” or “injured” does not include a disease that is not caused by an accident.

(5) (a) A cardiovascular, pulmonary, respiratory, or other disease, cerebrovascular accident, or myocardial infarction suffered by a worker is an injury only if the accident is the primary cause of the physical condition in relation to other factors contributing to the physical condition.

(b) “Primary cause”, as used in subsection (5)(a), means a cause that, with a reasonable degree of medical certainty, is responsible for more than 50% of the physical condition.”

Section 3. Section 39-71-1101, MCA, is amended to read:

“39-71-1101. Choice of health care provider by worker -- insurer designation or approval of treating physician or referral to managed care or preferred provider organization -- payment terms -- definition.

(1) Prior to the insurer’s designation or approval of a treating physician as provided in subsection (2) or a referral to a managed care organization or preferred provider organization as provided in subsection (8), a worker may choose a person who is listed in 39-71-116~~(41)~~(42) for initial treatment. Subject to subsection (2), if the person listed under 39-71-116~~(41)~~(42) chosen by the worker agrees to comply with the requirements of subsection (2), that person is the treating physician.

(2) Any time after acceptance of liability by an insurer, the insurer may designate or approve a treating physician who agrees to assume the responsibilities of the treating physician. The designated or approved treating physician:

(a) is responsible for coordinating the worker’s receipt of medical services as provided in 39-71-704;

(b) shall provide timely determinations required under this chapter, including but not limited to maximum medical healing, physical restrictions, return to work, and approval of job analyses, and shall provide documentation;

(c) shall provide or arrange for treatment within the utilization and treatment guidelines or obtain prior approval for other treatment; and

(d) shall conduct or arrange for timely impairment ratings.

(3) The treating physician may refer the worker to other health care providers for medical services, as provided in 39-71-704, for the treatment of a worker’s compensable injury or occupational disease. A health care provider to whom the worker is referred by the designated treating physician is not

responsible for coordinating care or providing determinations as required of the treating physician.

(4) The treating physician designated or approved by the insurer must be reimbursed at 110% of the department's fee schedule.

(5) A health care provider to whom the worker is referred by the treating physician must be reimbursed at 90% of the department's fee schedule.

(6) A health care provider providing health care on a compensable claim prior to the designation or approval of the treating physician by the insurer must be reimbursed at 100% of the department's fee schedule.

(7) Regardless of the date of injury, the medical fee schedule rates in effect as adopted by the department in 39-71-704 and the percentages referenced in subsections (4) through (6) of this section apply to the medical service on the date on which the medical service was provided.

(8) The insurer may direct the worker to a managed care organization or a preferred provider organization for designation of the treating physician.

(9) After the insurer directs a worker to a managed care organization or preferred provider organization, a health care provider who otherwise qualifies as a treating physician but who is not a member of a managed care organization may not provide treatment unless authorized by the insurer.

(10) After the date that a worker subject to the provisions of subsection (9) receives individual written notice of a referral, the worker must, unless otherwise authorized by the insurer, receive medical services from the organization designated by the insurer, in accordance with 39-71-1102 and 39-71-1104. The designated treating physician in the organization then becomes the worker's treating physician. The insurer is not liable for medical services obtained otherwise, except that a worker may receive immediate emergency medical treatment for a compensable injury from a health care provider who is not a member of a managed care organization or a preferred provider organization.

(11) Posting of managed care requirements in the workplace on bulletin boards, in personnel policies, in company manuals, or by other general or broadcast means does not constitute individual written notice. To constitute individual written notice under this section, information regarding referral to a managed care organization must be provided to the worker in written form by mail or in person after the date of injury or occupational disease."

Section 4. Effective date. [This act] is effective on passage and approval.

Approved April 14, 2021

CHAPTER NO. 198

[HB 31]

AN ACT CLARIFYING THE TITLES AND COMMAND AUTHORITY OF THE ADJUTANT GENERAL AND ASSISTANT ADJUTANT GENERALS OF THE MONTANA NATIONAL GUARD; AMENDING SECTIONS 2-15-1201 AND 2-15-1203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-1201, MCA, is amended to read:

"2-15-1201. Department of military affairs – head. There is a department of military affairs. The department head is the adjutant general of the state, who ~~shall~~ *must* be appointed and *shall* serve in the same manner as ~~are~~ directors in 2-15-111. In addition, the adjutant general ~~shall~~ *must*

have the qualifications as prescribed in 2-15-1202. *The adjutant general is the commanding general of military forces of the state.*"

Section 2. Section 2-15-1203, MCA, is amended to read:

"2-15-1203. Assistant adjutant generals. (1) The adjutant general shall appoint, with the approval of the governor, an assistant adjutant general for the army national guard to be selected from the active list of the army national guard and an assistant adjutant general for the air national guard to be selected from the active list of the air national guard.

(2) Each assistant adjutant general must have the qualifications set forth in 2-15-1202 for appointment as adjutant general. However, each assistant adjutant general must have the rank of brigadier general.

(3) *The assistant adjutant general of the army national guard is the commanding general of the army national guard. The assistant adjutant general of the air national guard is the commanding general of the air national guard.*"

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

Approved April 16, 2021

CHAPTER NO. 199

[HB 47]

AN ACT PROVIDING REQUIREMENTS FOR EMERGENCY RULES UNDER THE MONTANA ADMINISTRATIVE PROCEDURE ACT; PROVIDING A DEFINITION FOR SPECIAL NOTICE; REQUIRING CERTAIN NOTIFICATIONS; AND AMENDING SECTION 2-4-303, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-4-303, MCA, is amended to read:

"2-4-303. Emergency or temporary rules. (1) (a) If an agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule upon fewer than 30 days' notice and states in writing its reasons for that finding, it may proceed upon special notice filed with the committee, without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency rule. The rule may be effective for a period not longer than 120 days, after which a new emergency rule with the same or substantially the same text may not be adopted, but the adoption of an identical rule under 2-4-302 is not precluded. Because the exercise of emergency rulemaking power precludes the people's constitutional right to prior notice and participation in the operations of their government, it constitutes the exercise of extraordinary power requiring extraordinary safeguards against abuse. An emergency rule may be adopted only in circumstances that truly and clearly constitute an existing imminent peril to the public health, safety, or welfare that cannot be averted or remedied by any other administrative act. The sufficiency of the reasons for a finding of imminent peril to the public health, safety, or welfare is subject to judicial review upon petition by any person. The matter must be set for hearing at the earliest possible time and takes precedence over all other matters except older matters of the same character. The sufficiency of the reasons justifying a finding of imminent peril and the necessity for emergency rulemaking must be compelling and, as written in the rule adoption notice, must stand on their own merits for purposes of judicial review. The dissemination of emergency rules required by 2-4-306 must be strictly observed and liberally accomplished.

(b) An emergency rule may not be used to implement an administrative budget reduction.

(c) (i) *For the purposes of this subsection (1), “special notice” means written notice to each member of the committee and each member of the committee staff using expedient means, such as electronic mail. The special notice must include:*

(A) the agency’s reasons for its findings of imminent peril to the public health, safety, or welfare;

(B) the text of the proposed emergency rule or an overview of the rule’s substantive changes; and

(C) the estimated date of adoption.

(ii) Prior to adoption of an emergency rule, the agency shall make a good faith effort to provide special notice to each committee member and each member of the committee staff. The adoption notice of the emergency rule must state the date on which and the manner in which written contact was made or attempted with each person required under this subsection (1). If the adoption notice fails to state the date on which and the manner in which written contact was made or attempted for each person required under this subsection (1), the adoption of the emergency rule is ineffective for the purposes of this part.

(2) A statute enacted or amended to be effective prior to October 1 of the year of enactment or amendment may be implemented by a temporary administrative rule, adopted before October 1 of that year, upon any abbreviated notice or hearing that the agency finds practicable, but the rule may not be filed with the secretary of state until at least 30 days have passed since publication of the notice of proposal to adopt the rule. The temporary rule is effective until October 1 of the year of adoption. The adoption of an identical rule under 2-4-302 is not precluded during the period that the temporary rule is effective.”

Approved April 16, 2021

CHAPTER NO. 200

[HB 50]

AN ACT REDISTRIBUTING 9-1-1 FEES TO THE STATE LIBRARY; REQUIRING 9-1-1 FEES BE USED FOR GIS MAPPING RELATED TO NEXT-GENERATION 9-1-1; REQUIRING REPORTING TO AN INTERIM COMMITTEE; PROVIDING A STATUTORY APPROPRIATION; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 10-4-201, 10-4-304, AND 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 10-4-201, MCA, is amended to read:

“10-4-201. Fees imposed for 9-1-1 services. (1) Except as provided in 10-4-202 and for the purpose of 10-4-304(5):

(a) for 9-1-1 services, a fee of 75 cents a month per access line on each subscriber in the state is imposed for the administration of 9-1-1 programs in accordance with 10-4-305; and

(b) a fee of 25 cents a month per access line on each subscriber in the state is imposed for the grants provided in accordance with 10-4-306.

(2) The subscriber paying for an access line is liable for the fees imposed by this section.

(3) The provider shall collect the fees. The amount of the fees collected by the provider is considered payment by the subscriber for that amount of fees.

(4) Any return made by the provider collecting the fees is prima facie evidence of payments by the subscribers of the amount of fees indicated on the return.”

Section 2. Section 10-4-304, MCA, is amended to read:

~~“10-4-304. Establishment of 9-1-1 accounts.~~ (1) ~~Beginning July 1, 2018, there~~ *There* is established in the state special revenue fund an account for fees collected for 9-1-1 services pursuant to 10-4-201.

(2) ~~Funds~~ *Except as provided in subsection (5), funds* in the account are statutorily appropriated to the department, as provided in 17-7-502. Except as provided in subsection (3), ~~beginning July 1, 2018;~~ funds that are not used for the administration of this chapter by the department *or transferred in accordance with subsection (5)* are allocated as follows:

(a) 75% of the account must be deposited in an account for distribution to local and tribal government entities that host public safety answering points in accordance with 10-4-305 and with rules adopted by the department in accordance with 10-4-108; and

(b) 25% of the account must be deposited in an account for distribution in the form of grants to private telecommunications providers, local or tribal government entities that host public safety answering points, or both in accordance with 10-4-306.

(3) ~~Beginning July 1, 2018, all~~ *All* money received by the department of revenue pursuant to 10-4-201 must be paid to the state treasurer for deposit in the appropriate account.

(4) The accounts established in subsections (1) and (2) retain interest earned from the investment of money in the accounts.

(5) *Each fiscal year from July 1, 2021, through June 30, 2030, the state treasurer shall transfer \$450,000 from the account established in subsection (1) to the 9-1-1 GIS mapping account established in [section 3] by August 15 of each fiscal year.”*

Section 3. 9-1-1 GIS mapping account created – source of funding – use of account. (1) There is an account in the state special revenue fund to be known as the 9-1-1 GIS mapping fund.

(2) There must be deposited in the account:

(a) money received from legislative allocations and from transfers made in accordance with 10-4-304(5); and

(b) any gift, donation, grant, legacy, bequest, or devise made for the purposes of subsection (3).

(3) The account may be used only by the state library provided for in 22-1-102 in carrying out its coordination and management responsibilities to collect, maintain, and disseminate GIS land information in the state as it pertains to supporting public safety answering points on the ongoing assessment and improvement of next-generation 9-1-1 GIS data sets.

(4) Before September 1 of each even-numbered year, the state library shall produce a report summarizing the status of GIS readiness in Montana as it pertains to next-generation 9-1-1 GIS, including policy and funding recommendations necessary to advance next-generation 9-1-1 systems. The state library shall provide the report in accordance with 5-11-210 to the energy and telecommunications interim committee provided for in 5-5-230.

(5) Funds in the account are statutorily appropriated to the state library as provided in 17-7-502.

(6) At the end of fiscal year 2031, any unexpended balance in the account must be transferred to the account established in accordance with 10-4-304(1).

Section 4. Section 17-7-502, MCA, is amended to read:

~~“17-7-502. Statutory appropriations – definition – requisites for validity.~~ (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 5-13-404; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; [section 3]; 15-1-121; 15-1-218; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-151; 76-13-150; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-2-526; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates June 30, 2021; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103

terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-209 terminates September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027; pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; and pursuant to sec. 5, Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023.)”

Section 5. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Section 6. Codification instruction. [Section 3] is intended to be codified as an integral part of Title 10, chapter 4, part 3, and the provisions of Title 10, chapter 4, part 3, apply to [section 3].

Section 7. Effective date. [This act] is effective July 1, 2021.

Section 8. Termination. [This act] terminates July 1, 2031.

Approved April 16, 2021

CHAPTER NO. 201

[HB 55]

AN ACT ALLOWING FOR THE USE OF ALL COLORED LIGHTS EXCEPT BLUE ON SNOW-REMOVAL EQUIPMENT; PROVIDING FOR LEGISLATIVE INTENT; AMENDING SECTION 61-9-228, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-9-228, MCA, is amended to read:

“61-9-228. Standards for lights on snow-removal equipment. (1) The commission shall adopt standards and specifications applicable to headlamps, clearance lamps, and identification and other lamps on snow-removal equipment when operated on the highways of this state in lieu of the lamps otherwise required on motor vehicles by this chapter. ~~Such~~ *The* standards and specifications may permit the use of flashing lights ~~and all colored lights, except blue lights~~, for purposes of identification on snow-removal equipment when in service ~~upon on~~ the highways. ~~The standards and specifications for lamps referred to in this section shall correlate with and so far as possible conform with those approved by the American association of state highway officials.~~

(2) ~~It shall be~~ *is* unlawful to operate any snow-removal equipment on any highway unless the lamps ~~thereon on the equipment~~ comply with and are lighted when and as required by the standards and specifications adopted as provided in this section.”

Section 2. Legislative intent. It is the intent of the legislature that the department of transportation implement the provisions of [this act] within existing resources.

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

Approved April 16, 2021

CHAPTER NO. 202

[HB 57]

AN ACT REQUIRING A REVIEW HEARING WITHIN 60 DAYS TO DETERMINE THE NECESSITY OF THERAPEUTIC PLACEMENTS IN CHILD ABUSE AND NEGLECT PROCEEDINGS; PROVIDING DEFINITIONS; AMENDING SECTION 41-3-102, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Review of necessity of nonyouth foster home placement.

(1) Within 60 days of placement of a child in a therapeutic group home, the court shall:

- (a) conduct a hearing to:
 - (i) review the therapeutic needs assessment of the child;
 - (ii) consider whether the needs of the child can be met through placement in a youth foster home;
 - (iii) consider whether placement of the child in a therapeutic group home provides the most effective and appropriate level of care for the child in the least restrictive environment; and
 - (iv) consider whether placement of the child in a therapeutic group home is consistent with the short-term and long-term goals for the child as specified in the child's permanency plan; and
- (b) issue a written order stating the reasons for the court's decision to approve or disapprove the continued placement of the child in a therapeutic group home. The order must be included in and made part of the child's case plan.

(2) If the child remains placed in a therapeutic group home, the following evidence must be submitted at each status review or permanency hearing held concerning the child:

- (a) the ongoing assessment of the strengths and needs of the child that continues to support the determination that the needs of the child cannot be met through placement in a youth foster home;
- (b) that the child's placement in a therapeutic group home provides the most effective and appropriate level of care for the child in the least restrictive environment;
- (c) that the placement is consistent with the short-term and long-term goals for the child as specified in the child's permanency plan;
- (d) documentation of the specific treatment or service needs that will be met for the child in the placement and the length of time the child is expected to need the treatment or services; and
- (e) documentation of the efforts made by the department to prepare the child to return home, to be placed with a fit and willing relative, legal guardian, or adoptive parent, or to be placed in a youth foster home.

Section 2. Section 41-3-102, MCA, is amended to read:

"41-3-102. Definitions. As used in this chapter, the following definitions apply:

- (1) (a) "Abandon", "abandoned", and "abandonment" mean:
 - (i) leaving a child under circumstances that make reasonable the belief that the parent does not intend to resume care of the child in the future;
 - (ii) willfully surrendering physical custody for a period of 6 months and during that period not manifesting to the child and the person having physical custody of the child a firm intention to resume physical custody or to make permanent legal arrangements for the care of the child;
 - (iii) that the parent is unknown and has been unknown for a period of 90 days and that reasonable efforts to identify and locate the parent have failed; or
 - (iv) the voluntary surrender, as defined in 40-6-402, by a parent of a newborn who is no more than 30 days old to an emergency services provider, as defined in 40-6-402.
- (b) The terms do not include the voluntary surrender of a child to the department solely because of parental inability to access publicly funded services.

(2) “A person responsible for a child’s welfare” means:

(a) the child’s parent, guardian, or foster parent or an adult who resides in the same home in which the child resides;

(b) a person providing care in a day-care facility;

(c) an employee of a public or private residential institution, facility, home, or agency; or

(d) any other person responsible for the child’s welfare in a residential setting.

(3) “Abused or neglected” means the state or condition of a child who has suffered child abuse or neglect.

(4) (a) “Adequate health care” means any medical care or nonmedical remedial health care recognized by an insurer licensed to provide disability insurance under Title 33, including the prevention of the withholding of medically indicated treatment or medically indicated psychological care permitted or authorized under state law.

(b) This chapter may not be construed to require or justify a finding of child abuse or neglect for the sole reason that a parent or legal guardian, because of religious beliefs, does not provide adequate health care for a child. However, this chapter may not be construed to limit the administrative or judicial authority of the state to ensure that medical care is provided to the child when there is imminent substantial risk of serious harm to the child.

(5) “Best interests of the child” means the physical, mental, and psychological conditions and needs of the child and any other factor considered by the court to be relevant to the child.

(6) “Child” or “youth” means any person under 18 years of age.

(7) (a) “Child abuse or neglect” means:

(i) actual physical or psychological harm to a child;

(ii) substantial risk of physical or psychological harm to a child; or

(iii) abandonment.

(b) (i) The term includes:

(A) actual physical or psychological harm to a child or substantial risk of physical or psychological harm to a child by the acts or omissions of a person responsible for the child’s welfare;

(B) exposing a child to the criminal distribution of dangerous drugs, as prohibited by 45-9-101, the criminal production or manufacture of dangerous drugs, as prohibited by 45-9-110, or the operation of an unlawful clandestine laboratory, as prohibited by 45-9-132; or

(C) any form of child sex trafficking or human trafficking.

(ii) For the purposes of this subsection (7), “dangerous drugs” means the compounds and substances described as dangerous drugs in Schedules I through IV in Title 50, chapter 32, part 2.

(c) In proceedings under this chapter in which the federal Indian Child Welfare Act is applicable, this term has the same meaning as “serious emotional or physical damage to the child” as used in 25 U.S.C. 1912(f).

(d) The term does not include self-defense, defense of others, or action taken to prevent the child from self-harm that does not constitute physical or psychological harm to a child.

(8) “Concurrent planning” means to work toward reunification of the child with the family while at the same time developing and implementing an alternative permanent plan.

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

(10) "Family group decisionmaking meeting" means a meeting that involves family members in either developing treatment plans or making placement decisions, or both.

(11) "Indian child" means any unmarried person who is under 18 years of age and who is either:

(a) a member of an Indian tribe; or

(b) eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

(12) "Indian child's tribe" means:

(a) the Indian tribe in which an Indian child is a member or eligible for membership; or

(b) in the case of an Indian child who is a member of or eligible for membership in more than one Indian tribe, the Indian tribe with which the Indian child has the more significant contacts.

(13) "Indian custodian" means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control have been transferred by the child's parent.

(14) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized by:

(a) the state of Montana; or

(b) the United States secretary of the interior as being eligible for the services provided to Indians or because of the group's status as Indians, including any Alaskan native village as defined in federal law.

(15) "Limited emancipation" means a status conferred on a youth by a court in accordance with 41-1-503 under which the youth is entitled to exercise some but not all of the rights and responsibilities of a person who is 18 years of age or older.

(16) "Parent" means a biological or adoptive parent or stepparent.

(17) "Parent-child legal relationship" means the legal relationship that exists between a child and the child's birth or adoptive parents, as provided in Title 40, chapter 6, part 2, unless the relationship has been terminated by competent judicial decree as provided in 40-6-234, Title 42, or part 6 of this chapter.

(18) "Permanent placement" means reunification of the child with the child's parent, adoption, placement with a legal guardian, placement with a fit and willing relative, or placement in another planned permanent living arrangement until the child reaches 18 years of age.

(19) "Physical abuse" means an intentional act, an intentional omission, or gross negligence resulting in substantial skin bruising, internal bleeding, substantial injury to skin, subdural hematoma, burns, bone fractures, extreme pain, permanent or temporary disfigurement, impairment of any bodily organ or function, or death.

(20) "Physical neglect" means either failure to provide basic necessities, including but not limited to appropriate and adequate nutrition, protective shelter from the elements, and appropriate clothing related to weather conditions, or failure to provide cleanliness and general supervision, or both, or exposing or allowing the child to be exposed to an unreasonable physical or psychological risk to the child.

(21) (a) "Physical or psychological harm to a child" means the harm that occurs whenever the parent or other person responsible for the child's welfare:

(i) inflicts or allows to be inflicted upon the child physical abuse, physical neglect, or psychological abuse or neglect;

(ii) commits or allows sexual abuse or exploitation of the child;

(iii) induces or attempts to induce a child to give untrue testimony that the child or another child was abused or neglected by a parent or other person responsible for the child's welfare;

(iv) causes malnutrition or a failure to thrive or otherwise fails to supply the child with adequate food or fails to supply clothing, shelter, education, or adequate health care, though financially able to do so or offered financial or other reasonable means to do so;

(v) exposes or allows the child to be exposed to an unreasonable risk to the child's health or welfare by failing to intervene or eliminate the risk; or

(vi) abandons the child.

(b) The term does not include a youth not receiving supervision solely because of parental inability to control the youth's behavior.

(22) (a) "Protective services" means services provided by the department:

(i) to enable a child alleged to have been abused or neglected to remain safely in the home;

(ii) to enable a child alleged to have been abused or neglected who has been removed from the home to safely return to the home; or

(iii) to achieve permanency for a child adjudicated as a youth in need of care when circumstances and the best interests of the child prevent reunification with parents or a return to the home.

(b) The term includes emergency protective services provided pursuant to 41-3-301, voluntary protective services provided pursuant to 41-3-302, and court-ordered protective services provided pursuant to parts 4 and 6 of this chapter.

(23) (a) "Psychological abuse or neglect" means severe maltreatment through acts or omissions that are injurious to the child's emotional, intellectual, or psychological capacity to function, including the commission of acts of violence against another person residing in the child's home.

(b) The term may not be construed to hold a victim responsible for failing to prevent the crime against the victim.

(24) "Qualified expert witness" as used in cases involving an Indian child in proceedings subject to the federal Indian Child Welfare Act means:

(a) a member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organization and child-rearing practices;

(b) a lay expert witness who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child-rearing practices within the Indian child's tribe; or

(c) a professional person who has substantial education and experience in providing services to children and families and who possesses significant knowledge of and experience with Indian culture, family structure, and child-rearing practices in general.

(25) "Qualified individual" means a trained professional or licensed clinician who:

(a) has expertise in the therapeutic needs assessment used for placement of youth in a therapeutic group home;

(b) is not an employee of the department; and

(c) is not connected to or affiliated with any placement setting in which children are placed.

(25)(26) "Reasonable cause to suspect" means cause that would lead a reasonable person to believe that child abuse or neglect may have occurred or is occurring, based on all the facts and circumstances known to the person.

(26)(27) “Residential setting” means an out-of-home placement where the child typically resides for longer than 30 days for the purpose of receiving food, shelter, security, guidance, and, if necessary, treatment.

(27)(28) “Safety and risk assessment” means an evaluation by a social worker following an initial report of child abuse or neglect to assess the following:

- (a) the existing threat or threats to the child’s safety;
- (b) the protective capabilities of the parent or guardian;
- (c) any particular vulnerabilities of the child;
- (d) any interventions required to protect the child; and
- (e) the likelihood of future physical or psychological harm to the child.

(28)(29) (a) “Sexual abuse” means the commission of sexual assault, sexual intercourse without consent, aggravated sexual intercourse without consent, indecent exposure, sexual abuse, ritual abuse of a minor, or incest, as described in Title 45, chapter 5.

(b) Sexual abuse does not include any necessary touching of an infant’s or toddler’s genital area while attending to the sanitary or health care needs of that infant or toddler by a parent or other person responsible for the child’s welfare.

(29)(30) “Sexual exploitation” means:

(a) allowing, permitting, or encouraging a child to engage in a prostitution offense, as described in 45-5-601 through 45-5-603;

(b) allowing, permitting, or encouraging sexual abuse of children as described in 45-5-625; or

(c) allowing, permitting, or encouraging sexual servitude as described in 45-5-704 or 45-5-705.

(30)(31) (a) “Social worker” means an employee of the department who, before the employee’s field assignment, has been educated or trained in a program of social work or a related field that includes cognitive and family systems treatment or who has equivalent verified experience or verified training in the investigation of child abuse, neglect, and endangerment.

(b) This definition does not apply to any provision of this code that is not in this chapter.

(32) “*Therapeutic needs assessment*” means an assessment performed by a qualified individual within 30 days of placement of a child in a therapeutic group home that:

(a) *assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool;*

(b) *determines whether the needs of the child can be met with family members or through placement in a youth foster home or, if not, which appropriate setting would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short-term and long-term goals for the child as specified in the child’s permanency plan; and*

(c) *develops a list of child-specific short-term and long-term mental and behavioral health goals.*

(31)(33) “Treatment plan” means a written agreement between the department and the parent or guardian or a court order that includes action that must be taken to resolve the condition or conduct of the parent or guardian that resulted in the need for protective services for the child. The treatment plan may involve court services, the department, and other parties, if necessary, for protective services.

(32)(34) (a) “Withholding of medically indicated treatment” means the failure to respond to an infant’s life-threatening conditions by providing

treatment, including appropriate nutrition, hydration, and medication, that, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting the conditions.

(b) The term does not include the failure to provide treatment, other than appropriate nutrition, hydration, or medication, to an infant when, in the treating physician's or physicians' reasonable medical judgment:

- (i) the infant is chronically and irreversibly comatose;
- (ii) the provision of treatment would:

(A) merely prolong dying;

(B) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or

(C) otherwise be futile in terms of the survival of the infant; or

(iii) the provision of treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane. For purposes of this subsection ~~(32)~~ (34), "infant" means an infant less than 1 year of age or an infant 1 year of age or older who has been continuously hospitalized since birth, who was born extremely prematurely, or who has a long-term disability. The reference to less than 1 year of age may not be construed to imply that treatment should be changed or discontinued when an infant reaches 1 year of age or to affect or limit any existing protections available under state laws regarding medical neglect of children 1 year of age or older.

~~(33)~~(35) "Youth in need of care" means a youth who has been adjudicated or determined, after a hearing, to be or to have been abused, neglected, or abandoned."

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 41, chapter 3, part 4, and the provisions of Title 41, chapter 3, part 4, apply to [section 1].

Section 4. Effective date. [This act] is effective July 1, 2021.

Approved April 16, 2021

CHAPTER NO. 203

[HB 89]

AN ACT REVISING THE TRANSFORMATIONAL LEARNING PROGRAM; PROVIDING FOR A LOTTERY WHEN APPLICATIONS ARE GREATER THAN AVAILABLE FUNDING; REVISING RULEMAKING AUTHORITY; AMENDING SECTION 20-7-1602, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-7-1602, MCA, is amended to read:

"20-7-1602. (Temporary) Incentives for creation of transformational learning programs. (1) (a) A school district as defined in 20-6-101 that satisfies the conditions of subsection (2) and is qualified by the board of public education pursuant to subsection ~~(3)~~(4) is eligible for a 4-consecutive-year provision of the transitional funding and flexibilities in subsections ~~(4)~~and (5) and (6).

(b) A school district may be qualified by the board of public education for no more than one 4-consecutive-year provision of transitional funding and flexibilities in any 8-year period.

(2) To qualify for the transitional funding and flexibilities in subsections ~~(4)~~and (5) and (6), the board of trustees of a district shall submit an

application that has been approved by motion of the board of trustees and signed by the presiding officer to the board of public education for approval of a transformational learning program on a form provided by the superintendent of public instruction. The school board's application must:

(a) identify the number of full-time equivalent educators meeting the criteria of 20-9-327(3) who will participate in the district's transformational learning program, with full-time equivalence calculated and reported by the district based on the planned portion of each qualifying educator's full-time equivalent assignment that is dedicated to the district's transformational learning program;

(b) include the district's definition of proficiency within the meaning of that term as used in 20-9-311(4)(d). The definition must not require seat time as a condition or other element of determining proficiency. The definition must be incorporated in the district's policies and must be used for purposes of determining content and course mastery and other progress, promotion from grade to grade, grades, and graduation for pupils enrolled in the district's transformational learning program.

(c) include a strategic plan with appropriate planning horizons for implementation, measurable objectives to ensure accountability, and planned strategies to:

(i) develop a transformational learning plan for each participating pupil that honors individual interests, passions, strengths, needs, and culture and that is rooted in relationships with teachers, family, peers, and community members;

(ii) embed community-based, experiential, online, and work-based learning opportunities and foster a learning environment that incorporates both face-to-face and virtual connections;

(iii) provide effective professional development to assist employees in transitioning to a transformational learning model; and

(iv) ensure equality of educational opportunity to participate by all pupils of the district.

(3) ~~On an annual basis, the board of public education~~ *The board of public education shall:*

(a) establish by rule the opening and closing dates for receipt of applications and annual reports;

~~(b)(4)~~ *The board of public education shall:*

(a) on an annual basis, qualify districts that submit an application meeting the requirements of subsection (2) for the funding in subsection (4) (5) and the flexibilities in subsection (5) (6) until the annual appropriation is exhausted, after which further applications, including first-time applications and annual reports requesting an expansion of a previously approved plan, are to be deferred for consideration in a subsequent year, in the order of date received a lottery system draw, if and when additional funds become available for distribution; The lottery system shall assign every first-time application or request for expansion of a previously approved plan a number that will be placed into a lottery system draw that will be done by a third party. The applications will be assigned a position in the order in which the numbers are drawn. The drawing will continue until all districts are on the qualification list for the current year funding or deferred for consideration in a subsequent year.

~~(c)(b)~~ require each participating school district to submit an annual report demonstrating continued qualification for funding under this section and including a report of progress toward measurable objectives under the school district's transformational learning plan. The school district shall include any decrease or requested increase in the number of participating full-time

equivalent educators under subsection (2)(a) for adjustments to its funding. Any increase in funding based on requested increased levels of participation under subsection (2)(a) must be determined ~~in the order of date in the year in which the request for a funding increase is received and augmented with a lottery system~~ among all first-time applications and annual reports requesting an expansion of a previously approved plan and must be contingent on the availability of funds within any appropriation of the legislature. An application deferred for consideration in a subsequent year due to lack of funding must be annually updated each year after more than 1 full fiscal year has passed from the date of original submission of the application in order for the application to retain its priority by original date received.

~~(d)(c)~~ on or before September 15 of even-numbered years, report to the education interim committee *pursuant to 5-11-210* on the progress made by districts *as submitted in the annual report and strategic plan* operating under approved *and funded* transformational learning plans.

~~(4)(5)~~ (a) ~~Except as provided in subsection (4)(d) for~~ For a period of 4 consecutive fiscal years following the fiscal year in which a district is qualified by the board of public education and contingent on continued compliance with annual reporting requirements under subsection (3) (4), the superintendent of public instruction shall provide a transformational learning aid payment to the district equivalent to 50% of the quality educator payment defined in 20-9-306 from the immediate prior fiscal year multiplied by the number of the district's full-time equivalent educators reported under subsection (2)(a) of this section.

(b) The payment under this subsection ~~(4) (5)~~ must be distributed directly to the school district's flexibility fund established under 20-9-543 ~~no later than June 30 of fiscal year 2020 and by October 1 of each year beginning fiscal year 2021 of funding~~ by the superintendent of public instruction. The money must be expended by the district only for the purposes set forth in the district's approved transformational learning program.

~~(c)~~ ~~For fiscal years 2020 and 2021, a~~ A school district may not receive more than 25% of the total amount of payments made under this subsection (5).

~~(d)~~ Applications qualified by the board of public education in fiscal year 2020 must be funded beginning in fiscal year 2020:

~~(5)(6)~~ During each year that a school district remains qualified for funding under subsection ~~(4) (5)~~, the district's trustees may:

(a) if the obligations of transparency set forth in 20-9-116 are met, levy an annual permissive property tax not to exceed 100% of any funds distributed to the district under subsection ~~(4) (5)~~. Proceeds of the levy must be deposited in the district's flexibility fund established under 20-9-543 and must be expended by the district only for the purposes of the district's approved transformational learning plan.

(b) transfer state or local revenue from any budgeted or nonbudgeted fund, other than the debt service fund or retirement fund, to the district's flexibility fund.

~~(6)(7)~~ (a) Any funds transferred pursuant to subsection ~~(5)(b) (6)(b)~~ may be expended by the district solely for the purposes of implementing the district's approved transformational learning plan. Any transfers of funds are not considered expenditures to be applied against budget authority.

(b) Any transfers that are not expended for the purposes of implementing the district's approved transformational learning plan within 2 full school fiscal years after the funds are transferred must be transferred back to the originating fund from which the revenue was transferred.

(c) The intent of subsection ~~(5)(b)~~ (6)(b) and this subsection (6)(7) is to increase the flexibility and efficiency of school districts without an increase in local taxes. In furtherance of this intent, if transfers of funds are made from any school district fund supported by a nonvoted levy, the district may not increase its nonvoted levy for the purpose of restoring the amount of funds transferred.

(7)(8) The present law base calculated for K-12 local assistance under Title 17, chapter 7, part 1, must include transformational learning aid as defined in subsection (8) (9).

(8)(9) For the purposes of this title, the following definitions apply:

(a) “Transformational learning” means a flexible system of pupil-centered learning that is designed to develop the full educational potential of each pupil that:

- (i) is customized to address each pupil’s strengths, needs, and interests;
- (ii) includes continued focus on each pupil’s proficiency over content; and
- (iii) actively engages each pupil in determining what, how, when, and where each pupil learns.

(b) “Transformational learning aid” means 50% of the quality educator payment defined in 20-9-306 multiplied by:

- (i) ~~for fiscal year 2020, 5% of the statewide number of full-time equivalent educators from fiscal year 2019 calculated as provided in 20-9-327;~~

- (ii) ~~for fiscal year 2021, 7.5% of the statewide number of full-time equivalent educators from fiscal year 2020 calculated as provided in 20-9-327; and~~

- (iii) ~~for fiscal year 2022 and subsequent fiscal years, 10% of the statewide number of full-time equivalent educators from the fiscal year immediately preceding the year to which distribution of transformational aid applies calculated as provided in 20-9-327. (Terminates June 30, 2027--sec. 7, Ch. 402, L. 2019.)”~~

Section 2. Effective date. [This act] is effective July 1, 2021.

Section 3. Applicability. The lottery system created in [this act] applies to new applications and new requests for funding increases received on or after January 1, 2022. Applications and requests for funding increases that have already been received and qualified under the existing program and are currently on the wait list for funding will maintain their existing priority position for funding as long as the application or request for funding increase remains qualified.

Approved April 16, 2021

CHAPTER NO. 204

[HB 121]

AN ACT REVISING LAWS RELATED TO LOCAL BOARDS OF HEALTH; REQUIRING THAT CERTAIN RULES, REGULATIONS, AND FEES BE PROPOSED BY A LOCAL BOARD OF HEALTH AND ADOPTED BY THE GOVERNING BODY; ALLOWING A LOCAL BOARD OF HEALTH TO ADOPT RULES TO IMPLEMENT A REGULATION ADOPTED BY A LOCAL GOVERNING BODY; ALLOWING A GOVERNING BODY TO AMEND A DIRECTIVE, MANDATE, OR ORDER GIVEN BY A LOCAL BOARD OF HEALTH DURING A TIME OF EMERGENCY OR DISASTER; ALLOWING A GOVERNING BODY TO AMEND AN ORDER GIVEN BY A LOCAL HEALTH OFFICER DURING A TIME OF EMERGENCY OR DISASTER; PROVIDING FOR RELIGIOUS FREEDOM; REVISING PENALTIES ALLOWED FOR THE

VIOLATION OF A LOCAL BOARD RULE; REVISING AND PROVIDING DEFINITIONS; AND AMENDING SECTIONS 50-1-101, 50-2-116, 50-2-118, 50-2-124, AND 50-2-130, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 50-1-101, MCA, is amended to read:

“50-1-101. Definitions. Unless the context indicates otherwise, in chapter 2 and this chapter, the following definitions apply:

(1) “Communicable disease” means an illness because of a specific infectious agent or its toxic products that arises through transmission of that agent or its products from an infected person, animal, or inanimate reservoir to a susceptible host. The transmission may occur either directly or indirectly through an intermediate plant or animal host, a transmitting entity, or the inanimate environment.

(2) “Condition of public health importance” means a disease, injury, or other condition that is identifiable on an individual or community level and that can reasonably be expected to lead to adverse health effects in the community.

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

(4) “Inanimate reservoir” means soil, a substance, or a combination of soil and a substance:

(a) in which an infectious agent normally lives and multiplies;

(b) on which an infectious agent depends primarily for survival; and

(c) where an infectious agent reproduces in a manner that allows the infectious agent to be transmitted to a susceptible host.

(5) “Institutional controls” means legal or regulatory mechanisms designed to protect public health and safety that:

(a) limit access to or limit or condition the use of environmentally contaminated property or media;

(b) provide for the protection or preservation of environmental cleanup measures; or

(c) inform the public that property or media is or may be environmentally contaminated.

(6) “Isolation” means the physical separation and confinement of an individual or groups of individuals who are infected ~~or reasonably believed to be infected~~ with a communicable disease ~~or possibly communicable disease~~ from nonisolated individuals to prevent or limit the transmission of the communicable disease to nonisolated individuals.

(7) “Local board of health” or “local board” means a county, city, city-county, or district board of health.

(8) “Local governing body” or “governing body” means:

(a) *the board of county commissioners that oversees a county local board of health;*

(b) *the elected governing body of a city that oversees a city local board of health; or*

(c) *the entity identified as the governing body as established in the bylaws, interlocal agreement, or memorandum of understanding creating a city-county local board of health or a local district board of health.*

(8)(9) “Local health officer” means a county, city, city-county, or district health officer appointed by a local board of health. With regard to the exercise of the duties and authorities of a local health officer, the term may include an authorized representative of the local health officer.

(9)(10) “Local public health agency” means an organization operated by a local government in the state, including local boards of health or local health officers, that principally acts to protect or preserve the public health.

(10)(11) “Physician” has the meaning provided in 37-3-102.

(11)(12) “Public health services and functions” means those services and functions necessary to promote the conditions in which the population can be healthy and safe, including:

(a) population-based or individual efforts primarily aimed at the prevention of injury, disease, or premature mortality; or

(b) the promotion of health in the community, such as assessing the health needs and status of the community through public health surveillance and epidemiological research, developing public health policy, and responding to public health needs and emergencies.

(12)(13) “Public health system” means state and local public health agencies and their public and private sector partners.

(13)(14) “Quarantine” means the physical separation and confinement of an individual or groups of individuals who ~~are or may~~ have been exposed to a communicable disease ~~or possibly communicable disease~~ and who do not show signs or symptoms of a communicable disease from nonquarantined individuals to prevent or limit the transmission of the communicable disease to nonquarantined individuals.

(14)(15) “Screening” means diagnostic or investigative analysis or medical procedures that determine the presence or absence of or exposure to a condition of public health importance or the condition’s precursor in an individual.

(15)(16) “Testing” has the same meaning as screening.”

Section 2. Section 50-2-116, MCA, is amended to read:

“50-2-116. Powers and duties of local boards of health. (1) *It is a purpose of this chapter to address ongoing issues or conditions created during a declared state of emergency as a result of orders, directives, or mandates issued by the governor as allowed under Title 10, chapter 3, for a state of emergency acting longer than 7 days. It is not a purpose of this chapter to hinder, slow, or remove nonemergency-related powers granted to a local board of health.*

(2) In order to carry out the purposes of the public health system, in collaboration with federal, state, and local partners, each local board of health shall:

(a) ~~appoint and fix the salary~~ *recommend to the governing body the appointment* of a local health officer who is:

(i) a physician;

(ii) a person with a master’s degree in public health; or

(iii) a person with equivalent education and experience, as determined by the department;

(b) elect a presiding officer and other necessary officers;

(c) ~~employ qualified staff;~~

(d)(c) adopt bylaws to govern meetings;

(e)(d) hold regular meetings at least quarterly and hold special meetings as necessary;

(f)(e) identify, assess, prevent, and ameliorate conditions of public health importance through:

(i) epidemiological tracking and investigation;

(ii) screening and testing;

(iii) isolation and quarantine measures;

(iv) diagnosis, treatment, and case management;

(v) abatement of public health nuisances;

(vi) inspections;

- (vii) collecting and maintaining health information;
- (viii) education and training of health professionals; or
- (ix) other public health measures as allowed by law;
- ~~(g)~~(f) protect the public from the introduction and spread of communicable disease or other conditions of public health importance, including through actions to ensure the removal of filth or other contaminants that might cause disease or adversely affect public health;
- ~~(h)~~(g) supervise or make inspections for conditions of public health importance and issue written orders for compliance or for correction, destruction, or removal of the conditions;
- ~~(i)~~(h) bring and pursue actions and issue orders necessary to abate, restrain, or prosecute the violation of public health laws, rules, and local regulations;
- ~~(j)~~(i) identify to the department an administrative liaison for public health. The liaison must be the local health officer in jurisdictions that employ a full-time local health officer. In jurisdictions that do not employ a full-time local health officer, the liaison must be the highest ranking public health professional employed by the jurisdiction.
- ~~(k)~~(j) subject to the provisions of 50-2-130, ~~adopt~~ *propose for adoption by the local governing body* necessary regulations that are not less stringent than state standards for the control and disposal of sewage from private and public buildings and facilities that are not regulated by Title 75, chapter 6, or Title 76, chapter 4. The regulations must describe standards for granting variances from the minimum requirements that are identical to standards promulgated by the board of environmental review and must provide for appeal of variance decisions to the department as required by 75-5-305. If the local board of health regulates or permits water well drilling, the regulations must prohibit the drilling of a well if the well isolation zone, as defined in 76-4-102, encroaches onto adjacent private property without the authorization of the private property owner.
- ~~(2)~~(3) Local boards of health may:
 - (a) accept and spend funds received from a federal agency, the state, a school district, or other persons or entities;
 - (b) ~~adopt~~ *propose for adoption by the local governing body* necessary fees to administer regulations for the control and disposal of sewage from private and public buildings and facilities;
 - (c) ~~adopt~~ *propose for adoption by the local governing body* regulations that do not conflict with 50-50-126 or rules adopted by the department:
 - (i) for the control of communicable diseases;
 - (ii) for the removal of filth that might cause disease or adversely affect public health;
 - (iii) subject to the provisions of 50-2-130, for sanitation in public and private buildings and facilities that affects public health and for the maintenance of sewage treatment systems that do not discharge effluent directly into state water and that are not required to have an operating permit as required by rules adopted under 75-5-401;
 - (iv) subject to the provisions of 50-2-130 and Title 50, chapter 48, for tattooing and body-piercing establishments and that are not less stringent than state standards for tattooing and body-piercing establishments;
 - (v) for the establishment of institutional controls that have been selected or approved by the:
 - (A) United States environmental protection agency as part of a remedy for a facility under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601, et seq.; or

(B) department of environmental quality as part of a remedy for a facility under the Montana Comprehensive Environmental Cleanup and Responsibility Act, Title 75, chapter 10, part 7; and

(vi) to implement the public health laws;

(d) *adopt rules necessary to implement and enforce regulations adopted by the local governing body; and*

~~(d)~~(e) promote cooperation and formal collaborative agreements between the local board of health and tribes, tribal organizations, and the Indian health service regarding public health planning, priority setting, information and data sharing, reporting, resource allocation, service delivery, jurisdiction, and other matters addressed in this title.

~~(3)~~(4) A local board of health may provide, implement, facilitate, or encourage other public health services and functions as considered reasonable and necessary.

(5) *A directive, mandate, or order issued by a local board of health in response to a declaration of emergency and/or or disaster by the governor as allowed in 10-3-302 and 10-3-303 or by the principal executive officer of a political subdivision as allowed in 10-3-402 and 10-3-403:*

(a) remains in effect only during the declared state of emergency or disaster or until the governing body holds a public meeting and allows public comment and the majority of the governing body moves to amend, rescind, or otherwise change the directive, mandate, or order; and

(b) may not interfere with or otherwise limit, modify, or abridge a person's physical attendance at or operation of a religious facility, church, synagogue, or other place of worship."

Section 3. Section 50-2-118, MCA, is amended to read:

"50-2-118. Powers and duties of local health officers. (1) In order to carry out the purpose of the public health system, in collaboration with federal, state, and local partners, local health officers or their authorized representatives shall:

~~(1)~~(a) make inspections for conditions of public health importance and issue written orders for compliance or for correction, destruction, or removal of the condition;

~~(2)~~(b) take steps to limit contact between people in order to protect the public health from imminent threats, including but not limited to ordering the closure of buildings or facilities where people congregate and canceling events;

~~(3)~~(c) report communicable diseases to the department as required by rule;

~~(4)~~(d) establish and maintain quarantine and isolation measures as adopted by the local board of health; and

~~(5)~~(e) pursue action with the appropriate court if this chapter or rules adopted by the local board or department under this chapter are violated.

(2) *A directive, mandate, or order issued by a local health officer in response to a declaration of emergency and/or or disaster by the governor as allowed in 10-3-302 and 10-3-303 or by the principal executive officer of a political subdivision as allowed in 10-3-402 and 10-3-403:*

(a) remains in effect only during the declared state of emergency or disaster or until the governing body holds a public meeting and allows public comment and the majority of the governing body moves to amend, rescind, or otherwise change the directive, mandate, or order; and

(b) may not interfere with or otherwise limit, modify, or abridge a person's physical attendance at or operation of a religious facility, church, synagogue, or other place of worship."

Section 4. Section 50-2-124, MCA, is amended to read:

“50-2-124. Penalties for violations. (1) (a) A person who does not comply with rules adopted by a local board and the local governing body is ~~guilty of a misdemeanor. On conviction, the person shall be fined is subject to a civil penalty of~~ not less than \$10 or more than \$200.

(b) ~~A business entity that does not comply with rules adopted by a local board is subject to a civil penalty of not more than \$250.~~

(2) Except as provided in 50-2-123 and subsection (1) of this section, a person who violates the provisions of this chapter or rules adopted by the department under the provisions of this chapter is guilty of a misdemeanor. On conviction, the person shall be fined not less than \$10 or more than \$500 or be imprisoned for not more than 90 days, or both.

(3) Each day of violation constitutes a separate offense.

(4) ~~The local board or the county attorney of the county in which a violation allowed in subsection (1) occurred may petition a court of limited jurisdiction to impose the civil penalties allowed in subsection (1). Venue for an action to collect a civil penalty pursuant to subsection (1) is in the county in which the violation occurred or in a court of limited jurisdiction.~~

~~(4)(5)~~ Fines, except justice’s court fines, must be paid to the county treasurer of the county in which the violation occurs.

(6) (a) *As used in this section, “business entity” means a corporation, association, partnership, limited liability partnership, limited liability company, sole proprietorship, or other legal entity recognized under state law.*

(b) *The term does not include an individual.”*

Section 5. Section 50-2-130, MCA, is amended to read:

“50-2-130. Local regulations no more stringent than state regulations or guidelines. (1) After April 14, 1995, except as provided in subsections (2) through (4) or unless required by state law, the local board may not ~~adopt~~ *propose for adoption by the local governing body* a rule under 50-2-116 (1)(k), (2)(c)(iii), or (2)(c)(iv) 50-2-116(2)(j), (3)(c)(iii), or (3)(c)(iv) that is more stringent than the comparable state regulations or guidelines that address the same circumstances. The local board may incorporate by reference comparable state regulations or guidelines.

(2) The local board may ~~adopt~~ *propose for adoption by the local governing body* a rule to implement 50-2-116(1)(k), (2)(c)(iii), or (2)(c)(iv) 50-2-116(2)(j), (3)(c)(iii), or (3)(c)(iv) that is more stringent than comparable state regulations or guidelines only if the local board makes a written finding, after a public hearing and public comment and based on evidence in the record, that:

(a) the proposed local standard or requirement protects public health or the environment; and

(b) the local board standard or requirement to be imposed can mitigate harm to the public health or environment and is achievable under current technology.

(3) The written finding must reference information and peer-reviewed scientific studies contained in the record that forms the basis for the local board’s conclusion. The written finding must also include information from the hearing record regarding the costs to the regulated community that are directly attributable to the proposed local standard or requirement.

(4) (a) A person affected by a rule of the local board adopted after January 1, 1990, and before April 14, 1995, that that person believes to be more stringent than comparable state regulations or guidelines may petition the local board to review the rule. If the local board determines that the rule is more stringent than comparable state regulations or guidelines, the local board shall comply with this section by either revising the rule to conform to the state regulations

or guidelines or making the written finding, as provided under subsection (2), within a reasonable period of time, not to exceed 12 months after receiving the petition. A petition under this section does not relieve the petitioner of the duty to comply with the challenged rule. The local board may charge a petition filing fee in an amount not to exceed \$250.

(b) A person may also petition the local board for a rule review under subsection (4)(a) if the local board adopts a rule after January 1, 1990, in an area in which no state regulations or guidelines existed and the state government subsequently establishes comparable regulations or guidelines that are less stringent than the previously adopted local board rule."

Section 6. Effective date. [This act] is effective on passage and approval.

Approved April 16, 2021

CHAPTER NO. 205

[HB 163]

AN ACT REVISING THE MEMBERSHIP OF THE FISH AND WILDLIFE COMMISSION; AND AMENDING SECTION 2-15-3402, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-3402, MCA, is amended to read:

"2-15-3402. Fish and wildlife commission. (1) There is a fish and wildlife commission.

(2) (a) The commission consists of ~~five~~ *seven* members. At least one member must be experienced in the breeding and management of domestic livestock. The governor shall appoint one member ~~from~~ *for* each of the ~~following~~ districts:

(a) ~~District No. 1, consisting of Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Powell, Ravalli, Granite, and Lewis and Clark Counties;~~

(b) ~~District No. 2, consisting of Deer Lodge, Silver Bow, Beaverhead, Madison, Jefferson, Broadwater, Gallatin, Park, and Sweet Grass Counties;~~

(c) ~~District No. 3, consisting of Glacier, Toole, Liberty, Hill, Pondera, Teton, Chouteau, Cascade, Judith Basin, Fergus, Blaine, Meagher, and Wheatland Counties;~~

(d) ~~District No. 4, consisting of Phillips, Valley, Daniels, Sheridan, Roosevelt, Petroleum, Garfield, McCone, Richland, Dawson, and Wibaux Counties;~~

(e) ~~District No. 5, consisting of Golden Valley, Musselshell, Stillwater, Carbon, Yellowstone, Big Horn, Treasure, Rosebud, Custer, Powder River, Carter, Fallon, and Prairie Counties.~~ *administrative regions of the department of fish, wildlife, and parks, which are headquartered in the following locations:*

(i) *Kalispell;*

(ii) *Missoula;*

(iii) *Bozeman;*

(iv) *Great Falls;*

(v) *Billings;*

(vi) *Glasgow; and*

(vii) *Miles City.*

(b) (i) *To be eligible to serve on the commission, the member must reside in the administrative region the member will represent or within 10 air miles of the region's boundary as it exists on the date the member is appointed.*

(ii) *If the commission adjusts a region's boundary after a member is appointed so that the member no longer meets the requirements of subsection*

(2)(b)(i), the member may continue to represent the region until the member's current term expires.

(3) Appointments must be made without regard to political affiliation and must be made solely for the wise management of fish, wildlife, and related recreational resources of this state. A person may not be appointed to the commission unless the person is informed or interested and experienced in the subject of fish, wildlife, and recreation and the requirements for the conservation and protection of fish, wildlife, and recreational resources.

(4) A vacancy occurring on the commission must be filled by the governor in the same manner and from the ~~district~~ *administrative region* in which the vacancy occurs.

(5) The fish and wildlife commission is designated as a quasi-judicial board for purposes of 2-15-124. Notwithstanding the provisions of 2-15-124(1), the governor is not required to appoint an attorney to serve as a member of the commission."

Approved April 16, 2021

CHAPTER NO. 206

[HB 217]

AN ACT REQUIRING LICENSURE OF GENETIC COUNSELORS; ESTABLISHING LICENSURE REQUIREMENTS; ESTABLISHING GENETIC COUNSELOR SCOPE OF PRACTICE; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 37-1-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Purpose. The legislature finds that the profession of genetic counseling profoundly affects the lives of people of this state. It is the purpose of [sections 1 through 6] to provide for the public health, safety, and welfare by ensuring the ethical, qualified, and professional practice of genetic counseling. [Sections 1 through 6] and the rules promulgated under [section 3] set standards of qualification, education, training, and experience and establish professional ethics for those who seek to engage in the practice of genetic counseling as licensed genetic counselors.

Section 2. Definitions. As used in [sections 1 through 6], the following definitions apply:

(1) "Active candidate status" means a person who has met the requirements established by the American board of genetic counseling to take the board's certification examination in general genetics and genetic counseling and has been granted the designation by the board.

(2) "Department" means the department of labor and industry provided for in 2-15-1701.

(3) "Genetic counseling" means the provision of the services specified under [section 6] by an individual who qualifies for a license under [sections 1 through 6].

(4) "Genetic counselor" means an individual licensed in accordance with [section 5] to engage in the competent practice of genetic counseling.

Section 3. Department powers and duties – rulemaking. (1) The department shall:

- (a) license and renew the licenses of qualified applicants; and
- (b) adopt rules related to:
 - (i) eligibility requirements and competency standards;

- (ii) license fees; and
- (iii) defining unprofessional conduct that is not included in 37-1-410.
- (2) The department may:
 - (a) adopt rules necessary to implement the provisions of [section 1 through 6]; and
 - (b) establish licensure requirements and procedures as appropriate.

Section 4. Representation or practice as genetic counselor – license required. (1) On issuance of a license under [sections 1 through 6], a licensee may use the title “licensed genetic counselor”.

(2) Except as otherwise provided in [sections 1 through 6], a person may not represent that the person is a licensed genetic counselor by using the title “genetic counselor”, “licensed genetic counselor”, “gene counselor”, “genetic consultant”, “genetic associate”, or any words, letters, abbreviations, or insignia indicating or implying a person holds a genetic counseling license unless the person is licensed under [sections 1 through 6].

(3) [Sections 1 through 6] do not apply to:

(a) a person licensed by the state as a physician or advanced practice registered nurse or to practice in a profession other than that of genetic counseling when acting within the scope of the person’s profession and doing work of a nature consistent with the person’s training as long as the person does not represent by title that the person is engaging in the practice of genetic counseling;

(b) any person employed as a genetic counselor by the federal government or an agency of the federal government if the person provides genetic counseling services solely under the direction and control of the organization that is employing the person;

(c) a student or intern enrolled in a genetic counseling educational program accredited by the American board of genetic counseling if the person is designated by the title “genetic counseling intern” and the genetic counseling services performed are:

- (i) an integral part of the student’s course of study; and
- (ii) performed under the direct supervision of a licensed genetic counselor who is assigned to supervise the student and who is on duty and available in the assigned patient care area; and

(d) visiting out-of-state genetic counselors who are certified by the American board of genetic counseling and performing activities and services for a period of less than 30 days each year. A visiting genetic counselor must be licensed if a license is available in the person’s home state.

Section 5. Licensure requirements – examination – fees – temporary practice. (1) The department shall license as a genetic counselor an applicant who:

- (a) submits an application and pays the fee required by the department;
- (b) provides satisfactory evidence of having received certification from the American board of genetic counseling as a genetic counselor; and
- (c) complies with other requirements established by the department by rule.

(2) The department may issue:

(a) a temporary license to an applicant to whom the American board of genetic counseling has granted active candidate status; and

(b) a license to an applicant who satisfactorily demonstrates that the applicant is licensed or registered under the laws of another state, territory, or jurisdiction of the United States that in the department’s opinion imposes substantially the same requirements for licensure as are required under [sections 1 through 6].

(3) A temporary license expires automatically on the earliest of the following:

(a) issuance of a full license to a person who successfully passes the American board of genetic counseling certification exam; or

(b) at the time a person loses active candidate status for failure to complete or pass the American board of genetic counseling certification exam.

(4) Licenses issued under this section are valid for the period established by the department by rule and may be renewed only on the filing of a renewal application and payment of the license renewal fee.

(5) An applicant shall submit an application fee in the amount established by the department by rule and a written application on a form provided by the department that demonstrates the applicant has completed the eligibility requirements and competency standards required under [sections 1 through 6] and by the department by rule.

(6) The department may not license an applicant who has:

(a) committed any act that if committed by a licensee would be grounds for license suspension or revocation; or

(b) misrepresented any material fact on the application.

Section 6. Scope of practice. (1) The practice of genetic counseling involves:

(a) obtaining and evaluating individual, family, and medical histories to determine genetic risk for genetic or medical conditions and diseases in a patient, the patient's offspring, and other family members;

(b) discussing the features, natural history, means of diagnosis, genetic and environmental factors, and management of risk for genetic and medical conditions and diseases;

(c) identifying, ordering, and coordinating genetic laboratory tests as appropriate for genetic assessment;

(d) integrating genetic laboratory test results with personal and family medical history to assess and communicate risk factors for genetic and medical conditions and diseases;

(e) explaining the clinical implications of genetic laboratory tests and their results;

(f) evaluating the client's or family's responses to the genetic or medical condition or the risk of recurrence of the condition and providing client-centered counseling and anticipatory guidance;

(g) identifying and using community resources that provide medical, educational, financial, and psychosocial support and advocacy; and

(h) providing written documentation of medical, genetic, and counseling information for families and health care professionals.

(2) Nothing in [sections 1 through 6] authorizes a genetic counselor to practice medicine, including treatment or medical management of a patient. If, in the course of providing genetic counseling to a client, a genetic counselor finds any indication of a disease or condition that requires medical assessment or treatment, the genetic counselor shall refer the client to a provider licensed to practice medicine.

Section 7. Section 37-1-401, MCA, is amended to read:

“37-1-401. Uniform regulation for licensing programs without boards – definitions. As used in this part, the following definitions apply:

(1) “Complaint” means a written allegation filed with the department that, if true, warrants an injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.

(2) “Department” means the department of labor and industry provided for in 2-15-1701.

(3) “Investigation” means the inquiry, analysis, audit, or other pursuit of information by the department, with respect to a complaint or other information before the department, that is carried out for the purpose of determining:

(a) whether a person has violated a provision of law justifying discipline against the person;

(b) the status of compliance with a stipulation or order of the department;

(c) whether a license should be granted, denied, or conditionally issued; or

(d) whether the department should seek an injunction.

(4) “License” means permission in the form of a license, permit, endorsement, certificate, recognition, or registration granted by the state of Montana to engage in a business activity or practice at a specific level in a profession or occupation governed by:

(a) Title 37, chapter 35, 72, or 73; or

(b) Title 50, chapter 39, 74, or 76.

(5) “Profession” or “occupation” means a profession or occupation regulated by the department under the provisions of:

(a) Title 37, chapter 35, 72, or 73, or [sections 1 through 6]; or

(b) Title 50, chapter 39, 74, or 76.”

Section 8. Codification instruction. [Sections 1 through 6] are intended to be codified as an integral part of Title 37, and the provisions of Title 37 apply to [sections 1 through 6].

Section 9. Effective date. [This act] is effective on passage and approval.

Approved April 16, 2021

CHAPTER NO. 207

[HB 223]

AN ACT CREATING A STATUTORY DUTY FOR PUBLIC SAFETY OFFICERS TO ARREST INDIVIDUALS ALREADY IN CUSTODY WHO ARE THE SUBJECT OF IMMIGRATION DETAINER REQUESTS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Immigration detainer requests – arrest authority and duty to arrest. (1) A public safety officer as defined in 44-4-401(2) who is in possession of an immigration detainer request issued by a federal immigration agency shall arrest a person who is already in custody and the subject of an immigration detainer request;

(2) As used in this section, the following definitions apply:

(a) (i) “Federal immigration agency” means the United States department of justice, the United States department of homeland security, and any division, agency, or other component of either of those departments, including but not limited to United States immigration and customs enforcement, United States customs and border protection, United States citizenship and immigration services, and any successor department, division, agency or other component.

(ii) The term includes officials, officers, representatives, agents, and employees.

(b) “Immigration detainer request” means a written or electronic request issued by a federal immigration agency to detain and maintain control of an alien.

(3) In executing an arrest pursuant to an immigration detainer request, a public safety officer shall:

(a) comply with, honor, and fulfill any request made in the detainer request provided by the federal government; and

(b) inform the person to whom the immigration detainer request applies that the person is being held pursuant to an immigration detainer request issued by a federal immigration agency.

(4) A public safety officer is not required to arrest or detain a person if presented with credible evidence that the person is a citizen of the United States or that the person has lawful immigration status in the United States.

(5) To meet the duty established in this section, a public safety officer may not maintain custody of a person subject to a detainer for longer than 48 hours, excluding weekends and holidays, beyond the time that the person would otherwise have been released from custody.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 44, and the provisions of Title 44 apply to [section 1].

Approved April 16, 2021

CHAPTER NO. 208

[HB 280]

AN ACT REPEALING AUTHORIZATION FOR THE SENIOR CITIZENS' LEGISLATURE; REPEALING SECTION 52-3-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Repealer. The following sections of the Montana Code Annotated are repealed:

52-3-111. Senior citizens' legislature.

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 16, 2021

CHAPTER NO. 209

[HB 291]

AN ACT REQUIRING COVERAGE OF AMPLIFICATION DEVICES AND RELATED SERVICES FOR CHILDREN WITH HEARING LOSS; AMENDING SECTIONS 2-18-704, 33-31-111, AND 33-35-306, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Coverage for children with hearing loss -- definitions.

(1) Health insurance coverage sold in the group or individual market in this state must provide coverage for diagnosis and treatment of hearing loss for a covered child 18 years of age or younger in accordance with subsection (2).

(2) (a) Except as provided in subsection (2)(b), coverage under this section, in addition to diagnosis, must include treatment that is:

(i) a medical necessity; and

(ii) prescribed, provided, or ordered by a licensed health care provider to treat hearing loss of the covered child.

(b) Treatment may not include more than one hearing device with required accessories or amplification device with required accessories for each ear every 3 years or as required by an audiologist licensed under Title 37, chapter 15.

(3) Benefits provided under this section may not be construed as limiting physical health benefits that are otherwise available to the covered child.

(4) (a) Coverage under this section may be subject to deductibles, coinsurance, and copayment provisions and utilization review as provided in Title 33, chapter 32.

(b) Special deductible, coinsurance, copayment, or other limitations that are not generally applicable to other medical care covered under the plan may not be imposed on the coverage under this section.

(5) This section also applies to the state employee group insurance program, the university system employee group insurance program, any employee group insurance program of a city, town, school district, or other political subdivision of this state, and any self-funded multiple employer welfare arrangement that is not regulated by the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq.

(6) This section does not apply to disability income, hospital indemnity, medicare supplement, accident-only, vision, dental, specific disease, or long-term care policies.

(7) As used in this section, the following definitions apply:

(a) "Amplification device" means a hearing device, hearing aid, or a wearable, nondisposable, nonexperimental instrument or device designed to aid or compensate for impaired human hearing and any parts, attachments, or accessories for the instrument or device, including an ear mold but excluding batteries and cords.

(b) "Generally accepted standards of medical practice" means standards that are based on credible scientific evidence published in peer-reviewed medical literature generally recognized by the relevant medical community, physician specialty society recommendations, the view of physicians practicing in relevant clinical areas, and any other relevant factors.

(c) "Health care provider" means an individual licensed under Title 37, chapter 3, 15, or 20. A nurse practitioner licensed under Title 37, chapter 8, also is a health care provider for the purposes of this section.

(d) "Hearing loss" means a disruption in the normal hearing process that may occur in the outer, middle, or inner ear, whereby sound waves are not converted to electrical signals and nerve impulses are not transmitted to the brain to be interpreted.

(e) "Medical necessity" means health care services that a physician, exercising prudent clinical judgment, would provide to a patient for the purpose of preventing, evaluating, diagnosing, or treating an illness, injury, disease, or its symptoms, and that are:

- (i) in accordance with generally accepted standards of medical practice;
- (ii) clinically appropriate, in terms of type, frequency, extent, site, and duration, and considered effective for the patient's illness, injury, or disease;
- (iii) not primarily for the convenience of the patient, physician, or other health care provider; and

- (iv) not more costly than an alternative service or sequence of services at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of that patient's illness, injury, or disease.

Section 2. Section 2-18-704, MCA, is amended to read:

"2-18-704. Mandatory provisions. (1) An insurance contract or plan issued under this part must contain provisions that permit:

- (a) the member of a group who retires from active service under the appropriate retirement provisions of a defined benefit plan provided by law or, in the case of the defined contribution plan provided in Title 19, chapter 3, part 21, a member with at least 5 years of service and who is at least age 50 while in covered employment to remain a member of the group until the member becomes eligible for medicare under the federal Health Insurance for

the Aged Act, 42 U.S.C. 1395, unless the member is a participant in another group plan with substantially the same or greater benefits at an equivalent cost or unless the member is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost;

(b) the surviving spouse of a member to remain a member of the group as long as the spouse is eligible for retirement benefits accrued by the deceased member as provided by law unless the spouse is eligible for medicare under the federal Health Insurance for the Aged Act or unless the spouse has or is eligible for equivalent insurance coverage as provided in subsection (1)(a);

(c) the surviving children of a member to remain members of the group as long as they are eligible for retirement benefits accrued by the deceased member as provided by law unless they have equivalent coverage as provided in subsection (1)(a) or are eligible for insurance coverage by virtue of the employment of a surviving parent or legal guardian.

(2) An insurance contract or plan issued under this part must contain the provisions of subsection (1) for remaining a member of the group and also must permit:

(a) the spouse of a retired member the same rights as a surviving spouse under subsection (1)(b);

(b) the spouse of a retiring member to convert a group policy as provided in 33-22-508; and

(c) continued membership in the group by anyone eligible under the provisions of this section, notwithstanding the person's eligibility for medicare under the federal Health Insurance for the Aged Act.

(3) (a) A state insurance contract or plan must contain provisions that permit a legislator to remain a member of the state's group plan until the legislator becomes eligible for medicare under the federal Health Insurance for the Aged Act if the legislator:

(i) terminates service in the legislature and is a vested member of a state retirement system provided by law; and

(ii) notifies the department of administration in writing within 90 days of the end of the legislator's legislative term.

(b) A former legislator may not remain a member of the group plan under the provisions of subsection (3)(a) if the person:

(i) is a member of a plan with substantially the same or greater benefits at an equivalent cost; or

(ii) is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost.

(c) A legislator who remains a member of the group under the provisions of subsection (3)(a) and subsequently terminates membership may not rejoin the group plan unless the person again serves as a legislator.

(4) (a) A state insurance contract or plan must contain provisions that permit continued membership in the state's group plan by a member of the judges' retirement system who leaves judicial office but continues to be an inactive vested member of the judges' retirement system as provided by 19-5-301. The judge shall notify the department of administration in writing within 90 days of the end of the judge's judicial service of the judge's choice to continue membership in the group plan.

(b) A former judge may not remain a member of the group plan under the provisions of this subsection (4) if the person:

(i) is a member of a plan with substantially the same or greater benefits at an equivalent cost;

(ii) is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost; or

(iii) becomes eligible for medicare under the federal Health Insurance for the Aged Act.

(c) A judge who remains a member of the group under the provisions of this subsection (4) and subsequently terminates membership may not rejoin the group plan unless the person again serves in a position covered by the state's group plan.

(5) A person electing to remain a member of the group under subsection (1), (2), (3), or (4) shall pay the full premium for coverage and for that of the person's covered dependents.

(6) An insurance contract or plan issued under this part that provides for the dispensing of prescription drugs by an out-of-state mail service pharmacy, as defined in 37-7-702:

(a) must permit any member of a group to obtain prescription drugs from a pharmacy located in Montana that is willing to match the price charged to the group or plan and to meet all terms and conditions, including the same professional requirements that are met by the mail service pharmacy for a drug, without financial penalty to the member; and

(b) may only be with an out-of-state mail service pharmacy that is registered with the board under Title 37, chapter 7, part 7, and that is registered in this state as a foreign corporation.

(7) An insurance contract or plan issued under this part must include coverage for:

(a) treatment of inborn errors of metabolism, as provided for in 33-22-131; and

(b) therapies for Down syndrome, as provided in 33-22-139; and

(c) *treatment for children with hearing loss as provided in [section 1(1) and (2)].*

(8) (a) An insurance contract or plan issued under this part that provides coverage for an individual in a member's family must provide coverage for well-child care for children from the moment of birth through 7 years of age. Benefits provided under this coverage are exempt from any deductible provision that may be in force in the contract or plan.

(b) Coverage for well-child care under subsection (8)(a) must include:

(i) a history, physical examination, developmental assessment, anticipatory guidance, and laboratory tests, according to the schedule of visits adopted under the early and periodic screening, diagnosis, and treatment services program provided for in 53-6-101; and

(ii) routine immunizations according to the schedule for immunization recommended by the ~~immunization—practice~~ advisory committee *on immunization practices* of the U.S. department of health and human services.

(c) Minimum benefits may be limited to one visit payable to one provider for all of the services provided at each visit as provided for in this subsection (8).

(d) For purposes of this subsection (8):

(i) "developmental assessment" and "anticipatory guidance" mean the services described in the Guidelines for Health Supervision II, published by the American academy of pediatrics; and

(ii) "well-child care" means the services described in subsection (8)(b) and delivered by a physician or a health care professional supervised by a physician.

(9) Upon renewal, an insurance contract or plan issued under this part under which coverage of a dependent terminates at a specified age must

continue to provide coverage for any dependent, as defined in the insurance contract or plan, until the dependent reaches 26 years of age. For insurance contracts or plans issued under this part, the premium charged for the additional coverage of a dependent, as defined in the insurance contract or plan, may be required to be paid by the insured and not by the employer.

(10) Prior to issuance of an insurance contract or plan under this part, written informational materials describing the contract's or plan's cancer screening coverages must be provided to a prospective group or plan member.

(11) The state employee group benefit plans and the Montana university system group benefits plans must provide coverage for hospital inpatient care for a period of time as is determined by the attending physician and, in the case of a health maintenance organization, the primary care physician, in consultation with the patient to be medically necessary following a mastectomy, a lumpectomy, or a lymph node dissection for the treatment of breast cancer.

(12) (a) The state employee group benefit plans and the Montana university system group benefits plans must provide coverage for outpatient self-management training and education for the treatment of diabetes. Any education must be provided by a licensed health care professional with expertise in diabetes.

(b) Coverage must include a \$250 benefit for a person each year for medically necessary and prescribed outpatient self-management training and education for the treatment of diabetes.

(c) The state employee group benefit plans and the Montana university system group benefits plans must provide coverage for diabetic equipment and supplies that at a minimum includes insulin, syringes, injection aids, devices for self-monitoring of glucose levels (including those for the visually impaired), test strips, visual reading and urine test strips, one insulin pump for each warranty period, accessories to insulin pumps, one prescriptive oral agent for controlling blood sugar levels for each class of drug approved by the United States food and drug administration, and glucagon emergency kits.

(d) Nothing in subsection (12)(a), (12)(b), or (12)(c) prohibits the state or the Montana university group benefit plans from providing a greater benefit or an alternative benefit of substantially equal value, in which case subsection (12)(a), (12)(b), or (12)(c), as appropriate, does not apply.

(e) Annual copayment and deductible provisions are subject to the same terms and conditions applicable to all other covered benefits within a given policy.

(f) This subsection (12) does not apply to disability income, hospital indemnity, medicare supplement, accident-only, vision, dental, specific disease, or long-term care policies offered by the state or the Montana university system as benefits to employees, retirees, and their dependents.

(13) (a) The state employee group benefit plans and the Montana university system group benefits plans that provide coverage to the spouse or dependents of a peace officer as defined in 45-2-101, a game warden as defined in 19-8-101, a firefighter as defined in 19-13-104, or a volunteer firefighter as defined in 19-17-102 shall renew the coverage of the spouse or dependents if the peace officer, game warden, firefighter, or volunteer firefighter dies within the course and scope of employment. Except as provided in subsection (13)(b), the continuation of the coverage is at the option of the spouse or dependents. Renewals of coverage under this section must provide for the same level of benefits as is available to other members of the group. Premiums charged to a spouse or dependent under this section must be the same as premiums charged to other similarly situated members of the group. Dependent special enrollment must be allowed under the terms of the insurance contract or plan.

The provisions of this subsection (13)(a) are applicable to a spouse or dependent who is insured under a COBRA continuation provision.

(b) The state employee group benefit plans and the Montana university system group benefits plans subject to the provisions of subsection (13)(a) may discontinue or not renew the coverage of a spouse or dependent only if:

(i) the spouse or dependent has failed to pay premiums or contributions in accordance with the terms of the state employee group benefit plans and the Montana university system group benefits plans or if the plans have not received timely premium payments;

(ii) the spouse or dependent has performed an act or practice that constitutes fraud or has made an intentional misrepresentation of a material fact under the terms of the coverage; or

(iii) the state employee group benefit plans and the Montana university system group benefits plans are ceasing to offer coverage in accordance with applicable state law.

(14) The state employee group benefit plans and the Montana university system group benefits plans must comply with the provisions of 33-22-153.

(15) An insurance contract or plan issued under this part and a group benefits plan issued by the Montana university system must provide mental health coverage that meets the provisions of Title 33, chapter 22, part 7. (See compiler's comments for contingent termination of certain text.)"

Section 3. Section 33-31-111, MCA, is amended to read:

"33-31-111. Statutory construction and relationship to other laws.

(1) Except as otherwise provided in this chapter, the insurance or health service corporation laws do not apply to a health maintenance organization authorized to transact business under this chapter. This provision does not apply to an insurer or health service corporation licensed and regulated pursuant to the insurance or health service corporation laws of this state except with respect to its health maintenance organization activities authorized and regulated pursuant to this chapter.

(2) Solicitation of enrollees by a health maintenance organization granted a certificate of authority or its representatives is not a violation of any law relating to solicitation or advertising by health professionals.

(3) A health maintenance organization authorized under this chapter is not practicing medicine and is exempt from Title 37, chapter 3, relating to the practice of medicine.

(4) This chapter does not exempt a health maintenance organization from the applicable certificate of need requirements under Title 50, chapter 5, parts 1 and 3.

(5) This section does not exempt a health maintenance organization from the prohibition of pecuniary interest under 33-3-308 or the material transaction disclosure requirements under 33-3-701 through 33-3-704. A health maintenance organization must be considered an insurer for the purposes of 33-3-308 and 33-3-701 through 33-3-704.

(6) This section does not exempt a health maintenance organization from:

(a) prohibitions against interference with certain communications as provided under Title 33, chapter 1, part 8;

(b) the provisions of Title 33, chapter 22, parts 7 and 19;

(c) the requirements of 33-22-134 and 33-22-135;

(d) network adequacy and quality assurance requirements provided under chapter 36; or

(e) the requirements of Title 33, chapter 18, part 9.

(7) Title 33, chapter 1, parts 6, 12, and 13, 33-2-1114, 33-2-1211, 33-2-1212, Title 33, chapter 2, parts 13, 19, and 23, 33-3-401, 33-3-422, 33-3-431, Title 33,

chapter 3, part 6, Title 33, chapter 10, Title 33, chapter 12, 33-15-308, Title 33, chapter 17, Title 33, chapter 19, 33-22-107, [section 1], 33-22-129, 33-22-131, 33-22-136, 33-22-137, 33-22-138, 33-22-139, 33-22-141, 33-22-142, 33-22-152, 33-22-153, 33-22-156 through 33-22-159, 33-22-180, 33-22-244, 33-22-246, 33-22-247, 33-22-514, 33-22-515, 33-22-521, 33-22-523, 33-22-524, 33-22-526, and Title 33, chapter 32, apply to health maintenance organizations.”

Section 4. Section 33-35-306, MCA, is amended to read:

“33-35-306. Application of insurance code to arrangements. (1) In addition to this chapter, self-funded multiple employer welfare arrangements are subject to the following provisions:

- (a) 33-1-111;
- (b) Title 33, chapter 1, part 4, but the examination of a self-funded multiple employer welfare arrangement is limited to those matters to which the arrangement is subject to regulation under this chapter;
- (c) Title 33, chapter 1, part 7;
- (d) Title 33, chapter 2, part 23;
- (e) 33-3-308;
- (f) Title 33, chapter 7;
- (g) Title 33, chapter 18, except 33-18-242;
- (h) Title 33, chapter 19;
- (i) 33-22-107, [section 1], 33-22-131, 33-22-134, 33-22-135, 33-22-138, 33-22-139, 33-22-141, 33-22-142, 33-22-152, and 33-22-153; and
- (j) 33-22-512, 33-22-515, 33-22-525, and 33-22-526.

(2) Except as provided in this chapter, other provisions of Title 33 do not apply to a self-funded multiple employer welfare arrangement that has been issued a certificate of authority that has not been revoked.”

Section 5. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 33, chapter 22, part 1, and the provisions of Title 33, chapter 22, part 1, apply to [section 1].

Section 6. Effective date. [This act] is effective January 1, 2022.

Section 7. Applicability. [This act] applies to health insurance plans and policies issued or renewed on or after January 1, 2022.

Approved April 16, 2021

CHAPTER NO. 210

[HB 292]

AN ACT GENERALLY REVISING LAWS RELATED TO TITLE INSURANCE REQUIRED FOR A LOCAL SUBDIVISION REVIEW; REQUIRING THAT A SUBDIVISION GUARANTEE MUST BE SUBMITTED WITH A FINAL PLAT; AND AMENDING SECTION 76-3-612, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 76-3-612, MCA, is amended to read:

“76-3-612. Abstract of title Subdivision guarantee required for review process. (1) The subdivider shall submit with the final plat a ~~certificate of a title abstracter~~ *subdivision guarantee issued by an authorized title insurer or its title insurance producer* showing the names of the owners of record of the land to be subdivided and the names of lienholders or claimants of record against the land and the written consent to the subdivision by the owners of the land, if other than the subdivider, and any lienholders or claimants of record against the land.

(2) The governing body may provide for the review of the ~~abstract or certificate of title of subdivision guarantee~~ for the land in question by the county attorney where the land lies in an unincorporated area or by the city or town attorney when the land lies within the limits of a city or town.

(3) *As used in this section, "subdivision guarantee" means a form of guarantee that is approved by the commissioner of insurance and is specifically designed to disclose the information required in subsection (1)."*

Approved April 16, 2021

CHAPTER NO. 211

[HB 305]

AN ACT GENERALLY REVISING LAWS RELATED TO ROADSIDE MENAGERIES, WILDLIFE SANCTUARIES, AND ZOOS; AUTHORIZING THE PERMITTING OF WILDLIFE SANCTUARIES; AUTHORIZING PERMITS TO OBTAIN WILD ANIMALS; REVISING REVOCATION PROVISIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING FEES AND PENALTIES; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 87-4-801, 87-4-802, 87-4-803, 87-4-804, 87-4-806, 87-5-709, 87-6-101, AND 87-6-715, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-4-801, MCA, is amended to read:

"87-4-801. Definitions. As used in this part unless the context requires otherwise, the following definitions apply:

(1) "Roadside menagerie" means any place where one or more wild animals, including birds, reptiles, and the like, are kept in captivity for the evident purpose of exhibition, or attracting trade, or other commercial purposes on or off the facility premises. It does not include the exhibition of any animal by an educational institution or by a traveling theatrical exhibition or circus based outside of Montana.

(2) "Wild animal" means an animal that is wild by nature as distinguished from the common domestic animals, whether the animal was bred or reared in captivity, and includes birds and reptiles.

(3) "Wild animal menagerie" means any place where one or more bears or large cats, including cougars, lions, tigers, jaguars, leopards, pumas, cheetahs, ocelots, and hybrids of those large cats are kept in captivity for use other than public exhibition.

(4) "Wildlife sanctuary" means a facility organized as a Montana nonprofit corporation pursuant to Title 35, chapter 2, or in good standing with and accredited by the American sanctuary association or the global federation of animal sanctuaries for the purpose of providing homes for nonreleasable wild animals. Accreditation and good standing must be proven with a copy of an accreditation report completed as required by the accrediting organization.

~~(4)(5)~~ "Zoo" means any zoological garden chartered as a nonprofit corporation by the state or any facility participating in in good standing with and accredited by the American zoo and aquarium association of zoos and aquariums or the zoological association of America accreditation program for the purpose of exhibiting wild animals for public viewing. Accreditation and good standing must be proven with a copy of an accreditation report completed as required by the accrediting organization."

Section 2. Section 87-4-802, MCA, is amended to read:

“87-4-802. Department regulations. The department shall adopt and enforce reasonable regulations for the housing, care, treatment, feeding, and sanitation of animals kept in roadside menageries, wild animal menageries, *wildlife sanctuaries*, and zoos, for the protection of the public from injury by those animals, and for the licensing of roadside menageries, wild animal menageries, *wildlife sanctuaries*, and zoos.”

Section 3. Section 87-4-803, MCA, is amended to read:

“87-4-803. Permits. (1) The department may grant permits for roadside menageries, wild animal menageries, *wildlife sanctuaries*, and zoos. Application for a permit must be made to the director on a form prescribed by the director. The annual permit fee for five or less animals is \$10. The annual permit fee for more than five animals is \$25. Permits expire on December 31 but may be renewed upon payment of the annual fee and submission of a renewal application. This section does not apply to the United States, the state of Montana, or any county or city. A person who subscribes to any false statement in application for a permit is subject to the provisions of 87-6-715 and may be denied a permit.

(2) (a) A permit application for a roadside menagerie must include:

- (i) the applicant's name and address;
- (ii) the exact location of the facility;
- (iii) a list of species and the number of animals to be held in the facility;
- (iv) the type of facility contemplated, including cage specifications;
- (v) a copy of all required federal permits for exhibition of wild animals;

and

(vi) a copy of a liability insurance policy to cover bodily injury or property damage.

(b) A permit application for a wild animal menagerie must include:

- (i) the applicant's name and address;
- (ii) the exact location of the facility, together with the nature of the applicant's title to the land, whether in fee, under lease, by contract for deed, or otherwise;

(iii) a list of species and the number of animals to be held in the facility;

(iv) the type of facility contemplated, including cage specifications; and

(v) information demonstrating that the applicant is responsible.

(c) A permit application for a *wildlife sanctuary* or a zoo must include:

(i) the applicant's name and address;

(ii) the exact location of the facility;

(iii) a copy of the nonprofit corporation documents approved by the secretary of state's office;

(iv) a copy of the required federal permits for exhibition of wild animals; and

(v) if applicable, a copy of the ~~American zoo and aquarium~~ association of zoos and aquariums, the zoological association of America, the American sanctuary association, or the global federation of animal sanctuaries accreditation program specific to the facility.

(3) Renewal applications for roadside menageries and wild animal menageries must include an accounting of all wild animals on the facility.

(4) A permit may not be granted by the department until it has satisfactorily verified that the provisions for housing and caring for the animals and for protecting the public are proper and adequate and in accordance with the standards established by the department.

(5) A permit is not transferable to another person.”

Section 4. Section 87-4-804, MCA, is amended to read:

"87-4-804. Permit to obtain wild animals. (1) It is unlawful to obtain *healthy* wild animals for a roadside menagerie, wild animal menagerie, *wildlife sanctuary*, or zoo by capture from the wild or by purchase except ~~as authorized that the capture and holding of injured wildlife or wildlife deemed nonreleasable~~ by the department and the United States fish and wildlife service *due to injury, human conflict, or seizure is permissible* in accordance with the terms of a permit *issued pursuant to this section*.

(2) Application for a capture permit may be made only by a *wildlife sanctuary or a zoo* and must be made to the director on a form prescribed by the director. After investigation by the department, the director may issue a capture permit without charge if the director finds:

(a) that all provisions of this part and of the department regulations are complied with by the applicant; and

(b) that the number and species of wildlife desired is not excessive under the circumstances.

(3) If wild animals are to be obtained by capture for use in a *wildlife sanctuary or zoos a zoo*, the permit must designate the number and the means of capture, but ownership of the wild animals captured ~~shall~~ *must* remain in the state of Montana.

(4) Roadside menageries, wild animal menageries, *wildlife sanctuaries*, and zoos may obtain captive-bred wild animals from a licensed zoo, menagerie, alternative livestock ranch, fur farm, game bird farm, *wildlife sanctuary*, or animal rehabilitation center.

(5) Wild animals may be bought, sold, or transferred under regulations that the department prescribes.

(6) The number of wild animals in a wild animal menagerie may not exceed 10."

Section 5. Section 87-4-806, MCA, is amended to read:

"87-4-806. Inspection, permit revocation, and redemption of wildlife. ~~All A roadside menageries menagerie, wild animal menageries menagerie, wildlife sanctuary, and zoos or zoo~~ and all equipment used in connection with ~~any a~~ roadside menagerie, wild animal menagerie, *wildlife sanctuary*, or zoo must be open to inspection at all reasonable hours. If upon inspection it is found that the roadside menagerie, wild animal menagerie, *wildlife sanctuary*, or zoo is not being operated in accordance with this part or with the department regulations, the director ~~shall may~~ revoke the permit without right of renewal. ~~and If a permit is revoked, the department shall redeem~~ take possession of all wildlife obtained by capture or unlawful propagation."

Section 6. Section 87-5-709, MCA, is amended to read:

"87-5-709. Exceptions and exemptions to possession and sale of exotic wildlife. (1) Sections 87-5-705 through 87-5-708 and this section do not apply to:

(a) institutions that have established that their proposed facilities are adequate to provide secure confinement of wildlife, including:

(i) an accredited zoological garden *or wildlife sanctuary* chartered by the state as a nonprofit corporation;

(ii) a roadside menagerie permitted under 87-4-803 that was established for the purpose of exhibition or attracting trade;

(iii) a research facility for testing and science that employs individuals licensed under 37-34-301 or that submits evidence to the department that it meets animal testing standards as provided by the national institutes of health, the national science foundation, the centers for disease control and

prevention, the United States department of agriculture, or another similar nationally recognized and approved testing standard; or

(b) domestic animals.

(2) Authorization for possession must be provided by the department for exotic wildlife possessed as of January 1, 2004, and the authorization may include any conditions and restrictions necessary to minimize risks.”

Section 7. Section 87-6-101, MCA, is amended to read:

“87-6-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) “Alternative livestock” means a privately owned caribou, white-tailed deer, mule deer, elk, moose, antelope, mountain sheep, or mountain goat indigenous to the state of Montana, a privately owned reindeer, or any other cloven-hoofed ungulate as classified by the department. Black bear and mountain lion must be regulated pursuant to Title 87, chapter 4, part 8.

(2) “Alternative livestock ranch” means the enclosed land area upon which alternative livestock may be kept for purposes of obtaining, rearing in captivity, keeping, or selling alternative livestock or parts of alternative livestock, as authorized under Title 87, chapter 4, part 4.

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

(b) The term does not include:

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

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

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

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

(5) “Cloven-hoofed ungulate” means an animal of the order Artiodactyla, except a member of the families Suidae, Camelidae, or Hippopotamidae. The term does not include domestic pigs, domestic cows, domestic yaks, domestic sheep, domestic goats that are not naturally occurring in the wild in their country of origin, or bison.

(6) “Conviction” means a judgment or sentence entered following a guilty plea, a nolo contendere plea, a verdict or finding of guilty rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury, or a forfeiture of bail or collateral deposited to secure the person’s appearance in court that has not been vacated.

(7) “Field trial” has the meaning provided in 87-3-601.

(8) “Fishing” means to take or harvest fish or the act of a person possessing any instrument, article, or substance for the purpose of taking or harvesting fish in any location that a fish might inhabit.

(9) (a) “Fur dealer” means a person engaging in, carrying on, or conducting wholly or in part the business of buying or selling, trading, or dealing within the state of Montana in the skins or pelts of fur-bearing animals or predatory animals.

(b) If a fur dealer resides in Montana or if the fur dealer’s principal place of business is within the state of Montana, the fur dealer is considered a resident fur dealer. All other fur dealers are considered nonresident fur dealers.

(10) “Fur farm” means enclosed land upon which furbearers are kept for purposes of obtaining, rearing in captivity, keeping, and selling furbearers or parts of furbearers.

(11) (a) “Fur-bearing animal” or “furbearer” means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox, and beaver.

(b) As used in Title 87, chapter 4, part 10, “furbearer” does not include fox or mink.

(12) “Game animal” means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, mountain lion, bear, and wild buffalo.

(13) “Game fish” means all species of the family Salmonidae (charrs, trout, salmon, grayling, and whitefish); all species of the genus *Stizostedion* (sandpike or sauger and walleyed pike or yellowpike perch); all species of the genus *Esox* (northern pike, pickerel, and muskellunge); all species of the genus *Micropterus* (bass); all species of the genus *Polyodon* (paddlefish); all species of the family Acipenseridae (sturgeon); all species of the genus *Lota* (burbot or ling); the species *Perca flavescens* (yellow perch); all species of the genus *Pomoxis* (crappie); and the species *Ictalurus punctatus* (channel catfish).

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

(15) “Knowingly” has the meaning provided in 45-2-101.

(16) “Livestock” includes ostriches, rheas, and emus.

(17) “Migratory game bird” means waterfowl, including wild ducks, wild geese, brant, and swans; cranes, including little brown and sandhill; rails, including coots; Wilson’s snipes or jacksnipes; and mourning doves.

(18) “Negligently” has the meaning provided in 45-2-101.

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

(20) “Open season” means the time during which game birds, fish, and game and fur-bearing animals may be lawfully taken.

(21) “Participating state” means any state that enacts legislation to become a member of the Interstate Wildlife Violator Compact.

(22) “Person” means an individual, association, partnership, and corporation.

(23) “Possession” has the meaning provided in 45-2-101.

(24) “Predatory animal” means coyote, weasel, skunk, and civet cat.

(25) “Purposely” has the meaning provided in 45-2-101.

(26) “Raptor” means all birds of the orders Falconiformes and Strigiformes, commonly called falcons, hawks, eagles, ospreys, and owls.

(27) “Resident” has the meaning provided in 87-2-102.

(28) “Roadside menagerie” means any place where one or more wild animals are kept in captivity for the evident purpose of exhibition or attracting trade, on or off the facility premises. It does not include the exhibition of any animal by an educational institution or by a traveling theatrical exhibition or circus based outside of Montana.

(29) “Sale” means a contract by which a person:

(a) transfers an interest in either game or fish for a price; or

(b) transfers, barters, or exchanges an interest either in game or fish for an article or thing of value.

(30) “Site of the kill” means the location where a game animal or game bird expires and the person responsible for the death takes physical possession of the carcass.

(31) "Supplemental feed attractant" means any food, garbage, or other attractant for game animals. The term does not include growing plants or plants harvested for the feeding of livestock.

(32) "Taxidermist" means a person who conducts a business for the purpose of mounting, preserving, or preparing all or part of the dead bodies of any wildlife.

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

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

(35) "Wild animal" means an animal that is wild by nature as distinguished from common domestic animals, whether the animal was bred or reared in captivity, and includes birds and reptiles.

(36) "Wild animal menagerie" means any place where one or more bears or large cats, including cougars, lions, tigers, jaguars, leopards, pumas, cheetahs, ocelots, and hybrids of those large cats, are kept in captivity for use other than public exhibition.

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

(38) *"Wildlife sanctuary" means a facility organized as a Montana nonprofit corporation pursuant to Title 35, chapter 2, or in good standing with and accredited by the American sanctuary association or the global federation of animal sanctuaries for the purpose of providing homes for nonreleasable wild animals. Accreditation and good standing must be proven with a copy of an accreditation report completed as required by the accrediting organization.*

~~(38)(39) "Zoo" means any zoological garden chartered as a nonprofit corporation by the state or any facility participating in in good standing with and accredited by the American zoo and aquarium association of zoos and aquariums or the zoological association of America accreditation program for the purpose of exhibiting wild animals for public viewing. Accreditation and good standing must be proven with a copy of an accreditation report completed as required by the accrediting organization."~~

Section 8. Section 87-6-715, MCA, is amended to read:

"87-6-715. Menagerie, sanctuary, and zoo offenses. (1) A person may not:

(a) operate a roadside menagerie or wild animal menagerie without a permit obtained pursuant to 87-4-803;

(b) subscribe to any false statement in an application for a permit; or

(c) obtain wild animals for a roadside menagerie, wild animal menagerie, *wildlife sanctuary*, or zoo by capture from the wild or by purchase except in accordance with 87-4-804.

(2) A person convicted of a violation of this section shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court."

Approved April 16, 2021

CHAPTER NO. 212

[HB 306]

AN ACT REVISING EXEMPTIONS TO PUBLIC SERVICE COMMISSION REGULATIONS OF MOTOR CARRIERS; PROVIDING AN EXEMPTION FOR CERTAIN TYPES OF RECREATIONAL AND TOURISM TRANSPORTATION; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 69-12-102, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 69-12-102, MCA, is amended to read:

“69-12-102. Scope of chapter – exemptions. (1) This chapter does not affect:

(a) the operation of school buses that are used in conveying pupils or other students enrolled in classes to and from district or other schools or in transportation movements related to school activities that are sponsored or supervised by school authorities;

(b) the transportation by means of motor vehicles in the regular course of business of employees by a person or corporation engaged exclusively in the construction or maintenance of highways or engaged exclusively in logging or mining operations, insofar as the use of employees in construction and production is concerned;

(c) the transportation of household goods and garbage by motor vehicle in a city, town, or village with a population of less than 500 persons according to the latest United States census or in the commercial areas of a city, town, or village with a population of less than 500 persons, as determined by the commission;

(d) the transportation of newspapers, newspaper supplements, periodicals, or magazines;

(e) motor vehicles used exclusively in carrying junk vehicles from a collection point to a motor vehicle wrecking facility or a motor vehicle graveyard;

(f) ambulances;

(g) the transportation by motor vehicle of not more than 15 passengers between their places of residence or termini near their residences and their places of employment in a single daily round trip if the driver is also going to or from the driver's place of employment;

(h) the operation of:

(i) a transportation system by a municipality or transportation district as provided in Title 7, chapter 14, part 2;

(ii) a municipal bus service pursuant to Title 7, chapter 14, part 44; or

(iii) any public transportation system recognized by the Montana department of transportation as a federal transit administration provider pursuant to 49 U.S.C. 5311;

(i) armored motor vehicles used for the transportation of valuable paintings and other items of unusual value requiring special handling and security;

(j) the transportation of household goods or garbage under an agreement between a motor carrier and an office or agency of the United States government;

(k) the transportation of persons provided by private, nonprofit organizations, including those recognized by the Montana department of transportation as federal transit administration providers pursuant to 49 U.S.C. 5310. As used in this subsection (1)(k), “private, nonprofit organizations” means organizations recognized as nonprofit under section 501(c) of the Internal Revenue Code.

- (l) the transportation of a group of passengers if:
 - (i) the motor vehicle used for the transportation of the passengers is designed to carry more than 26 passengers; and
 - (ii) the motor carrier has obtained a USDOT number from the U.S. department of transportation as provided in 49 CFR 390.19; **or**
 - (m) the transportation of a group of employees to or from a worksite by a motor carrier under contract with the employer for a period of time of at least 1 year; **or**
 - (n) *the transportation by motor vehicle of not more than 15 people to or from outdoor recreation sites, including but not limited to trailheads, fishing access sites, boat ramps and docks, ski slopes and trails, state parks, and national forests, or on a circular tour, with or without stops, of points of interest, except that the commission may require proof of insurance. The commission may not entertain third-party objections to the proof of insurance required under this subsection (1)(n). The commission may adopt rules to implement this subsection (1)(n).*
- (2) Except for the identification of ownership requirements provided in 69-12-408, this chapter does not affect commercial tow trucks designed and exclusively used in towing wrecked, disabled, or abandoned vehicles or while these tow trucks are rendering assistance to wrecked, disabled, or abandoned vehicles.
- (3) This chapter does not prevent bona fide leases, brokerage agreements, or buy-and-sell agreements.”

Approved April 16, 2021

CHAPTER NO. 213

[HB 307]

AN ACT REPEALING THE OBLIGATION OF ADULT CHILDREN TO SUPPORT INDIGENT PARENTS; AMENDING SECTIONS 40-6-214 AND 53-3-116, MCA; AND REPEALING SECTIONS 40-6-301, 40-6-302, AND 40-6-303, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 40-6-214, MCA, is amended to read:

~~“40-6-214. Reciprocal duties of parents and children in maintaining each other~~ Duties of parents to maintain children. It is the duty of the ~~father, the mother, and the children~~ *father and the mother* of any poor ~~person~~ *person* who is unable to provide self-maintenance by work to maintain that ~~person~~ *person* to the extent of ~~their~~ *the parent’s* ability. ~~The promise of an adult child to pay for necessities previously furnished to that parent is binding.”~~

Section 2. Section 53-3-116, MCA, is amended to read:

“53-3-116. Indigent assistance – optional county program.

(1) A county may provide a program of indigent assistance that it determines necessary. The program may include assistance for food, clothing, shelter, transportation, and medical assistance for individuals not eligible for state or federal programs providing similar assistance. A county may provide for the burial, entombment, or cremation of indigents. The indigent assistance program of the county includes:

- (a) job search, job training, work-for-assistance, and employment programs; and
- (b) health care, preventive care, and wellness programs as determined by the county commissioners.

(2) A county may establish the criteria for determining eligibility for assistance, including but not limited to residency requirements, limits on income and resources, and the amount, scope, and duration of assistance.

(3) A county may deny assistance for a reasonable period if a person has voluntarily left employment without good cause or is discharged due to misconduct.

(4) The program may be funded with money derived from a county mill levy as authorized by law.

(5) A person is indigent for purposes of this subsection if the value of all income and resources available to pay for that person's burial, entombment, or cremation at the time of death is less than the negotiated amount due the funeral home or mortician for an indigent burial. Available income and resources may be determined by the county.

~~(6) A county may seek reimbursement under 40-6-303, if applicable, for costs paid under this section.~~

~~(7)(6)~~ A county may not deduct amounts that may be ~~recovered from an adult child of a deceased indigent or~~ recovered from resources of a deceased indigent from a contract amount due a funeral home or mortician for burial services provided under 7-4-2915 or this section. A funeral home or a mortician that recovers an amount in excess of a contract amount paid under this subsection shall reimburse the county for the amount recovered up to the amount of the contract."

Section 3. Repealer. The following sections of the Montana Code Annotated are repealed:

40-6-301. Duty of child to support indigent parents.

40-6-302. Failure to support -- misdemeanor.

40-6-303. Civil action to enforce duty to support.

Approved April 16, 2021

CHAPTER NO. 214

[HB 328]

AN ACT PROVIDING REQUIREMENTS FOR EVALUATING AND ASSESSING LANGUAGE AND LITERACY DEVELOPMENT IN DEAF AND HARD-OF-HEARING CHILDREN; PROVIDING FOR THE SELECTION OF LANGUAGE-SPECIFIC EVALUATION AND ASSESSMENT TOOLS AND THE SHARING OF THE TOOLS WITH PROVIDERS; AND PROVIDING FOR AN ANNUAL REPORT REGARDING THE LANGUAGE AND LITERACY DEVELOPMENT OF DEAF AND HARD-OF-HEARING CHILDREN.

Be it enacted by the Legislature of the State of Montana:

Section 1. Evaluation and assessment of language and literacy development in deaf and hard-of-hearing children – report. (1) In providing early intervention services for deaf and hard-of-hearing children and their families pursuant to Part C of the Individuals with Disabilities Education Act, 20 U.S.C. 1431, et seq., the department of public health and human services shall provide a list of tools for qualified personnel to use in evaluating and assessing the language and literacy development of deaf and hard-of-hearing children.

(2) A tool:

(a) must be in a format that shows the stages of language development for English, for American sign language, or for another language spoken in the child's home;

(b) must be used by qualified personnel to track the development of deaf and hard-of-hearing children's expressive and receptive language acquisition and developmental stages toward literacy;

(c) must be selected from existing instruments or assessments used to assess the development of all children from birth to 3 years of age; and

(d) must be appropriate, in both content and administration, for use with deaf and hard-of-hearing children.

(3) The tools may be used, as part of the assessment required by federal law, by a child's individualized family service plan to track the child's progress and to establish or modify the child's individualized family service plan.

(4) The department shall provide a list of tools selected pursuant to this section to providers of early intervention services to track the language and literacy development of the deaf and hard-of-hearing children to whom the provider is providing services.

(5) The department shall prepare an annual report, using existing data that is reported in compliance with federal requirements, regarding the language and literacy development in deaf and hard-of-hearing children from birth to 3 years of age. The department shall make the report available on its website.

Section 2. Codification instruction. [Section 1] is intended to be codified as a new part in Title 52, chapter 2, and the provisions of Title 52, chapter 2, apply to [section 1].

Approved April 16, 2021

CHAPTER NO. 215

[HB 346]

AN ACT REVISING PROPERTY TAX LAWS RELATED TO SOLAR PANEL SYSTEMS; CLASSIFYING UTILITY-SCALE SOLAR FACILITIES AS CLASS THIRTEEN PROPERTY; AMENDING SECTION 15-6-156, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-6-156, MCA, is amended to read:

"15-6-156. Class thirteen property -- description -- taxable percentage. (1) Except as provided in subsections (2)(a) through (2)(h), class thirteen property includes:

(a) electrical generation facilities, except wind generation facilities, biomass generation facilities, and energy storage facilities classified under 15-6-157, of a centrally assessed electric power company;

(b) electrical generation facilities, except wind generation facilities, biomass generation facilities, and energy storage facilities classified under 15-6-157, owned or operated by an exempt wholesale generator or an entity certified as an exempt wholesale generator pursuant to 42 U.S.C. 16451;

(c) noncentrally assessed electrical generation facilities, except wind generation facilities, biomass generation facilities, and energy storage facilities classified under 15-6-157, owned or operated by any electrical energy producer;

(d) allocations of centrally assessed telecommunications services companies; and

(e) dedicated communications infrastructure described in 15-6-162(5) for which construction commenced after June 30, 2027, or for which the 15-year period provided for in 15-6-162(5)(c) has expired.

(2) Class thirteen property does not include:

(a) property owned by cooperative rural electric cooperative associations classified under 15-6-135;

(b) property owned by cooperative rural electric cooperative associations classified under 15-6-137 or 15-6-157;

(c) allocations of electric power company property under 15-6-141;

(d) electrical generation facilities included in another class of property;

(e) property owned by cooperative rural telephone associations and classified under 15-6-135;

(f) property owned by organizations providing telecommunications services and classified under 15-6-135;

(g) generation facilities that are exempt under 15-6-225; and

(h) qualified data centers classified under 15-6-162.

(3) (a) For the purposes of this section, “electrical generation facilities” means any combination of a physically connected generator or generators, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electric power. The term includes but is not limited to generating facilities that produce electricity from coal-fired steam turbines, oil or gas turbines, or turbine generators that are driven by falling water, or solar panel systems.

(b) The term does not include electrical generation facilities used for noncommercial purposes or exclusively for agricultural purposes.

(c) (i) ~~The term also does not include a qualifying small power production facility, as that term is defined in 16 U.S.C. 796(17), that is owned and operated by a person not primarily engaged in the generation or sale of electricity other than electric power from a small power production facility and classified under 15-6-134 and 15-6-138 a qualifying facility certified by the federal energy regulatory commission.~~

(ii) *To qualify for consideration of an abatement as allowed in 15-24-1402, the requesting entity must disclose, in writing, its intent to request certification as a qualifying facility to the governing body.*

(iii) *If the intent is not disclosed and an abatement granted, abatement may be rescinded by the governing body.*

(iv) *Certified qualifying facilities are classified under 15-6-134 and 15-6-138.*

(d) *The term also does not include a facility that is owned and operated by a person not primarily engaged in the generation or sale of electricity other than power from a small power production facility and classified under 15-6-134 and 15-6-138.*

(4) Class thirteen property is taxed at 6% of its market value.”

Section 2. Effective date. [This act] is effective October 1, 2021.

Section 3. Applicability. [This act] applies to tax years beginning after December 31, 2021.

Approved April 16, 2021

CHAPTER NO. 216

[HB 364]

AN ACT REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO PROVIDE INFORMATION ABOUT INVESTIGATIONS TO CERTAIN MANDATORY REPORTERS ON REQUEST; AND AMENDING SECTION 41-3-201, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 41-3-201, MCA, is amended to read:

“41-3-201. Reports. (1) When the professionals and officials listed in subsection (2) know or have reasonable cause to suspect, as a result of information they receive in their professional or official capacity, that a child is abused or neglected by anyone regardless of whether the person suspected of causing the abuse or neglect is a parent or other person responsible for the child's welfare, they shall report the matter promptly to the department of public health and human services.

(2) Professionals and officials required to report are:

(a) a physician, resident, intern, or member of a hospital's staff engaged in the admission, examination, care, or treatment of persons;

(b) a nurse, osteopath, chiropractor, podiatrist, medical examiner, coroner, dentist, optometrist, or any other health or mental health professional;

(c) religious healers;

(d) school teachers, other school officials, and employees who work during regular school hours;

(e) a social worker, operator or employee of any registered or licensed day-care or substitute care facility, staff of a resource and referral grant program organized under 52-2-711 or of a child and adult food care program, or an operator or employee of a child-care facility;

(f) a foster care, residential, or institutional worker;

(g) a peace officer or other law enforcement official;

(h) a member of the clergy, as defined in 15-6-201(2)(b);

(i) a guardian ad litem or a court-appointed advocate who is authorized to investigate a report of alleged abuse or neglect;

(j) an employee of an entity that contracts with the department to provide direct services to children; and

(k) an employee of the department while in conduct of the employee's duties.

(3) A professional listed in subsection (2)(a) or (2)(b) involved in the delivery or care of an infant shall report to the department any infant known to the professional to be affected by a dangerous drug, as defined in 50-32-101.

(4) Any person may make a report under this section if the person knows or has reasonable cause to suspect that a child is abused or neglected.

(5) (a) When a professional or official required to report under subsection (2) makes a report, the department:

(i) may share information with:

~~(i)(A)~~ that professional or official;

~~(i)(B)~~ other individuals with whom the professional or official works in an official capacity if the individuals are part of a team that responds to matters involving the child or the person about whom the report was made and the professional or official has asked that the information be shared with the individuals; or

~~(i)(C)~~ the child abuse and neglect review commission established in 2-15-2019; and

(ii) shall share information with the individuals listed in subsections (5)(a)(i)(A) and (5)(a)(i)(B) on specific request. Information shared pursuant to this subsection (5)(a)(ii) may be limited to the outcome of the investigation and any subsequent action that will be taken on behalf of the child who is the subject of the report.

(b) The department may provide information in accordance with 41-3-202(8) and also share information about the investigation, limited to its

outcome and any subsequent action that will be taken on behalf of the child who is the subject of the report.

(c) Individuals who receive information pursuant to this subsection (5) shall maintain the confidentiality of the information as required by 41-3-205.

(6) (a) Except as provided in subsection (6)(b) or (6)(c), a person listed in subsection (2) may not refuse to make a report as required in this section on the grounds of a physician-patient or similar privilege.

(b) A member of the clergy or a priest is not required to make a report under this section if:

(i) the knowledge or suspicion of the abuse or neglect came from a statement or confession made to the member of the clergy or the priest in that person's capacity as a member of the clergy or as a priest;

(ii) the statement was intended to be a part of a confidential communication between the member of the clergy or the priest and a member of the church or congregation; and

(iii) the person who made the statement or confession does not consent to the disclosure by the member of the clergy or the priest.

(c) A member of the clergy or a priest is not required to make a report under this section if the communication is required to be confidential by canon law, church doctrine, or established church practice.

(7) The reports referred to under this section must contain:

(a) the names and addresses of the child and the child's parents or other persons responsible for the child's care;

(b) to the extent known, the child's age and the nature and extent of the child's injuries, including any evidence of previous injuries;

(c) any other information that the maker of the report believes might be helpful in establishing the cause of the injuries or showing the willful neglect and the identity of the person or persons responsible for the injury or neglect; and

(d) the facts that led the person reporting to believe that the child has suffered injury or injuries or willful neglect, within the meaning of this chapter. (Subsection ~~(5)(a)(iii)~~ (5)(a)(i)(C) terminates September 30, 2021--sec. 12, Ch. 235, L. 2017.)"

Approved April 16, 2021

CHAPTER NO. 217

[HB 383]

AN ACT GENERALLY REVISING LAWS REGARDING MOTORCYCLE ENDORSEMENTS ON DRIVER'S LICENSES; CLARIFYING THAT A MOTORCYCLE ENDORSEMENT IS NOT REQUIRED TO OPERATE A THREE-WHEELED MOTORCYCLE; AND AMENDING SECTION 61-5-102, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-5-102, MCA, is amended to read:

"61-5-102. Drivers to be licensed – penalty. (1) (a) Except as provided in 61-5-104, a person may not drive a motor vehicle upon a highway in this state unless the person has a valid Montana driver's license. A person may not receive a Montana driver's license until the person surrenders to the department all valid driver's licenses issued by any other jurisdiction. A person may not have in the person's possession or under the person's control more than one valid Montana driver's license at any time.

(b) Except as provided in subsection (1)(c), the penalty for a violation of this section is a fine of not more than \$500.

(c) A person who is eligible to hold a driver's license and has obtained a valid driver's license but has not renewed the license as provided in 61-5-111(3)(c) is not subject to the penalty in subsection (1)(b).

(2) (a) (i) Except as provided in subsections (2)(a)(ii) and (2)(a)(iii), a license is not valid for the operation of a motorcycle unless the holder of the license has completed the requirements of 61-5-110 and the license has been clearly marked with the words "motorcycle endorsement".

(ii) A motorcycle endorsement is not required for the operation of a low-speed electric vehicle or a motorcycle that is propelled by an electric motor or other device that transforms stored electrical energy into the motion of the vehicle, has a fully enclosed cab, is equipped with three wheels in contact with the ground, and is equipped with a seat and seatbelts.

(iii) A motorcycle endorsement is not required for the operation of an autocycle or a three-wheeled motorcycle.

(b) A license is not valid for the operation of a commercial motor vehicle unless the holder of the license has completed the requirements of 61-5-110, the license has been clearly marked with the words "commercial driver's license", and the license bears the proper endorsement for:

(i) the specific vehicle type or types being operated; or

(ii) the passengers or type or types of cargo being transported.

(3) A low-speed restricted driver's license is not valid for the operation of a motor vehicle other than a low-speed electric vehicle or a golf cart.

(4) When a city or town requires a licensed driver to obtain a local driving license or permit, a license or permit may not be issued unless the applicant presents a state driver's license valid under the provisions of this chapter."

Approved April 16, 2021

CHAPTER NO. 218

[HB 386]

AN ACT REVISING LAWS RELATED TO AUXILIARY OFFICERS; ALLOWING AN AUXILIARY OFFICER TO CARRY A WEAPON ON A SEARCH AND RESCUE MISSION WITH PRIOR APPROVAL OF THE SHERIFF; AND AMENDING SECTION 7-32-232, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-32-232, MCA, is amended to read:

"7-32-232. Role of auxiliary officers. (1) Auxiliary officers:

(a) are subordinate to full-time law enforcement officers; and

(b) may not serve unless supervised by a full-time law enforcement officer.

(2) ~~No auxiliary officer may carry a weapon while on assigned duty. An auxiliary officer may carry a weapon while on an official search and rescue mission with prior approval from the sheriff.~~

Approved April 16, 2021

CHAPTER NO. 219

[HB 393]

AN ACT REQUIRING THE COURT TO CONSIDER ADDITIONAL FACTORS WHEN ONE PARENT REQUESTS TO AMEND A PARENTING PLAN DUE TO A CHANGE IN RESIDENCE; AND AMENDING SECTION 40-4-219, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 40-4-219, MCA, is amended to read:

“40-4-219. Amendment of parenting plan – mediation. (1) The court may in its discretion amend a prior parenting plan if it finds, upon the basis of facts that have arisen since the prior plan or that were unknown to the court at the time of entry of the prior plan, that a change has occurred in the circumstances of the child and that the amendment is necessary to serve the best interest of the child.

(a) ~~In determining the child’s best interest under this section, the court may, in addition to how a proposed change will affect the child, the court shall consider the potential impact of the change on the criteria in 40-4-212, also consider 40-4-212 and whether:~~

- (a)(i) the parents agree to the amendment;
- (b)(ii) the child has been integrated into the family of the petitioner with consent of the parents;
- (c)(iii) the child is 14 years of age or older and desires the amendment; or
- (d)(iv) one parent has willfully and consistently:
- (i)(A) refused to allow the child to have any contact with the other parent;

or

(ii)(B) attempted to frustrate or deny contact with the child by the other parent.; or

(e)(b) *If one parent has changed or intends to change the child’s residence in a manner that significantly affects the child’s contact with the other parent, the court shall consider, in addition to all the criteria in 40-4-212 and subsection (1)(a):*

(i) *the feasibility of preserving the relationship between the nonrelocating parent and the child through suitable visitation arrangements, considering the logistics and financial circumstances of the parties;*

(ii) *the reasons of each parent for seeking or opposing the change of residence;*

(iii) *whether the parent seeking to change the child’s residence has demonstrated a willingness to promote the relationship between the child and the nonrelocating parent; and*

(iv) *whether reasonable alternatives to the proposed change of residence are available to the parent seeking to relocate.*

(2) A court may modify a de facto parenting arrangement in accordance with the factors set forth in 40-4-212.

(3) The court shall presume a parent is not acting in the child’s best interest if the parent does any of the acts specified in subsection ~~(1)(d)~~ (1)(a)(iv) or (8).

(4) The court may amend the prior parenting plan based on subsection ~~(1)(e)~~ (1)(b) to provide a new residential schedule for parental contact with the child and to apportion transportation costs between the parents.

(5) Attorney fees and costs must be assessed against a party seeking frivolous or repeated amendment if the court finds that the amendment action is vexatious and constitutes harassment.

(6) A parenting plan may be amended pursuant to 40-4-221 upon the death of one parent.

(7) As used in this section, “prior parenting plan” means a parenting determination contained in a judicial decree or order made in a parenting proceeding. In proceedings for amendment under this section, a proposed amended parenting plan must be filed and served with the motion for amendment and with the response to the motion for amendment. Preference must be given to carrying out the parenting plan.

(8) (a) If a parent or other person residing in that parent’s household has been convicted of any of the crimes listed in subsection (8)(b), the other parent or any other person who has been granted rights to the child pursuant to court order may file an objection to the current parenting order with the court. The parent or other person having rights to the child pursuant to court order shall give notice to the other parent of the objection as provided by the Montana Rules of Civil Procedure, and the other parent has 21 days from the notice to respond. If the parent who receives notice of objection fails to respond within 21 days, the parenting rights of that parent are suspended until further order of the court. If that parent responds and objects, a hearing must be held within 30 days of the response.

(b) This subsection (8) applies to the following crimes:

- (i) deliberate homicide, as described in 45-5-102;
- (ii) mitigated deliberate homicide, as described in 45-5-103;
- (iii) sexual assault, as described in 45-5-502;
- (iv) sexual intercourse without consent, as described in 45-5-503;
- (v) deviate sexual conduct with an animal, as described in 45-2-101 and prohibited under 45-8-218;
- (vi) incest, as described in 45-5-507;
- (vii) aggravated promotion of prostitution of a child, as described in 45-5-603(1)(b);
- (viii) endangering the welfare of children, as described in 45-5-622;
- (ix) partner or family member assault of the type described in 45-5-206(1)(a);
- (x) sexual abuse of children, as described in 45-5-625; and
- (xi) strangulation of a partner or family member, as described in 45-5-215.

(9) Except in cases of physical, sexual, or emotional abuse or threat of physical, sexual, or emotional abuse by one parent against the other parent or the child or when a parent has been convicted of a crime enumerated in subsection (8)(b), the court may, in its discretion, order the parties to participate in a dispute resolution process to assist in resolving any conflicts between the parties regarding amendment of the parenting plan. The dispute resolution process may include counseling or mediation by a specified person or agency, and court action.

(10) (a) Except as provided in subsection (10)(b), a court-ordered or de facto modification of a parenting plan based in whole or in part on military service orders of a parent is temporary and reverts to the previous parenting plan at the end of the military service. If a motion for an amendment of a parenting plan is filed after a parent returns from military service, the court may not consider a parent’s absence due to that military service in its determination of the best interest of the child.

(b) A parent who has performed or is performing military service, as defined in 10-1-1003, may consent to a temporary or permanent modification of a parenting plan:

- (i) for the duration of the military service; or
- (ii) that continues past the end of the military service.”

Approved April 16, 2021

CHAPTER NO. 220

[HB 407]

AN ACT GENERALLY REVISING LAWS RELATED TO ESTABLISHING STATEWIDE UNIFORMITY FOR AUXILIARY CONTAINER REGULATIONS; PREEMPTING LOCAL ORDINANCES, RESOLUTIONS, INITIATIVES, OR REFERENDUMS REGULATING AUXILIARY CONTAINERS; PROHIBITING LOCAL GOVERNMENTS FROM ADOPTING OR ENFORCING ORDINANCES, RESOLUTIONS, INITIATIVES, OR REFERENDUMS REGULATING THE USE, DISPOSITION, SALE, PROHIBITIONS, FEES, CHARGES, OR TAXES ON AUXILIARY CONTAINERS; PROVIDING CERTAIN EXCEPTIONS; AND AMENDING SECTIONS 7-1-111 AND 7-5-131, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Statewide uniformity for auxiliary container regulations – local prohibitions – definitions. (1) The purpose of this section is to preempt any local ordinance, resolution, initiative, or referendum regulating the use, disposition, sale, prohibitions, fees, charges, or taxes on certain containers.

(2) Except as provided in subsection (3), a local unit of government may not adopt or enforce any local ordinance, resolution, initiative, or referendum that:

- (a) regulates the use, disposition, or sale of auxiliary containers;
- (b) prohibits or restricts auxiliary containers; or
- (c) imposes a fee, charge, or tax on auxiliary containers.

(3) The prohibitions in subsection (2) may not be construed to prohibit, restrict, or apply to any of the following:

- (a) a curbside recycling program;
- (b) a designated residential or commercial recycling location;
- (c) a commercial recycling program;
- (d) an ordinance that prohibits littering; or
- (e) the use of auxiliary containers on property owned by a local unit of government.

(5) As used in this section, unless the context requires otherwise, the following terms apply:

(a) “Auxiliary container” means a bag, cup, bottle, can, device, eating or drinking utensil or tool, or other packaging, whether reusable or single use, that is:

(i) made of cloth, paper, plastic, including foamed or expanded plastic, cardboard, corrugated material, aluminum, glass, postconsumer recycled material, or similar material or substrates, including coated, laminated, or multilayer substrates; and

(ii) designed for transporting, consuming, or protecting merchandise, food, or a beverage to or from, or at, a food service, manufacturing, distribution or processing facility, or retail facility.

(b) “Local unit of government” means any county, municipality, school district, special district or other political subdivision of the state, including any agency or governing body of a local unit of government as defined by 7-4-502, or a similar unit of government of another state or nation.

Section 2. Section 7-1-111, MCA, is amended to read:

“7-1-111. (Subsection (21) effective October 1, 2021) Powers denied. A local government unit with self-government powers is prohibited from exercising the following:

(1) any power that applies to or affects any private or civil relationship, except as an incident to the exercise of an independent self-government power;

(2) any power that applies to or affects the provisions of 7-33-4128 or Title 39, except that subject to those provisions, it may exercise any power of a public employer with regard to its employees;

(3) any power that applies to or affects the public school system, except that a local unit may impose an assessment reasonably related to the cost of any service or special benefit provided by the unit and shall exercise any power that it is required by law to exercise regarding the public school system;

(4) any power that prohibits the grant or denial of a certificate of compliance or a certificate of public convenience and necessity pursuant to Title 69, chapter 12;

(5) any power that establishes a rate or price otherwise determined by a state agency;

(6) any power that applies to or affects any determination of the department of environmental quality with regard to any mining plan, permit, or contract;

(7) any power that applies to or affects any determination by the department of environmental quality with regard to a certificate of compliance;

(8) any power that defines as an offense conduct made criminal by state statute, that defines an offense as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6 months' imprisonment, or both, except as specifically authorized by statute;

(9) any power that applies to or affects the right to keep or bear arms;

(10) any power that applies to or affects a public employee's pension or retirement rights as established by state law, except that a local government may establish additional pension or retirement systems;

(11) any power that applies to or affects the standards of professional or occupational competence established pursuant to Title 37 as prerequisites to the carrying on of a profession or occupation;

(12) except as provided in 7-3-1105, 7-3-1222, or 7-31-4110, any power that applies to or affects Title 75, chapter 7, part 1, or Title 87;

(13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is intended to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title 70, chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require landlords to comply with ordinances or provisions that are applicable to all other businesses or residences within the local government's jurisdiction.

(14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy;

(15) subject to 80-10-110, any power to regulate the registration, packaging, labeling, sale, storage, distribution, use, or application of commercial fertilizers or soil amendments, except that a local government may enter into a cooperative agreement with the department of agriculture concerning the use and application of commercial fertilizers or soil amendments. This subsection is not intended to prevent or restrict a local government from adopting or implementing zoning regulations or fire codes governing the physical location or siting of fertilizer manufacturing, storage, and sales facilities.

(16) subject to 80-5-136(10), any power to regulate the cultivation, harvesting, production, processing, sale, storage, transportation, distribution, possession, use, and planting of agricultural seeds or vegetable seeds as defined in 80-5-120. This subsection is not intended to prevent or restrict a local government from adopting or implementing zoning regulations or building codes governing the physical location or siting of agricultural or vegetable

seed production, processing, storage, sales, marketing, transportation, or distribution facilities.

(17) any power that prohibits the operation of a mobile amateur radio station from a motor vehicle, including while the vehicle is in motion, that is operated by a person who holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or higher class, issued by the federal communications commission of the United States;

(18) subject to 76-2-240 and 76-2-340, any power that prevents the erection of an amateur radio antenna at heights and dimensions sufficient to accommodate amateur radio service communications by a person who holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or higher class, issued by the federal communications commission of the United States;

(19) any power to require a fee and a permit for the movement of a vehicle, combination of vehicles, load, object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a highway that is under the jurisdiction of an entity other than the local government unit;

(20) any power to enact an ordinance governing the private use of an unmanned aerial vehicle in relation to a wildfire;

(21) any power to prohibit completely adult-use providers, adult-use marijuana-infused products providers, and adult-use dispensaries from being located within the jurisdiction of the local government except as allowed in Title 16, chapter 12; or

(22) *any power as prohibited in [section 1(2)] affecting, applying to, or regulating the use, disposition, sale, prohibitions, fees, charges, or taxes on auxiliary containers, as defined in [section 1(5)].*"

Section 3. Section 7-5-131, MCA, is amended to read:

"7-5-131. Right of initiative and referendum. (1) *The Except as provided in subsection (2), the powers of initiative and referendum are reserved to the electors of each local government. Resolutions and ordinances within the legislative jurisdiction and power of the governing body of the local government; except those set out in subsection (2); may be proposed or amended and prior resolutions and ordinances may be repealed in the manner provided in 7-5-132 through 7-5-135 and 7-5-137.*

(2) The powers of initiative do not extend to the following:

- (a) the annual budget;
- (b) bond proceedings, except for ordinances authorizing bonds;
- (c) the establishment and collection of charges pledged for the payment of principal and interest on bonds;
- (d) the levy of special assessments pledged for the payment of principal and interest on bonds; or
- (e) the prioritization of the enforcement of any state law by a unit of local government; or

(f) *the regulation of auxiliary containers, defined in [section 1(5)], as prohibited by [section 1(2)].*"

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 7, and the provisions of Title 7 apply to [section 1].

Approved April 16, 2021

CHAPTER NO. 221

[HB 494]

AN ACT REVISING TRANSPORTATION CONSTRUCTION LAW; PROVIDING FOR COLLABORATIVE BROADBAND INSTALLATION; AND PROVIDING RULEMAKING AUTHORITY.

Be it enacted by the Legislature of the State of Montana:

Section 1. Broadband deployment. (1) The department shall maintain a list of entities working on broadband deployment in the state.

(2) When the department plans a highway construction project involving construction methods suitable for installing broadband conduit in the highway right-of-way or conducive to accessing the utility right-of-way, the department shall notify entities working on broadband deployment of the project to encourage collaborative broadband installation.

(3) The department may adopt administrative rules to implement this section.

(4) As used in this section, “entities working on broadband deployment” includes but is not limited to local governments, nonprofit organizations, cable television companies, and telephone companies.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 60, chapter 4, and the provisions of Title 60, chapter 4, apply to [section 1].

Approved April 16, 2021

CHAPTER NO. 222

[HB 499]

AN ACT REVISING CHILD ABUSE AND NEGLECT LAWS REGARDING REASONABLE EFFORTS REQUIRED TO PREVENT REMOVAL OF A CHILD FROM THE HOME OR TO REUNIFY FAMILIES SEPARATED BY THE STATE; DEFINING REASONABLE EFFORTS; AND AMENDING SECTION 41-3-423, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 41-3-423, MCA, is amended to read:

“41-3-423. Reasonable efforts required to prevent removal of child or to return – exemption – findings – permanency plan. (1) (a) The department shall make reasonable efforts to prevent the necessity of removal of a child from the child’s home and to reunify families that have been separated by the state.

(b) (i) *For the purposes of this subsection (1), the term “reasonable efforts” means the department shall in good faith develop and implement voluntary services agreements and treatment plans that are designed to preserve the parent-child relationship and the family unit and shall in good faith assist parents in completing voluntary services agreements and treatment plans.*

Reasonable efforts

(ii) *The term includes but is not limited to:*

(A) voluntary protective services agreements;;

(B) development of individual written case plans specifying state efforts to preserve or reunify families;;

(C) placement in the least disruptive setting possible *with priority given to family placement as provided in 41-3-439;*

(D) provision of services pursuant to a case plan *that is designed to address the parent's treatment and other needs precluding the parent from safely parenting, including but not limited to individual and family therapy, parent education, substance abuse treatment, and trauma-related services;* and

(E) periodic review of each case to ensure timely progress toward reunification or permanent placement.

(c) In determining preservation or reunification services to be provided and in making reasonable efforts at providing preservation or reunification services, the child's health and safety are of paramount concern.

(2) Except in a proceeding subject to the federal Indian Child Welfare Act, the department may, at any time during an abuse and neglect proceeding, make a request for a determination that preservation or reunification services need not be provided. If an indigent parent is not already represented by counsel, the court shall immediately provide for the appointment or assignment of counsel to represent the indigent parent in accordance with the provisions of 41-3-425. A court may make a finding that the department need not make reasonable efforts to provide preservation or reunification services if the court finds that the parent has:

(a) subjected a child to aggravated circumstances, including but not limited to abandonment, torture, chronic abuse, or sexual abuse or chronic, severe neglect of a child;

(b) committed, aided, abetted, attempted, conspired, or solicited deliberate or mitigated deliberate homicide of a child;

(c) committed aggravated assault against a child;

(d) committed neglect of a child that resulted in serious bodily injury or death; or

(e) had parental rights to the child's sibling or other child of the parent involuntarily terminated and the circumstances related to the termination of parental rights are relevant to the parent's ability to adequately care for the child at issue.

(3) Preservation or reunification services are not required for a putative father, as defined in 42-2-201, if the court makes a finding that the putative father has failed to do any of the following:

(a) contribute to the support of the child for an aggregate period of 1 year, although able to do so;

(b) establish a substantial relationship with the child. A substantial relationship is demonstrated by:

(i) visiting the child at least monthly when physically and financially able to do so; or

(ii) having regular contact with the child or with the person or agency having the care and custody of the child when physically and financially able to do so; and

(iii) manifesting an ability and willingness to assume legal and physical custody of the child if the child was not in the physical custody of the other parent.

(c) register with the putative father registry pursuant to Title 42, chapter 2, part 2, and the person has not been:

(i) adjudicated in Montana to be the father of the child for the purposes of child support; or

(ii) recorded on the child's birth certificate as the child's father.

(4) A judicial finding that preservation or reunification services are not necessary under this section must be supported by clear and convincing evidence.

(5) If the court finds that preservation or reunification services are not necessary pursuant to subsection (2) or (3), a permanency hearing must be held within 30 days of that determination and reasonable efforts, including consideration of both in-state and out-of-state permanent placement options for the child, must be made to place the child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanent placement of the child.

(6) If reasonable efforts have been made to prevent removal of a child from the home or to return a child to the child's home but continuation of the efforts is determined by the court to be inconsistent with the permanency plan for the child, the department shall make reasonable efforts to place the child in a timely manner in accordance with the permanency plan, including, if appropriate, placement in another state, and to complete whatever steps are necessary to finalize the permanent placement of the child. Reasonable efforts to place a child permanently for adoption or to make an alternative out-of-home permanent placement may be made concurrently with reasonable efforts to return a child to the child's home. Concurrent planning, including identifying in-state and out-of-state placements, may be used.

(7) When determining whether the department has made reasonable efforts to prevent the necessity of removal of a child from the child's home or to reunify families that have been separated by the state, the court shall review the services provided by the agency including, if applicable, protective services provided pursuant to 41-3-302."

Approved April 16, 2021

CHAPTER NO. 223

[HB 556]

AN ACT PROVIDING STUDENTS ALTERNATIVE MEANS OF EARNING A HIGH SCHOOL DIPLOMA; REQUIRING THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO CREATE A PROCESS FOR STUDENTS TO DEMONSTRATE PROFICIENCY OF HIGH SCHOOL CONTENT STANDARDS THROUGH ALTERNATIVE MEANS; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. State high school diploma – duties of superintendent of public instruction – rulemaking. (1) The superintendent of public instruction shall develop a process through which a resident of the state who has exhausted, in the determination of the superintendent, the possibility of earning a diploma from a high school accredited by the board of public education can pursue a Montana proficiency-based diploma by demonstrating:

(a) proficiency of the content standards adopted by the board of public education through alternative means; and

(b) perseverance and dedication in accomplishing a rigorous, long-term goal requiring maturity and the application of knowledge to real-world situations.

(2) When an individual demonstrates proficiency, perseverance, and dedication as determined by the superintendent of public instruction under subsection (1), the superintendent may issue to the individual a Montana proficiency-based diploma.

(3) An individual enrolled in a home school or nonpublic school is not eligible for a Montana proficiency-based diploma under this section.

(4) The superintendent of public instruction shall by rule prescribe the eligibility and qualifications for pursuing a Montana proficiency-based diploma under this section.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 20, chapter 3, part 1, and the provisions of Title 20, chapter 3, part 1, apply to [section 1].

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

Approved April 16, 2021

CHAPTER NO. 224

[HB 558]

AN ACT PROHIBITING A FRANCHISOR FROM ALTERING A CONTRACT IN THE EVENT OF A TRANSFER BY THE FRANCHISEE; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Transfer or sale of a franchise -- continuance of contracts. (1) Unless otherwise prohibited under a franchise agreement and in the event of a transfer between a franchisee and a third party, the franchisor may not unilaterally alter existing contracts between the franchisor and the franchisee and the transferee. A violation of this section constitutes an unfair trade practice subject to a \$10,000 fine for each violation.

(2) This section does not apply to:

- (a) motorsports dealer contracts under Title 30, chapter 14, part 25;
- (b) new motor vehicle franchise agreements under Title 61, chapter 4; or
- (c) farm implement dealership agreements under Title 30, chapter 11.

(3) For the purposes of this section, “franchise agreement” means a contract or agreement by which:

(a) a franchisee is granted the right to engage in business under a marketing plan prescribed in substantial part by the franchisor;

(b) the operation of the franchisee’s business is substantially associated with the franchisor’s trademark, trade name, logotype, or other commercial symbol or advertising designating the franchisor; and

(c) the franchisee is required to pay, directly or indirectly, a fee for the right to operate under the agreement.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 30, chapter 14, and the provisions of Title 30, chapter 14, apply to [section 1].

Section 3. Applicability. [This act] applies to franchise agreements entered into or renewed on or after [the effective date of this act].

Approved April 16, 2021

CHAPTER NO. 225

[HB 609]

AN ACT CREATING A SPECIAL REVENUE ACCOUNT TO PROVIDE AID TO COUNTIES FOR FUNERALS OF INDIGENT PERSONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING A STATUTORY APPROPRIATION; AND AMENDING SECTION 17-7-502, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Indigent funeral assistance. (1) (a) There is a special revenue account within the state special revenue fund established in 17-2-102 to aid counties in providing adequate burial, entombment, or cremation of an indigent person.

(b) There must be deposited in the account money received from donations to provide adequate burial, entombment, or cremation of an indigent person as defined in 53-3-116(5).

(c) Money in the account is statutorily appropriated, as provided in 17-7-502, to the department of administration and may only be used for those purposes provided in this section.

(2) (a) A county may request to receive funding from the special revenue account created in this section to provide assistance for the burial, entombment, or cremation of an indigent person regardless of whether the county currently provides an indigent assistance program as provided in 53-3-116.

(b) A county may not use the funding provided in this section to cover amounts prohibited in 53-3-116(7).

(3) The department of administration may adopt rules to implement this section.

Section 2. Section 17-7-502, MCA, is amended to read:

“17-7-502. Statutory appropriations – definition – requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 5-13-404; 7-4-2502; [section 1]; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-151; 76-13-150; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-2-526; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the

laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates June 30, 2021; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-209 terminates September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027; pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; and pursuant to sec. 5, Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023.)"

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 7, chapter 4, part 29, and the provisions of Title 7, chapter 4, part 29, apply to [section 1].

Approved April 16, 2021

CHAPTER NO. 226

[HB 49]

AN ACT REVISING FEES FOR DOCUMENTS SUBMITTED TO COUNTY CLERKS FOR RECORDING; INCREASING THE PER PAGE FEE AND ALLOCATING THE ADDITIONAL REVENUE TO COUNTY AND STATE LAND INFORMATION ACCOUNTS; AMENDING SECTION 7-4-2637, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-4-2637, MCA, is amended to read:

"7-4-2637. Fees for recording documents. (1) Except as provided in 7-2-2803(4) and 7-4-2631, the fee for recording a standard document that meets the requirements of 7-4-2636 is \$7 \$8 for each page or fraction of a page.

(2) Except as provided in 7-2-2803(4), the fee for recording a document that does not meet the requirements of 7-4-2636 is the fee specified in subsection (1) plus \$10.

(3) (a) Of the fees collected under subsection (1), *for each page or fraction of a page:*

(i) \$1 must be deposited in the records preservation fund, provided for in 7-4-2635;

(ii) ~~25~~ 50 cents must be deposited in the county land information account provided for in 7-6-2230;

(iii) ~~75 cents~~ \$1.50 must be transmitted each month to the department of revenue in the manner prescribed by the department of revenue for deposit in the Montana land information account created in 90-1-409; and

(iv) the remainder must be deposited as provided for in 7-4-2511.

(b) The fees collected under subsection (2) must be deposited in the records preservation fund provided for in 7-4-2635.”

Section 2. Effective date. [This act] is effective July 1, 2021.

Approved April 15, 2021

CHAPTER NO. 227

[HB 91]

AN ACT PROVIDING FOR AUTOMATIC REMOVAL FROM THE VIOLENT OFFENDER REGISTRY AFTER 10 YEARS FOR CERTAIN VIOLENT OFFENDERS AND FOR VACATING CONVICTIONS FOR FAILURE TO REGISTER AFTER 10 YEARS; REVISING WHEN AN OFFENDER MAY NOT PETITION TO BE REMOVED FROM THE SEXUAL OR VIOLENT OFFENDER REGISTRIES; AND AMENDING SECTIONS 46-23-506 AND 46-23-507, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-23-506, MCA, is amended to read:

“46-23-506. Duration of registration. (1) A sexual offender required to register under this part shall register for the remainder of the offender’s life, except as provided in subsection (3) or during a period of time during which the offender is in prison.

(2) (a) A violent offender required to register under this part ~~shall~~ register:

(a) *shall register* for the 10 years following release from confinement or, if not confined following sentencing, for the 10 years following the conclusion of the sentencing hearing, ~~but, and the offender after registering for 10 years, is not automatically relieved of the duty to register unless convicted as provided in subsection (2)(b) until a petition is granted under subsection (3)(a); or.~~

(b) ~~if convicted during the 10-year period provided in subsection (2)(a) of failing to register or keep registration current or of a felony, for the remainder of the offender’s life unless relieved of the duty to register as provided in subsection (3)(b).~~

(b) *If convicted during the 10-year period provided in subsection (2)(a) of failing to register or keep registration current or of a felony, the offender shall register for the remainder of the offender’s life unless relieved of the duty to register as provided in subsection (3).*

(c) *When an offender is relieved of the duty to register under subsection (2)(a), the department of justice shall remove the offender from the registry.*

(3) (a) ~~An offender required to register for 10 years under subsection (2)(a) may, after the 10 years have passed, petition the sentencing court or the district court for the judicial district in which the offender resides for an order relieving the offender of the duty to register. The petition must be served on~~

the county attorney in the county where the petition is filed. The petition must be granted if the defendant has not been convicted under subsection (2)(b).

(b) Except as provided in subsection (5), at any time after 10 years of registration for a *violent offender registered as provided in subsection (2)(b)* or a level 1 sexual offender and at any time after 25 years of registration for a level 2 sexual offender, an offender may petition the sentencing court or the district court for the judicial district in which the offender resides for an order relieving the offender of the duty to register. The petition must be served on the county attorney in the county where the petition is filed. Prior to a hearing on the petition, the county attorney shall mail a copy of the petition to the victim of the last offense for which the offender was convicted if the victim's address is reasonably available. The court shall consider any written or oral statements of the victim. The court may grant the petition upon finding that:

(i)(a) the offender has remained a law-abiding citizen; and

(ii)(b) continued registration is not necessary for public protection and that relief from registration is in the best interests of society.

(4) The offender may move that all or part of the proceedings in a hearing under subsection (3) be closed to the public, or the judge may close them on the judge's own motion. If a proceeding under subsection (3)(b) (3) is closed to the public, the judge shall permit a victim of the offense to be present unless the judge determines that exclusion of the victim is necessary to protect the offender's right of privacy or the safety of the victim. If the victim is present, the judge, at the victim's request, shall permit the presence of an individual to provide support to the victim unless the judge determines that exclusion of the individual is necessary to protect the offender's right to privacy.

(5) Subsection (3) does not apply to an offender who was convicted of:

(a) a violation of 45-5-503 if:

(i) the victim was compelled to submit by force, as defined in 45-5-501, against the victim or another; or

(ii) at the time the offense occurred, the victim was under 12 years of age;

(b) a violation of 45-5-507 if at the time the offense occurred the victim was under 12 years of age and the offender was 3 or more years older than the victim;

(c) a second or subsequent sexual or violent offense that requires registration; or

(d) a sexual offense and was designated as a sexually violent predator under 46-23-509."

Section 2. Section 46-23-507, MCA, is amended to read:

"46-23-507. Penalty. (1) A sexual or violent offender who knowingly fails to register, verify registration, or keep registration current under this part may be sentenced to a term of imprisonment of not more than 5 years or may be fined not more than \$10,000, or both.

(2) (a) *Violent offenders who were convicted of failing to register, verify registration, or keep registration current under this part after having successfully registered for 10 years and whose conviction occurred before [the effective date of this act] must have their conviction vacated.*

(b) *Within 1 year from [the effective date of this act], the department of justice shall provide notice to the appropriate district court for each conviction described in subsection (2)(a).*

(c) *Upon receiving notification from the department of justice, the district court shall, on its own motion, vacate the offender's conviction for failing to register, verify registration, or keep registration current.*

(3) *When the court vacates a conviction under this section, the court shall:*

(a) *send a copy of the order vacating the conviction to the prosecutor and the department of justice; and*

(b) *order the expungement of all records of arrest, investigation, and detention, and any court proceedings that may have been held by the court, the investigating law enforcement agency, or the department of justice related to the conviction.*

(4) *The prosecutor and the department of justice shall inform the person whose conviction has been vacated under this section that the conviction is vacated."*

Approved April 15, 2021

CHAPTER NO. 228

[HB 159]

AN ACT REVISING THE GOVERNOR'S POWER TO SPEND CERTAIN UNANTICIPATED FEDERAL FUNDS, ITEMS, AND SERVICES; PROVIDING FOR REVIEW OF THE GOVERNOR'S EMERGENCY AND DISASTER EXPENDITURE PLAN BY THE LEGISLATIVE FINANCE COMMITTEE; LIMITING STATUTORY APPROPRIATION AUTHORITY; PROVIDING FOR A LEGISLATIVE POLLING PROCESS BY THE SECRETARY OF STATE TO VOTE ON WHETHER TO APPROVE THE GOVERNOR'S EXPENDITURE PLAN AND EXCEED THE APPROPRIATION LIMIT; AMENDING SECTION 10-3-203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Statement of policy – poll of legislature – expenditure plan for unanticipated funds. (1) In order to prevent an overly broad delegation of legislative powers to the executive branch, to ensure continuity of government during a period of emergency as provided in Article III, section 2, of the Montana constitution, and to preserve strict accountability of all money spent by the state as provided in Article VIII, section 12, of the Montana constitution, the legislature retains the power to approve the governor's power over large unanticipated funds, items, and services received for purposes of emergency or disaster services while providing a means to provide for a prompt and timely oversight of the funds through an expedited polling process.

(2) As provided in 10-3-203(3)(b), when the legislature is not in session the legislative finance committee shall request that the secretary of state poll the members of the legislature to determine if a majority of the members of the house of representatives and a majority of the members of the senate are in favor of a legislative declaration approving the governor's expenditure plan.

(3) The request must:

(a) state the conditions warranting the poll;

(b) provide the recommendations of the legislative finance committee as provided in 10-3-203(3)(b); and

(c) provide a legislative declaration to affirm the governor's expenditure plan.

(4) Within 3 calendar days after receiving a request, the secretary of state shall send a ballot to all legislators by using any reasonable and reliable means, including electronic delivery, that contains the information provided in subsection (3) and the date by which legislators shall return the ballot, which may not be more than 10 calendar days after the date the ballots were sent.

(5) A legislator may cast and return a vote by delivering the ballot in person, by mailing, or by sending the ballot by facsimile transmission or electronic mail to the office of the secretary of state. A legislator may not change

the legislator's vote after the ballot is received by the secretary of state. The secretary of state shall tally the votes within 1 working day after the date for return of the votes. If a majority of the members in each house vote to approve the legislative declaration, then the governor's expenditure plan is approved and the governor is no longer bound to the appropriation limit in 10-3-203(3) for the applicable emergency or disaster.

(6) A ballot that is not returned by the deadline established by the secretary of state is considered a vote against the declaration.

(7) If the expenditure plan is not approved, the governor may submit a new expenditure plan under the provisions of 10-3-203(3) for the purpose of a revised poll of the legislature, call a special session of the legislature under the provisions of Article V, section 11, of the Montana constitution to consider the plan, or remain within the appropriation limit in 10-3-203(3).

Section 2. Section 10-3-203, MCA, is amended to read:

"10-3-203. Acceptance of services, gifts, grants, and loans.

(1) Whenever the federal government or any agency or officer of the federal government offers to the state, or through the state to any political subdivision of the state, services, equipment, supplies, materials, or funds by way of gift, grant, reimbursement of mutual aid, or loan for purposes of emergency or disaster services, the state, acting through the governor, or the political subdivision, acting through its executive officer or governing body, may accept the offer. Upon the acceptance, the governor of the state or the executive officer or governing body of the political subdivision may authorize any officer of the state or of the political subdivision to receive the services, equipment, supplies, materials, or funds on behalf of the state or political subdivision and subject to the terms of the offer and the rules, if any, of the agency making the offer.

(2) *The Subject to subsection (3), the funds, items, and services set forth in subsection (1) are statutorily appropriated, as provided in 17-7-502, to the governor for the purposes set forth in subsection (1) or to the department of natural resources and conservation for fire suppression purposes or costs.*

(3) (a) *The statutory appropriation provided in this section is limited to an amount equal to 5% of the general fund appropriations for the second year of the biennium in the most recently adopted general appropriations act for each emergency or disaster, unless the governor receives authorization from the legislature through a joint resolution or a bill during a regular or special session of the legislature or through the polling process in [section 1].*

(b) (i) *If the legislature is not in session and the funds, items, and services set forth in subsection (1) exceed the appropriation limit in subsection (3)(a), the governor shall submit a copy of the governor's recommendations to expend more than the appropriation limit in this section to the legislative fiscal analyst provided for in 5-12-302 as an expenditure plan. The plan must be provided in an electronic format.*

(ii) *The legislative finance committee provided for in 5-12-201 shall meet within 20 days of the date that the proposed plan is provided to the legislative fiscal analyst. The legislative finance committee may make recommendations concerning the governor's plan. The governor shall consider the recommendations of the legislative finance committee in determining how the money will be expended and either include or omit finance committee recommendations in the governor's plan.*

(iii) *The legislative finance committee shall provide a recommendation to the members of the senate and the house of representatives regarding whether to accept the governor's final expenditure plan and request a polling of the legislature pursuant to [section 1] within 10 calendar days of receiving the governor's final plan."*

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 10, chapter 3, part 2, and the provisions of Title 10, chapter 3, part 2, apply to [section 1].

Section 4. Effective date. [This act] is effective on passage and approval.

Approved April 15, 2021

CHAPTER NO. 229

[HB 201]

AN ACT CLARIFYING THE CALCULATION OF ZONE PAY AND TRAVEL ALLOWANCES IN A PREVAILING WAGE DISTRICT; PROVIDING A DEFINITION; AMENDING SECTION 18-2-411, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 18-2-411, MCA, is amended to read:

“18-2-411. Creation of prevailing wage rate districts. (1) Without taking into consideration heavy construction services and highway construction services wage rates, the commissioner shall divide the state into not more than five prevailing wage rate districts for building construction services and nonconstruction services.

(2) In initially determining the districts, the commissioner shall:

(a) follow the rulemaking procedures in the Montana Administrative Procedure Act; and

(b) publish the reasons supporting the creation of each district.

(3) A district boundary may not be changed except for good cause and in accordance with the rulemaking procedures in the Montana Administrative Procedure Act.

(4) The presence of collective bargaining agreements in a particular area may not be the sole basis for the creation of boundaries of a district, nor may the absence of collective bargaining agreements in a particular area be the sole basis for changing the boundaries of a district.

(5) For each prevailing wage rate district established under this section;:

(a) the commissioner shall determine the standard prevailing rate of wages to be paid employees, as provided in this part. The standard prevailing rate of wages for construction services, as determined by the commissioner in this subsection, must be used for calculating an apprentice’s wage, as provided in 39-6-108.

(b) *zone pay must be determined by measuring the road miles in one way over the shortest practical maintained route from the dispatch city to the center of the job; and*

(c) *the rate of travel allowances must be computed by measuring the road miles in one direction over the shortest practical maintained route from the dispatch city or the employee’s home, whichever is closest to the center of the job.*

(6) *As used in this section, “dispatch city” means the courthouse in either Billings, Bozeman, Butte, Great Falls, Helena, Kalispell, Miles City, Missoula, or Sidney that is closest to the center of the job and within the same prevailing wage district as the job.”*

Section 2. Effective date. [This act] is effective July 1, 2021.

Approved April 15, 2021

CHAPTER NO. 230

[HB 211]

AN ACT REVISING LAWS REGARDING VICTIM COMPENSATION; PROVIDING A PARENT OR GUARDIAN OF A MINOR VICTIM OF A SEXUAL OFFENSE IS ENTITLED TO CLAIM WAGE LOSS BENEFITS FOR ACTUAL WAGE LOSS DUE TO TAKING CARE OF THEIR CHILD AND TAKING THEIR CHILD TO MENTAL HEALTH OR MEDICAL TREATMENT DUE TO CRIMINALLY INJURIOUS CONDUCT RELATED TO THE CHILD'S VICTIMIZATION; AND AMENDING SECTION 53-9-128, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 53-9-128, MCA, is amended to read:

“53-9-128. Compensation benefits. (1) A claimant is entitled to weekly compensation benefits when the claimant has a total actual loss of wages due to injury as a result of criminally injurious conduct. During the time the claimant seeks weekly benefits, the claimant, as a result of the injury, must have no reasonable prospect of being regularly employed in the normal labor market. The weekly benefit amount is 66 2/3% of the wages received at the time of the criminally injurious conduct, subject to a maximum of one-half the state's average weekly wage as determined in 39-51-2201. Weekly compensation payments must be made at the end of each 2-week period. Weekly compensation payments may not be paid for the first week after the criminally injurious conduct occurred, but if total actual loss of wages continues for 1 week, weekly compensation payments must be paid from the date the wage loss began. Weekly compensation payments must continue until the claimant has a reasonable prospect of being regularly employed in the normal labor market.

(2) The claimant is entitled to be reimbursed for reasonable services by a physician or surgeon, reasonable hospital services and medicines, and other treatment approved by the office for the injuries suffered due to criminally injurious conduct. Unless expressly requested by the claimant, benefits may not be paid under this subsection until the claimant has been fully compensated for total wage loss benefits as provided in subsection (1) or (7).

(3) (a) The dependents of a victim who is killed as a result of criminally injurious conduct are entitled to receive, in a gross single amount payable to all dependents, weekly benefits amounting to 66 2/3% of the wages received at the time of the criminally injurious conduct causing the death, subject to a maximum of one-half the state's average weekly wage as determined in 39-51-2201. Weekly compensation payments must be made at the end of each 2-week period.

(b) Benefits under subsection (3)(a) must be paid to the spouse for the benefit of the spouse and other dependents unless the office determines that other payment arrangements should be made. If a spouse dies or remarries, benefits under subsection (3)(a) must cease to be paid to the spouse but must continue to be paid to the other dependents as long as their dependent status continues.

(4) Reasonable funeral and burial expenses of the victim, not exceeding \$3,500, must be paid if all other collateral sources have properly paid expenses but have not covered all expenses.

(5) Compensation payable to a victim and all of the victim's dependents in cases of the victim's death because of injuries suffered due to an act of criminally injurious conduct may not exceed \$25,000 in the aggregate.

(6) Compensation benefits are not payable for pain and suffering, inconvenience, physical impairment, or nonbodily damage.

(7) (a) A person who has suffered injury as a result of criminally injurious conduct and as a result of the injury has no reasonable prospect of being regularly employed in the normal labor market and who was employable but was not employed at the time of the injury may in the discretion of the office be awarded weekly compensation benefits in an amount determined by the office not to exceed \$100 per week. Weekly compensation payments must continue until the claimant has a reasonable prospect of being regularly employed in the normal labor market. The claimant must be awarded benefits as provided in subsection (2).

(b) The dependents of a victim who is killed as a result of criminally injurious conduct and who was employable but not employed at the time of death may in the discretion of the office be awarded, in a gross single amount payable to all dependents, a sum not to exceed \$100 per week, which is payable in the manner and for the period provided by subsection (3)(b) or for a shorter period as determined by the office. The claimant must be awarded benefits as provided in subsection (4).

(8) Except for benefits paid under subsections (3), (5), and (7)(b) or other benefits paid when the victim is killed as a result of criminally injurious conduct, amounts payable as weekly compensation may not be commuted to a lump sum and may not be paid less frequently than every 2 weeks.

(9) (a) Subject to the limitations in subsection ~~(9)(d)~~ (9)(e), the spouse, parent, child, brother, or sister of a victim who is killed as a result of criminally injurious conduct is entitled to reimbursement for mental health treatment received as a result of the victim's death.

(b) Subject to the limitations in subsection ~~(9)(d)~~ (9)(e), the parent, brother, or sister of a minor who is a victim of criminally injurious conduct involving a sexual offense and who is not entitled to receive services under Title 41, chapter 3, is entitled to reimbursement for mental health treatment received as a result of that criminally injurious conduct.

(c) *Subject to the limitations in subsection (9)(e), the parent or guardian of a minor who is a victim of criminally injurious conduct involving a sexual offense and who is not entitled to receive services under Title 41, chapter 3, is entitled to:*

(i) *claim benefits under subsection (1);*

(ii) *mileage at the rate allowed by the internal revenue service for the current year; and*

(iii) *if not receiving benefits under (9)(c)(i), actual wage loss reimbursement for wage loss incurred taking the minor victim to mental health or medical treatment received as a result of that criminally injurious conduct.*

~~(c)(d)~~ Subject to the limitations in subsection ~~(9)(d)~~ (9)(e), minor children who were present in a home where domestic violence occurred are entitled to reimbursement for mental health treatment received as a result of that criminally injurious conduct.

~~(d)(e)~~ Total payments made under subsections (9)(a) through ~~(9)(c)~~ (9)(d) may not exceed ~~\$2,000~~ \$5,000 or 12 consecutive months of treatment for each person, whichever occurs first."

Approved April 15, 2021

CHAPTER NO. 231

[HB 218]

AN ACT GENERALLY REVISING LAWS RELATED TO EXPRESSION ON CAMPUSES OF PUBLIC POSTSECONDARY INSTITUTIONS; PROVIDING PROTECTIONS FOR FREE EXPRESSION AND EXPRESSIVE ACTIVITY ON PUBLIC POSTSECONDARY INSTITUTION CAMPUSES; PROVIDING PENALTIES FOR VIOLATIONS; PROVIDING DEFINITIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the First Amendment of the United States Constitution and Article II, sections 5 through 7, of the Montana Constitution protect the rights of freedom of religion, freedom of association, freedom of speech, freedom of the press, and to petition the government for all citizens; and

WHEREAS, the United States Supreme Court has called public universities “peculiarly the ‘marketplace of ideas’, “ where young adults learn to exercise these constitutional rights necessary to participate in our system of government and to tolerate others’ exercise of the same rights, and therefore there is “no room for the view that... First Amendment protections should apply with less force on college campuses than in the community at large,” *Healy v. James*, 408 U.S. 169, 180 (1972); and

WHEREAS, the Montana Legislature views the exercise of First Amendment rights on the public postsecondary institutions’ campuses in Montana as a critical component of the education experience for students and requires that each public postsecondary institution in Montana ensures free, robust, and uninhibited debate and deliberations by students whether on or off campus; and

WHEREAS, the United States Supreme Court has warned that if public universities stifle student speech and prevent the open exchange of ideas on campus, “our civilization will stagnate and die,” *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957); and

WHEREAS, the Montana Legislature has determined that a significant amount of taxpayer dollars is appropriated to public postsecondary institutions each year, and therefore the Montana Legislature shall ensure that all postsecondary institutions receiving state funds recognize freedom of speech as a fundamental right for all.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 8], the following definitions apply:

(1) (a) “Materially and substantially disrupt” means conduct by a person who acts purposely or knowingly to:

- (i) significantly hinder the expressive activity of another person or group;
- (ii) prevent the communication of an expressive activity; or
- (iii) prevent the transaction of business at a lawful meeting, gathering, or procession by:

(A) engaging in fighting or other violent or unlawful behavior; or
(B) physically blocking or using threats of violence to prevent another person from attending, listening to, viewing, or otherwise participating in an expressive activity.

(b) The term does not include conduct that is protected under the first amendment of the United States constitution or under Article II, section 7, of the Montana constitution, including but not limited to:

(i) lawful protests in outdoor areas of campus; or
(ii) minor, brief, or fleeting nonviolent disruption of an event that is isolated or short in duration.

(2) (a) “Outdoor area of campus” means a generally accessible outside area of campus, such as grassy areas, walkways, or other similar common areas.

(b) The term does not include an outdoor area where access is restricted from a majority of the public.

(3) “Public postsecondary institution” means:

(a) a unit of the Montana university system as defined in 20-25-201; or

(b) a Montana community college, defined and organized as provided in 20-15-101.

(4) “Student” means a person who is enrolled full-time or part-time at a public postsecondary institution.

(5) “Student organization” means an officially recognized group or a group seeking official recognition at a public postsecondary institution that is comprised of students who receive or are seeking to receive a benefit through the public postsecondary institution.

Section 2. Protected expressive activities. Expressive activity protected under the provisions of [sections 1 through 8] includes but is not limited to any lawful oral, written, audiovisual, or electronic means by which individuals may communicate ideas to one another, including all forms of peaceful assembly, protests, speeches, guest speakers, distribution of printed materials, carrying signs, and circulating petitions.

Section 3. Public campus as public forum – free speech zone prohibited. (1) An outdoor area of campus of a public postsecondary institution is a public forum. A public postsecondary institution may not create a free speech zone or other designated outdoor areas of campus outside of which expressive activity is prohibited.

(2) A public postsecondary institution may maintain and enforce reasonable restrictions on the time, place, or manner of expressive activity. The restrictions must be narrowly tailored to serve a significant institutional interest. The restrictions must employ clear, published, content-neutral, and viewpoint-neutral criteria while providing for ample alternative means of expression. The restrictions must allow members of the public to spontaneously and contemporaneously assemble and distribute printed materials.

(3) This section may not be construed to limit the right of student expressive activity elsewhere on the public postsecondary institution’s campus.

Section 4. Noncommercial expressive activities – certain prohibitions allowable. (1) A public postsecondary institution shall permit a person to engage freely in noncommercial expressive activity on campus, subject to the provisions of [section 3], as long as the person’s expressive activity:

(a) is not unlawful; or

(b) does not materially and substantially disrupt the functioning of the public postsecondary institution.

(2) A public postsecondary institution may impose restrictions pursuant to [section 3] on noncommercial expressive activity. Any restrictions imposed must allow for members of the public to spontaneously and contemporaneously assemble, speak, and distribute printed materials.

(3) This section may not be construed to prevent a public postsecondary institution from prohibiting, limiting, or restricting expressive activity that is not protected by the first amendment of the United States constitution or Article II, section 7, of the Montana constitution.

(4) This section may not be construed to permit a person to engage in conduct that materially and substantially disrupts another person's expressive activity.

Section 5. Policies protecting free expression required – staff training. (1) A public postsecondary institution shall adopt policies to implement the provisions of [sections 1 through 8]. The policies must address students' expectations and provide appropriate regulations regarding free expression and expressive activities on campus consistent with [sections 1 through 8].

(2) A public postsecondary institution may develop materials, programs, and procedures to ensure that any person who has responsibility for the discipline or education of students, including administrators, campus security officers, residence life officials, and professors, understands the policies, regulations, and duties of the public postsecondary institution regarding free expression and expressive activities on campus consistent with [sections 1 through 8].

Section 6. Public accountability. (1) A public postsecondary institution may prepare a report to identify a course of action to be taken by the institution to implement the requirements of [sections 1 through 8].

(2) If a public postsecondary institution prepares a report pursuant to this section:

(a) the report must be revised and republished whenever the public postsecondary institution makes any changes or updates to the policies and procedures related to free speech and expressive activity on campus;

(b) the report must be posted to the public postsecondary institution's website. The report must be:

(i) accessible within three links from the institution's website homepage;

(ii) searchable by keywords and phrases; and

(iii) accessible to the public without having to register or use a username, password, or other user identification; and

(c) the contents of the report must include:

(i) a description of any barriers to or incidents of disruption of expressive activity on campus, including but not limited to any attempt to block or prohibit a speaker;

(ii) the nature of the barrier or disruption;

(iii) information about any disciplinary action taken against any member of the public who is responsible for a specific barrier or disruption, without disclosing personally identifiable information of any student found to be responsible; and

(iv) any other information the public postsecondary institution considers valuable for the public to evaluate whether the free expression and expressive activity rights of all members of the public have been protected equally and enforced consistently with the provisions of [sections 1 through 8].

(3) (a) The public postsecondary institution may submit the report biennially to the governor and, as provided in 5-11-210, to the legislature at least 30 days prior to the start of each regular legislative session.

(b) If the public postsecondary institution is sued for an alleged violation of the complainant's first amendment rights, the public postsecondary institution may prepare and submit a supplementary report along with a copy of the complaint and any amended complaint to the governor and the legislature within 30 days of receiving the complaint or amended complaint.

Section 7. Remedies. (1) A person or student organization who is aggrieved by a violation of [sections 1 through 8] may bring an action against a public postsecondary institution and any employees acting in their official

capacities who were responsible for the violation and may seek appropriate relief, including but not limited to injunctive relief, monetary damages, reasonable attorney fees, and court costs.

(2) If a court finds that a public postsecondary institution has violated [sections 1 through 8], the court shall award damages of at least \$2,000 and not more than \$75,000 to the aggrieved person or student organization.

(3) A person or student organization may assert a violation of [sections 1 through 8] as a defense or counterclaim in any disciplinary action or civil or administrative proceeding brought against the person or student organization.

(4) This section may not be construed to limit any other remedy available to any person or student organization.

Section 8. Statute of limitations. An action brought for a violation of [sections 1 through 8] must be commenced within 1 year after the day the cause of action accrues. For the purposes of this section, each date that a violation of [sections 1 through 8] persists or a policy that violates [sections 1 through 8] is in effect constitutes a continuing violation, and the statute of limitations is tolled until the violation ceases.

Section 9. Codification instruction. [Sections 1 through 8] are intended to be codified as an integral part of Title 20, chapter 25, and the provisions of Title 20, chapter 25, apply to [sections 1 through 8].

Section 10. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 11. Effective date. [This act] is effective on passage and approval.

Approved April 15, 2021

CHAPTER NO. 232

[HB 242]

AN ACT ESTABLISHING A MUZZLELOADER HERITAGE HUNT FOR DEER AND ELK; RESTRICTING USE OF CERTAIN EQUIPMENT; REVISING RULEMAKING AUTHORITY; PROVIDING PENALTIES; AND AMENDING SECTIONS 87-1-201, 87-1-301, 87-1-304, AND 87-6-401, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-1-201, MCA, is amended to read:

“87-1-201. Powers and duties. (1) Except as provided in subsection (12), the department shall supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals of the state and may implement voluntary programs that encourage hunting access on private lands and that promote harmonious relations between landowners and the hunting public. The department possesses all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and game laws and the rules adopted by the department.

(2) Except as provided in subsection (12), the department shall enforce all the laws of the state regarding the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

(3) The department has the exclusive power to spend for the protection, preservation, management, and propagation of fish, game, fur-bearing

animals, and game and nongame birds all state funds collected or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from fines or damages collected for violations of the fish and game laws, or from appropriations or received by the department from any other sources is under the control of the department and is available for appropriation to the department.

(4) The department may discharge any appointee or employee of the department for cause at any time.

(5) The department may dispose of all property owned by the state used for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no further value or use to the state and shall turn over the proceeds from the sale to the state treasurer to be credited to the fish and game account in the state special revenue fund.

(6) The department may not issue permits to carry firearms within this state to anyone except regularly appointed officers or wardens.

(7) Except as provided in subsection (12), the department is authorized to make, promulgate, and enforce reasonable rules and regulations not inconsistent with the provisions of Title 87, chapter 2, that in its judgment will accomplish the purpose of chapter 2.

(8) The department is authorized to promulgate rules relative to tagging, possession, or transportation of bear within or outside of the state.

(9) (a) The department shall implement programs that:

(i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.;

(ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the maintenance or recovery of those species;

(iii) manage elk, deer, and antelope populations based on habitat estimates determined as provided in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as provided in 87-1-323. In implementing an elk management plan, the department shall, as necessary to achieve harvest and population objectives, request that land management agencies open public lands and public roads to public access during the big game hunting season.

(iv) in accordance with the forest management plan required by 87-1-622, address fire mitigation, pine beetle infestation, and wildlife habitat enhancement giving priority to forested lands in excess of 50 contiguous acres in any state park, fishing access site, or wildlife management area under the department's jurisdiction.

(b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or recovery of those species with the social and economic impacts of species maintenance or recovery.

(c) Any management plan developed by the department pursuant to this subsection (9) is subject to the requirements of Title 75, chapter 1, part 1.

(d) This subsection (9) does not affect the ownership or possession, as authorized under law, of a privately held listed species, a sensitive species, or a species that is a potential candidate for listing.

(10) The department shall publish an annual game count, estimating to the department's best ability the numbers of each species of game animal,

as defined in 87-2-101, in the hunting districts and administrative regions of the state. In preparing the publication, the department may incorporate field observations, hunter reporting statistics, or any other suitable method of determining game numbers. The publication must include an explanation of the basis used in determining the game count.

(11) The department shall report current sage grouse population numbers, including the number of leks, to the Montana sage grouse oversight team, established in 2-15-243, and the environmental quality council, established in 5-16-101, on an annual basis. The report must include seasonal and historic population data available from the department or any other source.

(12) The department may not regulate the use or possession of firearms, firearm accessories, or ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

(a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the establishment of special archery seasons *and the special muzzleloader heritage hunting season established in 87-1-304*;

(b) for human safety, the restriction of certain areas to the use of only specified hunting arms, including bows and arrows, traditional handguns, and muzzleloading rifles;

(c) the restriction of the use of shotguns for the hunting of deer and elk pursuant to 87-6-401(1)(f);

(d) the regulation of migratory game bird hunting pursuant to 87-3-403; or

(e) the restriction of the use of rifles for bird hunting pursuant to 87-6-401(1)(g) or (1)(h)."

Section 2. Section 87-1-301, MCA, is amended to read:

"87-1-301. Powers of commission. (1) Except as provided in subsections (6) and (7), the commission:

(a) shall set the policies for the protection, preservation, management, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment of all other responsibilities of the department related to fish and wildlife as provided by law;

(b) shall establish the hunting, fishing, and trapping rules of the department;

(c) except as provided in 23-1-111 and 87-1-303(3), shall establish the rules of the department governing the use of lands owned or controlled by the department and waters under the jurisdiction of the department;

(d) must have the power within the department to establish wildlife refuges and bird and game preserves;

(e) shall approve all acquisitions or transfers by the department of interests in land or water, except as provided in 23-1-111 and 87-1-209(2) and (4);

(f) except as provided in 23-1-111, shall review and approve the budget of the department prior to its transmittal to the office of budget and program planning;

(g) except as provided in 23-1-111, shall review and approve construction projects that have an estimated cost of more than \$1,000 but less than \$5,000;

(h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as provided in 87-1-323. In developing or implementing an elk management plan, the commission shall consider landowner tolerance when deciding whether to restrict elk hunting on surrounding public land in a particular hunting district.

As used in this subsection (1)(h), "landowner tolerance" means the written or documented verbal opinion of an affected landowner regarding the impact upon the landowner's property within the particular hunting district where a restriction on elk hunting on public property is proposed.

(i) shall set the policies for the salvage of antelope, deer, elk, or moose pursuant to 87-3-145; and

(j) shall comply with, adopt policies that comply with, and ensure the department implements in each region the provisions of state wildlife management plans adopted following an environmental review conducted pursuant to Title 75, chapter 1, parts 1 through 3.

(2) The commission may adopt rules regarding the use and type of archery equipment that may be employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in archery equipment change.

(3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons, conditions, programs, or other provisions that the commission considers appropriate to promote or enhance hunting by Montana's youth and persons with disabilities.

(4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

(i) separate deer licenses from nonresident elk combination licenses;

(ii) set the fees for the separated deer combination licenses and the elk combination licenses without the deer tag;

(iii) condition the use of the deer licenses; and

(iv) limit the number of licenses sold.

(b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and appropriate to regulate the harvest by nonresident big game combination license holders:

(i) for the biologically sound management of big game populations of elk, deer, and antelope;

(ii) to control the impacts of those elk, deer, and antelope populations on uses of private property; and

(iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-321 through 87-1-325.

(5) (a) Subject to the provisions of subsection (5)(b), the commission may adopt rules to:

(i) limit the number of nonresident mountain lion hunters in designated hunting districts; and

(ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting districts.

(b) The commission shall adopt rules for the use of and set quotas for the sale of Class D-4 nonresident hound handler licenses by hunting district, portions of a hunting district, group of districts, or administrative regions. However, no more than two Class D-4 licenses may be issued in any one hunting district per license year.

(c) The commission shall consider, but is not limited to consideration of, the following factors:

(i) harvest of lions by resident and nonresident hunters;

(ii) history of quota overruns;

(iii) composition, including age and sex, of the lion harvest;

(iv) historical outfitter use;

(v) conflicts among hunter groups;

(vi) availability of public and private lands; and

(vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters.

(6) The commission may not regulate the use or possession of firearms, firearm accessories, or ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

(a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the establishment of special archery seasons *and the special muzzleloader heritage hunting season established in 87-1-304*;

(b) for human safety, the restriction of certain areas to the use of only specified hunting arms, including bows and arrows, traditional handguns, and muzzleloading rifles;

(c) the restriction of the use of shotguns for the hunting of deer and elk pursuant to 87-6-401(1)(f);

(d) the regulation of migratory game bird hunting pursuant to 87-3-403; or

(e) the restriction of the use of rifles for bird hunting pursuant to 87-6-401(1)(g) or (1)(h).

(7) Pursuant to 23-1-111, the commission does not oversee department activities related to the administration of state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, and 9."

Section 3. Section 87-1-304, MCA, is amended to read:

"87-1-304. Fixing of seasons and bag and possession limits.

(1) Subject to the provisions of 87-5-302 and ~~subsection subsections (7) and (8)~~ of this section, the commission may:

(a) fix seasons, bag limits, possession limits, and season limits;

(b) open or close or shorten or lengthen seasons on any species of game, bird, fish, or fur-bearing animal as defined by 87-2-101;

(c) declare areas open to the hunting of deer, antelope, elk, moose, sheep, goat, mountain lion, bear, wild buffalo or bison, and wolf by persons holding an archery stamp and the required license, permit, or tag and designate times when only bows and arrows may be used to hunt deer, antelope, elk, moose, sheep, goat, mountain lion, bear, wild buffalo or bison, and wolf in those areas;

(d) subject to the provisions of 87-1-301(6), restrict areas and species to hunting with only specified hunting arms, including bow and arrow, for the reasons of safety or of providing diverse hunting opportunities and experiences; and

(e) declare areas open to special license holders only and issue special licenses in a limited number when the commission determines, after proper investigation, that a special season is necessary to ensure the maintenance of an adequate supply of game birds, fish, or animals or fur-bearing animals. The commission may declare a special season and issue special licenses when game birds, animals, or fur-bearing animals are causing damage to private property or when a written complaint of damage has been filed with the commission by the owner of that property. In determining to whom special licenses must be issued, the commission may, when more applications are received than the number of animals to be killed, award permits to those chosen under a drawing system. The procedures used for awarding the permits from the drawing system must be determined by the commission.

(2) The commission may adopt rules governing the use of livestock and vehicles by archers during special archery seasons.

(3) Subject to the provisions of 87-5-302 and subsection (7) of this section, the commission may divide the state into fish and game districts and create fish, game, or fur-bearing animal districts throughout the state. The commission may declare a closed season for hunting, fishing, or trapping in any of those districts and later may open those districts to hunting, fishing, or trapping.

(4) The commission may declare a closed season on any species of game, fish, game birds, or fur-bearing animals threatened with undue depletion from any cause. The commission may close any area or district of any stream, public lake, or public water or portions thereof to hunting, trapping, or fishing for limited periods of time when necessary to protect a recently stocked area, district, water, spawning waters, spawn-taking waters, or spawn-taking stations or to prevent the undue depletion of fish, game, fur-bearing animals, game birds, and nongame birds. The commission may open the area or district upon consent of a majority of the property owners affected.

(5) The commission may authorize the director to open or close any special season upon 12 hours' notice to the public.

(6) The commission may declare certain fishing waters closed to fishing except by persons under 15 years of age. The purpose of this subsection is to provide suitable fishing waters for the exclusive use and enjoyment of juveniles under 15 years of age, at times and in areas the commission in its discretion considers advisable and consistent with its policies relating to fishing.

(7) In an area immediately adjacent to a national park, the commission may not:

(a) prohibit the hunting or trapping of wolves; or

(b) close the area to wolf hunting or trapping unless a wolf harvest quota established by the commission for that area has been met.

(8) *There is established a special muzzleloader heritage hunting season that begins on the second Saturday after the end of the regular season and lasts 9 days. During this season, subject to the provisions of 87-6-401(1)(i) and rules adopted by the commission, a person may take a deer or elk with a valid license or permit using plain lead projectiles and a muzzleloading rifle that is charged with loose black powder, loose pyrodex, or an equivalent loose black powder substitute, and ignited by a flintlock, wheel lock, matchlock, or percussion mechanism using a percussion or musket cap. The muzzleloading rifle must be a minimum of 45 caliber and may not have more than two barrels."*

Section 4. Section 87-6-401, MCA, is amended to read:

"87-6-401. Unlawful use of equipment while hunting. (1) A person may not:

(a) hunt or attempt to hunt any game animal or game bird by the aid or with the use of any snare, except as allowed in 87-3-127 and 87-3-128, set gun, projected artificial light, trap, salt lick, or bait;

(b) use any recorded or electrically amplified bird or animal calls or sounds or recorded or electrically amplified imitations of bird or animal calls or sounds to assist in the hunting, taking, killing, or capturing of wildlife except for predatory animals, wolves, and those birds not protected by state or federal law;

(c) while hunting, take into a field or forest or have in the person's possession any device or mechanism devised to silence, muffle, or minimize the report of any firearm, whether the device or mechanism is operated from or attached to any firearm. This subsection (1)(c) does not prohibit the use of a device or mechanism registered with the bureau of alcohol, tobacco, firearms and explosives to silence, muffle, or minimize the report of a firearm when hunting wildlife.

(d) while hunting, possess any electronic motion-tracking device or mechanism, as defined by commission rule, that is designed to track the motion of a game animal and relay information on the animal's movement to the hunter. A radio-tracking collar attached to a dog that is used by a hunter engaged in lawful hunting activities is not considered a motion-tracking device or mechanism for purposes of this subsection (1)(d).

(e) while hunting, use archery equipment that has been prohibited by rule of the commission;

(f) use a shotgun to hunt deer or elk except with weapon type and loads as specified by the department;

(g) use a rifle to hunt or shoot upland game birds unless the use of rifles is permitted by the department. This does not prohibit the shooting of wild waterfowl from blinds over decoys with a shotgun only, not larger than a number 10 gauge, fired from the shoulder.

(h) use a rifle to hunt or shoot wild turkey during the spring wild turkey season;

(i) *during the special muzzleloader heritage hunting season established in 87-1-304, use a muzzleloading rifle that requires insertion of a cap or primer into the open breech of the barrel, is capable of being loaded from the breech, or is mounted with an optical magnification device. Use of preprepared paper or metallic cartridges, sabots, gas checks, or other similar power and range-enhancing manufactured loads that enclose the projectile from the rifling or bore of the firearm is also prohibited.*

(2) A person convicted of a violation of this section shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(3) A person convicted of hunting while using projected artificial light as described in subsection (1)(a) may be subject to the additional penalties provided in 87-6-901 through 87-6-903.

(4) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 through 87-6-907."

Approved April 15, 2021

CHAPTER NO. 233

[HB 289]

AN ACT ONLY PROHIBITING UNION DUES AND OTHER ASSESSMENTS TO BE CHARGED TO NONMEMBER PUBLIC EMPLOYEES; AMENDING SECTION 39-31-401, MCA; AND REPEALING SECTION 39-31-204, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 39-31-401, MCA, is amended to read:

"39-31-401. Unfair labor practices of public employer. It is an unfair labor practice for a public employer to:

(1) interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in 39-31-201;

(2) dominate, interfere, or assist in the formation or administration of any labor organization. However, subject to rules adopted by the board under

39-31-104, an employer is not prohibited from permitting employees to confer with the employer during working hours without loss of time or pay.

(3) discriminate in regard to hire or tenure of employment or any term or condition of employment in order to encourage or discourage membership in any labor organization. ~~However, nothing in this chapter or in any other statute of this state precludes a public employer from making an agreement with an exclusive representative to require, as a condition of employment, that an employee who is not or does not become a union member must have an amount equal to the union initiation fee and monthly dues deducted from the employee's wages in the same manner as checkoff of union dues;~~

(4) discharge or otherwise discriminate against an employee because the employee has signed or filed an affidavit, petition, or complaint or given any information or testimony under this chapter; or

(5) refuse to bargain collectively in good faith with an exclusive representative."

Section 2. Repealer. The following sections of the Montana Code Annotated are repealed:

39-31-204. Right of nonassociation with labor organization on religious grounds -- requirements and procedure for assertion of right.

Approved April 15, 2021

CHAPTER NO. 234

[HB 349]

AN ACT GENERALLY REVISING LAWS RELATED TO FREEDOM OF ASSOCIATION AND FREEDOM OF SPEECH ON CAMPUSES OF PUBLIC POSTSECONDARY INSTITUTIONS; PROVIDING PROTECTIONS FOR FREE ASSOCIATION ON PUBLIC POSTSECONDARY INSTITUTION CAMPUSES; PROHIBITING DISCRIMINATION AGAINST STUDENT ORGANIZATIONS; REQUIRING PUBLIC POSTSECONDARY INSTITUTIONS TO ADOPT ANTI-HARASSMENT POLICIES; PROVIDING RESTRICTIONS ON POLICIES PERTAINING TO THE EXPULSION OF A STUDENT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Discrimination against student organizations prohibited. (1) A public postsecondary institution may not deny a religious, political, or ideological student organization a benefit or privilege available to other student organizations or otherwise discriminate against a student organization based on the student organization's expressive activity, including any requirement of the student organization that a leader or member:

(a) affirm and adhere to the student organization's sincerely held beliefs;

(b) comply with the student organization's standards of conduct; or

(c) further the student organization's mission or purpose, as defined by the student organization.

(2) As used in [section 2] and this section, the following definitions apply:

(a) "Benefit or privilege" means any type of advantage, including but not limited to:

(i) recognition;

(ii) registration;

(iii) the use of facilities of the public postsecondary institution for meetings or speaking purposes;

(iv) the use of channels of communication; and
(v) funding sources that are otherwise available to other student organizations at the public postsecondary institution.

(b) “Public postsecondary institution” means:

(i) a unit of the Montana university system as defined in 20-25-201; or
(ii) a Montana community college, defined and organized as provided in 20-15-101.

(c) “Student organization” means an officially recognized group or a group seeking official recognition at a public postsecondary institution that is comprised of students who receive or are seeking to receive a benefit through the public postsecondary institution.

Section 2. Anti-harassment and freedom of speech protections for students. (1) A public postsecondary institution shall adopt a policy prohibiting student-on-student discriminatory harassment. A public postsecondary institution may not enforce the policy by disciplining a student for a behavioral violation of harassment or a similar charge stemming from an alleged violation of the policy for speech or expression unless:

(a) the speech or expression is unwelcome and is so severe, pervasive, and subjectively and objectively offensive that a student is effectively denied equal access to educational opportunities or benefits provided by the public postsecondary institution; or

(b) the speech or expression explicitly or implicitly conditions a student’s participation in an education program or activity or bases an educational decision on the student’s submission to unwelcome sexual advances or requests for sexual favors.

(2) This section may not be construed to prevent a public postsecondary institution from prohibiting, limiting, or restricting speech or expression that is not protected by the first amendment of the United States constitution or Article II, section 7, of the Montana constitution.

Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 20, chapter 25, part 5, and the provisions of Title 20, chapter 25, part 5, apply to [sections 1 and 2].

Section 4. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 5. Effective date. [This act] is effective on passage and approval.

Approved April 15, 2021

CHAPTER NO. 235

[HB 401]

AN ACT REVISING PROPERTY RENTAL LAWS; AND CLARIFYING THAT SECURITY DEPOSIT LAWS ARE INTEGRAL TO RESIDENTIAL DWELLING LAWS AND MOBILE HOME RENTAL LAWS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Application of security deposit laws. The provisions of this chapter are cohesive with the provisions of Title 70, chapter 25, and the two chapters must be read in conjunction when considering, with regards to the Montana Residential Landlord and Tenant Act of 1977, the rights and duties of landlords and tenants, and the availability of remedies and judicial relief to landlords and tenants.

Section 2. Application of security deposit laws. The provisions of this chapter are cohesive with the provisions of Title 70, chapter 25, and the two chapters must be read in conjunction when considering, with regards to the Montana Residential Mobile Home Lot Rental Act, the rights and duties of landlords and tenants, and the availability of remedies and judicial relief to landlords and tenants.

Section 3. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 70, chapter 24, part 1, and the provisions of Title 70, chapter 24, part 1, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 70, chapter 33, part 1, and the provisions of Title 70, chapter 33, part 1, apply to [section 2].

Approved April 15, 2021

CHAPTER NO. 236

[HB 402]

AN ACT GENERALLY REVISING PROPERTY RENTAL LAWS; REVISING WHAT MAY BE FOUND UNCONSCIONABLE IN A RENTAL AGREEMENT; REVISING TERMINATIONS OF RENTALS; AMENDING SECTIONS 70-24-404, 70-24-422, 70-24-423, 70-33-403, 70-33-422, AND 70-33-423, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 70-24-404, MCA, is amended to read:

“70-24-404. Unconscionability – court discretion to refuse enforcement. (1) *If Except as provided in subsection (2), if the court, as a matter of law, finds that:*

(a) *a rental agreement or any provision thereof of the rental agreement is unconscionable, the court may refuse to enforce the agreement or enforce the remainder of the agreement without the unconscionable provision to avoid an unconscionable result; or*

(b) *a settlement in which a party waives or agrees to forego a claim or right under this chapter or under a rental agreement is unconscionable, the court may refuse to enforce the settlement, enforce the remainder of the settlement without the unconscionable provision, or limit the application of any unconscionable provision to avoid an unconscionable result.*

(2) *A finding pursuant to subsection (1) may not be made based on a responsibility outlined in a rental agreement that:*

(a) *a tenant maintain a dwelling unit in accordance with 70-24-321; or*

(b) *a landlord maintain the premises in accordance with 70-24-303.*

(2)(3) *If unconscionability is put into issue by a party or by the court upon its own motion, the parties shall be afforded a reasonable opportunity to present evidence as to the setting, purpose, and effect of the rental agreement or settlement to aid the court in making the determination.”*

Section 2. Section 70-24-422, MCA, is amended to read:

“70-24-422. Noncompliance of tenant generally – landlord’s right of termination – damages – injunction. (1) Except as provided in this chapter, if there is a noncompliance by the tenant with the rental agreement or a noncompliance with 70-24-321, the landlord may deliver a written notice to the tenant pursuant to 70-24-108 specifying the acts and omissions constituting the noncompliance and that the rental agreement will terminate, *and that the tenant shall vacate the premises on ~~upon~~ a date specified in the notice not less*

than the minimum number of days after receipt of the notice provided for in this section. The rental agreement terminates *and the tenant shall vacate the premises* as provided in the notice, subject to the following:

(a) If the noncompliance is remediable by ~~repairs, the repairs, the~~ payment of damages, ~~or otherwise or written approval of the landlord~~ and the tenant ~~adequately~~ remedies the noncompliance before the date specified in the notice, the rental agreement does not terminate.

(b) If the noncompliance involves an unauthorized pet, the notice period is 3 days.

(c) If the noncompliance involves unauthorized persons residing in the rental unit, the notice period is 3 days.

(d) If the noncompliance is not listed in subsection (1)(b) or (1)(c), the notice period is 14 days.

(e) If substantially the same act or omission that constituted a prior noncompliance of which notice was given recurs within 6 months, the landlord may terminate the rental agreement upon at least 5 days' written notice specifying the noncompliance and the date of the termination of the rental agreement.

(2) If rent is unpaid when due and the tenant fails to pay rent within 3 days after written notice by the landlord of nonpayment and the landlord's intention to terminate the rental agreement if the rent is not paid within that period, the landlord may terminate the rental agreement, *and the tenant shall vacate the premises if the landlord terminates the rental agreement.*

(3) If the tenant destroys, defaces, damages, impairs, or removes any part of the premises in violation of 70-24-321(2), the landlord may terminate the rental agreement upon giving 3 days' written notice specifying the noncompliance under the provisions of 70-24-321(2), *and the tenant shall vacate the premises if the landlord terminates the rental agreement.*

(4) If the tenant creates a reasonable potential that the premises may be damaged or destroyed or that neighboring tenants may be injured in violation of 70-24-321(3), the landlord may terminate the rental agreement upon giving 3 days' written notice specifying the violation and noncompliance under the provisions of 70-24-321(3), *and the tenant shall vacate the premises if the landlord terminates the rental agreement.*

(5) Except as provided in this chapter, the landlord ~~may~~ *may* recover actual damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement or 70-24-321. Except as provided in subsection (6), if the tenant's noncompliance is purposeful, the landlord ~~may~~ *may* recover treble damages.

(6) Treble damages may not be recovered for the tenant's early termination of the tenancy.

(7) The landlord is not bound by this section in the event that the landlord elects to use the 30-day notice for termination of tenancy as provided in 70-24-441."

Section 3. Section 70-24-423, MCA, is amended to read:

"70-24-423. Waiver of landlord's right to terminate for breach.

Acceptance by the landlord of full payment of rent due is a waiver of a claimed breach of a rental agreement only when the claimed breach is the nonpayment of rent. Acceptance of full payment of rent due when a claimed breach is something other than the nonpayment of rent does not constitute a waiver of any right. The acceptance of partial payment of rent due does not constitute a waiver of any right, *including rent due.*"

Section 4. Section 70-33-403, MCA, is amended to read:

"70-33-403. Unconscionability -- court discretion. (1) *If Except as provided in subsection (2), if the court, as a matter of law, finds that:*

(a) a rental agreement or any provision of the rental agreement is unconscionable, the court, in order to avoid an unconscionable result, may refuse to enforce the agreement or may enforce the remainder of the agreement without the unconscionable provision result; or

(b) a settlement in which a party waives or agrees to forego a claim or right under this chapter or under a rental agreement is unconscionable, the court, in order to avoid an unconscionable result, may refuse to enforce the settlement, may enforce the remainder of the settlement without the unconscionable provision, or may limit the application of any unconscionable provision.

(2) *A finding pursuant to subsection (1) may not be made based on a responsibility outlined in a rental agreement that:*

(a) *a tenant maintain a lot in accordance with 70-33-321; or*

(b) *a landlord maintain the premises in accordance with 70-33-303.*

(2)(3) If unconscionability is put into issue by a party or by the court upon its own motion, the parties must be afforded a reasonable opportunity to present evidence as to the setting, purpose, and effect of the rental agreement or settlement to aid the court in making its determination.”

Section 5. Section 70-33-422, MCA, is amended to read:

“70-33-422. Noncompliance of tenant generally – landlord’s right of termination – damages – injunction. (1) If the tenant destroys, defaces, damages, impairs, or removes any part of the premises in violation of 70-33-321(3), the landlord may terminate the rental agreement upon giving 3 days’ written notice specifying the noncompliance under the provisions of 70-33-321(3). *If the landlord terminates the rental agreement, the tenant shall vacate the premises on termination of the agreement.*

(2) If the tenant creates a reasonable potential that the premises may be damaged or destroyed or that neighboring tenants may be injured, as evidenced by the tenant being arrested or charged with an act that violates the provisions of 70-33-321(4), the landlord may terminate the rental agreement upon giving 3 days’ written notice specifying the violation and noncompliance under the provisions of 70-33-321(4). *If the landlord terminates the rental agreement, the tenant shall vacate the premises on termination of the agreement.*

(3) Except as otherwise provided in this chapter, the landlord ~~may~~ may recover actual damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement or 70-33-321. Except as provided in subsection (4) of this section, if the tenant’s noncompliance is purposeful, the landlord ~~may~~ may recover treble damages.

(4) Treble damages may not be recovered for the tenant’s early termination of the tenancy.”

Section 6. Section 70-33-423, MCA, is amended to read:

“70-33-423. Waiver of landlord’s right to termination. (1) Acceptance by the landlord of full payment of rent due is a waiver of a claimed breach of a rental agreement only when the claimed breach is the nonpayment of rent.

(2) Acceptance of full payment of rent due when a claimed breach is something other than the nonpayment of rent does not constitute a waiver of any right.

(3) The acceptance of partial payment of rent due does not constitute a waiver of any right, *including rent due.*”

Section 7. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 8. Effective date. [This act] is effective on passage and approval.

Approved April 15, 2021

CHAPTER NO. 237

[HB 438]

AN ACT REVISING COMMERCIAL DRIVER LICENSING LAWS; CLARIFYING WAIVER OF THE SKILLS TEST, KNOWLEDGE TEST, OR BOTH, FOR CERTAIN MILITARY EXPERIENCE; AMENDING SECTION 61-5-123, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-5-123, MCA, is amended to read:

“61-5-123. Waiver of skills test or knowledge test related to military commercial motor vehicles experience. (1) The department may waive the skills test or knowledge test, or both, required for a commercial driver's license if an applicant meets the conditions in subsection (2) and is: *As used in this section, “current or former military service member” means a person:*

(a) ~~a veteran of honorably discharged from the armed forces of the United States who was honorably discharged;~~

(b) currently serving in the armed forces of the United States;

(c) serving full-time in a reserve component, as defined in 37-1-138; or

(d) honorably discharged from the reserve component after serving full-time in the reserve component.

(2) ~~An applicant shall:~~

(a) ~~certify that, during the 2-year period immediately prior to application, the applicant:~~

(i) ~~did not have more than one license except for a military license;~~

(ii) ~~did not have a license suspended, revoked, or canceled;~~

(iii) ~~was not convicted of a disqualifying offense as provided in 49 CFR 383.51(b);~~

(iv) ~~did not have more than one conviction for a serious traffic violation as provided in 49 CFR 383.51(c); and~~

(v) ~~did not have any conviction for a violation of military, state, or local law relating to motor vehicle traffic control other than a parking violation arising in connection with any traffic accident and has no record of an accident in which the applicant was at fault; and~~

(b) ~~provide evidence and certify that:~~

(i) ~~the applicant has passed a knowledge test for a commercial motor vehicle for the class of motor vehicle for which the applicant is seeking a commercial driver's license given by the military;~~

(ii) ~~the military position in which the applicant served required regular operation over at least a 2-year period immediately prior to either discharge or application, as applicable, of a commercial motor vehicle representative of the class of motor vehicle for which the applicant is seeking a commercial driver's license; and~~

(iii) ~~the applicant was exempted under 49 CFR 383.3(c) from the requirements of this part when operating a commercial motor vehicle in the military.~~

(2) *The department may waive the skills test, knowledge test, or both, required for a commercial driver's license if an applicant is a current or former military service member and meets the conditions in subsection (3), (4), or (5).*

(3) *A current or former military service member applying for waiver of the skills test shall:*

(a) *certify and provide evidence that the member:*

(i) *is or was regularly employed within the last year in a military position requiring operation of a commercial motor vehicle;*

(ii) was exempted from the commercial driver's license requirements in 61-8-803; and

(iii) was operating, for at least 2 years immediately preceding separation from the military, a vehicle representative of the commercial motor vehicle type the driver applicant operates or expects to operate; and

(b) certify that during the 2-year period immediately prior to applying for a commercial driver's license, the member:

(i) has not simultaneously held more than one civilian license;

(ii) has not had any license suspended, revoked, or canceled;

(iii) has not had any convictions for any type of motor vehicle for the disqualifying offenses contained in 61-8-802;

(iv) has not had any convictions for a violation of federal, military, state, or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident; and

(v) has no record of an accident in which the current or former military service member was at fault.

(4) A current or former military service member applying for waiver of the knowledge test shall certify and provide evidence that during the 1-year period immediately prior to the application, the member:

(a) is or was regularly employed and designated as a:

(i) motor transport operator—88M (Army);

(ii) PATRIOT launching station operator—14T (Army);

(iii) fueler—92F (Army);

(iv) vehicle operator—2T1 (Air Force);

(v) fueler—2F0 (Air Force);

(vi) pavement and construction equipment operator—3E2 (Air Force);

(vii) motor vehicle operator—3531 (Marine Corps); or

(viii) equipment operator—E.O. (Navy);

(b) is operating a vehicle representative of the commercial motor vehicle type the driver applicant expects to operate on separation from the military, or operated a similar vehicle type immediately preceding separation from the military;

(c) has not simultaneously held more than one civilian license;

(d) has not had any license suspended, revoked, or canceled;

(e) has not had any convictions for any type of motor vehicle for the disqualifying offenses contained in 61-8-802;

(f) has not had more than one conviction for any type of motor vehicle for serious traffic violations contained in 61-8-803;

(g) has not had any convictions for a violation of federal, military, state, or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident; and

(h) has no record of an accident in which the current or former military service member was at fault.

(5) A current or former military service member applying for waiver of the applicable skills and knowledge tests for a passenger, tank vehicle, or hazardous materials endorsement shall certify and provide evidence that during the 1-year period immediately prior to the application, the member:

(a) is or was regularly employed in a military position requiring:

(i) operation of a passenger commercial motor vehicle if requesting waiver of the skills and knowledge test for a passenger endorsement;

(ii) operation of a tank vehicle if requesting waiver of the skills and knowledge test for a tank vehicle endorsement; or

(iii) transportation of hazardous materials if requesting waiver of the skills and knowledge test for a hazardous materials endorsement;

- (b) *has not simultaneously held more than one civilian license;*
- (c) *has not had any convictions for any type of motor vehicle for the disqualifying offenses contained in 61-8-802;*
- (d) *has not had more than one conviction for any type of motor vehicle for serious traffic violations contained in 61-8-803;*
- (e) *has not had any convictions for a violation of federal, military, state, or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident; and*
- (f) *has no record of an accident in which the current or former military service member was at fault.”*

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 15, 2021

CHAPTER NO. 238

[HB 454]

AN ACT REVISING LAWS RELATED TO SCHOOL TUITION; CLARIFYING THE ENTITIES FOR WHICH A DISTRICT MAY CHOOSE TO WAIVE TUITION; AUTHORIZING TRUSTEES OF A UNIFIED SCHOOL SYSTEM TO WAIVE TUITION REGARDLESS OF WHETHER THE STUDENT WAS OR WAS NOT A RESIDENT OF THE ELEMENTARY DISTRICT UNIFIED WITH A COUNTY HIGH SCHOOL; AMENDING SECTIONS 20-5-320 AND 20-5-321, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-5-320, MCA, is amended to read:

“20-5-320. Attendance with discretionary approval. (1) A child may be enrolled in and attend a school in a Montana school district that is outside of the child’s district of residence or a public school in a district of another state or province that is adjacent to the county of the child’s residence, subject to discretionary approval by the trustees of the resident district and the district of choice. If the trustees grant discretionary approval of the child’s attendance in a school of the district, the parent or guardian may be charged tuition and may be charged for transportation.

(2) (a) Whenever a parent or guardian of a child wishes to have the child attend a school under the provisions of this section, the parent or guardian shall apply to the trustees of the district where the child wishes to attend. The application must be made on an out-of-district attendance agreement form supplied by the district and developed by the superintendent of public instruction.

(b) The attendance agreement must set forth the financial obligations, if any, for tuition and for costs incurred for transporting the child under Title 20, chapter 10.

(c) (i) The trustees of the district of choice may waive any or all of the tuition rate. The trustees of the district of choice may waive the tuition for all students whose tuition is required to be paid by one type of entity and may charge tuition for all students whose tuition is required to be paid by another type of entity. However, any waiver of tuition must be applied equally to all students whose tuition is paid by the same type of entity.

(ii) As used in this subsection (2)(c), “entity” ~~means a parent or guardian or the trustees of the district of residence includes:~~

(A) *except as provided in subsection (2)(c)(ii)(B), a parent or guardian of a student who is a nonresident of the district of choice;*

(B) *a parent or guardian of a student who lives in a location where one unified school system as provided in 20-6-312 is the district of residence for grades K-8 and another unified school system as provided in 20-6-312 is the district of residence for grades 9-12; and*

(C) *the trustees of the district of residence.*

(3) An out-of-district attendance agreement approved under this section requires that the parent or guardian initiate the request for an out-of-district attendance agreement and that the trustees of both the district of residence and the district of choice approve the agreement.

(4) If the trustees of the district of choice waive tuition, approval of the resident district trustees is not required.

(5) The trustees of a school district may approve or disapprove the out-of-district attendance agreement consistent with this part and the policy adopted by the local board of trustees for out-of-district attendance agreements.

(6) The approval of an out-of-district attendance agreement by the applicable approval agents or as the result of an appeal must authorize the child named in the agreement to enroll in and attend the school named in the agreement for the designated school year.

(7) The trustees of the district where the child wishes to attend have the discretion to approve any attendance agreement.

(8) This section does not preclude the trustees of a district from approving an attendance agreement for educational program offerings not provided by the resident district, such as the kindergarten or grades 7 and 8 programs, if the trustees of both districts agree to the terms and conditions for attendance and any tuition and transportation requirement. For purposes of this subsection, the trustees of the resident district shall initiate the out-of-district agreement.

(9) (a) A provision of this title may not be construed to deny a parent or guardian the right to send a child, at personal expense, to any school of a district other than the resident district when the trustees of the district of choice have approved an out-of-district attendance agreement and the parent or guardian has agreed to pay the tuition as prescribed by 20-5-323. However, under this subsection (9), the tuition rate must be reduced by the amount that the parent or guardian of the child paid in district property taxes during the immediately preceding school fiscal year for the benefit and support of the district in which the child will attend school.

(b) For the purposes of this section, "parent or guardian" includes an individual shareholder of a domestic corporation whose shares are 95% held by related family members to the sixth degree of consanguinity or by marriage to the sixth degree of affinity.

(c) The tax amount to be credited to reduce any tuition charge to a parent or guardian under subsection (9)(a) is determined in the following manner:

(i) determine the percentage of the total shares of the corporation held by the shareholder parent or parents or guardian;

(ii) determine the portion of property taxes paid in the preceding school fiscal year by the corporation, parent, or guardian for the benefit and support of the district in which the child will attend school.

(d) The percentage of total shares as determined in subsection (9)(c)(i) is the percentage of taxes paid as determined in subsection (9)(c)(ii) that is to be credited to reduce the tuition charge.

(10) As used in 20-5-320 through 20-5-324, the term "guardian" means the guardian of a minor as provided in Title 72, chapter 5, part 2."

Section 2. Section 20-5-321, MCA, is amended to read:

"20-5-321. Attendance with mandatory approval – tuition and transportation. (1) An out-of-district attendance agreement that allows

a child to enroll in and attend a school in a Montana school district that is outside of the child's district of residence or in a public school district of a state or province that is adjacent to the county of the child's residence is mandatory whenever:

(a) the child resides closer to the school that the child wishes to attend and more than 3 miles from the school the child would attend in the resident district and the resident district does not provide transportation;

(b) (i) the child resides in a location where, because of geographic conditions between the child's home and the school that the child would attend within the district of residence, it is impractical to attend school in the district of residence, as determined by the county transportation committee based on the following criteria:

(A) the length of time that is in excess of the 1-hour limit for each bus trip for an elementary child as authorized under 20-10-121;

(B) whether distance traveled is greater than 40 miles one way from the child's home to school on a dirt road or greater than a total of 60 miles one way from the child's home to school in the district of residence over the shortest passable route; or

(C) whether the condition of the road or existence of a geographic barrier, such as a river or mountain pass, causes a hazard that prohibits safe travel between the home and school.

(ii) The decision of the county transportation committee is subject to appeal to the superintendent of public instruction, as provided in 20-3-107, but the decision must be considered as final for the purpose of the payment of tuition under 20-5-324(5)(a)(ii) until a decision is issued by the superintendent of public instruction. The superintendent of public instruction may review and rule upon a decision of the county transportation committee without an appeal being filed.

(c) (i) the child is a member of a family that is required to send another child outside of the elementary district to attend high school and the child of elementary age may more conveniently attend an elementary school where the high school is located, provided that the child resides more than 3 miles from an elementary school in the resident district or that the parent is required to move to the elementary district where the high school is located to enroll another child in high school. A child enrolled in an elementary school pursuant to this subsection ~~(1)(c)~~ (1)(c)(i) may continue to attend the elementary school after the other child has left the high school.

(ii) *the child is a member of a family that is required to send another child outside of the high school district to attend elementary school and the child of high school age may more conveniently attend a high school where the elementary school is located, provided that the child resides more than 3 miles from a high school in the resident district or that the parent is required to move to the high school district where the elementary school is located to enroll another child in elementary school. A child enrolled in a high school pursuant to this subsection (1)(c)(ii) may continue to attend the high school after the other child has left the elementary school.*

(d) the child is under the protective care of a state agency or has been adjudicated to be a youth in need of intervention or a delinquent youth, as defined in 41-5-103; or

(e) the child is required to attend school outside of the district of residence as the result of a placement in foster care or a group home licensed by the state.

(2) (a) Whenever a parent or guardian of a child, an agency of the state, or a court wishes to have a child attend a school under the provisions of this section, the parent or guardian, agency, or court shall complete an

out-of-district attendance agreement in consultation with an appropriate official of the district that the child will attend.

(b) The attendance agreement must set forth the financial obligations, if any, for costs incurred for tuition and transportation as provided in 20-5-323 and Title 20, chapter 10.

(c) (i) The trustees of the district of choice may waive any or all of the tuition rate. The trustees of the district of choice may waive the tuition for all students whose tuition is required to be paid by one type of entity and may charge tuition for all students whose tuition is required to be paid by another type of entity. However, any waiver of tuition must be applied equally to all students whose tuition is paid by the same type of entity.

(ii) As used in this subsection (2)(c), “entity” ~~means a parent, a guardian, the trustees of the district of residence, or a state agency includes:~~

(A) *except as provided in subsection (2)(c)(ii)(B), a parent or guardian of a student who is a nonresident of the district of choice;*

(B) *a parent or guardian of a student who lives in a location where one unified school system as provided in 20-6-312 is the district of residence for grades K-8 and another unified school system as provided in 20-6-312 is the district of residence for grades 9-12;*

(C) *the trustees of the district of residence; and*

(D) *a state agency.*

(3) Except as provided in subsection (4), the trustees of the resident district and the trustees of the district of attendance shall approve the out-of-district attendance agreement. The trustees of the district of attendance shall:

(a) notify the county superintendent of schools of the county of the child’s residence of the approval of the agreement within 10 days; and

(b) submit the agreement for a student attending under the provisions of subsection (1)(d) or (1)(e) to the superintendent of public instruction for approval for payment under 20-5-324.

(4) Unless the child is a child with a disability who resides in the district, the trustees of the district where the school to be attended is located may disapprove an out-of-district attendance agreement whenever they find that, because of insufficient room and overcrowding, the accreditation of the school would be adversely affected by the acceptance of the child.”

Section 3. Effective date. [This act] is effective July 1, 2021.

Approved April 15, 2021

CHAPTER NO. 239

[HB 543]

AN ACT GENERALLY REVISING EDUCATION LAWS; REQUIRING PUPILS IN GRADES 3 THROUGH 12 TO RECEIVE INSTRUCTION ABOUT THE UNITED STATES CONSTITUTION; AUTHORIZING PUBLIC SCHOOLS TO INCLUDE A MOMENT OF SILENCE AFTER THE PLEDGE OF ALLEGIANCE TO THE UNITED STATES FLAG; AMENDING SECTIONS 20-7-111 AND 20-7-133, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-7-111, MCA, is amended to read:

“**20-7-111. Instruction in public schools.** (1) *The Except as provided in subsection (2), the board of public education shall define and specify the basic instructional program for pupils in public schools, and such this program shall*

must be set forth in the standards of accreditation. Other instruction may be given when approved by the board of trustees.

(2) *The trustees of a school district shall ensure that all pupils in grades 3 through 12 receive instruction about the United States constitution and the pledge of allegiance.*

Section 2. Section 20-7-133, MCA, is amended to read:

“20-7-133. Pledge of allegiance required – exemption for students and teachers. (1) Except as provided in subsection (4), the pledge of allegiance to the flag of the United States of America must be recited in all public schools of the state *and may be followed by a moment of silence.*

(2) The recitation required in subsection (1) must be conducted at the beginning of the first class:

(a) of each school day in kindergarten through grade 6; and

~~(b) of each school week in grades 7 through 12.~~

(3) The recitation must be conducted:

(a) by each individual classroom teacher or the teacher’s surrogate; or

(b) over the school intercom system by a faculty member or person designated by the principal.

(4) A school district shall inform all students and teachers of their right to not participate in recitation of the pledge. Any student or teacher who, for any reason, objects to participating in the pledge exercise must be excused from participation. A student or teacher who declines to participate in the pledge may engage in any alternative form of conduct so long as that conduct does not materially or substantially disrupt the work or discipline of the school.

(5) If a student or teacher declines to participate in the recitation of the pledge pursuant to this section, a school district may not for evaluation purposes include any reference to the student’s or teacher’s not participating.”

Section 3. Effective date. [This act] is effective July 1, 2021.

Approved April 15, 2021

CHAPTER NO. 240

[HB 34]

AN ACT RECOGNIZING THE FEDERAL RECOGNITION OF THE LITTLE SHELL BAND OF CHIPPEWA INDIANS; REVISING LAWS TO REFLECT FEDERAL RECOGNITION OF EIGHT INDIAN TRIBES IN MONTANA; AMENDING SECTIONS 15-65-101, 20-7-1403, 20-9-537, 20-25-421, 22-2-602, 22-3-804, 44-2-411, 50-71-115, 53-1-216, 90-1-131, AND 90-1-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-65-101, MCA, is amended to read:

“15-65-101. Definitions. For purposes of this part, the following definitions apply:

(1) “Accommodation charge” means the fee charged by the owner or operator of a facility for use of the facility for lodging, including bath house facilities, but excluding charges for meals, transportation, entertainment, or any other similar charges.

(2) (a) “Campground” means a place, publicly or privately owned, used for public camping where persons may camp, secure tents, or park individual recreational vehicles for camping and sleeping purposes.

(b) The term does not include that portion of a trailer court, trailer park, or mobile home park intended for occupancy by trailers or mobile homes for resident dwelling purposes for periods of 30 consecutive days or more.

(3) “Council” means the tourism advisory council established in 2-15-1816.

(4) (a) “Facility” means a building containing individual sleeping rooms or suites, providing overnight lodging facilities for periods of less than 30 days to the general public for compensation. The term includes a facility represented to the public as a hotel, motel, campground, resort, dormitory, condominium inn, dude ranch, guest ranch, hostel, public lodginghouse, or bed and breakfast facility.

(b) The term does not include any health care facility, as defined in 50-5-101, or any facility owned by a corporation organized under Title 35, chapter 2 or 3, that is used primarily by persons under the age of 18 years for camping purposes, any hotel, motel, hostel, public lodginghouse, or bed and breakfast facility whose average daily accommodation charge for single occupancy does not exceed 60% of the amount authorized under 2-18-501 for the actual cost of lodging for travel within the state of Montana, or any other facility that is rented solely on a monthly basis or for a period of 30 days or more.

(5) “Indian tourism region” includes the area recognized as being historically associated with the ~~seven~~ federally recognized reservations in Montana and the Little Shell Chippewa tribe.

(6) “Nonprofit convention and visitors bureau” means a nonprofit corporation organized under Montana law and recognized by a majority of the governing body in the city, consolidated city-county, resort area, or resort area district in which the bureau is located.

(7) “Regional nonprofit tourism corporation” means a nonprofit corporation organized under Montana law and recognized by the council as the entity for promoting tourism within one of several regions established by executive order of the governor.

(8) “Resort area” means an area established pursuant to 7-6-1508.

(9) “Resort area district” has the meaning provided in 7-6-1501.”

Section 2. Section 20-7-1403, MCA, is amended to read:

“20-7-1403. (Temporary) Definitions. As used in this part, the following definitions apply:

(1) “Eligible district” means a school district encompassing or adjacent to an Indian reservation or a school district that includes one or more schools with an Indian population of 10% or greater.

(2) “Immersion program” means a program of an eligible district in which:

(a) all participating students receive content area instruction in an Indian language at least 50% of the day;

(b) teachers are fully proficient in the languages they use for instruction; and

(c) the goal of the program is perpetuating cultural integrity and promoting bilingualism and biliteracy.

(3) “Indian language” means any of the languages of ~~the tribes located on the seven Montana reservations and the Little Shell Chippewa tribe a~~ *federally recognized Indian tribe in Montana.* (Terminates June 30, 2023--sec. 1, Ch. 171, L. 2019.)”

Section 3. Section 20-9-537, MCA, is amended to read:

“20-9-537. (Temporary) Montana Indian language preservation program. (1) There is a Montana Indian language preservation program. The program is established to support efforts of Montana tribes to preserve and perpetuate Indian languages in the form of spoken, written, sung, or signed

language and to assist in the preservation and curricular goals of Indian education for all pursuant to Article X, section 1(2), of the Montana constitution and Title 20, chapter 1, part 5.

(2) (a) The state-tribal economic development commission established in 90-1-131 shall administer the program and, in collaboration with the Montana historical society, the state director of Indian affairs, and each tribal government ~~located on the seven Montana reservations and the Little Shell Chippewa~~ *of a federally recognized Indian tribe in Montana*, shall create program guidelines.

(b) The program guidelines must address performance and output standards, distribution of funds, accounting of funds, and use of funds.

(c) The performance and output standards must include:

- (i) development of audio and visual recordings;
- (ii) creation of reference materials, which may be in audio, visual, electronic, or written format;
- (iii) creation and publication of curricula, which may include electronic curricula; and

(iv) administration and maintenance of a long-term language preservation strategic plan.

(d) The performance and output standards may include:

- (i) language classes;
- (ii) language immersion camps;
- (iii) storytelling;
- (iv) publication of literature; and
- (v) language programs, workshops, seminars, camps, and other presentations in formal or informal settings.

(3) Any tangible goods produced under this section must be submitted within 1 year of production to the Montana historical society for the benefit of related language preservation efforts and for preservation and archival purposes.

(4) Tribal governments or their designees receiving program funds may form local program advisory boards. Members of a local program advisory board may include but are not limited to representatives from any of the entities listed in subsection (6).

(5) (a) Each tribal government or designee shall provide reports on expenditures of grant funds, overall program progress, and other criteria required under the guidelines established pursuant to subsection (2)(a) to the state-tribal economic development commission.

(b) The state-tribal economic development commission shall report any findings, comments, or recommendations regarding each local program and the Montana Indian language preservation program to the legislature as provided in 5-11-210.

(6) Tribal governments and their designees are encouraged to maximize the impact of grant funds by forming partnerships among state and tribal entities and leveraging existing resources for the preservation of Indian languages and the education of all Montanans in a way that honors the cultural integrity of American Indians. Suggested partner entities include but are not limited to:

- (a) the governor's office of Indian affairs;
- (b) school districts located on reservations;
- (c) tribal colleges;
- (d) tribal historic preservation offices;
- (e) tribal language and cultural programs;
- (f) units of the Montana university system;

- (g) the Montana historical society;
- (h) the office of public instruction;
- (i) Montana public television organizations;
- (j) school districts not located on reservations; and
- (k) the Montana state library.

(7) State entities that operate film and video studios and equipment shall cooperate with each local tribal preservation program in the production of materials for preservation and archival purposes.

(8) Any cultural and intellectual property rights from program efforts belong to the tribe. Use of the cultural and intellectual property may be negotiated between the tribe and other partnering entities.

(9) A tribe may use payments received pursuant to this section as matching funds for federal or private fund sources to accomplish the purposes of this section. (Terminates June 30, 2023--secs. 1 through 7, Ch. 77, L. 2019.)”

Section 4. Section 20-25-421, MCA, is amended to read:

“20-25-421. Charges for tuition – waivers. (1) The regents may prescribe tuition rates, matriculation charges, and incidental fees for students in institutions under their jurisdiction.

(2) The regents may utilize waivers in tuition and fees to aid in the recruitment of students to units of the university system and to promote the policy of assisting the categories of students specified in this subsection. The regents may:

(a) waive or discount nonresident tuition for selected and approved nonresident students, including nonresident students who enroll under provisions of any WICHE-sponsored state reciprocal agreements that provide for the payment, when required, of the student support fee by the reciprocal state;

(b) waive resident tuition for students at least 62 years of age;

(c) waive tuition and fees for:

(i) persons who have one-fourth Indian blood or more or are enrolled members of a ~~state-recognized~~ or federally recognized Indian tribe located within the boundaries of the state of Montana and who have been bona fide residents of Montana for at least 1 year prior to enrollment in the Montana university system;

(ii) persons designated by the department of corrections pursuant to 52-5-112 or 53-1-214;

(iii) residents of Montana who served with the armed forces of the United States in any of its wars and who were honorably discharged from military service;

(iv) children of residents of Montana who served with the armed forces of the United States in any of its wars and who were killed in action or died as a result of injury, disease, or other disability incurred while in the service of the armed forces of the United States;

(v) the spouses or children of residents of Montana who have been declared to be prisoners of war or missing in action; or

(vi) the spouse or children of a Montana national guard member who was killed or died as a result of injury, disease, or other disability incurred in the line of duty while serving on state military duty;

(d) waive tuition charges for qualified survivors of Montana firefighters or peace officers killed in the course and scope of employment. For purposes of this subsection, a qualified survivor is a person who meets the entrance requirements at the state university or college of the person’s choice and is the surviving spouse or child of any of the following who were killed in the course and scope of employment:

- (i) a paid or volunteer member of a municipal or rural fire department;
- (ii) a law enforcement officer as defined in 7-32-201; or
- (iii) a full-time highway patrol officer.”

Section 5. Section 22-2-602, MCA, is amended to read:

“22-2-602. Advisory committee – composition – duties. (1) To coordinate the project provided for in 22-2-601(1), the governor shall appoint an advisory committee composed of the following 12 members:

- (a) a representative from the Montana arts council;
- (b) a representative from each of the ~~seven Indian reservations~~ *federally recognized Indian tribes* in Montana ~~and the Little Shell Chippewa tribe~~;
- (c) a representative from the architecture and engineering division of the department of administration;
- (d) the state director of Indian affairs or the state director’s designee; and
- (e) a representative of the Montana historical society.

(2) The advisory committee shall make recommendations to the department of administration for an appropriate design and site for the monument on the grounds of the capitol complex. The monument may be located separately from the tribal flags authorized in 22-2-601(2).

(3) The advisory committee shall solicit and accept private contributions to finance the monument and the placement of the monument on the grounds of the capitol complex.”

Section 6. Section 22-3-804, MCA, is amended to read:

“22-3-804. Board – composition – rights – responsibilities.

(1) There is a burial preservation board. The board is composed of:

(a) one representative of each of the ~~seven reservations~~ *federally recognized Indian tribes in Montana*, appointed by the governor from a list of up to three nominees provided by each of the respective tribal governments;

~~(b) one person appointed by the governor from a list of up to three nominees submitted by the Little Shell band of Chippewa Indians;~~

~~(c)~~(b) one person appointed by the governor from a list of up to three nominees submitted by the Montana state historic preservation officer;

~~(d)~~(c) one representative of the Montana archaeological association appointed by the governor from a list of up to three nominees submitted by the Montana archaeological association;

~~(e)~~(d) one physical anthropologist appointed by the governor;

~~(f)~~(e) one representative of the Montana coroners’ association appointed by the governor from a list of up to three nominees submitted by the Montana coroners’ association; and

~~(g)~~(f) one representative of the public, appointed by the governor, who is not associated with tribal governments; state government; the fields of historic preservation, archaeology, or anthropology; or the Montana coroners’ association.

(2) Members of the board shall serve staggered 2-year terms. A vacancy on the board must be filled in the same manner as the original appointment and only for the unexpired portion of the term.

(3) The board shall:

(a) provide for the establishment and maintenance of a registry of burial sites located in the state;

(b) designate the appropriate member or members of the board or a representative or representatives of the board to conduct a field review upon notification of the discovery of human skeletal remains, a burial site, or burial material;

(c) assist interested landowners in the development of agreements with the board for the treatment and disposition, with appropriate dignity, of human skeletal remains and burial material;

(d) mediate, upon application of either party, disputes that may arise between a landowner and known descendants that relate to the treatment and disposition of human skeletal remains and burial material;

(e) assume responsibility for final treatment and disposition of human skeletal remains and burial material if the field review recommendation is not accepted by the board's representatives and the landowner;

(f) establish a nonrefundable application fee, not to exceed \$50, for a permit for scientific analysis of human skeletal remains or burial material from burial sites as provided by 22-3-806;

(g) issue permits authorizing scientific analysis;

(h) accept grants or real or in-kind donations to carry out the purposes of this part;

(i) adopt rules necessary to administer and enforce the provisions of this part; and

(j) perform any other duties necessary to implement the provisions of this part.

(4) The board is allocated to the department of administration for administrative purposes only as prescribed in 2-15-121.

(5) Each member of the board is entitled to be paid \$50 for each day in which the member is actually and necessarily engaged in the performance of board duties and is also entitled to be reimbursed for travel, meals, and lodging pursuant to 2-18-501 through 2-18-503."

Section 7. Section 44-2-411, MCA, is amended to read:

"44-2-411. (Temporary) Missing indigenous persons task force – membership – duties. (1) There is a missing indigenous persons task force. The task force is allocated to the department of justice for staffing services and administrative purposes only.

(2) Task force members, including the presiding officer, must be appointed by the attorney general or a designee of the attorney general. The task force membership must include but is not limited to:

(a) an employee of the department of justice who has expertise in the subject of missing persons;

(b) a representative from each ~~tribal government located on the seven Montana reservations and the Little Shell Chippewa tribe federally recognized Indian tribe in Montana;~~

(c) a member from the Montana highway patrol; and

(d) a representative from the attorney general's office.

(3) While respecting the government-to-government relationship between the state and each tribe, the primary duties of the task force are to:

(a) administer the looping in native communities network grant program provided for in 44-2-412; and

(b) (i) identify jurisdictional barriers between federal, state, local, and tribal law enforcement and community agencies; and

(ii) work to identify strategies to improve interagency communication, cooperation, and collaboration to remove jurisdictional barriers and increase reporting and investigation of missing indigenous persons.

(4) (a) The task force members must be appointed within 60 days after May 8, 2019. A vacancy on the task force must be filled in the manner of the original appointment.

(b) The task force shall develop and finalize the looping in native communities network grant application and award criteria no later than October 15, 2019.

(c) The task force shall select the recipient of the looping in native communities network competitive grant under 44-2-412(2) and disburse the grant funds no later than March 15, 2020.

(d) The task force must select eligible grantees and disburse funds for any grants awarded pursuant to 44-2-412(3) by June 30, 2020.

(e) The task force shall convene at least one meeting with tribal and local law enforcement agencies, federally recognized tribes, and urban Indian organizations for the purposes of subsection (3)(b) and to determine the scope of the problem of missing indigenous women and children.

(f) The task force shall prepare a written report of findings and recommendations for submission to the state-tribal relations interim committee provided for in 5-5-229, no later than September 1, 2020. The report must include a recommendation to the 67th legislature as to whether the task force should continue in existence. (Terminates June 30, 2021--sec. 8, Ch. 373, L. 2019.)"

Section 8. Section 50-71-115, MCA, is amended to read:

"50-71-115. Applicability of standards – exceptions. (1) The standards for safety and health and the enforcement rules adopted pursuant to this part apply to all public sector employers in this state and to public sector employees.

(2) The standards and enforcement rules adopted pursuant to this part do not apply to employment by:

- (a) private sector employers;
- (b) the federal government and its instrumentalities; or
- (c) a federally recognized tribal government; ~~or~~
- ~~(d) a tribal government recognized by the state."~~

Section 9. Section 53-1-216, MCA, is amended to read:

"53-1-216. Montana criminal justice oversight council – duties – membership. (1) There is a Montana criminal justice oversight council. The council consists of 16 members as follows:

(a) (i) two members of the house of representatives, one selected by the speaker of the house and one selected by the house minority leader; and

(ii) two members of the senate, one selected by the president of the senate and one selected by the senate minority leader;

(b) one district court judge selected by the chief justice of the Montana supreme court;

(c) the director and the deputy director of the department of corrections;

(d) a county sheriff and a county attorney appointed by the attorney general; and

(e) the following individuals appointed by the governor:

(i) ~~a one member of a state-recognized or~~ federally recognized Indian tribe located within the boundaries of the state of Montana who has expertise in criminal justice;

(ii) one member of the board of pardons and parole;

(iii) one member who represents the office of state public defender;

(iv) one representative of crime victims;

(v) one representative of civil rights advocates; and

(vi) two representatives of community corrections providers, one of whom must represent a treatment facility and one of whom must represent a prerelease center.

(2) The department of corrections shall provide clerical and administrative staff services to the council.

(3) The council shall elect a presiding officer.

(4) The council shall:

(a) review the recommendations of the commission on sentencing established in Chapter 343, Laws of 2015;

(b) receive and analyze data collected by agencies and entities charged with implementing the recommendations of the commission on sentencing and that are collecting data during the implementation and management of specific recommendations;

(c) assess outcomes from the recommendations the commission on sentencing has made and corresponding criminal justice reforms; and

(d) request, receive, and review data and report on performance outcome data relating to criminal justice reform.

(5) Data evaluation performed by the council must:

(a) assess the current electronic records utilized by criminal justice agencies;

(b) review and list all variables collected in each agency's information management system;

(c) establish a baseline for historical data comparisons;

(d) determine whether data is linked to specific offenders through a unique identifying factor;

(e) review archival data and agencies' data retention policies;

(f) determine whether presentence investigation reports are completed electronically in the department of corrections' case management system within established statutory timelines;

(g) review any established data protocols for pretrial services;

(h) assess if the data collected or recommended to be collected on offenders and programs will provide criminal justice agencies, the legislature, and the public adequate information to determine whether correctional programs produce standardized outcomes across the state and are an efficient use of state resources; and

(i) review and suggest improvements for behavioral health screening instruments and other screening instruments as needed to ensure the integrity of data that is captured in criminal justice agencies' information management systems.

(6) The council shall examine the feasibility of creating and maintaining a public portal through which criminal justice data can be accessed, including data on court case filings, correctional populations, and historical and legacy data sets.

(7) The council shall submit by September 1 of each even-numbered year a biennial report to the governor and legislature, as provided in 5-11-210. The report must include:

(a) a description of the council's proceedings since the previous report;

(b) a summary of savings from criminal justice reforms and recommendations for how the savings should be reinvested to reduce recidivism;

(c) a description of performance measures and outcomes related to criminal justice reforms; and

(d) a narrative of the council's progress on establishing data collection and uniformity standards and any changes that have been implemented as a result of the council's work.

(8) The council may appoint a working group to track any legislation resulting from criminal justice reforms and to perform other detailed analysis as directed by the council. If appointed, the working group shall meet regularly

and report to the council as the council requires. The working group may include representatives of criminal justice agencies and key constituencies that are not members of the council.

(9) Using the process established in legislative rules for executive agency legislative requests, the council may request legislation to enact changes to the state's criminal justice system that the council finds necessary.

(10) The judicial branch, the department of corrections, the department of public health and human services, the board of pardons and parole, and the legislative services and fiscal divisions shall provide data and information as requested by the council.

(11) Appointments made under subsection (1) must be made within 60 days after July 1, 2019. A vacancy on the council must be filled in the manner of the original appointment.

(12) Council members must be reimbursed for travel expenses as provided in 2-18-501 through 2-18-503. Members of the council who are full-time salaried officers or employees of this state or any political subdivision are entitled to their regular compensation. Legislative members must be compensated as provided in 5-2-302.

(13) The council shall report to the law and justice interim committee and the legislative finance committee as requested."

Section 10. Section 90-1-131, MCA, is amended to read:

"90-1-131. State-tribal economic development commission -- composition -- compensation for members. (1) There is a state-tribal economic development commission administratively attached to the department of commerce as prescribed in 2-15-121.

(2) The commission is composed of 11 members, each appointed by the governor to 3-year staggered terms commencing on July 1 of each year of appointment, and must include:

(a) the state director of Indian affairs;

(b) one member from the department of commerce;

(c) one member from the governor's office of economic development; *and*

(d) one member from each of the ~~seven~~ federally recognized *Indian* tribes in Montana ~~and one member from the Little Shell band of Chippewa Indians~~. A tribal government may advertise for individuals interested in serving on the commission and develop a list of applicants from which it may choose its nominee to recommend to the governor. In place of choosing from a list of applicants, a tribal government may select an elected tribal official to recommend for membership on the commission. If a tribal government nominates or otherwise recommends more than one person for membership on the commission, the governor shall select one individual from among those recommended persons.

(3) The members of the commission shall elect a presiding officer from among the members.

(4) Six members of the commission constitute a quorum, and the affirmative vote of the majority of the members present is sufficient for any action taken by the commission.

(5) Any vacancy on the commission must be filled in the same manner as the original appointment.

(6) Each member of the commission is entitled to reimbursement for expenses as provided in 2-18-501 through 2-18-503."

Section 11. Section 90-1-201, MCA, is amended to read:

"90-1-201. Big sky economic development program -- definitions.

(1) (a) There is a big sky economic development program that consists of:

(i) the big sky economic development fund established in 17-5-703; and

(ii) the economic development special revenue account provided for in 90-1-205.

(b) Interest and income from the big sky economic development fund may be used to administer the big sky economic development program and to provide financial assistance for qualified economic development purposes under this part.

(2) As used in this part, the following definitions apply:

(a) "Certified regional development corporation" has the meaning provided in 90-1-116.

(b) "Department" means the department of commerce provided for in 2-15-1801.

(c) "Economic development organization" means:

(i) (A) a private, nonprofit corporation, as provided in Title 35, chapter 2, that is exempt from taxation under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(3) or 501(c)(6);

(B) an entity certified by the department under 90-1-116; or

(C) an entity established by a local government; or

(ii) an entity actively engaged in economic development and business assistance work in a region of the state.

(d) "Employee benefits" means health, welfare, and pension contributions that meet the requirements of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq.

(e) "High-poverty county" means a county in this state that has a poverty rate greater than Montana's average poverty rate as determined by the U.S. bureau of the census estimates for the most current year available.

(f) "Local government" means a county, consolidated government, city, town, or district or local public entity with the authority to spend or receive public funds.

(g) "Tribal government" means ~~any one of the seven~~ federally recognized tribal governments of Montana ~~and the Little Shell band of Chippewa Indians."~~

Section 12. Coordination instruction. If either House Bill No. 98 or Senate Bill No. 4, or both, and [this act] are passed and approved and if either or both and [this act] contain a section that amends 44-2-411, then [section 7 of this act], amending 44-2-411, is void.

Section 13. Effective date. [This act] is effective on passage and approval.

Approved April 19, 2021

CHAPTER NO. 241

[HB 35]

AN ACT ESTABLISHING THE MISSING INDIGENOUS PERSONS REVIEW COMMISSION; ESTABLISHING MEMBERS, DUTIES, AND CONFIDENTIALITY REQUIREMENTS; REQUIRING REMOTE MEETINGS; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Missing indigenous persons review commission – confidentiality of meetings and records – criminal liability for unauthorized disclosure – reporting. (1) There is a missing indigenous persons review commission in the department of justice.

(2) Subject to the provisions of subsection (5), the commission shall:

(a) examine the trends and patterns of missing indigenous persons in the state;

(b) educate the public, law enforcement, and policymakers about missing indigenous persons and strategies for investigation and prevention; and

(c) recommend policies and practices that may encourage jurisdictional collaboration and coordination and reduce the incidence of missing indigenous persons.

(3) The members of the commission, not to exceed 18, are appointed by the attorney general from among the following disciplines:

(a) representatives from state departments that are involved in issues related to missing indigenous persons;

(b) representatives of private organizations that are involved in issues related to missing indigenous persons;

(c) representatives from local, state, federal, and tribal law enforcement;

(d) representatives of Indian tribes in Montana;

(e) other concerned citizens; and

(f) a member of the legislature who serves on either the house judiciary committee or the senate judiciary committee.

(4) The members shall serve without compensation by the commission and all meetings must be held by remote means using audio or videoconferencing whenever possible. Members who are full-time salaried officers or employees of this state or of any political subdivision of this state are entitled to their regular compensation. The provisions of 2-15-122 do not apply to the commission.

(5) The commission shall review missing persons cases selected by the attorney general to provide the commission with the best opportunity to fulfill its duties under this section. The review must include but is not limited to:

(a) information obtained pursuant to subsection (6); and

(b) consideration of:

(i) why the person or persons went missing;

(ii) whether a missing person report was filed in a timely manner;

(iii) whether the person or persons remain missing;

(iv) whether the person or persons went missing from inside the exterior boundaries of an Indian reservation; and

(v) whether the complexities of federal, state, local, and tribal law enforcement jurisdiction inhibited a timely and effective investigation of the case.

(6) On written request from the commission, a person who possesses information or records that are necessary and relevant to a missing persons case review, including relevant confidential criminal justice information as defined in 44-5-103, shall, as soon as practicable, provide the commission with the information and records. A person who provides information or records on request of the commission is not criminally or civilly liable for providing information or records in compliance with this section.

(7) The meetings and proceedings of the commission are confidential and are exempt from the provisions of Title 2, chapter 3.

(8) The records of the commission are confidential information as defined in 2-6-1002 and are protected from disclosure. The records are not subject to subpoena, discovery, or introduction into evidence in a civil or criminal action unless the records are reviewed by a district court judge and ordered to be provided to the person seeking access. The commission shall disclose conclusions and recommendations on request but may not disclose information, records, or data that are otherwise confidential. The commission may not use

the information, records, or data for purposes other than those designated by subsections (2)(a) and (2)(c).

(9) The commission may require any person appearing before it to sign a confidentiality agreement created by the commission in order to maintain the confidentiality of the proceedings. In addition, the commission may enter into agreements with nonprofit organizations and private agencies to obtain otherwise confidential information.

(10) A member of the commission who knowingly uses information obtained pursuant to subsection (6) for a purpose not authorized in subsections (2) or (5) or who discloses information in violation of subsection (8) is subject to a civil penalty of not more than \$500.

(11) Prior to each regular legislative session, the commission shall report its findings and recommendations to the law and justice interim committee and the state-tribal relations committee in accordance with 5-11-210, as well as to the attorney general and the governor. The report must be made available to the public through the office of the attorney general. The commission may issue data or other information periodically, in addition to the biennial report.

Section 2. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Section 3. Appropriation. For the biennium beginning July 1, 2021, there is appropriated \$20,000 from the state general fund to the department of justice for operation of the missing indigenous persons review commission established in [section 1].

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 2, chapter 15, part 20, and the provisions of Title 2, chapter 15, part 20, apply to [section 1].

Section 5. Effective date. [This act] is effective July 1, 2021.

Section 6. Termination. [This act] terminates June 30, 2023.

Approved April 19, 2021

CHAPTER NO. 242

[HB 43]

AN ACT GENERALLY REVISING LAWS RELATING TO TELEHEALTH; PROHIBITING CERTAIN CONTRACT PROVISIONS THAT IMPOSE SITE RESTRICTIONS ON TELEHEALTH; PROVIDING THAT A PREVIOUSLY ESTABLISHED PATIENT-HEALTH CARE PROVIDER RELATIONSHIP IS NOT REQUIRED TO RECEIVE SERVICES BY TELEHEALTH; REVISING THE DEFINITION OF TELEMEDICINE; EXTENDING THE COVERAGE REQUIREMENT TO PUBLIC EMPLOYEE BENEFIT PLANS AND SELF-INSURED STUDENT HEALTH PLANS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-18-704, 20-25-1303, 20-25-1403, 33-22-138, 37-3-102, 37-11-101, 37-11-105, AND 50-46-302, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-18-704, MCA, is amended to read:

“2-18-704. Mandatory provisions. (1) An insurance contract or plan issued under this part must contain provisions that permit:

(a) the member of a group who retires from active service under the appropriate retirement provisions of a defined benefit plan provided by law

or, in the case of the defined contribution plan provided in Title 19, chapter 3, part 21, a member with at least 5 years of service and who is at least age 50 while in covered employment to remain a member of the group until the member becomes eligible for medicare under the federal Health Insurance for the Aged Act, 42 U.S.C. 1395, unless the member is a participant in another group plan with substantially the same or greater benefits at an equivalent cost or unless the member is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost;

(b) the surviving spouse of a member to remain a member of the group as long as the spouse is eligible for retirement benefits accrued by the deceased member as provided by law unless the spouse is eligible for medicare under the federal Health Insurance for the Aged Act or unless the spouse has or is eligible for equivalent insurance coverage as provided in subsection (1)(a);

(c) the surviving children of a member to remain members of the group as long as they are eligible for retirement benefits accrued by the deceased member as provided by law unless they have equivalent coverage as provided in subsection (1)(a) or are eligible for insurance coverage by virtue of the employment of a surviving parent or legal guardian.

(2) An insurance contract or plan issued under this part must contain the provisions of subsection (1) for remaining a member of the group and also must permit:

(a) the spouse of a retired member the same rights as a surviving spouse under subsection (1)(b);

(b) the spouse of a retiring member to convert a group policy as provided in 33-22-508; and

(c) continued membership in the group by anyone eligible under the provisions of this section, notwithstanding the person's eligibility for medicare under the federal Health Insurance for the Aged Act.

(3) (a) A state insurance contract or plan must contain provisions that permit a legislator to remain a member of the state's group plan until the legislator becomes eligible for medicare under the federal Health Insurance for the Aged Act if the legislator:

(i) terminates service in the legislature and is a vested member of a state retirement system provided by law; and

(ii) notifies the department of administration in writing within 90 days of the end of the legislator's legislative term.

(b) A former legislator may not remain a member of the group plan under the provisions of subsection (3)(a) if the person:

(i) is a member of a plan with substantially the same or greater benefits at an equivalent cost; or

(ii) is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost.

(c) A legislator who remains a member of the group under the provisions of subsection (3)(a) and subsequently terminates membership may not rejoin the group plan unless the person again serves as a legislator.

(4) (a) A state insurance contract or plan must contain provisions that permit continued membership in the state's group plan by a member of the judges' retirement system who leaves judicial office but continues to be an inactive vested member of the judges' retirement system as provided by 19-5-301. The judge shall notify the department of administration in writing within 90 days of the end of the judge's judicial service of the judge's choice to continue membership in the group plan.

(b) A former judge may not remain a member of the group plan under the provisions of this subsection (4) if the person:

(i) is a member of a plan with substantially the same or greater benefits at an equivalent cost;

(ii) is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost; or

(iii) becomes eligible for medicare under the federal Health Insurance for the Aged Act.

(c) A judge who remains a member of the group under the provisions of this subsection (4) and subsequently terminates membership may not rejoin the group plan unless the person again serves in a position covered by the state's group plan.

(5) A person electing to remain a member of the group under subsection (1), (2), (3), or (4) shall pay the full premium for coverage and for that of the person's covered dependents.

(6) An insurance contract or plan issued under this part that provides for the dispensing of prescription drugs by an out-of-state mail service pharmacy, as defined in 37-7-702:

(a) must permit any member of a group to obtain prescription drugs from a pharmacy located in Montana that is willing to match the price charged to the group or plan and to meet all terms and conditions, including the same professional requirements that are met by the mail service pharmacy for a drug, without financial penalty to the member; and

(b) may only be with an out-of-state mail service pharmacy that is registered with the board under Title 37, chapter 7, part 7, and that is registered in this state as a foreign corporation.

(7) An insurance contract or plan issued under this part must include coverage for:

(a) treatment of inborn errors of metabolism, as provided for in 33-22-131; and

(b) *telehealth services, as provided for in 33-22-138; and*

~~(b)(c)~~ therapies for Down syndrome, as provided in 33-22-139.

(8) (a) An insurance contract or plan issued under this part that provides coverage for an individual in a member's family must provide coverage for well-child care for children from the moment of birth through 7 years of age. Benefits provided under this coverage are exempt from any deductible provision that may be in force in the contract or plan.

(b) Coverage for well-child care under subsection (8)(a) must include:

(i) a history, physical examination, developmental assessment, anticipatory guidance, and laboratory tests, according to the schedule of visits adopted under the early and periodic screening, diagnosis, and treatment services program provided for in 53-6-101; and

(ii) routine immunizations according to the schedule for immunization recommended by the immunization practice advisory committee of the U.S. department of health and human services.

(c) Minimum benefits may be limited to one visit payable to one provider for all of the services provided at each visit as provided for in this subsection (8).

(d) For purposes of this subsection (8):

(i) "developmental assessment" and "anticipatory guidance" mean the services described in the Guidelines for Health Supervision II, published by the American academy of pediatrics; and

(ii) “well-child care” means the services described in subsection (8)(b) and delivered by a physician or a health care professional supervised by a physician.

(9) Upon renewal, an insurance contract or plan issued under this part under which coverage of a dependent terminates at a specified age must continue to provide coverage for any dependent, as defined in the insurance contract or plan, until the dependent reaches 26 years of age. For insurance contracts or plans issued under this part, the premium charged for the additional coverage of a dependent, as defined in the insurance contract or plan, may be required to be paid by the insured and not by the employer.

(10) Prior to issuance of an insurance contract or plan under this part, written informational materials describing the contract’s or plan’s cancer screening coverages must be provided to a prospective group or plan member.

(11) The state employee group benefit plans and the Montana university system group benefits plans must provide coverage for hospital inpatient care for a period of time as is determined by the attending physician and, in the case of a health maintenance organization, the primary care physician, in consultation with the patient to be medically necessary following a mastectomy, a lumpectomy, or a lymph node dissection for the treatment of breast cancer.

(12) (a) The state employee group benefit plans and the Montana university system group benefits plans must provide coverage for outpatient self-management training and education for the treatment of diabetes. Any education must be provided by a licensed health care professional with expertise in diabetes.

(b) Coverage must include a \$250 benefit for a person each year for medically necessary and prescribed outpatient self-management training and education for the treatment of diabetes.

(c) The state employee group benefit plans and the Montana university system group benefits plans must provide coverage for diabetic equipment and supplies that at a minimum includes insulin, syringes, injection aids, devices for self-monitoring of glucose levels (including those for the visually impaired), test strips, visual reading and urine test strips, one insulin pump for each warranty period, accessories to insulin pumps, one prescriptive oral agent for controlling blood sugar levels for each class of drug approved by the United States food and drug administration, and glucagon emergency kits.

(d) Nothing in subsection (12)(a), (12)(b), or (12)(c) prohibits the state or the Montana university group benefit plans from providing a greater benefit or an alternative benefit of substantially equal value, in which case subsection (12)(a), (12)(b), or (12)(c), as appropriate, does not apply.

(e) Annual copayment and deductible provisions are subject to the same terms and conditions applicable to all other covered benefits within a given policy.

(f) This subsection (12) does not apply to disability income, hospital indemnity, medicare supplement, accident-only, vision, dental, specific disease, or long-term care policies offered by the state or the Montana university system as benefits to employees, retirees, and their dependents.

(13) (a) The state employee group benefit plans and the Montana university system group benefits plans that provide coverage to the spouse or dependents of a peace officer as defined in 45-2-101, a game warden as defined in 19-8-101, a firefighter as defined in 19-13-104, or a volunteer firefighter as defined in 19-17-102 shall renew the coverage of the spouse or dependents if the peace officer, game warden, firefighter, or volunteer firefighter dies within the course and scope of employment. Except as provided in subsection (13)(b), the continuation of the coverage is at the option of the spouse or dependents. Renewals of coverage under this section must provide for the same level of

benefits as is available to other members of the group. Premiums charged to a spouse or dependent under this section must be the same as premiums charged to other similarly situated members of the group. Dependent special enrollment must be allowed under the terms of the insurance contract or plan. The provisions of this subsection (13)(a) are applicable to a spouse or dependent who is insured under a COBRA continuation provision.

(b) The state employee group benefit plans and the Montana university system group benefits plans subject to the provisions of subsection (13)(a) may discontinue or not renew the coverage of a spouse or dependent only if:

(i) the spouse or dependent has failed to pay premiums or contributions in accordance with the terms of the state employee group benefit plans and the Montana university system group benefits plans or if the plans have not received timely premium payments;

(ii) the spouse or dependent has performed an act or practice that constitutes fraud or has made an intentional misrepresentation of a material fact under the terms of the coverage; or

(iii) the state employee group benefit plans and the Montana university system group benefits plans are ceasing to offer coverage in accordance with applicable state law.

(14) The state employee group benefit plans and the Montana university system group benefits plans must comply with the provisions of 33-22-153.

(15) An insurance contract or plan issued under this part and a group benefits plan issued by the Montana university system must provide mental health coverage that meets the provisions of Title 33, chapter 22, part 7. (See compiler's comments for contingent termination of certain text.)"

Section 2. Section 20-25-1303, MCA, is amended to read:

"20-25-1303. Duties of commissioner – group benefits plans and employee premium levels not mandatory subjects for collective bargaining. (1) The commissioner shall:

(a) design group benefits plans and establish premium levels for employees;

(b) establish specifications for bids and accept or reject bids for administering group benefits plans;

(c) negotiate and administer contracts for group benefits plans;

(d) prepare an annual report that:

(i) describes the group benefits plans being administered; and

(ii) details the historical and projected program costs and the status of reserve funds; and

(e) adopt policies for the conduct of business of the advisory committee and to carry out the provisions of this part.

(2) (a) *The Except as provided in subsection (2)(b), the provisions of Title 33 do not apply to the commissioner when exercising the duties provided for in this part.*

(b) *Group benefit plans designed under this part must include coverage for telehealth services as provided in 33-22-138.*

(3) The design or modification of group benefits plans and the establishment of employee premium levels are not mandatory subjects for collective bargaining under Title 39, chapter 31."

Section 3. Section 20-25-1403, MCA, is amended to read:

"20-25-1403. Authorization to establish self-insured health plan for students – requirements – exemption. (1) The commissioner may establish a self-insured student health plan for enrolled students of the system and their dependents, including students of a community college district. In developing a self-insured student health plan, the commissioner shall:

- (a) maintain the plan on an actuarially sound basis;
- (b) maintain reserves sufficient to liquidate the unrevealed claims liability and other liabilities of the plan; and
- (c) deposit all reserve funds, contributions and payments, interest earnings, and premiums paid to the plan. The deposits must be expended for claims under the plan and for the costs of administering the plan, including but not limited to the costs of hiring staff, consultants, actuaries, and auditors, purchasing necessary reinsurance, and repaying debts.

(2) Prior to the implementation of a self-insured student health plan, the commissioner shall consult with affected parties, including but not limited to the board of regents and representatives of enrolled students of the system.

(3) A self-insured student health plan developed under this part is not responsible for and may not cover any services or pay any expenses for which payment has been made or is due under an automobile, premises, or other private or public medical payment coverage plan or provision or under a workers' compensation plan or program, except when the other payor is required by federal law to be a payor of last resort. The term "services" includes but is not limited to all medical services, procedures, supplies, medications, or other items or services provided to treat an injury or medical condition sustained by a member of the plan.

(4) The provisions of 20-25-1315 through 20-25-1320 apply to any self-insured student health plan developed under this part.

(5) (a) *The Except as provided in subsection (5)(b), the provisions of Title 33 do not apply to the commissioner when exercising the duties provided for in this part.*

(b) *A self-insured student health plan established under this part must include coverage for telehealth services as provided in 33-22-138."*

Section 4. Section 33-22-138, MCA, is amended to read:

"33-22-138. Coverage for telemedicine telehealth services – rulemaking. (1) Each group or individual policy, certificate of disability insurance, subscriber contract, membership contract, or health care services agreement that provides coverage for health care services must provide coverage for health care services provided by a health care provider or health care facility by means of ~~telemedicine~~ *telehealth* if the services are otherwise covered by the policy, certificate, contract, or agreement.

(2) *A policy, certificate, contract, or agreement may not:*

(a) *impose restrictions involving:*

(i) *the site at which the patient is physically located and receiving health care services by means of telehealth; or*

(ii) *the site at which the health care provider is physically located and providing the services by means of telehealth; or*

(b) *distinguish between telehealth services provided to patients in rural locations and telehealth services provided to patients in urban locations.*

(2)(3) Coverage under this section must be equivalent to the coverage for services that are provided in person by a health care provider or health care facility.

(3)(4) Nothing in this section may be construed to require:

(a) a health insurance issuer to provide coverage for services that are not medically necessary, subject to the terms and conditions of the insured's policy;
or

(b) *coverage of an otherwise noncovered benefit;*

(b)(c) a health care provider to be physically present with a patient at the site where the patient is located unless the health care provider who is

providing health care services by means of ~~telemedicine~~ *telehealth* determines that the presence of a health care provider is necessary; or

(d) *except as provided in 50-46-310 or as provided in Title 37 and related administrative rules, a patient to have a previously established patient-provider relationship with a specific health care provider in order to receive health care services by means of telehealth.*

(4)(5) Coverage under this section may be subject to deductibles, coinsurance, and copayment provisions. Special deductible, coinsurance, copayment, or other limitations that are not generally applicable to other medical services covered under the plan may not be imposed on the coverage for services provided by means of ~~telemedicine~~ *telehealth*.

(5)(6) This section does not apply to disability income, hospital indemnity, medicare supplement, specified disease, or long-term care policies.

(7) *The commissioner may adopt rules necessary to implement the provisions of this section.*

(6)(8) For the purposes of this section, the following definitions apply:

(a) "Health care facility" means a critical access hospital, hospice, hospital, long-term care facility, mental health center, outpatient center for primary care, or outpatient center for surgical services licensed pursuant to Title 50, chapter 5.

(b) "Health care provider" means an individual:

(i) licensed pursuant to Title 37, chapter 3, 4, 6, 7, 10, 11, 15, 17, 20, 22, 23, 24, 25, 26, or 35;

(ii) licensed pursuant to Title 37, chapter 8, to practice as a registered professional nurse or as an advanced practice registered nurse;

(iii) certified by the American board of genetic counseling as a genetic counselor; or

(iv) certified by the national certification board for diabetes educators as a diabetes educator.

(c) ~~"Store-and-forward technology" means electronic information, imaging, and communication that is transferred, recorded, or otherwise stored in order to be reviewed at a later date by a health care provider or health care facility at a distant site without the patient present in real time. The term includes interactive audio, video, and data communication.~~

(d)(c) (i) *"Telemedicine Telehealth" means the use of interactive audio, video, or other telecommunications technology or media, including audio-only communication, that is:*

(A) ~~used by a health care provider or health care facility to deliver health care services at a site other than the site where the patient is located; and~~

(B) ~~delivered over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. 1320d, et seq state and federal privacy laws.~~

(ii) ~~The term includes the use of electronic media for consultation relating to the health care diagnosis or treatment of a patient in real time or through the use of store-and-forward technology.~~

(ii) *The term does not include delivery of health care services by means of facsimile machines or electronic messaging alone. The use of facsimile and electronic message is not precluded if used in conjunction with other audio, video, or telecommunications technology or media.*

(iii)(ii) *The For physicians providing written certification of a debilitating medical condition pursuant to 50-46-310, the term does not include the use of audio-only telephone, e-mail, or facsimile transmissions audio-only communication unless the physician has previously established a physician-patient relationship through an in-person encounter."*

Section 5. Section 37-3-102, MCA, is amended to read:

“37-3-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) “ACGME” means the accreditation council for graduate medical education.

(2) “AOA” means the American osteopathic association.

(3) “Approved internship” means an internship training program of at least 1 year in a program that either is approved for intern training by the AOA or conforms to the standards for intern training established by the ACGME or successors. However, the board may, upon investigation, approve any other internship.

(4) “Approved medical school” means a school that either is accredited by the AOA or conforms to the education standards established by the LCME or the world health organization or successors for medical schools that meet standards established by the board by rule.

(5) “Approved residency” means a residency training program conforming to the standards for residency training established by the ACGME or successors or approved for residency training by the AOA.

(6) “Board” means the Montana state board of medical examiners provided for in 2-15-1731.

(7) “Community-integrated health care” means the provision of out-of-hospital medical services that an emergency care provider with an endorsement may provide as determined by board rule.

(8) “Department” means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(9) “Emergency care provider” or “ECP” means a person licensed by the board, including but not limited to an emergency medical responder, an emergency medical technician, an advanced emergency medical technician, or a paramedic. An emergency care provider with an endorsement may provide community-integrated health care.

(10) “LCME” means the liaison committee on medical education.

(11) “Medical assistant” means an unlicensed allied health care worker who functions under the supervision of a physician, physician assistant, or podiatrist in a physician’s or podiatrist’s office and who performs administrative and clinical tasks.

(12) “Physician” means a person who holds a degree as a doctor of medicine or doctor of osteopathy and who has a valid license to practice medicine or osteopathic medicine in this state.

(13) “Practice of medicine” means the diagnosis, treatment, or correction of or the attempt to or the holding of oneself out as being able to diagnose, treat, or correct human conditions, ailments, diseases, injuries, or infirmities, whether physical or mental, by any means, methods, devices, or instrumentalities, including electronic and technological means such as telemedicine. If a person who does not possess a license to practice medicine in this state under this chapter and who is not exempt from the licensing requirements of this chapter performs acts constituting the practice of medicine, the person is practicing medicine in violation of this chapter.

(14) “Store-and-forward technology” means electronic information, imaging, and communication that is transferred, recorded, or otherwise stored in order to be reviewed at a later date by a health care provider or health care facility at a distant site without the patient present in real time. The term includes interactive audio, video, and data communication.

(14)-(a) “Telemedicine” means the practice of medicine using interactive electronic communications, information technology, or other means between

a licensee in one location and a patient in another location with or without an intervening health care provider. Telemedicine typically involves the application of secure videoconferencing or store-and-forward technology, as defined in 33-22-138.

(b) The term does not mean an audio-only telephone conversation, an e-mail or instant messaging conversation, or a message sent by facsimile transmission.

(15) (a) *“Telemedicine” means the practice of medicine using interactive electronic communications, information technology, audio-only conversations, or other means between a licensee in one location and a patient in another location with or without an intervening health care provider. Telemedicine includes the application of secure videoconferencing or store-and-forward technology.*

(b) *The term does not mean an e-mail or instant messaging conversation or a message sent by facsimile transmission.*

(c) *For physicians providing written certification of a debilitating medical condition pursuant to 50-46-310, the term does not include audio-only communication unless the physician has previously established a physician-patient relationship through an in-person encounter.”*

Section 6. Section 37-11-101, MCA, is amended to read:

“37-11-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) “Board” means the board of physical therapy examiners provided for in 2-15-1748.

(2) “Department” means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(3) “Hearing” means the adjudicative proceeding concerning the issuance, denial, suspension, or revocation of a license, after which the appropriate action toward an applicant or licensee is to be determined by the board.

(4) “Physical therapist” or “physiotherapist” means a person who practices physical therapy.

(5) “Physical therapist assistant” or “assistant” means a person who:

(a) is a graduate of an accredited physical therapist assistant curriculum approved by the board;

(b) assists a physical therapist in the practice of physical therapy but who may not make evaluations or design treatment plans; and

(c) is supervised by a licensed physical therapist as described in 37-11-105.

(6) “Physical therapist assistant student” means a person who is enrolled in an accredited physical therapist assistant curriculum and who as part of the clinical and educational training is practicing under the supervision of a licensed physical therapist as described in 37-11-105.

(7) “Physical therapy” means the evaluation, treatment, and instruction of human beings, in person or through ~~telemedicine~~ *telehealth*, to detect, assess, prevent, correct, alleviate, and limit physical disability, bodily malfunction and pain, injury, and any bodily or mental conditions by the use of therapeutic exercise, prescribed topical medications, and rehabilitative procedures for the purpose of preventing, correcting, or alleviating a physical or mental disability.

(8) “Physical therapy aide” or “aide” means a person who aids in the practice of physical therapy, whose activities require on-the-job training, and who is supervised by a licensed physical therapist or a licensed physical therapist assistant as described in 37-11-105.

(9) “Physical therapy practitioner”, “physical therapy specialist”, “physiotherapy practitioner”, or “manual therapists” are equivalent terms, and any derivation of the phrases or any letters implying the phrases are equivalent

terms. Any reference to any one of the terms in this chapter includes the others but does not include certified corrective therapists or massage therapists.

(10) "Physical therapy student" or "physical therapy intern" means an individual who is enrolled in an accredited physical therapy curriculum, who, as part of the individual's professional, educational, and clinical training, is practicing in a physical therapy setting, and who is supervised by a licensed physical therapist as described in 37-11-105.

(11) "~~Telemedicine~~ *Telehealth*" has the meaning provided in 33-22-138.

(12) "Topical medications" means medications applied locally to the skin and includes only medications listed in 37-11-106(2) for which a prescription is required under state or federal law."

Section 7. Section 37-11-105, MCA, is amended to read:

"37-11-105. Supervision of physical therapist assistant, physical therapy aide, physical therapy student, or physical therapist assistant student. (1) A physical therapist assistant shall practice under the supervision of a licensed physical therapist who is responsible for and participates in a patient's care. This supervision requires the licensed physical therapist to make an onsite visit or a visit by means of ~~telemedicine~~ *telehealth* to the client at least once for every six visits made by the assistant or once every 2 weeks, whichever occurs first.

(2) A licensed physical therapist may not concurrently supervise more than two full-time assistants or the equivalent. This supervision does not require the presence of the assistant.

(3) A physical therapy aide shall practice under the onsite supervision of a licensed physical therapist or a licensed assistant. A licensed assistant may not concurrently supervise more than one full-time aide or the equivalent. A licensed physical therapist may not concurrently supervise more than four aides or the equivalent or two assistants and two aides or the equivalent.

(4) A physical therapy student or physical therapist assistant student shall practice with the onsite supervision of a licensed physical therapist."

Section 8. Section 50-46-302, MCA, is amended to read:

"50-46-302. Definitions. As used in this part, the following definitions apply:

(1) "Canopy" means the total amount of square footage dedicated to live plant production at a registered premises consisting of the area of the floor, platform, or means of support or suspension of the plant.

(2) "Chemical manufacturing" means the production of marijuana concentrate.

(3) "Correctional facility or program" means a facility or program that is described in 53-1-202 and to which an individual may be ordered by any court of competent jurisdiction.

(4) "Debilitating medical condition" means:

(a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's health status;

(b) cachexia or wasting syndrome;

(c) severe chronic pain that is persistent pain of severe intensity that significantly interferes with daily activities as documented by the patient's treating physician;

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

(g) Crohn's disease;

(h) painful peripheral neuropathy;

(i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

(j) admittance into hospice care in accordance with rules adopted by the department; or

(k) posttraumatic stress disorder.

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

(6) "Dispensary" means a registered premises from which a provider or marijuana-infused products provider is approved by the department to dispense marijuana or marijuana-infused products to a registered cardholder.

(7) (a) "Employee" means an individual employed to do something for the benefit of an employer.

(b) The term includes a manager, agent, or director of a partnership, association, company, corporation, limited liability company, or organization.

(c) The term does not include a third party with whom a licensee has a contractual relationship.

(8) "Financial interest" means a legal or beneficial interest that entitles the holder, directly or indirectly through a business, an investment, or a spouse, parent, or child relationship, to 1% or more of the net profits or net worth of the entity in which the interest is held.

(9) "Local government" means a county, a consolidated government, or an incorporated city or town.

(10) "Marijuana" has the meaning provided in 50-32-101.

(11) "Marijuana concentrate" means any type of marijuana product consisting wholly or in part of the resin extracted from any part of the marijuana plant.

(12) "Marijuana derivative" means any mixture or preparation of the dried leaves, flowers, resin, and byproducts of the marijuana plant, including but not limited to marijuana concentrates and marijuana-infused products.

(13) (a) "Marijuana-infused product" means a product that contains marijuana and is intended for use by a registered cardholder by a means other than smoking.

(b) The term includes but is not limited to edible products, ointments, and tinctures.

(14) (a) "Marijuana-infused products provider" means a person licensed by the department to manufacture and provide marijuana-infused products for a registered cardholder.

(b) The term does not include the cardholder's treating or referral physician.

(15) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

(16) "Paraphernalia" has the meaning provided in 45-10-101.

(17) "Person" means an individual, partnership, association, company, corporation, limited liability company, or organization.

(18) (a) "Provider" means a person licensed by the department to assist a registered cardholder as allowed under this part.

(b) The term does not include a cardholder's treating physician or referral physician.

(19) "Referral physician" means an individual who:

(a) is licensed under Title 37, chapter 3; and

(b) is the physician to whom a patient's treating physician has referred the patient for physical examination and medical assessment.

(20) “Registered cardholder” or “cardholder” means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

(21) “Registered premises” means the location at which a provider or marijuana-infused products provider:

(a) has indicated that marijuana will be cultivated, chemical manufacturing will occur, or marijuana-infused products will be manufactured for registered cardholders; or

(b) has established a dispensary for sale of marijuana or marijuana-infused products to registered cardholders.

(22) “Registry identification card” means a document issued by the department pursuant to 50-46-303 that identifies an individual as a registered cardholder.

(23) (a) “Resident” means an individual who meets the requirements of 1-1-215.

(b) An individual is not considered a resident for the purposes of this part if the individual:

(i) claims residence in another state or country for any purpose; or

(ii) is an absentee property owner paying property tax on property in Montana.

(24) “Second degree of kinship by blood or marriage” means a mother, father, brother, sister, son, daughter, spouse, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent-in-law, grandchild-in-law, stepfather, stepmother, stepbrother, stepsister, stepson, stepdaughter, stepgrandparent, or stepgrandchild.

(25) “Seedling” means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter.

(26) “Standard of care” means, at a minimum, the following activities when undertaken in person or through the use of telemedicine by a patient’s treating physician or referral physician if the treating physician or referral physician is providing written certification for a patient with a debilitating medical condition:

(a) obtaining the patient’s medical history;

(b) performing a relevant and necessary physical examination;

(c) reviewing prior treatment and treatment response for the debilitating medical condition;

(d) obtaining and reviewing any relevant and necessary diagnostic test results related to the debilitating medical condition;

(e) discussing with the patient and ensuring that the patient understands the advantages, disadvantages, alternatives, potential adverse effects, and expected response to the recommended treatment;

(f) monitoring the response to treatment and possible adverse effects; and

(g) creating and maintaining patient records that remain with the physician.

(27) “State laboratory” means the laboratory operated by the department to conduct environmental analyses.

(28) “Telemedicine” has the meaning provided in ~~33-22-138~~ *37-3-102*.

(29) “Testing laboratory” means a qualified person, licensed by the department, who meets the requirements of 50-46-311 and:

(a) provides testing of representative samples of marijuana and marijuana-infused products; and

(b) provides information regarding the chemical composition, the potency of a sample, and the presence of molds, pesticides, or other contaminants in a sample.

(30) “Treating physician” means an individual who:

(a) is licensed under Title 37, chapter 3; and

(b) has a bona fide professional relationship with the individual applying to be a registered cardholder.

(31) (a) “Usable marijuana” means the dried leaves and flowers of the marijuana plant and any marijuana derivatives that are appropriate for the use of marijuana by an individual with a debilitating medical condition.

(b) The term does not include the seeds, stalks, and roots of the plant.

(32) “Written certification” means a statement signed by a treating physician or referral physician that meets the requirements of 50-46-310 and is provided in a manner that meets the standard of care.”

Section 9. Effective date. [This act] is effective January 1, 2022.

Approved April 19, 2021

CHAPTER NO. 243

[HB 98]

AN ACT EXTENDING TERMINATION OF THE MISSING INDIGENOUS PERSONS TASK FORCE AND THE GRANT PROGRAM IT ADMINISTERS; CLARIFYING INFORMATION THAT THE TASK FORCE MUST REPORT; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 44-2-411 AND 44-2-412, MCA; AMENDING SECTION 8, CHAPTER 373, LAWS OF 2019; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 44-2-411, MCA, is amended to read:

“44-2-411. (Temporary) Missing indigenous persons task force – membership – duties – reporting. (1) There is a missing indigenous persons task force. The task force is allocated to the department of justice for staffing services and administrative purposes only.

(2) Task force members, including the presiding officer, must be appointed by the attorney general or a designee of the attorney general. The task force membership must include but is not limited to:

(a) an employee of the department of justice who has expertise in the subject of missing persons;

(b) a representative from each ~~tribal government located on the seven federally recognized Indian tribe in Montana reservations and the Little Shell Chippewa tribe;~~

(c) a member from the Montana highway patrol; and

(d) a representative from the attorney general’s office.

(3) While respecting the government-to-government relationship between the state and each tribe, the primary duties of the task force are to:

(a) administer the looping in native communities network grant program provided for in 44-2-412; and

(b) (i) identify jurisdictional barriers between federal, state, local, and tribal law enforcement and community agencies; and

(ii) work to identify strategies to improve interagency communication, cooperation, and collaboration to remove jurisdictional barriers and increase reporting and investigation of missing indigenous persons; and

(c) *work to identify causes that contribute to missing and murdered indigenous persons and make recommendations to federally recognized tribes in the state to reduce cases of missing and murdered indigenous persons.*

~~(4) (a) The task force members must be appointed within 60 days after May 8, 2019. A vacancy on the task force must be filled in the manner of the original appointment.~~

~~(b) The task force shall develop and finalize the looping in native communities network grant application and award criteria no later than October 15, 2019.~~

~~(c) The task force shall select the recipient of the looping in native communities network competitive grant under 44-2-412(2) and disburse the grant funds no later than March 15, 2020.~~

~~(d) The task force must select eligible grantees and disburse funds for any grants awarded pursuant to 44-2-412(3) by June 30, 2020.~~

~~(e) The task force shall convene at least one meeting with tribal and local law enforcement agencies, federally recognized tribes, and urban Indian organizations for the purposes of subsection (3)(b) and to determine the scope of the problem of missing indigenous women and children.~~

~~(f)(5) The By July 1 prior to each regular legislative session, the task force shall, in accordance with 5-11-210, prepare a written report of findings and recommendations for submission to the state-tribal relations interim committee provided for in 5-5-229, no later than September 1, 2020. The report must include a recommendation to the 67th legislature as to whether the task force should continue in existence. The report must include the following information:~~

~~(a) the number of unique individuals reported to the missing and murdered indigenous persons database;~~

~~(b) the number of unique individuals recovered as a result of the missing and murdered indigenous persons database;~~

~~(c) the number of unique individuals recovered as a result of the looping in native communities network grant program;~~

~~(d) the number of unique individuals searched for and recovered as a result of missing persons response teams;~~

~~(e) the number of missing persons entries into the missing and murdered indigenous persons database by year;~~

~~(f) an analysis by year of the characteristics of missing indigenous persons, including but not limited to age, gender, child protective services involvement status, foster case status, duration of time missing, and estimated related cause;~~

~~(g) the number of actively missing indigenous persons by year;~~

~~(h) a description and the results of any noncompetitive grant awardee activities;~~

~~(i) a description of the activities and progress related to improving interagency communication, cooperation, and collaboration and removing interjurisdictional barriers; and~~

~~(j) any other information the task force members find relevant to the task force's mission. (Terminates June 30, 2021 2023 --sec. 8, Ch. 373, L. 2019)."~~

Section 2. Section 44-2-412, MCA, is amended to read:

"44-2-412. (Temporary) Looping in native communities network grant program. (1) There is a looping in native communities network grant program. The program is established to create a network in support of efforts by Montana tribes to identify, report, and find Native American persons who are missing. The grant program is administered by the missing indigenous persons task force established in 44-2-411.

(2) The grant program includes a competitive grant to be awarded to ~~one tribal college~~ *a tribal entity* to create and administer a central administration point for the looping in native communities network. The missing indigenous

persons task force shall develop the application and the criteria to award the grant to a tribal college *entity*. The criteria must include:

- (a) policies and standards for technology and equipment, including data storage and security of information entered into the network;
- (b) standards for data verification;
- (c) job qualifications and requirements for a data specialist to administer the network;
- (d) development of a system to provide automatic initial alerts pursuant to law enforcement; *agencies and* tribal; and community organizations when a missing indigenous person report is made, including determining which law enforcement agencies will receive the automatic initial alert;
- (e) development of a standard reporting form that includes space to provide the information specified in subsection (4) to be used by the data specialist; and

- (f) administrative rights for a designee at each participating tribal agency.

(3) The grant program may include additional smaller, noncompetitive grants to be awarded to a qualifying tribal agency at each reservation that submits a complete application. The purpose of the grants awarded under this subsection is to provide matching funds for some or all of the costs required for the tribal agency to set up and maintain access to the looping in native communities network.

(4) The standard reporting form required under subsection (2)(e) must allow a data specialist to enter information about the missing indigenous person, including but not limited to the missing person's:

- (a) name and any aliases or nicknames;
- (b) gender, age, height, weight, and other physical descriptive characteristics;
- (c) last known location and related information, including the date of last contact with the missing indigenous person and the person with whom the missing indigenous person last made contact; and

- (d) photographs, including photographs obtained from an online or social media profile. (Terminates June 30, 2021 2023--sec. 8, Ch. 373, L. 2019.)"

Section 3. Section 8, Chapter 373, Laws of 2019, is amended to read:

"Section 8. Termination. [This act] terminates June 30, 2021 2023."

Section 4. Transfer of funds. By July 15, 2021, the state treasurer shall transfer \$50,000 from the state general fund to the looping in native communities network state special revenue account established in 44-2-413.

Section 5. Appropriation. There is appropriated \$50,000 from the looping in native communities network state special revenue account established in 44-2-413 to the missing indigenous persons task force established in 44-2-411 for the biennium beginning July 1, 2021, for the purposes of providing matching funds to tribal agencies to implement the looping in native communities network grant program established in 44-2-412. Any funds that are unencumbered by June 30, 2023, must revert to the general fund.

Section 6. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Section 7. Effective date. [This act] is effective on passage and approval.

Approved April 19, 2021

CHAPTER NO. 244

[HB 176]

AN ACT REVISING LATE VOTER REGISTRATION; CLOSING LATE VOTER REGISTRATION AT NOON THE DAY BEFORE THE ELECTION; PROVIDING AN EXCEPTION SO MILITARY AND OVERSEAS ELECTORS MAY CONTINUE TO REGISTER THROUGH THE DAY OF THE ELECTION; AMENDING SECTIONS 13-2-301, 13-2-304, 13-13-301, 13-19-207, AND 13-21-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-2-301, MCA, is amended to read:

“13-2-301. Close of regular registration – notice – changes. (1) The election administrator shall:

(a) close regular registrations for 30 days before any election; and

(b) publish a notice specifying the day regular registrations will close and the availability of the late registration option provided for in 13-2-304 in a newspaper of general circulation in the county at least three times in the 4 weeks preceding the close of registration or broadcast a notice on radio or television as provided in 2-3-105 through 2-3-107, using the method the election administrator believes is best suited to reach the largest number of potential electors. The provisions of this subsection (1)(b) are fulfilled upon the third publication or broadcast of the notice.

(2) Information to be included in the notice must be prescribed by the secretary of state.

(3) An application for voter registration properly executed and postmarked on or before the day regular registration is closed must be accepted as a regular registration for 3 days after regular registration is closed under subsection (1)(a).

(4) An elector who misses the deadlines provided for in this section may register to vote or change the elector's voter information and vote in the election, ~~except as otherwise as~~ provided in 13-2-304.”

Section 2. Section 13-2-304, MCA, is amended to read:

“13-2-304. Late registration – late changes. (1) Except as provided in 13-21-104 and subsection (2) of this section, the following provisions apply:

(a) An elector may register or change the elector's voter registration information after the close of regular registration as provided in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to the close of the polls on election day.

~~(b) Late registration is closed from noon to 5 p.m. on the day noon the day before the election.~~

~~(c)(b)~~ Except as provided in 13-2-514(2)(a) and subsection ~~(1)(d)~~ (1)(c) of this section, an elector who registers or changes the elector's voter information pursuant to this section may vote in the election if the elector obtains the ballot from the location designated by the county election administrator.

~~(d)(c)~~ With respect to an elector who registers late pursuant to this section for a school election conducted by a school clerk, the elector may vote in the election only if the elector obtains from the county election administrator a document, in a form prescribed by the secretary of state, verifying the elector's late registration. The elector shall provide the verification document to the school clerk, who shall issue the ballot to the elector and enter the verification document as part of the official register.

(e)(d) An elector who registers late and obtains a ballot pursuant to this section may return the ballot as follows:

(i) before election day, to a location designated by the county election administrator or school clerk if the election is administered by the school district; or

(ii) on election day, to the election office or to any polling place in the county where the elector is registered to vote or, if the ballot is for a school election, to any polling place in the school district where the election is being conducted.

(2) If an elector has already been issued a ballot for the election, the elector may change the elector's voter registration information only if the original voted ballot has not been received at the county election office, or received by the school district if the district is administering the election, and if the original ballot that was issued is marked by the issuing county as void in the statewide voter registration system, or by the school district if the district is administering the election, prior to the change."

Section 3. Section 13-13-301, MCA, is amended to read:

"13-13-301. Challenges. (1) An elector's right to vote may be challenged at any time by any registered elector by the challenger filling out and signing an affidavit stating the grounds of the challenge and providing any evidence supporting the challenge to the election administrator or, on election day, to an election judge.

(2) A challenge may be made on the grounds that the elector:

(a) is of unsound mind, as determined by a court;

(b) has voted before in that election;

(c) has been convicted of a felony and is serving a sentence in a penal institution;

(d) is not registered as required by law;

(e) is not 18 years of age or older;

(f) has not been, for at least 30 days, a resident of the county in which the elector is offering to vote, except as provided in 13-2-514;

(g) is a provisionally registered elector whose status has not been changed to a legally registered voter; or

(h) does not meet another requirement provided in the constitution or by law.

(3) When a challenge has been made under this section, unless the election administrator determines without the need for further information that the challenge is insufficient:

(a) prior to the close of registration under 13-2-301, the election administrator shall question the challenger and the challenged elector and may question other persons to determine whether the challenge is sufficient or insufficient to cancel the elector's registration under 13-2-402; or

(b) after the close of *regular* registration under 13-2-301 ~~or on election day~~, the election administrator or, on election day, ~~the either the election administrator or an election judge~~ shall allow the challenged elector to cast a provisional paper ballot, which must be handled as provided in 13-15-107.

(4) (a) In response to a challenge, the challenged elector may fill out and sign an affidavit to refute the challenge and swear that the elector is eligible to vote.

(b) If the challenge was not made in the presence of the elector being challenged, the election administrator or election judge shall notify the challenged elector of who made the challenge and the grounds of the challenge and explain what information the elector may provide to respond to the challenge. The notification must be made:

(i) within 5 days of the filing of the challenge if the election is more than 5 days away; or

(ii) on or before election day if the election is less than 5 days away.

(c) The election administrator or, on election day, the election judge shall also provide to the challenged elector a copy of the challenger's affidavit and any supporting evidence provided.

(5) The secretary of state shall adopt rules to implement the provisions of this section and shall provide standardized affidavit forms for challengers and challenged electors."

Section 4. Section 13-19-207, MCA, is amended to read:

"13-19-207. When materials to be mailed. (1) Except as provided in 13-13-205(2) and subsection (2) of this section, for any election conducted by mail, ballots must be mailed no sooner than the 20th day and no later than the 15th day before election day.

(2) ~~(a)~~ All ballots mailed to electors on the active list and the provisionally registered list must be mailed the same day.

~~(b)~~ (3) (a) At any time before noon on the day before election day, a ballot may be mailed or, on request, provided in person at the election administrator's office to:

(i) an elector on the inactive list after the elector reactivates the elector's registration as provided in 13-2-222; ~~or~~

(ii) ~~an individual who registers under the late registration option provided for in 13-2-304.~~

~~(c)(b)~~ An elector on the inactive list shall vote at the election administrator's office on election day if the elector reactivates the elector's registration after noon on the day before election day.

~~(d)(4)~~ An elector who registers pursuant to 13-2-304 ~~on election day or on the day before election day~~ must receive the ballot ~~and vote it~~ at the election administrator's office."

Section 5. Section 13-21-104, MCA, is amended to read:

"13-21-104. Adoption of rules on electronic registration and voting – acceptance of funds. (1) The secretary of state shall adopt reasonable rules under the rulemaking provisions of the Montana Administrative Procedure Act to implement this chapter. The rules are binding upon election administrators.

(2) The rules must provide that:

(a) there are uniform statewide standards concerning electronic registration and voting;

(b) regular absentee ballots for a primary, general, or special election are available in a format that allows the ballot to be electronically transmitted to a covered voter as soon as the ballots are available pursuant to 13-13-205;

(c) a covered voter may, ~~subject to 13-2-304~~, register and vote up to the time that the polls close on election day;

(d) a covered voter is allowed to cast a provisional ballot if there is a question about the elector's registration information or eligibility to vote;

(e) a covered voter with a digital signature is allowed the option of using the digital signature as provided in 13-21-107; and

(f) a ballot cast by a covered voter and transmitted electronically will remain secret, as required by Article IV, section 1, of the Montana constitution. This subsection (2)(f) does not prohibit the adoption of rules establishing administrative procedures on how electronically transmitted votes must be transcribed to an official ballot. However, the rules must be designed to protect the accuracy, integrity, and secrecy of the process.

(3) The secretary of state may apply for and receive a grant of funds from any agency or office of the United States government or from any other public

or private source and may use the money for the purpose of implementing this chapter.”

Section 6. Effective date. [This act] is effective on passage and approval.

Approved April 19, 2021

CHAPTER NO. 245

[HB 192]

AN ACT REVISING LAWS RELATED TO SCHOOL MAJOR MAINTENANCE AND SAFETY FUNDING; INCREASING THE TRANSPARENCY OF THE NOTICE REQUIREMENTS FOR THE NONVOTED BUILDING RESERVE LEVY FOR MAJOR MAINTENANCE; CLARIFYING WHEN SAFETY TRANSFERS TO THE BUILDING RESERVE FUND MAY BE MADE; INCREASING THE SCHOOL MAJOR MAINTENANCE AMOUNT AND THE MULTIPLIER USED TO CALCULATE STATE MAJOR MAINTENANCE AID; SIMPLIFYING THE USES OF THE STATE MAJOR MAINTENANCE AID; AMENDING SECTIONS 20-9-116, 20-9-236, 20-9-502, AND 20-9-525, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-9-116, MCA, is amended to read:

“20-9-116. (Temporary) Resolution of intent to increase nonvoted levy – notice. (1) The trustees of a school district shall adopt a resolution no later than March 31 of each fiscal year and provide notice pursuant to subsection (2) whenever the trustees intend to impose an increase in a nonvoted levy in the ensuing school fiscal year for the purposes of funding any of the funds listed below:

- (a) the tuition fund under 20-5-324;
- (b) the adult education fund under 20-7-705;
- ~~(c) the building reserve fund under 20-9-502 and 20-9-503;~~
- ~~(d)~~(c) the transportation fund under 20-10-143 and 20-10-144;
- ~~(e)~~(d) the bus depreciation reserve fund under 20-10-147; and
- ~~(f)~~(e) the flexibility fund established in 20-9-543 for the purposes in 20-7-1602.

(2) The trustees shall provide notice of intent to impose an increase in a nonvoted levy for the ensuing school fiscal year by:

(a) adopting a resolution of intent to impose an increase in a nonvoted levy that includes, at a minimum, the estimated number of increased or decreased mills to be imposed and the estimated increased or decreased revenue to be raised compared to nonvoted levies under subsections (1)(a) through ~~(1)(f)~~ (1)(e) imposed in the current school fiscal year and, based on the district’s taxable valuation most recently certified by the department of revenue under 15-10-202, the estimated impacts of the increase or decrease on a home valued at \$100,000 and a home valued at \$200,000; and

(b) publishing ~~a copy of the resolution~~ in a newspaper that will give notice to the largest number of people of the district as determined by the trustees and posting ~~a copy of the resolution~~ to the school district’s website:

- (i) the resolution under subsection (2)(a); and
- (ii) the resolution under 20-9-502(3)(a)(i) if adopted by the trustees.

(Terminates June 30, 2027--sec. 7, Ch. 402, L. 2019.)

20-9-116. (Effective July 1, 2027) Resolution of intent to increase nonvoted levy – notice. (1) The trustees of a school district shall adopt

a resolution no later than June 1 in fiscal year 2017 only and no later than March 31 in fiscal year 2018 and subsequent fiscal years and provide notice pursuant to subsection (2) whenever the trustees intend to impose an increase in a nonvoted levy in the ensuing school fiscal year for the purposes of funding any of the funds listed below:

- (a) the tuition fund under 20-5-324;
- (b) the adult education fund under 20-7-705;
- ~~(c) the building reserve fund under 20-9-502 and 20-9-503;~~
- ~~(d)(c)~~ the transportation fund under 20-10-143 and 20-10-144; and
- ~~(e)(d)~~ the bus depreciation reserve fund under 20-10-147.

(2) The trustees shall provide notice of intent to impose an increase in a nonvoted levy for the ensuing school fiscal year by:

(a) adopting a resolution of intent to impose an increase in a nonvoted levy that includes, at a minimum, the estimated number of increased or decreased mills to be imposed and the estimated increased or decreased revenue to be raised compared to nonvoted levies under subsections (1)(a) through ~~(1)(e)~~ ~~(1)(d)~~ imposed in the current school fiscal year and, based on the district's taxable valuation most recently certified by the department of revenue under 15-10-202, the estimated impacts of the increase or decrease on a home valued at \$100,000 and a home valued at \$200,000; and

(b) publishing ~~a copy of the resolution~~ in a newspaper that will give notice to the largest number of people of the district as determined by the trustees and posting ~~a copy of the resolution~~ to the school district's website:

- (i) *the resolution under subsection (2)(a); and*
- (ii) *the resolution under 20-9-502(3)(a)(i) if adopted by the trustees."*

Section 2. Section 20-9-236, MCA, is amended to read:

"20-9-236. Transfer of funds -- improvements to school safety and security. (1) A school district that has certified to the office of public instruction a current school safety plan or emergency operations plan pursuant to 20-1-401 may transfer state or local revenue from any budgeted or nonbudgeted fund, other than the debt service fund or retirement fund, to its building reserve fund in an amount not to exceed the school district's estimated costs of improvements to school and student safety and security as follows:

(a) planning for improvements to and maintenance of school and student safety, including but not limited to the cost of staffing for or services provided by architects, engineers, school resource officers, counselors, and other staff or consultants assisting the district with improvements to school and student safety and security;

(b) programs to support school and student safety and security, including but not limited to active shooter training, threat assessments, and restorative justice;

(c) installing or updating locking mechanisms and ingress and egress systems at public school access points, including but not limited to systems for exterior egress doors and interior passageways and rooms, using contemporary technologies;

(d) installing or updating bullet-resistant windows and barriers; and

(e) installing or updating emergency response systems using contemporary technologies.

(2) Any transfers made pursuant to subsection (1) are not considered expenditures to be applied against budget authority. Any revenue transfers that are not encumbered for expenditures in compliance with subsection (1) within 2 full school fiscal years after the funds are transferred must be transferred back to the originating fund from which the revenue was transferred.

(3) The intent of this section is to increase the flexibility and efficiency of school districts without an increase in local taxes. In furtherance of this intent, if transfers of funds are made from any school district fund supported by a nonvoted levy, the district may not increase its nonvoted levy for the purpose of restoring the transferred funds.”

Section 3. Section 20-9-502, MCA, is amended to read:

“20-9-502. Purpose and authorization of building reserve fund – subfund structure. (1) The trustees of any district may establish a building reserve fund to budget for and expend funds for any of the purposes set forth in this section. Appropriate subfunds must be created to ensure separate tracking of the expenditure of funds from voted and nonvoted levies and transfers for school safety pursuant to 20-9-236.

(2) (a) A voted levy may be imposed and a subfund must be created with the approval of the qualified electors of the district for the purpose of raising money for the future construction, equipping, or enlarging of school buildings or for the purpose of purchasing land needed for school purposes in the district. In order to submit to the qualified electors of the district a building reserve proposition for the establishment of or addition to a building reserve, the trustees shall pass a resolution that specifies:

(i) the purpose or purposes for which the new or addition to the building reserve will be used;

(ii) the duration of time over which the new or addition to the building reserve will be raised in annual, equal installments;

(iii) the total amount of money that will be raised during the duration of time specified for the levy; and

(iv) any other requirements under 15-10-425 and 20-20-201 for the calling of an election.

(b) Except as provided in subsection (4)(b), a building reserve tax authorization may not be for more than 20 years.

(c) The election must be conducted in accordance with the school election laws of this title, and the electors qualified to vote in the election must be qualified under the provisions of 20-20-301. The ballot for a building reserve proposition must be substantially in compliance with 15-10-425.

(d) The building reserve proposition is approved if a majority of those electors voting at the election approve the establishment of or addition to the building reserve. The annual budgeting and taxation authority of the trustees for a building reserve is computed by dividing the total authorized amount by the specified number of years. The authority of the trustees to budget and impose the taxation for the annual amount to be raised for the building reserve lapses when, at a later time, a bond issue is approved by the qualified electors of the district for the same purpose or purposes for which the building reserve fund of the district was established. Whenever a subsequent bond issue is made for the same purpose or purposes of a building reserve, the money in the building reserve must be used for the purpose or purposes before any money realized by the bond issue is used.

(3) (a) A subfund must be created to account for revenue and expenditures for school major maintenance and repairs authorized under this subsection (3). The trustees of a district may authorize and impose a levy of no more than 10 mills on the taxable value of all taxable property within the district for that school fiscal year for the purposes of raising revenue for identified improvements or projects meeting the requirements of 20-9-525(2). The 10-mill limit under this subsection (3) must be calculated using the district's total taxable valuation most recently certified by the department of revenue under 15-10-202. The amount of money raised by the levy, the deposits and

transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to 20-9-525(3) may not exceed the district's school major maintenance amount. For the purposes of this section, the term "school major maintenance amount" means the sum of \$15,000 and the product of ~~\$100~~ *\$110* multiplied by the district's budgeted ANB for the prior fiscal year. To authorize and impose a levy under this subsection (3), the trustees shall:

(i) following public notice requirements pursuant to 20-9-116, adopt no later than March 31 of each fiscal year a resolution:

(A) identifying the anticipated improvements or projects for which the proceeds of the levy, the deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to 20-9-525(3) will be used; and

(B) estimating a total dollar amount of money to be raised by the levy, the deposits and transfers authorized under subsection (3)(f) of this section, anticipated state aid pursuant to 20-9-525(3), and the resulting estimated number of mills to be levied using the district's taxable valuation most recently certified by the department of revenue under 15-10-202; and

(ii) include the amount of any final levy to be imposed as part of its final budget meeting noticed in compliance with 20-9-131.

(b) Proceeds from the levy may be expended only for the purposes under 20-9-525(2), and the expenditure of the money must be reported in the annual trustees' report as required by 20-9-213.

(c) Whenever the trustees of a district impose a levy pursuant to this subsection (3) during the current school fiscal year, they shall budget for the proceeds of the levy, the deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to 20-9-525(3) in the district's building reserve fund budget. Any expenditures of the funds must be made in accordance with the financial administration provisions of this title for a budgeted fund.

(d) When a tax levy pursuant to this subsection (3) is included as a revenue item on the final building reserve fund budget, the county superintendent shall report the levy requirement to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values and a levy on the district must be made by the county commissioners in accordance with 20-9-142.

(e) A subfund in the building reserve fund must be created for the deposit of proceeds from the levy, the deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to 20-9-525(3).

(f) If the imposition of 10 mills pursuant to subsection (3)(a) is estimated by the trustees to generate an amount less than the maximum levy revenue specified in subsection (3)(a), the trustees may deposit additional funds from any lawfully available revenue source and may transfer additional funds from any lawfully available fund of the district to the subfund provided for in subsection (3)(a), up to the difference between the revenue estimated to be raised by the imposition of 10 mills and the maximum levy revenue specified in subsection (3)(a). The district's local effort for purposes of calculating its eligibility for state school major maintenance aid pursuant to 20-9-525 consists of the combined total of funds raised from the imposition of 10 mills and additional funds raised from deposits and transfers in compliance with this subsection (3)(f).

(4) (a) A voted levy may be imposed and a subfund must be created with the approval of the qualified electors of the district to provide funding for transition costs incurred when the trustees:

(i) open a new school under the provisions of Title 20, chapter 6;

- (ii) close a school;
- (iii) replace a school building;
- (iv) consolidate with or annex another district under the provisions of Title 20, chapter 6; or

- (v) receive approval from voters to expand an elementary district into a K-12 district pursuant to 20-6-326.

(b) Except as provided in subsection (4)(c), the total amount the trustees may submit to the electorate for transition costs may not exceed the number of years specified in the proposition times the greater of 5% of the district's maximum general fund budget for the current year or \$250 per ANB for the current year. The duration of the levy for transition costs may not exceed 6 years.

(c) If the levy for transition costs is for consolidation or annexation:

- (i) the limitation on the amount levied is calculated using the ANB and the maximum general fund budget for the districts that are being combined; and

- (ii) the proposition must be submitted to the qualified electors in the combined district.

(d) The levy for transition costs may not be considered as outstanding indebtedness for the purpose of calculating the limitation in 20-9-406.

(5) (a) A subfund in the building reserve fund must be created for:

- (i) the funds transferred to the building reserve fund for school safety and security pursuant to 20-9-236; and

- (ii) funds generated by a voter-approved levy for school and student safety and security pursuant to subsection (5)(b) of this section.

(b) A voted levy may be imposed with the approval of the qualified electors of the district to provide funding for improvements to school and student safety and security that meet any of the criteria set forth in 20-9-236(1)(a) through (1)(e). A voted levy for school and student safety and security may not be considered as outstanding indebtedness for the purpose of calculating the limitation in 20-9-406. The election for a voted levy for school and student safety and security must be conducted in accordance with the school election laws of this title, and the electors qualified to vote in the election must be qualified under the provisions of 20-20-301. The ballot for a building reserve proposition must be substantially in compliance with 15-10-425."

Section 4. Section 20-9-525, MCA, is amended to read:

"20-9-525. School major maintenance aid account – formula.

(1) There is a school major maintenance aid account in the state special revenue fund provided for in 17-2-102.

(2) The purpose of the account is to provide, contingent on appropriation from the legislature, funding for school major maintenance aid as provided in subsection (3) for school facility projects, including the payment of principal and interest on obligations issued pursuant to 20-9-471 for school facility projects, that support a basic system of free quality public elementary and secondary schools under 20-9-309, *including but not limited to: and that involve, except as provided in subsection (7):*

- (a) ~~first, making any repairs categorized as "safety", "damage/wear out", or "codes and standards" in the facilities condition inventory for buildings of the school district as referenced in the K-12 public schools facility condition and needs assessment final report prepared by the Montana department of administration pursuant to section 1, Chapter 1, Special Laws of December 2005; and~~

- (b) ~~after addressing the repairs in subsection (2)(a), any of the following:~~

(i) updating the facility condition inventory as recommended in the final report referenced in subsection (2)(a) with the scope and methods of the review to be determined by the trustees, employing experts as the trustees determine necessary. The first update must be completed by July 1, 2019, and each district shall certify the completion to the office of public instruction no later than October 31, 2019. Subsequent updates must be certified to the office of public instruction no less than once every 5 years following the first certification.

(a) improvements to school and student safety and security as described in 20-9-236(1); and

(ii)(b) undertaking projects designed to produce operational efficiencies such as utility savings, reduced future maintenance costs, improved utilization of staff, and enhanced learning environments for students, including but not limited to projects addressing:

(A)(i) roofing systems;

(B)(ii) heating, air-conditioning, and ventilation systems;

(C)(iii) energy-efficient window and door systems and insulation;

(D)(iv) plumbing systems;

(E)(v) electrical systems and lighting systems;

(F)(vi) information technology infrastructure, including internet connectivity both within and to the school facility; and

(G)(vii) other critical repairs to an existing school facility or facilities.

(3) (a) In any year in which the legislature has appropriated funds for distribution from the school major maintenance aid account, the superintendent of public instruction shall administer the distribution of school major maintenance aid from the school major maintenance aid account for deposit in the subfund of the building reserve fund provided for in 20-9-502(3)(e). Subject to proration under subsection (5) of this section, aid must be annually distributed no later than the last working day of May to a school district imposing a levy pursuant to 20-9-502(3) in the current school fiscal year, with the amount of state support per dollar of local effort of the applicable elementary and high school program of each district determined as follows:

(i) using the taxable valuation most recently determined by the department of revenue under 20-9-369:

(A) divide the total statewide taxable valuation by the statewide total of school major maintenance amounts and multiply the result by ~~171%~~ 187%;

(B) multiply the result determined under subsection (3)(a)(i)(A) by the district's school major maintenance amount;

(C) subtract the district's taxable valuation from the amount determined under subsection (3)(a)(i)(B); and

(D) divide the amount determined under subsection (3)(a)(i)(C) by 1,000;

(ii) determine the greater of the amount determined in subsection (3)(a)(i) or 18% of the district's mill value;

(iii) multiply the result determined under subsection (3)(a)(ii) by the district's school major maintenance amount, then divide the product by the sum of the result determined under subsection (3)(a)(ii) and the district's mill value; and

(iv) divide the result determined under subsection (3)(a)(iii) by the difference resulting from subtracting the result determined under subsection (3)(a)(iii) from the district's school major maintenance amount.

(b) For a district with an adopted general fund budget in the prior year greater than or equal to 97% of the district's general fund maximum budget in the prior year, the amount determined in subsection (3)(a)(iv) rounded to the nearest cent is the amount of school major maintenance aid per dollar of local

effort, not to exceed an amount that would result in the state aid composing more than 80% of the district's school major maintenance amount.

(c) For a district with an adopted general fund budget in the prior year less than 97% of the district's maximum budget in the prior year, multiply the amount determined in subsection (3)(a)(iv) by the ratio of the district's adopted general fund budget in the prior year to the district's maximum general fund budget in the prior year. The result, rounded to the nearest cent, is the amount of state school major maintenance aid per dollar of local effort, not to exceed an amount that would result in the state aid composing more than 80% of the district's school major maintenance amount.

(4) Using the taxable valuation most recently determined by the department of revenue under 20-9-369, the superintendent shall provide school districts with a preliminary estimated amount of state school major maintenance aid per dollar of local effort for the ensuing school year no later than March 1 and a final amount for the current school year no later than July 31.

(5) If the appropriation from or the available funds in the school major maintenance aid account in any school fiscal year are less than the amount for which school districts would otherwise qualify, the superintendent of public instruction shall proportionally prorate the aid distributed to ensure that the distributions do not exceed the appropriated or available funds.

(6) If in any fiscal year the amount of revenue in the school major maintenance aid account is sufficient to fund school major maintenance aid without a proration reduction pursuant to subsection (5) and if in that same fiscal year the amount of revenue available in the school facility and technology account established in 20-9-516 will result in a proration reduction in debt service assistance pursuant to 20-9-346(2)(b) for that fiscal year, the state treasurer shall transfer any excess funds in the school major maintenance aid account to the school facility and technology account, not to exceed the amount required to avoid a proration reduction.

~~(7) School district boards of trustees that have certified to the office of public instruction a current school safety plan or emergency operations plan pursuant to 20-1-401 may, prior to addressing the school facility projects under subsection (2) of this section, utilize the proceeds from the levy authorized in 20-9-502(3) and any school major maintenance aid for improvements to school and student safety and security as described in 20-9-236(1).~~

~~(8)~~(7) For the purposes of this section, the following definitions apply:

(a) "Local effort" means an amount of money raised by levying no more than 10 mills pursuant to 20-9-502(3) and, provided that 10 mills have been levied, any additional amount of money deposited or transferred by trustees to the subfund pursuant to 20-9-502(3).

(b) "School major maintenance amount" means the sum of \$15,000 and the product of \$100 \$110 multiplied by the district's budgeted ANB for the prior fiscal year."

Section 5. Effective date. [This act] is effective July 1, 2021.

Section 6. Applicability. [This act] applies to notice requirements, school budgets, property tax levies, and state major maintenance aid calculations related to school fiscal years beginning on or after July 1, 2022.

Approved April 19, 2021

CHAPTER NO. 246

[HB 207]

AN ACT REVISING LAWS RELATED TO SCHOOL BUS LIGHTING; AUTHORIZING THE USE OF ADDITIONAL FLASHING RED LIGHTS ON SCHOOL BUSES; AMENDING SECTIONS 20-10-111 AND 61-9-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-10-111, MCA, is amended to read:

“20-10-111. Duties of board of public education. (1) The board of public education, with the advice of the Montana department of justice and the superintendent of public instruction, shall adopt and enforce policies, not inconsistent with the motor vehicle laws, to provide uniform standards and regulations for the design, construction, and operation of school buses in the state of Montana. The policies must:

(a) prescribe minimum standards for the design, construction, and operation of school buses consistent with:

(i) the recommendations adopted by the national conference on school transportation; and

(ii) the federal motor vehicle safety standards;

(b) prescribe standards and specifications for the lighting equipment and special warning devices to be carried by school buses in conformity with:

(i) current specifications approved by the society of automobile engineers;

(ii) motor vehicle laws; and

(iii) the requirement that all school buses have an alternately flashing prewarning lighting system of ~~four~~ *four or more* amber signal lamps to be used while preparing to stop and an alternately flashing warning lighting system of ~~four~~ *four or more* red signal lamps to be used while stopped in accordance with 61-9-402;

(c) establish other driver qualifications considered necessary in addition to the qualifications required in 20-10-103;

(d) prescribe criteria for the establishment of transportation service areas for school bus purposes by the county transportation committee that shall allow for the establishment of service areas without regard to the district boundary lines within the county;

(e) prescribe other criteria for the determination of the residence of a pupil that may be considered necessary in addition to the criteria established in 20-10-105; and

(f) prescribe standards for the measurement of the child seating capacity of school buses, to be known as the rated capacity.

(2) The board of public education shall prescribe other policies necessary for the proper administration and operation of individual transportation programs that are consistent with the transportation provisions of this title.”

Section 2. Section 61-9-402, MCA, is amended to read:

“61-9-402. Audible and visual signals on police, emergency vehicles, and on-scene command vehicles – immunity. (1) A police vehicle must be equipped with a siren capable of giving an audible signal and may be equipped with alternately flashing or rotating red or blue lights as specified in this section.

(2) An authorized emergency vehicle must be equipped:

(a) with a siren and an alternately flashing or rotating red light as specified in this section; and

(b) with signal lamps mounted as high and as widely spaced laterally as practicable that are capable of displaying to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level. These lights must have sufficient intensity to be visible at 500 feet in normal sunlight.

(3) (a) A bus used for the transportation of school children must be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, displaying to the front *at least* two red and two amber alternating flashing lights and to the rear *at least* two red and two amber alternating flashing lights. These lights must have sufficient intensity to be visible at 500 feet in normal sunlight.

(b) *Additional red flashing lights may be mounted to the front and to the rear at a height of at least 36 inches and not more than 72 inches from the ground. If additional red lights are mounted, they must be installed so that they can only be actuated if the school bus is stopped.*

(c) The specifications for the warning lights must be as prescribed by the board of public education and approved by the department.

(4) A police vehicle and an authorized emergency vehicle may, and an emergency service vehicle must, be equipped with alternately flashing or rotating amber lights as specified in this section.

(5) The use of signal equipment as described in this section imposes upon the operators of other vehicles the obligation to yield right-of-way or to stop and to proceed past the signal or light as provided in 61-8-346 and subject to the provisions of 61-8-209 and 61-8-303.

(6) An employee, agent, or representative of the state or a political subdivision of the state or of a governmental fire agency organized under Title 7, chapter 33, who is operating a police vehicle, an authorized emergency vehicle, or an emergency service vehicle and using signal equipment in rendering assistance at a highway crash scene or in response to any other hazard on the roadway that presents an immediate hazard or an emergency or life-threatening situation is not liable, except for willful misconduct, bad faith, or gross negligence, for injuries, costs, damages, expenses, or other liabilities resulting from a motorist operating a vehicle in violation of subsection (5).

(7) Blue, red, and amber lights required in this section must be mounted as high as and as widely spaced laterally as practicable and be capable of displaying to the front two alternately flashing lights of the specified color located at the same level and to the rear two alternately flashing lights of the specified color located at the same level or one rotating light of the specified color, mounted as high as is practicable and visible from both the front and the rear. These lights must have sufficient intensity to be visible at 500 feet in normal sunlight. Except as provided in 61-9-204(6), only police vehicles, as defined in 61-8-102, may display blue lights, lenses, or globes.

(8) A police vehicle and authorized emergency vehicle may be equipped with a flashing signal lamp that is green in color, visible from 360 degrees, and attached to the exterior roof of the vehicle for purposes of designation as the on-scene command and control vehicle in an emergency or disaster. The green light must have sufficient intensity to be visible at 500 feet in normal sunlight. Only the on-scene command and control vehicle may display green lights, lenses, or globes.

(9) Only a police vehicle or an authorized emergency vehicle may be equipped with the means to flash or alternate its headlamps or its backup lights.

(10) A violation of subsection (5) is considered reckless endangerment of a highway worker, as provided in 61-8-301(4), and is punishable as provided in 61-8-715.”

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

Approved April 19, 2021

CHAPTER NO. 247

[HB 246]

AN ACT GENERALLY REVISING EDUCATION LAWS TO STRENGTHEN SUPERVISION AND CONTROL BY ELECTED SCHOOL BOARDS AND TO INCREASE OPPORTUNITIES FOR PUPILS; BROADENING THE CONCEPT OF INSTRUCTION TO EXPAND A FOCUS ON THE OUTCOME OF LEARNING FOR EACH PUPIL; REVISING TEACHER, SPECIALIST, AND ADMINISTRATOR CERTIFICATION TO CODIFY FLEXIBILITIES AVAILABLE TO ELECTED SCHOOL BOARDS UNDER RULES OF THE BOARD OF PUBLIC EDUCATION; STREAMLINING THE PROCESS OF LICENSING TO ASSIST ELECTED SCHOOL BOARDS IN SUCCESSFULLY RECRUITING AND RETAINING QUALIFIED EDUCATORS; CLARIFYING THE CONDITIONS UNDER WHICH AN ELECTED SCHOOL BOARD MAY QUALIFY FOR EMERGENCY AUTHORIZATION TO EMPLOY AN UNLICENSED TEACHER; CODIFYING THE AUTHORITY OF ELECTED SCHOOL BOARDS TO WAIVE SPECIFIC COURSE REQUIREMENTS BASED ON INDIVIDUAL PUPIL NEEDS, INTERESTS, ASPIRATIONS, AND PERFORMANCE LEVELS; CODIFYING THE AUTHORITY OF ELECTED SCHOOL BOARDS TO GRANT CREDIT FOR ANY COURSE WHEN A PUPIL HAS GAINED PROFICIENCY OVER COURSE CONTENT THROUGH ALTERNATIVE MEANS; AUTHORIZING ELECTED SCHOOL BOARDS TO EXPAND PARTNERSHIPS WITH WORK-BASED LEARNING PARTNERS AND GRANT EQUIVALENT CREDIT FOR TIME SPENT BY A PUPIL PARTICIPATING IN ON-THE-JOB EXPERIENCES WITH A WORK-BASED LEARNING PARTNER; AUTHORIZING AN ELECTED SCHOOL BOARD TO ALLOW NONRESIDENT STUDENTS TO PARTICIPATE IN OFFSITE INSTRUCTION IN CERTAIN CIRCUMSTANCES; AMENDING SECTIONS 20-1-101, 20-3-324, 20-4-101, 20-4-104, 20-4-106, 20-4-111, 20-7-118, AND 20-7-1601, MCA; AMENDING SECTION 7, CHAPTER 402, LAWS OF 2019; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-1-101, MCA, is amended to read:

“20-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) “Accreditation standards” means the body of administrative rules governing standards such as:

- (a) school leadership;
- (b) educational opportunity;
- (c) academic requirements;
- (d) program area standards;
- (e) content and performance standards;
- (f) school facilities and records;

(g) student assessment; and

(h) general provisions.

(2) "Aggregate hours" means the hours of pupil instruction for which a school course or program is offered or for which a pupil is enrolled.

(3) "Agricultural experiment station" means the agricultural experiment station established at Montana state university-Bozeman.

(4) "At-risk student" means any student who is affected by environmental conditions that negatively impact the student's educational performance or threaten a student's likelihood of promotion or graduation.

(5) "Average number belonging" or "ANB" means the average number of regularly enrolled, full-time pupils physically attending or receiving educational services at an offsite instructional setting from the public schools of a district.

(6) "Board of public education" means the board created by Article X, section 9, subsection (3), of the Montana constitution and 2-15-1507.

(7) "Board of regents" means the board of regents of higher education created by Article X, section 9, subsection (2), of the Montana constitution and 2-15-1505.

(8) "Commissioner" means the commissioner of higher education created by Article X, section 9, subsection (2), of the Montana constitution and 2-15-1506.

(9) "County superintendent" means the county government official who is the school officer of the county.

(10) "District superintendent" means a person who holds a valid class 3 Montana teacher certificate with a superintendent's endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who has been employed by a district as a district superintendent.

(11) (a) "Educational program" means a set of educational offerings designed to meet the program area standards contained in the accreditation standards.

(b) The term does not include an educational program or programs used in 20-4-121 and 20-25-803.

(12) "K-12 career and vocational/technical education" means organized educational activities that have been approved by the office of public instruction and that:

(a) offer a sequence of courses that provide a pupil with the academic and technical knowledge and skills that the pupil needs to prepare for further education and for careers in the current or emerging employment sectors; and

(b) include competency-based applied learning ~~that contributes through advanced opportunities, work-based learning partnerships, and other experiential learning opportunities that contribute~~ to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills of the pupil.

(13) (a) "Minimum aggregate hours" means the minimum hours of pupil instruction that must be conducted during the school fiscal year in accordance with 20-1-301 and includes passing time between classes *and, in an offsite instructional setting, includes time spent logging on and off an offsite learning platform.*

(b) The term does not include lunch time and periods of unstructured recess.

(14) "Offsite instructional setting" means an instructional setting at a location, separate from a main school site, where a school district provides for ~~the delivery of~~ instruction to a student who is enrolled in the district.

(15) “Principal” means a person who holds a valid class 3 Montana teacher certificate with an applicable principal’s endorsement that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who has been employed by a district as a principal. For the purposes of this title, any reference to a teacher must be construed as including a principal.

(16) “Pupil” means a child who is 5 years of age or older on or before September 10 of the year in which the child is to enroll or has been enrolled by special permission of the board of trustees under 20-5-101(3) but who has not yet reached 19 years of age and who is enrolled in a school established and maintained under the laws of the state at public expense. For purposes of calculating the average number belonging pursuant to 20-9-311, the definition of pupil includes a person who has not yet reached 19 years of age by September 10 of the year and is enrolled under 20-5-101(3) in a school established and maintained under the laws of the state at public expense.

(17) “Pupil instruction” means the conduct of organized ~~instruction~~ *of learning opportunities* for pupils enrolled in public schools while under the supervision of a teacher. *The term includes any directed, distributive, collaborative, or work-based or other experiential learning activity provided, supervised, guided, facilitated, or coordinated under the supervision of a teacher that is conducted purposely to achieve content proficiency and facilitate the acquisition of knowledge, skills, and abilities by pupils enrolled in public schools, and to otherwise fulfill their full educational potential.*

(18) “Qualified and effective teacher or administrator” means an educator who is licensed and endorsed in the areas in which the educator teaches, specializes, or serves in an administrative capacity as established by the board of public education.

(19) “Regents” means the board of regents of higher education.

(20) “Regular school election” or “trustee election” means the election for school board members held on the day established in 20-20-105(1).

(21) “School election” means a regular school election or any election conducted by a district or community college district for authorizing taxation, authorizing the issuance of bonds by an elementary, high school, or K-12 district, or accepting or rejecting any proposition that may be presented to the electorate for decision in accordance with the provisions of this title.

(22) “School food services” means a service of providing food for the pupils of a district on a nonprofit basis and includes any food service financially assisted through funds or commodities provided by the United States government.

(23) “Special school election” means an election held on a day other than the day of the regular school election, primary election, or general election.

(24) “State board of education” means the board composed of the board of public education and the board of regents as specified in Article X, section 9, subsection (1), of the Montana constitution.

(25) “State university” means Montana state university-Bozeman.

(26) “Student with limited English proficiency” means any student:

(a) (i) who was not born in the United States or whose native language is a language other than English;

(ii) who is an American Indian and who comes from an environment in which a language other than English has had a significant impact on the individual’s level of English proficiency; or

(iii) who is migratory, whose native language is a language other than English, and who comes from an environment in which a language other than English is dominant; and

(b) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the student:

(i) the ability to meet the state's proficiency assessments;

(ii) the ability to successfully achieve in classrooms ~~where~~ *in which* the language of instruction is English; or

(iii) the opportunity to participate fully in society.

(27) "Superintendent of public instruction" means that state government official designated as a member of the executive branch by the Montana constitution.

(28) "System" means the Montana university system.

(29) "Teacher" means a person, except a district superintendent, who holds a valid Montana teacher certificate that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who is employed by a district as a member of its instructional, supervisory, or administrative staff. This definition of a teacher includes a person for whom an emergency authorization of employment has been issued under the provisions of 20-4-111.

(30) "Textbook" means a book, *digital resource*, or manual used as a principal source of study material for a given class or group of students.

(31) "Textbook dealer" means a party, company, corporation, or other organization selling, offering to sell, or offering for adoption textbooks to districts in the state.

(32) "Trustees" means the governing board of a district.

(33) "University" means the university of Montana-Missoula.

(34) "Vocational-technical education" means vocational-technical education of vocational-technical students that is conducted by a unit of the Montana university system, a community college, or a tribally controlled community college, as designated by the board of regents."

Section 2. Section 20-3-324, MCA, is amended to read:

"20-3-324. Powers and duties. As prescribed elsewhere in this title, the trustees of ~~each~~ a district shall *exercise supervision and control of the schools of the district in providing its educational program pursuant to Article X, section 8, of the Montana constitution, and shall:*

(1) employ or dismiss a teacher, principal, or other assistant upon the recommendation of the district superintendent, the county high school principal, or other principal as the board considers necessary, accepting or rejecting any recommendation as the trustees in their sole discretion determine, in accordance with the provisions of Title 20, chapter 4;

(2) employ and dismiss administrative personnel, clerks, secretaries, teacher's aides, custodians, maintenance personnel, school bus drivers, food service personnel, nurses, and any other personnel considered necessary to carry out the various services of the district;

(3) administer the attendance and tuition provisions and govern the pupils of the district in accordance with the provisions of the pupils chapter of this title;

(4) call, conduct, and certify the elections of the district in accordance with the provisions of the school elections chapter of this title;

(5) participate in the teachers' retirement system of the state of Montana in accordance with the provisions of the teachers' retirement system chapter of Title 19;

(6) participate in district boundary change actions in accordance with the provisions of the school districts chapter of this title;

(7) organize, open, close, or acquire isolation status for the schools of the district in accordance with the provisions of the school organization part of this title;

(8) adopt and administer the annual budget or a budget amendment of the district in accordance with the provisions of the school budget system part of this title;

(9) conduct the fiscal business of the district in accordance with the provisions of the school financial administration part of this title;

(10) establish the ANB, BASE budget levy, over-BASE budget levy, additional levy, operating reserve, and state impact aid amounts for the general fund of the district in accordance with the provisions of the general fund part of this title;

(11) establish, maintain, budget, and finance the transportation program of the district in accordance with the provisions of the transportation parts of this title;

(12) issue, refund, sell, budget, and redeem the bonds of the district in accordance with the provisions of the bonds parts of this title;

(13) when applicable, establish, financially administer, and budget for the tuition fund, retirement fund, building reserve fund, adult education fund, nonoperating fund, school food services fund, miscellaneous programs fund, building fund, lease or rental agreement fund, traffic education fund, impact aid fund, interlocal cooperative fund, and other funds as authorized by the state superintendent of public instruction in accordance with the provisions of the other school funds parts of this title;

(14) when applicable, administer any interlocal cooperative agreement, gifts, legacies, or devises in accordance with the provisions of the miscellaneous financial parts of this title;

(15) hold in trust, acquire, and dispose of the real and personal property of the district in accordance with the provisions of the school sites and facilities part of this title;

(16) operate the schools of the district in accordance with the provisions of the school calendar part of this title;

(17) set the length of the school term, school day, and school week in accordance with 20-1-302;

(18) establish and maintain the ~~instructional services~~ *educational program* of the schools of the district in accordance with the provisions of the instructional services, textbooks, K-12 career and vocational/technical education, and special education parts of this title. *In undertaking its duties related to the district's educational program, the board of trustees may:*

(a) waive any specific course requirement otherwise required for graduation based on individual student needs and performance levels, age, maturity, interest, and aspirations of the pupil, in consultation with the pupil's parents or guardians; and

(b) provide credit for a course satisfactorily completed in a period of time shorter or longer than normally required as set forth in 20-9-311(4)(d) or through content proficiency gained through alternative means. Examples of alternative means by which content proficiency may be achieved include but are not limited to correspondence, extension, and distance learning courses, adult education, summer school, work study, work-based learning partnerships, and other experiential learning opportunities, custom-designed courses, and challenges to current courses. Montana schools shall accept units of credit taken with the approval of the accredited Montana school in which the student was then enrolled and which appear on the student's official school transcript.

(19) establish and maintain the school food services of the district in accordance with the provisions of the school food services parts of this title;

(20) make reports from time to time as the county superintendent, superintendent of public instruction, and board of public education may require;

(21) retain, when considered advisable, a physician or registered nurse to inspect the sanitary conditions of the school or the general health conditions of each pupil and, upon request, make available to any parent or guardian any medical reports or health records maintained by the district pertaining to the child;

(22) for each member of the trustees, visit each school of the district not less than once each school fiscal year to examine its management, conditions, and needs, except that trustees from a first-class school district may share the responsibility for visiting each school in the district;

(23) procure and display outside daily in suitable weather on school days at each school of the district an American flag that measures not less than 4 feet by 6 feet;

(24) provide that an American flag manufactured in the United States that measures approximately 3 feet by 5 feet be prominently displayed in each classroom in each school of the district no later than the beginning of the school year, except in a classroom in which the flag may get soiled. Districts are encouraged to work with civic groups to acquire flags through donation, and this requirement is waived if the flags are not provided by a civic group.

(25) for grades 7 through 12, provide that legible copies of the United States constitution, the United States bill of rights, and the Montana constitution printed in the United States or in electronic form are readily available in every classroom no later than the beginning of the school year. Districts are encouraged to work with civic groups to acquire the documents through donation, and this requirement is waived if the documents are not provided by a civic group.

(26) adopt and administer a district policy on assessment for placement of any child who enrolls in a school of the district from a nonpublic school that is not accredited, as required in 20-5-110;

(27) upon request and in compliance with confidentiality requirements of state and federal law, disclose to interested parties school district student assessment data for any test required by the board of public education;

(28) consider and may enter into an interlocal agreement with a postsecondary institution, as defined in 20-9-706, that authorizes 11th and 12th grade students to obtain credits through classes available only at a postsecondary institution;

(29) approve or disapprove the conduct of school on a Saturday in accordance with the provisions of 20-1-303; and

(30) perform any other duty and enforce any other requirements for the ~~government of the schools~~ *governance of the schools pursuant to the constitutional power of supervision and control of schools vested in elected school boards pursuant to Article X, section 8, of the Montana constitution as prescribed by this title, the policies of the board of public education, or the rules of the superintendent of public instruction.*"

Section 3. Section 20-4-101, MCA, is amended to read:

"20-4-101. System and definitions of teacher and specialist certification – student teacher exception. (1) In order to establish a uniform system of quality education and to ensure the maintenance of professional standards, a system of teacher and specialist certification must be established and maintained under the provisions of this title and a person

may not be permitted to teach in the public schools of the state until the person has obtained a teacher or specialist certificate or the district has obtained an emergency authorization of employment from the state.

(2) As used in this part, “teacher or specialist certificate” means a certificate issued or applied for under 20-4-106. The term “teacher or specialist” refers to a person certified under 20-4-106.

(3) The certification requirement does not apply to:

(a) a student teacher who is a student enrolled in an institution of higher learning approved by the board of regents of higher education for teacher training and who is jointly assigned by the institution of higher learning and the governing board of a district or a public institution to perform practice teaching in a nonsalaried status under the direction of a regularly employed and certificated teacher; or

(b) *an instructor employed by the Montana university system or an accredited institution of equal rank and standing as that of any unit of the Montana university system when teaching any advanced course offered to pupils as defined in 20-1-101 for college credit, including courses provided pursuant to 20-3-324(28).*

~~(4) A student teacher, while serving a nonsalaried internship under the supervision of a certificated teacher, An individual to whom the certification requirement does not apply under subsection (3) must be accorded the same protection of the laws as that accorded a certificated teacher and shall, while acting as a student teacher performing functions authorized under subsection (3), comply with all rules of the governing board of the district or public institution and the applicable provisions of 20-4-301 relating to the duties of teachers.”~~

Section 4. Section 20-4-104, MCA, is amended to read:

“20-4-104. Qualifications. (1) A person may be certified as a teacher when the person satisfies the following qualifications. The person:

(a) is 18 years of age or older;

(b) is of good moral and professional character;

(c) (i) has completed the teacher education program of a unit of the Montana university system or an essentially equivalent program at an accredited institution of equal rank and standing as that of any unit of the Montana university system, and the training is evidenced by at least a bachelor’s degree and a certification of the completion of the teacher education program, except as provided for in 20-4-106(1)(d);

(ii) *possesses a current certification from the national board for professional teaching standards; or*

(iii) *possesses a current educator license from another state or country and successful experience as determined by the board of public education; and*

(d) has subscribed to the following oath or affirmation before an officer authorized by law to administer oaths:

“I solemnly swear (or affirm) that I will support The Constitution of the United States of America and The Constitution of the State of Montana.”

(2) Any person may be certified as a specialist when the person satisfies the requirements of subsections (1)(a) and (1)(b) and the requirement for a specialist certificate provided in 20-4-106(2).”

Section 5. Section 20-4-106, MCA, is amended to read:

“20-4-106. Classifications of teacher and specialist certificates.

(1) The superintendent of public instruction shall issue teacher certificates and the board of public education shall adopt teacher certification policies on the basis of the following classifications of teacher certificates:

(a) The class 1 professional certificate may be issued to an otherwise qualified applicant who has completed a teacher education program that includes a bachelor's degree and a minimum of 1 year of study beyond the degree in a unit of the Montana university system or an equivalent institution. The professional certificate may be endorsed for elementary instruction, for secondary instruction, or both, and for specified subject fields on the basis of the applicant's academic and professional training and according to the board of public education policy for teacher certification endorsement.

(b) The class 2 standard certificate may be issued to an otherwise qualified applicant who has completed a 4-year teacher education program and who has been awarded a bachelor's degree by a unit of the Montana university system or an equivalent institution. The standard certificate may be endorsed for elementary instruction, for secondary instruction, or both, and for specified subject fields on the basis of the applicant's academic and professional training and according to the board of public education policy for teacher certification endorsement.

(c) The class 3 administrative and supervisory certificate may be issued to an otherwise qualified applicant who is eligible for a teacher or *specialist* certificate ~~endorsed for teaching~~ in the school or schools in which the applicant would be an administrator or would supervise. The applicant must also possess the training and experience required by the policies of the board of public education for an endorsement as superintendent, principal, or supervisor. *An applicant for a class 3 administrative and supervisory certificate who is currently licensed in another state at a comparable level of licensure essentially equivalent to the class 3 administrative and supervisory certificate is eligible for licensure with verification of successful administrative experience as provided by the policies of the board of public education.*

(d) (i) The class 4 vocational, recreational, or adult education certificate may be issued to an otherwise qualified applicant who has the qualifications of training and experience required by the United States office of education or the qualifications required by the special needs of the several vocational, recreational, or adult education fields and who can qualify under the policy of the board of public education for the issuance of this classification of teacher certification.

(ii) (A) *A class 4C license must be issued to individuals who hold at least a high school diploma or high school equivalency diploma and have completed a minimum of 10,000 hours of documented, relevant work experience, which may include apprenticeship training, documenting the knowledge and skills required in the specific trade in which they are to teach. Acceptable documentation of relevant work experience is determined by the superintendent of public instruction consistent with rules of the board of public education.*

(B) *Trades in which a class 4C licensed individual can teach include agriculture business, marketing, and communications, agriculture mechanics, auto body, automotive technology, aviation, building maintenance, building trades, computer information systems, culinary arts, diesel mechanics, drafting, electronics, engineering, graphic arts, health occupations education, heavy equipment operator, horticulture, industrial mechanics, livestock production, machining, metals, plant and soil sciences, ROTC, small engines, power equipment technology, traffic education, theatre arts, videography, welding, and any other trade approved by the superintendent of public instruction.*

(e) The class 5 provisional certificate may be issued to an otherwise qualified applicant who can provide satisfactory evidence of the intent to qualify in the future for a class 1 or a class 2 certificate and who has completed a 4-year college program or its equivalent and holds a bachelor's degree from a unit of

the Montana university system or its equivalent. The provisional certificate may be endorsed for elementary instruction, for secondary instruction, or both, and for special subject fields on the basis of the applicant's academic and professional training and according to the board of public education policy for teacher or specialist certification endorsement.

(2) The superintendent of public instruction shall issue specialist certificates, and the board of public education shall adopt specialist certification policies. The specialist certificate may be issued to an otherwise qualified applicant who has the training, experience, and license required under the standards of the board of public education for the certification of a profession other than the teaching profession.

(3) For purposes of evaluating the qualifications of applicants for either teacher or specialist certificates, a year means the instructional period consisting of three quarters or two semesters or other terms that are recognized as an academic year by any unit of the Montana university system or equivalent institution."

Section 6. Section 20-4-111, MCA, is amended to read:

"20-4-111. Emergency authorization of employment. (1) A district may request from the superintendent of public instruction an emergency authorization of employment for a person who is not the holder of a valid *Montana* teacher or specialist certificate *and a required endorsement* as an instructor of pupils when the district cannot secure the services of a person holding a valid *Montana* certificate *and a required endorsement*. The person must have previously held a valid teacher or specialist certificate ~~or shall meet the standards of preparation from Montana or another state or shall provide acceptable evidence of academic qualifications or significant experience related to the area for which the emergency authorization of employment is being sought~~ as prescribed by the policies of the board of public education for and during an emergency. Emergency authorization of employment must indicate:

- (a) the district to which the authorization is issued;
- (b) the person whom the district is authorized to employ;
- (c) the endorsement for elementary or secondary instruction and the specific subject fields for which authorization to employ the person is given; and
- (d) the school fiscal year for which the emergency authorization of employment is given.

(2) Emergency authorization of employment of a person is valid for the school fiscal year identified on the authorization and may be renewed in accordance with the board of public education policies. A fee not to exceed \$6 and, if no teacher or specialist certificate or emergency authorization of employment has ever been issued for the person, a filing fee of \$6 must be paid for the issuance of an emergency authorization of employment. The superintendent of public instruction shall deposit the fees with the state treasurer to the credit of the general fund.

(3) Emergency authorization of employment of a person may be revoked for good cause in accordance with the provisions of 20-4-110."

Section 7. Section 20-7-118, MCA, is amended to read:

"20-7-118. Offsite provision of educational services by school district. (1) A school district may provide educational services at an offsite instructional setting, including the provision of services through electronic means. A district shall comply with any rules adopted by the board of public education that specify standards for the provision of educational services at an offsite instructional setting. The provision of educational services at an offsite instructional setting by a district is limited to pupils:

(a) meeting the residency requirements for that district as provided in 1-1-215;

(b) living in the district and eligible for educational services under the Individuals With Disabilities Education Act or under 29 U.S.C. 794; or

(c) attending school in the district under a mandatory attendance agreement as provided in 20-5-321; or

(d) *attending school in the nearest district offering offsite instruction that agrees to enroll the pupil when the pupil's district of residence does not provide offsite instruction in an equivalent course in which the pupil is enrolled. A course is not equivalent if the course does not provide the same level of advantage on successful completion, including but not limited to dual credit, advanced placement, and career certification. Attendance in these cases is subject to approval of the trustees of the district providing the offsite instruction.*

(2) The superintendent of public instruction shall adopt rules for the administration and enforcement of this section."

Section 8. Credit for participating in work-based learning partnerships. (1) Work-based learning must provide all participating students with on-the-job experience and training along with career and complimentary vocational/technical classroom instruction to contribute to each pupil's employability. The students' classroom activities and on-the-job experiences must be planned and supervised by the school and the employer to ensure that both activities contribute to the student's employability. Pupils enrolled in a work-based learning program must receive credit for related classroom instruction and on-the-job training. In the absence of a proficiency model, the time requirement for students in work-based learning must be converted and is equivalent to the time requirement for credit to be earned.

(2) Any individual licensed with a class 1 through 4 license is authorized to facilitate interfaces between the school and work-based learning partners. Work-based learning partnerships may be provided for any trade, including but not limited to trades identified by the superintendent of public instruction related to the class 4 license established under section 20-4-106.

Section 9. Section 20-7-1601, MCA, is amended to read:

"20-7-1601. (Temporary) Transformational Forms of personalized learning -- legislative intent. The legislature finds and declares pursuant to Article X, section 1, of the 1972 Montana constitution that *forms of personalized learning authorized under Montana law, including but not limited to work-based learning pursuant to [section 8], proficiency under 20-9-311, determinations of course equivalency by an elected board of trustees under 20-3-324(18), offsite instruction under 20-7-118, and transformational learning, are* appropriate means of fulfilling the people's goal of developing the full educational potential of each person. The provision of and participation in ~~transformational forms of personalized learning~~ under this part and in compliance with accreditation standards of the board of public education ~~is~~ *are* constitutionally compliant and protected. The legislature declares that any public or private regulation that discriminates against a district or pupil participating in ~~transformational learning forms of personalized learning referenced in this section~~ is inconsistent with constitutional goals and guarantees under Article X of the Montana constitution. (Terminates June 30, 2027--sec. 7, Ch. 402, L. 2019.)"

Section 10. Section 7, Chapter 402, Laws of 2019, is amended to read:

"Section 7. Termination. ~~[This act] terminates [Sections 2 through 6] terminate June 30, 2027."~~

Section 11. Codification instruction. [Section 8] is intended to be codified as an integral part of Title 20, chapter 7, part 15, and the provisions of Title 20, chapter 7, part 15, apply to [section 8].

Section 12. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 13. Effective date. [This act] is effective on passage and approval.

Approved April 19, 2021

CHAPTER NO. 248

[HB 252]

AN ACT ESTABLISHING AN EMPLOYER TAX CREDIT FOR TRADES EDUCATION AND TRAINING EXPENSES; PROVIDING THAT THE CREDIT BE TAKEN AGAINST INDIVIDUAL INCOME TAX AND CORPORATE INCOME TAX LIABILITIES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 15-30-2303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Tax credit for trades education and training. (1) Subject to the provisions of this section, an employer taxpayer is allowed a credit against the tax imposed by chapter 31 or this chapter for expenses incurred in the provision of certain education and training of employees for a trade profession who work or are anticipated to work in Montana for at least 6 months of the year in which the education or training occurs.

(2) The credit is equal to 50% of the qualified education and training expenses incurred by an employer for the benefit of an employee, not to exceed \$2,000 per employee annually. An employer's total credit allowed under subsection (1) on an annual basis may not exceed \$25,000.

(3) The credit may not exceed the employer's tax liability and may not be carried forward or carried back.

(4) The credit allowed under this section may not be claimed by an employer if:

(a) the employer has included the qualified education and training expenses upon which the amount of the credit was computed as a deduction in computing the tax imposed by chapter 31 or this chapter; or

(b) for any amount of qualified education and training expenses that are paid for with a grant or other similar program to provide money for education and training of employees.

(5) The credit permitted under this section must be applied to the tax year in which the employer incurs the qualified education and training expenses.

(6) If during any tax year a qualified education and training expense incurred by the employer is recovered by the employer, the employer shall:

(a) include as income the amount deducted in any prior year that is attributable to the qualified education and training expense incurred by the employer to the extent that the deduction reduced the employer's individual income tax or corporate income tax; and

(b) increase the amount of tax due under 15-30-2103 or 15-31-101 by the amount of the credit allowed in the tax year in which the credit was taken.

(7) The department may adopt rules, prepare forms, and maintain records that are necessary to implement this credit.

(8) For the purposes of this section, the following definitions apply:

(a) “Qualified education and training expenses” means those expenses actually incurred by the employer that are paid to a third party and include but are not limited to expenses for tuition, fees, books, supplies, or equipment required as part of a qualified training method to assist an employee of the employer in developing additional techniques and skills in a trade profession.

(b) “Qualified training method” means education and training provided in any of the following methods:

(i) classroom education or training in which the employee travels to the educator or trainer;

(ii) on-site education or training in which the educator or trainer travels to the business and customizes the education or training to the employer’s needs; or

(iii) online education or training that is interactive, in which:

(A) the employee has access to the educator or trainer;

(B) the employee demonstrates or practices what the employee is learning;

and

(C) the online education or training has the capability to provide suitable proof of completion.

(c) “Trade profession” means:

(i) boilermakers;

(ii) brick masons, block masons, and stone masons;

(iii) carpenters;

(iv) carpet installers;

(v) cement masons and terrazzo workers;

(vi) construction and building inspectors;

(vii) construction equipment operators;

(viii) construction laborers and helpers;

(ix) drywall and ceiling tile installers and tapers;

(x) electricians;

(xi) elevator installers and repairers;

(xii) glaziers;

(xiii) HVAC workers;

(xiv) logging and lumbering;

(xv) machinists;

(xvi) maintenance mechanics and auto mechanics;

(xvii) millwrights;

(xviii) oil and gas workers;

(xix) painters;

(xx) plumbers, pipefitters, and steamfitters;

(xxi) roofers;

(xxii) sheet metal workers;

(xxiii) structural iron and steel workers;

(xxiv) telecommunications tower technicians;

(xxv) tile and marble setters;

(xxvi) trucking;

(xxvii) water well drillers;

(xxviii) welders; and

(xxix) wind turbine technicians.

Section 2. Corporate income tax credit for trades education and training. (1) There is a tax credit against the taxes otherwise imposed by 15-31-101, 15-31-121, and 15-31-122 that is allowable in the amount established pursuant to [section 1] for qualified education and training expenses incurred by an employer for the benefit of an employee. The credit is administered as provided in [section 1] and this section.

(2) If the credit allowed under [section 1] and this section is claimed by a small business corporation as defined in 15-30-3301, a pass-through entity, or a partnership, the credit must be attributed to shareholders, owners, or partners using the same proportion as used to report the entity's income or loss.

Section 3. Section 15-30-2303, MCA, is amended to read:

“15-30-2303. Tax credits subject to review by interim committee.

(1) The following tax credits must be reviewed during the biennium commencing July 1, 2019:

(a) the credit for income taxes imposed by foreign states or countries provided for in 15-30-2302;

(b) the credit for contractor's gross receipts provided for in 15-50-207;

(c) the credit for new or expanded manufacturing provided for in 15-31-124 through 15-31-127;

(d) the credit for installing an alternative energy system provided for in 15-32-201 through 15-32-203;

(e) the credit for energy-conserving expenditures provided for in 15-30-2319 and 15-32-109; ~~and~~ *and*

(f) the credit for elderly homeowners and renters provided for in 15-30-2337 through 15-30-2341.

(2) The following tax credits must be reviewed during the biennium commencing July 1, 2021:

(a) the credit for commercial or net metering system investment provided for in Title 15, chapter 32, part 4;

(b) the credit for qualified elderly care expenses provided for in 15-30-2366;

(c) the credit for dependent care assistance and referral services provided for in 15-30-2373 and 15-31-131;

(d) the credit for contributions to a university or college foundation or endowment provided for in 15-30-2326, 15-31-135, and 15-31-136;

(e) the credit for donations to an educational improvement account provided for in 15-30-2334, 15-30-3110, and 15-31-158; and

(f) the credit for donations to a student scholarship organization provided for in 15-30-2335, 15-30-3111, and 15-31-159.

(3) The following tax credits must be reviewed during the biennium commencing July 1, 2023:

(a) the credit for providing disability insurance for employees provided for in 15-30-2367 and 15-31-132;

(b) the credit for installation of a geothermal system provided for in 15-32-115;

(c) the credit for property to recycle or manufacture using recycled material provided for in Title 15, chapter 32, part 6;

(d) the credit for converting a motor vehicle to alternative fuel provided for in 15-30-2320 and 15-31-137;

(e) the credit for infrastructure use fees provided for in 17-6-316; and

(f) the credit for contributions to a qualified endowment provided for in 15-30-2327 through 15-30-2329, 15-31-161, and 15-31-162.

(4) The following tax credits must be reviewed during the biennium commencing July 1, 2025:

(a) the credit for preservation of historic buildings provided for in 15-30-2342 and 15-31-151;

(b) the credit for mineral or coal exploration provided for in Title 15, chapter 32, part 5;

(c) the credit for capital gains provided for in 15-30-2301;

(d) the credit for a new employee in an empowerment zone provided for in 15-30-2356 and 15-31-134;

(e) the credit for an oilseed crush facility provided for in 15-32-701; ~~and~~

(f) the credit for unlocking state lands provided for in 15-30-2380; *and*

(g) *the credit for trades education and training provided for in [section 1] and [section 2].*

(5) The following tax credits must be reviewed during the biennium commencing July 1, 2027:

(a) the biodiesel or biolubricant production facility credit provided for in 15-32-702;

(b) the biodiesel blending and storage credit provided for in 15-32-703;

(c) the adoption tax credit provided for in 15-30-2364;

(d) the credit for providing temporary emergency lodging provided for in 15-30-2381 and 15-31-171;

(e) the credit for hiring a registered apprentice or veteran apprentice provided for in 15-30-2357 and 15-31-173;

(f) the earned income tax credit provided for in 15-30-2318; and

(g) the media production and postproduction credits provided for in 15-31-1007 and 15-31-1009.

(6) The revenue interim committee shall review the tax credits scheduled for review in the biennium of the next regular legislative session, including any individual or corporate income tax credits with an expiration or termination date that are not listed in this section, and make recommendations to the legislature about whether to eliminate or revise the credits. The legislature may extend the review dates by amending this section. The revenue interim committee shall review the credits using the following criteria:

(a) whether the credit changes taxpayer decisions, including whether the credit rewards decisions that may have been made regardless of the existence of the tax credit;

(b) to what extent the credit benefits some taxpayers at the expense of other taxpayers;

(c) whether the credit has out-of-state beneficiaries;

(d) the timing of costs and benefits of the credit and how long the credit is effective;

(e) any adverse impacts of the credit or its elimination and whether the benefits of continuance or elimination outweigh adverse impacts; and

(f) the extent to which benefits of the credit affect the larger economy.”

Section 4. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 15, chapter 30, part 23, and the provisions of Title 15, chapter 30, part 23, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 31, part 1, and the provisions of Title 15, chapter 31, part 1, apply to [section 2].

Section 5. Effective date. [This act] is effective on passage and approval.

Section 6. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to income tax years beginning after December 31, 2020.

Section 7. Termination. [This act] terminates December 31, 2026.

Approved April 19, 2021

CHAPTER NO. 249

[HB 259]

AN ACT PROHIBITING A LOCAL GOVERNMENT FROM REQUIRING HOUSING FEES OR THE DEDICATION OF REAL PROPERTY FOR THE PURPOSES OF PROVIDING HOUSING FOR SPECIFIED INCOME LEVELS OR SALE PRICES; PROHIBITING ZONING REGULATIONS THAT REQUIRE HOUSING FEES OR THE DEDICATION OF REAL PROPERTY FOR THE PURPOSES OF PROVIDING HOUSING FOR SPECIFIED INCOME LEVELS OR SALE PRICES; AMENDING SECTIONS 7-2-4203, 76-2-203, AND 76-2-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Housing fees and dedication of real property prohibited.

(1) A local governing body may not adopt a resolution under this part that includes a requirement to:

(a) pay a fee for the purpose of providing housing for specified income levels or at specified sale prices; or

(b) dedicate real property for the purpose of providing housing for specified income levels or at specified sale prices.

(2) A dedication of real property as prohibited in subsection (1)(b) includes a payment or other contribution to a local housing authority or the reservation of real property for future development of housing for specified income levels or specified sale prices.

Section 2. Housing fees and dedication of real property prohibited.

(1) A local governing body may not require, as a condition for approval of a subdivision under this part:

(a) the payment of a fee for the purpose of providing housing for specified income levels or at specified sale prices; or

(b) the dedication of real property for the purpose of providing housing for specified income levels or at specified sale prices.

(2) A dedication of real property as prohibited in subsection (1)(b) includes a payment or other contribution to a local housing authority or the reservation of real property for future development of housing for specified income levels or specified sale prices.

Section 3. Section 7-2-4203, MCA, is amended to read:

“7-2-4203. Imposition of conditions for approval of addition.

(1) The council has power by ordinance to compel the owners of these additions to lay out streets, avenues, and alleys, ~~so as to have the same that~~ correspond in width and direction and ~~be~~ *are* continuations of the streets, avenues, and alleys in the city or town or in the addition ~~thereto~~ contiguous to or near the proposed addition.

(2) The owner of any addition has no rights or privileges unless *the owner complies with* the terms and conditions of the ordinance ~~are complied with~~ and the plat ~~thereof~~ has been submitted to and, approved by, *and endorsed by* the mayor and council ~~and such approval endorsed thereon~~.

(3) *The council may not compel the owner of an addition to:*

(a) *pay a fee for the purpose of providing housing for specified income levels or at specified sale prices; or*

(b) *dedicate real property for the purpose of providing housing for specified income levels or at specified sale prices.*

(4) *A dedication of real property as prohibited in subsection (3)(b) includes a payment or other contribution to a local housing authority or the reservation*

of real property for future development of housing for specified income levels or specified sale prices.”

Section 4. Section 76-2-203, MCA, is amended to read:

“76-2-203. Criteria and guidelines for zoning regulations. (1) Zoning regulations must be:

- (a) made in accordance with the growth policy; and
- (b) designed to:
 - (i) secure safety from fire and other dangers;
 - (ii) promote public health, public safety, and general welfare; and
 - (iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

(2) In the adoption of zoning regulations, the board of county commissioners shall consider:

- (a) reasonable provision of adequate light and air;
- (b) the effect on motorized and nonmotorized transportation systems;
- (c) compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities;
- (d) the character of the district and its peculiar suitability for particular uses; and
- (e) conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

(3) Zoning regulations must, as nearly as possible, be made compatible with the zoning ordinances of nearby municipalities.

(4) *Zoning regulations may not include a requirement to:*

- (a) *pay a fee for the purpose of providing housing for specified income levels or at specified sale prices; or*
- (b) *dedicate real property for the purpose of providing housing for specified income levels or at specified sale prices.*

(5) *A dedication of real property as prohibited in subsection (4)(b) includes a payment or other contribution to a local housing authority or the reservation of real property for future development of housing for specified income levels or specified sale prices.”*

Section 5. Section 76-2-302, MCA, is amended to read:

“76-2-302. Zoning districts. (1) For the purposes of 76-2-301, the local city or town council or other legislative body may divide the municipality into districts of the number, shape, and area as are considered best suited to carry out the purposes of this part. Within the districts, it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land.

(2) All regulations must be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

(3) In a proceeding for a permit or variance to place manufactured housing within a residential zoning district, there is a rebuttable presumption that placement of a manufactured home will not adversely affect property values of conventional housing.

(4) As used in this section, “manufactured housing” means a single-family dwelling, built offsite in a factory on or after January 1, 1990, that is placed on a permanent foundation, is at least 1,000 square feet in size, has a pitched roof and siding and roofing materials that are customarily, as defined by local regulations, used on site-built homes, and is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of its production. A manufactured home does not include a mobile home or house trailer, as defined in 15-1-101.

(5) This section may not be construed to limit conditions imposed in historic districts, local design review standards, existing covenants, or the ability to enter into covenants pursuant to Title 70, chapter 17, part 2.

(6) *Zoning regulations may not include a requirement to:*

(a) *pay a fee for the purpose of providing housing for specified income levels or at specified sale prices; or*

(b) *dedicate real property for the purpose of providing housing for specified income levels or at specified sale prices.*

(7) *A dedication of real property as prohibited in subsection (6)(b) includes a payment or other contribution to a local housing authority or the reservation of real property for future development of housing for specified income levels or specified sale prices."*

Section 6. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 76, chapter 2, part 1, and the provisions of Title 76, chapter 2, part 1, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 76, chapter 3, part 5, and the provisions of Title 76, chapter 3, part 5, apply to [section 2].

Section 7. Effective date. [This act] is effective on passage and approval.

Approved April 19, 2021

CHAPTER NO. 250

[HB 379]

AN ACT DECLARING THE USE OF ACTUARIAL TABLES BASED ON SEX OR MARITAL STATUS TO BE A NONDISCRIMINATORY APPROACH TO SETTING INSURANCE PREMIUM RATES, EXCEPT AS PROHIBITED BY FEDERAL LAW; AMENDING SECTION 49-2-309, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 49-2-309, MCA, is amended to read:

"49-2-309. Discrimination in insurance and retirement plans. (1) ~~It is an unlawful discriminatory practice for a~~ A financial institution or person ~~to~~ *may not* discriminate solely on the basis of sex or marital status in the issuance or operation of any type of insurance policy, plan, or coverage or in any pension or retirement plan, program, or coverage, including discrimination in regard to rates or premiums and payments or benefits.

(2) This section does not apply to any insurance policy, plan, or coverage or to any pension or retirement plan, program, or coverage in effect prior to October 1, 1985.

(3) It is not a violation of the prohibition against marital status discrimination in this section for an employer to provide greater or additional contributions to a bona fide group insurance plan for employees with dependents than to those employees without dependents or with fewer dependents.

(4) *Except as prohibited under 45 CFR, part 147, implementing the Patient Protection and Affordable Care Act as of October 1, 2021, it is not a violation of the prohibition against sex or marital status discrimination in this section for a person to use accepted ratemaking methodologies based on sex or marital status in establishing insurance premium rates."*

Section 2. Applicability. [This act] applies to insurance contracts entered into or renewed on or after January 1, 2022.

Approved April 19, 2021

CHAPTER NO. 251

[HB 432]

AN ACT PROVIDING A PROPERTY TAX EXEMPTION FOR AFFORDABLE HOUSING OWNED BY A NONPROFIT CORPORATION AND CONSTRUCTED USING FEDERAL GRANTS; AMENDING SECTION 15-6-221, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-6-221, MCA, is amended to read:

“15-6-221. Exemption for rental housing providing affordable housing to lower-income tenants. (1) That portion of residential rental property that is dedicated to providing affordable housing for lower-income persons is exempt from property taxation in any year that:

(a) (i) the property is owned and operated by an entity, including but not limited to a limited partnership, limited liability company, or limited liability partnership in which a general partner or limited liability company member is a nonprofit corporation exempt from taxation under 26 U.S.C. 501(c)(3), as amended, and incorporated or admitted under a certificate of authority under the Montana Nonprofit Corporation Act as provided in Title 35, chapter 2, or is a housing authority as defined in 7-15-4402 and the nonprofit general partner or limited liability company member actively participates in accordance with the definition found in 26 U.S.C. 469(i). Section 26 U.S.C. 469(i) is applicable without reference to section 26 U.S.C. 469(i)(6).

(b)(ii) the board of housing, established in 2-15-1814, has allocated low-income housing tax credits to the owner under 26 U.S.C. 42;

(c)(iii) a deed restriction or other legally binding instrument restricts the property's usage and provides that the units designated for use by lower-income households must be made available to or occupied by lower-income households for the period required to qualify for low-income housing tax credits at rents that do not exceed those prescribed by the terms of the deed restriction or other legally binding instruments;

(d)(iv) the property meets a public purpose in providing housing to an underserved population; and

(e)(v) the owner's partnership or operating agreement or accompanying document provides that at the end of the compliance period, as that term is defined in 26 U.S.C. 42, the ownership of the property may be transferred to the nonprofit corporation or housing authority general partner or limited liability company member as provided for in 26 U.S.C. 42(i)(7); or

(b) the property is owned and operated by a nonprofit corporation exempt from taxation under 26 U.S.C. 501(c)(3) and was constructed using a home investment partnerships program grant.

(2) Prior to applying to the department for the tax exemption provided for in this section, the unit of local government where the proposed project is to be located shall give due notice, as defined in 76-15-103, and hold a public hearing to solicit comment on whether the proposed qualifying low-income rental housing property meets a community housing need. A record of the public hearing must be forwarded to the board of housing.

(3) (a) A party satisfies the nonprofit partner or limited liability company member requirement of subsection (1)(a)(i) if it is a single-member limited liability company that is fully owned and controlled by a nonprofit corporation described in subsection (1)(a)(i).

(b) A property must be considered to be owned and operated by an entity as described in subsection (1)(a)(i) if it is occupied by the entity as a lessee

under a long-term lease exceeding 49 years in length under which most benefits and burdens of ownership during the lease term have shifted to the lessee, including the obligation to pay property taxes.

(c) If a residential rental property is an integral part of a combination of two properties that when combined make up a single commonly operated residential rental property, the qualifications for both properties under subsection ~~(1)(b)~~ (1)(a)(ii) must be measured collectively with reference to the units located on both properties if:

(i) the beneficial ownership of the entities described in subsection (1)(a)(i) for both properties are substantially identical; and

(ii) all other requirements of both parties under this section are met.”

Section 2. Applicability. [This act] applies to tax years beginning after December 31, 2021.

Approved April 19, 2021

CHAPTER NO. 252

[HB 482]

AN ACT REVISING LICENSE PLATE LAWS FOR DISABLED VETERANS WITH COMBAT-RELATED DISABILITIES; AND AMENDING SECTION 61-3-332, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-3-332, MCA, is amended to read:

“61-3-332. Standard license plates. (1) In addition to special license plates, collegiate license plates, generic specialty license plates, and fleet license plates authorized under this chapter, a separate series of standard license plates must be issued for motor vehicles, quadricycles, travel trailers, trailers, semitrailers, and pole trailers registered in this state or offered for sale by a vehicle dealer licensed in this state. Standard license plates issued to licensed vehicle dealers must be readily distinguishable from license plates issued to vehicles owned by other persons.

(2) (a) Except as provided in 61-3-479 and subsections (2)(b), (3)(b), and (3)(c) of this section, all standard license plates for motor vehicles, trailers, semitrailers, or pole trailers must bear a distinctive marking, as determined by the department, and be furnished by the department. In years when standard license plates are not reissued for a vehicle, the department shall provide a registration decal that must be affixed to the rear license plate of the vehicle.

(b) For light vehicles that are permanently registered as provided in 61-3-562 and motor vehicles described in 61-3-303(9) that are permanently registered, the department shall provide a distinctive registration decal indicating that the motor vehicle is permanently registered. The registration decal must be affixed to the rear license plate of the permanently registered motor vehicle.

(c) For a travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer that is permanently registered as provided in 61-3-313(2), the department may use the word or an abbreviation for the word “permanent” on the plate in lieu of issuing a registration decal for the plate.

(3) (a) (i) New license plates issued under 61-3-303 or this section must be a standard license plate design first issued in 1989 or later or current collegiate or generic specialty license plate designs. For the purposes of this subsection (3), all military, veteran, and amateur radio license plates and any

license plate with a wheelchair design, excluding collegiate or generic specialty plates with a wheelchair design, are treated as standard license plates.

(ii) (A) *License Except as provided in subsection (3)(a)(ii)(B), license plates issued on or after January 1, 2010, must be replaced with new license plates if, upon renewal of registration under 61-3-312, the license plates are 5 or more years old or will become older than 5 years during the registration period. New license plates must be issued in accordance with the implementation schedule adopted by the department under 61-14-101.*

(B) *License plates issued to a disabled veteran with a combat-related disability must be replaced with new license plates if, on renewal of registration under 61-3-312, the license plates are 10 or more years old or will become older than 10 years during the registration period.*

(iii) A vehicle owner may elect to keep the same license plate number from license plates issued before January 1, 2010, when replacement of those plates is required under this subsection.

(b) A motor vehicle that is registered for a 13-month to a 24-month period, as provided in 61-3-311, may display the license plate and plate design in effect at the time of registration for the entire registration period.

(c) A light vehicle described in subsection (2)(b) or a motor home that is permanently registered may display the license plate and plate design in effect at the time of registration for the entire period that the light vehicle or motor home is permanently registered.

(d) The provisions of this subsection (3) do not apply to a travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer.

(e) The requirements of this subsection (3) apply to collegiate license plates authorized under 61-3-461 through 61-3-468, generic specialty license plates authorized under 61-3-472 through 61-3-481, commemorative centennial license plates authorized under 61-3-448, and special military or veteran license plates authorized under 61-3-458.

(4) (a) All license plates must be metal and treated with a reflectorized background material according to specifications prescribed by the department. The word "Montana" must be placed on each license plate and, except for license plates that are 4 inches wide and 7 inches in length, the outline of the state of Montana must be used as a distinctive border on each standard license plate.

(b) Plates for semitrailers, travel trailers, pole trailers, trailers with a declared weight of 6,000 pounds or more, and motor vehicles, other than motorcycles and quadricycles, must be 6 inches wide and 12 inches in length.

(c) Plates for motorcycles and quadricycles must be 4 inches wide and 7 inches in length.

(d) The department shall issue plates that are 4 inches wide and 7 inches in length for trailers with a declared weight of less than 6,000 pounds unless a person registering a trailer with a declared weight of less than 6,000 pounds requests plates that are 6 inches wide and 12 inches in length. A person registering a trailer shall pay all applicable fees for the plates chosen.

(5) The distinctive registration numbers for standard license plates must begin with a number one or with a letter-number combination, such as "A 1" or "AA 1", or any other similar combination of letters and numbers. Except for special license plates, collegiate license plates, generic specialty license plates, fleet license plates, and standard license plates that are 4 inches wide and 7 inches in length, the distinctive registration number or letter-number combination assigned to the motor vehicle must appear on the plate preceded by the number of the county and appearing in horizontal order on the same horizontal baseline. The county number must be separated from the distinctive

registration number by a separation mark unless a letter-number combination is used. The dimensions of the numerals and letters must be determined by the department, and all county and registration numbers must be of equal height.

(6) For the use of exempt motor vehicles, trailers, semitrailers, or pole trailers and motor vehicles, trailers, semitrailers, or pole trailers that are exempt from the registration fee as provided in 61-3-321, in addition to the markings provided in this section, standard license plates must bear the following distinctive markings:

(a) For motor vehicles, trailers, semitrailers, or pole trailers owned by the state, the department may designate the prefix number for the various state departments. All numbered plates issued to state departments must bear the words "State Owned", and a year number may not be indicated on the plates because these numbered plates are of a permanent nature and will be replaced by the department only when the physical condition of numbered plates requires it.

(b) For motor vehicles, trailers, semitrailers, or pole trailers that are owned by the counties, municipalities, and special districts, as defined in 18-8-202, organized under the laws of Montana and not operating for profit, and that are used and operated by officials and employees in the line of duty and for motor vehicles on loan from the United States government or the state of Montana to, or owned by, the civil air patrol and used and operated by officials and employees in the line of duty, there must be placed on the standard license plates assigned, in a position that the department may designate, the letter "X" or the word "EXEMPT". Distinctive registration numbers for plates assigned to motor vehicles, trailers, semitrailers, or pole trailers of each of the counties in the state and those of the municipalities and special districts that obtain plates within each county must begin with number one and be numbered consecutively. Because these standard license plates are of a permanent nature, they are subject to replacement by the department only when the physical condition of the license plates requires it and a year number may not be displayed on the plates.

(7) For the purpose of this chapter, the several counties of the state are assigned numbers as follows: Silver Bow, 1; Cascade, 2; Yellowstone, 3; Missoula, 4; Lewis and Clark, 5; Gallatin, 6; Flathead, 7; Fergus, 8; Powder River, 9; Carbon, 10; Phillips, 11; Hill, 12; Ravalli, 13; Custer, 14; Lake, 15; Dawson, 16; Roosevelt, 17; Beaverhead, 18; Chouteau, 19; Valley, 20; Toole, 21; Big Horn, 22; Musselshell, 23; Blaine, 24; Madison, 25; Pondera, 26; Richland, 27; Powell, 28; Rosebud, 29; Deer Lodge, 30; Teton, 31; Stillwater, 32; Treasure, 33; Sheridan, 34; Sanders, 35; Judith Basin, 36; Daniels, 37; Glacier, 38; Fallon, 39; Sweet Grass, 40; McCone, 41; Carter, 42; Broadwater, 43; Wheatland, 44; Prairie, 45; Granite, 46; Meagher, 47; Liberty, 48; Park, 49; Garfield, 50; Jefferson, 51; Wibaux, 52; Golden Valley, 53; Mineral, 54; Petroleum, 55; Lincoln, 56. Any new counties must be assigned numbers by the department as they are formed, beginning with the number 57.

(8) Each type of special license plate approved by the legislature, except collegiate license plates authorized in 61-3-463 and generic specialty license plates authorized in 61-3-472 through 61-3-481, must be a separate series of plates, numbered as provided in subsection (5), except that the county number must be replaced by a design that distinguishes each separate plate series. Unless otherwise specifically stated in this section, the special plates are subject to the same rules and laws as govern the issuance of standard license plates, must be placed or mounted on a motor vehicle, trailer, semitrailer, or pole trailer owned by the person who is eligible to receive them, with the registration decal affixed to the rear license plate of the motor vehicle, trailer,

semitrailer, or pole trailer, and must be removed upon sale or other disposition of the motor vehicle, trailer, semitrailer, or pole trailer.

(9) (a) A Montana resident who is eligible to receive a special parking permit under 49-4-301 may and a person with a low-speed restricted driver's license operating a low-speed electric vehicle or golf cart as provided in 61-5-122 must, upon written application on a form prescribed by the department, be issued a special license plate with a design or decal bearing a representation of a wheelchair as the symbol of a person with a disability.

(b) If the motor vehicle to which the license plate is attached is permanently registered, the owner of the motor vehicle shall provide, upon request of a person authorized to enforce special parking laws or ordinances in this or any state, evidence of continued eligibility to use the license plate in the form of a valid special parking permit issued to or renewed by the vehicle owner under 49-4-304 and 49-4-305.

(c) A person with a permanent condition, as provided in 49-4-301(2)(b), who has been issued a special license plate upon written application, as provided in this subsection (9), is not required to reapply upon reregistration of the motor vehicle.

(10) The provisions of this section do not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is registered as part of a fleet, as defined in 61-3-712, and that is subject to the provisions of 61-3-711 through 61-3-733."

Approved April 19, 2021

CHAPTER NO. 253

[HB 611]

AN ACT REVISING REQUIREMENTS FOR AMERICAN FLAGS DISPLAYED INSIDE AND OUTSIDE PUBLIC SCHOOLS; AMENDING SECTION 20-3-324, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-3-324, MCA, is amended to read:

"20-3-324. Powers and duties. As prescribed elsewhere in this title, the trustees of each district shall:

(1) employ or dismiss a teacher, principal, or other assistant upon the recommendation of the district superintendent, the county high school principal, or other principal as the board considers necessary, accepting or rejecting any recommendation as the trustees in their sole discretion determine, in accordance with the provisions of Title 20, chapter 4;

(2) employ and dismiss administrative personnel, clerks, secretaries, teacher's aides, custodians, maintenance personnel, school bus drivers, food service personnel, nurses, and any other personnel considered necessary to carry out the various services of the district;

(3) administer the attendance and tuition provisions and govern the pupils of the district in accordance with the provisions of the pupils chapter of this title;

(4) call, conduct, and certify the elections of the district in accordance with the provisions of the school elections chapter of this title;

(5) participate in the teachers' retirement system of the state of Montana in accordance with the provisions of the teachers' retirement system chapter of Title 19;

(6) participate in district boundary change actions in accordance with the provisions of the school districts chapter of this title;

(7) organize, open, close, or acquire isolation status for the schools of the district in accordance with the provisions of the school organization part of this title;

(8) adopt and administer the annual budget or a budget amendment of the district in accordance with the provisions of the school budget system part of this title;

(9) conduct the fiscal business of the district in accordance with the provisions of the school financial administration part of this title;

(10) establish the ANB, BASE budget levy, over-BASE budget levy, additional levy, operating reserve, and state impact aid amounts for the general fund of the district in accordance with the provisions of the general fund part of this title;

(11) establish, maintain, budget, and finance the transportation program of the district in accordance with the provisions of the transportation parts of this title;

(12) issue, refund, sell, budget, and redeem the bonds of the district in accordance with the provisions of the bonds parts of this title;

(13) when applicable, establish, financially administer, and budget for the tuition fund, retirement fund, building reserve fund, adult education fund, nonoperating fund, school food services fund, miscellaneous programs fund, building fund, lease or rental agreement fund, traffic education fund, impact aid fund, interlocal cooperative fund, and other funds as authorized by the state superintendent of public instruction in accordance with the provisions of the other school funds parts of this title;

(14) when applicable, administer any interlocal cooperative agreement, gifts, legacies, or devises in accordance with the provisions of the miscellaneous financial parts of this title;

(15) hold in trust, acquire, and dispose of the real and personal property of the district in accordance with the provisions of the school sites and facilities part of this title;

(16) operate the schools of the district in accordance with the provisions of the school calendar part of this title;

(17) set the length of the school term, school day, and school week in accordance with 20-1-302;

(18) establish and maintain the instructional services of the schools of the district in accordance with the provisions of the instructional services, textbooks, K-12 career and vocational/technical education, and special education parts of this title;

(19) establish and maintain the school food services of the district in accordance with the provisions of the school food services parts of this title;

(20) make reports from time to time as the county superintendent, superintendent of public instruction, and board of public education may require;

(21) retain, when considered advisable, a physician or registered nurse to inspect the sanitary conditions of the school or the general health conditions of each pupil and, upon request, make available to any parent or guardian any medical reports or health records maintained by the district pertaining to the child;

(22) for each member of the trustees, visit each school of the district not less than once each school fiscal year to examine its management, conditions, and needs, except that trustees from a first-class school district may share the responsibility for visiting each school in the district;

(23) procure and display outside daily in suitable weather on school days at each school of the district an American flag *representing the United States*

and manufactured in the United States that measures not less than 4 3 feet by 6 5 feet;

(24) provide that an American flag *representing the United States and manufactured in the United States* that measures ~~approximately 3 feet by 5 feet at least 16 inches by 24 inches~~ be prominently displayed in each classroom in each school of the district no later than the beginning of the school year, except in a classroom in which the flag may get soiled. Districts are encouraged to work with *military organizations and* civic groups to acquire flags through donation, and this requirement is waived if the flags are not provided by a *military organization or* civic group.

(25) for grades 7 through 12, provide that legible copies of the United States constitution, the United States bill of rights, and the Montana constitution printed in the United States or in electronic form are readily available in every classroom no later than the beginning of the school year. Districts are encouraged to work with civic groups to acquire the documents through donation, and this requirement is waived if the documents are not provided by a civic group.

(26) adopt and administer a district policy on assessment for placement of any child who enrolls in a school of the district from a nonpublic school that is not accredited, as required in 20-5-110;

(27) upon request and in compliance with confidentiality requirements of state and federal law, disclose to interested parties school district student assessment data for any test required by the board of public education;

(28) consider and may enter into an interlocal agreement with a postsecondary institution, as defined in 20-9-706, that authorizes 11th and 12th grade students to obtain credits through classes available only at a postsecondary institution;

(29) approve or disapprove the conduct of school on a Saturday in accordance with the provisions of 20-1-303; and

(30) perform any other duty and enforce any other requirements for the government of the schools prescribed by this title, the policies of the board of public education, or the rules of the superintendent of public instruction.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 19, 2021

CHAPTER NO. 254

[SB 169]

AN ACT GENERALLY REVISING VOTER IDENTIFICATION LAWS; REVISING CERTAIN IDENTIFICATION REQUIREMENTS FOR VOTER REGISTRATION, VOTING, AND PROVISIONAL VOTING; AMENDING SECTIONS 13-2-110, 13-13-114, 13-13-602, AND 13-15-107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-2-110, MCA, is amended to read:

“13-2-110. Application for voter registration – sufficiency and verification of information – identifiers assigned for voting purposes.

(1) An individual may apply for voter registration in person or by mail, postage paid, by completing and signing the standard application form for voter registration provided for in 13-1-210 and providing the application to the election administrator in the county in which the elector resides.

(2) Each application for voter registration must be accepted and processed as provided in rules adopted under 13-2-109.

(3) Except as provided in subsection (4),:

(a) an applicant for voter registration shall provide the applicant's:

(a) Montana driver's license number;; ~~or~~

(b) *Montana state identification card number issued pursuant to 61-12-501; or*

(b)(c) ~~if the applicant does not have a Montana driver's license, the applicant shall provide the last four digits of the applicant's social security number~~ *the last four digits of the applicant's social security number.*

(4) (a) ~~If an applicant does not have a Montana driver's license or social security number is unable to provide information in accordance with subsection (3), the applicant shall provide as an alternative form of identification:~~

(i) *a military identification card, a tribal photo identification card, a United States passport, or a Montana concealed carry permit; or*

(i)(ii) ~~(A) a current and valid any other form of photo identification, including but not limited to a school district or postsecondary education photo identification or a tribal photo identification, including but not limited to a school district or postsecondary education photo identification with the individual's name; or and~~

(ii)(B) *a current utility bill, bank statement, paycheck, government check, or other government document that shows the individual's name and current address.*

(b) The alternative form of identification must be:

(i) an original version presented to the election administrator if the applicant is applying in person; or

(ii) a *readable* copy of any of the required documents, which must be enclosed with the application, if the applicant is applying by mail.

(5) (a) If information provided on an application for voter registration is sufficient to be accepted and processed and is verified pursuant to rules adopted under 13-2-109, the election administrator shall register the elector as a legally registered elector.

(b) If information provided on an application for voter registration was sufficient to be accepted but the applicant failed to provide the information required in subsection (3) or (4) or if the information provided was incorrect or insufficient to verify the individual's identity or eligibility to vote, the election administrator shall register the applicant as a provisionally registered elector.

(6) Each applicant for voter registration must be notified of the elector's registration status pursuant to rules adopted under 13-2-109.

(7) The secretary of state shall assign to each elector whose application was accepted a unique identification number for voting purposes and shall establish a statewide uniform method to allow the secretary of state and local election officials to distinguish legally registered electors from provisionally registered electors.

(8) The provisions of this section may not be interpreted to conflict with voter registration accomplished under 13-2-221, 13-21-221, and 61-5-107 and as provided for in federal law."

Section 2. Section 13-13-114, MCA, is amended to read:

"13-13-114. Voter identification and marking precinct register book before elector votes – provisional voting. (1) (a) ~~Before~~ *Except as provided in subsection (2), before* an elector is permitted to receive a ballot or vote, the elector shall present to an election judge ~~a one of the following forms of current photo identification showing the elector's name. If the elector does not present photo identification, including but not limited to:~~

(i) a ~~valid~~ Montana driver's license, Montana state identification card issued pursuant to 61-12-501, military identification card, tribal photo identification card, United States passport, or Montana concealed carry permit; or

(ii) ~~(A) a school district or postsecondary education photo identification, or a tribal photo identification, the elector shall present a current utility bill, bank statement, paycheck, notice of confirmation of voter registration issued pursuant to 13-2-207, government check, or other government document that shows the elector's name and current address; and~~

~~(B) photo identification that shows the elector's name, including but not limited to a school district or postsecondary education photo identification.~~

~~(b)(b)~~ An elector who provides the information listed in subsection ~~(1)(a)~~ ~~(1)(a)~~ may sign the precinct register and must be provided with a regular ballot to vote.

~~(c)(c)~~ If the information provided in subsection ~~(1)(a)~~ ~~(1)(a)~~ differs from information in the precinct register but an election judge determines that the information provided is sufficient to verify the voter's identity and eligibility to vote pursuant to 13-2-512, the elector may sign the precinct register, complete a new registration form to correct the elector's voter registration information, and vote.

~~(d)(d)~~ An election judge shall write "registration form" beside the name of any elector submitting a form.

(2) If the elector is unable to present the information required by subsection (1) or if the information presented under subsection (1) is insufficient to verify the elector's identity and eligibility to vote or if the elector's name does not appear in the precinct register or appears in the register as provisionally registered and this provisional registration status cannot be resolved at the polling place, the elector may sign the precinct register and cast a provisional ballot as provided in 13-13-601.

(3) If the elector fails or refuses to sign the elector's name or if the elector is disabled and a fingerprint, an identifying mark, or a signature by a person authorized to sign for the elector pursuant to 13-1-116 is not provided, the elector may cast a provisional ballot as provided in 13-13-601."

Section 3. Section 13-13-602, MCA, is amended to read:

"13-13-602. Fail-safe and provisional voting by mail. (1) To ensure the election administrator has information sufficient to determine the elector's eligibility to vote, an elector voting by mail may enclose in the outer signature envelope, together with the voted ballot in the secrecy envelope, a copy of a current and valid photo identification with the elector's name or:

(a) a Montana driver's license number, Montana state identification card number issued pursuant to 61-12-501, or the last four digits of the applicant's social security number;

(b) a readable copy of a military identification card, a tribal photo identification card, a United States passport, a photo identification card issued by a Montana college or university, or a Montana concealed carry permit; or

(c) (i) any other form of readable photo identification with the individual's name; and

(ii) a copy of a current utility bill, bank statement, paycheck, notice of confirmation of voter registration issued pursuant to 13-2-207, government check, or other government document that shows the elector's name and current address or other information necessary to determine the elector's eligibility to vote.

(2) The elector's ballot must be handled as a provisional ballot under 13-15-107 if:

(a) a provisionally registered elector voting by mail does not enclose with the ballot the information described in subsection (1);

(b) the information provided under subsection (1) is invalid or insufficient to verify the elector's eligibility; or

(c) the elector's name does not appear on the precinct register."

Section 4. Section 13-15-107, MCA, is amended to read:

"13-15-107. Handling and counting provisional and challenged ballots. (1) To verify eligibility to vote, a provisionally registered individual who casts a provisional ballot has until 5 p.m. on the day after the election to provide valid identification or eligibility information either in person, by facsimile, by electronic means, or by mail postmarked no later than the day after the election.

(2) ~~(a)~~ If a legally registered individual casts a provisional ballot because the individual failed to provide sufficient identification as required pursuant to 13-13-114(1)(a);:

(a) the elector has until 5 p.m. on the day after the election to provide identification information pursuant to the requirements of 13-13-114 or as provided in subsection (3) of this section; and

(b) the election administrator shall compare the signature of the individual or the individual's agent designated pursuant to 13-1-116 on the affirmation required under 13-13-601 to the signature on the individual's voter registration form or the agent's designation form.

~~(b)~~ If the signatures match, the election administrator shall handle the ballot as provided in subsection ~~(5)~~ (7).

~~(c)~~ If the signatures do not match and the individual or the individual's agent fails to provide valid identification information by the deadline, the ballot must be rejected and handled as provided in 13-15-108.

(3) If a legally registered individual casts a provisional ballot but is unable provide the identification information pursuant to the requirements of 13-13-114, the elector may verify the elector's identity by:

(a) presenting a current utility bill, bank statement, paycheck, government check, or other government document that shows the elector's name and current address; and

(b) executing a declaration pursuant to subsection (4) that states that the elector has a reasonable impediment to meeting the identification requirements.

(4) The secretary of state shall prescribe the form of the declaration described in subsection (3). The form must include:

(a) a notice that the elector is subject to prosecution for false swearing under 45-7-202 for a false statement or false information on the declaration;

(b) a statement that the elector swears or affirms that the information contained in the declaration is true, that the person described in the declaration is the same person who is signing the declaration, and that the elector faces a reasonable impediment to procuring the identification required by 13-13-114;

(c) a place for an elector to indicate one of the following impediments:

(i) lack of transportation;

(ii) lack of birth certificate or other documents needed to obtain identification;

(iii) work schedule;

(iv) lost or stolen identification;

(v) disability or illness;

(vi) family responsibilities; or

(vii) photo identification has been applied for but not received;

(d) a place for the elector to sign and date the declaration;

(e) a place for the election administrator or an election judge to sign and date the declaration;

(f) a place to note the polling place at which the elector cast a provisional ballot; and

(g) a place for the election administrator or election judge to note which form of identification required by subsection (3)(a) the elector presented.

(3)(5) A provisional ballot must be counted if the election administrator verifies the individual's identity or eligibility pursuant to rules adopted under 13-13-603. However, if the election administrator cannot verify the individual's identity or eligibility under the rules, the individual's provisional ballot must be rejected and handled as provided in 13-15-108. If the ballot is provisional because of a challenge and the challenge was made on the grounds that the individual is of unsound mind or serving a felony sentence in a penal institution, the individual's provisional ballot must be counted unless the challenger provides documentation by 5 p.m. on the day after the election that a court has established that the individual is of unsound mind or that the individual has been convicted and sentenced and is still serving a felony sentence in a penal institution.

(4)(6) The election administrator shall provide an individual who cast a provisional ballot but whose ballot was or was not counted with the reasons why the ballot was or was not counted.

(5)(7) A provisional ballot must be removed from its provisional envelope, grouped with other ballots in a manner that allows for the secrecy of the ballot to the greatest extent possible, and counted as any other provisional ballot if the individual's voter information is:

(a) verified before 5 p.m. on the day after the election; or

(b) postmarked by 5 p.m. on the day after election day and received and verified by 3 p.m. on the sixth day after the election.

(6)(8) Provisional ballots that are not resolved by the end of election day may not be counted until after 3 p.m. on the sixth day after the election."

Section 5. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 6. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 7. Effective date. [This act] is effective on passage and approval.

Approved April 19, 2021

CHAPTER NO. 255

[HB 480]

AN ACT REVISING ORDER OF PROTECTION LAWS TO ALLOW A GUARDIAN, CONSERVATOR, OR AGENT TO ACT ON BEHALF OF AN INCAPACITATED ADULT IN PETITIONING FOR AN ORDER OF PROTECTION OR FOR THE SUBSTITUTE ADDRESS PROGRAM; AMENDING SECTIONS 40-15-102 AND 40-15-116, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 40-15-102, MCA, is amended to read:

"40-15-102. Eligibility for order of protection. (1) A person may file a petition for an order of protection if:

(a) the petitioner is in reasonable apprehension of bodily injury by the petitioner's partner or family member as defined in 45-5-206; or

(b) the petitioner is a victim of one of the following offenses committed by a partner or family member:

- (i) assault as defined in 45-5-201;
- (ii) aggravated assault as defined in 45-5-202;
- (iii) intimidation as defined in 45-5-203;
- (iv) partner or family member assault as defined in 45-5-206;
- (v) criminal endangerment as defined in 45-5-207;
- (vi) negligent endangerment as defined in 45-5-208;
- (vii) assault on a minor as defined in 45-5-212;
- (viii) assault with a weapon as defined in 45-5-213;
- (ix) strangulation of a partner or family member as defined in 45-5-215;
- (x) unlawful restraint as defined in 45-5-301;
- (xi) kidnapping as defined in 45-5-302;
- (xii) aggravated kidnapping as defined in 45-5-303; or
- (xiii) arson as defined in 45-6-103.

(2) The following individuals are eligible to file a petition for an order of protection against the offender regardless of the individual's relationship to the offender:

(a) a victim of assault as defined in 45-5-201, aggravated assault as defined in 45-5-202, assault on a minor as defined in 45-5-212, stalking as defined in 45-5-220, incest as defined in 45-5-507, sexual assault as defined in 45-5-502, sexual intercourse without consent as defined in 45-5-503, sexual abuse of children as defined in 45-5-625, or human trafficking as defined in 45-5-701; or

(b) a partner or family member of a victim of deliberate homicide as defined in 45-5-102 or mitigated deliberate homicide as defined in 45-5-103.

(3) A parent, guardian ad litem, or other representative of the petitioner may file a petition for an order of protection on behalf of a minor petitioner against the petitioner's abuser. At its discretion, a court may appoint a guardian ad litem for a minor petitioner.

(4) *The following persons may file a petition for an order of protection on behalf of an adult:*

(a) *a guardian appointed pursuant to Title 72, chapter 5, part 3, on behalf of an incapacitated person;*

(b) *a conservator appointed pursuant to Title 72, chapter 5, part 4, on behalf of a protected person; or*

(c) *an agent on behalf of an incapacitated principal. For the purposes of this subsection (4)(c), "incapacitated" has the same meaning as "incapacitated person" provided in 72-5-101.*

(4)(5) A guardian must be appointed for a minor respondent when required by Rule 17(c), Montana Rules of Civil Procedure, or by 25-31-602. An order of protection is effective against a respondent regardless of the respondent's age.

(5)(6) A petitioner is eligible for an order of protection whether or not:

- (a) the petitioner reports the abuse to law enforcement;
- (b) charges are filed; or
- (c) the petitioner participates in a criminal prosecution.

(6)(7) If a petitioner is otherwise entitled to an order of protection, the length of time between the abusive incident and the petitioner's application for an order of protection is irrelevant."

Section 2. Section 40-15-116, MCA, is amended to read:

"40-15-116. Definitions. As used in 40-15-115 through 40-15-121, the following definitions apply:

(1) "Applicant" means a victim and includes a parent or guardian of a minor or a person described in 40-15-102(4) who acts on behalf of a the victim.

(2) "Department" means the department of justice.

(3) "Participant" means an applicant who has submitted an application pursuant to 40-15-117 that has been approved by the department.

(4) "Partner or family member assault" has the meaning provided in 45-5-206.

(5) "Sexual assault" means sexual assault as defined in 45-5-502, sexual intercourse without consent as defined in 45-5-503, incest as defined in 45-5-507, or sexual abuse of children as defined in 45-5-625.

(6) "Stalking" has the meaning provided in 45-5-220.

(7) "Victim" means an individual who has been a victim of partner or family member assault, sexual assault, or stalking or who is otherwise eligible to file a petition for an order of protection under 40-15-102."

Section 3. Effective date. [This act] is effective July 1, 2021.

Approved April 20, 2021

CHAPTER NO. 256

[HB 589]

AN ACT REVISING LAWS FOR DISPOSITION OF FUNDS FROM LAWSUITS BROUGHT REGARDING UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION; REQUIRING CERTAIN TRANSFERS TO THE GENERAL FUND; SETTING A DATE FOR TRANSFERS; AND AMENDING SECTIONS 30-14-143 AND 30-14-226, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 30-14-143, MCA, is amended to read:

"30-14-143. Disposition of civil fines, settlement proceeds, amounts awarded in judgments, costs, and fees. (1) (a) Except as provided in subsection ~~(1)(b)~~ (1)(c), all civil fines, settlement proceeds not otherwise designated for a specific use pursuant to court order, amounts awarded in judgments, costs, and fees received or recovered by the department pursuant to this part must be deposited into a state special revenue account to the credit of the department and must be used to defray the expenses of the department in discharging its administrative and regulatory powers and duties in relation to this part.

(b) *At the end of each biennium, the balance in the state special revenue account may not exceed three times the amount of the budget appropriated to the department to discharge its powers and duties under this part for that biennium. Funds that are otherwise obligated to implement the provisions of the settlement agreement are not considered part of the balance of the state special revenue account. Any excess civil fines, settlement proceeds not otherwise designated for a specific use pursuant to court order, amounts awarded in judgment, costs, or fees must be transferred to the general fund no later than the first business day in January of the subsequent biennium.*

~~(b)(c)~~ All civil fines received or recovered by the department pursuant to 30-14-144 must be deposited in the general fund.

(2) All civil fines, settlement proceeds, amounts awarded in judgments, costs, and fees received or recovered by a county attorney pursuant to this part must be paid to the general fund of the county in which the action was commenced."

Section 2. Section 30-14-226, MCA, is amended to read:

“30-14-226. Disposition of civil fines, *settlement proceeds, amounts awarded in judgments, costs, and fees.* (1) All civil fines, *settlement proceeds not otherwise designated for a specific use pursuant to court order, amounts awarded in judgments*, costs, and fees received or recovered by the department pursuant to this part must be deposited into a state special revenue account to the credit of the department and must be used to defray the expenses of the department in discharging its administrative and regulatory powers and duties in relation to this part.

(2) *At the end of each biennium, the balance in the state special revenue account may not exceed three times the amount of the budget appropriated to the department to discharge its powers and duties under this part for that biennium. Funds that are otherwise obligated to implement the provisions of the settlement agreement are not considered part of the balance of the state special revenue account. Any excess civil fines, settlement proceeds not otherwise designated for a specific use pursuant to court order, amounts awarded in judgment, costs, or fees must be transferred to the general fund no later than the first business day in January of the subsequent biennium.”*

Approved April 20, 2021

CHAPTER NO. 257

[SB 33]

AN ACT REQUIRING A 30-DAY NOTIFICATION BEFORE TERMINATION OF PARTICIPATION IN A MEDICAID HOME AND COMMUNITY-BASED SERVICES WAIVER PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Notification required before termination of waiver participation. (1) The department shall notify a person participating in a medicaid home and community-based services waiver at least 30 days before terminating the person's participation in the waiver. The department shall:

(a) notify the person of the planned termination from the program by mail; and

(b) allow the person to provide the department with information demonstrating the person's continued need for waiver services. The information must be provided within 30 days of the date the notification was mailed.

(2) (a) The department may terminate the person's participation in the waiver at the end of the 30-day period provided for in subsection (1) if:

(i) the person has not responded to the notification; or

(ii) after reviewing information provided by the person, the department has determined the person is no longer eligible to participate in the waiver.

(b) If the department determines that the person is no longer eligible to participate in the waiver, the department must notify the person by mail before the expiration of the 30-day notification period.

(3) The termination notice provided for in subsection (2) must state that:

(a) the decision may be appealed in accordance with 53-2-606;

(b) the person may request continued services during the period of the appeal; and

(c) the department will not seek reimbursement of services provided during the period of appeal unless the department finds evidence of fraud or other similar circumstances indicating waiver services were not warranted.

(4) An appeal must be filed within 90 days of the mailing date of the termination notice provided for in subsection (2).

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 53, chapter 6, part 4, and the provisions of Title 53, chapter 6, part 4, apply to [section 1].

Section 3. Effective date. [This act] is effective July 1, 2021.

Approved April 20, 2021

CHAPTER NO. 258

[SB 43]

AN ACT REQUIRING SUBSTANTIVE CHANGES AFFECTING MEDICAID HOME AND COMMUNITY-BASED WAIVER SERVICES AND ELIGIBILITY REQUIREMENTS TO BE MADE THROUGH THE ADMINISTRATIVE RULEMAKING PROCESS; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTION 53-6-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Substantive changes to waiver provisions – rulemaking requirements – definition. (1) The department may not make a substantive change to the services offered under an approved waiver or to the eligibility requirements or process for waiver participants unless the department:

(a) adopts rules to implement the changes and;
(b) if necessary, submits a waiver amendment to the centers for medicare and medicaid services and receives approval for the change.

(2) (a) For the purposes of this section, “substantive change” means a change that:

(i) reduces, limits, or otherwise establishes caps on the amount or duration of a service; or

(ii) limits a person’s ability to access waiver services.

(b) The term includes but is not limited to changes requiring:

(i) preauthorization before a service is provided;

(ii) preauthorization before an individual is placed on the waiting list for services; or

(iii) that services be used within a specific, shorter time period than previously allowed.

Section 2. Section 53-6-402, MCA, is amended to read:

“53-6-402. Medicaid-funded home and community-based services – waivers – funding limitations – populations – services – providers – long-term care preadmission screening – powers and duties of department – rulemaking authority. (1) The department may obtain waivers of federal medicaid law in accordance with section 1915 of Title XIX of the Social Security Act, 42 U.S.C. 1396n, and administer programs of home and community-based services funded with medicaid money for categories of persons with disabilities or persons who are elderly.

(2) The department may seek and obtain any necessary authorization provided under federal law to implement home and community-based services for seriously emotionally disturbed children pursuant to a waiver of federal law as permitted by section 1915 of Title XIX of the Social Security Act, 42 U.S.C. 1396n(c). The home and community-based services system shall strive to incorporate the following components:

(a) flexibility in design of the system to attempt to meet individual needs;

- (b) local involvement in development and administration;
- (c) encouragement of culturally sensitive and appropriately trained mental health providers;
- (d) accountability of recipients and providers; and
- (e) development of a system consistent with the state policy as provided in 52-2-301.

(3) The department may, subject to the terms and conditions of a federal waiver of law, administer programs of home and community-based services to serve persons with disabilities or persons who are elderly who meet the level of care requirements for one of the categories of long-term care services that may be funded with medicaid money. Persons with disabilities include persons with physical disabilities, chronic mental illness, developmental disabilities, brain injury, or other characteristics and needs recognized as appropriate populations by the U.S. department of health and human services. Programs may serve combinations of populations and subsets of populations that are appropriate subjects for a particular program of services.

(4) The provision of services to a specific population through a home and community-based services program must be less costly in total medicaid funding than serving that population through the categories of long-term care facility services that the specific population would be eligible to receive otherwise.

(5) The department may initiate and operate a home and community-based services program to more efficiently apply available state general fund money, other available state and local public and private money, and federal money to the development and maintenance of medicaid-funded programs of health care and related services and to structure those programs for more efficient and effective delivery to specific populations.

(6) The department, in establishing programs of home and community-based services, shall administer the expenditures for each program within the available state spending authority that may be applied to that program. In establishing covered services for a home and community-based services program, the department shall establish those services in a manner to ensure that the resulting expenditures remain within the available funding for that program. To the extent permitted under federal law, the department may adopt financial participation requirements for enrollees in a home and community-based services program to foster appropriate utilization of services among enrollees and to maintain fiscal accountability of the program. The department may adopt financial participation requirements that may include but are not limited to copayments, payment of monthly or yearly enrollment fees, or deductibles. The financial participation requirements adopted by the department may vary among the various home and community-based services programs. The department, as necessary, may further limit enrollment in programs, reduce the per capita expenditures available to enrollees, and modify and reduce the types and amounts of services available through a home and community-based services program when the department determines that expenditures for a program are reasonably expected to exceed the available spending authority.

(7) The department may consider the following populations or subsets of populations for home and community-based services programs:

- (a) persons with developmental disabilities who need, on an ongoing or frequent basis, habilitative and other specialized and supportive developmental disabilities services to meet their needs of daily living and to maintain the persons in community-integrated residential and day or work situations;

(b) persons with developmental disabilities who are 18 years of age and older and who are in need of habilitative and other specialized and supportive developmental disabilities services necessary to maintain the persons in personal residential situations and in integrated work opportunities;

(c) persons 18 years of age and older with developmental disabilities and chronic mental illness who are in need of mental health services in addition to habilitative and other developmental disabilities services necessary to meet their needs of daily living, to treat ~~the~~ their mental illness, and to maintain the persons in community-integrated residential and day or work situations;

(d) children under 21 years of age who are seriously emotionally disturbed and in need of mental health and other specialized and supportive services to treat their mental illness and to maintain the children with their families or in other community-integrated residential situations;

(e) persons 18 years of age and older with brain injuries who are in need, on an ongoing or frequent basis, of habilitative and other specialized and supportive services to meet their needs of daily living and to maintain the persons in personal or other community-integrated residential situations;

(f) persons 18 years of age and older with physical disabilities who are in need, on an ongoing or frequent basis, of specialized health services and personal assistance and other supportive services necessary to meet their needs of daily living and to maintain the persons in personal or other community-integrated residential situations;

(g) persons with human immunodeficiency virus (HIV) infection who are in need of specialized health services and intensive pharmaceutical therapeutic regimens for abatement and control of the HIV infection and related symptoms in order to maintain the persons in personal residential situations;

(h) persons with chronic mental illness who suffer from serious chemical dependency and who are in need of intensive mental health and chemical dependency services to maintain the persons in personal or other community-integrated residential situations;

(i) persons 65 years of age and older who are in need, on an ongoing or frequent basis, of health services, personal assistance, and other supportive services necessary to meet their needs of daily living and to maintain the persons in personal or other community-integrated residential situations; or

(j) persons 18 years of age and older with chronic mental illness who are in need, on an ongoing or frequent basis, of specialized health services and other supportive services necessary to meet their needs of daily living and to maintain the persons in personal or other community-integrated residential situations.

(8) For each authorized program of home and community-based services, the department shall set limits on overall expenditures and enrollment and limit expenditures as necessary to conform with the requirements of section 1915 of Title XIX of the Social Security Act, 42 U.S.C. 1396n, and the conditions placed upon approval of a program authorized through a waiver of federal law by the U.S. department of health and human services.

(9) A home and community-based services program may include any of the following categories of services as determined by the department to be appropriate for the population or populations to be served and as approved by the U.S. department of health and human services:

- (a) case management services;
- (b) homemaker services;
- (c) home health aide services;
- (d) personal care services;
- (e) adult day health services;

- (f) habilitation services;
- (g) respite care services; and
- (h) other cost-effective services appropriate for maintaining the health and well-being of persons and to avoid institutionalization of persons.

(10) Subject to the approval of the U.S. department of health and human services, the department may establish appropriate programs of home and community-based services under this section in conjunction with programs that have limited pools of providers or with managed care arrangements, as implemented through 53-6-116 and as authorized under section 1915 of Title XIX of the Social Security Act, 42 U.S.C. 1396n, or in conjunction with a health insurance flexibility and accountability demonstration initiative or other demonstration project as authorized under section 1115 of Title XI of the Social Security Act, 42 U.S.C. 1315.

(11) (a) The department may conduct long-term care preadmission screenings in accordance with section 1919 of Title XIX of the Social Security Act, 42 U.S.C. 1396r.

(b) Long-term care preadmission screenings are required for all persons seeking admission to a long-term care facility.

(c) A person determined through a long-term care preadmission screening to have an intellectual disability or a mental illness may not reside in a long-term care facility unless the person meets the long-term care level-of-care determination applicable to the type of facility and is determined to have a primary need for the care provided through the facility.

(d) The long-term care preadmission screenings must include a determination of whether the person needs specialized intellectual disability or mental health treatment while residing in the facility.

(12) The department may adopt rules necessary to implement the long-term care preadmission screening process as required by section 1919 of Title XIX of the Social Security Act, 42 U.S.C. 1396r. The rules must provide criteria, procedures, schedules, delegations of responsibilities, and other requirements necessary to implement long-term care preadmission screenings.

(13) (a) The department shall adopt rules necessary for the implementation of each program of home and community-based services, *including rules for substantive changes to approved waiver provisions as required under [section 1]*. The rules may include but are not limited to the following:

(i) the populations or subsets of populations, as provided in subsection (7), to be served in each program;

(ii) limits on enrollment;

(iii) limits on per capita expenditures;

(iv) requirements and limitations for service costs and expenditures;

(v) eligibility categories criteria, requirements, and related measures;

(vi) designation and description of the types and features of the particular services provided for under subsection (9);

(vii) provider requirements and reimbursement;

(viii) financial participation requirements for enrollees as provided in subsection (6);

(ix) utilization measures;

(x) measures to ensure the appropriateness and quality of services to be delivered; and

(xi) other appropriate provisions necessary to the administration of the program and the delivery of services in accordance with 42 U.S.C. 1396n and any conditions placed upon approval of a program by the U.S. department of health and human services.

(b) Unless required by federal law or regulation, the department may not adopt rules that exclude a child from home and community-based services or require prior authorization for a child to access home and community-based services if the child would be eligible for or able to access the home and community-based services without prior authorization if the child was not in foster care.

(14) The department shall establish by rule the procedures for moving a person from a waiting list for services provided through a medicaid home and community-based services waiver into the waiver services, including the process and priorities to be used in making determinations related to the waiting list. The department may not modify the policies established in rule by adopting supplemental policies or procedures not subject to the administrative rulemaking process.

(15) The department shall adopt rules for the provision of the fraud prevention training required under 53-6-405, including but not limited to establishing the elements that must be contained in fraud prevention education materials and the models that may be used for the training.

(16) The department shall adopt rules to carry out the cost reporting provisions of 53-6-406, including but not limited to the costs that a provider is required to report to the department, the format of the report, and the deadline for filing the report.”

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 53, chapter 6, part 4, and the provisions of Title 53, chapter 6, part 4, apply to [section 1].

Section 4. Effective date. [This act] is effective on passage and approval.

Approved April 20, 2021

CHAPTER NO. 259

[SB 49]

AN ACT GENERALLY REVISING GAMBLING LAWS RELATING TO OWNERSHIP INTERESTS; PROVIDING A DEFINITION OF OWNERSHIP OR OWNERSHIP INTEREST; ALLOWING TRANSFER OF AN OWNERSHIP INTEREST TO ANOTHER OWNER IN THE SAME LICENSED GAMBLING OPERATION; AMENDING SECTIONS 23-5-112 AND 23-5-118, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 23-5-112, MCA, is amended to read:

“23-5-112. Definitions. Unless the context requires otherwise, the following definitions apply to parts 1 through 8 of this chapter:

(1) “Antique gambling device” means:

(a) an illegal gambling device manufactured prior to 1994; or

(b) any gambling device which, at any present time, is 30 years old or older.

(2) “Applicant” means a person who has applied for a license or permit issued by the department pursuant to parts 1 through 8 of this chapter.

(3) “Application” means a written request for a license or permit issued by the department. The department shall adopt rules describing the forms and information required for issuance of a license.

(4) “Associated gambling business” means a person who provides a service or product to a licensed gambling business and who:

(a) has a reason to possess or maintain control over gambling devices;

(b) has access to proprietary information or gambling tax information; or
(c) is a party in processing gambling transactions.

(5) "Authorized equipment" means, with respect to live keno or bingo, equipment that may be inspected by the department and that randomly selects the numbers.

(6) "Bingo" means a gambling activity played for prizes with a card bearing a printed design of 5 columns. The letters B-I-N-G-O must appear above the design, with each letter above one of the columns. More than 75 numbers may not be used. One or more numbers may appear in each square, except for the center square, which may be considered a free play. Numbers must be randomly drawn using authorized equipment until the game is won by the person or persons who first cover one or more previously designated arrangements of numbers on the bingo card.

(7) "Bingo caller" means a person 18 years of age or older who, using authorized equipment, announces the order of the numbers drawn in live bingo.

(8) "Bingo session" means all activities incidental to a series of bingo games conducted by a licensed operator beginning when the first bingo ball is drawn in the first game of bingo.

(9) "Card game table" or "table" means a live card game table:

(a) authorized by permit and made available to the public on the premises of a licensed gambling operator; or

(b) operated by a senior citizen center.

(10) "Card game tournament" means a gambling activity for which a permit has been issued involving participants who pay valuable consideration for the opportunity to compete against each other in a series of live card games conducted over a designated period of time.

(11) "Dealer" means a person with a dealer's license issued under part 3 of this chapter.

(12) "Department" means the department of justice.

(13) "Distributor" means a person who:

(a) purchases or obtains from a licensed manufacturer, distributor, route operator, or operator equipment of any kind for use in gambling activities; and

(b) sells the equipment to a licensed manufacturer, distributor, route operator, or operator.

(14) (a) "Gambling" or "gambling activity" means risking any money, credit, deposit, check, property, or other thing of value for a gain that is contingent in whole or in part upon lot, chance, or the operation of a gambling device or gambling enterprise.

(b) The term does not mean conducting or participating in:

(i) promotional games of chance;

(ii) amusement games regulated by Title 23, chapter 6, part 1; or

(iii) social card games of bridge, cribbage, hearts, pinochle, pitch, rummy, solo, and whist played solely for prizes of minimal value, as defined by department rule.

(15) "Gambling device" means a mechanical, electromechanical, or electronic device, machine, slot machine, instrument, apparatus, contrivance, scheme, or system used or intended for use in any gambling activity.

(16) "Gambling enterprise" means an activity, scheme, or agreement or an attempted activity, scheme, or agreement to provide gambling or a gambling device to the public.

(17) (a) "Gift enterprise" means a gambling activity in which persons have qualified to obtain property to be awarded by purchasing or agreeing to purchase goods or services.

(b) The term does not mean:

(i) a cash or merchandise attendance prize or premium that county fair commissioners of agricultural fairs and rodeo associations may give away at public drawings at fairs and rodeos;

(ii) a promotional game of chance;

(iii) an amusement game regulated under Title 23, chapter 6;

(iv) a savings promotion raffle offered by a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized to do business and accept deposits in this state under state or federal law and conducted in compliance with 23-5-413 that entitles individual members or depositors equal chances to win a designated prize by depositing a sum of money during a specified savings period; or

(v) an entry into a raffle as a result of paying membership dues or making a purchase of an item offered during a fundraising event held by a nonprofit organization.

(18) "Gross proceeds" means gross revenue received less prizes paid out.

(19) "Heads or tails" means a gambling activity in which players attempt to predict the outcome of a coin toss. Those who are incorrect are eliminated and those who are correct continue to another round until one winning player remains and is awarded a prize.

(20) "House player" means a person participating in a card game who has a financial relationship with the operator, card room contractor, or dealer or who has received money or chips from the operator, card room contractor, or dealer to participate in a card game.

(21) "Illegal gambling device" means a gambling device not specifically authorized by statute or by the rules of the department. The term includes:

(a) a ticket or card, by whatever name known, containing concealed numbers or symbols that may match numbers or symbols designated in advance as prize winners, including a pull tab, punchboard, push card, tip board, pickle ticket, break-open, or jar game, except for one used under Title 23, chapter 7, under part 5 of this chapter, in a bingo game approved by the department under part 4 of this chapter, or in a promotional game of chance approved by the department; and

(b) an apparatus, implement, or device, by whatever name known, specifically designed to be used in conducting an illegal gambling enterprise, including a faro box, faro layout, roulette wheel, roulette table, craps table, or slot machine, except as provided in 23-5-153.

(22) "Illegal gambling enterprise" means a gambling enterprise that violates or is not specifically authorized by a statute or a rule of the department. The term includes:

(a) a card game, by whatever name known, involving any bank or fund from which a participant may win money or other consideration and that receives money or other consideration lost by the participant and includes the card games of blackjack, twenty-one, jacks or better, baccarat, or chemin de fer;

(b) a dice game, by whatever name known, in which a participant wagers on the outcome of the roll of one or more dice, including craps, hazard, or chuck-a-luck, but not including activities authorized by 23-5-160;

(c) credit gambling; and

(d) internet gambling.

(23) (a) "Internet gambling", by whatever name known, includes but is not limited to the conduct of any legal or illegal gambling enterprise through the use of communications technology that allows a person using money, paper checks, electronic checks, electronic transfers of money, credit cards, debit

cards, or any other instrumentality to transmit to a computer information to assist in the placing of a bet or wager and corresponding information related to the display of the game, game outcomes, or other similar information.

(b) The term does not include the operation of a simulcast facility or advance deposit wagering with a licensed advance deposit wagering hub operator allowed by Title 23, chapter 4, the state lottery provided for in Title 23, chapter 7, or a raffle authorized under Title 23, chapter 5, part 4, that is sponsored by a nonprofit organization and that is registered with the department. If all aspects of the gaming are conducted on Indian lands in conformity with federal statutes and with administrative regulations of the national Indian gaming commission, the term does not include class II gaming or class III gaming as defined by 25 U.S.C. 2703.

(24) “Keno” means a game of chance in which prizes are awarded using a card with 8 horizontal rows and 10 columns on which a player may pick up to 10 numbers. A keno caller, using authorized equipment, shall select at random at least 20 numbers out of numbers between 1 and 80, inclusive.

(25) “Keno caller” means a person 18 years of age or older who, using authorized equipment, announces the order of the numbers drawn in live keno.

(26) “License” means a license for an operator, dealer, card room contractor, manufacturer of devices not legal in Montana, sports tab game seller, manufacturer of electronic live bingo or keno equipment, other manufacturer, distributor, or route operator that is issued to a person by the department.

(27) “Licensee” means a person who has received a license from the department.

(28) “Live card game” or “card game” means a card game that is played in public between persons on the premises of a licensed gambling operator or in a senior citizen center.

(29) (a) “Lottery” means a scheme, by whatever name known, for the disposal or distribution of property among persons who have paid or promised to pay valuable consideration for the chance of obtaining the property or a portion of it or for a share or interest in the property upon an agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance.

(b) The term does not mean lotteries authorized under Title 23, chapter 7.

(30) “Manufacturer” means a person who:

(a) assembles from raw materials or subparts a completed piece of equipment or pieces of equipment of any kind to be used as a gambling device and who sells the equipment directly to a licensed distributor, route operator, or operator;

(b) possesses gambling devices or components of gambling devices for the purpose of testing them; or

(c) purchases gambling devices or components from licensed manufacturers, distributors, route operators, or operators as trade-ins or to refurbish, rebuild, or repair to sell to licensed manufacturers, distributors, route operators, or operators.

(31) “Nonprofit organization” means an organization established as a nonprofit to support charitable, religious, scholastic, educational, veterans’, fraternal, beneficial, civic, senior citizens’, or service organizations’ charitable activities, scholarships or educational grants, or community service projects.

(32) “Operator” means a person who purchases, receives, or acquires, by lease or otherwise, and operates or controls for use in public a gambling device or gambling enterprise authorized under parts 1 through 8 of this chapter.

(33) “Ownership” or “ownership interest” means the ability to:

(a) share in the profits, losses, or liabilities of a gambling operation;

(b) *enjoy the privileges reserved to licensees; or*

(c) *control a gambling operation.*

(33)(34) "Permit" means approval from the department to make available for public play a gambling device or gambling enterprise approved by the department pursuant to parts 1 through 8 of this chapter.

(34)(35) "Person" or "persons" means both natural and artificial persons and all partnerships, corporations, associations, clubs, fraternal orders, and societies, including religious and charitable organizations.

(35)(36) "Premises" means the physical building or property within or upon which a licensed gambling activity occurs, as stated on an operator's license application and approved by the department.

(36)(37) "Promotional game of chance" means a scheme, by whatever name known, for the disposal or distribution of property among persons who have not paid or are not expected to pay any valuable consideration or who have not purchased or are not expected to purchase any goods or services for a chance to obtain the property, a portion of it, or a share in it. The property is disposed of or distributed by simulating a gambling enterprise authorized by parts 1 through 8 of this chapter or by operating a device or enterprise approved by the department that was manufactured or intended for use for purposes other than gambling.

(37)(38) "Public gambling" means gambling conducted in:

(a) a place, building, or conveyance to which the public has access or may be permitted to have access;

(b) a place of public resort, including but not limited to a facility owned, managed, or operated by a partnership, corporation, association, club, fraternal order, or society, including a religious or charitable organization; or

(c) a place, building, or conveyance to which the public does not have access if players are publicly solicited or the gambling activity is conducted in a predominantly commercial manner.

(38)(39) "Raffle" means a form of lottery in which each participant pays valuable consideration for a ticket to become eligible to win a prize. Winners must be determined by a random selection process approved by department rule.

(39)(40) "Route operator" means a person who:

(a) purchases from a licensed manufacturer, route operator, or distributor equipment of any kind for use in a gambling activity;

(b) leases the equipment to a licensed operator for use by the public; and

(c) may sell to a licensed operator equipment that had previously been authorized to be operated on a premises and may sell gambling equipment to a distributor or manufacturer.

(40)(41) "Senior citizen center" means a facility operated by a nonprofit or governmental organization that provides services to senior citizens in the form of daytime or evening educational or recreational activities and does not provide living accommodations to senior citizens. Services qualifying under this definition must be recognized in the state plan on aging adopted by the department of public health and human services.

(41)(42) (a) "Slot machine" means a mechanical, electrical, electronic, or other gambling device, contrivance, or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon payment of any valuable consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the gambling device to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner.

(b) This definition does not apply to video gambling machines authorized under part 6 of this chapter.

~~(42)~~(43) "Video gambling machine" is a gambling device specifically authorized by part 6 of this chapter and the rules of the department."

Section 2. Section 23-5-118, MCA, is amended to read:

"23-5-118. Transfer of ownership interest – definitions. (1) In this section, "licensed gambling operation" means a business for which a license was obtained under parts 1 through 8 of this chapter.

(2) Except as provided in subsection ~~(3)~~ (4), an owner of an interest in a licensed gambling operation shall notify the department in writing and receive approval from the department before transferring any ownership interest in the operation to a person other than another approved owner of an interest in the operation.

(3) *An owner of an interest in a licensed gambling operation may transfer an ownership interest to another owner of an interest in the same licensed gambling operation without prior department approval subject to reporting requirements provided by department rules.*

~~(3)~~(4) This section does not apply to the transfer of a security interest in a licensed gambling operation under the requirements of subsection ~~(4)~~ (5) or to the transfer of less than 5% of the interest in a publicly traded corporation.

~~(4)~~(5) A regulated lender, as defined in 31-1-111, may obtain a security interest in the assets of a licensed gambling operation to secure a loan or a guaranty of a loan. A regulated lender may use loan and collateral documentation and loan and collateral structure consistent with that used by the regulated lender in commercial loans generally, and the documentation and structure used by the lender do not create an undisclosed ownership interest in the licensee's business by a coborrower or guarantor if the department determines the borrower, coborrower, guarantor, and owner or owners of the assets pledged as collateral meet the requirements of 23-5-176. As used in this subsection ~~(4)~~ (5), permissible loan and collateral structuring includes but is not limited to permitting owners and nonowners of a licensed gambling operation to:

(a) be coborrowers of a borrower's loan;

(b) be guarantors of a borrower's loan, with or without a requirement that the regulated lender exhaust remedies against the borrower before collecting from the guarantor; or

(c) pledge assets as collateral for a borrower's loan or for a guaranty of a borrower's loan.

~~(5)~~(6) When a licensee is the borrower, an owner of the licensee may make a payment on the institutional loan. If a payment is made under this subsection ~~(5)~~ (6):

(a) the licensee must notify the department within 90 days that the payment was made and designate whether the payment will be treated as a loan or an equity investment as follows:

(i) for a payment treated as a loan, the licensee must memorialize the loan by a written agreement, which must be provided to the department; or

(ii) for a payment treated as an equity investment, if a change in ownership percentage occurs as a result, the licensee must follow department requirements for disclosing changes in ownership percentages; and

(b) the funds used for the payment must be the party's own funds or funds borrowed from an institutional lender.

~~(6)~~(7) If a borrower, coborrower, or guarantor is not the licensee or an owner of the licensee, the coborrower or guarantor may make a payment on the

institutional loan, and the payment does not create an undisclosed ownership in the licensee's business by the borrower, coborrower, or guarantor only if:

(a) the licensee notifies the department within 90 days that the payment was made;

(b) the payment is made as a loan that is memorialized by a written agreement; and

(c) the funds used for the payment are the coborrower's or guarantor's own funds or funds borrowed from an institutional lender.

(7)(8) A regulated lender that obtains a security interest in the assets of a licensed gambling operation has no duty to ensure a coborrower's or guarantor's compliance with the requirements of subsection (5) (6) or (6) (7) in connection with loan or guaranty payments it may receive from the coborrower or guarantor.

(8)(9) For the purposes of subsections (5) (6) and (6) (7), the term "borrower" means the party that is primarily responsible for making payments and that receives the funds or on whose behalf the funds were paid."

Section 3. Effective date. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 1] is effective October 1, 2021.

Approved April 20, 2021

CHAPTER NO. 260

[SB 55]

AN ACT AMENDING THE PROCESS FOR WATER RIGHT OWNERSHIP UPDATES; CREATING A CERTIFICATION PROCESS TO RESOLVE OWNERSHIP DISPUTES; AMENDING THE PENALTY FOR NONCOMPLIANCE; AND AMENDING SECTIONS 85-2-424 AND 85-2-431, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 85-2-424, MCA, is amended to read:

"85-2-424. Filing. (1) Except in the case of a transfer of real property served by a public service water supply, when a person presents for recording a deed or other instrument evidencing a transfer of real property, the realty transfer certificate must contain a water rights disclosure in which the transferor shall acknowledge, at or before closing or transfer of real property, whether or not any water rights are associated with the property to be transferred and whether or not any water rights will transfer with the real property.

(2) (a) ~~If the realty transfer certificate discloses that the water rights will transfer with the property, the department's records must be updated. The department shall update its records to reflect the purchaser of the property as the new owner ownership of the a water right based on within 30 days after receipt of either:~~

(i) information received from the department of revenue, if:

(A) the transferor of the property is the same as the owner of record for the water right;

(B) the transferor conveys the entirety of the property associated with the place of use; and

(C) the department has not received a form pursuant to subsections (3), (4), or (5); or

(ii) ~~an~~ a complete water right ownership update form provided by the department and submitted to the department ~~with a copy of the deed~~.

(b) If the department receives information from the department of revenue that a transfer has occurred and the transferor of the property is not the same as the owner of record for the water rights, the department shall within 30 days after receipt of the information from the department of revenue notify each party indicated as a transferee that:

(i) the party is required to submit a complete water right ownership update form and the required fee within 60 days after the notice; and

(ii) ownership of the water right will not be changed in the department's records until the complete water right ownership update form is provided.

(b)(c) The appropriate fee must be paid at closing or upon completion of the transfer of real property as provided in 85-2-426.

(c)(d) The transferee of a water right, after receiving notice as provided in subsection (2)(d) (2)(e), is responsible for compliance with this section.

(d)(e) If the department receives notice from the department of revenue that a property transfer has occurred and the proper fee was not received by the department, the department shall send a notice to the transferee requesting payment of the fee. If the transferee does not pay the fee within 60 days, the department may assess a penalty against the transferee pursuant to 85-2-431.

(3) (a) Except as provided in subsection (3)(b), If if the realty transfer certificate discloses the division of the place of use of a water right among separate parcels, ~~the person dividing each transferee receiving a portion of the~~ the water right shall ~~complete and~~ file with the department a complete water right ownership update form confirming the transfer, a map, and the required fee.

(b) If a complete water right ownership update form is not filed by all parties pursuant to subsection (3)(a), the parties must be reflected as co-owners on the water right.

(4) If a person exempts a water right pursuant to 85-2-403, the person shall file with the department, ~~on a complete form provided by the department;~~ information describing the exempting of the water right and the appropriate fee.

(5) If a person severs a water right from appurtenant property without ~~selling conveying~~ the property, the person shall file with the department; ~~on a complete form provided by the department, information~~ describing the severance and the appropriate fee.

(6) If the realty transfer certificate submitted with a deed or other instrument indicates that a water right is being *transferred*, severed, divided, or exempted, the clerk and recorder may not record the deed or instrument unless there is submitted with the deed or instrument a certification under penalty of false swearing, on a form provided by the department and signed by the transferor and transferee, that states either:

(a) that the documents and fee necessary to comply with this section are held in escrow, in which case the certification must also be signed by the escrow agent; or

(b) if there is no escrow, that the transferor and transferee certify that they have ~~prepared filed or mailed~~ the required documents and ~~will send the~~ required documents and fee ~~with or to~~ the department within 60 business days of recording, in which case the certification must also require the transferee to acknowledge that failure to file the appropriate documents and fee with the department will result in the department assessing the penalty in 85-2-431 against the transferee.

(7) Any written agreement to transfer land that has appurtenant water rights on record with the department must contain the following disclosure or words of a similar nature:

“WATER RIGHT OWNERSHIP UPDATE DISCLOSURE:

By Montana law, failure of the parties at closing or transfer of real property to pay the required fee to the Montana Department of Natural Resources and Conservation for updating water right ownership may result in the transferee of the property being subject to a penalty. Additionally, in the case of water rights being exempted, severed, or divided, the failure of the parties to comply with section 85-2-424, MCA, could result in a penalty against the transferee and rejection of the deed for recording.”

(8) *Except as provided in subsection (2), the department shall update its records to reflect new ownership without collection of a transfer fee within 30 days after:*

(a) *receiving a withdrawal of a water right, or an interest in a water right, by an owner of the right or interest;*

(b) *receiving an order from the water court or other court of competent jurisdiction that modifies or terminates ownership of a water right; or*

(c) *learning of a clerical error resulting from an error on a water right ownership update form.*

(9) *In the event of a dispute over the ownership of a water right, the department shall, within 30 days after being notified of the dispute, certify the matter to the water court or other court of competent jurisdiction for resolution.*

(10) *The department may not delay updating ownership based on nonpayment of transfer fees by a transferee. The department’s sole remedy in the event of nonpayment of transfer fees is to assess a penalty and seek collection from the transferee pursuant to 85-2-431.*

(11) *For the purposes of this section, “complete” means that the information requested in the form has been supplied, together with a copy of the executed deed or deeds or any other instruments confirming the transferee’s ownership or the ownership by the person exempting the water right, for each water right listed on the form. The department shall notify the transferee or the person exempting the water right of any deficiencies causing the form to be considered not complete within 60 days of submission.”*

Section 2. Section 85-2-431, MCA, is amended to read:

“85-2-431. Penalty. (1) A person who fails to comply with the requirements of 85-2-424 is liable for a civil penalty of not more than \$75 \$300.

(2) An action to recover the penalty ~~must~~ *may* be brought by the department and filed in the district court for the first judicial district. At the discretion of the department, the judgment may be certified to the district court in the county where the real property is located.

(3) *The department may recover its reasonable costs for recovering the penalty, including but not limited to attorney fees and costs incurred during collection.*

~~(3)~~(4) Any penalty fee collected under this section must be deposited in the water right appropriation account provided for in 85-2-318.”

Approved April 20, 2021

CHAPTER NO. 261

[SB 57]

AN ACT GENERALLY REVISING REQUIREMENTS FOR REPORTS TO THE LEGISLATURE; UPDATING REQUIREMENTS FOR REPORTS TO THE LEGISLATURE CLEARINGHOUSE; PROVIDING EXCEPTIONS; REVISING DATE REQUIREMENTS; AMENDING SECTIONS 2-1-407, 2-7-104, 2-15-210, 2-15-225, 2-15-401, 2-15-2017, 2-15-2225, 2-15-3113, 2-15-3308, 2-17-101,

2-17-512, 2-17-513, 2-17-515, 2-17-804, 2-17-825, 3-1-702, 5-5-223, 5-5-224, 5-5-229, 5-5-231, 5-5-232, 5-11-210, 5-12-208, 5-12-302, 5-12-303, 5-13-305, 5-13-311, 5-20-301, 10-2-102, 10-3-802, 13-22-108, 13-37-120, 15-30-2303, 15-32-703, 15-70-450, 17-1-102, 17-2-107, 17-5-1650, 17-7-140, 17-7-202, 17-7-214, 17-8-416, 19-3-117, 19-20-216, 19-20-732, 20-1-231, 20-7-101, 20-7-308, 20-7-469, 20-7-904, 20-7-1602, 20-9-161, 20-9-328, 20-9-330, 20-9-537, 20-15-309, 20-25-305, 20-26-105, 22-3-423, 22-3-1002, 23-7-202, 23-7-410, 32-11-306, 33-1-115, 37-1-107, 37-1-145, 37-3-203, 37-7-1514, 39-12-103, 39-71-2375, 41-3-123, 41-3-1211, 41-5-2003, 44-4-1606, 44-7-302, 46-23-1028, 47-1-125, 50-6-402, 50-46-329, 50-46-343, 52-2-211, 52-2-311, 53-1-211, 53-1-216, 53-1-611, 53-4-209, 53-6-110, 53-6-116, 53-6-710, 53-6-1325, 53-20-225, 53-21-508, 53-30-604, 61-2-109, 69-1-222, 69-8-402, 75-1-314, 75-1-1101, 75-5-703, 75-10-111, 75-10-743, 75-10-1601, 75-11-521, 76-4-116, 76-22-118, 77-1-223, 77-2-366, 80-7-1006, 80-7-1026, 80-7-1203, 82-2-701, 85-1-203, 85-1-501, 85-1-605, 85-1-621, 85-1-704, 85-2-105, 85-2-281, 85-2-316, 85-2-338, 85-2-350, 85-2-436, 87-1-201, 87-1-250, 87-1-269, 87-1-272, 87-1-629, 87-1-901, 87-2-702, 90-1-105, 90-1-132, 90-1-182, 90-3-1301, 90-6-703, 90-6-710, AND 90-11-102, MCA; REPEALING SECTIONS 20-9-323 AND 41-3-122, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Reports to legislature. (1) (a) Except as provided in subsection (1)(b) and (6), a report to the legislature means a biennial report required by the legislature and filed in accordance with 5-11-210 on or before September 1 of each year preceding the convening of a regular session of the legislature.

(b) If otherwise specified in law, a report may be required more or less frequently than the biennial requirement in subsection (1)(a).

(2) Reports to the legislature include:

(a) annual reports on the unified investment program for public funds and public retirement systems and state compensation insurance fund assets audits from the board of investments in accordance with Article VIII, section 13 of the Montana constitution;

(b) federal mandates requirements from the governor in accordance with 2-1-407;

(c) activities of the state records committee in accordance with 2-6-1108;

(d) revenue studies from the director of revenue, if requested, in accordance with 2-7-104;

(e) legislative audit reports from the legislative audit division in accordance with 2-8-112 and 23-7-410;

(f) progress on gender and racial balance from the governor in accordance with 2-15-108;

(g) a mental health report from the ombudsman in accordance with 2-15-210;

(h) policies related to children and families from the interagency coordinating council for state prevention in accordance with 2-15-225;

(i) watercourse name changes, if any, from the secretary of state in accordance with 2-15-401;

(j) results of programs established in 2-15-3111 through 2-15-3113 from the livestock loss board in accordance with 2-15-3113;

(k) the allocation of space report from the department of administration required in accordance with 2-17-101;

- (l) information technology activities in accordance with 2-17-512;
- (m) state strategic information technology plan exceptions, if granted, from the department of administration in accordance with 2-17-515;
- (n) the state strategic information technology plan and biennial report from the department of administration in accordance with 2-17-521 and 2-17-522;
- (o) statistical and other data related to business transacted by the courts from the court administrator, if requested, in accordance with 3-1-702;
- (p) the judicial standards commission report in accordance with 3-1-1126;
- (q) reports from standing, interim, and administrative committees, if prepared, in accordance with 2-17-825 and 5-5-216;
- (r) a link to annual state agency reports on grants awarded in the previous fiscal year established by the legislative finance committee in accordance with 5-12-208;
- (s) reports prepared by the legislative fiscal analyst, and as determined by the analyst, in accordance with 5-12-302(4);
- (t) a report, if necessary, on administrative policies or rules adopted under 5-11-105 that may impair the independence of the legislative audit division in accordance with 5-13-305;
- (u) if a waste of state resources occurs, a report from the legislative state auditor, in accordance with 5-13-311;
- (v) school funding commission reports each fifth interim in accordance with 5-20-301;
- (w) a report concerning taxable value from the department of revenue in accordance with 15-1-205;
- (x) a report on tax credits from the revenue interim committee in accordance with 15-30-2303;
- (y) annual reports on general fund and non-general fund encumbrances from the department of administration in accordance with 17-1-102;
- (z) loans or loan extensions authorized for two consecutive fiscal years from the department of administration and office of commissioner of higher education, including negative cash balances from the commissioner of higher education, in accordance with 17-2-107;
- (aa) a report of local government entities that have balances contrary to limitations provided for in 17-2-302 or that failed to reduce the charge from the department of administration in accordance with 17-2-304;
- (bb) an annual report from the board of investments in accordance with 17-5-1650(2);
- (cc) a report on retirement system trust investments and benefits from the board of investments in accordance with 17-6-230;
- (dd) recommendations for reductions in spending and related analysis, if required, from the office of budget and program planning in accordance with 17-7-140;
- (ee) a statewide facility inventory and condition assessment from the department of administration in accordance with 17-7-202;
- (ff) actuary reports and investigations for public retirement systems from the public employees' retirement board in accordance with 19-2-405;
- (gg) a work report from the public employees' retirement board in accordance with 19-2-407;
- (hh) annual actuarial reports and evaluations from the teachers' retirement board in accordance with 19-20-201;
- (ii) reports from the state director of K-12 career and vocational and technical education, as requested, in accordance with 20-7-308;

(jj) 5-year state plan for career and technical education reports from the board of regents in accordance with 20-7-330;

(kk) a gifted and talented students report from the office of public instruction in accordance with 20-7-904;

(ll) status changes for at-risk students from the office of public instruction in accordance with 20-9-328;

(mm) status changes for American Indian students from the office of public instruction in accordance with 20-9-330;

(nn) reports regarding the Montana Indian language preservation program from the state-tribal economic development commission in accordance with 20-9-537;

(oo) proposals for funding community colleges from the board of regents in accordance with 20-15-309;

(pp) expenditures and activities of the Montana agricultural experiment station and extension service, as requested, in accordance with 20-25-236;

(qq) reports, if requested by the legislature, from the president of each of the units of the higher education system in accordance with 20-25-305;

(rr) reports from the Montana historical society trustees in accordance with 22-3-107;

(ss) state lottery reports in accordance with 23-7-202;

(tt) a report from the division of banking and financial institutions, if required, from the department of administration in accordance with 32-11-306;

(uu) state fund reports, if required, from the commissioner in accordance with 33-1-115;

(vv) reports from the department of labor and industry in accordance with 39-6-101;

(ww) Montana EARN program reports from the department of labor and industry in accordance with 39-11-306;

(xx) victim unemployment benefits reports from the department of labor and industry in accordance with 39-51-2111;

(yy) state fund business reports in accordance with 39-71-2363;

(zz) risk-based capital reports, if required, from the state fund in accordance with 39-71-2375;

(aaa) child custody reports from the office of the court administrator in accordance with 41-3-1004;

(bbb) reports of remission of fine or forfeiture, respite, commutation, or pardon granted from the governor in accordance with 46-23-316;

(ccc) annual statewide public defender reports from the office of state public defender in accordance with 47-1-125;

(ddd) a trauma care system report from the department of public health and human services in accordance with 50-6-402;

(eee) medical marijuana reports from the department of public health and human services in accordance with 50-46-343(3);

(fff) an older Montanans trust fund report from the department of public health and human services in accordance with 52-3-115;

(ggg) Montana criminal justice oversight council reports in accordance with 53-1-216;

(hhh) medicaid block grant reports from the department of public health and human services in accordance with 53-1-611;

(iii) reports on the approval and implementation status of medicaid section 1115 waivers in accordance with 53-2-215;

(jjj) medicaid funding reports from the department of public health and human services in accordance with 53-6-110;

(kkk) proposals regarding managed care for medicaid recipients, if required, from the department of public health and human services in accordance with 53-6-116;

(lll) suicide reduction plans from the department of public health and human services in accordance with 53-21-1102;

(mmm) a compliance and inspection report from the department of corrections in accordance with 53-30-604;

(nnn) emergency medical services grants from the department of transportation in accordance with 61-2-109;

(ooo) annual financial reports on the environmental contingency account from the department of environmental quality in accordance with 75-1-1101;

(ppp) the Flathead basin commission report in accordance with 75-7-304;

(qqq) a report from the Land Board, if prepared, in accordance with 76-12-109;

(rrr) an annual state trust land report from the land board in accordance with 77-1-223;

(sss) a noxious plant report, if prepared, from the department of agriculture in accordance with 80-7-713;

(ttt) state water plans from the department of natural resources and conservation in accordance with 85-1-203;

(uuu) reports on the allocation of renewable resources grants and loans for emergencies, if required, from the department of natural resources and conservation in accordance with 85-1-605;

(vvv) water storage projects from the governor's office in accordance with 85-1-704;

(www) upper Clark Fork River basin steering committee reports, if prepared, in accordance with 85-2-338;

(xxx) upland game bird enhancement program reports in accordance with 87-1-250;

(yyy) private land/public wildlife advisory committee reports in accordance with 87-1-269;

(zzz) a future fisheries improvement program report from the department of fish, wildlife, and parks in accordance with 87-1-272;

(aaaa) license revenue recommendations from the department of fish, wildlife, and parks in accordance with 87-1-629;

(bbbb) land information data reports from the state library in accordance with 90-1-404;

(cccc) an annual report from the pacific northwest electric power and conservation planning council in accordance with 90-4-403;

(dddd) veterans' home loan mortgage loan reports from the board of housing in accordance with 90-6-604;

(eeee) matching infrastructure planning grant awards by the department of commerce in accordance with 90-6-703(3); and

(ffff) treasure state endowment program reports from the department of commerce in accordance with 90-6-710;

(3) Reports to the legislature include reports made to an interim committee as follows:

(a) reports to the law and justice interim committee, including:

(i) findings of the domestic violence fatality review commission in accordance with 2-15-2017;

(ii) reports from the department of justice and public safety officer standards and training council in accordance with 2-15-2029;

(iii) information on the Montana False Claims Act from the department of justice in accordance with 17-8-416;

(iv) child abuse and neglect review commission reports in accordance with 41-3-123;

(v) annual case status reports from the attorney general in accordance with 41-3-210;

(vi) office of court administrator reports in accordance with 41-5-2003;

(vii) statewide public safety communications system activities from the department of justice in accordance with 44-4-1606;

(viii) restorative justice grant program status and performance from the board of crime control in accordance with 44-7-302;

(ix) supervision responses grid reports from the department of corrections in accordance with 46-23-1028;

(x) statewide public defender reports and information from the office of state public defender in accordance with 47-1-125;

(xi) every 5 years, a percentage change in public defender funding report from the legislative fiscal analyst in accordance with 47-1-125;

(xii) every 5 years, statewide public defender reports on the percentage change in funding from the office of state public defender in accordance with 47-1-125; and

(xiii) a report from the quality assurance unit from the department of corrections in accordance with 53-1-211;

(b) reports to the state administration and veterans' affairs interim committee, including:

(i) a report that includes information technology activities and additional information from the information technology board in accordance with 2-17-512 and 2-17-513;

(ii) a report from the capitol complex advisory council in accordance with 2-17-804;

(iii) a report on the employee incentive award program from the department of administration in accordance with 2-18-1103;

(iv) a board of veterans' affairs report in accordance with 10-2-102;

(v) a report on grants to the Montana civil air patrol from the department of military affairs in accordance with 10-3-802;

(vi) a report regarding the youth voting program, if requested, from the secretary of state in accordance with 13-22-108;

(vii) a report from the commissioner of political practices in accordance with 13-37-120;

(viii) a report on retirement system trust investments from the board of investments in accordance with 17-6-230;

(ix) actuarial valuations and other reports from the public employees' retirement board in accordance with 19-2-405 and 19-3-117;

(x) actuarial valuations and other reports from the teachers' retirement board in accordance with 19-20-201 and 19-20-216;

(xi) a report on the reemployment of retired members of the teachers' retirement system from the teachers' retirement board in accordance with 19-20-732; and

(xii) changes, if any, affecting filing-office rules under the Uniform Commercial Code from the secretary of state in accordance with 30-9A-527;

(c) reports to the children, families, health, and human services interim committee, including:

(i) performance data from the department of public health and human services in accordance with 2-15-2225;

(ii) quarterly reports on data requirements from the department of public health and human services in accordance with 5-12-303;

(iii) annual reports on physician complaints related to medical marijuana from the board of medical examiners in accordance with 37-3-203;

(iv) prescription drug registry reports from the board of pharmacy in accordance with 37-7-1514;

(v) Montana HELP Act workforce development reports from the department of public health and human services in accordance with 39-12-103;

(vi) child abuse and neglect review commission reports in accordance with 41-3-123;

(vii) annual reports from the child and family ombudsman in accordance with 41-3-1211;

(viii) medical marijuana inspection reports from the department of public health and human services in accordance with 50-46-329;

(ix) medical marijuana reports on cardholder, provider, and physician numbers from the department of public health and human services in accordance with 50-46-343;

(x) reports on the out-of-state placement of high-risk children with multiagency service needs from the department of public health and human services in accordance with 52-2-311;

(xi) private alternative adolescent residential and outdoor programs reports from the department of public health and human services in accordance with 52-2-803;

(xii) an annual Montana parents as scholars program report from the department of public health and human services in accordance with 53-4-209;

(xiii) a report concerning mental health managed care services, if managed care is in place, from the advisory council in accordance with 53-6-710;

(xiv) quarterly medicaid reports related to expansion from the department of health and human services in accordance with 53-6-1325;

(xv) annual Montana developmental center reports from the department of health and human services in accordance with 53-20-225; and

(xvi) annual children's mental health outcomes from the department of health and human services in accordance with 53-21-508;

(d) reports to the economic affairs interim committee, including:

(i) the annual state compensation insurance fund budget from the board of directors in accordance with 5-5-223 and 39-71-2363;

(ii) an annual report on the administrative rate required from the department of commerce from the Montana heritage preservation and development commission in accordance with 22-3-1002;

(iii) state fund reports from the insurance commissioner, if required, in accordance with 33-1-115;

(iv) annual reinsurance reports from the Montana reinsurance association board required in accordance with 33-22-1308;

(v) reports from the department of labor and industry concerning board attendance in accordance with 37-1-107;

(vi) prescription drug registry reports from the board of pharmacy in accordance with 37-7-1514;

(vii) risk-based capital reports, if required, from the state fund in accordance with 33-1-115 and 39-71-2375; and

(viii) status reports on the distressed wood products industry revolving loan program from the department of commerce in accordance with 90-1-503;

(e) reports to the education interim committee, including:

(i) reemployment of retired teachers, specialists, and administrators reports from the retirement board in accordance with 19-20-732;

(ii) a report on participation in the interstate compact on educational opportunity for military children in accordance with 20-1-231;

(iii) standards of accreditation proposals and economic impact statements from the board of public education in accordance with 20-7-101;

(iv) advanced opportunity program reports from the board of public education in accordance with 20-7-1506;

(v) progress on transformational learning plans from the board of public education in accordance with 20-7-1602;

(vi) budget amendments, if needed, from school districts in accordance with 20-9-161;

(vii) annual Montana resident student financial aid program reports from the commissioner of higher education in accordance with 20-26-105;

(viii) a historic preservation office report from the historic preservation officer in accordance with 22-3-423; and

(ix) interdisciplinary child information agreement reports from the office of public instruction in accordance with 52-2-211;

(f) reports to the energy and telecommunications interim committee, including:

(i) the high-performance building report from the department of administration in accordance with 17-7-214;

(ii) an annual report from the consumer counsel in accordance with 69-1-222;

(iii) annual universal system benefits reports from utilities, electric cooperatives, and the department of revenue in accordance with 69-8-402;

(iv) small-scale hydroelectric power generation reports from the department of natural resources and conservation in accordance with 85-1-501; and

(v) geothermal reports from the Montana bureau of mines and geology in accordance with 90-3-1301;

(g) reports to the revenue interim committee, including:

(i) use of the qualified endowment tax credit report from the department of revenue in accordance with 15-1-230;

(ii) property exempt from property taxation reports from the department of revenue in accordance with 15-6-232;

(iii) tax rates for the upcoming reappraisal cycle from the department of revenue in accordance with 15-7-111;

(iv) gray water property tax abatement usage reports from the department of revenue in accordance with 15-24-3211;

(v) student scholarship contributions from the department of revenue in accordance with 15-30-3112;

(vi) tax havens from the department of revenue in accordance with 15-31-322;

(vii) media production tax credit economic impact reports from the department of commerce in accordance with 15-31-1011;

(viii) biodiesel tax credits from the department of revenue in accordance with 15-32-703;

(ix) reports that actual or projected receipts will result in less revenue than estimated from the office of budget and program planning, if necessary, in accordance with 17-7-140; and

(x) medical marijuana reports required in accordance with 50-46-343;

(h) reports to the transportation interim committee, including:

(i) biodiesel tax refunds from the department of transportation in accordance with 15-70-433;

(ii) cooperative agreement negotiations from the department of transportation in accordance with 15-70-450;

(iii) an annual alternative project delivery contracting report from the department of transportation in accordance with 60-2-119; and

(iv) a special fuels inspection report from the department of transportation in accordance with 61-10-154;

(i) reports to the environmental quality council, including:

(i) compliance and enforcement reports required in accordance with 75-1-314;

(ii) the state solid waste management and resource recovery plan, every 5 years, from the department of environmental quality in accordance with 75-10-111;

(iii) annual orphan share reports from the department of environmental quality in accordance with 75-10-743;

(iv) Libby asbestos superfund oversight committee reports in accordance with 75-10-1601;

(v) annual subdivision sanitation reports from the department of environmental quality in accordance with 76-4-116;

(vi) annual sage grouse oversight team activities and staffing reports in accordance with 76-22-118;

(vii) state trust land accessibility reports from the department of natural resources and conservation in accordance with 77-1-820;

(viii) biennial land banking reports and annual state land cabin and home site sales reports from the department of natural resource and conservation in accordance with 77-2-366;

(ix) biennially invasive species reports from the departments of fish, wildlife, and parks and natural resources and conservation in accordance with 80-7-1006;

(x) annual upper Columbia conservation commission reports in accordance with 80-7-1026;

(xii) annual invasive species council reports in accordance with 80-7-1203;

(xii) sand and gravel reports, if an investigation is completed, in accordance with 82-2-701;

(xiii) annual sage grouse population reports from the department of fish, wildlife, and parks in accordance with 87-1-201;

(xiv) annual gray wolf management reports from the department of fish, wildlife, and parks in accordance with 87-1-901;

(xv) biennial Tendoy Mountain sheep herd reports from the department of fish, wildlife, and parks in accordance with 87-2-702; and

(xvi) wildlife habitat improvement project reports from the department of fish, wildlife, and parks in accordance with 87-5-807;

(j) reports to the water policy interim committee, including:

(i) drought and water supply advisory committee reports in accordance with 2-15-3308;

(ii) nutrient standards reports from the department of environmental quality in accordance with 75-5-313;

(iii) total maximum daily load reports from the department of environmental quality in accordance with 75-5-703;

(iv) state water plans from the department of natural resources and conservation in accordance with 85-1-203;

(v) small-scale hydroelectric power generation reports from the department of natural resources and conservation in accordance with 85-1-501;

(vi) renewable resource grant and loan program reports from the department of natural resources and conservation in accordance with 85-1-621;

(vii) quarterly adjudication reports from the department of natural resources and conservation and the water court in accordance with 85-2-281;

(viii) water reservation reports from the department of natural resources and conservation in accordance with 85-2-316;

(ix) a report from the Clark Fork River basin task force in accordance with 85-2-350;

(x) instream flow reports from the department of fish, wildlife, and parks in accordance with 85-2-436; and

(xi) ground water investigation program reports from the bureau of mines and geology in accordance with 85-2-525;

(k) reports to the local government interim committee, including:

(i) sand and gravel, if an investigation is completed, in accordance with 82-2-701;

(ii) assistance to local governments on federal land management proposals from the department of commerce in accordance with 90-1-182; and

(iii) emergency financial assistance to local government reports from the department of commerce, if requests are made, in accordance with 90-6-703(2);

(l) reports to the state-tribal relations interim committee including:

(i) the Montana Indian language preservation program report from the state-tribal economic development commission in accordance with 20-9-537;

(ii) a decennial economic contributions and impacts of Indian reservations report from the department of commerce in accordance with 90-1-105;

(iii) state-tribal economic development commission activities reports from the state-tribal economic development commission in accordance with 90-1-132; and

(iv) state-tribal economic development commission reports provided regularly by the state director of Indian affairs in accordance with 90-11-102.

(4) (a) Except as provided in subsections (4)(b) and (6) and unless otherwise required by law, a report made to the legislature in accordance with subsection (3) may be provided orally before September 1 of each year preceding the convening of a regular session of the legislature and in accordance with 5-11-210(1)(b).

(b) After receiving an oral report, an interim or administrative committee responsible for receiving the report may request a written report be filed with the legislature in accordance with 5-11-210(1)(a).

(c) This section may not be interpreted to preclude an interim or administrative committee from requesting additional information.

(5) Reports to the legislature include multistate compact and agreement reports including:

(a) multistate tax compact reports in accordance with 15-1-601;

(b) interstate compact on educational opportunity for military children reports in accordance with 20-1-230 and 20-1-231;

(c) compact for education reports in accordance with 20-2-501;

(d) Western regional higher education compact reports in accordance with 20-25-801;

(e) interstate insurance product regulation compact reports in accordance with 33-39-101;

(f) interstate medical licensure compact reports in accordance with 37-3-356;

(g) interstate compact on juveniles reports in accordance with 41-6-101;

(h) interstate compact for adult offender supervision reports in accordance with 46-23-1115;

(i) vehicle equipment safety compact reports in accordance with 61-2-201;

(j) multistate highway transportation agreement reports in accordance with 61-10-1101; and

(k) western interstate nuclear compact reports in accordance with 90-5-201.

(6) Reports, transfers, statements, assessments, recommendations and changes required under 17-7-138, 17-7-139, 17-7-140, 19-2-405, 19-2-407, 19-3-117, 19-20-201, 19-20-216, 20-7-101, 23-7-202, 33-1-115, and 39-71-2375 must be provided as soon as the report is published and publicly available. Reports required in subsections (2)(a), (2)(bb), (2)(cc), and (3)(b)(viii) must be provided following issuance of reports issued under Title 5, chapter 13.

Section 2. Section 2-1-407, MCA, is amended to read:

“2-1-407. Report – recommendations. (1) The governor shall examine the information received pursuant to 2-1-405 and, based upon the information, ~~shall present a report to the legislature meeting in its next regular session in accordance with 5-11-210~~ that includes the following:

(a) recommendations regarding contracts that the state may enter into with specified persons or entities to conduct research, to analyze certain subjects, or to provide other services regarding federal mandates; and

(b) estimates of the cost of the federal mandate efforts submitted to the governor under the provisions of 2-1-405.

(2) If there is a finding that a federal mandate does not meet Montana’s cost-effective needs, does not serve Montana public policy, or does not conform to Montana customs and culture, the governor may issue an executive order declaring the intention of Montana to not implement the mandate and may direct the attorney general to vigorously represent the state of Montana in any action that results from or that is necessary to effect the executive order.”

Section 3. Section 2-7-104, MCA, is amended to read:

“2-7-104. Revenue studies – report to governor and legislature. The director of revenue shall study fiscal problems and tax structures of state and local governments and submit the studies to the governor and, ~~as requested, to the legislature, a legislative committee, or a member of the legislature in accordance with 5-11-210.”~~

Section 4. Section 2-15-210, MCA, is amended to read:

“2-15-210. Mental health ombudsman. (1) There is a mental health ombudsman. The ombudsman must be appointed by the governor for a term of 4 years. The ombudsman is attached to the office of the governor for administrative purposes.

(2) The ombudsman shall provide an annual report to the governor and *a biennial report* to the legislature, as required by 5-11-210, and may include recommendations regarding the mental health system.

(3) The ombudsman shall represent the interests of individuals with regard to the need for public mental health services, including individuals in transition from public to private services. The ombudsman may not provide a legal advocacy service.

(4) The ombudsman may retain counsel for legal support.

(5) Names of individuals receiving assistance from the ombudsman and information associated with an individual compiled by the ombudsman in the course of conducting an investigation are confidential and privileged information and may not be disclosed unless a court has determined that certain information is subject to compulsory legal process or discovery because the party seeking the information has demonstrated that there is a compelling state interest that outweighs the individual’s privacy interest or the information is requested pursuant to an investigative subpoena issued under 46-4-301.”

Section 5. Section 2-15-225, MCA, is amended to read:

“2-15-225. Interagency coordinating council for state prevention programs. (1) There is an interagency coordinating council for state prevention programs consisting of the following members:

(a) the attorney general provided for in 2-15-501;

(b) the director of the department of public health and human services provided for in 2-15-2201;

(c) the superintendent of public instruction provided for in 2-15-701;

(d) the presiding officer of the Montana children's trust fund board;

(e) two persons appointed by the governor who have experiences related to the private or nonprofit provision of prevention programs and services;

(f) the administrator of the board of crime control provided for in 2-15-2306;

(g) the commissioner of labor and industry provided for in 2-15-1701;

(h) the director of the department of corrections provided for in 2-15-2301;

(i) the state director of Indian affairs provided for in 2-15-217;

(j) the adjutant general of the department of military affairs provided for in 2-15-1202;

(k) the director of the department of transportation provided for in 2-15-2501;

(l) the commissioner of higher education provided for in 2-15-1506; and

(m) the designated representative of a state agency desiring to participate who is accepted as a member by a majority of the current coordinating council members.

(2) The coordinating council shall perform the following duties:

(a) develop, through interagency planning efforts, a comprehensive and coordinated prevention program delivery system that will strengthen the healthy development, well-being, and safety of children, families, individuals, and communities;

(b) develop appropriate interagency prevention programs and services that address the problems of at-risk children and families and that can be provided in a flexible manner to meet the needs of those children and families;

(c) study various financing options for prevention programs and services;

(d) ensure that a balanced and comprehensive range of prevention services is available to children and families with specific or multiagency needs;

(e) assist in development of cooperative partnerships among state agencies and community-based public and private providers of prevention programs; and

(f) develop, maintain, and implement benchmarks for state prevention programs. As used in this subsection, "benchmark" means a specified reference point in the future that is used to measure the state of affairs at that point in time and to determine progress toward or the attainment of an ultimate goal, which is an outcome reflecting the desired state of affairs.

(3) ~~The coordinating council shall cooperate with and report to any standing or interim legislative committee that is assigned to study the policies and funding for prevention programs or other state programs and policies related to children and families~~ *its activities and any recommendations to the legislature in accordance with 5-11-210.*

(4) The coordinating council must be compensated, reimbursed, and otherwise governed by the provisions of 2-15-122.

(5) The coordinating council is attached for administrative purposes only to the governor's office, which may assist the council by providing staff and budgetary, administrative, and clerical services that the council or its presiding officer requests.

(6) Staffing and other resources may be provided to the coordinating council only from state and nonstate resources donated to the council and from direct appropriations by each legislature."

Section 6. Section 2-15-401, MCA, is amended to read:

"2-15-401. Duties of secretary of state – authority. (1) In addition to the duties prescribed by the constitution, the secretary of state shall:

(a) attend at every session of the legislature for the purpose of receiving bills and resolutions and to perform other duties as may be devolved upon the secretary of state by resolution of the two houses or either of them;

(b) keep a register of and attest the official acts of the governor, including all appointments made by the governor, with date of commission and names of appointees and predecessors;

(c) affix the great seal, with the secretary of state's attestation, to commissions, pardons, and other public instruments to which the official signature of the governor is required;

(d) record in proper books all articles of incorporation filed in the secretary of state's office;

(e) take and file receipts for all books distributed by the secretary of state and direct the county clerk of each county to take and file receipts for all books distributed by the county clerk;

(f) certify to the governor the names of those persons who have received at any election the highest number of votes for any office, the incumbent of which is commissioned by the governor;

(g) furnish, on demand, to any person paying the fees, a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in the secretary of state's office;

(h) keep a fee book in which must be entered all fees, commissions, and compensation earned, collected, or charged, with the date, name of payer, paid or unpaid, and the nature of the service in each case, which must be verified annually by the secretary of state's affidavit entered in the fee book;

(i) file in the secretary of state's office descriptions of seals in use by the different state officers;

(j) discharge the duties of a member of the board of examiners and of the board of land commissioners and all other duties required by law;

(k) register marks as provided in Title 30, chapter 13, part 3;

(l) report ~~annually to the legislative services division~~ *to the legislature in accordance with 5-11-210* all watercourse name changes received pursuant to 85-2-134 for publication in the Laws of Montana;

(m) keep a register of all applications for pardon or for commutation of any sentence, with a list of the official signatures and recommendations in favor of each application;

(n) establish and maintain a central filing system that complies with the requirements of a central filing system pursuant to 7 U.S.C. 1631 and use the information in the central filing system for the purposes of 7 U.S.C. 1631.

(2) The secretary of state may:

(a) develop and implement a statewide electronic filing system as described in 2-15-404;

(b) adopt rules for the effective administration of the secretary of state's duties relating to the Montana Administrative Procedure Act established in Title 2, chapter 4."

Section 7. Section 2-15-2017, MCA, is amended to read:

"2-15-2017. Domestic violence fatality review commission – confidentiality of meetings and records – criminal liability for unauthorized disclosure – report to legislature. (1) There is a domestic violence fatality review commission in the department of justice.

(2) The commission shall:

(a) examine the trends and patterns of domestic violence-related fatalities in Montana;

(b) educate the public, service providers, and policymakers about domestic violence fatalities and strategies for intervention and prevention; and

(c) recommend policies, practices, and services that may encourage collaboration and reduce fatalities due to domestic violence.

(3) The members of the commission, not to exceed 18, are appointed by the attorney general from among the following disciplines:

(a) representatives from state departments that are involved in issues of domestic abuse;

(b) representatives of private organizations that are involved in issues of domestic abuse;

(c) medical and mental health care providers who are involved in issues of domestic abuse;

(d) representatives from law enforcement, the judiciary, and the state bar of Montana;

(e) representatives of Montana Indian tribes;

(f) other concerned citizens; and

(g) a member of the legislature who serves on either the house judiciary committee or the senate judiciary committee.

(4) The members shall serve without compensation by the commission but are entitled to be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503, and members who are full-time salaried officers or employees of this state or of any political subdivision of this state are entitled to their regular compensation. The provisions of 2-15-122 do not apply to the commission.

(5) The commission shall review closed domestic homicide cases selected by the attorney general to provide the commission with the best opportunity to fulfill its duties under this section.

(6) Upon written request from the commission, a person who possesses information or records that are necessary and relevant to a domestic violence fatality review shall, as soon as practicable, provide the commission with the information and records. A person who provides information or records upon request of the commission is not criminally or civilly liable for providing information or records in compliance with this section.

(7) The meetings and proceedings of the commission are confidential and are exempt from the provisions of Title 2, chapter 3.

(8) The records of the commission are confidential information as defined in 2-6-1002 and are protected from disclosure. The records are not subject to subpoena, discovery, or introduction into evidence in a civil or criminal action unless the records are reviewed by a district court judge and ordered to be provided to the person seeking access. The commission shall disclose conclusions and recommendations upon request but may not disclose information, records, or data that are otherwise confidential. The commission may not use the information, records, or data for purposes other than those designated by subsections (2)(a) and (2)(c).

(9) The commission may require any person appearing before it to sign a confidentiality agreement created by the commission in order to maintain the confidentiality of the proceedings. In addition, the commission may enter into agreements with nonprofit organizations and private agencies to obtain otherwise confidential information.

(10) A member of the commission who knowingly uses information obtained pursuant to subsection (6) for a purpose not authorized in subsection (2) or who discloses information in violation of subsection (8) is subject to a civil penalty of not more than \$500.

(11) The commission shall report its findings and recommendations in writing to the law and justice interim committee *in accordance with 5-11-210*, the attorney general, the governor, and the chief justice of the Montana

supreme court prior to each regular legislative session. The report must be made available to the public through the office of the attorney general. The commission may issue data or other information periodically, in addition to the biennial report.”

Section 8. Section 2-15-2225, MCA, is amended to read:

“2-15-2225. Legislative use of performance measures. (1) During an interim, the department shall report performance data to the appropriate interim committee as provided for in Title 5, chapter 5, part 2 to the children, families, health, and human services interim committee in accordance with 5-11-210, and to the office of budget and program planning. Interim committees The committee shall use performance data in reviewing the department’s strategic planning documents as they relate to prospective legislation.

(2) When reviewing the strategies of department or agency management in implementing programs authorized by the legislature, the committees may provide input on:

- (a) the direct effects of each strategy on department and agency customers;
- (b) the information that management needs to track progress toward achieving key goals and objectives;
- (c) the performance measures that best reflect the expenditure of the department’s and the agencies’ budgets; and
- (d) whether the performance measures clearly relate to the department’s and the agencies’ missions, goals, objectives, and strategic plan.”

Section 9. Section 2-15-3113, MCA, is amended to read:

“2-15-3113. Additional powers and duties of livestock loss board.

(1) The livestock loss board shall:

- (a) process claims;
- (b) seek information necessary to ensure that claim documentation is complete;
- (c) provide payments authorized by the board for confirmed and probable livestock losses, along with a written explanation of payment;
- (d) submit monthly and annual reports to the board of livestock summarizing claims and expenditures and the results of action taken on claims and maintain files of all claims received, including supporting documentation;
- (e) provide information to the board of livestock regarding appealed claims and implement any decision by the board;
- (f) prepare the annual budget for the board; and
- (g) provide proper documentation of staff time and expenditures.

(2) The livestock loss board may enter into an agreement with any Montana tribe, if the tribe has adopted a wolf, mountain lion, or grizzly bear management plan for reservation lands that is consistent with the state wolf, mountain lion, or grizzly bear management plan, to provide that tribal lands within reservation boundaries are eligible for mitigation grants pursuant to 2-15-3111 and that livestock losses on tribal lands within reservation boundaries are eligible for reimbursement payments pursuant to 2-15-3112.

(3) The livestock loss board shall:

- (a) coordinate and share information with state, federal, and tribal officials, livestock producers, nongovernmental organizations, and the general public in an effort to reduce livestock losses caused by wolves, mountain lions, and grizzly bears;
- (b) establish an annual budget for the prevention, mitigation, and reimbursement of livestock losses caused by wolves, mountain lions, and grizzly bears;
- (c) perform or contract for the performance of periodic program audits and reviews of program expenditures, including payments to individuals,

incorporated entities, and producers who receive loss reduction grants and reimbursement payments;

(d) adjudicate appeals of claims;

(e) investigate alternative or enhanced funding sources, including possible agreements with public entities and private wildlife or livestock organizations that have active livestock loss reimbursement programs in place;

(f) meet as necessary to conduct business; and

(g) report annually to the governor, the legislature *in accordance with 5-11-210*, members of the Montana congressional delegation, the board of livestock, the fish and wildlife commission, and the public regarding results of the programs established in 2-15-3111 through 2-15-3113.

(4) The livestock loss board may sell or auction any carcasses or parts of carcasses from wolves or mountain lions received pursuant to 87-1-217. The proceeds, minus the costs of the sale including the preparation of the carcass or part of the carcass for sale, must be deposited into the livestock loss reduction and mitigation special revenue account established in 81-1-110 and used for the purposes of 2-15-3111 through 2-15-3114.”

Section 10. Section 2-15-3308, MCA, is amended to read:

“2-15-3308. (Temporary) Drought and water supply advisory committee – stream gauge oversight work group. (1) There is a drought and water supply advisory committee in the department of natural resources and conservation.

(2) The drought and water supply advisory committee is chaired by a representative of the governor and consists of representatives of the departments of natural resources and conservation; agriculture; commerce; fish, wildlife, and parks; military affairs; environmental quality; and livestock. The governor’s representative must be appointed by the governor, and the representative of each department must be appointed by the head of that department. Additional, nonvoting members who represent federal and local government agencies and public and private interests affected by drought, flooding, or water supply may also be appointed by the governor.

(3) The drought and water supply advisory committee shall:

(a) with the approval of the governor, develop and implement a state plan that considers drought and flooding, mitigation, and response;

(b) review and report drought and water supply monitoring information to the public;

(c) coordinate timely drought and flooding impact assessments and maintain regular communication with the United States drought monitor, the national drought mitigation center, the division of disaster and emergency services, the national weather service, and other appropriate local, state, tribal, and federal partners;

(d) identify areas of the state with a high probability of drought or flooding and target reporting and assistance efforts to those areas in coordination with local, state, tribal, and federal agencies;

(e) upon request, assist in organizing local advisory committees for the areas identified under subsection (3)(d);

(f) request state agency staff to provide technical assistance to local advisory committees;

(g) promote ideas and activities for groups and individuals to consider that may reduce vulnerability to drought or flooding and improve seasonal forecasting of water supply; and

(h) select members of the committee to serve on a stream gauge oversight work group.

(4) The drought and water supply advisory committee shall meet, at a minimum, on or around October 15 and March 15 of each year to assess moisture conditions and forecasts and, as appropriate, begin preparations for drought or flood mitigation.

(5) By April 15 of each year, the drought and water supply advisory committee shall submit a report to the governor's office that, to the extent possible, describes the potential for drought or flooding in the coming year, describes the current water supply conditions of the state, taking into consideration winter precipitation, and provides an assessment of the cumulative water supply status.

(6) By July 1 of each year, the drought and water supply advisory committee shall submit a report to the governor's office evaluating the potential for drought for the remainder of the calendar year. If the report identifies a potential for drought that is likely to cause adverse impacts to human health and safety, environmental quality, or both, the committee shall notify the division of disaster and emergency services and county commissioners, tribal governments, conservation districts, and local watershed groups in the geographic location potentially impacted by drought and the types of impacts likely to occur.

(7) (a) The stream gauge oversight work group shall meet at least semiannually to review:

(i) locations, uses, and funding arrangements for the stream gauge network of the U.S. geological survey; and

(ii) priorities, needs, and expectations of those funding the maintenance and operations of these stream gauges and those using data measured by these stream gauges.

(b) The work group shall create annually a stream gauge infrastructure work plan, which may include:

(i) a comprehensive overview of the existing stream gauge network;

(ii) a review of options for funding the maintenance and operations of the stream gauge network, including use of private funds, consolidated agreements, or multipayer payments;

(iii) a proposal for stream gauge priorities;

(iv) cost-effective and reasonable alternatives to stream gauges, including gauges that are not part of the U.S. geological survey's stream gauge network, if applicable;

(v) oversight of recommendations and activities related to any legislative study of stream gauges; and

(vi) coordination of information regarding stream gauge funding recommendations and requests from state and federal agencies.

(c) The work group shall report to the water policy interim committee ~~established in 5-5-231 in accordance with 5-11-210.~~

(8) Nothing in this section is intended to remove or interfere with the duties and responsibilities of the governor or the division of disaster and emergency services for disaster coordination and emergency response, as provided in Title 10, chapter 3, part 1. The duties and responsibilities of the drought and water supply advisory committee supplement and are consistent with those of the division of disaster and emergency services for drought or flood planning, preparation, coordination, and mitigation. (Terminates June 30, 2023--sec. 7, Ch. 298, L. 2019.)

2-15-3308. (Effective July 1, 2023) Drought and water supply advisory committee. (1) There is a drought and water supply advisory committee in the department of natural resources and conservation.

(2) The drought and water supply advisory committee is chaired by a representative of the governor and consists of representatives of the departments of natural resources and conservation; agriculture; commerce; fish, wildlife, and parks; military affairs; environmental quality; and livestock. The governor's representative must be appointed by the governor, and the representative of each department must be appointed by the head of that department. Additional, nonvoting members who represent federal and local government agencies and public and private interests affected by drought, flooding, or water supply may also be appointed by the governor.

(3) The drought and water supply advisory committee shall:

(a) with the approval of the governor, develop and implement a state plan that considers drought and flooding, mitigation, and response;

(b) review and report drought and water supply monitoring information to the public;

(c) coordinate timely drought and flooding impact assessments and maintain regular communication with the United States drought monitor, the national drought mitigation center, the division of disaster and emergency services, the national weather service, and other appropriate local, state, tribal, and federal partners;

(d) identify areas of the state with a high probability of drought or flooding and target reporting and assistance efforts to those areas in coordination with local, state, tribal, and federal agencies;

(e) upon request, assist in organizing local advisory committees for the areas identified under subsection (3)(d);

(f) request state agency staff to provide technical assistance to local advisory committees; and

(g) promote ideas and activities for groups and individuals to consider that may reduce vulnerability to drought or flooding and improve seasonal forecasting of water supply.

(4) The drought and water supply advisory committee shall meet, at a minimum, on or around October 15 and March 15 of each year to assess moisture conditions and forecasts and, as appropriate, begin preparations for drought or flood mitigation.

(5) By April 15 of each year, the drought and water supply advisory committee shall submit a report to the governor's office that, to the extent possible, describes the potential for drought or flooding in the coming year, describes the current water supply conditions of the state, taking into consideration winter precipitation, and provides an assessment of the cumulative water supply status.

(6) By July 1 of each year, the drought and water supply advisory committee shall submit a report to the governor's office evaluating the potential for drought for the remainder of the calendar year. If the report identifies a potential for drought that is likely to cause adverse impacts to human health and safety, environmental quality, or both, the committee shall notify the division of disaster and emergency services and county commissioners, tribal governments, conservation districts, and local watershed groups in the geographic location potentially impacted by drought and the types of impacts likely to occur.

(7) Nothing in this section is intended to remove or interfere with the duties and responsibilities of the governor or the division of disaster and emergency services for disaster coordination and emergency response, as provided in Title 10, chapter 3, part 1. The duties and responsibilities of the drought and water supply advisory committee supplement and are consistent with those of the division of disaster and emergency services for drought or flood planning, preparation, coordination, and mitigation."

Section 11. Section 2-17-101, MCA, is amended to read:

“2-17-101. (Temporary) Allocation of space – leasing – definition.

(1) The department of administration shall determine the space required by state agencies other than the university system and shall allocate space in buildings owned or leased by the state, based on each agency’s need. To efficiently and effectively allocate space, the department shall identify the amount, location, and nature of space used by each agency, including summary information on average cost per square foot for each municipality, and report this to the office of budget and program planning and to the legislative fiscal analyst by September 1 of each even-numbered year. The report must be provided in an electronic format. *The department of administration shall provide a copy of the report to the legislature in accordance with 5-11-210.*

(2) An agency requiring additional space shall notify the department. The department, in consultation with the agency, shall determine the amount and nature of the space needed and locate space within a building owned or leased by the state, including buildings in Helena and in other areas, to meet the agency’s requirements. If space is not available in a building owned or leased by the state, the department shall locate space to be leased in an appropriate existing building or a build-to-lease building, including buildings in Helena and in other areas, or recommend alternatives to leasing, such as remodeling or exchanging space with another agency. A state agency may not lease, rent, or purchase real property without prior approval of the department.

(3) (a) The location of the chambers for the house of representatives must be determined in the sole discretion of the house of representatives. The location of the chambers for the senate must be determined in the sole discretion of the senate.

(b) Subject to 2-17-108, the department, with the advice of the legislative council, shall allocate other space for the use of the legislature, including but not limited to space for committee rooms and legislative offices.

(4) The department shall consolidate the offices of state agencies in a single, central location within a municipality whenever the consolidation would result in a cost savings to the state while permitting sufficient space and facilities for the agencies. The department may purchase, lease, or acquire, by exchange or otherwise, land and buildings in a municipality to achieve consolidation. Offices of the law enforcement services division and motor vehicle division of the department of justice are exempted from consolidation.

(5) Any lease for more than 45,000 square feet or for a term of more than 20 years must be submitted as part of the long-range building program and approved by the legislature before the department of administration may proceed with the lease. Multiple leases in the same building entered into within any 60-day period are to be aggregated for purposes of this threshold calculation. When immediate relocation of agency employees is required due to a public exigency, the requirements of this subsection do not apply, but the new lease must be reported as required by subsection (1).

(6) The department shall include language in every lease providing that if funds are not appropriated or otherwise made available to support continued performance of the lease in subsequent fiscal periods, the lease must be canceled.

(7) “Public exigency” means that due to unforeseen circumstances a facility occupied by state employees is uninhabitable due to immediate conditions that adversely impact the health or safety of the occupants of the facility. (Terminates June 30, 2023--sec. 3, Ch. 401, L. 2019.)

2-17-101. (Effective July 1, 2023) Allocation of space – leasing – definition. (1) The department of administration shall determine the space required by state agencies other than the university system and shall allocate

space in buildings owned or leased by the state, based on each agency's need. To efficiently and effectively allocate space, the department shall identify the amount, location, and nature of space used by each agency, including summary information on average cost per square foot for each municipality, and report this to the office of budget and program planning and to the legislative fiscal analyst by September 1 of each even-numbered year. The report must be provided in an electronic format. *The department of administration shall provide a copy of the report to the legislature in accordance with 5-11-210.*

(2) An agency requiring additional space shall notify the department. The department, in consultation with the agency, shall determine the amount and nature of the space needed and locate space within a building owned or leased by the state, including buildings in Helena and in other areas, to meet the agency's requirements. If space is not available in a building owned or leased by the state, the department shall locate space to be leased in an appropriate existing building or a build-to-lease building, including buildings in Helena and in other areas, or recommend alternatives to leasing, such as remodeling or exchanging space with another agency. A state agency may not lease, rent, or purchase real property without prior approval of the department.

(3) (a) The location of the chambers for the house of representatives must be determined in the sole discretion of the house of representatives. The location of the chambers for the senate must be determined in the sole discretion of the senate.

(b) Subject to 2-17-108, the department, with the advice of the legislative council, shall allocate other space for the use of the legislature, including but not limited to space for committee rooms and legislative offices.

(4) The department shall consolidate the offices of state agencies in a single, central location within a municipality whenever the consolidation would result in a cost savings to the state while permitting sufficient space and facilities for the agencies. The department may purchase, lease, or acquire, by exchange or otherwise, land and buildings in a municipality to achieve consolidation. Offices of the law enforcement services division and motor vehicle division of the department of justice are exempted from consolidation.

(5) Any lease for more than 40,000 square feet or for a term of more than 20 years must be submitted as part of the long-range building program and approved by the legislature before the department of administration may proceed with the lease. Multiple leases in the same building entered into within any 60-day period are to be aggregated for purposes of this threshold calculation. When immediate relocation of agency employees is required due to a public exigency, the requirements of this subsection do not apply, but the new lease must be reported as required by subsection (1).

(6) The department shall include language in every lease providing that if funds are not appropriated or otherwise made available to support continued performance of the lease in subsequent fiscal periods, the lease must be canceled.

(7) "Public exigency" means that due to unforeseen circumstances a facility occupied by state employees is uninhabitable due to immediate conditions that adversely impact the health or safety of the occupants of the facility."

Section 12. Section 2-17-512, MCA, is amended to read:

"2-17-512. Powers and duties of department. (1) The department is responsible for carrying out the planning and program responsibilities for information technology for state government, except the national guard. The department shall:

(a) encourage and foster the development of new and innovative information technology within state government;

(b) promote, coordinate, and approve the development and sharing of shared information technology application software, management systems, and information that provide similar functions for multiple state agencies;

(c) cooperate with the office of economic development to promote economic development initiatives based on information technology;

(d) establish and enforce a state strategic information technology plan as provided for in 2-17-521;

(e) establish and enforce statewide information technology policies and standards;

(f) review and approve state agency information technology plans provided for in 2-17-523;

(g) coordinate with the office of budget and program planning to evaluate budget requests that include information technology resources. The department shall make recommendations to the office of budget and program planning for the approval or disapproval of information technology budget requests, including an estimate of the useful life of the asset proposed for purchase and whether the amount should be expensed or capitalized, based on state accounting policy established by the department. An unfavorable recommendation must be based on a determination that the request is not provided for in the approved agency information technology plan provided for in 2-17-523.

(h) staff the information technology board provided for in 2-15-1021;

(i) fund the administrative costs of the information technology board provided for in 2-15-1021;

(j) review the use of information technology resources for all state agencies;

(k) review and approve state agency specifications and procurement methods for the acquisition of information technology resources;

(l) review, approve, and sign all state agency contracts and shall review and approve other formal agreements for information technology resources provided by the private sector and other government entities;

(m) operate and maintain a central computer center for the use of state government, political subdivisions, and other participating entities under terms and conditions established by the department;

(n) operate and maintain a statewide telecommunications network for the use of state government, political subdivisions, and other participating entities under terms and conditions established by the department;

(o) ensure that the statewide telecommunications network is properly maintained. The department may establish a centralized maintenance program for the statewide telecommunications network.

(p) coordinate public safety communications on behalf of public and private safety agencies as provided for in 2-17-543 through 2-17-545;

(q) manage the state 9-1-1 program as provided for in Title 10, chapter 4, part 3;

(r) provide electronic access to information and services of the state as provided for in 2-17-532;

(s) provide assistance to the legislature, the judiciary, the governor, and state agencies relative to state and interstate information technology matters;

(t) establish rates and other charges for services provided by the department;

(u) accept federal funds granted by congress or by executive order and gifts, grants, and donations for any purpose of this section;

(v) dispose of personal property owned by it in a manner provided by law when, in the judgment of the department, the disposal best promotes the purposes for which the department is established;

(w) implement this part and all other laws for the use of information technology in state government;

(x) ~~provide a biennial report to the appropriate interim committee state administration and veterans' affairs interim committee on a regular basis~~ and to the legislature as provided in 5-11-210 on the information technology activities of the department; and

(y) represent the state with public and private entities on matters of information technology.

(2) If it is in the state's best interest, the department may contract with qualified private organizations, foundations, or individuals to carry out the purposes of this section.

(3) The director of the department shall appoint the chief information officer to assist in carrying out the department's information technology duties."

Section 13. Section 2-17-513, MCA, is amended to read:

"2-17-513. Duties of board. The board shall:

(1) provide a forum to:

(a) guide state agencies, the legislative branch, the judicial branch, and local governments in the development and deployment of intergovernmental information technology resources;

(b) share information among state agencies, local governments, and federal agencies regarding the development of information technology resources;

(2) advise the department:

(a) in the development of cooperative contracts for the purchase of information technology resources;

(b) regarding the creation, management, and administration of electronic government services and information on the internet;

(c) regarding the administration of electronic government services contracts;

(d) on the priority of government services to be provided electronically;

(e) on convenience fees prescribed in 2-17-1102 and 2-17-1103, if needed, for electronic government services; and

(f) on any other aspect of providing electronic government services;

(3) review and advise the department on:

(a) statewide information technology standards and policies;

(b) the state strategic information technology plan;

(c) major information technology budget requests;

(d) rates and other charges for services established by the department as provided in 2-17-512(1)(t);

(e) requests for exceptions as provided for in 2-17-515;

(f) notification of proposed exemptions by the university system and office of public instruction as provided for in 2-17-516;

(g) action taken by the department as provided in 2-17-514(1) for any activity that is not in compliance with this part;

(h) the implementation of major information technology projects and advise the respective governing authority of any issue of concern to the board relating to implementation of the project; and

(i) financial reports, management reports, and other data as requested by the department;

(4) study state government's present and future information technology needs and advise the department on the use of emerging technology in state government;

(5) request information and reports that it considers necessary from any entity using or having access to the statewide telecommunications network or central computer center;

(6) assist in identifying, evaluating, and prioritizing potential departmental and interagency electronic government services;

(7) serve as a central coordination point for electronic government services provided by the department and other state agencies;

(8) study, propose, develop, or coordinate any other activity in furtherance of electronic government services as requested by the governor or the legislature; and

(9) prepare and submit to the state administration and veterans' affairs interim committee ~~by September 15 in the year preceding the regular legislative session and in the manner provided in accordance with 5-11-210~~ a report including but not necessarily limited to a summary of the board's activities, a review of the electronic government program established under part 11 of this chapter, and any key findings and recommendations that the board presented to the department."

Section 14. Section 2-17-515, MCA, is amended to read:

"2-17-515. Granting exceptions to state agencies. Subject to 2-17-516, the department may grant exceptions to any policy, standard, or other requirement of this part if it is in the best interests of the state of Montana. The department shall inform the board, the office of budget and program planning, and the legislative finance committee of all exceptions that are granted and of the rationale for granting the exceptions. The department shall maintain written documentation that identifies the terms and conditions of the exception and the rationale for the exception. *If an exception is granted, the department shall provide the written documentation in accordance with 5-11-210.*"

Section 15. Section 2-17-804, MCA, is amended to read:

"2-17-804. Council duties and responsibilities. (1) The council shall:

(a) adopt an art and memorial plan for the placement of art and memorials in the capitol complex and on the capitol complex grounds;

(b) review proposals for long-term displays of up to 50 years, subject to renewal, in the capitol complex and on the capitol complex grounds and for the naming of state buildings, spaces, and rooms in the capitol complex;

(c) advise the legislature on the placement of busts, plaques, statues, memorials, monuments, or art displays of a long-term nature in public areas of the capitol complex and on the capitol complex grounds, including the executive residence and the original governor's mansion; and

(d) advise the department of administration on interior decoration of the capitol, grounds maintenance, and grounds displays.

(2) In advising the legislature on long-term displays, the council shall consider whether the bust, plaque, statue, memorial, monument, or art display:

(a) reasonably fits the long-range master plan for the capitol and adjacent grounds developed under 2-17-805;

(b) adversely alters the appearance of the capitol complex;

(c) unreasonably affects foot traffic on the capitol complex;

(d) adversely impacts existing maintenance programs or the utility infrastructure;

(e) recognizes a person or event of statewide significance and relevance;

(f) has artistic merit in design and construction;

- (g) will be safely and aesthetically suited to the installation site; and
- (h) has adequate funding for design, installation, and maintenance.

(3) ~~By September 15 of each year preceding a regular legislative session,~~ *The* council shall report to the state administration and veterans' affairs interim committee *in accordance with 5-11-210* on requests that the council has reviewed for naming buildings, spaces, and rooms and for placing items in the capitol complex or on the capitol complex grounds. The report must include a recommendation to the committee on whether reviewed requests meet the criteria established by this part and whether legislation is needed. If a request meets the criteria, the council shall recommend a timeframe during which the project should be authorized."

Section 16. Section 2-17-825, MCA, is amended to read:

"2-17-825. Report to legislature. (1) The legislative council may prepare a written report of its activities and recommendations related to its duties under 2-17-805(2) ~~for the purpose of assisting to assist~~ the legislature in determining whether the recommendations should be implemented.

(2) *If a report is prepared, it must be submitted to the legislature in accordance with 5-11-210.*"

Section 17. Section 3-1-702, MCA, is amended to read:

"3-1-702. Duties. The court administrator is the administrative officer of the court. Under the direction of the supreme court, the court administrator shall:

(1) prepare and present judicial budget requests to the legislature, including the costs of the state-funded district court program;

(2) collect, compile, and report statistical and other data relating to the business transacted by the courts and provide the information to the legislature on request *and, if requested, in accordance with 5-11-210;*

(3) to the extent possible, provide that current and future information technology applications are coordinated and compatible with the standards and goals of the executive branch as expressed in the state strategic information technology plan provided for in 2-17-521;

(4) recommend to the supreme court improvements in the judiciary;

(5) administer legal assistance for indigent victims of domestic violence, as provided in 3-2-714;

(6) administer state funding for district courts, as provided in chapter 5, part 9;

(7) administer the pretrial program provided for in 3-1-708;

(8) administer the treatment court support account provided for in 46-1-1115;

(9) administer the judicial branch personnel plan; and

(10) perform other duties that the supreme court may assign."

Section 18. Section 5-5-223, MCA, is amended to read:

"5-5-223. Economic affairs interim committee. (1) The economic affairs interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes:

(a) department of agriculture;

(b) department of commerce;

(c) department of labor and industry;

(d) department of livestock;

(e) office of the state auditor and insurance commissioner;

(f) office of economic development;

(g) the state compensation insurance fund provided for in 39-71-2313, including the board of directors of the state compensation insurance fund established in 2-15-1019;

(h) the division of banking and financial institutions provided for in 32-1-211; and

(i) the division of the department of revenue that administers the Montana Alcoholic Beverage Code.

(2) The state compensation insurance fund shall annually provide to the committee a report *in accordance with 5-11-210* on its budget as approved by the state compensation insurance fund board of directors.”

Section 19. Section 5-5-224, MCA, is amended to read:

“5-5-224. Education interim committee. (†) The education interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes:

(a)(1) state board of education;

(b)(2) board of public education;

(c)(3) board of regents of higher education; and

(d)(4) office of public instruction.

(2) The committee shall:

(a) provide information to the board of regents in the following areas:

(i) annual budget allocations;

(ii) annual goal statement development;

(iii) long-range planning;

(iv) outcome assessment programs; and

(v) any other area that the committee considers to have significant educational or fiscal policy impact;

(b) periodically review the success or failure of the university system in meeting its annual goals and long-range plans;

(c) periodically review the results of outcome assessment programs;

(d) develop mechanisms to ensure strict accountability of the revenue and expenditures of the university system;

(e) study and report to the legislature on the advisability of adjustments to the mechanisms used to determine funding for the university system, including criteria for determining appropriate levels of funding;

(f) act as a liaison between both the legislative and executive branches and the board of regents; and

(g) encourage cooperation between the legislative and executive branches and the board of regents.”

Section 20. Section 5-5-229, MCA, is amended to read:

“5-5-229. State-tribal relations committee. There is a state-tribal relations committee. The committee is treated as an interim committee for the purposes of 5-5-211 through 5-5-214. The committee shall:

(1) act as a liaison with tribal governments;

(2) encourage state-tribal and local government-tribal cooperation;

(3) conduct interim studies as assigned pursuant to 5-5-217; and

(4) report its activities, findings, recommendations, and any proposed legislation as provided in 5-11-210 *provide recommendations and a report, if one is written, in accordance with 5-5-216 for studies completed by the committee.*”

Section 21. Section 5-5-231, MCA, is amended to read:

“5-5-231. Water policy interim committee. (1) There is a water policy interim committee. The committee shall:

(a) determine which water policy issues it examines;

(b) conduct interim studies as assigned pursuant to 5-5-217;

(c) subject to the provisions of 5-5-202(4), coordinate with the environmental quality council and other interim committees to avoid duplication of efforts;

(d) ~~report its activities, findings, recommendations, and any proposed legislation as provided in 5-11-210~~ *provide recommendations and a report, if one is written, in accordance with 5-5-216 for studies completed by the committee;* and

(e) in accordance with 5-5-215, for issues where the primary concern is the quality or quantity of water, perform the administrative rule review, draft legislation review, program evaluation, and monitoring functions of an interim committee for the following executive branch agencies and the entities attached to the agencies for administrative purposes:

- (i) department of environmental quality;
- (ii) department of fish, wildlife, and parks; and
- (iii) department of natural resources and conservation.

(2) At least two members of the committee must possess experience in agriculture.”

Section 22. Section 5-5-232, MCA, is amended to read:

“5-5-232. Local government *interim* committee. There is a local government *interim* committee. The committee is treated as an interim committee for the purposes of 5-5-211 through 5-5-214. The local government *interim* committee shall:

- (1) act as a liaison with local governments;
- (2) promote and strengthen local government through recognition of the principle that strong communities with effective, democratic governmental institutions are one of the best assurances of a strong Montana;
- (3) bring together representatives of state and local government for consideration of common problems;
- (4) provide a forum for discussing state oversight of local functions, realistic local autonomy, and intergovernmental cooperation;
- (5) identify and promote the most desirable allocation of state and local government functions, responsibilities, and revenue;
- (6) promote concise, consistent, and uniform regulation for local government;
- (7) coordinate and simplify laws, rules, and administrative practices in order to achieve more orderly and less competitive fiscal and administrative relationships between and among state and local governments;
- (8) review state mandates to local governments that are subject to 1-2-112 and 1-2-114 through 1-2-116;
- (9) make recommendations to the legislature, executive branch agencies, and local governing bodies concerning:
 - (a) changes in statutes, rules, ordinances, and resolutions that will provide concise, consistent, and uniform guidance and regulations for local government;
 - (b) changes in tax laws that will achieve more orderly and less competitive fiscal relationships between levels of government;
 - (c) methods of coordinating and simplifying competitive practices to achieve more orderly administrative relationships among levels of government; and
 - (d) training programs and technical assistance for local government officers and employees that will promote effectiveness and efficiency in local government;
- (10) conduct interim studies as assigned pursuant to 5-5-217; and

(11) report its activities, findings, recommendations, and any proposed legislation as provided in 5-11-210 provide recommendations and a report, if one is written, in accordance with 5-5-216 for studies completed by the committee.”

Section 23. Section 5-11-210, MCA, is amended to read:

“5-11-210. Clearinghouse for reports to legislature. (1) For the purposes of this section, “report” means a written report required by law to be given to or filed with the legislature.

(2)(1) (a) On or before September 1 of each year preceding the convening of a regular session of the legislature *Except as provided in subsections (1)(b) and (1)(c), an entity required to report to the legislature in accordance with [section 1] shall provide, in writing, to the appropriate interim or statutory committee to the executive director of the legislative services division:*

(a)(i) the final title of the report;

(b)(ii) an abstract or description of the contents of the report, not to exceed 100 50 words, *including reference to the statute establishing the required report;*

(c)(iii) if the report is available electronically, its location on the internet and an electronic copy of the report; and

(d)(iv) a recommendation on how many paper copies of the report, if any, ~~should be provided to the~~ *unless provided electronically in accordance with subsection (1)(a)(iii), a paper copy of the report with a recommendation on how many additional hard copies should be printed for the legislature.*

(b) If an oral report is provided in accordance with [section 1(4)(a)], the reporting entity shall provide to the executive director of the legislative services division:

(i) the title of the report given;

(ii) a description of the report, not to exceed 50 words, including reference to the statute establishing the required report; and

(iii) the date the report was provided to an interim or administrative committee.

(3) ~~After considering all of the information available about the report, including the number of legislators requesting copies of the report pursuant to subsection (7), the appropriate interim or statutory committee shall, in writing, direct the reporting entity to provide a specific number of paper copies. The number of copies required is at the sole discretion of the appropriate interim or statutory committee. The appropriate interim or statutory committee may require the reporting entity to mail the copies of the report.~~

(4)(2) The appropriate interim or statutory committee *legislative services division* may require that ~~the~~ *a paper copy of a report provided in accordance with subsection (1)(a)(iv)* be submitted in an electronic format ~~that is usable on the legislature’s current computer hardware or in a digital form.~~

(5)(3) Costs of preparing and distributing a report to the legislature, including writing, printing, postage, distribution, and all other costs, accrue to the reporting agency. Costs incurred in meeting the requirements of this section may not accrue to the legislative services division.

(6)(4) The executive director of the legislative services division shall ~~cause to be prepared~~ *prepare* a list of all reports required to be presented to the legislature ~~from the list of titles received under subsection (2) in accordance with [section 1].~~

(7)(5) (a) The executive director shall, as soon as possible following a general election, provide to each holdover senator, senator-elect, and representative-elect a list of the titles of the reports, along with the abstracts prepared pursuant to subsection (2)(b), and the location of electronic copies reports available. Legislators may then request copies of reports included on the list.

(8)(b) The executive director of the legislative services division shall provide *either paper copies or electronic* copies of reports requested pursuant to subsection (7) ~~(5)(a) to those members or members-elect~~ by either ~~requiring that copies be mailed pursuant to subsection (3) providing links to electronic copies or audio recordings of oral reports,~~ or by delivering *paper* copies of the reports during the first week of the legislative session.

(9) ~~The executive director of the legislative services division may keep as many copies of a report as are necessary and discard the rest or return them to the agency.~~

(10) ~~The procedure outlined in this section may also be used for a report required to be made to the legislature under the Multistate Tax Compact contained in 15-1-601, the Vehicle Equipment Safety Compact contained in 61-2-201, the Multistate Highway Transportation Agreement contained in 61-10-1101, or the Western Interstate Nuclear Compact contained in 90-5-201.~~

(11) ~~Each report to the legislature required under 17-6-230, 19-2-405, 19-2-407, and 19-20-201 must be provided to the legislative services division as soon as the report is published. The legislative services division shall ensure that legislators are notified pursuant to this section of the report's availability. During the interim, the legislative services division shall ensure that members of the state administration and veterans' affairs interim committee and the legislative finance committee receive copies of the reports."~~

Section 24. Section 5-12-208, MCA, is amended to read:

"5-12-208. Grant information to be provided to legislative finance committee – internet link required. (1) Each state agency shall provide an annual report pursuant to subsection (2) to the legislative finance committee by October 1 of each year.

(2) The report must be provided electronically as a spreadsheet and must include the following information about each grant awarded by the state agency during the previous fiscal year:

- (a) the name of the grantee;
- (b) the address of the grantee;
- (c) the amount of the grant;
- (d) the award date of the grant;
- (e) the purpose of the grant; and
- (f) the grant period.

(3) The legislative finance committee shall post an internet link to the reports on its website under the meeting materials for the committee meeting that next follows the deadline established in subsection (1). *At the end of the interim, a copy of the link or links must be provided to the legislature in accordance with 5-11-210."*

Section 25. Section 5-12-302, MCA, is amended to read:

"5-12-302. Fiscal analyst's duties. The legislative fiscal analyst shall:

(1) provide for fiscal analysis of state government and accumulate, compile, analyze, and furnish information bearing upon the financial matters of the state that is relevant to issues of policy and questions of statewide importance, including but not limited to investigation and study of the possibilities of effecting economy and efficiency in state government;

(2) estimate revenue from existing and proposed taxes;

(3) analyze the executive budget and budget requests of selected state agencies and institutions, including proposals for the construction of capital improvements;

(4) make the reports and recommendations that the legislative fiscal analyst considers desirable to the legislature *in accordance with 5-11-210* and

make reports and recommendations as requested by the legislative finance committee and the legislature;

(5) assist committees of the legislature and individual legislators in compiling and analyzing financial information;

(6) assist the revenue interim committee in performing its revenue estimating duties; and

(7) review all reports submitted to the legislative fiscal analyst and notify the legislative finance committee of any concerns the fiscal analyst identifies in a report.”

Section 26. Section 5-12-303, MCA, is amended to read:

“5-12-303. Fiscal analysis information from state agencies. (1) The legislative fiscal analyst may investigate and examine the costs and revenue of state government activities and may examine and obtain copies of the records, books, and files of any state agency, including confidential records.

(2) When confidential records and information are obtained from a state agency, the legislative fiscal analyst and staff must be subject to the same penalties for unauthorized disclosure of the confidential records and information provided for under the laws administered by the state agency. The legislative fiscal analyst shall develop policies to prevent the unauthorized disclosure of confidential records and information obtained from state agencies and may not disclose confidential records or information to legislators.

(3) (a) The department of revenue shall make Montana individual income tax information available by removing names, addresses, and social security numbers and substituting in their place a state accounting record identifier number. Except for the purposes of complying with federal law, the department may not alter the data in any other way.

(b) The department of revenue shall provide the name and address of a taxpayer on written request of the legislative fiscal analyst when the values on the requested return, including estimated payments, are considered necessary by the legislative fiscal analyst to properly analyze state revenue and are of a sufficient magnitude to materially affect the analysis and when the identity of the taxpayer is necessary to evaluate the effect of the return or payments on the analysis being performed.

(4) (a) The department of public health and human services shall provide the legislative fiscal analyst direct access to the department’s secure data warehouse as the phases of the secure data warehouse project are implemented.

(b) The department of public health and human services shall consult with the legislative fiscal analyst and shall establish user requirements to ensure the legislative fiscal analyst does not have access to direct identifiers stored on the secure data warehouse. The department of public health and human services shall consult with the legislative fiscal analyst and shall establish requirements to ensure the legislative fiscal analyst does not have access to direct identifiers stored in other data systems where the data is not available through the secure data warehouse after the phases of the secure data warehouse project are implemented.

(c) The data must be made available to the legislative fiscal analyst in a format that complies with the regulations of the respective federal programs.

(d) The department of public health and human services shall submit quarterly reports in an electronic format to the legislative finance committee and the children, families, health, and human services interim committee *in accordance with 5-11-210* on the following:

(i) the implementation of the phases of the secure data warehouse project;

(ii) the user requirements established by the department and the legislative fiscal analyst; and

(iii) the status of the legislative fiscal analyst's access to the secure data warehouse.

(5) Within 1 day after the legislative finance committee presents its budget analysis to the legislature, the budget director and the legislative fiscal analyst shall exchange expenditure and disbursement recommendations by second-level expenditure detail and by funding sources detailed by accounting entity. This information must be filed in the respective offices and be made available to the legislature and the public. In preparing the budget analysis for the next biennium for submission to the legislature, the legislative fiscal analyst shall use the base budget, the present law base, and new proposals as defined in 17-7-102.

(6) This section does not authorize publication or public disclosure of information if the law prohibits publication or disclosure or if the department of revenue notifies the fiscal analyst that specified records or information may contain confidential information."

Section 27. Section 5-13-305, MCA, is amended to read:

"5-13-305. Employees, consultants, and legal counsel – background checks – cure for impairment. (1) The legislative auditor may appoint and define the duties of employees and consultants who are necessary to carry out the provisions of this chapter within the limitations of legislative appropriations. The legislative auditor shall set the pay for employees in accordance with the rules for classification and pay adopted by the legislative council. The legislative auditor may employ legal counsel to conduct proceedings under this chapter.

(2) (a) The legislative auditor may not employ a prospective employee to conduct or supervise audits without conducting or having conducted a background check on the prospective employee. The background check must include a state and federal fingerprint-based check by the Montana department of justice and the federal bureau of investigation. When reporting the results of the background check, the Montana department of justice shall specifically report any previous conviction of the prospective employee for embezzlement or other financial crimes. The purpose of the background and fingerprint checks is to determine whether the prospective employee is an appropriate person to audit the records of one or more state agencies or programs.

(b) A copy of the results of the background check must be delivered to the legislative auditor. If the legislative auditor determines, based upon the results of the background and fingerprint checks, that a prospective employee is not an appropriate person to audit one or more state agencies or programs, the legislative auditor may not employ the prospective employee.

(3) The legislative auditor shall inform the legislative council and the legislative audit committee in writing of an administrative policy or rule adopted under 5-11-105 that may impair the independence of the division, along with a statement of the reasons for the opinion and suggested changes to cure the impairment. The legislative council shall review the rule in question and adopt a revision that is generally applicable to the legislative branch and that is designed to cure the impairment. While the impairment exists, the legislative audit committee may adopt a specific exemption to the questioned rule that states the alternative rule to be employed under the exemption. *If prepared, a compilation of written reports must be provided to the legislature in accordance with 5-11-210."*

Section 28. Section 5-13-311, MCA, is amended to read:

"5-13-311. Legislative auditor to establish and maintain toll-free number for reporting fraud, waste, and abuse – procedures. (1) The legislative auditor shall establish and maintain a toll-free telephone number

for use by Montana residents for the reporting of to report fraud, waste, and abuse in state government. The legislative auditor shall review all telephone calls received at the toll-free number and shall maintain a record of each call. The legislative auditor shall:

(a) analyze and verify the information received from each telephone call; or

(b) refer the information for appropriate action to the agency that is or appears to be the subject of the call.

(2) A state agency that receives information referred to it by the legislative auditor pursuant to this section shall take adequate and appropriate action to investigate and remedy any fraud, waste, or abuse discovered as a result of the referral. The agency shall report in writing to the legislative auditor concerning the results of its investigation and those measures taken to correct any fraud, waste, or abuse discovered as a result of the referral.

(3) Information received at the toll-free number is confidential until the time that the legislative auditor or other appropriate agency determines the validity of the information and takes corrective action. After the legislative auditor or other appropriate agency takes action to verify the fraud, waste, or abuse complained of and takes any corrective action, information concerning the subject of the complaint and the remedy, if any, is public information unless precluded by law.

(4) The legislative auditor shall, as directed by the legislative audit committee, periodically report to the committee on:

(a) the use of the toll-free number;

(b) the results of the reviews, verifications, and referrals; and

(c) any corrective actions taken by the appropriate agencies.

(5) Information received at the toll-free number concerning a governmental entity other than state government may be referred by the legislative auditor to an appropriate federal, state, or local government agency.

(6) (a) If the legislative auditor determines that as a result of a review and verification or referral pursuant to this section, a waste of state resources has occurred, the legislative auditor shall report the matter in writing to the legislative fiscal analyst.

(b) *Upon completion of the investigation, the legislative auditor shall provide a copy of the report to the legislature in accordance with 5-11-210. Confidential or personal information must be redacted.*

(7) The legislative auditor shall advertise the existence and purpose of the toll-free number in an appropriate manner."

Section 29. Section 5-20-301, MCA, is amended to read:

"5-20-301. School funding interim commission. (1) There is a school funding interim commission that must be formed during the 2015-2016 interim and each successive fifth interim pursuant to 20-9-309. The commission shall:

(a) conduct a study to reassess the educational needs and costs related to the basic system of free quality public elementary and secondary schools; and

(b) if necessary, recommend to the following legislature changes to the state's funding formula.

(2) In conducting the study, the commission may:

(a) review the work of previous studies and commissions;

(b) consider recommendations and topics provided by other interim or standing legislative committees, the board of public education, the office of public instruction, the governor's office, private organizations, professional educators, school trustees, and members of the public;

(c) review how the state's education funding policy has evolved as a result of litigation;

(d) seek input from representatives from the board of public education, the office of public instruction, the governor's office, private organizations, professional educators, school trustees, and members of the public;

(e) consider the state's existing and projected financial resources as well as the needs and concerns of Montana taxpayers;

(f) authorize research and studies to be conducted by reputable and reliable experts in the public or private sectors; and

(g) request research and analysis from the legislative fiscal division, the office of public instruction, the department of revenue, and any other state agency or entity that maintains information or data relevant to the study.

(3) The members of the commission are:

(a) six members of the house of representatives, three from the majority party and three from the minority party, appointed by the speaker of the house in consultation with the house majority leader and the house minority leader;

(b) six members of the senate, three from the majority party and three from the minority party, appointed by the president of the senate in consultation with the senate majority leader and the senate minority leader; and

(c) four members of the public to be appointed as follows:

(i) two public members appointed by the speaker of the house with the consent of the house minority leader; and

(ii) two public members appointed by the president of the senate with the consent of the senate minority leader.

(4) The commission shall select its presiding officer at the first meeting of the commission.

(5) The commission is attached for administrative purposes to the legislative services division, and the legislative services division shall provide sufficient and appropriate support to the commission in order that it may carry out its statutory duties, within the limitations of legislative appropriations.

(6) The commission is staffed by the legislative services division. The legislative fiscal analyst shall assign staff to assist the commission.

(7) The commission shall issue a report *to the legislature in accordance with 5-11-210* on the commission's findings and recommendations, including any draft legislation for amending the state school funding formula, ~~by no later than September 15 preceding the next regular legislative session.~~

(8) Unless the person is a full-time salaried officer or employee of the state or a political subdivision of the state, a nonlegislative member appointed to the commission is entitled to salary and expenses to the same extent as a legislative member. If the appointee is a full-time salaried officer or employee of the state or of a political subdivision of the state, the appointee is entitled to reimbursement for travel expenses as provided for in 2-18-501 through 2-18-503."

Section 30. Section 10-2-102, MCA, is amended to read:

"10-2-102. Duties of board – employee qualifications. (1) The board shall establish a statewide service for veterans and their families as provided in this section. The board shall:

(a) actively cooperate with local, state, and federal agencies whose services encompass the affairs of veterans and their families;

(b) promote the general welfare of all veterans and their families;

(c) assist veterans and their families who are residents of this state in filing claims for the benefits to which they are entitled. In carrying out this duty, the board and its accredited employees shall, upon the request of an eligible claimant, act as agents for the claimant in developing and presenting claims for benefits provided under Title 38 of the United States Code. The board shall seek to secure speedy and just action for each claimant. A board

employee officially acting as an agent on behalf of a claimant must be properly accredited and recognized pursuant to 38 CFR 14.628 and 14.629.

(d) officially advocate for the fair treatment of Montana's veterans and their families by the U.S. department of veterans affairs with respect to claims processing, health care services, and other veteran-related programs and inform veterans and their family members of all available grievance procedures;

(e) develop and implement an information and communication program to keep veterans and their family members informed about available federal, state, and community-based services and benefits. The program may include but is not limited to:

(i) development and distribution of a services and benefits directory;

(ii) regular public service announcements through various media;

(iii) information to assist veterans and their family members in obtaining federal benefits and treatment services related to depleted uranium exposure, including a best practice health screening of any veteran who:

(A) has been identified pursuant to department of defense policy as having possible level I, II, or III exposure to depleted uranium;

(B) is referred for a health screening by a military physician; or

(C) may have been exposed to depleted uranium during service in a combat zone.

(iv) an internet website with information and links relevant to veterans and their families and including information about board meetings and activities related to veterans' affairs; and

(v) a quarterly newsletter, which may be printed or electronically distributed by e-mail or by posting it to an appropriate website.

(f) seek grants to help fund veterans' programs established pursuant to this section;

(g) develop a memorandum of understanding with the federal veterans' employment and training service and with other appropriate entities to facilitate interagency cooperation, such as resource sharing, cross-training, data and information sharing, and service delivery coordination;

(h) establish management tools, including but not limited to needs assessments, policy statements, program goals and objectives, performance measures, and program evaluation criteria;

(i) prepare a biennial report to the governor, the department of military affairs, ~~the appropriate legislative interim committee~~ *the state administration and veterans' affairs interim committee in accordance with 5-11-210*, and veterans' service organizations. The report must include but is not limited to Montana veteran demographic information, the financial impact of division benefit claim services received by Montana veterans, and a summary of the general and special revenue budgets and expenditures for veterans' affairs.

(j) request legislation responsive to identified needs.

(2) Employees of the board must be residents of this state. Whenever possible, all employees of the board must have served in the military forces of the United States during World War I, World War II, the Korean war, the Vietnam conflict, or other period of conflict involving the United States military overseas and must have been honorably discharged. Preference for employment must be given to disabled veterans.

(3) The board shall hire an administrator to implement board policy and carry out the duties of the board."

Section 31. Section 10-3-802, MCA, is amended to read:

"10-3-802. (Temporary) Grants – civil air patrol – reporting requirements. (1) The department of military affairs shall distribute grants

to the Montana civil air patrol on an annual basis to provide training to civil air patrol members.

(2) The amount of \$45,000 is statutorily appropriated on an annual basis, as provided in 17-7-502, from the general fund to the department of military affairs for the purposes outlined in subsection (1).

(3) The department of military affairs shall report to the house appropriations committee at each legislative session and to the state administration and veterans' affairs interim committee ~~during each interim in accordance with 5-11-210~~ on the distribution of grants and the following metrics:

(a) the extent to which counties are informed of the services provided by the civil air patrol;

(b) the extent to which the civil air patrol is used by counties for search and rescue operations; and

(c) the amount of savings realized by counties who have used the civil air patrol for search and rescue operations. (Terminates June 30, 2023--sec. 5. Ch. 477, L. 2019.)"

Section 32. Section 13-22-108, MCA, is amended to read:

"13-22-108. Reports. (1) ~~Each biennium, the~~ *The* secretary of state shall provide, upon request, a report to the ~~legislature state administration and veterans' affairs interim committee in accordance with 5-11-210~~ outlining the program's effectiveness in achieving its objectives.

(2) Participating schools and agencies shall provide to the secretary of state information regarding the youth voting program for the secretary of state's report ~~to the legislature.~~"

Section 33. Section 13-37-120, MCA, is amended to read:

"13-37-120. Reports. The commissioner ~~may shall provide a biennial report to the state administration and veterans' affairs interim committee in accordance with 5-11-210 as necessary on the matters within the commissioner's jurisdiction that the legislature may prescribe and shall also make~~ *may provide* recommendations for further legislation ~~that may appear desirable.~~"

Section 34. Section 15-30-2303, MCA, is amended to read:

"15-30-2303. Tax credits subject to review by interim committee. (1) The following tax credits must be reviewed during the biennium commencing July 1, 2019:

(a) the credit for income taxes imposed by foreign states or countries provided for in 15-30-2302;

(b) the credit for contractor's gross receipts provided for in 15-50-207;

(c) the credit for new or expanded manufacturing provided for in 15-31-124 through 15-31-127;

(d) the credit for installing an alternative energy system provided for in 15-32-201 through 15-32-203;

(e) the credit for energy-conserving expenditures provided for in 15-30-2319 and 15-32-109; and

(f) the credit for elderly homeowners and renters provided for in 15-30-2337 through 15-30-2341.

(2) The following tax credits must be reviewed during the biennium commencing July 1, 2021:

(a) the credit for commercial or net metering system investment provided for in Title 15, chapter 32, part 4;

(b) the credit for qualified elderly care expenses provided for in 15-30-2366;

(c) the credit for dependent care assistance and referral services provided for in 15-30-2373 and 15-31-131;

(d) the credit for contributions to a university or college foundation or endowment provided for in 15-30-2326, 15-31-135, and 15-31-136;

(e) the credit for donations to an educational improvement account provided for in 15-30-2334, 15-30-3110, and 15-31-158; and

(f) the credit for donations to a student scholarship organization provided for in 15-30-2335, 15-30-3111, and 15-31-159.

(3) The following tax credits must be reviewed during the biennium commencing July 1, 2023:

(a) the credit for providing disability insurance for employees provided for in 15-30-2367 and 15-31-132;

(b) the credit for installation of a geothermal system provided for in 15-32-115;

(c) the credit for property to recycle or manufacture using recycled material provided for in Title 15, chapter 32, part 6;

(d) the credit for converting a motor vehicle to alternative fuel provided for in 15-30-2320 and 15-31-137;

(e) the credit for infrastructure use fees provided for in 17-6-316; and

(f) the credit for contributions to a qualified endowment provided for in 15-30-2327 through 15-30-2329, 15-31-161, and 15-31-162.

(4) The following tax credits must be reviewed during the biennium commencing July 1, 2025:

(a) the credit for preservation of historic buildings provided for in 15-30-2342 and 15-31-151;

(b) the credit for mineral or coal exploration provided for in Title 15, chapter 32, part 5;

(c) the credit for capital gains provided for in 15-30-2301;

(d) the credit for a new employee in an empowerment zone provided for in 15-30-2356 and 15-31-134;

(e) the credit for an oilseed crush facility provided for in 15-32-701; and

(f) the credit for unlocking state lands provided for in 15-30-2380.

(5) The following tax credits must be reviewed during the biennium commencing July 1, 2027:

(a) the biodiesel or biolubricant production facility credit provided for in 15-32-702;

(b) the biodiesel blending and storage credit provided for in 15-32-703;

(c) the adoption tax credit provided for in 15-30-2364;

(d) the credit for providing temporary emergency lodging provided for in 15-30-2381 and 15-31-171;

(e) the credit for hiring a registered apprentice or veteran apprentice provided for in 15-30-2357 and 15-31-173;

(f) the earned income tax credit provided for in 15-30-2318; and

(g) the media production and postproduction credits provided for in 15-31-1007 and 15-31-1009.

(6) The revenue interim committee shall review the tax credits scheduled for review in the biennium of the next regular legislative session, including any individual or corporate income tax credits with an expiration or termination date that are not listed in this section, and make recommendations *in accordance with 5-11-210 at the conclusion of the full review* to the legislature about whether to eliminate or revise the credits. The legislature may extend the review dates by amending this section. The revenue interim committee shall review the credits using the following criteria:

(a) whether the credit changes taxpayer decisions, including whether the credit rewards decisions that may have been made regardless of the existence of the tax credit;

(b) to what extent the credit benefits some taxpayers at the expense of other taxpayers;

(c) whether the credit has out-of-state beneficiaries;

(d) the timing of costs and benefits of the credit and how long the credit is effective;

(e) any adverse impacts of the credit or its elimination and whether the benefits of continuance or elimination outweigh adverse impacts; and

(f) the extent to which benefits of the credit affect the larger economy.”

Section 35. Section 15-32-703, MCA, is amended to read:

“15-32-703. Biodiesel blending and storage tax credit – recapture – report to interim committee. (1) An individual, corporation, partnership, or small business corporation, as defined in 15-30-3301, may receive a credit against taxes imposed by Title 15, chapter 30 or 31, for the costs of investments in depreciable property used for storing or blending biodiesel with petroleum diesel for sale.

(2) Subject to subsection (4), a special fuel distributor or an owner or operator of a motor fuel outlet qualifying for a credit under this section is entitled to claim a credit, as provided in subsection (3), for the costs described in subsection (1) incurred in the 2 tax years before the taxpayer begins blending biodiesel fuel for sale or in any tax year in which the taxpayer is blending biodiesel fuel for sale.

(3) (a) The total amount of the credits for all years that may be claimed by a distributor under this section is 15% of the costs described in subsection (1), up to a total of \$52,500.

(b) The total amount of the credits for all years that may be claimed by an owner or operator of a motor fuel outlet under this section is 15% of the costs described in subsection (1), up to a total of \$7,500.

(4) The following requirements must also be met for a taxpayer to be entitled to a tax credit under this section:

(a) The investment must be for depreciable property used primarily to blend petroleum diesel with biodiesel made entirely from Montana-produced feedstocks.

(b) Sales of biodiesel must be at least 2% of the taxpayer's total diesel sales by the end of the third year following the initial tax year in which the credit is initially claimed.

(c) (i) The taxpayer claiming a credit must be a person who as an owner, including a contract purchaser or lessee, or who pursuant to an agreement owns, leases, or has a beneficial interest in a business that blends biodiesel.

(ii) If more than one person has an interest in a business with qualifying property, they may allocate all or any part of the investment cost among themselves and their successors or assigns.

(d) The business must be owned or leased during the tax year by the taxpayer claiming the credit, except as otherwise provided in subsection (4)(c), and, except for the 2 tax-year period claimed in subsection (2), must have been blending biodiesel during the tax year for which the credit is claimed.

(5) The credit provided by this section is not in lieu of any depreciation or amortization deduction for the investment or other tax incentive to which the taxpayer otherwise may be entitled under Title 15.

(6) A tax credit allowable under this section that is not completely used by the taxpayer in the tax year in which the credit is initially claimed may be carried forward for credit against the taxpayer's tax liability for any succeeding tax year until the total amount of the credit has been deducted from tax liability. However, a credit may not be carried forward to any tax year in which the facility is not blending biodiesel or storing biodiesel for blending

or beyond the 7th *seventh* tax year after the tax year for which the credit was initially claimed. If a facility for which a credit is claimed ceases blending of biodiesel with petroleum diesel for sale for a period of 12 continuous months within 5 years after the initial claiming of a credit under this section or within 5 years after a year in which the credit was carried forward or if the taxpayer claiming the credit fails to satisfy the conditions of subsection (4)(b), the total credit is subject to recapture. The person claiming the credit is liable for the total amount of the credit in the event of recapture.

(7) The taxpayer's adjusted basis for determining gain or loss may not be further decreased by any tax credits allowed under this section.

(8) If the taxpayer is a shareholder of an electing small business corporation, the credit must be computed using the shareholder's pro rata share of the corporation's cost of investing in the biodiesel blending facility. In all other respects, the allowance and effect of the tax credit apply to the corporation as otherwise provided by law.

(9) As used in this section, "biodiesel" has the meaning provided in 15-70-401.

(10) The department shall report to the ~~transportation~~ *revenue* interim committee biennially, in accordance with 5-11-210, regarding the number and type of taxpayers claiming the credit under this section, the total amount of the credit claimed, and the department's cost associated with administering the credit."

Section 36. Section 15-70-450, MCA, is amended to read:

"15-70-450. Cooperative agreement – motor fuels taxes. (1) In order to prevent the possibility of dual taxation of motor fuels purchased by Montana citizens and businesses on Indian reservations, the department and an Indian tribe may enter into a cooperative agreement. The department may, with the concurrence of the attorney general, include as a member of the negotiating team a representative of the department of justice who has expertise in Indian matters.

(2) The department of transportation shall report the status of cooperative agreement negotiations to the transportation interim committee *in accordance with 5-11-210*.

(3) After negotiations are complete and if the legislature is not in session, ~~the an~~ agreement must be presented to the *transportation interim* committee for review and comment before the final agreement is submitted to the attorney general for approval pursuant to 18-11-105."

Section 37. Section 17-1-102, MCA, is amended to read:

"17-1-102. Uniform accounting system and expenditure control.

(1) The department shall establish a system of financial control so that the functioning of the various agencies of the state may be improved, duplications of work by different state agencies and employees may be eliminated, public service may be improved, and the cost of government may be reduced.

(2) The department shall prescribe and install a uniform accounting and reporting system for all state agencies and institutions, reporting the receipt, use, and disposition of all public money and property in accordance with generally accepted accounting principles.

(3) The uniform accounting and reporting system must contain three levels of expenditure. The first level must include general categories, such as personal services, operating expenses, equipment, capital outlay, local assistance, grants, benefits and claims, transfers, and debt service. The second level of expenditure must include specific categories of expenditures within each first-level category. The third level of expenditure must include specific items of expenditure within each category of the second level.

(4) (a) Except as provided in subsection (4)(b), all state agencies, including units of the university system but excluding community colleges, shall input all necessary transactions to the accounting system prescribed in subsection (2) before the accounts are closed at the end of the fiscal year in order to present the receipt, use, and disposition of all money and property for which the agency is accountable in accordance with generally accepted accounting principles, except that for budgetary control purposes, encumbrances that are required by generally accepted accounting principles to be reported as a reservation of fund balance must be recorded as expenditures and liabilities on the accounting records in accordance with the following requirements:

(i) Goods and services, grants, and local assistance that are paid for with the general fund, in whole or in part, may be encumbered. The general fund encumbrances must be reviewed by the department, and a specific extension plan must be presented by the encumbering agency to the department prior to the fiscal yearend. If a valid extension plan is not received and approved, the department shall delete the encumbrance at fiscal yearend. The department shall present a fiscal yearend report to the office of budget and program planning and to the legislative fiscal analyst on each general fund encumbrance remaining at fiscal yearend. The report must be provided in an electronic format. *The department shall provide a copy of the fiscal yearend report to the legislature in accordance with 5-11-210.*

(ii) Nongeneral fund encumbrances also require a valid extension plan approved by the department at the end of each fiscal year. After 3 years, approved extensions must be included by the department in its fiscal yearend report to the office of budget and program planning and to the legislative finance committee.

(b) The state fund provided for in Title 39, chapter 71, part 23, shall report on a calendar year basis."

Section 38. Section 17-2-107, MCA, is amended to read:

"17-2-107. Accurate accounting records and interentity loans.

(1) The department shall record receipts and disbursements for treasury funds and for accounting entities within treasury funds and shall maintain records in a manner that reflects the total cash and invested balance of each fund and each accounting entity. The department shall adopt the necessary procedures to ensure that interdepartmental or intradepartmental transfers of money or loans do not result in inflation of figures reflecting total governmental costs and revenue.

(2) (a) Except as provided in 77-1-108 and subject to 17-2-105, when the expenditure of an appropriation from a fund designated in 17-2-102(1) through (3) is necessary and the cash balance in the accounting entity from which the appropriation was made is insufficient, the department may authorize a temporary loan, bearing no interest, of unrestricted money from other accounting entities if there is reasonable evidence that the income will be sufficient to repay the loan within 1 calendar year and if the loan is recorded in the state accounting records. An accounting entity receiving a loan or an accounting entity from which a loan is made may not be so impaired that all proper demands on the accounting entity cannot be met even if the loan is extended.

(b) (i) When an expenditure from a fund or subfund designated in 17-2-102(4) is necessary and the cash balance in the fund or subfund from which the expenditure is to be made is insufficient, the commissioner of higher education may authorize a temporary loan, bearing interest as provided in subsection (4) of this section, of money from the agency's other funds or subfunds if there is reasonable evidence that the income will be sufficient to

repay the loan within 1 calendar year and if the loan is recorded in the state accounting records. A fund or subfund receiving a loan or from which a loan is made may not be so impaired that all proper demands on the fund or subfund cannot be met even if the loan is extended.

(ii) One accounting entity within each fund or subfund designated in 17-2-102(4) must be established for the sole purpose of recording loans between the funds or subfunds. This accounting entity is the only accounting entity within each fund or subfund that may receive a loan or from which a loan may be made.

(c) A loan made under subsection (2)(a) or (2)(b) must be repaid within 1 calendar year of the date on which the loan is approved unless it is extended under subsection (3) or by specific legislative authorization.

(3) Under unusual circumstances, the director of the department or the board of regents may grant one extension for up to 1 year for a loan made under subsection (2)(a) or (2)(b). The director or board shall prepare a written justification and proposed repayment plan for each loan extension authorized and shall furnish a copy of the written justification and proposed repayment plan to the house appropriations and senate finance and claims committees at the next legislative session.

(4) Any loan from the current unrestricted subfund to funds designated in 17-2-102(4)(a)(iv) and (4)(b) through (4)(f) must bear interest at a rate equivalent to the previous fiscal year's average rate of return on the board of investments' short-term investment pool.

(5) If for 2 consecutive fiscal yearends a loan or an extension of a loan has been authorized to the same accounting entity as provided in subsection (2) or (3), the department or the commissioner of higher education shall submit to the legislative fiscal analyst by September 1 of the following fiscal year a written report containing an explanation as to why the second loan or extension was made, an analysis of the solvency of the accounting entity or accounting entities within the university fund or subfund, and a plan for repaying the loans. The report must be provided in an electronic format. *The department or the commissioner of higher education shall provide a copy of the report to the legislature in accordance with 5-11-210.*

(6) If for 2 consecutive fiscal yearends an accounting entity in a fund or subfund designated in 17-2-102(4) has a negative cash balance, the commissioner of higher education shall submit to the legislative fiscal analyst by September 1 of the following fiscal year a written report containing an explanation as to why the accounting entity has a negative cash balance, an analysis of the solvency of the accounting entity, and a plan to address any problems concerning the accounting entity's negative cash balance or solvency. The report must be provided in an electronic format. *The commissioner of higher education shall provide a copy of the report to the legislature in accordance with 5-11-210.*

(7) (a) An accounting entity in a fund designated in 17-2-102(1) through (3) may not have a negative cash balance at fiscal yearend. The department may, however, allow a fund type within each agency to carry a negative balance at any point during the fiscal year if the negative cash balance does not exist for more than 7 working days.

(b) (i) Except as provided in subsection (7)(b)(ii) of this section, a unit of the university system shall maintain a positive cash balance in the funds and subfunds designated in 17-2-102(4).

(ii) If a fund or subfund inadvertently has a negative cash balance, the department may allow the fund or subfund to carry the negative cash balance for no more than 7 working days. If the negative cash balance exists for more

than 7 working days, a transaction may not be processed through the statewide accounting, budgeting, and human resource system for that fund or subfund.

(8) Notwithstanding the provisions of subsections (2) through (4), the department may authorize loans to accounting entities in the federal and state special revenue funds with long-term repayment whenever necessary because of the timing of the receipt of agreed-upon reimbursements from federal, private, or other governmental entity sources for disbursements made. If possible, the loans must be made from funds other than the general fund. The department may approve the loans if the requesting agency can demonstrate that the total loan balance does not exceed total receivables from federal, private, or other governmental entity sources and receivables have been billed on a timely basis. The loan must be repaid under terms and conditions that may be determined by the department or by specific legislative authorization.

(9) A loan may not be authorized under this section to any fund or accounting entity that is owed federal or other third-party funds unless the requesting agency certifies to the agency approving the loan that it has and will continue to bill the federal government or other third party for the requesting agency's share of costs incurred in the fund or accounting entity on the earliest date allowable under federal or other third-party regulations applicable to the program. The requesting agency shall recertify its timely billing status to the agency that approved the loan at least monthly during the term of the loan. If at any time the requesting agency fails to recertify the timely billing, the agency that approved the loan shall cancel the loan and return the money to its original source."

Section 39. Section 17-5-1650, MCA, is amended to read:

"17-5-1650. Annual report. (1) By December 31 of each year, the board shall publish a financial report for distribution to the governor, the legislature, and the public. ~~Distribution Except as provided in subsection (2), distribution to the legislature is accomplished by providing two copies to the legislative services division and a copy to a legislator on request.~~

(2) *Subject to [section 1(6)], a report demonstrating the requirements of subsections (1) and (3) must be provided to the legislature in accordance with 5-11-210.*

(3) The report must include:

(a) a statement of the board's current financial position with respect to its activities under this part;;

(b) a summary of its activities pursuant to this part during the previous year (including:

(i) a listing of the eligible governmental securities purchased by the board;;

(ii) a listing of the bonds and notes sold by the board;; and

(iii) a summary of the performance of any other investments of the board's funds received under this part);;

(c) an estimate of the levels of activities for the next year;; and

(d) a comparison of the activities during the previous year with the estimates of those activities that were made in the previous annual report."

Section 40. Section 17-7-140, MCA, is amended to read:

"17-7-140. Reduction in spending. (1) (a) As the chief budget officer of the state, the governor shall ensure that the expenditure of appropriations does not exceed available revenue. Except as provided in subsection (2), in the event of a projected general fund budget deficit, the governor, taking into account the criteria provided in subsection (1)(c), shall direct agencies to reduce spending in an amount that ensures that the projected ending general fund balance for the biennium will be at least:

(i) 4% of the general fund appropriations for the second fiscal year of the biennium prior to October of the year preceding a legislative session;

(ii) 3% of the general fund appropriations for the second fiscal year of the biennium in October of the year preceding a legislative session;

(iii) 2% of the general fund appropriations for the second fiscal year of the biennium in January of the year in which a legislative session is convened; and

(iv) 1% of the general fund appropriations for the second fiscal year of the biennium in March of the year in which a legislative session is convened.

(b) An agency may not be required to reduce general fund spending for any program, as defined in each general appropriations act, by more than 10% during a biennium. Starting January 1, 2021, a governor may not reduce total agency spending in the biennium by more than 4% of the second year appropriations for the agency. Departments or agencies headed by elected officials or the board of regents may not be required to reduce general fund spending by a percentage greater than the percentage of general fund spending reductions required for the weighted average of all other executive branch agencies. The legislature may exempt from a reduction an appropriation item within a program or may direct that the appropriation item may not be reduced by more than 10%.

(c) The governor shall direct agencies to manage their budgets in order to reduce general fund expenditures. Prior to directing agencies to reduce spending as provided in subsection (1)(a), the governor shall direct each agency to analyze the nature of each program that receives a general fund appropriation to determine whether the program is mandatory or permissive and to analyze the impact of the proposed reduction in spending on the purpose of the program. An agency shall submit its analysis to the office of budget and program planning and shall at the same time provide a copy of the analysis to the legislative fiscal analyst. The report must be submitted in an electronic format. The office of budget and program planning shall review each agency's analysis, and the budget director shall submit to the governor a copy of the office of budget and program planning's recommendations for reductions in spending. The budget director shall provide a copy of the recommendations to the legislative fiscal analyst at the time that the recommendations are submitted to the governor and shall provide the legislative fiscal analyst with any proposed changes to the recommendations. The recommendations must be provided in an electronic format. *The recommendations must be provided to the legislature in accordance with 5-11-210.* The legislative finance committee shall meet within 20 days of the date that the proposed changes to the recommendations for reductions in spending are provided to the legislative fiscal analyst. The legislative fiscal analyst shall provide a copy of the legislative fiscal analyst's review of the proposed reductions in spending to the budget director at least 5 days before the meeting of the legislative finance committee. The committee may make recommendations concerning the proposed reductions in spending. The governor shall consider each agency's analysis and the recommendations of the office of budget and program planning and the legislative finance committee in determining the agency's reduction in spending. Reductions in spending must be designed to have the least adverse impact on the provision of services determined to be most integral to the discharge of the agency's statutory responsibilities.

(2) Reductions in spending for the following may not be directed by the governor:

- (a) payment of interest and principal on state debt;
- (b) the legislative branch;
- (c) the judicial branch;

- (d) the school BASE funding program, including special education;
- (e) salaries of elected officials during their terms of office; and
- (f) the Montana school for the deaf and blind.

(3) (a) As used in this section, “projected general fund budget deficit” means an amount, certified by the budget director to the governor, by which the projected ending general fund balance for the biennium is less than:

- (i) 4% of the general fund appropriations for the second fiscal year of the biennium prior to October of the year preceding a legislative session;
 - (ii) 1.875% in October of the year preceding a legislative session;
 - (iii) 1.25% in January of the year in which a legislative session is convened;
- and

- (iv) 0.625% in March of the year in which a legislative session is convened.

(b) In determining the amount of the projected general fund budget deficit, the budget director shall take into account revenue, established levels of appropriation, anticipated supplemental appropriations for school equalization aid and the cost of the state’s wildland fire suppression activities exceeding the amount statutorily appropriated in 10-3-312, and anticipated reversions.

(4) If the budget director determines that an amount of actual or projected receipts will result in an amount less than the amount projected to be received in the revenue estimate established pursuant to 5-5-227, the budget director shall notify the revenue interim committee *in accordance with 5-11-210* of the estimated amount. Within 20 days of notification, the revenue interim committee shall provide the budget director with any recommendations concerning the amount. The budget director shall consider any recommendations of the revenue interim committee prior to certifying a projected general fund budget deficit to the governor.

(5) If the budget director certifies a projected general fund budget deficit, the governor may authorize transfers to the general fund from certain accounts as set forth in subsections (6), (7), and (8).

(6) Before January 1, 2021, the governor may authorize transfers from the budget stabilization reserve fund prior to making reductions in spending. A transfer under this subsection may not cause the fund balance of the budget stabilization reserve fund to be less than 1% of all general fund appropriations in the second year of the biennium.

(7) The governor may authorize transfers from the budget stabilization reserve fund provided for in 17-7-130. The governor may authorize \$2 of transfers from the fund for each \$1 of reductions in spending.

(8) If the budget director certifies a projected general fund budget deficit, the governor may authorize transfers to the general fund from the fire suppression account established in 76-13-150. The amount of funds available for a transfer from this account is up to the sum of the fund balance of the account, plus expected current year revenue, minus the sum of 1% of the general fund appropriations for the second fiscal year of the biennium, plus estimated expenditures from the account for the fiscal year. The governor may authorize \$1 of transfers from the fire suppression account established in 76-13-150 for each \$1 of reductions in spending.”

Section 41. Section 17-7-202, MCA, is amended to read:

“17-7-202. Preparation of building programs and submission to department of administration – statewide facility inventory and condition assessment. (1) Before July 1 of the year preceding a legislative session, each state agency and institution shall submit to the architecture and engineering division of the department of administration, on forms furnished by the division, a proposed long-range building program for major repair

projects and capital developments, if any, for the agency or institution. Each agency and institution shall furnish any additional information requested by the division relating to the utilization of or need for major repair projects and capital developments.

(2) (a) Except as provided in subsection (3), the division shall compile and maintain a statewide facility inventory and condition assessment that:

(i) for each state-owned building:

(A) identifies its location and total square footage;

(B) identifies the agency or agencies using or occupying the building and how much square footage each agency uses or occupies;

(C) lists the current replacement value of the building in its entirety and each agency's portion of the building;

(D) identifies whether the building is a long-range building program-eligible building;

(ii) for each long-range building program-eligible building:

(A) includes a facility condition assessment of the building and an itemized list of the building's deficiencies; and

(B) compares the building's current building deficiency ratio to its deficiency ratio in the previous biennium.

(b) The division may contract with a private vendor to collect, analyze, and compile the building information required in this subsection (2).

(c) The facility inventory and condition assessment must be updated as determined by the division.

(d) The division may incorporate in the statewide facility inventory and condition assessment any facility condition assessment or similar document compiled by an agency.

(e) The division shall provide the statewide facility inventory and condition assessment, including a calculation of the deferred maintenance backlog and overall building deficiency ratio of the long-range building program-eligible buildings, to the office of budget and program planning and the legislative finance committee by September 1 of the year preceding a legislative session in an electronic format. *The division shall provide a copy of the report to the legislature in accordance with 5-11-210.*

(3) The division is not required to include a state-owned building that has a current replacement value of \$150,000 or less in the facility inventory and condition assessment.

(4) The division shall examine the information furnished by each agency and institution and shall gather whatever additional information is necessary and conduct whatever surveys are necessary in order to provide a factual basis for determining the need for and the feasibility of major repair projects and capital developments. The information compiled by the division shall be submitted to the governor before October 1 of the year preceding a legislative session."

Section 42. Section 17-7-214, MCA, is amended to read:

"17-7-214. (Temporary) High-performance program for operations and maintenance of existing buildings. (1) The department of administration, in collaboration with the Montana university system and other state agencies, shall develop a voluntary high-performance building program for the operation and maintenance of existing buildings. In developing this program, the department of administration shall consider:

(a) integrated design principles to optimize energy performance, enhance indoor environmental quality, and conserve natural resources;

(b) cost-effectiveness, including productivity, deferred maintenance, and operational considerations; and

(c) building functionality, durability, and maintenance.

(2) When economically justified, state agencies may elect to improve the cost-effectiveness of existing buildings by participating in the high-performance program for operations and maintenance of existing buildings established by the department of administration under this section.

(3) ~~Prior to September 1 of each even-numbered year, the~~ *The* department of administration, in collaboration with the Montana university system, shall ~~update~~ *provide a report* to the energy and telecommunications interim committee *in accordance with 5-11-210* on the high-performance building program established in subsection (1). The report must include an overview of the state agencies and educational units participating in the program and an estimate of savings or actual savings in operations and maintenance resulting from participation in the program. (Terminates June 30, 2029--sec. 1, Ch. 408, L. 2019.)”

Section 43. Section 17-8-416, MCA, is amended to read:

~~“17-8-416. Reporting. Beginning February 15, 2014, and by February 15 of each year, the~~ *The* attorney general shall submit to the law and justice interim committee a report *in accordance with 5-11-210* containing the following information:

(1) the number of cases filed under the Montana False Claims Act, Title 17, chapter 8, part 4, that were pending in the state during the previous calendar year;

(2) the number of cases filed under the Montana False Claims Act that were settled during the previous calendar year;

(3) the number of cases filed under the Montana False Claims Act in which judgment was entered during the previous calendar year;

(4) the total proceeds paid to the state and the total proceeds paid to the qui tam plaintiffs in cases filed under the Montana False Claims Act during the previous calendar year; and

(5) the number of qui tam cases pending in other jurisdictions involving the state in the previous calendar year.”

Section 44. Section 19-3-117, MCA, is amended to read:

~~“19-3-117. Board report required. As soon as possible after the completion of each annual actuarial valuation for the public employees’ retirement system, the board shall have its actuary present a detailed actuarial report in accordance with 5-11-210 to the legislative finance committee provided for in 5-12-201 and to the state administration and veterans’ affairs interim committee provided for in 5-5-228. The actuarial report must provide a trend analysis of the system’s progress toward 100% funding. The reporting requirement may be addressed in reports provided in accordance with 19-2-405.”~~

Section 45. Section 19-20-216, MCA, is amended to read:

~~“19-20-216. Board to make special report. As soon as possible after the completion of each annual actuarial valuation for the teachers’ retirement system, the board shall have its actuary present a detailed actuarial report in accordance with 5-11-210 to the legislative finance committee provided for in 5-12-201 and to the state administration and veterans’ affairs interim committee provided for in 5-5-228. The actuarial report must provide a trend analysis of the system’s actual and projected progress toward 100% funding. The reporting requirement may be addressed in reports provided in accordance with 19-20-201.”~~

Section 46. Section 19-20-732, MCA, is amended to read:

“19-20-732. (Temporary) Reemployment of certain retired teachers, specialists, and administrators – procedure – definitions.
(1) Subject to the provisions of this section:

(a) a teacher, specialist, or administrator who has been receiving a retirement allowance for no less than 2 months, except a disability retirement allowance pursuant to part 9 of this chapter, may be employed on a full-time basis by an employer for a maximum of 3 years during the lifetime of the retired member without the loss or interruption of any payments or retirement benefits if:

(i) the retired member completed 27 or more years of creditable service prior to retirement;

(ii) the retired member holds a valid certificate pursuant to the provisions of 20-4-106; and

(iii) each year, prior to employing a retired member, the employer certifies to the office of public instruction and to the retirement board that after having advertised the position for that year the employer has been unable to fill the position because the employer either has received no qualified applications or has not received an acceptance of an offer of employment made to a nonretired teacher, specialist, or administrator. The office of public instruction shall verify that the employer has advertised the position as required under this subsection (1)(a)(iii).

(b) the employer certification required by this section must include the retired member's name and social security number and a copy of the proposed contract of employment for the retired member;

(c) upon receipt of the employer's certification and of the proposed contract of employment, the retirement board shall verify whether the retired member meets the requirements of subsection (1)(a)(i) and shall notify the employer and the retired member of its findings;

(d) a retired member reemployed under this section is ineligible for active membership under 19-20-302 and is ineligible to receive service credit under any retirement system identified in Title 19; and

(e) ~~by September 15 of each even-numbered year,~~ the retirement board shall report to the education interim committee and the state administration and veterans' affairs interim committee, as provided in 5-11-210, regarding the implementation of and results arising from this section.

(2) An employer employing a retired member pursuant to this section shall contribute monthly to the retirement system an amount equal to the sum of the contribution rates required by 19-20-602, 19-20-604, 19-20-605, 19-20-607, 19-20-608, and 19-20-609.

(3) A retired member reemployed pursuant to this section is exempt from the earnings and employment limits provided in 19-20-731.

(4) If reemployed in a position covered by a collective bargaining agreement pursuant to Title 39, chapter 31, the retired member is subject to all the terms and conditions of the agreement and is entitled to all the benefits and protections of the agreement.

(5) The board may adopt rules to implement this section.

(6) As used in this section, the following definitions apply:

(a) "Administrator" means a school principal or district administrator other than a superintendent.

(b) "Employer" means a school district as defined in 20-6-101 and 20-6-701 that employs a retired member and is a second-class or third-class elementary district under 20-6-201 or a second-class or third-class high school district under 20-6-301.

(c) "Year" means all or any part of a school year. (Terminates June 30, 2025--sec. 4, Ch. 307, L. 2019.)

19-20-732. (Effective July 1, 2025) Reemployment of certain retired teachers, specialists, and administrators – procedure – definitions.

(1) Subject to the provisions of this section:

(a) a teacher, specialist, or administrator who has been receiving a retirement allowance for no less than 2 months, except a disability retirement allowance pursuant to part 9 of this chapter, may be employed on a full-time basis by an employer for a maximum of 3 years during the lifetime of the retired member without the loss or interruption of any payments or retirement benefits if:

(i) the retired member completed 30 or more years of creditable service prior to retirement;

(ii) the retired member holds a valid certificate pursuant to the provisions of 20-4-106; and

(iii) each year, prior to employing a retired member, the employer certifies to the office of public instruction and to the retirement board that after having advertised the position for that year the employer has been unable to fill the position because the employer either has received no qualified applications or has not received an acceptance of an offer of employment made to a nonretired teacher, specialist, or administrator;

(b) the employer certification required by this section must include the retired member's name and social security number and a copy of the proposed contract of employment for the retired member;

(c) upon receipt of the employer's certification and of the proposed contract of employment, the retirement board shall verify whether the retired member meets the requirements of subsection (1)(a)(i) and shall notify the employer and the retired member of its findings;

(d) a retired member reemployed under this section is ineligible for active membership under 19-20-302 and is ineligible to receive service credit under any retirement system identified in Title 19; and

(e) the retirement board shall report to the ~~appropriate committee each legislative session~~ *education interim committee and the state administration and veterans' affairs interim committee in accordance with 5-11-210* regarding the implementation of and results arising from this section.

(2) An employer employing a retired member pursuant to this section shall contribute monthly to the retirement system an amount equal to the sum of the contribution rates required by 19-20-602, 19-20-604, 19-20-605, 19-20-607, 19-20-608, and 19-20-609.

(3) A retired member reemployed pursuant to this section is exempt from the earnings and employment limits provided in 19-20-731.

(4) If reemployed in a position covered by a collective bargaining agreement pursuant to Title 39, chapter 31, the retired member is subject to all the terms and conditions of the agreement and is entitled to all the benefits and protections of the agreement.

(5) The board may adopt rules to implement this section.

(6) As used in this section, the following definitions apply:

(a) "Employer" means a school district as defined in 20-6-101 and 20-6-701.

(b) "Year" means all or any part of a school year."

Section 47. Section 20-1-231, MCA, is amended to read:

"20-1-231. Report to legislature. ~~On or before September 15 of even-numbered years, representatives~~ *Representatives* of the Great Falls school district, the Helena school district, and a member of the military, as specified by the adjutant general, shall provide, singly or jointly, a report *in accordance with 5-11-210* to the ~~senate president, the speaker of the house, and the education interim committee~~ regarding the state's participation in

the compact on educational opportunity for military children established in 20-1-230.”

Section 48. Section 20-7-101, MCA, is amended to read:

“20-7-101. Standards of accreditation. (1) Standards of accreditation for all schools must be adopted by the board of public education upon the recommendations of the superintendent of public instruction. The superintendent shall develop recommendations in accordance with subsection (2). The recommendations presented to the board must include an economic impact statement, as described in 2-4-405, prepared in consultation with the negotiated rulemaking committee under subsection (2).

(2) The accreditation standards recommended by the superintendent of public instruction must be developed through the negotiated rulemaking process under Title 2, chapter 5, part 1. The superintendent may form a negotiated rulemaking committee for accreditation standards to consider multiple proposals. The negotiated rulemaking committee may not exist for longer than 2 years. The committee must represent the diverse circumstances of schools of all sizes across the state and must include representatives from the following groups:

- (a) school district trustees;
- (b) school administrators;
- (c) teachers;
- (d) school business officials;
- (e) parents; and
- (f) taxpayers.

(3) Prior to adoption or amendment of any accreditation standard, the board shall submit each proposal, including the economic impact statement required under subsection (1), to the education interim committee for review at least 1 month in advance of a scheduled committee meeting. *Information provided during an interim must be provided to the legislature in accordance with 5-11-210.*

(4) Unless the expenditures by school districts required under the proposal are determined by the education interim committee to be insubstantial expenditures that can be readily absorbed into the budgets of existing district programs, the board may not implement the standard until July 1 following the next regular legislative session and shall request that the same legislature fund implementation of the proposed standard.

(5) Standards for the retention of school records must be as provided in 20-1-212.”

Section 49. Section 20-7-308, MCA, is amended to read:

“20-7-308. State director of K-12 career and vocational/technical education – duties. There is a state director of K-12 career and vocational/technical education appointed by the superintendent of public instruction. The director shall:

(1) administer the K-12 career and vocational/technical education policies adopted by the superintendent of public instruction;

(2) prepare curriculum guides for adoption by the superintendent of public instruction;

(3) employ, with the confirmation of the superintendent of public instruction, professional staff consisting of individuals prepared in agriculture education, business and marketing education, family and consumer sciences education, and industrial technology education;

(4) report the status of K-12 career and vocational/technical education in the state of Montana when requested by the superintendent of public instruction;

(5) keep all K-12 career and vocational/technical education records in the director's office;

(6) provide K-12 career and vocational/technical education supervisory and consultative assistance to districts;

(7) prepare any necessary reports for the superintendent of public instruction or the legislature *in accordance with 5-11-210*; and

(8) perform any other duty assigned by the superintendent of public instruction."

Section 50. Section 20-7-469, MCA, is amended to read:

"20-7-469. Dyslexia – definition – screening – intervention. (1) This section may be cited as the "Montana Dyslexia Screening and Intervention Act".

(2) For the purposes of this section, "dyslexia" means a specific learning disability that is neurological in origin and characterized by difficulties with accurate or fluent word recognition and by poor spelling and decoding abilities. These difficulties typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction. Secondary consequences may include problems in reading comprehension and reduced reading experience that can impede the growth of vocabulary and background knowledge.

(3) (a) In alignment with the existing requirements of the Individuals With Disabilities Education Act, rules of the board of public education, and rules of the superintendent of public instruction, school districts shall establish procedures to ensure that all resident children with disabilities, including specific learning disabilities resulting from dyslexia, are identified and evaluated for special education and related services as early as possible.

(b) To support the goal of the people of Montana to develop the full educational potential of each person, articulated in Article X, section 1(1), of the Montana constitution, and to ensure early identification and intervention for students with dyslexia, a school district shall utilize a screening instrument aimed at identifying students at risk of not meeting grade-level reading benchmarks. The screening instrument must:

(i) be administered to:

(A) a child in the first year that the child is admitted to a school of the district up to grade 2; and

(B) a child who has not been previously screened by the district and who fails to meet grade-level reading benchmarks in any grade;

(ii) be administered by an individual with an understanding of, and training to identify, signs of dyslexia; and

(iii) be designed to assess developmentally appropriate phonological and phonemic awareness skills.

(c) If a screening under subsection (3)(b) suggests that a child may have dyslexia or a medical professional diagnoses a child with dyslexia, the child's school district shall take steps to identify the specific needs of the child and implement best practice interventions to address those needs. This process may lead to consideration of the child's qualification as a child with a disability under the Individuals With Disabilities Education Act.

(4) The office of public instruction shall:

(a) endeavor to raise statewide awareness of dyslexia, as well as the attendant rights of students and parents and the responsibilities of school districts related to dyslexia; and

(b) provide guidance to school districts related to:

(i) the early identification of students with dyslexia, including best practices for universal, valid, and reliable screening methods and other assessments in support of the requirements of subsection (3)(b) that:

(A) have minimal or no cost to a district; and

(B) are able to be integrated with a district's existing reading programs;

(ii) best practice interventions to support students with dyslexia as early as possible, including interventions for those students with dyslexia evaluated as requiring special education and those students with dyslexia evaluated as not requiring special education; and

(iii) best practices for collaborating with and supporting parents of students with dyslexia.

(5) The legislature urges all entities within the state with authority over, or a role to play in, teacher preparation and professional development to ensure that teachers and other school personnel, especially those in the early grades, are well prepared to identify and serve students with dyslexia.

~~(6) No later than September 15, 2020, the office of public instruction and the board of public education shall report to the education interim committee on progress made in addressing dyslexia pursuant to this act."~~

Section 51. Section 20-7-904, MCA, is amended to read:

"20-7-904. Review and recommendations of proposals -- reporting.

(1) The policies of the board of public education must ensure that program proposals submitted by school districts to the superintendent of public instruction contain:

(a) evidence that identification procedures are comprehensive and appropriate;

(b) a program description including stated needs and measurable objectives designed to meet those needs;

(c) evidence that the activities are appropriate and will serve to achieve the program objectives; and

(d) a method to evaluate the effectiveness of the program.

(2) School districts may request assistance from the staff of the superintendent in formulating program proposals.

(3) The superintendent of public instruction shall supervise and coordinate the programs for gifted and talented children by:

(a) recommending to the board of public education the adoption of those policies necessary to establish a planned and coordinated program; and

(b) establishing a procedure for review and approval of program proposals.

~~(4) On or before September 15 of even-numbered years, the~~ *The* office of public instruction shall report to the governor and the legislature *in accordance with 5-11-210* on the status and effectiveness of programs serving gifted and talented students. The report must include:

(a) the total number of schools applying for and receiving funds from the office of public instruction for gifted and talented programs pursuant to 20-7-903 and a breakdown by school size;

(b) a description of the ways in which districts applying for funds report meeting the requirements to include a child's parents in the gifted and talented evaluation process, pursuant to 20-7-902;

(c) the total number of students districts report evaluating for gifted and talented programs and the total number of students identified as gifted and talented;

(d) a description of the training provided by districts to teachers of gifted and talented students;

(e) a description of services provided by districts to gifted and talented students; and

(f) an evaluation of the effectiveness of gifted and talented programs, including measures such as:

- (i) measures of student achievement or growth;
- (ii) indicators of student and parent satisfaction with the programs; or
- (iii) other gauges of program quality as determined by the office of public instruction.”

Section 52. Section 20-7-1602, MCA, is amended to read:

“20-7-1602. (Temporary) Incentives for creation of transformational learning programs. (1) (a) A school district as defined in 20-6-101 that satisfies the conditions of subsection (2) and is qualified by the board of public education pursuant to subsection (3) is eligible for a 4-consecutive-year provision of the transitional funding and flexibilities in subsections (4) and (5).

(b) A school district may be qualified by the board of public education for no more than one 4-consecutive-year provision of transitional funding and flexibilities in any 8-year period.

(2) To qualify for the transitional funding and flexibilities in subsections (4) and (5), the board of trustees of a district shall submit an application that has been approved by motion of the board of trustees and signed by the presiding officer to the board of public education for approval of a transformational learning program on a form provided by the superintendent of public instruction. The school board’s application must:

(a) identify the number of full-time equivalent educators meeting the criteria of 20-9-327(3) who will participate in the district’s transformational learning program, with full-time equivalence calculated and reported by the district based on the planned portion of each qualifying educator’s full-time equivalent assignment that is dedicated to the district’s transformational learning program;

(b) include the district’s definition of proficiency within the meaning of that term as used in 20-9-311(4)(d). The definition must not require seat time as a condition or other element of determining proficiency. The definition must be incorporated in the district’s policies and must be used for purposes of determining content and course mastery and other progress, promotion from grade to grade, grades, and graduation for pupils enrolled in the district’s transformational learning program.

(c) include a strategic plan with appropriate planning horizons for implementation, measurable objectives to ensure accountability, and planned strategies to:

(i) develop a transformational learning plan for each participating pupil that honors individual interests, passions, strengths, needs, and culture and that is rooted in relationships with teachers, family, peers, and community members;

(ii) embed community-based, experiential, online, and work-based learning opportunities and foster a learning environment that incorporates both face-to-face and virtual connections;

(iii) provide effective professional development to assist employees in transitioning to a transformational learning model; and

(iv) ensure equality of educational opportunity to participate by all pupils of the district.

(3) On an annual basis, the board of public education shall:

(a) establish by rule the opening and closing dates for receipt of applications and annual reports;

(b) qualify districts that submit an application meeting the requirements of subsection (2) for the funding in subsection (4) and the flexibilities in

subsection (5) until the annual appropriation is exhausted, after which further applications, including first-time applications and annual reports requesting an expansion of a previously approved plan, are to be deferred for consideration in a subsequent year, in the order of date received, if and when additional funds become available for distribution;

(c) require each participating school district to submit an annual report demonstrating continued qualification for funding under this section and including a report of progress toward measurable objectives under the school district's transformational learning plan. The school district shall include any decrease or requested increase in the number of participating full-time equivalent educators under subsection (2)(a) for adjustments to its funding. Any increase in funding based on requested increased levels of participation under subsection (2)(a) must be determined in the order of date received among all first-time applications and annual reports requesting an expansion of a previously approved plan and must be contingent on the availability of funds within any appropriation of the legislature. An application deferred for consideration in a subsequent year due to lack of funding must be annually updated each year after more than 1 full fiscal year has passed from the date of original submission of the application in order for the application to retain its priority by original date received.

~~(d) on or before September 15 of even-numbered years, report in accordance with 5-11-210 to the education interim committee on the progress made by districts operating under approved transformational learning plans.~~

(4) (a) Except as provided in subsection (4)(d), for a period of 4 consecutive fiscal years following the fiscal year in which a district is qualified by the board of public education and contingent on continued compliance with annual reporting requirements under subsection (3), the superintendent of public instruction shall provide a transformational learning aid payment to the district equivalent to 50% of the quality educator payment defined in 20-9-306 from the immediate prior fiscal year multiplied by the number of the district's full-time equivalent educators reported under subsection (2)(a) of this section.

(b) The payment under this subsection (4) must be distributed directly to the school district's flexibility fund established under 20-9-543 no later than June 30 of fiscal year 2020 and by October 1 of each year beginning fiscal year 2021 by the superintendent of public instruction. The money must be expended by the district only for the purposes set forth in the district's approved transformational learning program.

(c) For fiscal years 2020 and 2021, a school district may not receive more than 25% of the total amount of payments made under this subsection.

(d) Applications qualified by the board of public education in fiscal year 2020 must be funded beginning in fiscal year 2020.

(5) During each year that a school district remains qualified for funding under subsection (4), the district's trustees may:

(a) if the obligations of transparency set forth in 20-9-116 are met, levy an annual permissive property tax not to exceed 100% of any funds distributed to the district under subsection (4). Proceeds of the levy must be deposited in the district's flexibility fund established under 20-9-543 and must be expended by the district only for the purposes of the district's approved transformational learning plan.

(b) transfer state or local revenue from any budgeted or nonbudgeted fund, other than the debt service fund or retirement fund, to the district's flexibility fund.

(6) (a) Any funds transferred pursuant to subsection (5)(b) may be expended by the district solely for the purposes of implementing the district's

approved transformational learning plan. Any transfers of funds are not considered expenditures to be applied against budget authority.

(b) Any transfers that are not expended for the purposes of implementing the district's approved transformational learning plan within 2 full school fiscal years after the funds are transferred must be transferred back to the originating fund from which the revenue was transferred.

(c) The intent of subsection (5)(b) and this subsection (6) is to increase the flexibility and efficiency of school districts without an increase in local taxes. In furtherance of this intent, if transfers of funds are made from any school district fund supported by a nonvoted levy, the district may not increase its nonvoted levy for the purpose of restoring the amount of funds transferred.

(7) The present law base calculated for K-12 local assistance under Title 17, chapter 7, part 1, must include transformational learning aid as defined in subsection (8).

(8) For the purposes of this title, the following definitions apply:

(a) "Transformational learning" means a flexible system of pupil-centered learning that is designed to develop the full educational potential of each pupil that:

- (i) is customized to address each pupil's strengths, needs, and interests;
- (ii) includes continued focus on each pupil's proficiency over content; and
- (iii) actively engages each pupil in determining what, how, when, and where each pupil learns.

(b) "Transformational learning aid" means 50% of the quality educator payment defined in 20-9-306 multiplied by:

- (i) for fiscal year 2020, 5% of the statewide number of full-time equivalent educators from fiscal year 2019 calculated as provided in 20-9-327;

- (ii) for fiscal year 2021, 7.5% of the statewide number of full-time equivalent educators from fiscal year 2020 calculated as provided in 20-9-327; and

- (iii) for fiscal year 2022 and subsequent fiscal years, 10% of the statewide number of full-time equivalent educators from the fiscal year immediately preceding the year to which distribution of transformational aid applies calculated as provided in 20-9-327. (Terminates June 30, 2027--sec. 7, Ch. 402, L. 2019.)"

Section 53. Section 20-9-161, MCA, is amended to read:

"20-9-161. Definition of budget amendment for budgeting purposes. As used in this title, unless the context clearly indicates otherwise, the term "budget amendment" for the purpose of school budgeting means an amendment to an adopted budget of the district for the following reasons:

- (1) an increase in the enrollment of an elementary or high school district that is beyond what could reasonably have been anticipated at the time of the adoption of the budget for the current school fiscal year whenever, because of the enrollment increase, the district's budget for any or all of the regularly budgeted funds does not provide sufficient financing to properly maintain and support the district for the entire current school fiscal year;

- (2) the destruction or impairment of any school property necessary to the maintenance of the school, by fire, flood, storm, riot, insurrection, or act of God, to an extent rendering school property unfit for its present school use;

- (3) a judgment for damages against the district issued by a court after the adoption of the budget for the current year;

- (4) an enactment of legislation after the adoption of the budget for the current year that imposes an additional financial obligation on the district;

- (5) the receipt of:

- (a) a settlement of taxes protested in a prior school fiscal year;

(b) taxes from a prior school fiscal year as the result of a tax audit by the department of revenue or its agents;

(c) delinquent taxes from a prior school fiscal year; and

(d) a determination by the trustees that it is necessary to expend all or a portion of the taxes received under subsection (5)(a), (5)(b), or (5)(c) for a project or projects that were deferred from a previous budget of the district; or

(6) any other unforeseen need of the district that cannot be postponed until the next school year without dire consequences affecting:

(a) the safety of the students and district employees; or

(b) the educational functions of the district. Any budget amendment adopted pursuant to this subsection (6)(b) that in combination with other budget amendments within the same school fiscal year exceeds 10% of the district's adopted general fund budget must be reported by the school district to the education interim committee *in accordance with 5-11-210* and the board of public education with an explanation of why the budget amendment is necessary."

Section 54. Section 20-9-328, MCA, is amended to read:

"20-9-328. At-risk student payment. (1) The state shall provide an at-risk student payment to public school districts, as defined in 20-6-101 and 20-6-701, for at-risk students, as defined in 20-1-101 and referred to in 20-9-309.

(2) The at-risk student payment must be distributed to public school districts by the office of public instruction in the same manner that the office of public instruction allocates the funds received under 20 U.S.C. 6332, et seq. The office of public instruction shall prorate payments to districts based upon the available appropriation.

(3) ~~On or before September 15 of even-numbered years, the~~ *The* office of public instruction shall report to the governor and the legislature *in accordance with 5-11-210* on the change in status of standardized test scores, graduation rates, and drop-out rates of at-risk students."

Section 55. Section 20-9-330, MCA, is amended to read:

"20-9-330. American Indian achievement gap payment. (1) The state shall provide an American Indian achievement gap payment to public school districts, as defined in 20-6-101 and 20-6-701, for the purpose of closing the educational achievement gap that exists between American Indian students and non-Indian students.

(2) (a) The American Indian achievement gap payment is calculated as provided in 20-9-306, using the number of American Indian students enrolled in the district based on the count of regularly enrolled students on the first Monday in October of the prior school year as reported to the office of public instruction.

(b) A school district may not require a student to disclose the student's race.

(3) The district shall deposit the payment in the general fund of the district.

(4) ~~On or before September 15 of even-numbered years, the~~ *The* office of public instruction shall report to the governor and the legislature *in accordance with 5-11-210* on the change in status of standardized test scores, graduation rates, and drop-out rates of American Indian students."

Section 56. Section 20-9-537, MCA, is amended to read:

"20-9-537. (Temporary) Montana Indian language preservation program. (1) There is a Montana Indian language preservation program. The program is established to support efforts of Montana tribes to preserve and perpetuate Indian languages in the form of spoken, written, sung, or signed

language and to assist in the preservation and curricular goals of Indian education for all pursuant to Article X, section 1(2), of the Montana constitution and Title 20, chapter 1, part 5.

(2) (a) The state-tribal economic development commission established in 90-1-131 shall administer the program and, in collaboration with the Montana historical society, the state director of Indian affairs, and each tribal government located on the seven Montana reservations and the Little Shell Chippewa tribe, shall create program guidelines.

(b) The program guidelines must address performance and output standards, distribution of funds, accounting of funds, and use of funds.

(c) The performance and output standards must include:

(i) development of audio and visual recordings;

(ii) creation of reference materials, which may be in audio, visual, electronic, or written format;

(iii) creation and publication of curricula, which may include electronic curricula; and

(iv) administration and maintenance of a long-term language preservation strategic plan.

(d) The performance and output standards may include:

(i) language classes;

(ii) language immersion camps;

(iii) storytelling;

(iv) publication of literature; and

(v) language programs, workshops, seminars, camps, and other presentations in formal or informal settings.

(3) Any tangible goods produced under this section must be submitted within 1 year of production to the Montana historical society for the benefit of related language preservation efforts and for preservation and archival purposes.

(4) Tribal governments or their designees receiving program funds may form local program advisory boards. Members of a local program advisory board may include but are not limited to representatives from any of the entities listed in subsection (6).

(5) (a) Each tribal government or designee shall provide reports on expenditures of grant funds, overall program progress, and other criteria required under the guidelines established pursuant to subsection (2)(a) to the state-tribal economic development commission.

(b) The state-tribal economic development commission shall report any findings, comments, or recommendations regarding each local program and the Montana Indian language preservation program to the legislature *and to the state-tribal relations interim committee* as provided in 5-11-210.

(6) Tribal governments and their designees are encouraged to maximize the impact of grant funds by forming partnerships among state and tribal entities and leveraging existing resources for the preservation of Indian languages and the education of all Montanans in a way that honors the cultural integrity of American Indians. Suggested partner entities include but are not limited to:

(a) the governor's office of Indian affairs;

(b) school districts located on reservations;

(c) tribal colleges;

(d) tribal historic preservation offices;

(e) tribal language and cultural programs;

(f) units of the Montana university system;

(g) the Montana historical society;

- (h) the office of public instruction;
- (i) Montana public television organizations;
- (j) school districts not located on reservations; and
- (k) the Montana state library.

(7) State entities that operate film and video studios and equipment shall cooperate with each local tribal preservation program in the production of materials for preservation and archival purposes.

(8) Any cultural and intellectual property rights from program efforts belong to the tribe. Use of the cultural and intellectual property may be negotiated between the tribe and other partnering entities.

(9) A tribe may use payments received pursuant to this section as matching funds for federal or private fund sources to accomplish the purposes of this section. (Terminates June 30, 2023--secs. 1 through 7, Ch. 77, L. 2019.)"

Section 57. Section 20-15-309, MCA, is amended to read:

"20-15-309. Proposed budget. The board of trustees of a community college district shall submit a proposed budget to the board of regents by August 15 immediately preceding each regular legislative session. The proposed budget shall be for the next biennium and in a form approved by the state budget director and the commissioner of higher education and shall be calculated in the same manner as the operating budget described in 20-15-312. The board of regents shall review the proposed budget and all its components and make any changes it determines necessary. By the following September 1, the board of regents shall submit its proposal for funding the community colleges to the budget director, and the legislative fiscal analyst, *and to the legislature in accordance with 5-11-210.*"

Section 58. Section 20-25-305, MCA, is amended to read:

"20-25-305. President – powers and duties. Subject to the supervision of the regents, the president of each of the units of the system:

(1) is responsible for the immediate direction, management, and control of the respective units, including instruction, practical affairs, and scientific investigations;

(2) is the president of the general faculty and of the special faculties of the departments or colleges and the executive head of the unit in all its departments;

(3) has the duties of one of the professorships as long as the interests of the unit require it;

(4) shall perform the duties of corresponding secretary for the unit;

(5) may offer multiyear contracts to athletic coaches;

(6) shall make an annual report to the regents containing any information that they may request; and

(7) shall furnish any special report on request of the regents or the legislature *in accordance with 5-11-210.*"

Section 59. Section 20-26-105, MCA, is amended to read:

"20-26-105. Montana resident student financial aid program – reporting requirements. The commissioner of higher education shall submit an annual report to the education interim committee ~~provided for in 5-5-224 in accordance with 5-11-210~~ regarding the Montana resident student financial aid program. The report must provide information about the previous year and must include the progress and results achieved by:

(1) the incentive-based financial aid program pursuant to 20-26-102(2)(a), including but not limited to the number of Montana STEM scholarships awarded, the amount of scholarship funds awarded, the workforce development needs targeted by the Montana STEM scholarship program, the number and type of

postsecondary credentials earned by Montana STEM scholarship recipients, and any measurable impacts on the Montana workforce;

(2) the merit-based financial aid program pursuant to 20-26-102(2)(b), including but not limited to the recruitment and retention of the highest-achieving Montana resident students, the number of merit-based financial aid recipients, the amount and type of merit-based financial aid awarded, the number and type of postsecondary credentials awarded to merit-based financial aid recipients, and any measurable impacts on the Montana workforce; and

(3) the access-based financial aid program pursuant to 20-26-102(2)(c), including but not limited to the number of access-based financial aid recipients, the amount and type of access-based financial aid awarded, the effect of access-based financial aid on the retention and credential completion by recipients of access-based financial aid, and any measurable impacts on the Montana workforce.”

Section 60. Section 22-3-423, MCA, is amended to read:

“22-3-423. Duties of historic preservation officer. Subject to the supervision of the director of the historical society, the historic preservation officer has the following duties and responsibilities:

(1) follow necessary procedures to qualify the state for money that is now or will be made available under any act of congress of the United States or otherwise for purposes of historic preservation;

(2) conduct an ongoing statewide survey to identify and document heritage properties and paleontological remains;

(3) maintain a state inventory file of heritage properties and paleontological remains and maintain a repository for all inventory work done in the state;

(4) evaluate and formally nominate potential register properties according to the criteria established by the register;

(5) prepare and annually review the state preservation plan, register nominations, and historic preservation grant activity;

(6) maintain, publish, and disseminate information relating to heritage properties and paleontological remains in the state;

(7) cooperate with and assist local, state, and federal government agencies in comprehensive planning that allows for the preservation of heritage properties and paleontological remains;

(8) enter into cooperative agreements with the federal government, local governments, and other governmental entities or private landowners or the owners of objects to ensure preservation and protection of registered properties;

(9) adopt rules outlining procedures by which a state agency that has no approved rules under 22-3-424(1) shall systematically consider heritage properties or paleontological remains on lands owned by the state and avoid, whenever feasible, state actions or state assisted or licensed actions that substantially alter the properties;

(10) respond to requests for consultation under section 106 of the National Historic Preservation Act, as provided for in 22-3-429;

(11) develop procedures and guidelines for the evaluation of heritage property or paleontological remains as provided in 22-3-428;

(12) protect from disclosure to the public any information relating to the location or character of heritage properties when disclosure would create a substantial risk of harm, theft, or destruction to the resources or to the area or place where the resources are located;

(13) report the information gathered pursuant to 22-3-422(6), along with any recommendations by the historic preservation officer or the review board, to an appropriate legislative interim committee established under Title 5, chapter 5, part 2 the education interim committee in accordance with 5-11-210.

The report required in this subsection must also be incorporated into the biennial report required to be submitted to the governor and the legislature under 22-3-107(8).

(14) any other necessary or appropriate activity permitted by law to carry out and enforce the provisions of this part.”

Section 61. Section 22-3-1002, MCA, is amended to read:

“22-3-1002. Montana heritage preservation and development commission. (1) There is a Montana heritage preservation and development commission. The commission is attached to the department of commerce for administrative purposes only, pursuant to 2-15-121. The commission and the department shall negotiate a specific indirect administrative rate annually; ~~with biennial review by a designated, appropriate legislative interim committee. The rate must be reported to the economic affairs interim committee in accordance with 5-11-210.~~

(2) (a) The commission consists of 14 members. The members shall broadly represent the state. Nine members must be appointed by the governor, one member must be appointed by the president of the senate, and one member must be appointed by the speaker of the house.

(b) If the president of the senate and the speaker of the house do not appoint the members for which they are responsible within 6 months of a vacancy having occurred in those positions, the members must be appointed by the governor.

(c) The director of the Montana historical society, the director of the department of fish, wildlife, and parks, and the director of the department of commerce shall serve as members. Of the members appointed by the governor under subsection (2)(a):

(i) one member must have extensive experience in managing facilities that cater to the needs of tourists;

(ii) one member must have experience in community planning;

(iii) one member must have experience in historic preservation;

(iv) two members must have broad experience in business;

(v) one member must be a member of the tourism advisory council established in 2-15-1816;

(vi) one member must be a Montana historian; and

(vii) two members must be from the public at large.

(3) Except for the initial appointments, members appointed by the governor under subsection (2)(a) shall serve 3-year terms. Members appointed by the president of the senate and the speaker of the house or by the governor under subsection (2)(b) shall serve 2-year terms. If a vacancy occurs, the appointing authority shall make an appointment for the unexpired portion of the term.

(4) (a) The commission may employ:

(i) an executive director who has general responsibility for the selection and management of commission staff, developing recommendations for the purchase of property, and overseeing the management of acquired property;

(ii) a curator who is responsible for the display and preservation of the acquired property; and

(iii) other staff that the commission and the executive director determine are necessary to manage and operate commission properties.

(b) The commission shall prescribe the duties and annual salary of the executive director, the curator, and other commission staff.”

Section 62. Section 23-7-202, MCA, is amended to read:

“23-7-202. Powers and duties of commission. The commission shall:

(1) establish and operate a state lottery;

(2) determine policies for the operation of the state lottery, supervise the director and the staff, and meet with the director at least once every 3 months to make and consider recommendations, set policies, determine types and forms of lottery and sports wagering games to be operated by the state lottery, and transact other necessary business;

(3) maximize the net revenue paid to the state general fund and to the Montana STEM scholarship program special revenue account under 23-7-402 and ensure that all policies and rules adopted further revenue maximization;

(4) subject to 23-7-402(1), determine the percentage of the money paid for tickets, chances, wagers, or bets to be paid out as prizes;

(5) determine the price of each ticket, chance, wager, or bet and the number and size of prizes;

(6) provide for the conduct of drawings of winners of lottery games and sports wagering;

(7) carry out, with the director, a continuing study of the state lottery in Montana and other states' lotteries and sports wagering operations to make the state lottery more efficient, profitable, and secure from violations of the law;

(8) study and may enter into agreements with:

(a) other lottery states and countries to offer lottery games; or

(b) an association for the purpose of participating in multistate lottery games or games offered in other states and other countries;

(9) prepare quarterly and annual reports on all aspects of the operation of the state lottery, including but not limited to types of games, gross revenue, prize money paid, operating expenses, net revenue to the state, contracts with gaming suppliers, and recommendations for changes to this part, and deliver a copy of each report to the governor, the department of administration, the legislative auditor, ~~the president of the senate, the speaker of the house of representatives, and each member of the appropriate committee of each house of the legislature as determined by the president of the senate and the speaker of the house~~ and to the legislature in accordance with 5-11-210; and

(10) adopt rules relating to lottery and sports wagering and sales agents' commissions and any other rules necessary to carry out this part, including but not limited to:

(a) acceptance of wagers on a sports event or a series of sports events;

(b) the type of wagering tickets that may be used;

(c) method of issuing tickets;

(d) method of accounting and associated reporting minimums to be used by sales agent;

(e) sales agent licensing requirements and prohibitions;

(f) method of age verification;

(g) player exclusion requirements;

(h) protections for an individual placing a wager;

(i) contribution and participation in responsible gaming and consumer protection activities and programs; and

(j) ensuring game integrity through monitoring and reporting of suspicious betting activity and equipment tampering."

Section 63. Section 23-7-410, MCA, is amended to read:

"23-7-410. Annual audit. The legislative auditor shall conduct or have conducted an annual audit of the state lottery. The costs of the audit must be paid out of the state lottery fund. A copy of the audit report must be delivered to the commission, the director, the governor, the president of the senate, the speaker of the house of representatives, and ~~each member of the appropriate committee of each house of the legislature as determined by the president of~~

~~the senate and the speaker of the house~~ *the legislature in accordance with 5-11-210.*"

Section 64. Section 32-11-306, MCA, is amended to read:

"32-11-306. Information on economic development effect. Each year in which a person is licensed under this chapter, the department shall publish and provide *a report* to the legislature *in accordance with 5-11-210* information on the effect of this chapter on promoting economic development in the state. The information must include aggregate statistics on:

(1) the number and dollar amount of the financing assistance made by licensees to businesses. The amounts must be organized into broad categories based on the types of industry involved. The North American Industry Classification System Manual may be used for the categories.

(2) the number and dollar amount of the financing assistance made by licensees to minority-owned businesses and to businesses owned by women; and

(3) estimates of the number of jobs created or retained."

Section 65. Section 33-1-115, MCA, is amended to read:

"33-1-115. Operation of state fund as authorized insurer – issuance of certificate of authority – exceptions – use of calendar year – risk-based capital – reporting requirements. (1) The state fund provided for in 39-71-2313 is an authorized insurer and, except as provided in this section, is subject to the provisions in Title 33 that are generally applicable to authorized workers' compensation insurers in this state and the provisions of Title 39, chapter 71, part 23.

(2) (a) The commissioner shall issue a certificate of authority to the state fund to write workers' compensation insurance coverages, as provided in 39-71-2316, and except as otherwise provided in this section the requirements of Title 33, chapter 2, part 1, do not apply. The certificate of authority must be continuously renewed by the commissioner.

(b) The state fund shall pay the annual fee under 33-2-708, provide the surplus funds required under 33-2-109 and 33-2-110, and provide to the commissioner the available documentation and information that is provided by other insurers when applying for a certificate of authority under 33-2-115.

(c) The state fund is subject to the reporting requirements under 33-2-705 but is not subject to the tax on net premiums.

(3) (a) The state fund, as the guaranteed market for workers' compensation insurance for employers pursuant to 39-71-2313, is not subject to:

(i) formation requirements of an insurer under Title 33, chapter 3;

(ii) revocation or suspension of its certificate of authority under any provision of Title 33 or any order or any provision that requires forfeiture of the state fund's obligation to insure employers as required in 39-71-2313;

(iii) liquidation or dissolution under Title 33;

(iv) participation in the guaranty association provided for in Title 33, chapter 10;

(v) 33-12-104; or

(vi) any assessment of punitive or exemplary damages.

(b) The state fund is subject to 33-16-1023, except as provided in 39-71-2316(1)(e), (1)(f), and (1)(g).

(4) The state fund shall complete financial reporting and accounting on a calendar year basis.

(5) (a) If the state fund's risk-based capital falls below the company action level RBC as defined in 33-2-1902, the commissioner shall issue a report to the governor, the state fund board of directors, and to the legislature *in accordance with 5-11-210*. If the legislature is not in session, the report must

go to the economic affairs interim committee *in accordance with 5-11-210* and to the legislative auditor. The report must provide a description of the RBC measurement, the regulatory implications of the state fund falling below the RBC criteria, and the state fund's corrective action plan. If the commissioner is reporting on a regulatory action level RBC event, the report must include the state fund's corrective action plan, results of any examination or analysis by the commissioner, and any corrective orders issued by the commissioner.

(b) If the state fund fails to comply with any lawful order of the commissioner, the commissioner may initiate supervision proceedings under Title 33, chapter 2, part 13, against state fund. If the state fund fails to comply with the commissioner's lawful supervision order under this subsection (5)(b), the commissioner may institute rehabilitation proceedings under Title 33, chapter 2, part 13, only if the commissioner is petitioning for rehabilitation based on the grounds provided in 33-2-1321(1) or (2).

(6) The state fund shall annually transfer funds to the commissioner, out of its surplus, for all necessary staffing and related expenses for a full-time attorney licensed to practice law in Montana and a full-time examiner qualified by education, training, experience, and high professional competence to examine the state fund pursuant to Title 33, chapter 1, part 4, and this section. The attorney and examiner must be employees of the commissioner.

(7) For the purposes of this section, the term "guaranteed market" has the definition provided in 39-71-2312."

Section 66. Section 37-1-107, MCA, is amended to read:

"37-1-107. Joint meetings – department duties. (1) The department shall convene a joint meeting once every 2 years of two or more boards that:

(a) have licensees with dual licensure in related professions or occupations;
(b) have licensees licensed by another board in a related profession or with similar scopes of practice, including but not limited to:

- (i) health care boards;
- (ii) mental health care boards;
- (iii) design boards;
- (iv) therapeutic boards; or
- (v) technical boards; or
- (c) have issues of joint concern or related jurisdiction with each other.

(2) A quorum is not required for the joint meeting. However, one member from each board shall attend.

(3) The department shall report to the ~~interim committee responsible for monitoring boards~~ *economic affairs interim committee in accordance with 5-11-210* with regard to attendance and issues of concern addressed by the boards."

Section 67. Section 37-1-145, MCA, is amended to read:

"37-1-145. Military training or experience to satisfy licensing or certification requirements – rulemaking. (1) Each licensing board or the department on behalf of a program shall ~~by July 1, 2014,~~ adopt rules that provide that certification or licensure requirements established by that board or program may be met by relevant military training, service, or education completed by an individual as a member of the armed forces or reserves of the United States, the national guard of a state, or the military reserves.

(2) (a) An applicant for certification or licensure shall provide to the board or, if applying for licensure by a program, to the department satisfactory evidence, as specified in rule, of receiving military training, service, or education that is equivalent to relevant certification or licensure requirements.

(b) The department and each licensing board shall, upon presentation of satisfactory evidence by an applicant for certification or licensure, accept

education, training, or service completed by an individual as a member of the armed forces or reserves of the United States, the national guard of a state, or the military reserves toward the qualifications to receive the license or certification.

~~(3) The department shall report to the interim committee responsible for monitoring licensing boards by January 1, 2014, on the progress and actions taken under this section by each licensing board or program."~~

Section 68. Section 37-3-203, MCA, is amended to read:

"37-3-203. Powers and duties -- rulemaking authority. (1) The board may:

(a) adopt rules necessary or proper to carry out the requirements in Title 37, chapter 3, parts 1 through 4, and of chapters covering podiatry, acupuncture, physician assistants, nutritionists, and emergency care providers as set forth in Title 37, chapters 6, 13, 20, and 25, and 50-6-203, respectively. Rules adopted for emergency care providers with an endorsement to provide community-integrated health care must address the scope of practice, competency requirements, and educational requirements.

(b) hold hearings and take evidence in matters relating to the exercise and performance of the powers and duties vested in the board;

(c) aid the county attorneys of this state in the enforcement of parts 1 through 4 and 8 of this chapter as well as Title 37, chapters 6, 13, 20, and 25, and Title 50, chapter 6, regarding emergency care providers licensed by the board. The board also may assist the county attorneys of this state in the prosecution of persons, firms, associations, or corporations charged with violations of the provisions listed in this subsection (1)(c).

(d) review certifications of disability and determinations of eligibility for a permit to hunt from a vehicle as provided in 87-2-803(11); and

(e) fund additional staff, hired by the department, to administer the provisions of this chapter, by increasing license fees as necessary.

(2) (a) The board shall establish a medical assistance program to assist and rehabilitate licensees who are subject to the jurisdiction of the board and who are found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental illness or chronic physical illness.

(b) The board shall ensure that a licensee who is required or volunteers to participate in the medical assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to enroll in a qualified medical assistance program within this state and may not require a licensee to enroll in a qualified treatment program outside the state unless the board finds that there is no qualified treatment program in this state.

(3) (a) The board shall report annually on the number and types of complaints it has received involving physician practices in providing written certification, as defined in 50-46-302, for the use of marijuana for a debilitating medical condition provided for in Title 50, chapter 46. The report must contain:

(i) the number of complaints received by the board pursuant to 37-1-308;
(ii) the number of complaints for which a reasonable cause determination was made pursuant to 37-1-307;

(iii) the general nature of the complaints;

(iv) the number of investigations conducted into physician practices in providing written certification; and

(v) the number of physicians disciplined by the board for their practices in providing written certification for the use of marijuana for a debilitating medical condition.

(b) Except as provided in subsection (3)(c), the report may not contain individual identifying information regarding the physicians about whom the board received complaints.

(c) For each physician against whom the board takes disciplinary action related to the physician's practices in providing written certification for the use of marijuana for a debilitating medical condition, the report must include:

- (i) the name of the physician;
- (ii) the general results of the investigation of the physician's practices; and
- (iii) the disciplinary action taken against the physician.

(d) The board shall provide the report to the children, families, health, and human services interim committee ~~by August 1 of each year in accordance with 5-11-210~~ and shall make a copy of the report available on the board's website.

(4) The board may enter into agreements with other states for the purposes of mutual recognition of licensing standards and licensing of physicians and emergency care providers from other states under the terms of a mutual recognition agreement."

Section 69. Section 37-7-1514, MCA, is amended to read:

"37-7-1514. Report to legislature. The board shall provide a report to the ~~appropriate interim committees of the legislature each interim~~ *children, families, health, and human services interim committee and to the economic affairs interim committee in accordance with 5-11-210*, including but not limited to information on:

- (1) the cost of establishing and maintaining the registry;
- (2) any grants, gifts, or donations received to assist in establishing and maintaining the registry;
- (3) how registry information was used; and
- (4) how quickly the board was able to answer requests for information from the registry."

Section 70. Section 39-12-103, MCA, is amended to read:

"39-12-103. (Temporary) Montana HELP Act workforce development -- participation -- report. (1) The department shall provide individuals receiving assistance for health care services pursuant to Title 53, chapter 6, part 13, with the option of participating in an employment or reemployment assessment and in the workforce development program provided for in 39-12-101. The assessment must identify any probable barriers to employment that exist for the member.

(2) The department shall contact each program participant subject to the community engagement requirements of 53-6-1308 and assist the participant with completion of an employment or reemployment assessment. Based on the results of the assessment, the department shall identify services to help the individual address barriers to employment.

(3) (a) The department shall notify the department of public health and human services when a participant has received all services and assistance under subsection (1) that can reasonably be provided to the individual.

(b) The department is not required to provide further services under this section after it has provided the notification provided for in subsection (3)(a).

(c) A participant who is no longer receiving services under this section does not meet the criteria of 53-6-1307(6)(c) for the exemption granted under 53-6-1307(6).

(4) [The department shall report the following information to the] legislative finance committee and the children, families, health, and human services interim committee *in accordance with 5-11-210*:

(a) [the activities undertaken to establish] the employer grant program provided for in 39-12-106;

(b) the number of employers receiving grant awards and the number and types of activities, training, or jobs the employers provided; and

(c) the total cost of providing workforce development services under this chapter, including related administrative costs.

(5) To the extent possible, the department of public health and human services shall offset the cost of workforce development activities provided under this section by using temporary assistance for needy families reserve funds.

(6) The department shall reduce fraud, waste, and abuse in determining and reviewing eligibility for unemployment insurance benefits by enhancing technology system support to provide knowledge-based authentication for verifying the identity and employment status of individuals seeking benefits, including the use of public records to confirm identity and to flag changes in demographics. (Terminates June 30, 2025--secs. 38, 48, Ch. 415, L. 2019.)"

Section 71. Section 39-71-2375, MCA, is amended to read:

"39-71-2375. Operation of state fund as authorized insurer – issuance of certificate of authority – exceptions – use of calendar year – risk-based capital – reporting requirements. (1) The state fund provided for in 39-71-2313 is an authorized insurer and, except as provided in this section, is subject to the provisions in Title 33 that are generally applicable to authorized workers' compensation insurers in this state and the provisions of Title 39, chapter 71, part 23.

(2) (a) The commissioner shall issue a certificate of authority to the state fund to write workers' compensation insurance coverages, as provided in 39-71-2316, and except as otherwise provided in this section the requirements of Title 33, chapter 2, part 1, do not apply. The certificate of authority must be continuously renewed by the commissioner.

(b) The state fund shall pay the annual fee under 33-2-708, provide the surplus funds required under 33-2-109 and 33-2-110, and provide to the commissioner the available documentation and information that is provided by other insurers when applying for a certificate of authority under 33-2-115.

(c) The state fund is subject to the reporting requirements under 33-2-705 but is not subject to the tax on net premiums.

(3) (a) The state fund, as the guaranteed market for workers' compensation insurance for employers pursuant to 39-71-2313, is not subject to:

(i) formation requirements of an insurer under Title 33, chapter 3;

(ii) revocation or suspension of its certificate of authority under any provision of Title 33 or any order or any provision that requires forfeiture of the state fund's obligation to insure employers as required in 39-71-2313;

(iii) liquidation or dissolution under Title 33;

(iv) participation in the guaranty association provided for in Title 33, chapter 10;

(v) 33-12-104; or

(vi) any assessment of punitive or exemplary damages.

(b) The state fund is subject to 33-16-1023, except as provided in 39-71-2316(1)(e), (1)(f), and (1)(g).

(4) The state fund shall complete financial reporting and accounting on a calendar year basis.

(5) (a) If the state fund's risk-based capital falls below the company action level RBC as defined in 33-2-1902, the commissioner shall issue a report to the governor, the state fund board of directors, and to the legislature. If the legislature is not in session, the report must go to the economic affairs interim

committee *in accordance with 5-11-210* and to the legislative auditor. The report must provide a description of the RBC measurement, the regulatory implications of the state fund falling below the RBC criteria, and the state fund's corrective action plan. If the commissioner is reporting on a regulatory action level RBC event, the report must include the state fund's corrective action plan, results of any examination or analysis by the commissioner, and any corrective orders issued by the commissioner.

(b) If the state fund fails to comply with any lawful order of the commissioner, the commissioner may initiate supervision proceedings under Title 33, chapter 2, part 13, against state fund. If the state fund fails to comply with the commissioner's lawful supervision order under this subsection (5)(b), the commissioner may institute rehabilitation proceedings under Title 33, chapter 2, part 13, only if the commissioner is petitioning for rehabilitation based on the grounds provided in 33-2-1321(1) or (2).

(6) The state fund shall annually transfer funds to the commissioner, out of its surplus, for all necessary staffing and related expenses for a full-time attorney licensed to practice law in Montana and a full-time examiner qualified by education, training, experience, and high professional competence to examine the state fund pursuant to Title 33, chapter 1, part 4, and this section. The attorney and examiner must be employees of the commissioner.

(7) For the purposes of this section, the term "guaranteed market" has the definition provided in 39-71-2312."

Section 72. Section 41-3-123, MCA, is amended to read:

"41-3-123. (Temporary) Child abuse and neglect review commission – duties – confidentiality – liability – report to legislature. (1) Within existing resources, the child abuse and neglect review commission established in 2-15-2019 shall:

(a) examine the trends and patterns of child abuse and neglect, including fatalities and near fatalities attributable to child abuse and neglect;

(b) educate the public, service providers, and policymakers about child abuse and neglect, including fatalities and near fatalities attributable to child abuse and neglect, and about strategies for intervention in and prevention of child abuse and neglect;

(c) coordinate with the child fatality review team and the domestic fatality review commission as appropriate;

(d) study the laws, practices, policies, successes, and failures of surrounding states in the area of combating child abuse and neglect and consider whether any should be adopted in Montana; and

(e) recommend policies, practices, and services that may encourage collaboration and reduce fatalities and near fatalities attributable to child abuse and neglect.

(2) The commission members may determine the frequency with which the commission will meet, but the commission shall meet at least once a year.

(3) The commission shall select and review a representative sample of child abuse and neglect cases that resulted in a fatality or near fatality.

(4) Upon written request from the commission, a person who possesses records necessary and relevant to a review being conducted under this section shall, as soon as practicable, provide the commission with the records.

(5) The meetings and proceedings of the commission are confidential and are exempt from the provisions of Title 2, chapter 3.

(6) (a) The records of the commission are confidential and are exempt from the provisions of Title 2, chapter 6. The records are not subject to subpoena, discovery, or introduction into evidence in a civil or criminal action unless the

records are reviewed by a district court judge in camera and ordered to be provided to the person seeking access.

(b) The commission shall disclose conclusions and recommendations on request but may not disclose records that are otherwise confidential.

(c) The commission may not use the records for purposes other than those allowed under subsections (1)(a) and (1)(c).

(7) The commission may:

(a) require a person appearing before it to sign a confidentiality agreement created by the commission in order to maintain the confidentiality of the proceedings; and

(b) enter into agreements with nonprofit organizations and private agencies to obtain otherwise confidential records.

(8) A member of the commission who knowingly uses records obtained pursuant to subsection (4) for a purpose not authorized in subsection (1) or who discloses records in violation of subsection (6) is subject to a civil penalty of not more than \$500.

(9) (a) *The In accordance with 5-11-210, the commission shall report its findings and recommendations in writing to the children, families, health, and human services interim committee, the law and justice interim committee, the governor, and the chief justice of the Montana supreme court prior to each regular legislative session. The report shall contain the following information:*

(i) the cause and circumstances of each fatality and near fatality attributable to child abuse or neglect reviewed by the commission;

(ii) the age and gender of each child involved;

(iii) information describing any previous reports of child abuse or neglect and the results of any investigations into those reports that are pertinent to the child abuse or neglect that led to each fatality or near fatality; and

(iv) the services provided by and actions of the department of public health and human services on behalf of the child that are pertinent to the child abuse or neglect that led to the fatality or near fatality.

(b) The commission periodically may issue other data or information in addition to the report.

(10) The biennial report may exclude information required under subsection (9) for cases in which reporting the information would:

(a) be detrimental to the safety and well-being of the child, parents, or family;

(b) jeopardize a criminal investigation; or

(c) interfere with the protection of individuals who report child abuse or neglect.

(11) For the purposes of this section, “near fatality” means an incident in which a child was certified by a physician to be in a medically serious or critical condition because of an action that constituted child abuse or neglect. (Terminates September 30, 2021--sec. 12, Ch. 235, L. 2017.)”

Section 73. Section 41-3-1211, MCA, is amended to read:

“41-3-1211. Powers and duties. The powers and duties of the ombudsman are:

(1) to respond to requests for assistance regarding administrative acts and to investigate administrative acts;

(2) to investigate circumstances surrounding reports that are provided to the ombudsman pursuant to 41-3-209;

(3) to inspect, copy, or subpoena records as needed to perform the ombudsman’s duties under this part;

(4) to take appropriate steps to ensure that persons are made aware of the purpose, services, and procedures of the ombudsman and how to contact the ombudsman;

(5) to share relevant findings related to an investigation, subject to disclosure restrictions and confidentiality requirements, with individuals or entities legally authorized to receive, inspect, or investigate reports of child abuse or neglect;

(6) to periodically review department procedures and promote best practices and effective programs by working collaboratively with the department to improve procedures, practices, and programs;

(7) to undertake, participate in, and cooperate with persons and the department in activities, including but not limited to conferences, inquiries, panels, meetings, or studies, that serve to improve the manner in which the department functions;

(8) to provide education on the legal rights of children;

(9) to apply for and accept grants, gifts, contributions, and bequests of funds for the purpose of carrying out the ombudsman's responsibilities; and

(10) to report annually to the attorney general and the children, families, health, and human services interim committee *in accordance with 5-11-210*. The report must be public and may contain recommendations from the ombudsman regarding systematic improvements for the department."

Section 74. Section 41-5-2003, MCA, is amended to read:

"41-5-2003. Establishment of program – office of court administrator duties. (1) There is a juvenile delinquency intervention program. Each judicial district shall participate in the program.

(2) The office of court administrator and the judicial district shall monitor the judicial district's annual allocation provided for in 41-5-130 to ensure that the judicial district does not exceed its allocation.

(3) The office of court administrator shall provide technical assistance to each judicial district for the monitoring of its annual allocation.

(4) The office of court administrator shall assist each youth court in developing placement alternatives and community intervention and prevention programs and services.

(5) (a) Each fiscal year, the office of court administrator may select out-of-home placements, programs, and services to be evaluated for their effectiveness in achieving the purposes provided in 41-5-2002. The cost containment review panel shall provide recommendations to the office on out-of-home placements, programs, and services to be evaluated and on the scope of the evaluation. Before conducting any evaluation, the office shall obtain approval from the district court council established in 3-1-1602.

(b) The office shall report the results of any evaluation conducted under subsection (5)(a) to the department, cost containment review panel, district court council, and *biennially to the law and justice interim committee in accordance with 5-11-210*."

Section 75. Section 44-4-1606, MCA, is amended to read:

"44-4-1606. Duties of department. (1) (a) Except as provided in subsection (1)(b), there is a statewide public safety communications system administered by the department.

(b) The department of natural resources and conservation may opt out of the public safety communications system.

(2) The department shall implement, sustain, and plan for the statewide public safety communications system within the limits of budget authority dedicated to the system.

(3) The department shall:

(a) encourage and foster the development of new and innovative technology within the public safety communications system and ways to deliver public safety communications functions;

(b) promote and coordinate the sharing of statewide public safety communications system resources;

(c) establish and execute a long-term, fiscally sustainable strategic plan for the statewide public safety communications system;

(d) establish and communicate policies and standards for the statewide public safety communications system;

(e) staff and cover the costs of the advisory council established in 44-4-1604;

(f) operate and maintain the statewide public safety communications system for the use of state government, political subdivisions, and other participating entities under terms and conditions established by the department, within the limits of budget authority dedicated to the system;

(g) establish rates and other charges for statewide public safety communications system services provided by the department;

(h) ensure collection of any user fees is dedicated to the operation, maintenance, expansion, or any combination of operation, maintenance, or expansion of the statewide public safety communications system. Proposed fees must be deposited in the account established in 44-4-1607 and included in the department's budget.

(i) accept federal funds, gifts, grants, and donations for the purposes of this part;

(j) accept county, tribal, and municipal funds provided for the operation, maintenance, deployment, expansion, or any combination of operation, maintenance, deployment, or expansion of the statewide public safety communications system;

(k) at the department's discretion, accept a transfer of ownership for the existing statewide public safety communications system, subsystems, or other assets or property from a county, tribal, federal, or municipal government;

(l) establish agreements between governmental agencies that currently own, operate, or both own and operate infrastructure on the statewide public safety communications system. Agreements must, if applicable, recognize that current network control points are owned and administered by a county and will remain owned and administered by a county.

(m) pursue funding opportunities that can be leveraged based on user participation;

(n) ~~before September 1 of each year,~~ report to the law and justice interim committee ~~and to the legislature~~ as provided in 5-11-210 on the statewide public safety communications system activities of the department; and

(o) represent the state before public and private entities on matters pertaining to the statewide public safety communications system.

(4) The department may contract with qualified private organizations, foundations, or individuals to carry out the purposes of this part.

(5) The department shall operate and maintain the statewide public safety communications system within the limits of budget authority dedicated to the system.

(6) This part does not provide the department with regulatory authority or responsibility over a commercial business."

Section 76. Section 44-7-302, MCA, is amended to read:

"44-7-302. Restorative justice grants. (1) The purposes of the restorative justice grant programs are to:

(a) promote the use of restorative justice practices throughout the state; and

(b) provide technical assistance to local and state jurisdictions and organizations interested in implementing the principles of restorative justice.

(2) For the purposes of this part, the term “restorative justice” means criminal justice practices that elevate the role of crime victims and community members in the criminal justice process, hold offenders directly accountable to the people and communities they have harmed, restore emotional and material losses, and provide a range of opportunities for victim, offender, and community dialogue, negotiation, and problem solving to bring about a greater sense of justice, repair harm, provide restitution, reduce incarceration and recidivism rates, and increase public safety.

(3) A restorative justice program eligible for grant funding pursuant to this section shall use evidence-based practices, which may include but are not limited to facilitated victim-offender meetings, family group conferencing, sentencing circles, victim impact panels, offender accountability letters, restitution programs, constructive community service, victim awareness education, victim empathy programs, school expulsion alternatives, peer mediation, diversion programs, and community panels.

(4) (a) The board of crime control shall actively seek federal grant money that may be used for the purposes of this section.

(b) The board shall produce a biennial report summarizing the grants provided, how the grant money was spent, and the program data and information reported by grant recipients.

(c) The board shall report **annually** to the law and justice interim committee *in accordance with 5-11-210* regarding the status and performance of the restorative justice grant programs established in this section.”

Section 77. Section 46-23-1028, MCA, is amended to read:

“46-23-1028. Supervision responses grid – report. (1) The department shall revise, maintain, and fully implement the policy known as the Montana incentives and interventions grid. The grid must guide responses to negative and positive behavior by people under supervision by the department, including responses to violations of supervision conditions, in a swift, certain, and proportional manner. The grid must include guidance and procedures to determine when and how to:

(a) request a warrant or arrest without a warrant;
(b) use a 72-hour detention;
(c) initiate an intervention hearing;
(d) seek departmental approval to use up to 90-day interventions; and
(e) exhaust and document appropriate graduated violation responses before initiating the revocation process.

(2) The grid must recommend the least restrictive placement for offenders based on the result of a validated risk and needs assessment. Placement decisions must be documented in the offender’s file and must indicate any other less secure sanction options considered by the probation and parole officer before utilizing a higher level of custody.

(3) The department shall:

(a) provide information and training on the grid for probation and parole officers and supervisors and for members and staff of the board of pardons and parole;

(b) offer information and training on the grid to district court judges, prosecution and defense attorneys, law enforcement personnel, county detention center personnel, contracted service providers, and other interested personnel;

(c) review the grid every 5 years to ensure that it adheres to evidence-based practices and that the use of sanctions and incentives by probation and parole officers is consistent across the state;

(d) ensure that the guidance and procedures established in the grid consider community safety and the needs of the victim and offender;

(e) collect data relating to placement decisions based on the grid; and

(f) aggregate collected data and provide a report to the law and justice interim committee ~~each biennium~~ *in accordance with 5-11-210.*"

Section 78. Section 47-1-125, MCA, is amended to read:

"47-1-125. Reports. (1) (a) The office shall submit a biennial report to the governor, the supreme court, and the legislature, ~~as provided in 5-11-210. Each interim, the director shall also specifically report to the law and justice interim committee established pursuant to 5-5-202 and 5-5-226 in accordance with 5-11-210.~~

(b) The biennial report must cover the preceding biennium and include:

(i) all policies or procedures in effect for the operation and administration of the statewide public defender system;

(ii) all standards of practice established or being considered by the director for the public defender division, the appellate defender division, and the conflict defender division;

(iii) the number of deputy public defenders and the region supervised by each;

(iv) the number of public defenders employed or contracted with in the system, identified by region, if appropriate, and office;

(v) the number of nonattorney staff employed or contracted with in the system, identified by region, if appropriate, and office;

(vi) the number of new cases in which counsel was assigned to represent a party, identified by region, court, and case type;

(vii) the total number of persons represented by the public defender division, the appellate defender division, and the conflict defender division identified by region, if appropriate, court, and case type;

(viii) the annual caseload and workload of each public defender identified by region, if appropriate, court, and case type;

(ix) the training programs conducted by the office and the number of attorney and nonattorney staff who attended each program;

(x) the continuing education courses on criminal defense or criminal procedure attended by each public defender employed or contracted with in the system; and

(xi) detailed expenditure data by court and case type.

(2) The office shall report data for each fiscal year by September 30 of the subsequent fiscal year representing the caseload for the entire statewide public defender system to the governor, *the legislature in accordance with 5-11-210*, and legislative fiscal analyst. The report must include unduplicated count data for all cases for which representation is paid for by the office, the number of new cases opened, the number of cases closed, the number of cases that remain open and active, the number of cases that remain open but are inactive, and the average number of days between case opening and closure for each case type. The report must be provided in an electronic format.

(3) (a) *For the fiscal year beginning July 1, 2011, and every 5 years thereafter, the legislative fiscal analyst shall compare the percentage change in general fund revenue for the previous 5 years to the percentage change in the amounts allocated to local governments under the provisions of 15-1-121, as amended in 2005, and the actual costs for public defender services for the same time period.*

(b) The results of the comparison must be reported to the governor, legislative finance committee, law and justice interim committee, and supreme court the following fiscal year and in accordance with 5-11-210.”

Section 79. Section 50-6-402, MCA, is amended to read:

“50-6-402. Department duties – rules. (1) The department shall plan, coordinate, implement, and administer a statewide trauma care system that involves all health care facilities and emergency medical services within the state. The department shall also develop and adopt a statewide trauma care system plan and a state trauma register.

(2) The department shall adopt rules to:

(a) establish and coordinate the statewide trauma care system, including rules that establish:

(i) various levels of trauma facilities and the standards each facility is required to meet concerning personnel, equipment, resources, data collection, and organizational capabilities;

(ii) procedures for, standards for, and the duration of designation and revocation of designation of a trauma facility, including application procedures, site survey procedures, complaint investigation, and emergency suspension of designation;

(iii) operational procedures and criteria for the regional trauma advisory committees;

(iv) prehospital emergency medical services triage and treatment protocols for trauma patients;

(v) triage and treatment protocols for the transfer of injured persons between health care facilities;

(vi) requirements for collection and release of trauma register data;

(vii) quality improvement standards for emergency medical services and trauma care facilities; and

(viii) the duties, responsibilities, and functions of the trauma care committee created by 2-15-2216 and the regional trauma care advisory committees created pursuant to 50-6-411;

(b) designate trauma regions throughout Montana, taking into consideration geographic distance from available trauma care, transportation modalities available, population location and density, health care facility resources, historical patterns of patient referral, and other considerations relevant to optimum provision of emergency medical care;

(c) establish the procedure to be followed by a health care facility to appeal to the department a decision by the department pursuant to 50-6-410 affecting the facility’s designation as a trauma facility;

(d) specify the information that must be submitted to the department, including information from health care facilities, for statistical evaluation of the state and regional trauma care systems, planning prevention programs, assessing trauma-related educational priorities, and determining how trauma facilities and emergency medical services may comply with protocols and standards adopted by the department; and

(e) establish the electronic format and other standards that a health care facility trauma data system is required to meet in order to qualify as a hospital trauma register.

(3) The department shall submit a report to ~~each session of~~ the legislature *in accordance with 5-11-210* concerning the effectiveness of the trauma care system established under this part.

(4) This part does not restrict any other provisions of law allowing or requiring a health care facility or health care provider to provide health care services.”

Section 80. Section 50-46-329, MCA, is amended to read:

“50-46-329. Inspections – procedures – prohibition on inspector affiliation with licensees. (1) The department shall conduct unannounced inspections of registered premises and testing laboratories.

(2) (a) The department shall inspect annually each registered premises and testing laboratory.

(b) The department shall collect samples during the inspection of registered premises and submit them to one or more testing laboratories for testing as provided in 50-46-304 and by the state laboratory by rule.

(c) The department may collect samples during the inspection of a registered premises and submit the samples to all registered testing laboratories for testing as provided by the department by rule.

(3) (a) Each provider and marijuana-infused products provider shall keep a complete set of records necessary to show all transactions with registered cardholders. The records must be open for inspection by the department or state laboratory, as appropriate, and state or local law enforcement agencies during normal business hours.

(b) Each testing laboratory shall keep:

(i) a complete set of records necessary to show all transactions with providers and marijuana-infused products providers; and

(ii) all data, including instrument raw data, pertaining to the testing of marijuana and marijuana-infused products.

(c) The records and data required under this subsection (3) must be open for inspection by the department and state or local law enforcement agencies during normal business hours.

(d) The department may require a provider, marijuana-infused products provider, or testing laboratory to furnish information that the department considers necessary for the proper administration of this part.

(4) (a) Registered premises and testing laboratories, including any places of storage, where marijuana is cultivated, manufactured, sold, stored, or tested are subject to entry by the department or state or local law enforcement agencies for the purpose of inspection or investigation during normal business hours.

(b) If any part of the registered premises or testing laboratory consists of a locked area, the provider, marijuana-infused products provider, or testing laboratory shall make the area available for inspection without delay upon request of the department or state or local law enforcement officials.

(5) A provider or marijuana-infused products provider shall maintain records showing the names and registry identification numbers of registered cardholders to whom mature plants, seedlings, usable marijuana, or marijuana-infused products were sold or transferred and the quantities sold or transferred to each cardholder.

(6) The state laboratory shall conduct the inspections of testing laboratories required under this section.

(7) If the department conducts an inspection because of a complaint against a licensee or registered premises and does not find a violation of this part, the department shall give the licensee a copy of the complaint with the name of the complainant redacted.

(8) The department may not hire or contract with a person to be an inspector if the person has worked during the previous 4 years for a Montana business or facility operating under this part.

(9) In addition to any other penalties provided under this part, the department may revoke, suspend for up to 1 year, or refuse to renew a license or endorsement issued under this part if, upon inspection and subsequent notice

to the licensee, the department finds that any of the following circumstances exist:

(a) a cause for which issuance of the license or endorsement could have been rejected had it been known to the department at the time of issuance;

(b) a violation of an administrative rule adopted to carry out the provisions of this part; or

(c) noncompliance with any provision of this part.

(10) The department may suspend or modify a license or endorsement without advance notice upon a finding that presents an immediate threat to the health, safety, or welfare of registered cardholders, employees of the licensee, or members of the public.

(11) Review of a department action imposing a suspension, revocation, or other modification under this part must be conducted as a contested case hearing under the provisions of the Montana Administrative Procedure Act.

(12) The department shall establish a training protocol to ensure uniform application and enforcement of the requirements of this part.

(13) The department shall report ~~biennially~~ to the children, families, health, and human services interim committee *in accordance with 5-11-210* concerning the results of inspections conducted under this section. The report must include the information required under 50-46-343."

Section 81. Section 50-46-343, MCA, is amended to read:

"50-46-343. Legislative monitoring. (1) The children, families, health, and human services interim committee shall provide oversight of the department's activities pursuant to this part, including but not limited to monitoring of:

(a) the number of registered cardholders and licensees;

(b) issues related to the cultivation, manufacture, sale, testing, and use of marijuana; and

(c) the development, implementation, and use of the seed-to-sale tracking system established in accordance with 50-46-304.

(2) The committee shall identify issues likely to require future legislative attention and develop legislation to present to the next regular session of the legislature.

(3) (a) The department shall ~~periodically~~ report to the children, families, health, and human services interim committee ~~and submit a report to the legislative clearinghouse, as provided in accordance with 5-11-210~~, on persons who are licensed or registered pursuant to 50-46-303. The report must include:

(i) the number of applications for registry identification cards and the number of registered cardholders approved;

(ii) the nature of the debilitating medical conditions of the cardholders;

(iii) the number of providers, marijuana-infused products providers, dispensaries, and testing laboratories licensed pursuant to this part;

(iv) the number of endorsements approved for chemical manufacturing;

(v) the number of registry identification cards and licenses revoked; and

(vi) the number of physicians providing written certification for registered cardholders and the number of written certifications each physician has provided.

(b) The report may not provide any identifying information of cardholders, physicians, providers, marijuana-infused products providers, dispensaries, or testing laboratories.

(4) The report on inspections required under 50-46-329 must include, at a minimum, the following information for both announced and unannounced inspections:

(a) the number of inspections conducted, by canopy licensure tier;

(b) the number of providers or marijuana-infused products providers who were inspected more than once during the year;

(c) the number of inspections that were conducted because of complaints made to the department; and

(d) the types of enforcement actions taken as a result of the inspections.

(5) The board of medical examiners shall report annually to the children, families, health, and human services interim committee *in accordance with 5-11-210* on the number and types of complaints the board has received involving physician practices in providing written certification for the use of marijuana, pursuant to 37-3-203.

(6) The reports provided for in subsections (3) through (5) must also be provided *in accordance with 5-11-210* to the revenue interim committee provided for in 5-5-227."

Section 82. Section 52-2-211, MCA, is amended to read:

"52-2-211. County or regional interdisciplinary child information and school safety team. (1) The county commissioners of each county shall ensure the formation of a county or regional interdisciplinary child information and school safety team that includes representatives authorized by any of the following:

(a) the youth court;

(b) the county attorney;

(c) the department of public health and human services;

(d) the county superintendent of schools;

(e) the sheriff;

(f) the chief of any police force;

(g) any board of trustees of a public school district operating within the boundaries of the county; and

(h) the department of corrections.

(2) Officials under subsection (1) from one county may also cooperate with officials under subsection (1) from any other county to form regional interdisciplinary child information and school safety teams, in which case access to information under 41-5-215(2) is authorized for all members of the regional team for each county participating in a regional team. The formation of regional teams must be formalized by written agreement between participating counties.

(3) The persons and agencies listed in subsection (1) or (2) may by majority vote allow the following persons to join the team:

(a) physicians, psychologists, psychiatrists, nurses, and other providers of medical and mental health care;

(b) entities operating private elementary and secondary schools;

(c) attorneys; and

(d) a person or entity that has or may have a legitimate interest in one or more children that the team will serve.

(4) (a) The members of the team or their designees may form one or more auxiliary teams for the purpose of providing service to a single child, a group of children, or children with a particular type of problem or for any other purpose.

(b) A member of an auxiliary team must be a person who has personal knowledge of or experience with the child or children in the member's respective field.

(5) The purpose of the team is to ensure the timely exchange and sharing of information that one or more team members may be able to use in serving a child in the course of their professions and occupations, including but not limited to abused or neglected children, delinquent youth, and youth in need of intervention, and of information relating to issues of school safety. Information

regarding a child that a team member supplies to other team members or that is disseminated to a team member under 41-3-205 or 41-5-215(2) may not be disseminated beyond the organizations or departments that have an authorized member on the team under this section.

(6) A written agreement may be created to provide for the rules under which the team will operate, the method by which information will be shared, distributed, and managed, and any other matters necessary to the purpose and functions of the team. Any agreement created may not limit access of any team member to information under 41-5-215(2).

(7) An interdisciplinary child information and school safety team shall coordinate its efforts with interdisciplinary child protective teams as provided in 41-3-108 and youth placement committees as provided for in 41-5-121.

(8) To the extent that the county or regional interdisciplinary child information and school safety team is involved in a proceeding that is held prior to adjudication of a youth in youth court, the team satisfies the requirements of 20 U.S.C. 1232g(b)(1)(E)(ii)(I) of the Family Educational Rights and Privacy Act of 1974. Montana school districts may release education records to the team. The officials and authorities to whom the information is disclosed may not disclose any information to any other party without the prior written consent of the parent or guardian of the student.

(9) The county superintendent of schools shall provide to the office of public instruction a current copy of any written agreement under this section no later than September 1. The office of public instruction shall report to the education interim committee ~~no later than September 15 in accordance with 5-11-210~~ any county that has not provided a written agreement under this section.”

Section 83. Section 52-2-311, MCA, is amended to read:

“52-2-311. Out-of-state placement monitoring and reporting.

(1) The department shall collect the following information regarding high-risk children with multiagency service needs:

- (a) the number of children placed out of state;
- (b) the reasons each child was placed out of state;
- (c) the costs for each child placed out of state;
- (d) the process used to avoid out-of-state placements; and
- (e) the number of in-state providers participating in the pool.

(2) For children whose placement is funded in whole or in part by medicaid, the report must include information indicating other department programs with which the child is involved.

(3) On an ongoing basis, the department shall attempt to reduce out-of-state placements.

(4) The department shall report ~~biannually~~ to the children, families, health, and human services interim committee *in accordance with 5-11-210* concerning the information it has collected under this section and the results of the efforts it has made to reduce out-of-state placements.”

Section 84. Section 53-1-211, MCA, is amended to read:

“53-1-211. Quality assurance unit – program standards – evaluation – cooperation with department of public health and human services – report. (1) There is a quality assurance unit in the department of corrections.

(2) In addition to duties assigned to it by the department director or otherwise required by law, the unit shall:

(a) adopt an evidence-based program evaluation tool that measures how closely correctional programs meet the known principles of effective

intervention. The tool must measure program content and capacity to ensure the delivery of effective interventions for offenders.

(b) conduct evaluations of programs to reduce recidivism that are funded by the state; and

(c) enforce standards to ensure that programs are using best practices for reducing recidivism, including targeting highest-risk individuals, adhering to evidence-based or research-driven practices, and integrating opportunities for ongoing quality assurance and evaluation.

(3) Subject to the availability of funding, the department may contract with an independent contractor or academic institution to complete evaluations.

(4) The unit shall work jointly with the department of public health and human services to develop standards for quality assurance in behavioral health programs or other clinical programs.

(5) The unit shall conduct regular evaluations of programs operated by the department or under a contract with the department.

(6) The department shall:

(a) develop and maintain a list of evidence-based treatment curriculums to be utilized in programs operated by or under contract with the department with priority being placed on adopting treatment curriculums that are in the public domain and evidence-based; and

(b) report the results of all initial and ongoing program evaluations to the law and justice interim committee ~~each interim~~ *in accordance with 5-11-210*, including any identified program deficiencies and the department's plan to correct those deficiencies.

(7) After May 19, 2017, the department shall ensure that contracts signed or renewed with providers contain:

(a) minimum program standards that adhere to the evidence-based program evaluation tool adopted as required in subsection (2);

(b) offender eligibility criteria for program entry with the contractor; and

(c) program dosage requirements that conform to evidence-based practices."

Section 85. Section 53-1-216, MCA, is amended to read:

"53-1-216. Montana criminal justice oversight council – duties – membership. (1) There is a Montana criminal justice oversight council. The council consists of 16 members as follows:

(a) (i) two members of the house of representatives, one selected by the speaker of the house and one selected by the house minority leader; and

(ii) two members of the senate, one selected by the president of the senate and one selected by the senate minority leader;

(b) one district court judge selected by the chief justice of the Montana supreme court;

(c) the director and the deputy director of the department of corrections;

(d) a county sheriff and a county attorney appointed by the attorney general; and

(e) the following individuals appointed by the governor:

(i) a member of a state-recognized or federally recognized Indian tribe located within the boundaries of the state of Montana who has expertise in criminal justice;

(ii) one member of the board of pardons and parole;

(iii) one member who represents the office of state public defender;

(iv) one representative of crime victims;

(v) one representative of civil rights advocates; and

(vi) two representatives of community corrections providers, one of whom must represent a treatment facility and one of whom must represent a prerelease center.

(2) The department of corrections shall provide clerical and administrative staff services to the council.

(3) The council shall elect a presiding officer.

(4) The council shall:

(a) review the recommendations of the commission on sentencing established in Chapter 343, Laws of 2015;

(b) receive and analyze data collected by agencies and entities charged with implementing the recommendations of the commission on sentencing and that are collecting data during the implementation and management of specific recommendations;

(c) assess outcomes from the recommendations the commission on sentencing has made and corresponding criminal justice reforms; and

(d) request, receive, and review data and report on performance outcome data relating to criminal justice reform.

(5) Data evaluation performed by the council must:

(a) assess the current electronic records utilized by criminal justice agencies;

(b) review and list all variables collected in each agency's information management system;

(c) establish a baseline for historical data comparisons;

(d) determine whether data is linked to specific offenders through a unique identifying factor;

(e) review archival data and agencies' data retention policies;

(f) determine whether presentence investigation reports are completed electronically in the department of corrections' case management system within established statutory timelines;

(g) review any established data protocols for pretrial services;

(h) assess if the data collected or recommended to be collected on offenders and programs will provide criminal justice agencies, the legislature, and the public adequate information to determine whether correctional programs produce standardized outcomes across the state and are an efficient use of state resources; and

(i) review and suggest improvements for behavioral health screening instruments and other screening instruments as needed to ensure the integrity of data that is captured in criminal justice agencies' information management systems.

(6) The council shall examine the feasibility of creating and maintaining a public portal through which criminal justice data can be accessed, including data on court case filings, correctional populations, and historical and legacy data sets.

(7) The council shall submit ~~by September 1 of each even-numbered year~~ ~~a biennial~~ a report to the governor and legislature, as provided in 5-11-210. The report must include:

(a) a description of the council's proceedings since the previous report;

(b) a summary of savings from criminal justice reforms and recommendations for how the savings should be reinvested to reduce recidivism;

(c) a description of performance measures and outcomes related to criminal justice reforms; and

(d) a narrative of the council's progress on establishing data collection and uniformity standards and any changes that have been implemented as a result of the council's work.

(8) The council may appoint a working group to track any legislation resulting from criminal justice reforms and to perform other detailed analysis as directed by the council. If appointed, the working group shall meet regularly and report to the council as the council requires. The working group may include representatives of criminal justice agencies and key constituencies that are not members of the council.

(9) Using the process established in legislative rules for executive agency legislative requests, the council may request legislation to enact changes to the state's criminal justice system that the council finds necessary.

(10) The judicial branch, the department of corrections, the department of public health and human services, the board of pardons and parole, and the legislative services and fiscal divisions shall provide data and information as requested by the council.

(11) Appointments made under subsection (1) must be made within 60 days after July 1, 2019. A vacancy on the council must be filled in the manner of the original appointment.

(12) Council members must be reimbursed for travel expenses as provided in 2-18-501 through 2-18-503. Members of the council who are full-time salaried officers or employees of this state or any political subdivision are entitled to their regular compensation. Legislative members must be compensated as provided in 5-2-302.

(13) The council shall ~~report~~ *provide updates* to the law and justice interim committee and the legislative finance committee as requested."

Section 86. Section 53-1-611, MCA, is amended to read:

"53-1-611. Evaluation of proposed medicaid block grant and acceptance of grant. (1) As part of its refinancing duties, the department of public health and human services shall evaluate the proposed medicaid block grant and report its findings with respect to the criteria in subsection (2) to the legislative finance committee at each regular meeting of the committee. *At the end of the interim, the department shall provide a copy of or a link to the last report provided to the finance committee to the legislature in accordance with 5-11-210.*

(2) The department shall use the following criteria in its evaluation of the proposed medicaid block grant compared to other medicaid funding alternatives from which the state may choose:

(a) total cost to the state over the life of the block grant and during each year of the block grant compared to the state cost of maintaining medicaid eligibility and service levels funded by the legislature during the current biennium;

(b) types of flexibility;

(c) advantages and disadvantages; and

(d) policy choices that may occur.

(3) (a) The legislative finance committee shall review and analyze the department's findings and make a recommendation to the governor and to the department with regard to acceptance or rejection of the block grant if the state is required to make a decision as to whether to accept or reject the block grant prior to the next regular convening of the legislature.

(b) The governor shall consider the recommendation of the legislative finance committee and provide a written rationale to the committee if the recommendation of the committee is not followed."

Section 87. Section 53-4-209, MCA, is amended to read:

"53-4-209. Montana parents as scholars program – department duties. (1) There is a Montana parents as scholars program administered by the department.

(2) The department shall:

(a) use state maintenance of effort funds or temporary assistance for needy families funds in a program to provide assistance to eligible households for the purpose of continuation of education leading toward a high school diploma, a high school equivalency diploma, vocational training, an associate's degree, or a baccalaureate degree;

(b) allow an individual receiving temporary assistance for needy families to attend an approved educational program if the individual:

(i) meets the income and resource eligibility requirements for temporary assistance for needy families; and

(ii) qualifies as a full-time student pursuant to subsection (4); and

(c) limit approved educational programs to educational courses that are intended to promote economic self-sufficiency, not to exceed the baccalaureate level.

(3) The participants may apply for and may be eligible for child-care assistance provided by the department to be paid from the temporary assistance for needy families block grant funds that are transferred to discretionary funding for child care.

(4) A program must require a participant to be a full-time student, which means that a participant:

(a) shall maintain enrollment in at least 12 credit hours each semester or 30 credit hours a year; or

(b) must be a full-time high school student, student studying for a high school equivalency diploma, or vocational training student as defined by the institution in which the participant is enrolled;

(c) shall maintain a 2.0 grade point average on a 4.0 grade point scale or be making satisfactory progress as defined by the institution in which the participant is enrolled; and

(d) may not be allowed to remain in the program after receiving a baccalaureate degree.

(5) (a) There may be no more than 25 participants in the program at any one time.

(b) Temporary assistance for needy families participants within the 12-month period allowed by federal law do not count in the total number of participants in the parents as scholars program. However, the parents as scholars program may be used to extend a participant's education beyond the 12-month federal period.

(6) The department shall provide annual reports to the legislative finance committee and the children, families, health, and human services interim committee *in accordance with 5-11-210.*"

Section 88. Section 53-6-110, MCA, is amended to read:

"53-6-110. Report and recommendations on medicaid funding.

(1) As a part of the information required in 17-7-111, the department of public health and human services shall submit a report concerning medicaid funding for the next biennium. This report must include at least the following elements:

(a) analysis of past and present funding levels for the various categories and types of health services eligible for medicaid reimbursement;

(b) projected increased medicaid funding needs for the next biennium. These projections must identify the effects of projected population growth and demographic patterns on at least the following elements:

(i) trends in unit costs for services, including inflation;

(ii) trends in use of services;

(iii) trends in medicaid recipient levels; and

(iv) the effects of new and projected facilities and services for which a need has been identified in the state health care facilities plan.

(2) As an integral part of the report, the department of public health and human services shall present a recommendation of funding levels for the medicaid program. The recommendation need not be consistent with the state health care facilities plan.

(3) In making its appropriations for medicaid funding, the legislature shall specify the portions of medicaid funding anticipated to be allocated to specific categories and types of health care services.

(4) Beginning November 15 of each year through June 15 of the following year, the department of public health and human services shall provide to the legislative fiscal analyst monthly reports containing estimates of the cost for medicaid services and a budget status report for all department programs. The department shall also provide a fiscal yearend summary of medicaid costs and the department budget status report prior to the first legislative finance committee meeting following the end of the fiscal year. The reports must be presented in a format mutually agreed to by the legislative fiscal analyst and the department. *The department shall provide the yearend summaries to the legislature in accordance with 5-11-210.*

Section 89. Section 53-6-116, MCA, is amended to read:

“53-6-116. Medicaid managed care – capitated health care. (1) The department of public health and human services, in its discretion, may develop managed care and capitated health care systems for medicaid recipients.

(2) The department may contract with one or more persons for the management of comprehensive physical health services and the management of comprehensive mental health services for medicaid recipients. The department may contract for the provision of these services by means of a fixed monetary or capitated amount for each recipient.

(3) A managed care system is a program organized to serve the medical needs of medicaid recipients in an efficient and cost-effective manner by managing the receipt of medical services for a geographical or otherwise defined population of recipients through appropriate health care professionals.

(4) The provision of medicaid services through managed care and capitated health care systems is not subject to the limitations provided in 53-6-104. The managed care or capitated health care system that is provided to a defined population of recipients may be based on one or more of the medical assistance services provided for in 53-6-101.

(5) The proposed systems, referred to in subsection (1), must be submitted to the legislative finance committee. The legislative finance committee shall review the proposed systems at its next regularly scheduled meeting and shall provide any comments concerning the proposed systems to the department. *The department shall provide a copy of any reports made to the legislative finance committee concerning the proposed systems to the legislature in accordance with 5-11-210.*

(6) A managed care or capitated health care system, except for a primary care case management service, that requires for implementation a waiver from the centers for medicare and medicaid is subject to the provisions of Title 53, chapter 6, part 7.”

Section 90. Section 53-6-710, MCA, is amended to read:

“53-6-710. Advisory council – duties. (1) There is an advisory council to review requests for proposals issued and contracts proposed to be awarded under this part.

(2) The advisory council consists of seven members appointed as follows:

(a) two members appointed by the speaker of the house of representatives, at least one of whom must be a health care provider;

(b) two members appointed by the president of the senate, at least one of whom must be a health care provider; and

(c) three members appointed by the governor, at least one of whom must be a health care provider.

(3) Members shall serve staggered, 3-year terms.

(4) When the department proposes to seek a medicaid waiver for managed care, the council shall conduct the following activities before the department issues a request for proposal and after it has selected a vendor but before a contract is awarded:

(a) hold a public hearing in the geographic area that would be affected by the program or contract in order to:

(i) educate medicaid recipients, health care providers, and the public residing in the area about the provisions of the proposed program or contract and the consumer's options; and

(ii) accept public comment about the proposed program or contract;

(b) submit a report *if managed care is in place* of its findings related to the public comment process to the ~~appropriate interim or legislative committee~~ *children, families, health, and human services interim committee in accordance with 5-11-210*, the legislative auditor's office, and the department.

(5) The council shall meet according to a schedule adopted by a majority vote of the council.

(6) The council is attached to the department for administrative purposes only, and members are entitled to reimbursement for travel expenses as provided in 2-18-501 through 2-18-503."

Section 91. Section 53-6-1325, MCA, is amended to read:

"53-6-1325. (Temporary) Report to legislature. (1) The department shall report the following information to the legislative finance committee and the children, families, health, and human services interim committee quarterly:

(1)(a) the number of individuals who were determined eligible for medicaid-funded services pursuant to 53-6-1304;

(2)(b) demographic information on program participants;

(3)(c) the average length of time that participants remained eligible for medical assistance;

(4)(d) the number of participants subject to the fees provided for in 15-30-2660 and the total amount of fees collected;

(5)(e) the amount of money deposited in the Montana HELP Act special revenue account, by source of funding;

(6)(f) the level of participant engagement in wellness activities or incentives offered under this part;

(7)(g) the number of participants who took part in community engagement activities, the number whose program participation was suspended for failure to take part in community engagement activities, and the number who were disenrolled from the program for failure to report a change in circumstances;

(8)(h) the number of participants who reduced their dependency on the HELP Act program, either voluntarily or because of increased income levels; and

(9)(i) the total cost of providing services under this part, including related administrative costs.

(2) *A compilation of reports received during the interim must be provided to the legislature in accordance with 5-11-210. (Terminates June 30, 2025, on occurrence of contingency--sec. 48, Ch. 415, L. 2019.)"*

Section 92. Section 53-20-225, MCA, is amended to read:

"53-20-225. Department monitoring of Montana developmental center residents -- report to legislature. (1) The department shall monitor:

(a) individuals released from the Montana developmental center and placed in a community home as defined in 53-20-302 for 2 years after placement in a community home; and

(b) for the duration of their residency, individuals who are admitted to and residing at the Montana developmental center.

(2) The department shall evaluate on a quarterly basis behaviors in the following areas to determine whether the skills, abilities, and behaviors of an individual subject to this section have improved, diminished, or remained unchanged:

(a) verbal or nonverbal communication, as appropriate for the individual;

(b) activities of daily living;

(d)(c) emotional well-being;

(e)(d) physical aggression; and

(f)(e) sexually inappropriate behaviors.

(3) The department shall report on the results of the monitoring:

(a) at least quarterly to family members and guardians of the individuals if the family members and guardians are authorized to receive health care information; and

(b) annually to the children, families, health, and human services interim committee *in accordance with 5-11-210*. The report to the interim committee may provide information only in an aggregate form and may not contain any individually identifying information.”

Section 93. Section 53-21-508, MCA, is amended to read:

“53-21-508. Monitoring of children’s mental health outcomes – report. (1) Each September and March, the department shall measure factors, specific to a point in time, for children receiving targeted case management services in the state-funded children’s mental health system to determine the effect of the services on the likelihood the children will remain at home, in school, and out of trouble.

(2) The department shall monitor the following factors to determine whether children receiving targeted case management services are able to remain at home:

(a) the number of children placed in out-of-home mental health treatment, including the level and type of care and whether the treatment is provided in state or out of state; and

(b) the number of children placed in a foster care setting, including kinship care, or a correctional setting.

(3) The department shall monitor the following factors related to the school success of a child receiving targeted case management services:

(a) the number of children enrolled in and attending school; and

(b) the number of children who advanced to the next grade level from the previous school year.

(4) The department shall monitor the following additional factors for children receiving targeted case management services:

(a) the number of children receiving treatment for substance use;

(b) the number of children screened for substance use disorders by the current case management provider;

(c) the number of children involved, formally or informally, with youth court; and

(d) the number of children in care or treatment related to suicide risk.

(5) The department shall report annually to the children, families, health, and human services interim committee ~~and to the legislature as provided in accordance with 5-11-210~~ on the information required under this section.”

Section 94. Section 53-30-604, MCA, is amended to read:

“53-30-604. Department duties and responsibilities – rulemaking authority. (1) (a) The department shall adopt administrative rules that include the minimum applicable standards for the siting, construction, operation, and physical condition of a private correctional facility and for the security, safety, health, treatment, and discipline of persons confined in a private correctional facility.

(b) The administrative rules must require that a private correctional facility conform to applicable American correctional association and national commission on correctional health care standards for the facility and achieve accreditation from the American correctional association and national commission on correctional health care within 3 years from the date the facility begins operation.

(c) The administrative rules must provide for review and approval of facility design and construction by the department of administration.

(2) Within 90 days of May 2, 1997, and on a biennial basis, the department shall publish a description of the long-range correctional needs, objectives, and goals of the department and the state.

(3) The department shall at least annually inspect each private correctional facility to determine compliance with this part, applicable American correctional association and national commission on correctional health care standards, department rules, and contract requirements.

(4) The department shall present a **biennial** report of compliance inspections to the legislature *in accordance with 5-11-210.*”

Section 95. Section 61-2-109, MCA, is amended to read:

“61-2-109. Emergency medical services grants. The department of transportation shall report to the governor and the legislative fiscal analyst *not no* later than November 1 of the year preceding a regular session of the legislature regarding emergency medical services grants that are awarded during each biennium. The report must be provided in an electronic format and include a listing of all grant requests and a listing of grants awarded, including a summary of the use of grant funds. *The department shall provide a copy of the report to the legislature in accordance with 5-11-210.*”

Section 96. Section 69-1-222, MCA, is amended to read:

“69-1-222. Annual report. (1) The consumer counsel shall prepare and submit a yearly report and other interim reports *to the consumer committee* that the consumer counsel determines advisable concerning the consumer counsel’s activities during the year. *and The consumer counsel also* may recommend appropriate remedial legislation to the committee.

(2) *The annual report and any recommendations for remedial legislation prepared in accordance with subsection (1) must also be provided to the energy and telecommunications interim committee in accordance with 5-11-210.*”

Section 97. Section 69-8-402, MCA, is amended to read:

“69-8-402. Universal system benefits programs. (1) Universal system benefits programs are established for the state of Montana to ensure continued funding of and new expenditures for energy conservation, renewable resource projects and applications, and low-income energy assistance.

(2) (a) Except as provided in subsection (11), beginning January 1, 1999, 2.4% of each utility’s annual retail sales revenue in Montana for the calendar year ending December 31, 1995, is established as the initial funding level for universal system benefits programs. To collect this amount of funds on an annualized basis in 1999, the commission shall establish rates for utilities subject to its jurisdiction and the governing boards of cooperatives shall establish rates for the cooperatives.

(b) The recovery of all universal system benefits programs costs imposed pursuant to this section is authorized through the imposition of a universal system benefits charge assessed at the meter for each local utility system customer as provided in this section.

(c) A utility must receive credit toward annual funding requirements for the utility's internal programs or activities that qualify as universal system benefits programs, including those amortized or nonamortized portions of expenditures for the purchase of power that are for the acquisition or support of renewable energy, conservation-related activities, or low-income energy assistance, and for large customers' programs or activities as provided in subsection (7). The department of revenue shall review claimed credits of the utilities and large customers pursuant to 69-8-414.

(d) A utility at which the sale of power for final end use occurs is the utility that receives credit for the universal system benefits programs expenditure.

(e) A customer's utility shall collect universal system benefits funds less any allowable credits.

(f) For a utility to receive credit for low-income-related expenditures, the activity must have taken place in Montana.

(g) If a utility's or a large customer's credit for internal activities does not satisfy the annual funding provisions of this subsection (2), then the utility or large customer shall make a payment to the universal system benefits fund established in 69-8-412 for any difference.

(3) Cooperative utilities may collectively pool their statewide credits to satisfy their annual funding requirements for universal system benefits programs and low-income energy assistance.

(4) A utility's transition plan must describe how the utility proposes to provide for universal system benefits programs, including the methodologies, such as cost-effectiveness and need determination, used to measure the utility's level of contribution to each program.

(5) (a) A cooperative utility's minimum annual funding requirement for low-income energy and weatherization assistance is established at 17% of the cooperative utility's annual universal system benefits funding level and is inclusive within the overall universal system benefits funding level.

(b) Except as provided in subsection (11), a public utility's minimum annual funding requirement for low-income energy and weatherization assistance is established at 50% of the public utility's annual universal system benefits funding level and is inclusive within the overall universal system benefits funding level.

(c) A utility must receive credit toward the utility's low-income energy assistance annual funding requirement for the utility's internal low-income energy assistance programs or activities. Internal programs and activities may include providing low-income energy and weatherization assistance on Indian reservations.

(d) If a utility's credit for internal activities does not satisfy its annual funding requirement, then the utility shall make a payment for any difference to the universal low-income energy assistance fund established in 69-8-412.

(6) An individual customer may not bear a disproportionate share of the local utility's funding requirements, and a sliding scale must be implemented to provide a more equitable distribution of program costs.

(7) (a) A large customer:

(i) shall pay a universal system benefits programs charge with respect to the large customer's qualifying load equal to the lesser of:

(A) \$500,000, less the large customer credits provided for in this subsection (7); or

(B) the product of 0.9 mills per kilowatt hour multiplied by the large customer's total kilowatt hour purchases, less large customer credits with respect to that qualifying load provided for in this subsection (7);

(ii) must receive credit toward that large customer's universal system benefits charge for internal expenditures and activities that qualify as a universal system benefits programs expenditure, and these internal expenditures must include but not be limited to:

(A) expenditures that result in a reduction in the consumption of electrical energy in the large customer's facility; and

(B) those amortized or nonamortized portions of expenditures for the purchase of power at retail or wholesale that are for the acquisition or support of renewable energy or conservation-related activities.

(b) Large customers making these expenditures must receive a credit against the large customer's universal system benefits charge, except that any of those amounts expended in a calendar year that exceed that large customer's universal system benefits charge for the calendar year must be used as a credit against those charges in future years until the total amount of those expenditures has been credited against that large customer's universal system benefits charges.

(8) (a) Except as provided in subsection (11), a public utility shall prepare and submit an annual summary report of the public utility's activities relating to all universal system benefits programs to the commission, the department of revenue, and the energy and telecommunications interim committee ~~provided for in 5-5-230 in accordance with 5-11-210~~. A cooperative utility shall prepare and submit annual summary reports of activities to the cooperative utility's respective local governing body, the statewide cooperative utility office, and the energy and telecommunications interim committee *in accordance with 5-11-210*. The statewide cooperative utility office shall prepare and submit an annual summary report of the activities of individual cooperative utilities, including a summary of the pooling of statewide credits, as provided in subsection (3), to the department of revenue and the energy and telecommunications interim committee *in accordance with 5-11-210*. The annual report of a public utility or of the statewide cooperative utility office must include but is not limited to:

(i) the types of internal utility and customer programs being used to satisfy the provisions of this chapter;

(ii) the level of funding for those programs relative to the annual funding requirements prescribed in subsection (2);

(iii) any payments made to the statewide funds in the event that internal funding was below the prescribed annual funding requirements; and

(iv) the names of all large customers who either utilized credits to minimize or eliminate their charge pursuant to subsection (7) or received a reimbursement for universal system benefits related to expenditures from the utility during the previous reporting year.

(b) Before September 15 of the year preceding a legislative session, the energy and telecommunications interim committee shall:

(i) review the universal system benefits programs and, if necessary, submit recommendations regarding these programs to the legislature; and

(ii) review annual universal system benefits reports provided by utilities in accordance with subsection (8)(a) and compare those reports with reports provided by large customers to the department of revenue in accordance with subsection (10)(a) and identify large customers, if any, who are not in compliance with reporting requirements in accordance with this subsection (8) and subsection (10).

(9) A utility or large customer filing for a credit shall develop and maintain appropriate documentation to support the utility's or the large customer's claim for the credit.

(10) (a) A large customer claiming credits for a calendar year shall submit an annual summary report of its universal system benefits programs activities and expenditures to the department of revenue and to the large customer's utility. *The department shall annually make the reports available to the energy and telecommunications interim committee in accordance with 5-11-210.* A report must be filed with the department even if a large customer is being reimbursed for a prior year's project. The annual report of a large customer must identify each qualifying project or expenditure for which it has claimed a credit and the amount of the credit. Prior approval by the utility is not required, except as provided in subsection (10)(b).

(b) If a large customer claims a credit that the department of revenue disallows in whole or in part, the large customer is financially responsible for the disallowance. A large customer and the large customer's utility may mutually agree that credits claimed by the large customer be first approved by the utility. If the utility approves the large customer credit, the utility may be financially responsible for any subsequent disallowance.

(11) A public utility with fewer than 50 customers is exempt from the requirements of this section."

Section 98. Section 75-1-314, MCA, is amended to read:

"75-1-314. Reporting requirements. (1) The departments of environmental quality, agriculture, and natural resources and conservation shall ~~biennially~~ report to the council *in accordance with 5-11-210* the following natural resource and environmental compliance and enforcement information:

(a) the activities and efforts taking place to promote compliance assistance and education;

(b) the size and description of the regulated community and the estimated proportion of that community that is in compliance;

(c) the number, description, method of discovery, and significance of noncompliances, including those noncompliances that are pending; and

(d) a description of how the department has addressed the noncompliances identified in subsection (1)(c) and a list of the noncompliances left unresolved.

(2) When practical, reporting required in subsection (1) should include quantitative trend information."

Section 99. Section 75-1-1101, MCA, is amended to read:

"75-1-1101. Environmental contingency account objectives.

(1) There is an environmental contingency account within the state special revenue fund established in 17-2-102. The environmental contingency account is controlled by the governor.

(2) At the beginning of each biennium, \$175,000 must be allocated to the environmental contingency account from the interest income of the resource indemnity trust fund with the following exceptions:

(a) if at the beginning of any biennium the unobligated cash balance in the environmental contingency account equals or exceeds \$750,000, allocation may not be made; and

(b) if at the beginning of any biennium the unobligated cash balance in the environmental contingency account is less than \$750,000, then an amount less than or equal to the difference between the unobligated cash balance and \$750,000, but not to exceed \$175,000, must be allocated to the environmental contingency account from the interest income of the resource indemnity trust fund.

(3) Funds are statutorily appropriated, as provided in 17-7-502, from the environmental contingency account upon the authorization of the governor to meet unanticipated public needs consistent with the following objectives:

(a) to support renewable resource development projects in communities that face an emergency or imminent need for the services or to prevent the physical failure of a project;

(b) to preserve vegetation, water, soil, fish, wildlife, or other renewable resources from an imminent physical threat or during an emergency, not including:

(i) natural disasters adequately covered by other funding sources; or

(ii) fire;

(c) to respond to an emergency or imminent threat to persons, property, or the environment caused by mineral development;

(d) to respond to an emergency or imminent threat to persons, property, or the environment caused by a hazardous material; and

(e) to fund the environmental quality protection fund provided for in 75-10-704 or to take other necessary actions, including the construction of facilities, to respond to actual or potential threats to persons, property, or the environment caused by hazardous wastes or other hazardous materials.

(4) Interest from funds in the environmental contingency account accrues to the general fund.

(5) The governor shall submit to the legislative fiscal analyst, as a part of the information required by 17-7-111, a complete financial report on the environmental contingency account, including a description of all expenditures made since the preceding report. The report must be provided in an electronic format. *The department shall provide a copy of the report to the legislature in accordance with 5-11-210.*

Section 100. Section 75-5-703, MCA, is amended to read:

“75-5-703. Development and implementation of total maximum daily loads. (1) The department shall, in consultation with local conservation districts and watershed advisory groups, develop total maximum daily loads or TMDLs for threatened or impaired water bodies or segments of water bodies in order of the priority ranking established by the department under 75-5-702. Each TMDL must be established at a level that will achieve compliance with applicable water quality standards and must include a reasonable margin of safety that takes into account any lack of knowledge concerning the relationship between the TMDL and water quality standards. The department shall consider applicable guidance from the federal environmental protection agency, as well as the environmental, economic, and social costs and benefits of developing and implementing a TMDL.

(2) In establishing TMDLs under subsection (1), the department may establish waste load allocations for point sources and may establish load allocations for nonpoint sources, as set forth in subsection (8), and may allow for effluent trading. The department shall, in consultation with local conservation districts and watershed advisory groups, develop reasonable land, soil, and water conservation practices specifically recognizing established practices and programs for nonpoint sources.

(3) The department shall establish a schedule that provides a reasonable timeframe for TMDL development for impaired and threatened water bodies that are on the most recent list prepared pursuant to 75-5-702. ~~On or before July 1 of each even-numbered year, the~~ *The* department shall report the progress in completing TMDLs and the current schedule for completion of TMDLs for the water bodies that remain on the list to the water policy *interim* committee ~~established in 5-5-231 in accordance with 5-11-210.~~

(4) The department shall provide guidance for TMDL development on any threatened or impaired water body, regardless of its priority ranking, if the necessary funding and resources from sources outside the department are available to develop the TMDL and to monitor the effectiveness of implementation efforts. The department shall review the TMDL and either approve or disapprove the TMDL. If the TMDL is approved by the department, the department shall ensure implementation of the TMDL according to the provisions of subsections (6) through (8).

(5) For water bodies listed under 75-5-702, the department shall provide assistance and support to landowners, local conservation districts, and watershed advisory groups for interim measures that may restore water quality and remove the need to establish a TMDL, such as informational programs regarding control of nonpoint source pollution and voluntary measures designed to correct impairments. When a source implements voluntary measures to reduce pollutants prior to development of a TMDL, those measures, whether or not reflected in subsequently issued waste discharge permits, must be recognized in development of the TMDL in a way that gives credit for the pollution reduction efforts.

(6) After development of a TMDL and upon approval of the TMDL, the department shall:

- (a) incorporate the TMDL into its current continuing planning process;
- (b) incorporate the waste load allocation developed for point sources during the TMDL process into appropriate water discharge permits; and
- (c) assist and inform landowners regarding the application of a voluntary program of reasonable land, soil, and water conservation practices developed pursuant to subsection (2).

(7) Once the control measures identified in subsection (6) have been implemented, the department shall, in consultation with the statewide TMDL advisory group, develop a monitoring program to assess the waters that are subject to the TMDL to determine whether compliance with water quality standards has been attained for a particular water body or whether the water body is no longer threatened. The monitoring program must be designed based on the specific impairments or pollution sources. The department's monitoring program must include long-term monitoring efforts for the analysis of the effectiveness of the control measures developed.

(8) The department shall support a voluntary program of reasonable land, soil, and water conservation practices to achieve compliance with water quality standards for nonpoint source activities for water bodies that are subject to a TMDL developed and implemented pursuant to this section.

(9) If the monitoring program provided under subsection (7) demonstrates that the TMDL is not achieving compliance with applicable water quality standards within 5 years after approval of a TMDL, the department shall conduct a formal evaluation of progress in restoring water quality and the status of reasonable land, soil, and water conservation practice implementation to determine if:

- (a) the implementation of a new or improved phase of voluntary reasonable land, soil, and water conservation practice is necessary;
- (b) water quality is improving but a specified time is needed for compliance with water quality standards; or
- (c) revisions to the TMDL are necessary to achieve applicable water quality standards.

(10) Pending completion of a TMDL on a water body listed pursuant to 75-5-702:

(a) point source discharges to a listed water body may commence or continue, provided that:

(i) the discharge is in conformance with a discharge permit that reflects, in the manner and to the extent applicable for the particular discharge, the provisions of 75-5-303;

(ii) the discharge will not cause a decline in water quality for parameters by which the water body is impaired; and

(iii) minimum treatment requirements adopted pursuant to 75-5-305 are met;

(b) the issuance of a discharge permit may not be precluded because a TMDL is pending;

(c) new or expanded nonpoint source activities affecting a listed water body may commence and continue if those activities are conducted in accordance with reasonable land, soil, and water conservation practices; and

(d) for existing nonpoint source activities, the department shall continue to use educational nonpoint source control programs and voluntary measures as provided in subsections (5) and (6).

(11) This section may not be construed to prevent a person from filing an application or petition under 75-5-302, 75-5-310, or 75-5-312."

Section 101. Section 75-10-111, MCA, is amended to read:

"75-10-111. State solid waste management and resource recovery plan – hearings. The department shall adopt the solid waste management and resource recovery plan required in 75-10-104 and 75-10-807 according to the rulemaking procedures of the Montana Administrative Procedure Act under Title 2, chapter 4, part 3. The department shall prepare the plan in conjunction with local governments in the state, citizens, solid waste and recycling industries, environmental organizations, and others involved or interested in the management of solid waste. Within 3 days after the notice of proposed rulemaking to adopt the plan is published pursuant to Title 2, chapter 4, part 3, the department shall mail a copy of the notice and the proposed plan to the board of county commissioners in each county in the state, the governing body of every incorporated city or town in the state, any person responsible for the operation of a solid waste management system under the provisions of Title 75, chapter 10, parts 1 and 2, the governor, the environmental quality council *in accordance with 5-11-210*, and any other interested person. During the period for receipt of comments on the proposed rulemaking concerning the plan, the department shall hold at least one public hearing."

Section 102. Section 75-10-743, MCA, is amended to read:

"75-10-743. Orphan share state special revenue account – reimbursement of claims – payment of department costs. (1) There is an orphan share account in the state special revenue fund established in 17-2-102 that is to be administered by the department. Money in the account is available to the department by appropriation and, except as provided in subsections (9), (10), and (11), must be used to reimburse remedial action costs claimed pursuant to 75-10-742 through 75-10-751, to provide funding for the department of justice for investigations pursuant to its natural resource damage program, to pay costs incurred by the department in defending the orphan share, and to pay remedial action costs incurred by the department pursuant to subsection (12). Any amounts provided for investigations must be returned to the account, with interest, from the settlement proceeds of a claim made under the natural resource damage program within 30 days of receiving settlement proceeds.

(2) There must be deposited in the orphan share account:

(a) all penalties assessed pursuant to 75-10-750(12);

(b) funds received from the distribution of oil and natural gas production taxes pursuant to 15-36-331;

(c) unencumbered funds remaining in the abandoned mines state special revenue account;

(d) interest income on the account;

(e) funds received from settlements pursuant to 75-10-719(7); and

(f) funds received from reimbursement of the department's orphan share defense costs pursuant to subsection (6).

(3) If the orphan share account contains sufficient money, valid claims must be reimbursed subsequently in the order in which they were received by the department. If the orphan share account does not contain sufficient money to reimburse claims for completed remedial actions, a reimbursement may not be made and the orphan share account, the department, and the state are not liable for making any reimbursement for the costs. The department and the state are not liable for any penalties if the orphan share account does not contain sufficient money to reimburse claims, and interest may not accrue on outstanding claims.

(4) Except as provided in subsections (6) and (7), claims may not be submitted and remedial action costs may not be reimbursed from the orphan share account until all remedial actions, except for operation and maintenance, are completed at a facility.

(5) Except as provided in subsection (6), reimbursement from the orphan share account must be limited to actual documented remedial action costs incurred after the date of a petition provided for in 75-10-745. Reimbursement may not be made for attorney fees, legal costs, or operation and maintenance costs.

(6) (a) The department's costs incurred in defending the orphan share must be paid by the persons participating in the allocation under 75-10-742 through 75-10-751 in proportion to their allocated shares. The orphan share account is responsible for a portion of the department's costs incurred in defending the orphan share in proportion to the orphan share's allocated share, as follows:

(i) If sufficient funds are available in the orphan share account, the department's costs incurred in defending the orphan share must be paid from the orphan share account in proportion to the share of liability allocated to the orphan share.

(ii) If sufficient funds are not available in the orphan share account, persons participating in the allocation under 75-10-742 through 75-10-751 shall pay all the orphan share's allocated share of the department's costs incurred in defending the orphan share in proportion to each person's allocated share of liability.

(b) A person who pays the orphan share's proportional share of costs has a claim against the orphan share account and must be reimbursed as provided in subsection (3).

(c) A state agency that is liable for remedial action costs incurred has a claim against the orphan share account and must be reimbursed as provided in subsection (3). The agency may submit a claim before or after remedial action is complete. Reimbursement may not be made for attorney fees, legal costs, or operation and maintenance costs. The agency may be reimbursed only after:

(i) its liability has been determined pursuant to 75-10-742 through 75-10-751 or by a court of competent jurisdiction;

(ii) it has received a notice letter pursuant to 75-10-711; and

(iii) the department has approved the costs.

(7) (a) If the lead liable person under 75-10-746 presents evidence to the department that the person cannot complete the remedial actions without partial reimbursement and that a delay in reimbursement will cause undue financial hardship on the person, the department may allow the submission of claims and may reimburse the claims prior to the completion of all remedial actions. A person is not eligible for early reimbursement unless the person is in substantial compliance with all department-approved remedial action plans.

(b) The department may reimburse claims from a lead liable person upon completion and department approval of a report evaluating the nature and extent of contamination and a report formulating and evaluating final remediation alternatives. This early reimbursement is limited to those eligible costs incurred by the lead liable person for the preparation of the reports.

(8) A person participating in the allocation process who received funds under the mixed funding pilot program provided for in sections 14 through 20, Chapter 584, Laws of 1995, may not claim or receive reimbursement from the orphan share account for the amount of funds received under the mixed funding pilot program that are later attributed to the orphan share under the allocation process.

(9) (a) For the biennium beginning July 1, 2005, up to \$1.25 million may be used by the department to pay the costs incurred by the department in contracting for evaluating the extent of contamination and formulating final remediation alternatives for releases at the Kalispell pole and timber, reliance refinery company, and Yale oil corporation facility complex. If the department spends less than \$1.25 million for those purposes, the remaining funds must be spent for remediation of the facility complex. The department may not seek recovery of the \$1.25 million from potentially liable persons.

(b) The money spent pursuant to subsection (9)(a) must be credited against the amount owed by the state agency in a judgment or settlement agreement for payment of the remedial action costs at the facility for which the money was spent.

(10) (a) The department shall transfer from the orphan share account to the long-term or perpetual water treatment permanent trust fund provided for in 82-4-367 \$1.2 million in each fiscal year until the board of investments makes the certification pursuant to subsection (10)(b) of this section.

(b) (i) The board of investments shall monitor the long-term or perpetual water treatment permanent trust fund provided for in 82-4-367 to determine when the amount of money in the long-term or perpetual water treatment permanent trust fund will be sufficient, with future earnings, to provide a fund balance of \$19.3 million on January 1, 2018.

(ii) When the board of investments makes the determination pursuant to subsection (10)(b)(i), the board of investments shall notify the department and certify to the department the amount of money, if any, that must be transferred during the fiscal year in which the board of investments makes its determination pursuant to subsection (10)(b)(i) in order to provide a fund balance of \$19.3 million on January 1, 2018.

(iii) In the fiscal year that the board of investments makes its determination and notifies the department, the department shall transfer only the amount certified by the board of investments, if any, and may not make additional transfers during subsequent fiscal years.

(c) After July 1, 2018, the department shall transfer \$1.2 million in each fiscal year from the orphan share state special revenue account to the environmental quality protection fund provided in 75-10-704.

(11) The orphan share account is subject to legislative fund transfers.

(12) Except as provided in subsection (13), the department may use the orphan share account to:

(a) take remedial action at a facility where there has been a release or there is a substantial threat of a release into the environment that may present an imminent and substantial endangerment to the public health, safety, or welfare or to the environment and there is no readily apparent person who is financially viable and potentially liable under 75-10-715 to conduct the remedial action; or

(b) fund the administration of data collection, the monitoring of the performance of remedial action, and the initial assessment of a facility to determine whether that facility may be closed or delisted.

(13) The department may not use for data collection, initial assessments, or monitoring pursuant to subsection (12)(b) more than 20% of the funds appropriated from the orphan share account for the bienniums beginning July 1, 2015, and ending June 30, 2025. For the bienniums beginning July 1, 2025, no more than 15% of the funds appropriated from the orphan share account may be used for data collection, initial assessments, or monitoring pursuant to subsection (12)(b).

~~(14) On or before July 1 of each year, the~~ *The* department shall report *annually* to the environmental quality council *in accordance with 5-11-210* the amount of funds from the orphan share account used pursuant to subsection (12), the type of expenditures made, and the identity and location of facilities addressed. (Subsection (10)(c) terminates June 30, 2027--sec. 5, Ch. 387, L. 2015.)”

Section 103. Section 75-10-1601, MCA, is amended to read:

“75-10-1601. Libby asbestos superfund oversight committee – duties. (1) There is a Libby asbestos superfund oversight committee. The oversight committee is attached to the department of environmental quality for administrative purposes only, as prescribed in 2-15-121.

(2) The oversight committee consists of:

(a) the director of the department of environmental quality or the director’s designated representative;

(b) a Lincoln County commissioner designated by the commission;

(c) a citizen of Lincoln County nominated by the Lincoln County commission and selected by the governor;

(d) one member of the house of representatives whose district includes at least a portion of Lincoln County appointed by the speaker of the house; and

(e) one member of the senate whose district includes at least a portion of Lincoln County appointed by the senate president.

(3) The oversight committee shall select a presiding officer.

(4) The oversight committee shall meet at least quarterly to fulfill the requirements of this section.

(5) Duties of the oversight committee include:

(a) monitoring activities related to the Libby asbestos superfund site;

(b) assisting in the implementation of final cleanup and long-term operation and maintenance plans for the Libby asbestos superfund site;

(c) reviewing documents and providing comments and recommendations to the department of environmental quality and to local governments and appropriate federal agencies regarding the Libby asbestos superfund site;

(d) assisting in the preparation and dissemination of reports and other information as necessary;

(e) providing recommendations to the department of environmental quality regarding the administration of:

(i) the Libby asbestos cleanup trust fund provided for in 75-10-1603; and

(ii) the Libby asbestos cleanup operation and maintenance account provided for in 75-10-1604;

(f) initiating and striving to maintain negotiations with the department of environmental quality, the environmental protection agency, and any other entity with a goal of reducing the state and federal roles in the long-term operation and maintenance work at the Libby asbestos superfund site while increasing the role of Lincoln County in expending funds and managing and implementing operation and maintenance activities; and

(g) submitting a report to the environmental quality council ~~by July 1 of each year~~ *annually in accordance with 5-11-210.*

(6) Unless otherwise provided by law, each member is entitled to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while performing oversight committee duties."

Section 104. Section 75-11-521, MCA, is amended to read:

"75-11-521. Benchmarks – budget action taken if not met.

(1) Categorizing petroleum storage tank release sites as resolved is a higher priority than investigation of new releases unless the new release is an imminent danger to the health and safety of the public.

(2) The department shall develop a list of open release sites prioritized by danger to the health and safety of the public and anticipated date of categorizing the sites as resolved.

(3) (a) The cumulative benchmarks that are provided in subsection (3)(b) must be met. If the benchmarks are not met, money appropriated for petroleum storage tank leak prevention may not be included in the department's base budget, as defined in 17-7-102, for the current biennium.

(b) The cumulative benchmarks are as follows:

Date	Total Number of Resolved Sites
December 31, 2011	45
July 1, 2012	90
December 31, 2012	135
July 1, 2013	180
December 31, 2013	225
July 1, 2014	270
December 31, 2014	315
July 1, 2015	360

~~(4) The department shall report to the environmental quality council established by 5-16-101 at the next regularly scheduled meeting of the council following the passing of each benchmark date in subsection (3)(b):~~

~~(5)(4)~~ As used in this section, the following definitions apply:

(a) "Petroleum storage tank" has the same meaning as prescribed in 75-11-302.

(b) "Release" has the same meaning as prescribed in 75-11-302.

(c) "Resolved" means a determination by the department that all cleanup requirements have been met and that conditions at the site ensure present and long-term protection of human health, safety, and the environment."

Section 105. Section 76-4-116, MCA, is amended to read:

"76-4-116. Annual report. The department shall report annually to the environmental quality council ~~established by 5-16-101~~ *in accordance with*

5-11-210 summarizing the review procedures adopted under Title 76, chapter 4, and recommending whether statutory changes should be made to the process.”

Section 106. Section 76-22-118, MCA, is amended to read:

“76-22-118. Reporting. (1) The oversight team shall report to the governor regularly and provide an annual report to the governor, the environmental quality council *in accordance with 5-11-210*, the board of land commissioners, and the county commissions in the counties where projects were funded pursuant to this part. The annual report must include information on activities undertaken pursuant to this part, including but not limited to:

(a) any appropriation, grant, gift, transfer, bequest, or donation received, including interest in real property;

(b) each grant awarded and the details of each grant’s status and results; and

(c) any compensatory mitigation activities.

(2) The oversight team shall *annually* report to the environmental quality council *in accordance with 5-11-210* the findings of its review of staffing needs to effectively implement this part, as well as the costs and benefits of doing so, conducted pursuant to 76-22-105(1)(j).”

Section 107. Section 77-1-223, MCA, is amended to read:

“77-1-223. State trust land report to trust beneficiaries and legislature – contents. (1) The board shall annually prepare a report on state trust lands that summarizes the land held in trust for each beneficiary by land classification.

(2) The report must include the asset value and financial performance of the land held for each beneficiary as calculated using the best available methodology and data.

(3) The board shall provide a copy of the report to the beneficiary of each trust and *to the legislature in accordance with 5-11-210* at the end of each fiscal year.”

Section 108. Section 77-2-366, MCA, is amended to read:

“77-2-366. Land banking and state land cabin and home sites – reports to environmental quality council. (1) (a) The department shall provide a *biennial* report *in accordance with 5-11-210* to the environmental quality council ~~by July 1 prior to each regular legislative session~~ that describes the results of the land banking program in detail.

(b) At a minimum, the report must summarize the sale and purchase transactions made through the program by type, location, acreage, value, and trust beneficiary. The environmental quality council shall make any recommendations that it determines necessary regarding the implementation of the state land banking process, including recommendations for legislation.

(2) Because it is the legislature’s intent that the board implement the provisions of 77-2-318(1) in a timely manner, ~~on or before July 1 of each year~~, the department, in consultation with the appropriate stakeholders, shall *annually* report to the environmental quality council *in accordance with 5-11-210* by providing a summary of land sales of those lands that were state land cabin or home sites pursuant to 77-2-318 and efforts by the department to comply with the requirements of 77-2-318(1).”

Section 109. Section 80-7-1006, MCA, is amended to read:

“80-7-1006. Departmental responsibilities – reporting. (1) The departments shall prepare a list of invasive species and identify those departments and other public agencies with jurisdiction over each species on the list. The jurisdiction of each department for the prevention and control of invasive species is according to the department’s powers and duties as established by law.

(2) For those invasive species under the jurisdiction of more than one department, the departments with jurisdiction, through cooperative agreement, shall seek to clarify and coordinate their respective responsibilities.

(3) Working in collaboration with each other, the departments, individually or collectively, shall develop and adopt an invasive species strategic plan or plans to accomplish the purposes of this part. The plan or plans shall identify and prioritize threats and determine appropriate actions, in the following order of priority, related to:

(a) public awareness and education;

(b) prevention and detection of invasive species, including the use of invasive species management areas authorized under 80-7-1008 and the statewide invasive species management area established in 80-7-1015;

(c) management, control, and restoration of infested areas; and

(d) emergency response.

(4) The departments shall enforce quarantine regulations and measures imposed by law or rule in an invasive species management area established under 80-7-1008 and in the statewide invasive species management area established in 80-7-1015, including the mandatory inspection or decontamination of any interior portion of a vessel or equipment that may contain water for the presence of an invasive species.

(5) The departments may designate employees to carry out the provisions of this part.

(6) The department of fish, wildlife, and parks shall authorize a request by another entity to operate a check station pursuant to this part if the entity agrees to the conditions of an agreement established by all parties, any cooperative funding requirements, and rules adopted under this part. The department of fish, wildlife, and parks retains oversight authority over the operation of a check station pursuant to this subsection.

(7) The departments shall implement education and outreach programs that increase public knowledge and understanding of prevention, early detection, and control of invasive species.

(8) (a) The departments of *fish, wildlife, and parks and natural resources and conservation* shall report to the environmental quality council at least ~~biannually~~ *biennially in accordance with 5-11-210* regarding activities undertaken and expenses incurred in the implementation of this part.

(b) The department of fish, wildlife, and parks shall report to the legislative finance committee at least ~~biannually~~ *biennially* on expenditures made in the implementation of this part. *Expenditures, if not provided in accordance with subsection (8)(a), must be provided to the legislature in accordance with 5-11-210.*

Section 110. Section 80-7-1026, MCA, is amended to read:

“80-7-1026. Upper Columbia conservation commission – purpose and duties. (1) The purpose of the upper Columbia conservation commission, established in 2-15-3310, is to protect the aquatic environment in tributaries to the Columbia River from the threat of invasive species.

(2) The commission shall:

(a) monitor the condition of aquatic resources in the tributaries to the Columbia River and coordinate development of an annual monitoring plan. The plan must use a cooperative strategy among all water management agencies within the Columbia River basin in Montana and identify monitoring specific to invasive species threats.

(b) encourage the close cooperation and coordination between federal, state, regional, tribal, and local water resource managers for establishment of comprehensive monitoring, data collection, and interpretation;

(c) encourage and work for international cooperation and coordination between the state of Montana and the Canadian province of British Columbia;

(d) develop and implement an invasive species education and outreach strategy specifically for the upper Columbia River basin in Montana;

(e) encourage economic development by reducing threats from invasive species and conducting restoration and infestation control measures;

(f) provide an annual report of the following to the governor, the director of the department of natural resources and conservation, and the environmental quality council *in accordance with 5-11-210*:

(i) a summary of information gathered in fulfillment of its duties under this section;

(ii) information on monitoring activities within the portions of the Columbia River basin occurring in Montana;

(iii) an accounting of all money received and expended by source and purpose for the period since the last report; and

(g) meet at least ~~biannually~~ *biennially*, alternating the meeting site between the cities of Kalispell and Missoula.

(3) The commission may make recommendations to the governor and to federal, state, tribal, provincial, regional, and local agencies for reducing threats from invasive species and for conducting restoration and infestation control measures.

(4) The commission may receive and, subject to appropriation by the legislature, expend donations, gifts, grants, and other money necessary to fulfill its duties.”

Section 111. Section 80-7-1203, MCA, is amended to read:

“80-7-1203. Duties – reporting – definition. (1) The invasive species council shall:

(a) provide policy level recommendations, direction, and planning assistance for combating infestations of invasive species throughout the state and preventing the introduction of other invasive species;

(b) foster cooperation, communication, and coordinated approaches that support federal, state, provincial, regional, tribal, and local initiatives for the prevention, early detection, and control of invasive species;

(c) identify, coordinate, and maintain an independent science advisory panel that informs Montana’s efforts based on the current status, trends, and emerging technology as they relate to invasive species management in Montana;

(d) in coordination with stakeholders, identify and implement priorities for coordination, prevention, early detection, rapid response, and control of invasive species in Montana;

(e) champion priority invasive species issues identified by stakeholders to best protect the state;

(f) advise and coordinate with agency personnel, local efforts, and the scientific community to implement program priorities;

(g) implement an invasive species education and outreach strategy;

(h) work with regional groups to coordinate regional defense and response strategies; and

(i) work toward establishing and maintaining permanent funding for invasive species priorities.

(2) The council may receive and, subject to appropriation by the legislature, expend donations, gifts, grants, and other money necessary to fulfill its duties.

(3) The council shall report on its activities to the governor, the director of the department of natural resources and conservation, and the environmental quality council *in accordance with 5-11-210* annually.

(4) For the purposes of this part, “invasive species” means plants, animals, and pathogens that are nonnative to Montana’s ecosystem and cause harm to natural and cultural resources, the economy, and human health.”

Section 112. Section 82-2-701, MCA, is amended to read:

“82-2-701. Sand and gravel deposit program – investigation – purpose – prioritization. (1) The Montana bureau of mines and geology shall establish a sand and gravel deposit program for the purpose of investigating sand and gravel deposits in areas of the state where conflicts between development and sand and gravel operations are high.

(2) In prioritizing areas for investigation, the bureau of mines and geology shall consider the largest counties, according to the most recent census data, and counties with the most opencut mining permits and subdivision applications, according to the department of environmental quality.

(3) The bureau of mines and geology may start an investigation when it has sufficient funds to conduct an investigation.

(4) Within 1 year of starting an investigation, the bureau of mines and geology shall present the results of the investigation in the form of maps and text *and in accordance with 5-11-210* to:

- (a) the counties included in the investigation;
- (b) the local government interim committee; and
- (c) the environmental quality council.”

Section 113. Section 85-1-203, MCA, is amended to read:

“85-1-203. State water plan. (1) The department shall gather from any source reliable information relating to Montana’s water resources and prepare from the information a continuing comprehensive inventory of the water resources of the state. In preparing this inventory, the department may:

- (a) conduct studies;
- (b) adopt studies made by other competent water resource groups, including federal, regional, state, or private agencies;
- (c) perform research or employ other competent agencies to perform research on a contract basis; and

(d) hold public hearings in affected areas at which all interested parties must be given an opportunity to appear.

(2) The department shall formulate and adopt and amend, extend, or add to a comprehensive, coordinated multiple-use water resources plan known as the “state water plan”. The state water plan may be formulated and adopted in sections, with some of these sections corresponding with hydrologic divisions of the state. The state water plan must set out a progressive program for the conservation, development, utilization, and sustainability of the state’s water resources and propose the most effective means by which these water resources may be applied for the benefit of the people, with due consideration of alternative uses and combinations of uses.

(3) Sections of the state water plan must be completed for the Missouri, Yellowstone, and Clark Fork River basins, submitted to the 2015 legislature, and updated at least every 20 years. These basinwide plans must include:

(a) an inventory of consumptive and nonconsumptive uses associated with existing water rights;

(b) an estimate of the amount of surface and ground water needed to satisfy new future demands;

(c) analysis of the effects of frequent drought and of new or increased depletions on the availability of future water supplies;

(d) proposals for the best means, such as an evaluation of opportunities for storage of water by both private and public entities, to satisfy existing water rights and new water demands;

- (e) possible sources of water to meet the needs of the state; and
- (f) any legislation necessary to address water resource concerns in these basins.

(4) (a) The department shall create a water user council in both the Yellowstone and Missouri River basins that is inclusive and representative of all water interests and interests in those basins. For the Clark Fork River basin, the department shall continue to utilize the Clark Fork River basin task force established pursuant to 85-2-350.

(b) The councils in the Missouri and Yellowstone River basins consist of representatives of existing watershed groups or councils within the basins.

(c) Each council may have up to 20 members.

(d) Each water user council shall make recommendations to the department on the basinwide plans required by subsection (3).

(5) Before adopting the state water plan or any section of the plan, the department shall hold public hearings in the state or in an area of the state encompassed by a section of the plan if adoption of a section is proposed. Notice of the hearing or hearings must be published for 2 consecutive weeks in a newspaper of general county circulation in each county encompassed by the proposed plan or section of the plan at least 30 days prior to the hearing.

(6) The department shall submit to the water policy *interim* committee established in 5-5-231 and to the legislature at the beginning of each regular session in accordance with 5-11-210 the state water plan or any section of the plan or amendments, additions, or revisions to the plan that the department has formulated and adopted.

(7) The legislature, by joint resolution, may revise the state water plan.

(8) The department shall prepare a continuing inventory of the ground water resources of the state. The ground water inventory must be included in the comprehensive water resources inventory described in subsection (1) but must be a separate component of the inventory.

(9) The department shall publish the comprehensive inventory, the state water plan, the ground water inventory, or any part of each, and the department may assess and collect a reasonable charge for these publications.

(10) In developing and revising the state water plan as provided in this section, the department shall consult with the water policy committee established in 5-5-231 and solicit the advice of the water policy committee in carrying out its duties under this section."

Section 114. Section 85-1-501, MCA, is amended to read:

"85-1-501. Survey of power generation capacity. (1) The department shall study the economic and environmental feasibility of constructing and operating a small-scale hydroelectric power generating facility on each of the water projects under its control and shall periodically update those studies as the cost of the electrical energy increases. In determining whether small-scale hydroelectric generation may be economically feasible on a particular project, the department shall consider:

- (a) the estimated cost of construction of a facility;
- (b) the estimated cost of maintaining, repairing, and operating the facility;
- (c) the estimated cost of tying into an existing power distribution channel;
- (d) the ability of public utilities or rural electric cooperatives to lease and operate such a facility;
- (e) the debt burden to be serviced;
- (f) the revenue expected to be derived;
- (g) the likelihood of a reasonable rate of return on the investment; and
- (h) the potential impacts on water supply and streamflows.

(2) ~~Prior to September 1 of each even-numbered year, the~~ *The* department shall update the energy and telecommunications interim committee and the water policy interim committee *in accordance with 5-11-210* on all past and current studies conducted pursuant to this section.”

Section 115. Section 85-1-605, MCA, is amended to read:

“85-1-605. Grants, loans, and bonds for state, local, or tribal government assistance. (1) The department may recommend to the legislature that grants and loans be made from revenue deposited in the natural resources projects state special revenue account established in 15-38-302, that loans be made from renewable resource bond proceeds deposited in the renewable resource loan proceeds account established in 85-1-617(5), and that coal severance tax bonds be authorized pursuant to Title 17, chapter 5, part 7, to provide financial assistance to a department, agency, board, commission, or other division of state government, to a city, county, or other political subdivision or local government body of the state, including an authority as defined in 75-6-304, or to a tribal government. The legislature may approve by appropriation or other appropriate means those grants and loans that it finds consistent with the policies and purposes of the program.

(2) Nothing in this part creates or expands the state’s or a local government’s authority to incur debt, and the legislature may authorize loans only to state and local government entities otherwise structured to incur debt.

(3) Loans may not be authorized except to a state, local, or tribal government entity that agrees to secure the authorized loan with its bond.

(4) In addition to implementing those projects approved by the legislature, the department may request up to 10% of the grant funds available and up to \$10 million for loans from the natural resources projects state special revenue account established in 15-38-302 and the renewable resource loan proceeds account in any biennium to be used for emergencies. These emergency grant projects or loan projects, or both, may not be made because of the gross negligence of the state, local, or tribal government applicant, must be approved by the department, and must be defined as those projects otherwise eligible for either grant funding or loan funding, or both, that, if delayed until legislative approval can be obtained, will cause substantial damages or legal liability to the project sponsor. In allocating the funds, the department shall inform the legislative fiscal analyst. *The department shall provide a copy of the information to the legislature in accordance with 5-11-210.*

(5) The grants and loans provided for by this section may be made for projects that enhance renewable resources in the state through conservation, development, management, or preservation; for assessing feasibility or planning; for implementing renewable resource projects; and for similar purposes approved by the legislature.

(6) Grant and loan agreements with tribal governments in Montana entered into under this part must contain, in addition to other appropriate terms and conditions, the following conditions:

(a) a requirement that in the event a dispute or claim arises under the agreement, state law will govern as to the interpretation and performance of the agreement and that any judicial proceeding concerning the terms of the agreement will be brought in the district court of the first judicial district of the state of Montana;

(b) an express waiver of the tribal government’s immunity from suit on any issue specifically arising from the transaction of a loan or grant; and

(c) an express waiver of any right to exhaust tribal remedies signed by the tribal government.”

Section 116. Section 85-1-621, MCA, is amended to read:

“85-1-621. Report. The department shall prepare a biennial report describing the status of the renewable resource grant and loan program. The report must describe ongoing projects and projects that have been completed during the biennium. The report must identify and rank in order of priority the projects for which the department has received applications. The report must also describe proposed projects and activities for the coming biennium and recommendations for necessary appropriations. A copy of the report must be submitted to the water policy *interim* committee established in 5-5-231 in accordance with 5-11-210.”

Section 117. Section 85-1-704, MCA, is amended to read:

“85-1-704. Prioritization of water storage projects – governor’s report. (1) The governor shall submit to each regular session of the legislature a report in accordance with 5-11-210 identifying specific water storage projects proposed for development, including the rehabilitation of existing projects and new project proposals. The report must contain:

- (a) a list of water storage project priorities;
- (b) an implementation strategy for each priority project that identifies the resources (including specific budget requests), government actions, and other actions needed to accomplish the project; and
- (c) a progress report on the development of water storage projects during the previous 2 years.

(2) In setting priorities among new water storage projects, the governor shall consider whether a project:

- (a) solves a severe water problem;
- (b) provides multiple uses and benefits;
- (c) provides for public uses;
- (d) shows strong evidence of broad citizen support;
- (e) is able to obtain nonstate sources of funding;
- (f) protects and seeks to enhance social, ecological, cultural, and aesthetic values;
- (g) improves local and state economic development;
- (h) could resolve Indian and federal reserved water rights issues;
- (i) supports water conservation activities; and
- (j) promotes the use of water reserved under Montana law.

(3) In setting priorities among water storage rehabilitation projects, the governor shall consider whether the project:

- (a) is needed to protect public safety;
- (b) has impacts if not repaired or rehabilitated; and
- (c) accomplishes the goals listed in subsections (2)(a) through (2)(j).

(4) In establishing budget priorities for the allocation of state water storage development funds:

- (a) first preference must be given to projects that resolve threats to life and property posed by high-hazard facilities that are in an unsafe condition;
- (b) second preference must be given to projects that improve or expand existing water storage facilities; and
- (c) third preference must be given to the planning and construction of new water storage facilities.”

Section 118. Section 85-2-105, MCA, is amended to read:

“85-2-105. Water policy *interim* committee duties. (1) The water policy *interim* committee established in 5-5-231 shall meet as often as necessary, including during the interim between sessions, to perform the duties specified within this section.

(2) On a continuing basis, the water policy *interim* committee may:

(a) advise the legislature on the adequacy of the state's water policy and on important state, regional, national, and international developments that affect Montana's water resources;

(b) oversee the policies and activities of the department, other state executive agencies, and other state institutions as those policies and activities affect the water resources of the state;

(c) assist with interagency coordination related to Montana's water resources; and

(d) communicate with the public on matters of water policy as well as the water resources of the state.

(3) On a regular basis, the water policy *interim* committee shall:

(a) analyze and comment on the state water plan required by 85-1-203, when filed by the department;

(b) analyze and comment on the report of the status of the state's renewable resource grant and loan program required by 85-1-621, when filed by the department;

(c) analyze and comment on water-related research undertaken by any state agency, institution, college, or university;

(d) analyze, verify, and comment on the adequacy of and information contained in the water information system maintained by the natural resource information system under 90-15-305; and

(e) ~~report to the legislature as provided in 5-11-210~~ *provide recommendations and a report, if one is written, in accordance with 5-5-216 for studies completed by the committee.*

Section 119. Section 85-2-281, MCA, is amended to read:

"85-2-281. (Temporary) Reporting requirements. The department and the water court shall:

(1) provide quarterly reports to the water policy *interim* committee ~~during a legislative interim in accordance with 5-11-210~~ on:

(a) the progress of the adjudication on a basin-by-basin basis;

(b) the number of basins for which examination was completed during the reporting period;

(c) the number and type of decrees issued in the preceding year and in each quarter of the current year and an update on summary reports in review;

(d) the number of claims resolved each month in the preceding year;

(e) the percentage of claims resolved by basin, limited to basins under active review by the water court, after issuance of a decree and passage of the deadline of the notices of intent to appear; and

(f) compact status describing compacts approved by the water court and pending compacts;

(2) include a status report on the adjudication in their presentation to the applicable appropriation subcommittees during each legislative session including the number of basins for which examination was completed during the reporting period; and

(3) provide a budget that outlines how each of the entities will be funded in the next biennium, including general fund money and state special revenue funds. (Terminates June 30, 2028--secs. 10, 11, Ch. 269, L. 2015.)"

Section 120. Section 85-2-316, MCA, is amended to read:

"85-2-316. State reservation of waters. (1) The state, any political subdivision or agency of the state, or the United States or any agency of the United States may apply to the department to acquire a state water reservation for existing or future beneficial uses or to maintain a minimum flow, level, or quality of water throughout the year or at periods or for a length of time that the department designates.

(2) (a) Water may be reserved for existing or future beneficial uses in the basin where it is reserved, as described by the following basins:

(i) the Clark Fork River and its tributaries to its confluence with Lake Pend Oreille in Idaho;

(ii) the Kootenai River and its tributaries to its confluence with Kootenay Lake in British Columbia;

(iii) the St. Mary River and its tributaries to its confluence with the Oldman River in Alberta;

(iv) the Little Missouri River and its tributaries to its confluence with Lake Sakakawea in North Dakota;

(v) the Missouri River and its tributaries to its confluence with the Yellowstone River in North Dakota; and

(vi) the Yellowstone River and its tributaries to its confluence with the Missouri River in North Dakota.

(b) A state water reservation may be made for an existing or future beneficial use outside the basin where the diversion occurs only if stored water is not reasonably available for water leasing under 85-2-141 and the proposed use would occur in a basin designated in subsection (2)(a).

(3) (a) The department shall adopt rules that are necessary to determine whether or not an application is correct and complete based on the provisions applicable to issuance of a state water reservation. The rules must be adopted in compliance with Title 2, chapter 4.

(b) An applicant shall submit a correct and complete application. The determination of whether an application is correct and complete must be based on rules adopted under this subsection (3) that are in effect at the time the application is submitted. The department shall proceed in accordance with 85-2-302 with regard to any defects in the application.

(c) The application must be made on a form prescribed by the department. The department shall make the forms available through its offices.

(d) Upon receiving a correct and complete application, the department shall proceed in accordance with 85-2-307 through 85-2-309. After the hearing provided for in 85-2-309, the department shall decide whether to reserve the water for the applicant. The department's costs of giving notice, holding the hearing, conducting investigations, and making records incurred in acting upon the application to reserve water, except the cost of salaries of the department's personnel, must be paid by the applicant. In addition, a reasonable proportion of the department's cost of preparing an environmental analysis must be paid by the applicant unless waived by the department upon a showing of good cause by the applicant.

(4) (a) Except as provided in 85-20-1401, the department shall issue a state water reservation if the applicant establishes to the department by a preponderance of evidence:

(i) the purpose of the reservation;

(ii) the need for the reservation;

(iii) the amount of water necessary for the purpose of the reservation;

(iv) that the reservation is in the public interest.

(b) In determining the public interest under subsection (4)(a)(iv), the department shall issue a water reservation for withdrawal and transport for use outside the state if the applicant proves by clear and convincing evidence that:

(i) the proposed out-of-state use of water is not contrary to water conservation in Montana; and

(ii) the proposed out-of-state use of water is not otherwise detrimental to the public welfare of the citizens of Montana.

(c) In determining whether the applicant has proved by clear and convincing evidence that the requirements of subsections (4)(b)(i) and (4)(b)(ii) are met, the department shall consider the following factors:

(i) whether there are present or projected water shortages within the state of Montana;

(ii) whether the water that is the subject of the application could feasibly be transported to alleviate water shortages within the state of Montana;

(iii) the supply and sources of water available to the applicant in the state where the applicant intends to use the water; and

(iv) the demands placed on the applicant's supply in the state where the applicant intends to use the water.

(d) When applying for a state water reservation to withdraw and transport water for use outside the state, the applicant shall submit to and comply with the laws of the state of Montana governing the appropriation, lease, use, and reservation of water.

(5) If the purpose of the state water reservation requires construction of a storage or diversion facility, the applicant shall establish to the department by a preponderance of evidence that there will be progress toward completion of the facility and accomplishment of the purpose with reasonable diligence in accordance with an established plan.

(6) (a) Upon issuing a state water reservation for the purpose of maintaining a minimum flow, level, or quality of water, the appropriation of water is complete.

(b) The department shall limit any state water reservations after May 9, 1979, for maintenance of minimum flow, level, or quality of water that it awards at any point on a stream or river to a maximum of 50% of the average annual flow of record on gauged streams. Ungauged streams are not subject to the limit under this subsection (6)(b).

(7) A state water reservation issued under this section has a priority of appropriation dating from the filing of a correct and complete application with the department.

(8) (a) A person desiring to use water reserved to a conservation district for agricultural purposes shall make application for the use with the district, and the district, upon approval of the application, shall inform the department of the approved use and issue the applicant an authorization for the use. The department shall maintain records of all uses of water reserved to conservation districts and be responsible, when requested by the districts, for rendering technical and administrative assistance within the department's staffing and budgeting limitations in the preparation and processing of the applications for the conservation districts. The department shall, within its staffing and budgeting limitations, complete any feasibility study requested by the districts within 12 months of the time that the request was made. The department shall extend the time allowed to develop a plan identifying projects for using a district's reservation as long as the conservation district makes a good faith effort, within its staffing and budget limitations, to develop a plan.

(b) Upon actual application of water to the proposed beneficial use, the authorized user shall notify the conservation district. The notification must contain a certified statement by a person with experience in the design, construction, or operation of project works for agricultural purposes describing how the reserved water was put to use. The department or the district may then inspect the appropriation to determine if it has been completed in substantial accordance with the authorization.

(9) A state water reservation issued under this section may not adversely affect any rights in existence at that time. The department may issue a state

water reservation subject to terms, conditions, restrictions, and limitations it considers necessary to satisfy the criteria of this section.

(10) (a) Except for a reservation provided in subsection (6) or a reservation provided in 85-20-1401, the department shall, at least once every 10 years, review existing state water reservations to ensure that the objectives of the reservations are being met.

(b) The department shall provide the water policy interim committee, ~~established in 5-5-231~~, a summary of the reviews before September 15, 2026, *in accordance with 5-11-210*.

(c) Following a review pursuant to this subsection (10), at the request of the entity holding a water reservation or when the objectives of a state water reservation are not being met, the department may:

- (i) extend the time period to complete the appropriation of water;
- (ii) modify the reservation; or
- (iii) revoke the reservation.

(d) Any undeveloped water made available as a result of a revocation or modification under this subsection (10) is available for appropriation by others pursuant to this part.

(11) Except as provided in 85-20-1401, the department may modify an existing or future order originally adopted to reserve water for the purpose of maintaining minimum flow, level, or quality of water, so as to reallocate the state water reservation or portion of the reservation to an applicant who is a qualified reservant under this section. Reallocation of water reserved pursuant to a state water reservation may be made by the department following notice and hearing if the department finds that all or part of the reservation is not required for its purpose and that the need for the reallocation has been shown by the applicant to outweigh the need shown by the original reservant. Reallocation of reserved water may not adversely affect the priority date of the reservation, and the reservation retains its priority date despite reallocation to a different entity for a different use. The department may not reallocate water reserved under this section on any stream or river more frequently than once every 5 years.

(12) A reservant may not make a change in a state water reservation under this section, except as permitted under 85-2-402 and this subsection. If the department approves a change, the department shall give notice and require the reservant to establish that the criteria in subsection (4) will be met under the approved change.

(13) A state water reservation may be transferred to another entity qualified to hold a reservation under subsection (1). Only the entity holding the reservation may initiate a transfer. The transfer occurs upon the filing of a water right ownership update form with the department, together with an affidavit from the entity receiving the reservation establishing that the entity is a qualified reservant under subsection (1), that the entity agrees to comply with the requirements of this section and the conditions of the reservation, and that the entity can meet the objectives of the reservation as granted. If the transfer of a state water reservation involves a change in an appropriation right, the necessary approvals must be acquired pursuant to subsection (12).

(14) This section does not vest the department with the authority to alter a water right that is not a state water reservation.

(15) The department shall undertake a program to educate the public, other state agencies, and political subdivisions of the state as to the benefits of the state water reservation process and the procedures to be followed to secure the reservation of water. The department shall provide technical assistance to other state agencies and political subdivisions in applying for reservations under this section.

(16) Water reserved under this section is not subject to the state water leasing program established under 85-2-141.”

Section 121. Section 85-2-338, MCA, is amended to read:

“85-2-338. Upper Clark Fork River basin steering committee – membership and duties – comprehensive management plan. (1) There is an upper Clark Fork River basin steering committee. The steering committee has 22 members, who must be appointed as follows:

(a) Each of the six conservation districts in the basin may appoint a member.

(b) Each of the six county commissions in the basin may appoint a member.

(c) The department director shall appoint the remaining 10 committee members and any additional committee members not appointed under subsections (1)(a) and (1)(b) and shall ensure that committee membership includes a balance of affected basin interests and is in conformance with subsection (2).

(2) Steering committee members must be selected on the basis of their knowledge of water use, water management, fish, wildlife, recreation, water quality, and water conservation. Representation on the committee must include but is not limited to representatives from affected:

- (a) agriculture;
- (b) conservation districts;
- (c) departments of state government;
- (d) environmental organizations;
- (e) industries;
- (f) local governments;
- (g) reservation applicants;
- (h) utilities; and
- (i) water users not otherwise represented.

(3) Except as provided in subsection (4), steering committee members shall serve 4-year terms and may serve more than one term.

(4) Initial term lengths must be staggered in conformance with the following:

- (a) conservation district appointees shall initially serve for 4 years;
- (b) county commissioner appointees shall initially serve for 2 years; and
- (c) as determined by the department, half of the department appointees shall initially serve for 2 years and the remainder shall initially serve for 4 years.

(5) The steering committee, consistent with the upper Clark Fork River basin comprehensive management plan, shall:

(a) review the upper Clark Fork River basin closure and exceptions as provided in 85-2-336 no less than every 5 years after April 14, 1995, and make recommendations to the legislature regarding necessary changes;

(b) prepare and submit a report concerning the relationship between surface water and ground water and the cumulative impacts of ground water withdrawals in each subbasin;

(c) provide a forum for all interests to communicate about water issues;

(d) provide education about water law and water management issues;

(e) identify short-term and long-term water management issues and problems and identify alternatives for resolving them;

(f) identify the potential beneficiaries of and a funding mechanism for new and expanded water storage sites;

(g) assist in facilitating the resolution of water-related disputes;

(h) provide coordination with other basin management and planning efforts;

(i) advise government agencies about water management and permitting activities;

(j) consult with local governments within the upper Clark Fork River basin; and

(k) report ~~periodically~~ *relevant recommendations as determined necessary to the legislature in accordance with 5-11-210.*"

Section 122. Section 85-2-350, MCA, is amended to read:

"85-2-350. Clark Fork River basin task force – duties – water management plan. (1) The governor's office shall designate an appropriate entity to convene and coordinate a Clark Fork River basin task force to prepare proposed amendments to the state water plan provided for under 85-1-203 related to the Clark Fork River basin. The designated appropriate entity shall:

(a) identify the individuals and organizations, public, tribal, and private, that are interested in or affected by water management in the Clark Fork River basin;

(b) provide advice and assistance in selecting representatives to serve on the task force;

(c) develop, in consultation with the task force, appropriate opportunities for public participation in studies of water management in the Clark Fork River basin; and

(d) ensure that all watersheds and viewpoints within the basin are adequately represented on the task force, including a representation from the following:

(i) the reach of the Clark Fork River in Montana below its confluence with the Flathead River;

(ii) the Flathead River basin, including Flathead Lake, from Flathead Lake to the confluence of the Flathead River and the Clark Fork River;

(iii) the Flathead River basin upstream from Flathead Lake;

(iv) the reach of the Clark Fork River between the confluence of the Blackfoot River and the Clark Fork River and the confluence of the Clark Fork River and the Flathead River;

(v) the Bitterroot River basin as defined in 85-2-344; and

(vi) the upper Clark Fork River basin as defined in 85-2-335.

(2) Task force members shall serve 2-year terms and may serve more than one term. The Confederated Salish and Kootenai tribal government has the right to appoint a representative to the task force.

(3) The task force shall:

(a) identify short-term and long-term water management issues and problems and alternatives for resolving any issues or problems identified;

(b) identify data gaps regarding basin water resources, especially ground water;

(c) coordinate water management by local basin watershed groups, water user organizations, and individual water users to ensure long-term sustainable water use;

(d) provide a forum for all interests to communicate about water issues;

(e) advise government agencies about water management and permitting activities in the Clark Fork River basin;

(f) consult with local and tribal governments within the Clark Fork River basin;

(g) make recommendations, if recommendations are considered necessary, to the department for consideration as amendments to the state water plan provided for under 85-1-203 related to the Clark Fork River basin; and

(h) report to:

(i) the department on a periodic basis;

(ii) the water policy committee ~~established in 5-5-231 annually in accordance with 5-11-210;~~ and

(iii) the appropriations subcommittee that deals with natural resources and commerce each legislative session.”

Section 123. Section 85-2-436, MCA, is amended to read:

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

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

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

(b) The department may not approve a change in appropriation right until all objections are resolved.

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

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

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

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

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

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

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

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

(4) (a) The department of fish, wildlife, and parks shall complete and submit to the department, commission, and water policy *interim* committee ~~established in 5-5-231~~ a biennial progress report ~~by December 1 of odd-numbered years in accordance with 5-11-210~~. This report must include a summary of all appropriation rights changed to an instream flow purpose in the last 2 years.

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

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

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

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

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

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

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

(6) (a) From May 8, 2007, through June 30, 2029, the department of fish, wildlife, and parks may change, pursuant to this section, the appropriation rights that it holds in fee simple to instream flow purposes on no more than 12 stream reaches.

(b) After June 30, 2029, the department of fish, wildlife, and parks may not change the appropriation rights that it holds in fee simple to instream flow purposes on any stream reaches.

(7) After June 30, 2029, the department of fish, wildlife, and parks may not enter into any new lease agreements pursuant to this section or renew any leases that will expire after that date."

Section 124. Section 87-1-201, MCA, is amended to read:

"87-1-201. Powers and duties. (1) Except as provided in subsection (12), the department shall supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals of the state and may implement voluntary programs that encourage hunting access on private lands and that promote harmonious relations between landowners and the hunting public. The department possesses all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and game laws and the rules adopted by the department.

(2) Except as provided in subsection (12), the department shall enforce all the laws of the state regarding the protection, preservation, management, and

propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

(3) The department has the exclusive power to spend for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from fines or damages collected for violations of the fish and game laws, or from appropriations or received by the department from any other sources is under the control of the department and is available for appropriation to the department.

(4) The department may discharge any appointee or employee of the department for cause at any time.

(5) The department may dispose of all property owned by the state used for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no further value or use to the state and shall turn over the proceeds from the sale to the state treasurer to be credited to the fish and game account in the state special revenue fund.

(6) The department may not issue permits to carry firearms within this state to anyone except regularly appointed officers or wardens.

(7) Except as provided in subsection (12), the department is authorized to make, promulgate, and enforce reasonable rules and regulations not inconsistent with the provisions of Title 87, chapter 2, that in its judgment will accomplish the purpose of chapter 2.

(8) The department is authorized to promulgate rules relative to tagging, possession, or transportation of bear within or outside of the state.

(9) (a) The department shall implement programs that:

(i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.;

(ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the maintenance or recovery of those species;

(iii) manage elk, deer, and antelope populations based on habitat estimates determined as provided in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as provided in 87-1-323. In implementing an elk management plan, the department shall, as necessary to achieve harvest and population objectives, request that land management agencies open public lands and public roads to public access during the big game hunting season.

(iv) in accordance with the forest management plan required by 87-1-622, address fire mitigation, pine beetle infestation, and wildlife habitat enhancement giving priority to forested lands in excess of 50 contiguous acres in any state park, fishing access site, or wildlife management area under the department's jurisdiction.

(b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or recovery of those species with the social and economic impacts of species maintenance or recovery.

(c) Any management plan developed by the department pursuant to this subsection (9) is subject to the requirements of Title 75, chapter 1, part 1.

(d) This subsection (9) does not affect the ownership or possession, as authorized under law, of a privately held listed species, a sensitive species, or a species that is a potential candidate for listing.

(10) The department shall publish an annual game count, estimating to the department's best ability the numbers of each species of game animal, as defined in 87-2-101, in the hunting districts and administrative regions of the state. In preparing the publication, the department may incorporate field observations, hunter reporting statistics, or any other suitable method of determining game numbers. The publication must include an explanation of the basis used in determining the game count.

(11) The department shall report current sage grouse population numbers, including the number of leks, to the Montana sage grouse oversight team, established in 2-15-243, and the environmental quality council, ~~established in 5-16-101, in accordance with 5-11-210~~ on an annual basis. The report must include seasonal and historic population data available from the department or any other source.

(12) The department may not regulate the use or possession of firearms, firearm accessories, or ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

(a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the establishment of special archery seasons;

(b) for human safety, the restriction of certain areas to the use of only specified hunting arms, including bows and arrows, traditional handguns, and muzzleloading rifles;

(c) the restriction of the use of shotguns for the hunting of deer and elk pursuant to 87-6-401(1)(f);

(d) the regulation of migratory game bird hunting pursuant to 87-3-403; or

(e) the restriction of the use of rifles for bird hunting pursuant to 87-6-401(1)(g) or (1)(h)."

Section 125. Section 87-1-250, MCA, is amended to read:

"87-1-250. Upland game bird enhancement program -- report. The department shall report to ~~the fish and game committee of each house of the legislature each regular session of the legislature, in accordance with 5-11-210,~~ concerning upland game bird enhancement activities undertaken pursuant to 87-1-246 through 87-1-249 and 87-1-251 during the preceding biennium, including providing:

(1) copies of reports made to the upland game bird citizens' advisory council pursuant to 87-1-251(2)(b); and

(2) any recommendations concerning the operation of the program."

Section 126. Section 87-1-269, MCA, is amended to read:

"87-1-269. Private land/public wildlife advisory committee -- duties -- reports. (1) There is a private land/public wildlife advisory committee composed of persons interested in issues related to hunters, anglers, landowners, and outfitters, including but not limited to hunting access programs established pursuant to 87-1-265, the fishing access enhancement program, landowner-hunter relations, outfitting industry issues, public access land agreements, and other issues related to private lands and public wildlife. The committee must have broad representation of landowners, outfitters, and sportspersons. The department may provide administrative assistance as necessary to assist the private land/public wildlife advisory committee.

(2) The governor shall appoint the members of the private land/public wildlife advisory committee.

(3) (a) The private land/public wildlife advisory committee shall report to the governor and to each *regular session of the legislature*, in accordance with 5-11-210, regarding the success of various elements of the hunting access programs, including a report of annual landowner participation, the number of acres annually enrolled in the programs, hunter harvest success on enrolled lands, the number of qualified applicants who were denied enrollment because of a shortfall in funding, and an accounting of program expenditures, and make recommendations for funding, modification, or improvement needed to achieve the objectives of the programs. The department shall provide fiscal analyses of all hunting access program funding sources to the review committee for review and recommendations.

(b) The private land/public wildlife advisory committee shall report to the governor and to each *regular session of the legislature*, in accordance with 5-11-210, regarding the success of the fishing access enhancement program and make recommendations for funding, modification, or improvement needed to achieve the objectives of the program. The department shall provide fiscal analyses of all fishing access enhancement program funding sources to the review committee for review and recommendations.

(4) The private land/public wildlife advisory committee shall review public access land agreement proposals pursuant to 87-1-295 and recommend to the department whether to grant public access land agreements.

(5) The director may appoint additional advisory committees that are considered necessary to assist in the implementation of the hunting access programs, public access land agreements, and the fishing access enhancement program and to advise the commission regarding the development of rules implementing the hunting access programs, public access land agreements, and the fishing access enhancement program.”

Section 127. Section 87-1-272, MCA, is amended to read:

“87-1-272. Future fisheries improvement program – funding priority – reports required. (1) In order to enhance future fisheries through natural reproduction, the department shall establish and implement a statewide voluntary program that promotes fishery habitats and spawning areas for the rivers, streams, and lakes of Montana’s fisheries.

(2) When projects are suggested by the future fisheries review panel, the department shall, through a public hearing process and with the approval of the commission, prioritize projects that have been recommended by the review panel to be funded. Emphasis must be given to projects that enhance the historic habitat of native fish species. The department shall fund and implement the program regarding the long-term enhancement of streams and streambanks, instream flows, water leasing, lease or purchase of stored water, and other voluntary programs that deal with wild fish and aquatic habitats. A project conducted under the future fisheries improvement program may not restrict or interfere with the exercise of any water rights or property rights of the owners of streambeds and property adjacent to streambeds, streambanks, and lakes. The fact that a program project has been completed on private property does not create any right of public access to the private property unless that right is granted voluntarily by the property owner.

(3) The department shall work in cooperation with private landowners, conservation districts, irrigation districts, local officials, anglers, and other citizens to implement the future fisheries improvement program. Any department employee who is employed under this section to facilitate contact with landowners must have experience in commercial or irrigated agriculture. The department shall encourage the use of volunteer labor and grants,

matching grants, and private donations to accomplish program purposes. The department may use contracted services:

- (a) for negotiations with landowners, local officials, citizens, and others;
- (b) for coordination with other agencies that may be involved in projects conducted under this section; and

- (c) to perform and supervise project work.

- (4) Funds expended under this section may be used only for projects for the protection of the fisheries resource that have been identified by the review panel established in 87-1-273 and approved by the commission and may not be used for the acquisition of any interest in land.

- (5) (a) The department shall report to the commission on the progress of the future fisheries improvement program every 12 months and post a copy of the report on a state electronic access system to ensure public access to the report.

- (b) The department shall also present a detailed report to ~~each regular session of the legislature~~ *in accordance with 5-11-210* on the progress of the future fisheries improvement program. The legislative report must include the department's program activities and expenses since the last report and the project schedules and anticipated expenses for the ensuing 10 years' implementation of the future fisheries improvement program.

- (c) In order to implement 87-1-273 and this section, the department may expend revenue from the future fisheries improvement program for up to two additional full-time employees."

Section 128. Section 87-1-629, MCA, is amended to read:

"87-1-629. Review of budget – report to legislature. In addition to the requirements of Title 17, chapter 7, part 1, every 4 years the department shall review its expenditures and revenue to determine the need for making license revenue recommendations to the legislature. The department shall report the findings of its review to the legislature ~~in the next regular session. The first report is due January 1, 2019~~ *in accordance with 5-11-210.*"

Section 129. Section 87-1-901, MCA, is amended to read:

"87-1-901. Gray wolf management – rulemaking – reporting.

(1) Except as provided in subsection (2), the commission shall establish by rule hunting and trapping seasons for wolves. For game management purposes, the commission may authorize:

- (a) the issuance of more than one Class E-1 or Class E-2 wolf hunting license to an applicant; and

- (b) the trapping of more than one wolf by the holder of a trapping license.

(2) The commission shall adopt rules to allow a landowner or the landowner's agent to take a wolf on the landowner's property at any time without the purchase of a Class E-1 or Class E-2 wolf license when the wolf is a potential threat to human safety, livestock, or dogs. The rules must:

- (a) be consistent with the Montana gray wolf conservation and management plan and the adaptive management principles of the commission and the department for the Montana gray wolf population;

- (b) require a landowner or the landowner's agent who takes a wolf pursuant to this subsection (2) to promptly report the taking to the department and to preserve the carcass of the wolf;

- (c) establish a quota each year for the total number of wolves that may be taken pursuant to this subsection (2); and

- (d) allow the commission to issue a moratorium on the taking of wolves pursuant to this subsection (2) before a quota is reached if the commission determines that circumstances require a limitation of the total number of wolves taken.

(3) Public land permittees who have experienced livestock depredation must obtain a special kill permit authorized in 87-5-131(3)(b) to take a wolf on public land without the purchase of a Class E-1 or Class E-2 license.

(4) The department shall report annually to the environmental quality council *in accordance with 5-11-210* regarding the implementation of 87-5-131, 87-5-132, and this section.”

Section 130. Section 87-2-702, MCA, is amended to read:

“87-2-702. Restrictions on special licenses – availability of bear and mountain lion licenses. Restrictions on special licenses – availability of bear and mountain lion licenses. (1) A person who has killed or taken any game animal, except a deer, an elk, or an antelope, during the current license year is not permitted to receive a special license under this chapter to hunt or kill a second game animal of the same species.

(2) The commission may require applicants for special permits authorized by this chapter to obtain a valid big game license for that species for the current year prior to applying for a special permit.

(3) Except as provided in 87-2-815, a person may take only one grizzly bear in Montana with a license authorized by 87-2-701.

(4) (a) Except as provided in 87-1-271(2) and 87-2-815, a person who receives a moose, mountain goat, or limited mountain sheep license, as authorized by 87-2-701, with the exception of an antlerless moose or an adult ewe game management license issued under 87-2-104, is not eligible to receive another special license for that species for the next 7 years. For the purposes of this subsection (4)(a), “limited mountain sheep license” means a license that is valid for an area in which the number of licenses issued is restricted.

(b) (i) Except as provided in 87-1-271(2) and 87-2-815, a person who takes a legal ram mountain sheep with at least one horn that is equal to or greater than a three-fourths curl using an unlimited mountain sheep license or a population management license issued pursuant to 87-2-701 is not eligible to receive another special license for that species for the next 7 years. For the purposes of this subsection (4)(b)(i), “unlimited mountain sheep license” means a license that is valid for an area in which the number of licenses issued is not restricted.

{(ii) ~~Before September 1 of each even-numbered year, the~~ The department shall *biennially* report to the environmental quality council *in accordance with 5-11-210* information on:

(A) mountain sheep harvested pursuant to this subsection (4) from the Tendoy Mountain herd;

(B) efforts to collect tissue samples and other biological information from mountain sheep harvested from the Tendoy Mountain herd to determine the immunity of surviving herd members to pneumonia outbreaks; and

(C) attempts by the department to share tissue samples and other biological information collected from the Tendoy Mountain herd with Washington State University, other public entities, and private entities that research the interaction between mountain sheep and domestic sheep.}

(5) An application for a wild buffalo or bison license must be made on the same form and is subject to the same license application deadline as the special license for moose, mountain goat, and mountain sheep.

(6) (a) Licenses for spring bear hunts must be available for purchase at department offices after April 15 of any license year. However, a person who purchases a license for a spring bear hunt after April 15 of any license year may not use the license until 24 hours after the license is issued.

(b) Licenses for fall bear hunts must be available for purchase at department offices after August 31 of any license year. However, a person who

purchases a license for a fall bear hunt after August 31 of any license year may not use the license until 24 hours after the license is issued.

(7) Licenses for mountain lion hunts must be available for purchase at department offices after August 31 of any license year. However, a person who purchases a license for a mountain lion hunt after August 31 of any license year may not use the license until 5 days after the license is issued. (Bracketed language in (4)(b) terminates July 1, 2027--sec. 3, Ch. 186, L. 2017)."

Section 131. Section 90-1-105, MCA, is amended to read:

"90-1-105. Functions of department of commerce -- economic development. The department of commerce shall:

(1) provide coordinating services to aid state and local groups and Indian tribal governments in the promotion of new economic enterprises and conduct publicity and promotional activities within the state, nationally, and internationally in connection with new economic enterprises;

(2) collect and disseminate information regarding the advantages of developing agricultural, recreational, commercial, and industrial enterprises within this state;

(3) serve as an official state liaison between persons interested in locating new economic enterprises in Montana and state and local groups and Indian tribal governments seeking new enterprises;

(4) aid communities and Indian tribal governments interested in obtaining new business or expanding existing business;

(5) (a) study and promote means of expanding markets for Montana products within the state, nationally, and globally; and

(b) provide training and assistance for Montana small businesses and entrepreneurs to expand markets for made-in-Montana products;

(6) encourage and coordinate public and private agencies or bodies in publicizing the facilities and attractions of the state;

(7) starting in 2020, publish a decennial report, to be authored by the bureau of business and economic research at the university of Montana, on the economic contributions and impacts of Indian reservations in Montana based on federal, state, local, tribal, and private inputs. Copies of the report must be provided to the governor, each tribal government in Montana, the state-tribal economic development commission, and the state-tribal relations committee *in accordance with 5-11-210*, and the report must be published on the department's website.

(8) explore the use of cooperative agreements, as provided in Title 18, chapter 11, part 1, for the promotion and enhancement of economic opportunities on the Indian reservations in Montana; and

(9) assist the state-tribal economic development commission established in 90-1-131 in:

(a) identifying federal government and private sector funding sources for economic development on Indian reservations in Montana; and

(b) fostering and providing assistance to prepare, develop, and implement cooperative agreements, in accordance with Title 18, chapter 11, part 1, with each of the tribal governments in Montana."

Section 132. Section 90-1-132, MCA, is amended to read:

"90-1-132. Commission purposes -- duties and responsibilities.

(1) The general purposes of the state-tribal economic development commission include:

(a) assisting, promoting, encouraging, developing, and advancing economic prosperity and employment on Indian reservations in Montana by fostering the expansion of business, manufacturing, tourism, agriculture, and community development programs;

(b) cooperating and acting in conjunction with other organizations, public and private, to benefit tribal communities;

(c) recruiting business enterprises to locate on or invest in enterprises on the reservations; and

(d) identifying, obtaining, and coordinating federal, state, and private sector gifts, grants, loans, and donations to further economic development on the Indian reservations in Montana.

(2) The state-tribal economic development commission shall:

(a) in conjunction with the tourism advisory council provided for in 2-15-1816, oversee use of proceeds to expand tourism activities and visitation in the Indian tourism region;

(b) determine, with assistance from the tribal business center coordinator and the federal grants coordinator in the office of the state director of Indian affairs, the availability of federal, state, and private sector gifts, grants, loans, and donations to tribal governments, Indian business enterprises, and communities located on Indian reservations in Montana;

(c) apply for grants listed in the Catalog of Federal Domestic Assistance for which the commission is eligible and which would, if awarded, supply identifiable economic benefits to any or all of the Indian reservations in Montana;

(d) in cooperation with a tribal government, and when allowed by federal law and regulation, assist the tribe in applying for grants listed in the Catalog of Federal Domestic Assistance for which an appropriate tribal entity is eligible and which would, if awarded, supply identifiable economic benefits to any or all of the Indian reservations in Montana;

(e) evaluate the apportionment of current spending of federal funds by state agencies in areas including but not limited to economic development, housing, community infrastructure, business finance, tourism promotion, transportation, and agriculture;

(f) conduct or commission and oversee a comprehensive assessment of the economic development needs and priorities of each Indian reservation in the state;

(g) notify tribal governments, the governor, the state director of Indian affairs, and the directors of the departments of commerce, agriculture, and transportation, of the availability of specific federal, state, or private sector funding programs or opportunities that would directly benefit Indian communities in Montana;

(h) assist tribal governments and other tribal entities that are eligible for federal assistance programs as provided in the most recent published edition in the Catalog of Federal Domestic Assistance in applying for funds that would contribute to the respective tribes' economic development;

(i) work cooperatively with tribal government officials, the state director of Indian affairs, and other appropriate state officials to help foster state-tribal cooperative agreements pursuant to Title 18, chapter 11, part 1, that will:

(i) enhance economic development on the Indian reservations in Montana; and

(ii) help the department of commerce to fully implement and comply with the provisions of 90-1-105; and

(j) provide to the governor, the legislative council, the state-tribal relations committee, the legislative auditor, and to each of the presiding officers of the tribal governments in Montana a biennial report *in accordance with 5-11-210* that summarizes the activities of the commission."

Section 133. Section 90-1-182, MCA, is amended to read:

“90-1-182. State assistance to local governments in review of and comment on federal land management proposals – rulemaking.

(1) In carrying out the provisions of 90-1-181, the department of commerce may conduct on behalf of local governments a socioeconomic impact review and analysis of significant federal land management proposals. The department of commerce may use the review and analysis to comment in a timely manner on the federal proposals regarding projected impacts on local government.

(2) The department of commerce may:

(a) establish a minimal procedure for local governments to request from the department a review and analysis of significant federal land management proposals that may have a direct socioeconomic impact on the community for which the local government has requested the review. The request must include sufficient details about the federal land management proposal for the department of commerce to determine a deadline by which the review must be conducted.

(b) contract with a unit of the Montana university system experienced in technical, doctorate-level analysis of the socioeconomic impacts of federal land management proposals to provide an independent economic analysis of the federal proposals;

(c) advocate on behalf of the local government before the agency issuing the federal land management proposals, using the reports generated under this subsection (2); and

(d) report to ~~an appropriate legislative~~ *the local government* interim committee *in accordance with 5-11-210, in any year in which there is a request, regarding* the number of requests, the types of requests, and the number of responses handled ~~annually~~. The department shall post the information under this subsection (2)(d) on its website *when a request has been made* along with a summary of each requested analysis.

(3) The department of commerce may adopt rules to implement this section.”

Section 134. Section 90-3-1301, MCA, is amended to read:

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

(a) characterizes the geothermal resource base in Montana;

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

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

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

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

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

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

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

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

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

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

(6) ~~Prior to September 1 of each even-numbered year, the~~ *The* bureau shall ~~update~~ *provide a report to* the energy and telecommunications interim committee *in accordance with 5-11-210* on research conducted pursuant to this section and funding received pursuant to 90-3-1302.”

Section 135. Section 90-6-703, MCA, is amended to read:

“90-6-703. Types of financial assistance available. (1) The legislature shall provide for and make available to local governments the following types of financial assistance under this part:

- (a) matching grants for local infrastructure projects;
- (b) matching grants for infrastructure planning; and
- (c) emergency grants for local infrastructure projects.

(2) The department of commerce may provide local governments with emergency grants for infrastructure projects only if necessary to remedy conditions that, if allowed to continue until legislative approval could be obtained, will endanger the public health or safety and expose the applicant to substantial financial risk. The department shall report to the governor, ~~and the legislative fiscal analyst, and the local government interim committee~~ *in accordance with 5-11-210* regarding emergency grants that are awarded during each biennium. The report must be provided in an electronic format.

(3) The department of commerce may provide local governments with matching grants for infrastructure planning. The department shall report to the governor and the legislature *in accordance with 5-11-210* regarding infrastructure planning grants that are awarded during each biennium.”

Section 136. Section 90-6-710, MCA, is amended to read:

“90-6-710. Priorities for projects – procedure – rulemaking. (1) The department of commerce must receive proposals for infrastructure projects from local governments on a continual basis. The department shall work with a local government in preparing cost estimates for a project. In reviewing project proposals, the department may consult with other state agencies with expertise pertinent to the proposal. For the projects under 90-6-703(1)(a), the department shall prepare and submit two lists containing the recommended projects and the recommended form and amount of financial assistance for each project to the governor, prioritized pursuant to subsection (2) and this subsection. One list must contain the ranked and recommended bridge projects, and the other list must contain the remaining ranked and recommended infrastructure projects referred to in 90-6-701(3)(a). Each list must be prioritized pursuant to subsection (2) of this section, but the department may recommend up to 20% of the interest earnings anticipated to be deposited into the treasure state endowment fund established in 17-5-703 during the following biennium for bridge projects. Before making recommendations to the governor, the department may adjust the ranking of projects by giving priority to urgent and serious public health or safety problems. The governor shall review the projects recommended by the department and shall submit the lists of recommended projects and the recommended financial assistance to the legislature.

(2) In preparing recommendations under subsection (1), preference must be given to infrastructure projects based on the following order of priority:

(a) projects that solve urgent and serious public health or safety problems or that enable local governments to meet state or federal health or safety standards;

(b) projects that reflect greater need for financial assistance than other projects;

(c) projects that incorporate appropriate, cost-effective technical design and that provide thorough, long-term solutions to community public facility needs;

(d) projects that reflect substantial past efforts to ensure sound, effective, long-term planning and management of public facilities and that attempt to resolve the infrastructure problem with local resources;

(e) projects that enable local governments to obtain funds from sources other than the funds provided under this part;

(f) projects that provide long-term, full-time job opportunities for Montanans, that provide public facilities necessary for the expansion of a business that has a high potential for financial success, or that maintain the tax base or that encourage expansion of the tax base; and

(g) projects that are high local priorities and have strong community support.

(3) After the review required by subsection (1), the projects must be approved by the legislature.

(4) The department shall adopt rules necessary to implement the treasure state endowment program.

(5) The department shall report to ~~each regular session of~~ the legislature *in accordance with 5-11-210* the status of all projects that have not been completed in order for the legislature to review each project's status and determine whether the authorized grant should be withdrawn."

Section 137. Section 90-11-102, MCA, is amended to read:

"90-11-102. Duties and assistance. (1) It is the duty of the state director of Indian affairs to carry out the legislative policy set forth in 90-11-101.

(2) The state director shall:

(a) meet at least quarterly with tribal governments and become acquainted with the problems confronting the Indians of Montana;

(b) meet with executive branch directors on issues arising between Montana's Indian citizens, tribes, and state agency personnel and programs;

(c) report to the governor's cabinet meeting concerning issues confronting Indian people and tribal governments;

(d) advise the legislative and executive branches of the state of Montana of those problems and issues;

(e) make recommendations for the alleviation of those problems and issues;

(f) serve the Montana delegation in the federal congress as an adviser and intermediary in the field of Indian affairs;

(g) act as a liaison for representative Indian organizations and groups, public and private, whenever the state director's support is solicited by tribal governmental entities;

(h) serve on the state-tribal economic development commission established in 90-1-131;

(i) report in detail at every meeting of ~~the interim committee of the legislature responsible for acting as a liaison between the legislature and the tribal governments~~ *the state-tribal relations interim committee* those actions taken by the state-tribal economic development commission established by 90-1-131 to carry out its duties; and

(j) hire, with the concurrence of the other members of the state-tribal economic development commission, a tribal business center coordinator and a federal grants coordinator, and subsequently provide administrative support for both positions.

(3) All executive and legislative agencies of state government may within the area of their expertise and authority provide assistance to tribal councils or their official designees requesting assistance on any matter relating to education, health, natural resources, and economic development on Indian reservation lands.”

Section 138. Repealer. The following sections of the Montana Code Annotated are repealed:

20-9-323. Ending fund balance limits.

41-3-122. Strategic plan for child abuse and neglect prevention -- report to legislature.

Section 139. Directions to code commissioner. (1) Wherever a reference to 5-11-210 appears in legislation enacted by the 2021 legislature and requires a new report to the legislature, the code commissioner is directed to include the report under the appropriate interim committee as listed in [section 1].

(2) Wherever a reference to 5-11-210 is repealed or stricken in legislation enacted by the 2021 legislature, the code commissioner is directed to strike that report from [section 1].

Section 140. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 5, chapter 11, part 2, and the provisions of Title 5, chapter 11, part 2, apply to [section 1].

Section 141. Effective date. [This act] is effective on passage and approval.

Approved April 20, 2021

CHAPTER NO. 262

[SB 101]

AN ACT AUTHORIZING DIRECT PATIENT CARE AGREEMENTS; ESTABLISHING REQUIREMENTS FOR DIRECT PATIENT CARE AGREEMENTS; ESTABLISHING THAT DIRECT PATIENT CARE AGREEMENTS ARE NOT HEALTH INSURANCE; MAKING DIRECT PATIENT CARE AGREEMENTS SUBJECT TO CONSUMER PROTECTION LAWS; AND AMENDING SECTIONS 30-14-102, 33-1-102, 33-1-201, 33-1-207, 33-22-140, 33-30-101, 33-31-102, AND 50-4-105, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 4], the following definitions apply:

(1) “Direct fee” means a fee charged by a health care provider to a patient or a patient’s designee for health care services provided by, or to be provided by, the health care provider to the patient. The term includes a fee in any form, including but not limited to a:

- (a) monthly retainer;
- (b) membership fee;
- (c) subscription fee;
- (d) fee paid under a direct patient service agreement; or
- (e) fee for a service, visit, or episode of care.

(2) “Direct patient care” means a health care service provided by a health care provider to a patient in return for payment in accordance with a direct fee. The term includes services provided by means of telemedicine as defined in 33-22-138.

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

(4) “Health care services” means any care, service, or procedure provided by a health care provider, including medical or psychological diagnosis, treatment, evaluation, advice, or other services that affect the structure or any function of the human body.

Section 2. Direct patient care agreements – requirements – prohibition. (1) A patient or the patient’s legal representative may enter into a direct patient care agreement with a health care provider to arrange for health care services for the patient.

(2) A direct patient care agreement must be in writing, and the patient or the patient’s legal representative must be given a copy of the written agreement at the time the agreement is signed.

(3) The agreement must:

(a) describe the health care services to be provided in exchange for payment of a direct fee;

(b) specify the direct fee required and any additional fees to be paid by a third party;

(c) specify the patient’s payment obligation;

(d) prohibit the provider from charging or receiving additional compensation for health care services included in the direct fee;

(e) prohibit the provider from submitting to a health insurance issuer or a contractor or subcontractor of a health insurance issuer a claim for payment for health care services provided to a patient under a direct patient care agreement;

(f) meet the disclosure requirements of [section 3]; and

(g) unequivocally provide that the charges for medical services not included in the agreement are the sole responsibility of the patient.

(4) A direct patient care agreement may allow for the direct fee and any additional fees to be paid by a third party.

(5) (a) Either party to a direct patient care agreement may terminate the agreement in writing without penalty or payment of a termination fee:

(i) at any time; or

(ii) after notice as specified in the agreement. The notice requirement may not exceed 60 days.

(b) The agreement must specify the terms of cancellation, including terms that cover relocation or military duty by the patient.

Section 3. Disclosure required. A direct patient care agreement must prominently display a written disclaimer that is either printed on or accompanies all application and guideline materials distributed by or on behalf of the agreement. The disclaimer must read substantially as follows:

Notice: The organization facilitating the direct patient care agreement is not an insurance company, and the direct patient care company guidelines and agreement operation are not an insurance policy. The agreement does not meet any individual health insurance mandate that may be required by federal law. Participation in the direct patient care agreement or a subscription to any of its documents should not be considered to be a health insurance policy. Regardless of whether you receive treatment for medical issues through the

direct patient care agreement, you are always personally responsible for the payment of any additional medical expenses that you may incur.

Section 4. Interference prohibited. (1) A licensing board for a health care provider or another state agency may not prohibit, interfere with, initiate a legal or administrative proceeding against, or impose a fine or penalty against:

(a) a health care provider solely because the provider provides direct patient care; or

(b) a person solely because the person pays a direct fee for direct patient care.

(2) A health insurance issuer as defined in 33-22-140 or a health care provider may not prohibit, interfere with, initiate a legal or administrative proceeding against, or impose a fine or penalty against:

(a) a health care provider solely because the provider provides direct patient care; or

(b) a person solely because the person pays a direct fee for direct patient care.

Section 5. Section 30-14-102, MCA, is amended to read:

“30-14-102. Definitions. As used in this part, the following definitions apply:

(1) “Consumer” means a person who purchases or leases goods, services, real property, or information primarily for personal, family, or household purposes.

(2) “Department” means the department of justice created in 2-15-2001.

(3) “Documentary material” means the original or a copy of any book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription, or other tangible document or recording.

(4) “Examination” of documentary material includes the inspection, study, or copying of documentary material and the taking of testimony under oath or acknowledgment in respect to any documentary material or copy of documentary material.

(5) (a) “Gift certificate” means a record, including a gift card or stored value card, that is provided for paid consideration and that indicates a promise by the issuer or seller of the record that goods or services will be provided to the possessor of the record for the value that is shown on the record or contained within the record by means of a microprocessor chip, magnetic stripe, bar code, or other electronic information storage device. The consideration provided for the gift certificate must be made in advance. The value of the gift certificate is reduced by the amount spent with each use. A gift certificate is considered trust property of the possessor if the issuer or seller of the gift certificate declares bankruptcy after issuing or selling the gift certificate. The value represented by the gift certificate belongs to the possessor, to the extent provided by law, and not to the issuer or seller.

(b) The term does not include:

(i) prepaid telecommunications and technology cards, including but not limited to prepaid telephone calling cards, prepaid technical support cards, and prepaid internet disks that have been distributed to or purchased by a consumer;

(ii) a coupon provided to a consumer pursuant to any award, loyalty, or promotion program without any money or consideration being given in exchange for the card; or

(iii) a gift certificate usable with multiple sellers of goods or services.

(6) “Person” means natural persons, corporations, trusts, partnerships, incorporated or unincorporated associations, and any other legal entity.

(7) “Possessor” means a natural person who has physical control over a gift certificate.

(8) (a) “Trade” and “commerce” mean the advertising, offering for sale, sale, or distribution of any services, any property, tangible or intangible, real, personal, or mixed, or any other article, commodity, or thing of value, wherever located, and includes any trade or commerce directly or indirectly affecting the people of this state.

(b) *The terms include direct patient care agreements established pursuant to [section 1].”*

Section 6. Section 33-1-102, MCA, is amended to read:

“33-1-102. Compliance required – exceptions – health service corporations – health maintenance organizations – governmental insurance programs – service contracts. (1) A person may not transact a business of insurance in Montana or a business relative to a subject resident, located, or to be performed in Montana without complying with the applicable provisions of this code.

(2) The provisions of this code do not apply with respect to:

(a) domestic farm mutual insurers as identified in chapter 4, except as stated in chapter 4;

(b) domestic benevolent associations as identified in chapter 6, except as stated in chapter 6; and

(c) fraternal benefit societies, except as stated in chapter 7.

(3) This code applies to health service corporations as prescribed in 33-30-102. The existence of the corporations is governed by Title 35, chapter 2, and related sections of the Montana Code Annotated.

(4) This code does not apply to health maintenance organizations to the extent that the existence and operations of those organizations are governed by chapter 31.

(5) This code does not apply to workers’ compensation insurance programs provided for in Title 39, chapter 71, part 21, and related sections.

(6) The department of public health and human services may limit the amount, scope, and duration of services for programs established under Title 53 that are provided under contract by entities subject to this title. The department of public health and human services may establish more restrictive eligibility requirements and fewer services than may be required by this title.

(7) This code does not apply to the state employee group insurance program established in Title 2, chapter 18, part 8, or the Montana university system group benefits plans established in Title 20, chapter 25, part 13.

(8) This code does not apply to insurance funded through the state self-insurance reserve fund provided for in 2-9-202.

(9) (a) Except as otherwise provided in Title 33, chapters 22 and 28, this code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state in which the political subdivisions undertake to separately or jointly indemnify one another by way of a pooling, joint retention, deductible, or self-insurance plan.

(b) Except as otherwise provided in Title 33, chapter 22, this code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state or any arrangement, plan, or program of a single political subdivision of this state in which the political subdivision provides to its officers, elected officials, or employees disability insurance or life insurance through a self-funded program.

(10) (a) This code does not apply to the marketing of, sale of, offering for sale of, issuance of, making of, proposal to make, and administration of a service contract.

(b) A “service contract” means a contract or agreement for a separately stated consideration for a specific duration to perform the repair, replacement, or maintenance of property or to indemnify for the repair, replacement, or maintenance of property if an operational or structural failure is due to a defect in materials or manufacturing or to normal wear and tear, with or without an additional provision for incidental payment or indemnity under limited circumstances, including but not limited to towing, rental, and emergency road service. A service contract may provide for the repair, replacement, or maintenance of property for damage resulting from power surges or accidental damage from handling. A service contract does not include motor club service as defined in 61-12-301.

(11) (a) Subject to 33-18-201 and 33-18-242, this code does not apply to insurance for ambulance services sold by a county, city, or town or to insurance sold by a third party if the county, city, or town is liable for the financial risk under the contract with the third party as provided in 7-34-103.

(b) If the financial risk for ambulance service insurance is with an entity other than the county, city, or town, the entity is subject to the provisions of this code.

(12) This code does not apply to the self-insured student health plan established in Title 20, chapter 25, part 14.

(13) Except as provided in 33-2-2212, this code does not apply to private air ambulance services that are in compliance with 50-6-320 and that solicit membership subscriptions, accept membership applications, charge membership fees, and provide air ambulance services to subscription members and designated members of their households.

(14) This code does not apply to guaranteed asset protection waivers that are governed by Title 30, chapter 14, part 22.

(15) *This code does not apply to direct patient care agreements established pursuant to [section 1].”*

Section 7. Section 33-1-201, MCA, is amended to read:

“33-1-201. Definitions – insurance in general. For the purposes of this code, the following definitions apply unless the context requires otherwise:

(1) “Alien insurer” is an insurer formed under the laws of any country other than the United States or its states, districts, territories, and commonwealths.

(2) “Authorized insurer” is an insurer duly authorized by a certificate of authority issued by the commissioner to transact insurance in this state.

(3) “Domestic insurer” is an insurer incorporated under the laws of this state.

(4) “Foreign insurer” is an insurer formed under the laws of any jurisdiction other than this state. Except when distinguished by context, the term includes an alien insurer.

(5) (a) “Insurance” is a contract through which one undertakes to indemnify another or pay or provide a specified or determinable amount or benefit upon determinable contingencies.

(b) ~~Insurance~~ *The term does not include:*

(i) contracts for the installation, maintenance, and provision of inside telecommunications wiring to residential or business premises; *or*

(ii) *direct patient care agreements established pursuant to [section 1].*

(6) “Insurer” includes every person engaged as indemnitor, surety, or contractor in the business of entering into contracts of insurance. The term also includes a health service corporation in the provisions listed in 33-30-102.

(7) “Resident domestic insurer” is an insurer incorporated under the laws of this state and:

(a) if a mutual company, not less than one-half of the policyholders are individuals who are residents of this state; or

(b) if a stock insurer, not less than one-half of the shares are owned by individuals who are residents of this state and all of the directors and officers of the insurer are residents of this state.

(8) "State", when used in relation to jurisdiction, means a state, the District of Columbia, or a territory, commonwealth, or possession of the United States.

(9) "Transact", with respect to insurance, means to:

(a) solicit;

(b) negotiate;

(c) sell or effectuate a contract of insurance; or

(d) transact matters subsequent to effectuation of the contract of insurance and arising out of it.

(10) "Unauthorized insurer" is an insurer not authorized by a certificate of authority issued by the commissioner to transact insurance in this state."

Section 8. Section 33-1-207, MCA, is amended to read:

"33-1-207. Disability insurance. (1) Disability insurance, including credit disability insurance, is insurance of human beings:

(a) against bodily injury, disablement, or death by accident or accidental means or the medical expense or indemnity involved; or

(b) against disablement or medical expense or indemnity resulting from sickness.

(2) Transaction of disability insurance does not include:

(a) workers' compensation insurance; or

(b) *a direct patient care agreement established pursuant to [section 1]."*

Section 9. Section 33-22-140, MCA, is amended to read:

"33-22-140. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Beneficiary" has the meaning given the term by 29 U.S.C. 1002(33).

(2) "Church plan" has the meaning given the term by 29 U.S.C. 1002(33).

(3) "COBRA continuation provision" means:

(a) section 4980B of the Internal Revenue Code, 26 U.S.C. 4980B, other than subsection (f)(1) of that section as that subsection relates to pediatric vaccines;

(b) Title I, subtitle B, part 6, excluding section 609, of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq.; or

(c) Title XXII of the Public Health Service Act, 42 U.S.C. 300dd, et seq.

(4) (a) "Creditable coverage" means coverage of the individual under any of the following:

(i) a group health plan;

(ii) health insurance coverage;

(iii) Title XVIII, part A or B, of the Social Security Act, 42 U.S.C. 1395c through 1395i-4 or 42 U.S.C. 1395j through 1395w-4;

(iv) Title XIX of the Social Security Act, 42 U.S.C. 1396a through 1396u, other than coverage consisting solely of a benefit under section 1928, 42 U.S.C. 1396s;

(v) Title 10, chapter 55, United States Code;

(vi) a medical care program of the Indian health service or of a tribal organization;

(vii) a health plan offered under Title 5, chapter 89, of the United States Code;

(viii) a public health plan;

(ix) a health benefit plan under section 5(e) of the Peace Corps Act, 22 U.S.C. 2504(e); or

(x) a high-risk pool in any state.

(b) Creditable coverage does not include coverage consisting solely of coverage of excepted benefits.

(5) "Dependent" means:

(a) a spouse;

(b) an unmarried child under 25 years of age:

(i) who is not an employee eligible for coverage under a group health plan offered by the child's employer for which the child's premium contribution amount is no greater than the premium amount for coverage as a dependent under a parent's individual or group health plan;

(ii) who is not a named subscriber, insured, enrollee, or covered individual under any other individual health insurance coverage, group health plan, government plan, church plan, or group health insurance;

(iii) who is not entitled to benefits under 42 U.S.C. 1395, et seq.; and

(iv) for whom the insured parent has requested coverage;

(c) a child of any age who is disabled and dependent upon the parent as provided in 33-22-506 and 33-30-1003; or

(d) any other individual defined as a dependent in the health benefit plan covering the employee.

(6) "Elimination rider" means a provision attached to a policy that excludes coverage for a specific condition that would otherwise be covered under the policy.

(7) "Enrollment date" means, with respect to an individual covered under a group health plan or health insurance coverage, the date of enrollment of the individual in the plan or coverage or, if earlier, the first day of the waiting period for enrollment.

(8) "Excepted benefits" means:

(a) coverage only for accident or disability income insurance, or both;

(b) coverage issued as a supplement to liability insurance;

(c) liability insurance, including general liability insurance and automobile liability insurance;

(d) workers' compensation or similar insurance;

(e) automobile medical payment insurance;

(f) credit-only insurance;

(g) coverage for onsite medical clinics;

(h) other similar insurance coverage under which benefits for medical care are secondary or incidental to other insurance benefits, as approved by the commissioner;

(i) if offered separately, any of the following:

(i) limited-scope dental or vision benefits;

(ii) benefits for long-term care, nursing home care, home health care, community-based care, or any combination of these types of care; or

(iii) other similar, limited benefits as approved by the commissioner;

(j) if offered as independent, noncoordinated benefits, any of the following:

(i) coverage only for a specified disease or illness; or

(ii) hospital indemnity or other fixed indemnity insurance;

(k) if offered as a separate insurance policy:

(i) medicare supplement coverage;

(ii) coverage supplemental to the coverage provided under Title 10, chapter 55, of the United States Code; and

(iii) similar supplemental coverage provided under a group health plan.

(9) “Federally defined eligible individual” means an individual:

(a) for whom, as of the date on which the individual seeks coverage in the group market or individual market, the aggregate of the periods of creditable coverage is 18 months or more;

(b) whose most recent prior creditable coverage was under a group health plan, governmental plan, church plan, or health insurance coverage offered in connection with any of those plans;

(c) who is not eligible for coverage under:

(i) a group health plan;

(ii) Title XVIII, part A or B, of the Social Security Act, 42 U.S.C. 1395c through 1395i-4 or 42 U.S.C. 1395j through 1395w-4; or

(iii) a state plan under Title XIX of the Social Security Act, 42 U.S.C. 1396a through 1396u, or a successor program;

(d) who does not have other health insurance coverage;

(e) for whom the most recent coverage within the period of aggregate creditable coverage was not terminated for factors relating to nonpayment of premiums or fraud;

(f) who, if offered the option of continuation coverage under a COBRA continuation provision or under a similar state program, elected that coverage; and

(g) who has exhausted continuation coverage under the COBRA continuation provision or program described in subsection (9)(f) if the individual elected the continuation coverage described in subsection (9)(f).

(10) “Group health insurance coverage” means health insurance coverage offered in connection with a group health plan or health insurance coverage offered to an eligible group as described in 33-22-501.

(11) “Group health plan” means an employee welfare benefit plan, as defined in 29 U.S.C. 1002(1), to the extent that the plan provides medical care and items and services paid for as medical care to employees or their dependents, directly or through insurance, reimbursement, or otherwise.

(12) “Health insurance coverage” means benefits consisting of medical care, including items and services paid for as medical care, that are provided directly, through insurance, reimbursement, or otherwise, under a policy, certificate, membership contract, or health care services agreement offered by a health insurance issuer.

(13) (a) “Health insurance issuer” means an insurer, a health service corporation, or a health maintenance organization.

(b) *The term does not include a direct patient care agreement established pursuant to [section 1].*

(14) “Individual health insurance coverage” means health insurance coverage offered to individuals in the individual market, but does not include short-term limited duration insurance.

(15) “Individual market” means the market for health insurance coverage offered to individuals other than in connection with group health insurance coverage.

(16) “Large employer” means, in connection with a group health plan, with respect to a calendar year and a plan year, an employer who employed an average of at least 51 employees on business days during the preceding calendar year and who employs at least two employees on the first day of the plan year.

(17) “Large group market” means the health insurance market under which individuals obtain health insurance coverage directly or through any arrangement on behalf of themselves and their dependents through a group health plan or group health insurance coverage issued to a large employer.

(18) "Late enrollee" means an eligible employee or dependent, other than a special enrollee under 33-22-523, who requests enrollment in a group health plan following the initial enrollment period during which the individual was entitled to enroll under the terms of the group health plan if the initial enrollment period was a period of at least 30 days. However, an eligible employee or dependent is not considered a late enrollee if a court has ordered that coverage be provided for a spouse, minor, or dependent under a covered employee's health benefit plan and a request for enrollment is made within 30 days after issuance of the court order.

(19) "Medical care" means:

(a) the diagnosis, cure, mitigation, treatment, or prevention of disease or amounts paid for the purpose of affecting any structure or function of the body;

(b) transportation primarily for and essential to medical care referred to in subsection (19)(a); or

(c) insurance covering medical care referred to in subsections (19)(a) and (19)(b).

(20) "Network plan" means health insurance coverage offered by a health insurance issuer under which the financing and delivery of medical care, including items and services paid for as medical care, are provided, in whole or in part, through a defined set of providers under contract with the issuer.

(21) "Plan sponsor" has the meaning provided under section 3(16)(B) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1002(16)(B).

(22) "Preexisting condition exclusion" means, with respect to coverage, a limitation or exclusion of benefits relating to a condition based on presence of a condition before the enrollment date coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before the enrollment date.

(23) "Small group market" means the health insurance market under which individuals obtain health insurance coverage directly or through an arrangement, on behalf of themselves and their dependents, through a group health plan or group health insurance coverage maintained by a small employer as defined in 33-22-1803.

(24) "Waiting period" means, with respect to a group health plan and an individual who is a potential participant or beneficiary in the group health plan, the period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the terms of the group health plan."

Section 10. Section 33-30-101, MCA, is amended to read:

"33-30-101. Definitions. As used in this chapter, the following definitions apply:

(1) (a) "Health service corporation" means a nonprofit corporation organized or operating for the purposes of establishing and operating a nonprofit plan or plans under which prepaid hospital care, medical-surgical care, and other health care and services, or reimbursement *therefor for the preceding care and services*, may be furnished to a member or beneficiary.

(b) *The term does not include a direct patient care agreement established pursuant to [section 1].*

(2) "Health services" means the health care and services provided by hospitals or other health care institutions, organizations, associations, or groups and by doctors of medicine, osteopathy, dentistry, chiropractic, optometry, and podiatry; nursing services; licensed acupuncturist services; licensed social worker, licensed professional counselor, or psychologist *services*; medical appliances, equipment, and supplies; *and* drugs, medicines, ambulance services, and other therapeutic services and supplies.

(3) “Membership contract” means any agreement, contract, or certificate by which a health service corporation describes the health services or benefits provided to its members or beneficiaries.”

Section 11. Section 33-31-102, MCA, is amended to read:

“33-31-102. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) “Accountable care organization” means a group of health care providers that are willing and capable of accepting accountability for the total cost and quality of care for a defined population.

(2) “Affiliation period” means a period that, under the terms of the health insurance coverage offered by a health maintenance organization, must expire before the health insurance coverage becomes effective.

(3) “Basic health care services” means:

(a) consultative, diagnostic, therapeutic, and referral services by a provider;

(b) inpatient hospital and provider care;

(c) outpatient medical services;

(d) medical treatment and referral services;

(e) accident and sickness services by a provider to each newborn infant of an enrollee pursuant to 33-31-301(3)(e);

(f) care and treatment of mental illness, alcoholism, and drug addiction;

(g) diagnostic laboratory and diagnostic and therapeutic radiologic services;

(h) preventive health services, including:

(i) immunizations;

(ii) well-child care from birth;

(iii) periodic health evaluations for adults;

(iv) voluntary family planning services;

(v) infertility services; and

(vi) children’s eye and ear examinations conducted to determine the need for vision and hearing correction;

(i) minimum mammography examination, as defined in 33-22-132;

(j) outpatient self-management training and education for the treatment of diabetes along with certain diabetic equipment and supplies as provided in 33-22-129; and

(k) treatment and medical foods for inborn errors of metabolism. “Medical foods” and “treatment” have the meanings provided for in 33-22-131.

(4) “Commissioner” means the commissioner of insurance of the state of Montana.

(5) “Dependent” has the meaning provided in 33-22-140.

(6) “Enrollee” means a person:

(a) who enrolls in or contracts with a health maintenance organization;

(b) on whose behalf a contract is made with a health maintenance organization to receive health care services; or

(c) on whose behalf the health maintenance organization contracts to receive health care services.

(7) “Evidence of coverage” means a certificate, agreement, policy, or contract issued to an enrollee setting forth the coverage to which the enrollee is entitled.

(8) “Health care services” means:

(a) the services included in furnishing medical or dental care to a person;

(b) the services included in hospitalizing a person;

(c) the services incident to furnishing medical or dental care or hospitalization; or

(d) the services included in furnishing to a person other services for the purpose of preventing, alleviating, curing, or healing illness, injury, or physical disability.

(9) "Health care services agreement" means an agreement for health care services between a health maintenance organization and an enrollee.

(10) (a) "Health maintenance organization" means a person who provides or arranges for basic health care services to enrollees on a prepaid basis, either directly through provider employees or through contractual or other arrangements with a provider or a group of providers. This subsection (10) does not limit methods of provider payments made by health maintenance organizations.

(b) The term does not apply to:

(i) a PACE organization or an accountable care organization that has received a waiver pursuant to 33-31-201; or

(ii) a direct patient care agreement established pursuant to [section 1].

(11) "Insurance producer" means an individual or business entity appointed or authorized by a health maintenance organization to solicit applications for health care services agreements on its behalf.

(12) "PACE organization" means an organization, as defined in 42 CFR 460.6, that is authorized by the centers for medicare and medicaid services and the department of public health and human services to operate a program of all-inclusive care for the elderly.

(13) "Person" means:

(a) an individual;

(b) a group of individuals;

(c) an insurer, as defined in 33-1-201;

(d) a health service corporation, as defined in 33-30-101;

(e) a corporation, partnership, facility, association, or trust; or

(f) an institution of a governmental unit of any state licensed by that state to provide health care, including but not limited to a physician, hospital, hospital-related facility, or long-term care facility.

(14) "Plan" means a health maintenance organization operated by an insurer or health service corporation as an integral part of the corporation and not as a subsidiary.

(15) "Point-of-service option" means a delivery system that permits an enrollee of a health maintenance organization to receive health care services from a provider who is, under the terms of the enrollee's contract for health care services with the health maintenance organization, not on the provider panel of the health maintenance organization.

(16) "Provider" means a physician, hospital, hospital-related facility, long-term care facility, dentist, osteopath, chiropractor, optometrist, podiatrist, psychologist, licensed social worker, registered pharmacist, or advanced practice registered nurse, as specifically listed in 37-8-202, or registered nurse first assistant as defined by the board of nursing under Title 37, chapter 8, who treats any illness or injury within the scope and limitations of the provider's practice or any other person who is licensed or otherwise authorized in this state to furnish health care services.

(17) "Provider panel" means those providers with whom a health maintenance organization contracts to provide health care services to the health maintenance organization's enrollees.

(18) "Purchaser" means the individual, employer, or other entity, but not the individual certificate holder in the case of group insurance, that enters into a health care services agreement.

(19) “Uncovered expenditures” mean the costs of health care services that are covered by a health maintenance organization and for which an enrollee is liable if the health maintenance organization becomes insolvent.”

Section 12. Section 50-4-105, MCA, is amended to read:

“50-4-105. Limitations of provider agreements – exception.

(1) Notwithstanding any other provision of law, a provider who has entered into a provider agreement with a person as defined in 33-1-202 is not required to provide a discount or accept payment at the rate agreed to in the provider agreement for health care services that are provided to an insured individual if the payment for the services is made directly or indirectly or is otherwise required to be made:

(a) under casualty insurance as described in 33-1-206; or

(b) under property insurance as described in 33-1-210.

(2) Insurance payments made to a provider of health care services under subsection (1) must be paid according to the terms of the applicable policy or in accordance with any written agreement or contract existing between the provider and the insurer or a person contractually engaged by the insurer to perform services or an insurance function for the insurer. This section does not prohibit negotiations regarding the amount of the billed charges or a reasonable request for additional information or documents in order to evaluate the claim.

(3) An insurer making payment on a claim under a disability insurance policy, member contract, health benefit plan, group health plan, blanket disability insurance policy as defined in 33-22-601, or other medical coverage shall credit toward satisfaction of the insured’s deductible, copayment, or coinsurance, if any, any payment made by a casualty or property insurer but only if the payment to be credited is applied to a covered medical expense under the terms of the applicable health policy.

(4) The provisions of this section apply regardless of whether the insured may be considered a third-party beneficiary of the provider agreement.

(5) *The provisions of this section do not apply to a direct patient care agreement established pursuant to [section 1].”*

Section 13. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 50, chapter 4, part 1, and the provisions of Title 50, chapter 4, part 1, apply to [sections 1 through 4].

Approved April 20, 2021

CHAPTER NO. 263

[SB 135]

AN ACT REVISING THE APPEAL PROCESS FOR COUNTY ZONING DECISIONS; CLARIFYING THAT AN APPEAL FROM A BOARD OF ADJUSTMENT TO A BOARD OF COUNTY COMMISSIONERS IS A DE NOVO REVIEW; AND AMENDING SECTION 76-2-227, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 76-2-227, MCA, is amended to read:

“76-2-227. Appeals – board of county commissioners or board of adjustment to court of record – county commissioners may establish appeal process. (1) (a) The board of county commissioners may establish in the zoning regulations a process for an appeal of a decision by the board of adjustment to the board of county commissioners by any person or persons, jointly or severally, aggrieved by a decision of the board of adjustment or an officer, department, board, or bureau of the county.

(b) The process, if established, must provide that an appeal to the board of county commissioners be initiated by presenting to the board of county commissioners a petition, duly verified, ~~setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality~~ *specifying the grounds of the appeal*.

(c) The petition must be presented to the board of county commissioners within 30 days after the filing of the decision of the board of adjustment, and a final decision must be made within 60 days of receipt of the petition.

(d) The board of county commissioners *shall properly notice and hold a public hearing de novo* ~~may:~~

(i) ~~remand the special exception to the board of adjustment;~~

(ii) ~~reverse or affirm, wholly or partly, the decision of the board of adjustment; or~~

(iii) ~~modify the decision of the board of adjustment.~~

(2) Any person or persons, jointly or severally, aggrieved by a decision of the board of county commissioners or the board of adjustment may present to a court of record a petition, duly verified, setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be presented to the court within 30 days after the filing of the decision in the office of the appropriate board.

(3) Upon presentation of a petition, the court may allow a writ of certiorari directed to the board of county commissioners or the board of adjustment to review the decision of the board and shall prescribe in the writ the time within which a return must be made and served upon the relator's attorney, which may not be less than 10 days and may be extended by the court. The allowance of the writ may not stay proceedings upon the decision appealed from, but the court may, upon application, on notice to the board of county commissioners or the board of adjustment, and on due cause shown, grant a restraining order. The board of county commissioners or the board of adjustment may not be required to return the original papers acted upon by it, but it is sufficient to return certified or sworn copies of the original papers or of portions of the original papers that may be called for by the writ. The return must concisely set forth other facts that may be pertinent and material to show the grounds of the decision appealed from and must be verified.

(4) If, upon the hearing, it appears to the court that testimony is necessary for the proper disposition of the matter, the court may take evidence or appoint a referee to take evidence as it may direct and report the evidence to the court with the referee's findings of fact and conclusions of law, which constitute a part of the proceedings upon which the determination of the court must be made.

(5) The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review."

Approved April 20, 2021

CHAPTER NO. 264

[SB 156]

AN ACT GENERALLY REVISING LAWS FOR THE SALE OF PRODUCTS RESTRICTED BY AGE; REVISING LAWS FOR THE SALE OF ALCOHOL, TOBACCO, ALTERNATIVE NICOTINE PRODUCTS, VAPOR PRODUCTS, AND MARIJUANA; PROHIBITING MISUSE OF DATA AND METADATA FROM SCANS OF GOVERNMENT OR TRIBAL-ISSUED IDENTIFICATION;

REQUIRING PERIODIC DELETION OF DATA AND METADATA FROM
SCANS OF GOVERNMENT OR TRIBAL-ISSUED IDENTIFICATION; AND
AMENDING SECTIONS 16-11-305 AND 16-12-104, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Periodic government or tribal-issued identification data destruction. (1) A business that scans a person's government or tribal-issued identification to determine the person's age solely for the sale of age-restricted items:

(a) shall only use data or metadata from the scan to determine the person's age;

(b) may not transfer or sell that data or metadata to another party; and

(c) shall permanently delete any data or metadata from the scan within 180 days.

(2) Nothing in this section may be construed to limit the collection and preservation of information required by federal law for the sale of ephedrine or pseudoephedrine.

Section 2. Section 16-11-305, MCA, is amended to read:

"16-11-305. Sale or distribution of tobacco products, alternative nicotine products, or vapor products to persons under 18 years of age prohibited. (1) A person may not sell or distribute a tobacco product, alternative nicotine product, or vapor product to an individual under 18 years of age, whether over the counter, by vending machine, or otherwise.

(2) If there is a reasonable doubt as to the individual's age, the seller shall require presentation of a driver's license or other generally accepted identification that includes a picture of the individual.

(3) *If the seller scans a person's government or tribal-issued identification, the seller shall handle data and metadata from the scan in accordance with [section 1]."*

Section 3. Section 16-12-104, MCA, is amended to read:

"16-12-104. (Effective October 1, 2021) Department responsibilities – licensure. (1) The department shall establish and maintain a registry of persons who receive licenses under this chapter. The department shall issue:

(a) licenses:

(i) to persons who apply to operate as adult-use providers or adult-use marijuana-infused products providers and who submit applications meeting the requirements of this chapter; and

(ii) for adult-use dispensaries established by adult-use providers or adult-use marijuana-infused products providers; and

(b) endorsements for manufacturing to an adult-use provider or an adult-use marijuana-infused products provider that applies for a manufacturing endorsement and meets requirements established by the department by rule.

(2) A person who obtains an adult-use provider license, adult-use marijuana-infused products provider license, or adult-use dispensary license or an employee of a licensed adult-use provider or adult-use marijuana-infused products provider is authorized to cultivate, manufacture, possess, sell, and transport marijuana as allowed by this chapter.

(3) A person who obtains a testing laboratory license or an employee of a licensed testing laboratory is authorized to possess, test, and transport marijuana as allowed by this chapter.

(4) The department shall conduct criminal history background checks as required by 50-46-307 and 50-46-308 before issuing a license to a person named as a provider or marijuana-infused products provider.

(5) Licenses issued pursuant to this chapter must:

(a) be laminated and produced on a material capable of lasting for the duration of the time period for which the license is valid;

(b) indicate whether an adult-use provider or an adult-use marijuana-infused products provider has an endorsement for manufacturing;

(c) state the date of issuance and the expiration date of the license; and

(d) contain other information that the department may specify by rule.

(6) (a) The department shall make application forms available and begin accepting applications for licensure and endorsement under this chapter on or before January 1, 2022.

(b) The department shall review the information contained in an application or renewal submitted pursuant to this chapter and shall approve or deny an application:

(i) within 30 days of receiving the application or renewal and all related application materials from an existing licensed provider or marijuana-infused products provider; and

(ii) within 90 days of receiving the application and all related application materials from a new applicant.

(c) If the department fails to act on a completed application within the time allowed under subsection (6)(b), the department shall:

(i) reduce the cost of the licensing fee for a new applicant for licensure or endorsement or for a licensee seeking renewal of a license by 5% each week that the application is pending; and

(ii) allow a licensee to continue operation until the department takes final action.

(d) Applications that are not processed within the time allowed under subsection (6)(b) remain active until the department takes final action.

(e) (i) The department may not take final action on an application for a license or renewal of a license until the department has completed a satisfactory inspection as required by this chapter and related administrative rules.

(ii) Failure by the department to complete the required inspection within the time allowed under subsection (6)(b) does not prevent an application from being considered complete for the purpose of subsection (6)(c).

(f) The department shall issue a license or endorsement within 5 days of approving an application or renewal.

(7) Review of a rejection of an application or renewal may be conducted as a contested case hearing pursuant to the provisions of the Montana Administrative Procedure Act.

(8) Licenses and endorsements issued to adult-use providers and adult-use marijuana-infused products providers must be renewed annually.

(9) The department shall provide the names and phone numbers of adult-use providers and adult-use marijuana-infused products providers and the city, town, or county where registered premises and testing laboratories are located to the public on the department's website. The department may not disclose the physical location or address of an adult-use provider, adult-use marijuana-infused products provider, adult-use dispensary, or testing laboratory.

(10) The department may not prohibit an adult-use provider, adult-use marijuana-infused products provider, or adult-use dispensary licensee from operating at a shared location with a provider, marijuana-infused products provider, or dispensary as defined in 50-46-302 if the provider, marijuana-infused products provider, or dispensary is owned by the same person.

(11) (a) The department may not adopt rules requiring a consumer to provide an adult-use provider, adult-use marijuana-infused products provider, or adult-use dispensary licensee with identifying information other than identification to determine the consumer's age or require the recording of personal information about consumers other than information typically required in a retail transaction.

(b) *The department shall adopt a rule requiring an adult-use provider, adult-use marijuana-infused products provider, or adult-use dispensary licensee that scans a consumer's government or tribal-issued identification to determine the consumer's age to handle data and metadata from the scan in accordance with [section 1].*"

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 16, chapter 3, part 3, and the provisions of Title 16, chapter 3, part 3, apply to [section 1].

Approved April 20, 2021

CHAPTER NO. 265

[HB 298]

AN ACT REVISING THE INFORMATION THAT MUST BE INCLUDED ON A PROPERTY VALUATION STATEMENT; REQUIRING INCLUSION OF THE PRIOR MARKET VALUE AND AN EXPLANATION FOR CERTAIN INCREASES IN VALUE; AND AMENDING SECTION 15-7-102, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-7-102, MCA, is amended to read:

"15-7-102. Notice of classification, market value, and taxable value to owners – appeals. (1) (a) Except as provided in 15-7-138, the department shall mail or provide electronically to each owner or purchaser under contract for deed a notice that includes the land classification, market value, and taxable value of the land and improvements owned or being purchased. A notice must be mailed or, with property owner consent, provided electronically to the owner only if one or more of the following changes pertaining to the land or improvements have been made since the last notice:

- (i) change in ownership;
- (ii) change in classification;
- (iii) change in valuation; or
- (iv) addition or subtraction of personal property affixed to the land.

(b) The notice must include the following for the taxpayer's informational and informal classification and appraisal review purposes:

(i) a notice of the availability of all the property tax assistance programs available to property taxpayers, including the intangible land value assistance program provided for in 15-6-240, the property tax assistance programs provided for in Title 15, chapter 6, part 3, and the residential property tax credit for the elderly provided for in 15-30-2337 through 15-30-2341;

(ii) the total amount of mills levied against the property in the prior year;

(iii) *the market value for the prior reappraisal cycle;*

(iv) *if the market value has increased by more than 10%, an explanation for the increase in valuation;*

~~(iii)~~ (v) a statement that the notice is not a tax bill; and

~~(iv)~~ (vi) a taxpayer option to request an informal classification and appraisal review by checking a box on the notice and returning it to the department.

(c) When the department uses an appraisal method that values land and improvements as a unit, including the sales comparison approach for residential condominiums or the income approach for commercial property, the notice must contain a combined appraised value of land and improvements.

(d) Any misinformation provided in the information required by subsection (1)(b) does not affect the validity of the notice and may not be used as a basis for a challenge of the legality of the notice.

(2) (a) Except as provided in subsection (2)(c), the department shall assign each classification and appraisal to the correct owner or purchaser under contract for deed and mail or provide electronically the notice in written or electronic form, adopted by the department, containing sufficient information in a comprehensible manner designed to fully inform the taxpayer as to the classification and appraisal of the property and of changes over the prior tax year.

(b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an appeal of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in 15-1-402.

(c) The department is not required to mail or provide electronically the notice to a new owner or purchaser under contract for deed unless the department has received the realty transfer certificate from the clerk and recorder as provided in 15-7-304 and has processed the certificate before the notices required by subsection (2)(a) are mailed or provided electronically. The department shall notify the county tax appeal board of the date of the mailing or the date when the taxpayer is informed the information is available electronically.

(3) (a) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the market value of the property as determined by the department or with the classification of the land or improvements, the owner may request an informal classification and appraisal review by submitting an objection on written or electronic forms provided by the department for that purpose or by checking a box on the notice and returning it to the department in a manner prescribed by the department.

(i) For property other than class three property described in 15-6-133, class four property described in 15-6-134, and class ten property described in 15-6-143, the objection must be submitted within 30 days from the date on the notice.

(ii) For class three property described in 15-6-133 and class four property described in 15-6-134, the objection may be made only once each valuation cycle. An objection must be made in writing or by checking a box on the notice within 30 days from the date on the classification and appraisal notice for a reduction in the appraised value to be considered for both years of the 2-year valuation cycle. An objection made more than 30 days from the date of the classification and appraisal notice will be applicable only for the second year of the 2-year valuation cycle. For an objection to apply to the second year of the valuation cycle, the taxpayer ~~must~~ *shall* make the objection in writing or by checking a box on the notice no later than June 1 of the second year of the valuation cycle or, if a classification and appraisal notice is received in the second year of the valuation cycle, within 30 days from the date on the notice.

(iii) For class ten property described in 15-6-143, the objection may be made at any time but only once each valuation cycle. An objection must be made in writing or by checking a box on the notice within 30 days from the date on the classification and appraisal notice for a reduction in the appraised value to be considered for all years of the 6-year appraisal cycle. An objection made more than 30 days after the date of the classification and appraisal notice applies

only for the subsequent remaining years of the 6-year reappraisal cycle. For an objection to apply to any subsequent year of the valuation cycle, the taxpayer **must shall** make the objection in writing or by checking a box on the notice no later than June 1 of the year for which the value is being appealed or, if a classification and appraisal notice is received after the first year of the valuation cycle, within 30 days from the date on the notice.

(b) If the objection relates to residential or commercial property and the objector agrees to the confidentiality requirements, the department shall provide to the objector, by posted mail or electronically, within 8 weeks of submission of the objection, the following information:

(i) the methodology and sources of data used by the department in the valuation of the property; and

(ii) if the department uses a blend of evaluations developed from various sources, the reasons that the methodology was used.

(c) At the request of the objector, and only if the objector signs a written or electronic confidentiality agreement, the department shall provide in written or electronic form:

(i) comparable sales data used by the department to value the property; and

(ii) sales data used by the department to value residential property in the property taxpayer's market model area.

(d) For properties valued using the income approach as one approximation of market value, notice must be provided that the taxpayer will be given a form to acknowledge confidentiality requirements for the receipt of all aggregate model output that the department used in the valuation model for the property.

(e) The review must be conducted informally and is not subject to the contested case procedures of the Montana Administrative Procedure Act. As a part of the review, the department may consider the actual selling price of the property and other relevant information presented by the taxpayer in support of the taxpayer's opinion as to the market value of the property. The department shall consider an independent appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate appraisers and the appraisal was completed within 6 months of the valuation date pursuant to 15-8-201. If the department does not use the appraisal provided by the taxpayer in conducting the appeal, the department **must shall** provide to the taxpayer the reason for not using the appraisal. The department shall give reasonable notice to the taxpayer of the time and place of the review.

(f) After the review, the department shall determine the correct appraisal and classification of the land or improvements and notify the taxpayer of its determination by mail or electronically. The department may not determine an appraised value that is higher than the value that was the subject of the objection unless the reason for an increase was the result of a physical change in the property or caused by an error in the description of the property or data available for the property that is kept by the department and used for calculating the appraised value. In the notification, the department shall state its reasons for revising the classification or appraisal. When the proper appraisal and classification have been determined, the land must be classified and the improvements appraised in the manner ordered by the department.

(4) Whether a review as provided in subsection (3) is held or not, the department may not adjust an appraisal or classification upon the taxpayer's objection unless:

(a) the taxpayer has submitted an objection on written or electronic forms provided by the department or by checking a box on the notice; and

(b) the department has provided to the objector by mail or electronically its stated reason in writing for making the adjustment.

(5) A taxpayer's written objection or objection made by checking a box on the notice and supplemental information provided by a taxpayer that elects to check a box on the notice to a classification or appraisal and the department's notification to the taxpayer of its determination and the reason for that determination are public records. The department shall make the records available for inspection during regular office hours.

(6) If a property owner feels aggrieved by the classification or appraisal made by the department after the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal board and then to the state tax appeal board, whose findings are final subject to the right of review in the courts. The appeal to the county tax appeal board, pursuant to 15-15-102, must be filed within 30 days from the date on the notice of the department's determination. A county tax appeal board or the state tax appeal board may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the state tax appeal board determines that an adjustment should be made, the department shall adjust the base value of the property in accordance with the board's order."

Approved April 22, 2021

CHAPTER NO. 266

[HB 394]

AN ACT EXEMPTING CERTAIN AIR AND WATER POLLUTION CONTROL AND CARBON CAPTURE EQUIPMENT FROM PROPERTY TAXATION; AND AMENDING SECTION 15-6-135, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-6-135, MCA, is amended to read:

"15-6-135. Class five property – description – taxable percentage – exemption. (1) Class five property includes:

(a) all property used and owned by cooperative rural electrical and cooperative rural telephone associations organized under the laws of Montana, except property owned by cooperative organizations described in 15-6-137(1)(a);

(b) air and water pollution control and carbon capture equipment as defined in this section;

(c) new industrial property as defined in this section;

(d) any personal or real property used primarily in the production of ethanol-blended gasoline during construction and for the first 3 years of its operation;

(e) all land and improvements and all personal property owned by a research and development firm, provided that the property is actively devoted to research and development;

(f) machinery and equipment used in electrolytic reduction facilities;

(g) all property used and owned by persons, firms, corporations, or other organizations that are engaged in the business of furnishing telecommunications services exclusively to rural areas or to rural areas and cities and towns of 1,200 permanent residents or less.

(2) (a) "Air and water pollution control and carbon capture equipment" means that portion of identifiable property, facilities, machinery, devices, or

equipment certified as provided in subsections (2)(b) and (2)(c) and designed, constructed, under construction, or operated for removing, disposing, abating, treating, eliminating, destroying, neutralizing, stabilizing, rendering inert, storing, or preventing the creation of air or water pollutants that, except for the use of the item, would be released to the environment. This includes machinery, devices, or equipment used to capture carbon dioxide or other greenhouse gases. Reduction in pollutants obtained through operational techniques without specific facilities, machinery, devices, or equipment is not eligible for certification under this section.

(b) Requests for certification must be made on forms available from the department of revenue. Certification may not be granted unless the applicant is in substantial compliance with all applicable rules, laws, orders, or permit conditions. Certification remains in effect only as long as substantial compliance continues.

(c) The department of environmental quality shall promulgate rules specifying procedures, including timeframes for certification application, and definitions necessary to identify air and water pollution control and carbon capture equipment for certification and compliance. The department of revenue shall promulgate rules pertaining to the valuation of qualifying air and water pollution control and carbon capture equipment. The department of environmental quality shall identify and track compliance in the use of certified air and water pollution control and carbon capture equipment and report continuous acts or patterns of noncompliance at a facility to the department of revenue. Casual or isolated incidents of noncompliance at a facility do not affect certification.

(d) To qualify for the exemption under subsection (5)(b), the air and water pollution control and carbon capture equipment must be placed into service after January 1, 2014, for the purposes of environmental benefit or to comply with state or federal pollution control regulations. If the air or water pollution control and carbon capture equipment enhances the performance of existing air and water pollution control and carbon capture equipment, only the market value of the enhancement is subject to the exemption under subsection (5)(b).

(e) Except as provided in subsection (2)(d), equipment that does not qualify for the exemption under subsection (5)(b) includes but is not limited to equipment placed into service to maintain, replace, or repair equipment installed on or before January 1, 2014.

(f) A person may appeal the certification, classification, and valuation of the property to the state tax appeal board. Appeals on the property certification must name the department of environmental quality as the respondent, and appeals on the classification or valuation of the equipment must name the department of revenue as the respondent.

(3) (a) "New industrial property" means any new industrial plant, including land, buildings, machinery, and fixtures, used by new industries during the first 3 years of their operation. The property may not have been assessed within the state of Montana prior to July 1, 1961.

(b) New industrial property does not include:

(i) property used by retail or wholesale merchants, commercial services of any type, agriculture, trades, or professions unless the business or profession meets the requirements of subsection (4)(b)(v);

(ii) a plant that will create adverse impact on existing state, county, or municipal services; or

(iii) property used or employed in an industrial plant that has been in operation in this state for 3 years or longer.

(4) (a) “New industry” means any person, corporation, firm, partnership, association, or other group that establishes a new plant in Montana for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry.

(b) New industry includes only those industries that:

(i) manufacture, mill, mine, produce, process, or fabricate materials;

(ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state are extracted, processed, or made fit for use or are substantially altered or treated so as to create commercial products or materials;

(iii) engage in the mechanical or chemical transformation of materials or substances into new products in the manner defined as manufacturing in the North American Industry Classification System Manual prepared by the United States office of management and budget;

(iv) engage in the transportation, warehousing, or distribution of commercial products or materials if 50% or more of an industry’s gross sales or receipts are earned from outside the state; or

(v) earn 50% or more of their annual gross income from out-of-state sales.

(5) (a) Except as provided in subsection (5)(b), class five property is taxed at 3% of its market value.

(b) Air and water pollution control and carbon capture equipment placed in service after January 1, 2014, and that satisfies the criteria in subsection (2)(d) is exempt from taxation for a period of 10 years from the date of certification, after which the property is assessed at 100% of its taxable value.”

Approved April 22, 2021

CHAPTER NO. 267

[HB 463]

AN ACT REVISING THE UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS ACT; DECREASING THE AMOUNT OF TIME BEFORE AN INSTITUTION MAY RELEASE OR MODIFY A RESTRICTION ON A GIFT INSTRUMENT OR INSTRUMENT OF DONOR INTENT FROM 20 YEARS TO 12 YEARS; AND AMENDING SECTION 72-30-207, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 72-30-207, MCA, is amended to read:

“72-30-207. Release or modification of restrictions on management, investment, or purpose. (1) If the donor consents in a record, an institution may release or modify, in whole or in part, a restriction contained in a gift instrument or instrument of donor intent on the management, investment, or purpose of an institutional fund. A release or modification may not allow a fund to be used for a purpose other than a charitable purpose of the institution.

(2) The court, upon application of an institution, may modify a restriction contained in a gift instrument or instrument of donor intent regarding the management or investment of an institutional fund if the restriction has become impracticable or wasteful, if it impairs the management or investment of the fund, or if, because of circumstances not anticipated by the donor, a modification of a restriction will further the purposes of the fund. The institution shall notify the attorney general of the application, and the attorney general must be given an opportunity to be heard. To the extent practicable, any modification must be made in accordance with the donor’s probable intention.

(3) If a particular charitable purpose or a restriction contained in a gift instrument or instrument of donor intent on the use of an institutional fund becomes unlawful, impracticable, impossible to achieve, or wasteful, the court, upon application of an institution, may modify the purpose of the fund or the restriction on the use of the fund in a manner consistent with the charitable purposes expressed in the gift instrument or instrument of donor intent. The institution shall notify the attorney general of the application, and the attorney general must be given an opportunity to be heard.

(4) If an institution determines that a restriction contained in a gift instrument or instrument of donor intent on the management, investment, or purpose of an institutional fund is unlawful, impracticable, impossible to achieve, or wasteful, the institution, 60 days after notification to the attorney general, may release or modify the restriction, in whole or part, *if the institution uses the property in a manner consistent with the charitable purposes expressed in the gift instrument or instrument of donor intent and:*

(a) the institutional fund subject to the restriction has a total value of less than \$25,000; or

(b) more than 20 12 years have elapsed since the fund was established; and

~~(c) the institution uses the property in a manner consistent with the charitable purposes expressed in the gift instrument or instrument of donor intent.”~~

Approved April 22, 2021

CHAPTER NO. 268

[SB 4]

AN ACT EXTENDING THE TERMINATION OF THE MISSING INDIGENOUS PERSONS TASK FORCE; REQUIRING THE TASK FORCE TO WORK TOWARD IDENTIFYING CAUSES CONTRIBUTING TO MISSING AND MURDERED INDIGENOUS PERSONS; AMENDING SECTION 44-2-411, MCA; AMENDING SECTION 8, CHAPTER 373, LAWS OF 2019; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 44-2-411, MCA, is amended to read:

“44-2-411. (Temporary) Missing indigenous persons task force – membership – duties – reporting. (1) There is a missing indigenous persons task force. The task force is allocated to the department of justice for staffing services and administrative purposes only.

(2) Task force members, including the presiding officer, must be appointed by the attorney general or a designee of the attorney general. The task force membership must include but is not limited to:

(a) an employee of the department of justice who has expertise in the subject of missing persons;

~~(b) a representative from each tribal government located on the seven federally recognized Indian tribe in Montana reservations and the Little Shell Chippewa tribe;~~

(c) a member from the Montana highway patrol; and

(d) a representative from the attorney general’s office.

(3) While respecting the government-to-government relationship between the state and each tribe, the primary duties of the task force are to:

(a) ~~administer the looping in native communities network grant program provided for in 44-2-412; and~~

~~(b) (i) identify jurisdictional barriers between federal, state, local, and tribal law enforcement and community agencies;~~

~~(b) work to identify causes that contribute to missing and murdered indigenous persons and make recommendations to federally recognized tribes in the state to reduce cases of missing and murdered indigenous persons; and~~

~~(ii)(c) work to identify strategies to improve interagency communication, cooperation, and collaboration to remove jurisdictional barriers and increase reporting and investigation of missing indigenous persons.~~

~~(4) (a) The task force members must be appointed within 60 days after May 8, 2019. A vacancy on the task force must be filled in the manner of the original appointment.~~

~~(b) The task force shall develop and finalize the looping in native communities network grant application and award criteria no later than October 15, 2019.~~

~~(c) The task force shall select the recipient of the looping in native communities network competitive grant under 44-2-412(2) and disburse the grant funds no later than March 15, 2020.~~

~~(d) The task force must select eligible grantees and disburse funds for any grants awarded pursuant to 44-2-412(3) by June 30, 2020.~~

~~(e) The task force shall convene at least one meeting with tribal and local law enforcement agencies, federally recognized tribes, and urban Indian organizations for the purposes of subsection (3)(b) and to determine the scope of the problem of missing indigenous women and children.~~

~~(f)(5) The By July 1 prior to each regular legislative session, the task force shall, in accordance with 5-11-210, prepare a written report of findings and recommendations for submission to the state-tribal relations interim committee provided for in 5-5-229, no later than September 1, 2020. The report must include a recommendation to the 67th legislature as to whether the task force should continue in existence. (Terminates June 30, 2021 2023 --sec. 8, Ch. 373, L. 2019.)"~~

Section 2. Section 8, Chapter 373, Laws of 2019, is amended to read:

"Section 8. Termination. ~~[This act] terminates (1) [Section 1] terminates June 30, 2023.~~

~~(2) [Sections 2 and 3] terminate June 30, 2021."~~

Section 3. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Section 4. Effective date. [This act] is effective on passage and approval.

Approved April 22, 2021

CHAPTER NO. 269

[SB 72]

AN ACT REVISING SCHOOL LAWS RELATED TO PARTICIPATION IN EXTRACURRICULAR ACTIVITIES; ALLOWING CERTAIN STUDENTS WHO PARTICIPATE IN EXTRACURRICULAR ACTIVITIES TO BE INCLUDED AS PARTIAL ENROLLMENT FOR ANB CALCULATIONS; AMENDING SECTION 20-9-311, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-9-311, MCA, is amended to read:

“20-9-311. Calculation of average number belonging (ANB) – 3-year averaging. (1) Average number belonging (ANB) must be computed for each budget unit as follows:

(a) compute an average enrollment by adding a count of regularly enrolled pupils who were enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on the first Monday in February of the prior school fiscal year or the next school day if those dates do not fall on a school day, and divide the sum by two; and

(b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved pupil-instruction-related days for the current school fiscal year and divide by 180.

(2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related days may be included in the calculation.

(3) When a school district has approval to operate less than the minimum aggregate hours under 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

(4) (a) Except as provided in subsection (4)(d), for the purpose of calculating ANB, enrollment in an education program:

(i) from 180 to 359 aggregate hours of pupil instruction per school year is counted as one-quarter-time enrollment;

(ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time enrollment;

(iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time enrollment; and

(iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

(b) Except as provided in subsection (4)(d), enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per school year may not be included for purposes of ANB.

(c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on the hours necessary and appropriate to provide the course within a regular classroom schedule.

(d) A school district may include in its calculation of ANB a pupil who is enrolled in a program providing fewer than the required aggregate hours of pupil instruction required under subsection (4)(a) or (4)(b) if the pupil has demonstrated proficiency in the content ordinarily covered by the instruction as determined by the school board using district assessments. The ANB of a pupil under this subsection (4)(d) must be converted to an hourly equivalent based on the hours of instruction ordinarily provided for the content over which the student has demonstrated proficiency.

(e) A pupil in kindergarten through grade 12 who is concurrently enrolled in more than one public school, program, or district may not be counted as more than one full-time pupil for ANB purposes.

(5) For a district that is transitioning from a half-time to a full-time kindergarten program, the state superintendent shall count kindergarten enrollment in the previous year as full-time enrollment for the purpose of calculating ANB for the elementary programs offering full-time kindergarten in the current year. For the purposes of calculating the 3-year ANB, the superintendent of public instruction shall count the kindergarten enrollment as one-half enrollment and then add the additional kindergarten ANB to the 3-year average ANB for districts offering full-time kindergarten.

(6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days, the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes attendance prior to the day of the enrollment count.

(7) The enrollment of preschool pupils, as provided in 20-7-117, may not be included in the ANB calculations.

(8) The average number belonging of the regularly enrolled pupils for the public schools of a district must be based on the aggregate of all the regularly enrolled pupils attending the schools of the district, except that:

(a) the ANB is calculated as a separate budget unit when:

(i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled pupils of the school must be calculated as a separate budget unit for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(ii) a school of the district is located more than 20 miles from any other school of the district and incorporated territory is not involved in the district, the number of regularly enrolled pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(iii) the superintendent of public instruction approves an application not to aggregate when conditions exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any other condition exists that would result in an unusual hardship to the pupils of the school if they were transported to another school, the number of regularly enrolled pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district; or

(iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB and the basic entitlements of the component districts must be calculated separately for a period of 3 years following the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional years as follows:

(A) 75% of the basic entitlement for the fourth year;

(B) 50% of the basic entitlement for the fifth year; and

(C) 25% of the basic entitlement for the sixth year.

(b) when a junior high school has been approved and accredited as a junior high school, all of the regularly enrolled pupils of the junior high school must be considered as high school district pupils for ANB purposes;

(c) when a middle school has been approved and accredited, all pupils below the 7th grade must be considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high school pupils for ANB purposes; or

(d) when a school has been designated as nonaccredited by the board of public education because of failure to meet the board of public education's assurance and performance standards, the regularly enrolled pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes, nor will an average number belonging for the nonaccredited school be used in determining the BASE funding program for the district.

(9) The district shall provide the superintendent of public instruction with semiannual reports of school attendance, absence, and enrollment for regularly enrolled students, using a format determined by the superintendent.

(10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program provided by the district through any combination of onsite or offsite instruction may be included for ANB purposes only if the pupil is offered access to the complete range of educational services for the basic education program required by the accreditation standards adopted by the board of public education.

(b) Access to school programs and services for a student placed by the trustees in a private program for special education may be limited to the programs and services specified in an approved individual education plan supervised by the district.

(c) Access to school programs and services for a student who is incarcerated in a facility, other than a youth detention center, may be limited to the programs and services provided by the district at district expense under an agreement with the incarcerating facility.

(d) This subsection (10) may not be construed to require a school district to offer access to activities governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a pupil who is not otherwise eligible under the rules of the organization.

(11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this title and who is:

(a) a resident of the district or a nonresident student admitted by trustees under a student attendance agreement and who is attending a school of the district;

(b) unable to attend school due to a medical reason certified by a medical doctor and receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(c) unable to attend school due to the student's incarceration in a facility, other than a youth detention center, and who is receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(d) receiving special education and related services, other than day treatment, under a placement by the trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's expense under an approved individual education plan supervised by the district;

(e) participating in the running start program at district expense under 20-9-706;

(f) receiving educational services, provided by the district, using appropriately licensed district staff at a private residential program or private residential facility licensed by the department of public health and human services;

(g) enrolled in an educational program or course provided at district expense using electronic or offsite delivery methods, including but not limited to tutoring, distance learning programs, online programs, and technology delivered learning programs, while attending a school of the district or any other nonsectarian offsite instructional setting with the approval of the trustees of the district. The pupil shall:

(i) meet the residency requirements for that district as provided in 1-1-215;

(ii) live in the district and must be eligible for educational services under the Individuals With Disabilities Education Act or under 29 U.S.C. 794; or

(iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.

(h) a resident of the district attending the Montana youth challenge program or a Montana job corps program under an interlocal agreement with the district under 20-9-707.

(12) A district shall, for ANB purposes, calculate the enrollment of an eligible Montana youth challenge program participant as half-time enrollment.

(13) (a) *A district may, for ANB purposes, include in the October and February enrollment counts an individual who is otherwise eligible under this title and who during the prior school year:*

(i) *resided in the district;*

(ii) *was not enrolled in the district or was not enrolled full time; and*

(iii) *completed an extracurricular activity with a duration of at least 6 weeks.*

(b) (i) *Except as provided in subsection (13)(b)(ii), each completed extracurricular activity under subsection (13)(a) may be counted as one-sixteenth enrollment for the individual, but under this subsection (13) the individual may not be counted as more than one full-time enrollment for ANB purposes.*

(ii) *Each completed extracurricular activity lasting longer than 18 weeks may be counted as one-eighth enrollment.*

(c) *For the purposes of this section, “extracurricular activity” means:*

(i) *a sport or activity sanctioned by an organization having jurisdiction over interscholastic activities, contests, and tournaments;*

(ii) *an approved career and technical student organization, pursuant to 20-7-306; or*

(iii) *a school theater production.*

~~(13)~~(14) (a) For an elementary or high school district that has been in existence for 3 years or more, the district’s maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever generates the greatest maximum general fund budget.

(b) For a K-12 district that has been in existence for 3 years or more, the district’s maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and high school programs pursuant to subsection ~~(13)~~(a) (14)(a) and then combined.

~~(14)~~(15) The term “3-year ANB” means an average ANB over the most recent 3-year period, calculated by:

(a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the previous 2 school fiscal years; and

(b) dividing the sum calculated under subsection ~~(14)~~(a) (15)(a) by three.”

Section 2. Effective date. [This act] is effective July 1, 2021.

Approved April 22, 2021

CHAPTER NO. 270

[SB 168]

AN ACT REVISING LIEN LAW; REVISING ATTORNEY LIENS, INCLUDING TRANSACTIONAL MATTERS FOR ATTORNEY LIENS; PROVIDING FOR CLIENT CONSENT AND COMMUNICATION; AND AMENDING SECTION 37-61-420, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-61-420, MCA, is amended to read:

“37-61-420. Judgment lien for compensation. (1) The compensation of an attorney and counselor for services is governed by agreement, express or implied, which is not restrained by law.

~~(2) From the commencement of an action or the service of an answer containing a counterclaim, the attorney who appears for a party has a lien upon the client's cause of action or counterclaim that attaches to a verdict, report, decision, or judgment in the client's favor and the proceeds of the action or counterclaim. The lien cannot be affected by any settlement between the parties before or after judgment. Once an attorney is engaged by a client, the attorney who performs services, including an attorney who performs services as a third-party neutral, such as a mediator or settlement master, has a lien on any subjects of the client's legal matter that attaches to a settlement, decree, verdict, arbitration award, report, decision, contractual consideration received by the client, or judgment in the client's favor.~~

~~(3) An attorney who performs services in a transactional matter has a lien that attaches to any property that is the subject of the transaction.~~

~~(4) An attorney may assert an attorney lien on any property that is the subject of the client's legal matter without breach of attorney-client privilege if the attorney acts in accordance with Rule 1.6 of the Montana Rules of Professional Conduct.~~

~~(5) An attorney may not place a lien on property not involved in the legal matter for which the attorney rendered services without consent of the client in writing and subscribed by the client.~~

~~(6) An attorney lien does not attach to real property until the lien is recorded with the clerk and recorder's office in the county in which the real property is situated. The recorded lien must contain the amount of the lien, the name of the attorney asserting the lien, the client against whom the lien is asserted, and the legal description of the property against which the lien is asserted. The lien must be mailed to the client's last known address or e-mailed to the client's last known e-mail address.~~

~~(7) An attorney shall state to a client in an engagement agreement that if fees are unpaid an attorney lien may be asserted, or the attorney shall communicate the assertion of a lien to the client at the client's last known address or e-mail at the time of asserting the lien. Failure to communicate the lien to the client is not grounds for voiding, dismissing, or invalidating the lien. A client's consent in writing to the assertion of a lien on any property that is the subject of the client's legal matter is an irrebuttable presumption the attorney complied with this subsection.~~

~~(8) Foreclosure of the lien provided for in this section is governed by 27-2-202(1).~~

~~(9) As used in this section, "client" includes a "former client" pursuant to the Montana Rules of Professional Conduct."~~

Approved April 22, 2021

CHAPTER NO. 271

[SB 171]

AN ACT ALLOWING A COUNTY TO ENTER INTO COOPERATIVE PURCHASING AGREEMENTS WITH CERTAIN ENTITIES; EXEMPTING COOPERATIVE PURCHASING AGREEMENTS FROM COMPETITIVE BIDDING REQUIREMENTS; AMENDING SECTION 7-5-2304, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Power to enter and execute cooperative purchasing agreements. (1) A county may enter into an agreement for cooperative purchasing as defined in 18-4-401 with:

(a) the state;
(b) a political subdivision of the state or any other state; and
(c) any other government entity as defined in 2-11-103.
(2) Goods or services procured by participation in a cooperative purchasing agreement or program allowed in this section are considered to have been acquired in accordance with this part.

Section 2. Section 7-5-2304, MCA, is amended to read:

“7-5-2304. Exemptions from competitive bidding requirements.

The provisions of 7-5-2301 do not apply to contracts for:

(1) public printing entered into in accordance with the provisions of Title 18, chapter 7, part 4; ~~and~~

(2) purchases that, in the opinion of the governing body, are made necessary by fire, flood, explosion, storm, earthquake, other elements, epidemic, or riot or insurrection; for the immediate preservation of order or the public health; for the restoration of a condition of usefulness that has been destroyed by accident, wear, tear, or mischief; or for the relief of a stricken community overtaken by calamity; *and*

(3) *a cooperative purchasing agreement allowed in [section 1].”*

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 7, chapter 5, part 23, and the provisions of Title 7, chapter 5, part 23, apply to [section 1].

Section 4. Applicability. [This act] applies to contracts for cooperative purchasing entered into by a county on or after [the effective date of this act].

Approved April 22, 2021

CHAPTER NO. 272

[SB 175]

AN ACT TEMPORARILY SUSPENDING EMPLOYER CONTRIBUTIONS TO THE JUDGES' RETIREMENT SYSTEM; PERMANENTLY REVISING THE EMPLOYER CONTRIBUTION RATE TO REDUCE THE SYSTEM'S FUNDING SURPLUS; ESTABLISHING A CONTINGENCY FOR THE REDUCTION; AMENDING SECTION 19-5-404, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 19-5-404, MCA, is amended to read:

“19-5-404. State employer contribution. (1) ~~Except Beginning July 1, 2023, and except as provided in subsection (2) subsections (2) and (3),~~ the state shall pay as employer contributions ~~25.81%~~ 14.0% of the compensation paid to all of the employer's employees, except those properly excluded from membership.

(2) ~~The Beginning July 1, 2023, and except as provided in subsection (3),~~ the state shall contribute monthly from the natural resources operations state special revenue account, established in 15-38-301, to the judges' pension trust fund an amount equal to ~~25.81%~~ 14.0% of the compensation paid to the chief water court judge. The judiciary shall include in its budget and shall request for legislative appropriation an amount necessary to defray the state's portion of the costs of this section.

(3) *If, based on the most recently available actuarial study for the judges' retirement system, the funded ratio of the plan drops below 120% funded, the employer contribution rates in subsections (1) and (2) must be increased to 25.81%.*

(4) *For the first full pay period of July 2021 through the last full pay period ending June 2023, and except as provided in subsection (5), the state shall pay as employer contributions 0% of the compensation paid to all of the employer's employees, except those properly excluded from membership.*

(5) *For the first full pay period of July 2021 through the last full pay period ending June 2023, the state shall contribute monthly from the natural resources operations state special revenue account, established in 15-38-301, to the judges' pension trust fund an amount equal to 0% of the compensation paid to the chief water court judge. The judiciary shall include in its budget and shall request for legislative appropriation an amount necessary to defray the state's portion of the costs of this section."*

Section 2. Effective date. [This act] is effective July 1, 2021.

Section 3. Termination. [Section 1(4) and (5)] terminates at the end of the last full pay period ending June 2023.

Approved April 22, 2021

CHAPTER NO. 273

[SB 178]

AN ACT PROHIBITING STATE BUILDING CODES FROM REQUIRING MANDATORY INSTALLATION OF FIRE SPRINKLER SYSTEMS IN CERTAIN RESIDENTIAL BUILDINGS; AMENDING SECTION 50-60-203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 50-60-203, MCA, is amended to read:

"50-60-203. Department to adopt state building code by rule.

(1) (a) The department shall adopt rules relating to the construction of, the installation of equipment in, and standards for materials to be used in all buildings or classes of buildings, including provisions dealing with safety, accessibility to persons with disabilities, sanitation, and conservation of energy. The adoption, amendment, or repeal of a rule is of significant public interest for purposes of 2-3-103.

(b) Rules concerning the conservation of energy must conform to the policy established in 50-60-801 and to relevant policies developed under the provisions of Title 90, chapter 4, part 10.

(2) The department may adopt by reference nationally recognized building codes in whole or in part, *except as provided in subsection (5)*, and may adopt rules more stringent than those contained in national codes.

(3) The rules, when adopted as provided in parts 1 through 4, constitute the "state building code" and are acceptable for the buildings to which they are applicable.

(4) The department shall adopt rules that permit the installation of below-grade liquefied petroleum gas-burning appliances.

(5) *The department may not include in the state building code a requirement for the installation of a fire sprinkler system in a single-family dwelling or a residential building that contains no more than two dwelling units.*

(5)(6) (a) The department shall, by rule, adopt by reference the most recently published edition of the national fire protection association's publication NFPA 99C for the installation of medical gas piping systems. The department may, by rule, issue plumbing permits for medical gas piping systems and require inspections of medical gas piping systems.

(b) A state, county, city, or town building code compliance officer shall, as part of any inspection, request proof of a medical gas piping installation endorsement from any person who is required to hold an endorsement or who, in the inspector's judgment, appears to be involved with onsite medical gas piping activity. The inspector shall report any instance of endorsement violation to the inspector's employing agency, and the employing agency shall report the violation to the board of plumbers."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved April 22, 2021

CHAPTER NO. 274

[SB 196]

AN ACT REVISING LAWS RELATED TO POLLING PLACE TIMES; ALLOWING CERTAIN POLLING PLACES TO OPEN LATER; REQUIRING NOTICE TO AFFECTED VOTERS; REQUIRING CERTAIN CONSULTATIONS WITH GOVERNING BODIES OF INDIAN RESERVATIONS; AND AMENDING SECTION 13-1-106, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-1-106, MCA, is amended to read:

"13-1-106. Time of opening and closing of polls for all elections – exceptions. (1) Except as provided in subsections (2)(a) and (3), polling places must be open from 7 a.m. to 8 p.m.

(2) (a) A polling place having fewer than 400 registered electors *who intend to vote at the polling place* must be open from at least noon to 8 p.m. or until all registered electors in any precinct have voted, at which time that precinct in the polling place must be closed immediately.

(b) *The determination of whether a polling place has fewer than 400 registered electors who intend to vote at the polling place is calculated by subtracting the number of registered electors who have applied to vote using an absentee ballot from the total number of registered electors.*

(c) *The election administrator responsible for a polling place opening later than 7 a.m. pursuant to this subsection (2) shall provide notice of the change in polling place hours to affected registered electors who have not received an absentee ballot. The notice must be mailed to each affected registered voter no later than 30 days prior to the election. However, if the polling place opens at the same time in each subsequent election, only one notice mailed before the initial election affected by the change in polling place hours is required.*

(3) If an election is held on the same day as a school election and is conducted in the same polling place, the polling place must be opened and closed at the times set for the school election, as provided in 20-20-106.

(4) *If a polling place serves a precinct that lies partially or wholly within the boundaries of an Indian reservation, the hours of operation may not be shortened pursuant to subsection (2) until after the county governing body consults with the governing body of the Indian reservation concerning the potential change in hours of operation."*

Approved April 22, 2021

CHAPTER NO. 275

[SB 211]

AN ACT REVISING CRITERIA FOR LOCAL GOVERNMENT REVIEW OF A SUBDIVISION APPLICATION WITH REGARD TO IMPACT ON ADJACENT AGRICULTURAL OPERATIONS; AMENDING SECTION 76-3-608, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 76-3-608, MCA, is amended to read:

“76-3-608. Criteria for local government review. (1) The basis for the governing body’s decision to approve, conditionally approve, or deny a proposed subdivision is whether the subdivision application, preliminary plat, applicable environmental assessment, public hearing, planning board recommendations, or additional information demonstrates that development of the proposed subdivision meets the requirements of this chapter. A governing body may not deny approval of a proposed subdivision based solely on the subdivision’s impacts on educational services or based solely on parcels within the subdivision having been designated as wildland-urban interface parcels under 76-13-145.

(2) The governing body shall issue written findings of fact that weigh the criteria in subsection (3), as applicable.

(3) A subdivision proposal must undergo review for the following primary criteria:

(a) except when the governing body has established an exemption pursuant to subsection (6) ~~of this section~~ or except as provided in 76-3-509, 76-3-609(2) or (4), or 76-3-616, the impact ~~on agriculture~~, *on agriculture*, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety, *excluding any consideration of whether the proposed subdivision will result in a loss of agricultural soils*;

(b) compliance with:

(i) the survey requirements provided for in part 4 of this chapter;

(ii) the local subdivision regulations provided for in part 5 of this chapter; and

(iii) the local subdivision review procedure provided for in this part;

(c) the provision of easements within and to the proposed subdivision for the location and installation of any planned utilities; and

(d) the provision of legal and physical access to each parcel within the proposed subdivision and the required notation of that access on the applicable plat and any instrument of transfer concerning the parcel.

(4) The governing body may require the subdivider to design the proposed subdivision to reasonably minimize potentially significant adverse impacts identified through the review required under subsection (3) *but may not require a set-aside of land or monetary contribution for the loss of agricultural soils*. The governing body shall issue written findings to justify the reasonable mitigation required under this subsection (4).

(5) (a) In reviewing a proposed subdivision under subsection (3) and when requiring mitigation under subsection (4), a governing body may not unreasonably restrict a landowner’s ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the subdivision.

(b) When requiring mitigation under subsection (4), a governing body shall consult with the subdivider and shall give due weight and consideration to the expressed preference of the subdivider.

(6) A governing body may conditionally approve or deny a proposed subdivision as a result of the water and sanitation information provided pursuant to 76-3-622 or public comment received pursuant to 76-3-604 on the information provided pursuant to 76-3-622 only if the conditional approval or denial is based on existing subdivision, zoning, or other regulations that the governing body has the authority to enforce.

(7) A governing body may not require as a condition of subdivision approval that a property owner waive a right to protest the creation of a special improvement district or a rural improvement district for capital improvement projects that does not identify the specific capital improvements for which protest is being waived. A waiver of a right to protest may not be valid for a time period longer than 20 years after the date that the final subdivision plat is filed with the county clerk and recorder.

(8) A governing body may not approve a proposed subdivision if any of the features and improvements of the subdivision encroach onto adjoining private property in a manner that is not otherwise provided for under chapter 4 or this chapter or if the well isolation zone of any proposed well to be drilled for the proposed subdivision encroaches onto adjoining private property unless the owner of the private property authorizes the encroachment. For the purposes of this section, "well isolation zone" has the meaning provided in 76-4-102.

(9) If a federal or state governmental entity submits a written or oral comment or an opinion regarding wildlife, wildlife habitat, or the natural environment relating to a subdivision application for the purpose of assisting a governing body's review, the comment or opinion may be included in the governing body's written statement under 76-3-620 only if the comment or opinion provides scientific information or a published study that supports the comment or opinion. A governmental entity that is or has been involved in an effort to acquire or assist others in acquiring an interest in the real property identified in the subdivision application shall disclose that the entity has been involved in that effort prior to submitting a comment, an opinion, or information as provided in this subsection.

(10) Findings of fact by the governing body concerning whether the development of the proposed subdivision meets the requirements of this chapter must be based on the record as a whole. The governing body's findings of fact must be sustained unless they are arbitrary, capricious, or unlawful."

Section 2. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

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

Section 4. Applicability. [This act] applies to subdivision applications submitted on or after July 1, 2021.

Approved April 22, 2021

CHAPTER NO. 276

[SB 215]

AN ACT REVISING LAWS RELATED TO THE FREE EXERCISE OF RELIGION; RECOGNIZING THE FREE EXERCISE OF RELIGION AS A FUNDAMENTAL RIGHT; RESTORING THE USE OF THE COMPELLING

GOVERNMENTAL INTEREST TEST TO DECISIONS IN LEGAL CASES REGARDING THE FREE EXERCISE OF RELIGION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, in *Employment Division v. Smith*, 494 U.S. 872 (1990), the United States Supreme Court significantly curtailed the requirement that laws and other state action burdening the free exercise of religion be justified by a compelling interest; and

WHEREAS, *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418 (2006), interprets the Religious Freedom Restoration Act of 1993, which requires that federal laws and other actions by the federal government burdening the free exercise of religion must be justified by a compelling governmental interest; and

WHEREAS, the Religious Freedom Restoration Act of 1993 was passed in response to the *Employment Division v. Smith* decision and only applies to federal laws; and

WHEREAS, following the *Gonzales* decision favorably applying the Religious Freedom Restoration Act of 1993, many states have responded by passing laws similar to this act.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [This act] may be cited as the “Montana Religious Freedom Restoration Act”.

Section 2. Legislative findings. The legislature finds that:

(1) the framers of the United States constitution, recognizing free exercise of religion as an unalienable right, secured its protection in the first amendment to the United States constitution;

(2) the framers of the Montana constitution, recognizing free exercise of religion as a fundamental right, secured its protection in the Montana constitution;

(3) laws and other state action that are neutral toward religion may burden the exercise of religion as surely as laws intended to interfere with religious exercise;

(4) state action should not burden exercise of religion without compelling justification;

(5) prior to 1990, laws and other state action burdening exercise of religion had to be justified by a compelling governmental interest; and

(6) the compelling governmental interest test set forth in prior federal court rulings and [sections 1 through 5] is a workable test and strikes a sensible balance between religious liberty and competing governmental interests.

Section 3. Purpose. The purpose of [sections 1 through 5] is:

(1) to restore the compelling governmental interest test and to guarantee its application in all cases in which the exercise of religion is substantially burdened by state action; and

(2) to provide a claim or defense to a person or persons whose exercise of religion is substantially burdened by state action.

Section 4. Definitions. As used in [sections 1 through 5], the following definitions apply:

(1) “Substantially burden” means any action that directly or indirectly constrains, inhibits, curtails, or denies the exercise of religion by any person or compels any action contrary to a person’s exercise of religion and includes but is not limited to withholding of benefits, assessment of criminal, civil, or administrative penalties, or exclusion from governmental programs or access to governmental facilities.

(2) “Compelling governmental interest” means a governmental interest of the highest order that cannot otherwise be achieved without burdening the exercise of religion.

(3) “Exercise of religion” means the practice or observance of religion. The term includes but is not limited to the ability to act or refuse to act in a manner substantially motivated by one’s sincerely held religious belief, whether or not the exercise is compulsory or central to a larger system of religious belief.

(4) “Person” means any individual, association, partnership, corporation, church, religious institution, estate, trust, foundation, or other legal entity.

(5) “State action” means the implementation or application of any law, including but not limited to state and local laws, ordinances, rules, regulations, and policies, whether statutory or otherwise, or other action by the state or a political subdivision and a local government, municipality, instrumentality, or public official authorized by law in the state of Montana.

Section 5. Free exercise of religion protected. (1) State action may not substantially burden a person’s right to the exercise of religion, even if the burden results from a rule of general applicability, unless it is demonstrated that applying the burden to that person’s exercise of religion:

(a) is essential to further a compelling governmental interest; and

(b) is the least restrictive means of furthering that compelling governmental interest.

(2) A person whose exercise of religion has been substantially burdened or is likely to be substantially burdened in violation of [sections 1 through 5] may assert the violation or impending violation as a claim or defense in a judicial or administrative proceeding, regardless of whether the state of Montana or one of its political subdivisions is a party to the proceeding. The person asserting such a claim or defense may obtain appropriate relief, including relief against the state of Montana or its political subdivisions. Appropriate relief includes but is not limited to injunctive relief, declaratory relief, compensatory damages, and costs and attorney fees.

Section 6. Codification instruction. [Sections 1 through 5] are intended to be codified as an integral part of Title 27, and the provisions of Title 27 apply to [sections 1 through 5].

Section 7. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 8. Effective date. [This act] is effective on passage and approval.

Approved April 22, 2021

CHAPTER NO. 277

[SB 217]

AN ACT REVISING THE MENTAL HEALTH PARITY ACT TO INCLUDE COVERAGE OF SERVICES PROVIDED THROUGH THE PSYCHIATRIC COLLABORATIVE CARE MODEL OR PRIMARY CARE BEHAVIORAL HEALTH MODEL; REQUIRING MULTIPLE EMPLOYER WELFARE ARRANGEMENTS AND PUBLIC EMPLOYEE BENEFIT PLANS TO COMPLY WITH THE REQUIREMENTS OF THE MENTAL HEALTH PARITY ACT; AMENDING SECTIONS 2-18-704, 33-22-702, 33-22-705, AND 33-35-306, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-18-704, MCA, is amended to read:

“2-18-704. Mandatory provisions. (1) An insurance contract or plan issued under this part must contain provisions that permit:

(a) the member of a group who retires from active service under the appropriate retirement provisions of a defined benefit plan provided by law or, in the case of the defined contribution plan provided in Title 19, chapter 3, part 21, a member with at least 5 years of service and who is at least age 50 while in covered employment to remain a member of the group until the member becomes eligible for medicare under the federal Health Insurance for the Aged Act, 42 U.S.C. 1395, unless the member is a participant in another group plan with substantially the same or greater benefits at an equivalent cost or unless the member is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost;

(b) the surviving spouse of a member to remain a member of the group as long as the spouse is eligible for retirement benefits accrued by the deceased member as provided by law unless the spouse is eligible for medicare under the federal Health Insurance for the Aged Act or unless the spouse has or is eligible for equivalent insurance coverage as provided in subsection (1)(a);

(c) the surviving children of a member to remain members of the group as long as they are eligible for retirement benefits accrued by the deceased member as provided by law unless they have equivalent coverage as provided in subsection (1)(a) or are eligible for insurance coverage by virtue of the employment of a surviving parent or legal guardian.

(2) An insurance contract or plan issued under this part must contain the provisions of subsection (1) for remaining a member of the group and also must permit:

(a) the spouse of a retired member the same rights as a surviving spouse under subsection (1)(b);

(b) the spouse of a retiring member to convert a group policy as provided in 33-22-508; and

(c) continued membership in the group by anyone eligible under the provisions of this section, notwithstanding the person's eligibility for medicare under the federal Health Insurance for the Aged Act.

(3) (a) A state insurance contract or plan must contain provisions that permit a legislator to remain a member of the state's group plan until the legislator becomes eligible for medicare under the federal Health Insurance for the Aged Act if the legislator:

(i) terminates service in the legislature and is a vested member of a state retirement system provided by law; and

(ii) notifies the department of administration in writing within 90 days of the end of the legislator's legislative term.

(b) A former legislator may not remain a member of the group plan under the provisions of subsection (3)(a) if the person:

(i) is a member of a plan with substantially the same or greater benefits at an equivalent cost; or

(ii) is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost.

(c) A legislator who remains a member of the group under the provisions of subsection (3)(a) and subsequently terminates membership may not rejoin the group plan unless the person again serves as a legislator.

(4) (a) A state insurance contract or plan must contain provisions that permit continued membership in the state's group plan by a member of the judges' retirement system who leaves judicial office but continues to be an inactive vested member of the judges' retirement system as provided by 19-5-301. The judge shall notify the department of administration in writing within 90 days of the end of the judge's judicial service of the judge's choice to continue membership in the group plan.

(b) A former judge may not remain a member of the group plan under the provisions of this subsection (4) if the person:

(i) is a member of a plan with substantially the same or greater benefits at an equivalent cost;

(ii) is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost; or

(iii) becomes eligible for medicare under the federal Health Insurance for the Aged Act.

(c) A judge who remains a member of the group under the provisions of this subsection (4) and subsequently terminates membership may not rejoin the group plan unless the person again serves in a position covered by the state's group plan.

(5) A person electing to remain a member of the group under subsection (1), (2), (3), or (4) shall pay the full premium for coverage and for that of the person's covered dependents.

(6) An insurance contract or plan issued under this part that provides for the dispensing of prescription drugs by an out-of-state mail service pharmacy, as defined in 37-7-702:

(a) must permit any member of a group to obtain prescription drugs from a pharmacy located in Montana that is willing to match the price charged to the group or plan and to meet all terms and conditions, including the same professional requirements that are met by the mail service pharmacy for a drug, without financial penalty to the member; and

(b) may only be with an out-of-state mail service pharmacy that is registered with the board under Title 37, chapter 7, part 7, and that is registered in this state as a foreign corporation.

(7) An insurance contract or plan issued under this part must include coverage for:

(a) treatment of inborn errors of metabolism, as provided for in 33-22-131; and

(b) therapies for Down syndrome, as provided in 33-22-139; and

(c) *the care and treatment of mental illness in accordance with the provisions of Title 33, chapter 22, part 7.*

(8) (a) An insurance contract or plan issued under this part that provides coverage for an individual in a member's family must provide coverage for well-child care for children from the moment of birth through 7 years of age. Benefits provided under this coverage are exempt from any deductible provision that may be in force in the contract or plan.

(b) Coverage for well-child care under subsection (8)(a) must include:

(i) a history, physical examination, developmental assessment, anticipatory guidance, and laboratory tests, according to the schedule of visits adopted under the early and periodic screening, diagnosis, and treatment services program provided for in 53-6-101; and

(ii) routine immunizations according to the schedule for immunization recommended by the immunization practice advisory committee of the U.S. department of health and human services.

(c) Minimum benefits may be limited to one visit payable to one provider for all of the services provided at each visit as provided for in this subsection (8).

(d) For purposes of this subsection (8):

(i) “developmental assessment” and “anticipatory guidance” mean the services described in the Guidelines for Health Supervision II, published by the American academy of pediatrics; and

(ii) “well-child care” means the services described in subsection (8)(b) and delivered by a physician or a health care professional supervised by a physician.

(9) Upon renewal, an insurance contract or plan issued under this part under which coverage of a dependent terminates at a specified age must continue to provide coverage for any dependent, as defined in the insurance contract or plan, until the dependent reaches 26 years of age. For insurance contracts or plans issued under this part, the premium charged for the additional coverage of a dependent, as defined in the insurance contract or plan, may be required to be paid by the insured and not by the employer.

(10) Prior to issuance of an insurance contract or plan under this part, written informational materials describing the contract’s or plan’s cancer screening coverages must be provided to a prospective group or plan member.

(11) The state employee group benefit plans and the Montana university system group benefits plans must provide coverage for hospital inpatient care for a period of time as is determined by the attending physician and, in the case of a health maintenance organization, the primary care physician, in consultation with the patient to be medically necessary following a mastectomy, a lumpectomy, or a lymph node dissection for the treatment of breast cancer.

(12) (a) The state employee group benefit plans and the Montana university system group benefits plans must provide coverage for outpatient self-management training and education for the treatment of diabetes. Any education must be provided by a licensed health care professional with expertise in diabetes.

(b) Coverage must include a \$250 benefit for a person each year for medically necessary and prescribed outpatient self-management training and education for the treatment of diabetes.

(c) The state employee group benefit plans and the Montana university system group benefits plans must provide coverage for diabetic equipment and supplies that at a minimum includes insulin, syringes, injection aids, devices for self-monitoring of glucose levels (including those for the visually impaired), test strips, visual reading and urine test strips, one insulin pump for each warranty period, accessories to insulin pumps, one prescriptive oral agent for controlling blood sugar levels for each class of drug approved by the United States food and drug administration, and glucagon emergency kits.

(d) Nothing in subsection (12)(a), (12)(b), or (12)(c) prohibits the state or the Montana university group benefit plans from providing a greater benefit or an alternative benefit of substantially equal value, in which case subsection (12)(a), (12)(b), or (12)(c), as appropriate, does not apply.

(e) Annual copayment and deductible provisions are subject to the same terms and conditions applicable to all other covered benefits within a given policy.

(f) This subsection (12) does not apply to disability income, hospital indemnity, medicare supplement, accident-only, vision, dental, specific disease, or long-term care policies offered by the state or the Montana university system as benefits to employees, retirees, and their dependents.

(13) (a) The state employee group benefit plans and the Montana university system group benefits plans that provide coverage to the spouse or

dependents of a peace officer as defined in 45-2-101, a game warden as defined in 19-8-101, a firefighter as defined in 19-13-104, or a volunteer firefighter as defined in 19-17-102 shall renew the coverage of the spouse or dependents if the peace officer, game warden, firefighter, or volunteer firefighter dies within the course and scope of employment. Except as provided in subsection (13)(b), the continuation of the coverage is at the option of the spouse or dependents. Renewals of coverage under this section must provide for the same level of benefits as is available to other members of the group. Premiums charged to a spouse or dependent under this section must be the same as premiums charged to other similarly situated members of the group. Dependent special enrollment must be allowed under the terms of the insurance contract or plan. The provisions of this subsection (13)(a) are applicable to a spouse or dependent who is insured under a COBRA continuation provision.

(b) The state employee group benefit plans and the Montana university system group benefits plans subject to the provisions of subsection (13)(a) may discontinue or not renew the coverage of a spouse or dependent only if:

(i) the spouse or dependent has failed to pay premiums or contributions in accordance with the terms of the state employee group benefit plans and the Montana university system group benefits plans or if the plans have not received timely premium payments;

(ii) the spouse or dependent has performed an act or practice that constitutes fraud or has made an intentional misrepresentation of a material fact under the terms of the coverage; or

(iii) the state employee group benefit plans and the Montana university system group benefits plans are ceasing to offer coverage in accordance with applicable state law.

(14) The state employee group benefit plans and the Montana university system group benefits plans must comply with the provisions of 33-22-153.

(15) An insurance contract or plan issued under this part and a group benefits plan issued by the Montana university system must provide mental health coverage that meets the provisions of Title 33, chapter 22, part 7. (See compiler's comments for contingent termination of certain text.)"

Section 2. Section 33-22-702, MCA, is amended to read:

"33-22-702. Definitions. For purposes of this part, the following definitions apply:

(1) "Inpatient benefits" are as set forth in 33-22-705.

(2) "Mental health treatment center" means a treatment facility organized to provide care and treatment for mental illness or severe mental illness through multiple modalities or techniques pursuant to a written treatment plan approved and monitored by a qualified health care provider and a treatment facility that is:

(a) licensed as a mental health treatment center by the state;

(b) funded or eligible for funding under federal or state law; or

(c) affiliated with a hospital under a contractual agreement with an established system for patient referral.

(3) (a) "Mental illness" means a clinically significant behavioral or psychological syndrome or pattern that occurs in a person and that is associated with:

(i) present distress or a painful symptom;

(ii) a disability or impairment in one or more areas of functioning; or

(iii) a significantly increased risk of suffering death, pain, disability, or an important loss of freedom.

(b) Mental illness must be considered as a manifestation of a behavioral, psychological, or biological dysfunction in a person.

(c) Mental illness does not include:

- (i) a developmental disorder;
- (ii) a speech disorder;
- (iii) a psychoactive substance use disorder;
- (iv) an eating disorder, except for bulimia and anorexia nervosa; or
- (v) an impulse control disorder, except for intermittent explosive disorder and trichotillomania.

(4) "Outpatient benefits" are as set forth in 33-22-705.

(5) *"Primary care behavioral health model" means an evidence-based, integrated behavioral health care service delivery model delivered in primary or specialty care settings that recognizes licensed psychologists as consultants as well as direct service providers.*

(6) *"Psychiatric collaborative care model" means the evidence-based, integrated behavioral health service delivery method in which care:*

(a) *is delivered by a primary care team consisting of a primary care provider and a care manager who work in collaboration with a psychiatric consultant, including but not limited to a psychiatrist;*

(b) *is directed by the primary care team;*

(c) *includes structured care management with regular assessments of clinical status using validated tools and modification of treatment as appropriate; and*

(d) *involves regular consultations between the psychiatric consultant and the primary care team to review the clinical status and care of patients and to make recommendations.*

(5)(7) "Qualified health care provider" means a person licensed as a physician, psychologist, social worker, clinical professional counselor, marriage and family therapist, or addiction counselor or another appropriate licensed health care practitioner.

(6)(8) "Severe mental illness" means the following disorders as defined by the American psychiatric association:

(a) schizophrenia;

(b) schizoaffective disorder;

(c) bipolar disorder;

(d) major depression;

(e) panic disorder;

(f) obsessive-compulsive disorder; and

(g) autism.

(7)(9) (a) "Substance use disorder" means the uncontrollable or excessive use of an addictive substance, including but not limited to alcohol, morphine, cocaine, heroin, opium, cannabis, barbiturates, amphetamines, tranquilizers, or hallucinogens, and the resultant physiological or psychological dependency that develops with continued use of the addictive substance and that requires medical care or other appropriate treatment as determined by a licensed addiction counselor or other appropriate medical practitioner.

(8)(10) "Substance use disorder treatment center" means a treatment facility that:

(a) provides a program for the treatment of substance use disorders pursuant to a written treatment plan approved and monitored by a qualified health care provider; and

(b) is licensed or approved by the department of public health and human services under 53-24-208 or is licensed or approved by the state where the facility is located."

Section 3. Section 33-22-705, MCA, is amended to read:

“33-22-705. Inpatient and outpatient benefits – use of psychiatric collaborative care or primary care behavioral health model. (1) (a) Inpatient benefits are benefits payable for charges made by:

(i) a hospital or freestanding inpatient facility for the necessary care and treatment of mental illness, severe mental illness, or substance use disorder furnished to a covered person while confined as an inpatient; or

(ii) a qualified health care provider for the necessary care and treatment of mental illness, severe mental illness, or substance use disorder furnished to a covered person while confined as an inpatient.

(b) Care and treatment of a substance use disorder in a freestanding inpatient facility must be in a substance use disorder treatment center.

(c) Inpatient benefits include payment for medically monitored and medically managed intensive inpatient services and clinically managed high-intensity residential services.

(2) Outpatient benefits are benefits payable for:

(a) reasonable charges made by a hospital for the necessary care and treatment of mental illness, severe mental illness, or substance use disorder furnished to a covered person while not confined as an inpatient;

(b) reasonable charges for services rendered or prescribed by a qualified health care provider for the necessary care and treatment for mental illness, severe mental illness, or substance use disorder furnished to a covered person while not confined as an inpatient;

(c) reasonable charges made by a mental health or substance use disorder treatment center for the necessary care and treatment of a covered person provided in the treatment center while not confined as an inpatient; or

(d) reasonable charges for services rendered by a qualified health care provider, hospital, mental health treatment center, or substance use disorder treatment center in an acute or subacute partial hospitalization or intensive outpatient treatment setting; or

(e) *reasonable charges for outpatient benefits listed in this subsection (2) that are delivered through the psychiatric collaborative care or primary care behavioral health model. The charges must be reimbursed through the use of the following common procedural terminology billing codes established by the American medical association:*

(i) 99492;

(ii) 99493;

(iii) 99494;

(iv) 99484, the code for care management services for behavioral health conditions;

(v) 96156, 96158, 96159, 96164, 96165, 96167, 96168, 96170, and 96171, the codes for health behavior assessment and intervention; and

(vi) 99446, 99447, 99448, 99449, and 99451, the codes for interprofessional telephone/internet/electronic health record consultations.”

Section 4. Section 33-35-306, MCA, is amended to read:

“33-35-306. Application of insurance code to arrangements. (1) In addition to this chapter, self-funded multiple employer welfare arrangements are subject to the following provisions:

(a) 33-1-111;

(b) Title 33, chapter 1, part 4, but the examination of a self-funded multiple employer welfare arrangement is limited to those matters to which the arrangement is subject to regulation under this chapter;

(c) Title 33, chapter 1, part 7;

(d) Title 33, chapter 2, part 23;

- (e) 33-3-308;
 - (f) Title 33, chapter 7;
 - (g) Title 33, chapter 18, except 33-18-242;
 - (h) Title 33, chapter 19;
 - (i) 33-22-107, 33-22-131, 33-22-134, 33-22-135, 33-22-138, 33-22-139, 33-22-141, 33-22-142, 33-22-152, and 33-22-153; ~~and~~
 - (j) 33-22-512, 33-22-515, 33-22-525, and 33-22-526; *and*
 - (k) *Title 33, chapter 22, part 7.*
- (2) Except as provided in this chapter, other provisions of Title 33 do not apply to a self-funded multiple employer welfare arrangement that has been issued a certificate of authority that has not been revoked.”

Section 5. Effective date. [This act] is effective January 1, 2022.

Approved April 22, 2021

CHAPTER NO. 278

[SB 222]

AN ACT REVISING LAWS RELATED TO NAME CHANGE PETITIONS BY A PERSON WHO IS UNDER THE SUPERVISION OR CUSTODY OF THE DEPARTMENT OF CORRECTIONS; AND AMENDING SECTION 27-31-201, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 27-31-201, MCA, is amended to read:

“27-31-201. Order setting hearing date – notice – safety. (1) When a petition setting out the matters contained in 27-31-101 or 27-31-102 is filed, the court or judge may appoint a time for hearing the petition. Except as provided in subsections (2) and (3), notice of the time and place of hearing the petition must be published for 4 successive weeks in some newspaper published in the county, if a newspaper is printed in the county. If a newspaper is not printed in the county, a copy of the notice must be posted in at least three public places in the county for 4 successive weeks.

(2) Publication is not required for a change of name of a minor under 27-31-101 if both parents and all legal guardians consent in writing.

(3) The court may allow a petition to proceed on a sealed-record basis when probable cause is shown that the safety of the petitioner is at risk and the judge is satisfied that the petitioner is not attempting to avoid debt or to hide a criminal record. The request to proceed on a sealed-record basis must be set forth in the petition. All papers and records pertaining to the sealed-record petition must be kept as a permanent record of the court and withheld from inspection unless the judge denies the request to proceed on a sealed-record basis. *Except as provided in subsections (4) and (5), a person, other than the petitioner, may not have access to the records except for good cause shown and on order of the judge of the court in which the petition was granted.*

(4) When a petitioner is committed to or under the supervision of the department of corrections or is incarcerated in a state prison as defined in 53-30-101(3)(c), the petitioner shall serve the petition on the department. A court shall provide reasonable opportunity for the department to appear and provide a response to the petition.

(5) If the court grants a petition filed by a person committed to or under the supervision of the department of corrections or incarcerated in a state prison as defined in 53-30-101(3)(c), the court shall authorize the department of corrections and the department of justice to maintain and disseminate the

petitioner's records in a manner that ensures performance of duties required by offender registration statutes, testing and collection of biological samples, victim notification, or other disclosures or notices required by law."

Approved April 22, 2021

CHAPTER NO. 279

[SB 226]

AN ACT GENERALLY REVISING LAWS RELATED TO LOANS MADE BY A CANDIDATE TO THE CANDIDATE'S CAMPAIGN; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Candidate campaign debt. (1) If a candidate has unpaid primary election debt that consists solely of loans from the candidate to the candidate's campaign and if the candidate advances to the general election, the candidate is not required to pay off the primary election debt with primary election funds. Under these circumstances, leftover primary election funds may be used for general election purposes.

(2) Following the general election, the candidate may repay a loan the candidate made to the candidate's campaign with primary or general election funds.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 13, chapter 37, part 2, and the provisions of Title 13, chapter 37, part 2, apply to [section 1].

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

Section 4. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to January 1, 2015.

Approved April 22, 2021

CHAPTER NO. 280

[SB 240]

AN ACT REVISING LAWS REGARDING PENALTIES FOR FALSELY REPORTING CRIMES; PROVIDING PENALTIES FOR WHEN THE CRIME THAT IS FALSELY REPORTED IS A MISDEMEANOR AND MORE SERIOUS PENALTIES FOR FALSELY REPORTING FELONIES; AND AMENDING SECTION 45-7-205, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 45-7-205, MCA, is amended to read:

"45-7-205. False reports to law enforcement authorities peace officers. (1) A person commits an offense under this section if the person knowingly:

(a) gives false information to any ~~law enforcement~~ *peace* officer with the purpose to implicate another;

(b) reports to ~~law enforcement authorities~~ *a peace officer* an offense or other incident within ~~their~~ *the officer's* concern knowing that it did not occur; or

(c) pretends to furnish ~~law enforcement authorities~~ *a peace officer* with information relating to an offense or incident when the person knows that the person has no information relating to the offense or incident.

(2) A person convicted under this section shall be ~~fin~~~~ed not to exceed \$500~~ ~~or be imprisoned in the county jail for any term not to exceed 6 months, or both.~~

(a) *if the crime falsely reported was a misdemeanor, be sentenced to not more than 6 months in the county jail or fined not more than \$500, or both; or*

(b) *if the crime falsely reported was a felony, be sentenced to not more than 4 years in the state prison or fined not more than \$10,000, or both."*

Approved April 22, 2021

CHAPTER NO. 281

[SB 275]

AN ACT GENERALLY REVISING THE BOARD OF OUTFITTERS AND OUTFITTING LAWS AND ENFORCEMENT; REVISING THE BOARD OF OUTFITTERS MEMBERSHIP; TERMINATING THE CURRENT BOARD MEMBERSHIP; REVISING THE BOARD'S DUTIES; REVISING REGULATION OF THE PARTIAL SALE OR TEMPORARY TRANSFER OF A HUNTING OR FISHING OUTFITTER'S BUSINESS; PROVIDING AN EXCEPTION FOR THE OUTFITTERS ON THE BEAVERHEAD AND BIG HOLE RIVERS; REVISING CERTAIN OUTFITTER SERVICES; REVISING FEE DEPOSITS; CLARIFYING LIABILITY; REVISING ENFORCEMENT OF VIOLATIONS OF OUTFITTER REGULATIONS; REVISING ENFORCEMENT POWERS OF WARDENS; REVISING PENALTIES; PROVIDING FOR A TRANSITION; AMENDING SECTIONS 2-15-1773, 37-47-201, 37-47-301, 37-47-302, 37-47-310, 37-47-313, 37-47-341, 37-47-344, 37-47-345, 37-47-401, 87-1-506, AND 87-6-702, MCA; REPEALING SECTION 87-6-105, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-1773, MCA, is amended to read:

"2-15-1773. Board of outfitters. (1) There is a board of outfitters.

(2) The board consists of the following ~~seven~~ *five* members to be appointed by the governor with the consent of the senate:

(a) ~~one outfitter licensed to provide big game hunting services licensed for both hunting and fishing, representing a public land hunting and fishing outfitter knowledgeable in government permitting and preferably with a packing endorsement;~~

(b) ~~one outfitter licensed to provide fishing services but not hunting services licensed only as a fishing outfitter;~~

(c) ~~two outfitters licensed to provide fishing and hunting services one outfitter representing a private land hunting outfit;~~

(d) ~~two sportspersons~~ *one outfitter licensed for both hunting and fishing, with their business being predominately fishing; and*

(e) *one member of the general public who is a Montana-based business owner who engages in nonoutfitted business that is reliant on the local outdoor recreation industry.*

(3) A favorable vote of at least a majority of all members of the board is required to adopt any resolution, motion, or other decision.

(4) A vacancy on the board must be filled in the same manner as the original appointment.

(5) The members shall serve staggered 3-year terms and take office on the day they are appointed.

(6) The board is allocated to the department of labor and industry for administrative purposes only as prescribed in 2-15-121.

(7) Each member of the board is entitled to receive compensation and travel expenses as provided for in 37-1-133.”

Section 2. Section 37-47-201, MCA, is amended to read:

“37-47-201. Powers and duties of board relating to outfitters and guides. The board shall:

(1) cooperate with the federal government in matters of mutual concern regarding the business of outfitting and guiding in Montana;

(2) enforce the provisions of this chapter and rules adopted pursuant to this chapter;

(3) establish outfitter standards and guide standards;

(4) adopt:

(a) rules to administer and enforce this chapter, including rules prescribing all requisite qualifications for licensure as an outfitter or guide. Qualifications for outfitters may include training, testing, experience, and knowledge of rules of governmental bodies pertaining to outfitting.

(b) any reasonable rules, not in conflict with this chapter, necessary for safeguarding the public health, safety, and welfare, including evidence of qualification and licensure under this chapter for any person practicing or offering to practice as an outfitter or guide;

(c) rules specifying components and standards for review and approval of operations plans. Operations plans must:

(i) be updated at least annually if there has been a substantive change; and

(ii) ~~report~~ *indicate* all forms of use of private land acreage where licensed outfitters are authorized by the landowner to operate, except for the use of private lands that allow unrestricted public access and are managed under cooperative agreements with adjacent public lands.

(d) rules establishing outfitter reporting requirements. ~~The reports must be filed annually and report:~~

~~(i) client names or automated licensing system numbers; and~~

~~(ii) names or license numbers of outfitters, guides, and outfitter’s assistants providing client services; and~~

~~(iii) dates of client services.~~

(e) rules specifying what constitutes an emergency for which an outfitter’s assistant may be hired, standards for outfitter’s assistants, and documentation standards for proof of employment or retention required of outfitter’s assistants. The rules must also identify data that may be collected regarding use of outfitter’s assistants.

(5) hold hearings and proceedings to suspend or revoke licenses of outfitters and guides for due cause; and

(6) maintain records of net client hunter use.”

Section 3. Section 37-47-301, MCA, is amended to read:

“37-47-301. License required – services performed – standards.

(1) A person may not act as an outfitter or guide or advertise or otherwise represent to the public that the person is an outfitter or guide without first securing a license in accordance with the provisions of this part.

(2) Whenever an outfitter is engaged by a participant, the outfitter shall keep ~~and submit~~ records as required by the board.

(3) Outfitters, guides, and other employees of an outfitter may not shoot, kill, or take big game animals for or in competition with those employing them while acting as outfitters, guides, or employees of an outfitter.

(4) Outfitters utilizing lands under the control of the United States government shall obtain the proper permits required by the government office responsible for the area in which the outfitter intends to operate and shall comply with all applicable rules and regulations established for these lands.

(5) Outfitters may not willfully and substantially misrepresent their facilities, prices, equipment, services, or hunting or fishing opportunities.

(6) Outfitters and their contractors, employees, agents, and representatives shall take every reasonable measure to provide the outfitter's advertised services.

(7) An outfitter may not hire or retain a guide who does not hold a current license as provided under this part."

Section 4. Section 37-47-302, MCA, is amended to read:

"37-47-302. Outfitter's qualifications. An applicant for an outfitter's license or renewal of a license must meet the following qualifications:

(1) be 18 years of age or older, be physically capable and mentally competent to perform the duties of an outfitter, and meet experience, training, and testing requirements as prescribed by board rule; and

(2) own, hold under written lease, or contract for or represent a business entity who owns, holds under written lease, or contracts for the equipment and facilities that are necessary to provide the services advertised, contracted for, or agreed upon between the outfitter and the outfitter's clients. All equipment and facilities are subject to inspection at all reasonable times and places by the board or its designated agent."

Section 5. Section 37-47-310, MCA, is amended to read:

~~"37-47-310. Transfer or amendment of outfitter's license – transfer of river-use days to new owner of fishing partial sale of outfitter business.~~ (1) An outfitter's license may not be transferred.

(2) An individual person may, upon proper showing, have that person's outfitter's license *operating plan* amended to indicate that the license is being held for the use and benefit of a named business entity.

(3) Subject to approval by the board, a person designated by the family of an outfitter who is deceased or incapacitated due to physical or mental disease or injury or who is unable to carry out the responsibilities of an outfitter due to the outfitter's status as an active member of the military may continue to provide outfitting services for the outfitter's unexpired license year, or until the family sells the outfitting business, until the designee obtains an outfitter license.

(4) ~~(a) (a) When a fishing outfitter's business is sold or transferred in its entirety, any river-use days that have been allocated to that fishing outfitter through the fishing outfitter's historic use of or activities on restricted-use streams are transferable to the new owner of the fishing outfitter's business. Upon the sale or transfer of a fishing outfitter's business, the outfitter who sells or transfers the business shall notify the new owner that the use of any transferred river-use days is subject to change pursuant to rules adopted by the fish and wildlife commission and that a property right does not attach to the transferred river-use days.~~

~~(b) Any transferred river-use days on the Smith River are subject to change pursuant to rules adopted by the state parks and recreation board pursuant to 23-2-408. Except as provided in subsection (4)(b), if changes are properly reflected in an operations plan, the partial sale or temporary transfer of a hunting or fishing outfitter's business may not be prohibited.~~

~~(b) Transfer of river-use days for the Beaverhead and Big Hole rivers may only be sold or transferred as part of a business in its entirety. On the sale or transfer of a fishing outfitter business on the Beaverhead or Big Hole rivers,~~

the outfitter who sells or transfers the business shall notify the new owner that the use of any transferred river-use days is subject to change pursuant to rules adopted by the fish and wildlife commission, and that a property right does not attach to the transferred river-use days.”

Section 6. Section 37-47-313, MCA, is amended to read:

“37-47-313. Shuttle, and rental services, drop camp, and accompaniment – exemption. (1) Nothing in this chapter prohibits the furnishing of shuttle, ~~or~~ rental services, *drop camp, or the accompaniment of a customer for nonhunting activities, nonfishing activities, or both,* as long as those services do not include in-field assistance to a customer.

(2) *For the purposes of this section, “In-field in-field assistance” includes but is not limited to:*

- (a) ~~setting up a camp;~~
- (b) ~~field instruction for the activity to be conducted by the customer; or~~
- (c) ~~other services considered to be services of an outfitter, as defined in 37-47-101 means the pursuit of fish or game, including in-field instruction for the pursuit of fish or game.”~~

Section 7. Section 37-47-341, MCA, is amended to read:

“37-47-341. Grounds for denial, suspension, or revocation of license. A license or right to apply for and hold a license issued under this part may be denied, suspended, or revoked or other disciplinary conditions may be applied upon any of the following grounds:

(1) having ceased to meet all of the qualifications for holding a license, as required under this chapter and rules adopted pursuant to this chapter;

(2) fraud or deception in procuring a license;

(3) fraudulent, untruthful, or misleading advertising;

(4) having pleaded guilty to or been adjudged by a court guilty of a felony, including a case in which the sentence is suspended or imposition of the sentence is deferred, unless civil rights have been restored pursuant to law;

(5) one conviction or bond forfeiture for a violation of the fish and game or outfitting laws or regulations of any state, the United States, or other jurisdictions;

(6) a substantial breach of a contract with a participant provided that the breach is established as a matter of final judgment in a court of law;

(7) the willful employment of or contracting with an unlicensed guide by an outfitter;

(8) *subject to 27-1-753,* negligence or misconduct while acting as an outfitter or guide that causes an accident or injury to the person or property of a participant;

(9) misconduct as defined by board rule; or

(10) any violation of this chapter or a rule adopted pursuant to this chapter.”

Section 8. Section 37-47-344, MCA, is amended to read:

“37-47-344. Penalties –disposition of fines. (1) A person who violates any provision of this chapter or rule adopted under this chapter is guilty of a misdemeanor and is punishable, unless otherwise specified, by a fine not exceeding \$500.

(2) ~~Fifty percent of all fines paid under this section must be deposited in the general fund of the county in which the conviction is obtained, and 50% must be deposited in the state special revenue fund for the use of the board in enforcing this chapter. All investigation, preparation, and trial costs paid under this section must be deposited in the state special revenue fund for the use of the board in enforcing the provisions of this chapter. The board may~~

reimburse other agencies for costs reasonably incurred in the enforcement of this chapter.”

Section 9. Section 37-47-345, MCA, is amended to read:

“37-47-345. Enforcement. Investigations and arrests issuance of board complaints for violations of this chapter or rules adopted pursuant to this chapter may be made through department investigation or at the board’s request by any peace officer; warden of the department of fish, wildlife, and parks; or federal agency enforcement personnel.”

Section 10. Section 37-47-401, MCA, is amended to read:

“37-47-401. Purpose. It is recognized that some activities conducted by outfitters, guides, and outfitter’s assistants within the scope of their authorized services are inherently hazardous to participants regardless of all feasible safety measures that may be taken. It is the purpose of this part, subject to 27-1-753, to define those areas of responsibility and affirmative acts or omissions for which outfitters, guides, and outfitter’s assistants are liable for loss, damage, or injury and those risks for which the participant expressly assumes or is considered to have voluntarily assumed the risk of loss or damage.”

Section 11. Section 87-1-506, MCA, is amended to read:

“87-1-506. Enforcement powers of wardens. (1) A warden may:

(a) serve a subpoena issued by a court for the trial of a violator of the fish and game laws;

(b) conduct a search, with a search warrant, in accordance with Title 46, chapter 5;

(c) seize game, fish, game birds, and fur-bearing animals and any parts of them taken or possessed in violation of the law or the rules of the department;

(d) seize and hold, subject to law or the orders of the department, devices that have been used to unlawfully take game, fish, birds, or fur-bearing animals;

(e) arrest, in accordance with Title 46, chapter 6, a violator of a fish and game law or rule of the department, violation of which is a misdemeanor;

(f) enforce the disorderly conduct and public nuisance laws, 45-8-101 and 45-8-111, as they apply to the operation of motorboats on all waters of the state;

~~(g) as provided for in 37-47-345, investigate and make arrests for violations of the provisions of Title 37, chapter 47, and of any rules adopted pursuant to that chapter relating to the regulation of outfitters and guides in the state;~~

~~(g) as provided for in 37-47-345, investigate violations of 37-47-301(1) and (2) and 37-47-404;~~

~~(h)(h)~~ enforce the provisions of Title 80, chapter 7, part 10, and rules adopted under Title 80, chapter 7, part 10, for those invasive species that are under the department’s jurisdiction; and

~~(i)(i)~~ exercise the other powers of peace officers in the enforcement of the fish and game laws, the rules of the department, and judgments obtained for violation of those laws or rules.

(2) The meat of game animals that are seized pursuant to subsection (1)(c) must be donated directly to the Montana food bank network or to public or charitable institutions to the extent reasonably feasible. Any meat that the department is unable to donate must be sold pursuant to 87-1-511, with the proceeds to be distributed as provided in 87-1-513(2).”

Section 12. Section 87-6-702, MCA, is amended to read:

“87-6-702. Outfitting without license. (1) (a) A person may not purposely or knowingly engage in outfitting while not licensed pursuant to

Title 37, chapter 47, or purposely or knowingly violate a licensing rule adopted under Title 37, chapter 47.

(b) A person convicted of a violation of subsection (1)(a) is punishable by a fine of not less than \$200 or more than \$1,000 or imprisonment in the county jail for up to 1 year, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for a period set by the court. A sentencing court that imposes a period of license revocation shall consider the provisions of subsection (3).

(2) (a) A person or entity that represents to any other person, any entity, or the public that the person or entity is an outfitter and who commits the offense of outfitting without a license, as described in subsection (1)(a), for any portion of 5 or more days for consideration within 1 calendar year for any person or for consideration valued in excess of \$5,000 is punishable by a fine of not more than \$50,000 or imprisonment in the state prison for up to 5 years, or both.

(b) A person convicted of a violation of subsection (2)(a) shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for a minimum of 5 years. A sentencing court that imposes a period of license revocation shall consider the provisions of subsection (3).

(3) A sentencing court that imposes a period of license revocation pursuant to subsection (1)(b) or (2)(b) shall consider and may impose any of the following conditions during the period of revocation:

(a) prohibiting the offender from:

(i) participating in any hunting, fishing, or trapping endeavor as a hunter, angler, trapper, scout, guide, observer, or assistant;

(ii) brokering or participating in any lease of property for hunting, fishing, or trapping, either personally or through an agent or representative;

(iii) participating in any seminar or show that is designed to promote hunting, fishing, or trapping;

(iv) purchasing or possessing any hunting, fishing, or trapping permits; and

(b) imposing any other reasonable condition or restriction that is related to the crime committed or that is considered necessary for the rehabilitation of the offender or for the protection of the citizens or wildlife of this state.

(4) A person convicted of a violation of this section shall reimburse the full amount of any fees received to the person to whom illegal outfitting services were provided.

(5) As used in this section, the following definitions apply:

(a) "Consideration" means remuneration given in exchange for outfitting services supplied based on a business relationship between parties, but not including reimbursement for shared trip expenses.

(b) (i) "Outfitting" means providing hunting or fishing services for consideration, including any saddle or pack animal, facilities, camping equipment, personal service, or vehicle, watercraft, or other conveyance for any person to hunt, fish, trap, capture, take, kill, or pursue any game, including fish. The term includes accompanying that person, either part or all of the way, on an expedition for any of these purposes or supervision of a licensed guide in accompanying that person.

(ii) The term does not include:

(A) services provided by packers, wranglers, cooks, or other parties under the direct employment of the outfitter;

(B) services provided by an outfitter's assistant who has documentation as provided in 37-47-404(4); or

(C) the provision of the services listed in subsection (5)(b)(i) by a person on real property that the person owns for the primary pursuit of bona fide agricultural interests.”

Section 13. Repealer. The following sections of the Montana Code Annotated are repealed:

87-6-105. Penalties in addition to Title 37.

Section 14. Transition – application. Within 60 days of [the effective date of this act], the board membership must reflect [section 1]. All terms of all board members appointed under the previous composition of the board terminate 60 days following [the effective date of this act], and all appointments made, and vacancies filled after [the effective date of this act] must be in accordance with [section 1]. The appointments must consist of 1, 2, or 3-year terms at the governor's discretion, so the initial terms of the newly composed board members are staggered in accordance with [section 1].

Section 15. Effective date. [This act] is effective on passage and approval.

Section 16. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved April 22, 2021

CHAPTER NO. 282

[HB 258]

AN ACT PROHIBITING THE ENFORCEMENT OF A FEDERAL BAN ON OR REGULATION OF FIREARMS, MAGAZINES, AMMUNITION, AMMUNITION COMPONENTS, OR FIREARM ACCESSORIES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 4] may be cited as the “Montana Federal Firearm, Magazine, and Ammunition Ban Enforcement Prohibition Act”.

Section 2. Declaration of authority. [Sections 1 through 4] are done under the authority of the 2nd and 10th amendments to the United States constitution, Article II, section 12, of the Montana constitution, Montana's compact with the United States, and *Printz v. U.S.*, 521 U.S. 898 (1997).

Section 3. Definitions. As used in [sections 1 through 4], the following definitions apply:

(1) “Federal ban” means a federal law, executive order, rule, regulation that is enacted, adopted, or becomes effective on or after January 1, 2021, or a new and more restrictive interpretation of a law that existed on January 1, 2021, that infringes upon, calls in question, or prohibits, restricts, or requires individual licensure for or registration of the purchase, ownership, possession, transfer, or use of any firearm, any magazine or other ammunition feeding device, or other firearm accessory.

(2) “Firearm” means any self-loading rifle, pistol, revolver, or shotgun or any manually loaded rifle, pistol, revolver, or shotgun.

(3) “Peace officer” has the meaning provided in 45-2-101, except that [sections 1 through 4] do not apply to federal employees.

(4) “Political subdivision” means a city, town, county, consolidated government, or other political subdivision of the state.

Section 4. Prohibition of enforcement. (1) A peace officer, state employee, or employee of a political subdivision is prohibited from enforcing, assisting in the enforcement of, or otherwise cooperating in the enforcement of a federal ban on firearms, magazines, or ammunition and is also prohibited from participating in any federal enforcement action implementing a federal ban on firearms, magazines, or ammunition.

(2) An employee of the state or a political subdivision may not expend public funds or allocate public resources for the enforcement of a federal ban on firearms, magazines, or ammunition.

(3) Nothing in this section may be construed to prohibit or otherwise limit a peace officer, state employee, or employee of a political subdivision from cooperating, communicating, or collaborating with a federal agency if the primary purpose is not:

- (a) law enforcement activity related to a federal ban; or
- (b) the investigation of a violation of a federal ban.

Section 5. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 6. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 45, chapter 7, and the provisions of Title 45, chapter 7, apply to [sections 1 through 4].

Section 7. Effective date. [This act] is effective on passage and approval.

Section 8. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to a federal law, executive order, rule, or regulation adopted or enacted on or after January 1, 2021, or a new and more restrictive interpretation of a law that existed on January 1, 2021.

Approved April 23, 2021

CHAPTER NO. 283

[HB 451]

AN ACT REVISING LAWS RELATED TO CREDIT FOR INCARCERATION PRIOR TO OR AFTER CONVICTION; INCLUDING TIME SPENT IN A RESIDENTIAL TREATMENT FACILITY UNDER THE ORDER OF A COURT AS TIME THAT MUST BE CREDITED TO A PERSON; AND AMENDING SECTION 46-18-403, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-18-403, MCA, is amended to read:

“46-18-403. Credit for incarceration prior to conviction. (1) (a) A person incarcerated on a bailable offense against whom a judgment of imprisonment is rendered must be allowed credit for each day of incarceration prior to or after conviction, except that the time allowed as a credit may not exceed the term of the prison sentence rendered.

(b) *For the purposes of subsection (1)(a), incarceration includes time spent in a residential treatment facility under the order of a court.*

(2) A person incarcerated on a bailable offense who does not supply bail and against whom a fine is levied on conviction of the offense may be allowed a

credit for each day of incarceration prior to conviction, except that the amount allowed or credited may not exceed the amount of the fine. The daily rate of credit for incarceration must be established annually by the board of county commissioners by resolution. The daily rate must be equal to the actual cost incurred by the detention facility for which the rate is established.”

Approved April 23, 2021

CHAPTER NO. 284

[SB 20]

AN ACT GENERALLY REVISING RIVER BASIN ADVISORY COUNCIL LAWS FOR DEVELOPING AND IMPLEMENTING THE STATE WATER PLAN; CLARIFYING THAT A STATE WATER PLAN MUST BE DEVELOPED BY 2035; EXTENDING THE USE OF RIVER BASIN ADVISORY COUNCILS IN THE MISSOURI, YELLOWSTONE, CLARK FORK, AND KOOTENAI RIVER BASINS TO DEVELOP THE STATE WATER PLAN; CLARIFYING THE MEMBERSHIP OF RIVER BASIN ADVISORY COUNCILS; ADDING REQUIREMENTS FOR THE STATE WATER PLAN; AMENDING SECTION 85-1-203, MCA; AND REPEALING SECTION 85-2-350, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 85-1-203, MCA, is amended to read:

“85-1-203. State water plan. (1) The department shall gather from any source reliable information relating to Montana’s water resources and prepare from ~~the~~ *that* information a continuing comprehensive inventory of the water resources of the state. In preparing this inventory, the department may:

- (a) conduct studies;
- (b) adopt studies made by other competent water resource groups, including federal, regional, state, or private agencies;
- (c) perform research or employ other competent agencies to perform research on a contract basis; and
- (d) hold public hearings in affected areas at which all interested parties must be given an opportunity to appear.

(2) The department shall formulate and adopt and amend, extend, or add to a comprehensive, coordinated multiple-use water resources plan known as the “state water plan”. The state water plan may be formulated and adopted in sections, with some of these sections corresponding with hydrologic divisions of the state. The state water plan must set out a progressive program for the conservation, development, utilization, and sustainability of the state’s water resources and *must* propose the most effective means by which these water resources may be applied for the benefit of the people, with due consideration of alternative uses and combinations of uses.

(3) Sections of the state water plan must be completed for the ~~Missouri, Yellowstone, and Clark Fork River basins~~ *Missouri River basin, the Yellowstone River basin, and the Clark Fork and Kootenai River basins*, be submitted to the ~~2015~~ *2035* legislature, and be updated at least every 20 years. These basinwide plans must include:

(a) an inventory of consumptive and nonconsumptive uses associated with existing water rights;

(b) *identified data gaps*;

~~(b)(c)~~ (c) an estimate of the amount of surface and ground water needed to satisfy new future demands;

(c)(d) analysis of the effects of frequent drought and of new or increased depletions on the availability of future water supplies;

(d)(e) proposals for the best means *to satisfy existing water rights and new water demands*, such as an evaluation of opportunities for storage of water by both private and public entities; ~~to satisfy existing water rights and new water demands~~;

(e)(f) possible sources of water to meet the needs of the state; and

(f)(g) any legislation necessary to address water resource concerns in these basins.

(4) (a) The department shall create a ~~water user council in both the Yellowstone and Missouri River basins~~ *basin advisory council in the Missouri River basin, in the Yellowstone River basin, and in the Clark Fork and Kootenai River basins* that is inclusive and representative of all water interests and interests in those basins. ~~For the Clark Fork River basin, the department shall continue to utilize the Clark Fork River basin task force established pursuant to 85-2-350.~~

(b) The councils in the Missouri and Yellowstone River basins consist of representatives of existing watershed groups or councils within the basins *basin advisory councils must consist of key water interests within the basins, including, on recommendation from relevant water user interest groups, at least one representative each from the following groups or organizations:*

(i) *agricultural;*

(ii) *conservation;*

(iii) *industrial;*

(iv) *irrigation;*

(v) *municipal;*

(vi) *recreational;*

(vii) *tribal;*

(viii) *watershed; and*

(ix) *conservation districts.*

(c) Each *basin advisory council* may have up to 20 members.

(d) Each ~~water user basin advisory council~~ shall make recommendations to the department on the basinwide plans required by subsection (3).

(e) *The department may use existing basin councils as a basin advisory council if the composition and purpose of the existing basin council is consistent with this subsection (4).*

(5) Before adopting the *entire* state water plan or any section of the plan, the department shall hold public hearings ~~in across~~ the state, or in an area of the state encompassed by a section of the plan if adoption of a section is proposed. Notice of the hearing or hearings must be published for 2 consecutive weeks in a newspaper of general ~~county~~ circulation *published* in each county encompassed by the proposed plan or section of the plan at least 30 days prior to the hearing.

(6) The department shall submit to the water policy committee established in 5-5-231 and to the legislature at the beginning of each regular session the state water plan or any section of the plan or amendments, additions, or revisions to the plan that the department has formulated and adopted.

(7) The legislature, by joint resolution, may revise the state water plan.

(8) The department shall prepare a continuing inventory of the ground water resources of the state. The ground water inventory must be included in the comprehensive water resources inventory described in subsection (1) but must be a separate component of the inventory.

(9) The department shall publish the comprehensive inventory, the state water plan, the ground water inventory, or any part of each, and the department may assess and collect a reasonable charge for these publications.

(10) In developing and revising the state water plan as provided in this section, the department shall consult with the water policy committee established in 5-5-231 and solicit the advice of the water policy committee in carrying out its duties under this section.”

Section 2. Repealer. The following sections of the Montana Code Annotated are repealed:

85-2-350. Clark Fork River basin task force -- duties -- water management plan.

Section 3. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Approved April 23, 2021

CHAPTER NO. 285

[SB 230]

AN ACT TRANSFERRING A PERCENTAGE OF COMPENSATORY MITIGATION DEPOSITS FROM THE SAGE GROUSE STEWARDSHIP ACCOUNT TO THE STATE GENERAL FUND TO REPAY THE INITIAL COST OF IMPLEMENTING THE MONTANA GREATER SAGE GROUSE STEWARDSHIP ACT; ESTABLISHING A TRANSFER LIMIT; AMENDING SECTION 76-22-109, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A CONTINGENT TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 76-22-109, MCA, is amended to read:

“76-22-109. (Temporary) Sage grouse stewardship account.

(1) There is a sage grouse stewardship account in the state special revenue fund established in 17-2-102. Money deposited in the account is statutorily appropriated, as provided in 17-7-502, and, *except as provided in subsection (8)*, must be used for the administration of and pursuant to the provisions of this part to maintain, enhance, restore, expand, or benefit sage grouse habitat and populations for the heritage of Montana and its people.

(2) The following funds must be deposited in the account:

(a) each fiscal year, the amount provided in 15-1-122 that is transferred to the account from the state general fund;

(b) money received by the department in the form of grants, gifts, transfers, bequests, payments for credits or financial contributions made pursuant to 76-22-111, and donations, including donations limited in their purpose by the grantor, or appropriations from any source intended to be used for the purposes of this account; and

(c) any interest or income earned on the account.

(3) Subject to subsections (4), **and** (5), **and** (8), the department shall make disbursements from the account to projects approved by the oversight team to receive grants.

(4) The majority of the funds in the account may not be disbursed before the habitat quantification tool has been adopted. The habitat quantification tool must be applied to any project funded after the habitat quantification

tool has been adopted. The majority of the account funds must be awarded to projects that generate credits that are available for compensatory mitigation under 76-22-111. When selecting projects to receive funds, the oversight team shall prioritize projects that maximize the amount of credits generated per dollars of funds awarded.

(5) Money deposited in the account may not be used:

(a) for fee simple acquisition of private land;

(b) to purchase water rights;

(c) to purchase a lease or conservation easement that requires recreational access or prohibits hunting, fishing, or trapping as part of its terms; or

(d) to allow the release of any species listed under 87-5-107 or the federal Endangered Species Act, 16 U.S.C. 1531, et seq.

(6) Administrative costs paid from the account are limited to \$400,000 in each fiscal year.

(7) Any unspent or unencumbered money in the account at the end of a fiscal year must remain in the account.

(8) *At the end of each calendar year, the oversight team shall:*

(a) *conduct an audit of credits and debits as determined by the habitat quantification tool as used in compensatory mitigation pursuant to 76-22-111;*

(b) *ensure the balance of credits and debits determined as provided in subsection (8)(a) results in no net loss of habitat; and*

(c) *direct the department to transfer up to 10% of any surplus balance calculated according to subsection (8)(b) to the state general fund until the total amount of transfers made pursuant to this subsection (8)(c) equals \$10 million.*

(Terminates June 30, 2021--sec. 8, Ch. 360, L. 2017.)

76-22-109. (Effective July 1, 2021) Sage grouse stewardship account. (1) There is a sage grouse stewardship account in the state special revenue fund established in 17-2-102. Money deposited in the account is statutorily appropriated, as provided in 17-7-502, and, *except as provided in subsection (8)*, must be used for the administration of and pursuant to the provisions of this part to maintain, enhance, restore, expand, or benefit sage grouse habitat and populations for the heritage of Montana and its people.

(2) The following funds must be deposited in the account:

(a) money received by the department in the form of grants, gifts, transfers, bequests, payments for credits or financial contributions made pursuant to 76-22-111, and donations, including donations limited in their purpose by the grantor, or appropriations from any source intended to be used for the purposes of this account; and

(b) any interest or income earned on the account.

(3) Subject to subsections (4), ~~and~~ (5), *and* (8), the department shall make disbursements from the account to projects approved by the oversight team to receive grants.

(4) The majority of the funds in the account may not be disbursed before the habitat quantification tool has been adopted. The habitat quantification tool must be applied to any project funded after the habitat quantification tool has been adopted. The majority of the account funds must be awarded to projects that generate credits that are available for compensatory mitigation under 76-22-111. When selecting projects to receive funds, the oversight team shall prioritize projects that maximize the amount of credits generated per dollars of funds awarded.

(5) Money deposited in the account may not be used:

(a) for fee simple acquisition of private land;

(b) to purchase water rights;

(c) to purchase a lease or conservation easement that requires recreational access or prohibits hunting, fishing, or trapping as part of its terms; or

(d) to allow the release of any species listed under 87-5-107 or the federal Endangered Species Act, 16 U.S.C. 1531, et seq.

(6) Administrative costs paid from the account are limited to \$400,000 in each fiscal year.

(7) Any unspent or unencumbered money in the account at the end of a fiscal year must remain in the account.

(8) *At the end of each calendar year, the oversight team shall:*

(a) *conduct an audit of credits and debits as determined by the habitat quantification tool as used in compensatory mitigation pursuant to 76-22-111;*

(b) *ensure the balance of credits and debits determined as provided in subsection (8)(a) results in no net loss of habitat; and*

(c) *direct the department to transfer up to 10% of any surplus balance calculated according to subsection (8)(b) to the state general fund until the total amount of transfers made pursuant to this subsection (8)(c) equals \$10 million."*

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to calendar years beginning after December 31, 2020.

Section 4. Contingent termination. [This act] terminates on the date that the director of the office of budget and program planning certifies to the code commissioner that \$10 million has been transferred to the state general fund from the sage grouse stewardship account pursuant to 76-22-109(8).

Approved April 23, 2021

CHAPTER NO. 286

[SB 267]

AN ACT ALLOWING FOR THE REIMBURSEMENT OF COSTS INCURRED WHILE HARVESTING WOLVES; AND AMENDING SECTION 87-6-214, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-6-214, MCA, is amended to read:

"87-6-214. Unlawful contest or prize. (1) (a) Except as provided in subsections (1)(b) and ~~(1)(c)~~ *through (1)(d)*, a person, firm, or club may not offer or give a prize, gift, or anything of value in connection with or as a bag limit prize for the taking, capturing, killing, or in any manner acquiring any game, fowl, or fur-bearing animal or any bird or animal protected by law.

(b) A prize may be awarded for any one game bird or fur-bearing animal on the basis of size, quality, or rarity.

(c) A person may conduct or sponsor a contest for which the monetary prize, certificate, or award does not exceed \$50 for a person who kills a game animal possessing the largest antlers or horns, carrying the greatest weight, or having the longest body or any similar contest based upon the size or weight of a game animal or part of a game animal. The monetary restriction provided in this subsection (1)(c) does not apply to recognition given by a nationally established and recognized Boone and Crockett trophy institute.

(d) *Reimbursements for receipts of costs incurred related to the hunting or trapping of wolves may be given to persons licensed to hunt or trap wolves pursuant to Title 87, chapter 2.*

(2) A person convicted of a violation of this section shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.”

Approved April 23, 2021

CHAPTER NO. 287

[SB 277]

AN ACT GENERALLY REVISING LAWS RELATED TO STATES' RIGHTS; REQUIRING A REVIEW OF PRESIDENTIAL EXECUTIVE ORDERS BY THE ATTORNEY GENERAL UNDER CERTAIN CIRCUMSTANCES; AND PROVIDING THAT THE STATE, A POLITICAL SUBDIVISION, OR AN ORGANIZATION RECEIVING PUBLIC FUNDS FROM THE STATE MAY NOT IMPLEMENT AN EXECUTIVE ORDER RELATING TO CERTAIN SUBJECTS THAT THE ATTORNEY GENERAL DETERMINES TO BE UNCONSTITUTIONAL.

Be it enacted by the Legislature of the State of Montana:

Section 1. Review of presidential executive orders -- restriction.

(1) The legislative council may review an executive order issued by the president of the United States that has not been affirmed by a vote of congress and signed into law as prescribed by the constitution of the United States and recommend to the attorney general and the governor that the executive order be further reviewed. After receiving a recommendation from the legislative council, or on the attorney general's own initiative, the attorney general shall review the executive order to determine the constitutionality of the order and whether to recommend that the state seek an exemption from the application of the order or seek to have the order declared to be an unconstitutional exercise of authority by the president.

(2) The state, a political subdivision, or an organization receiving public funds from the state may not implement an executive order that the attorney general determines to be unconstitutional under subsection (1) and that relates to:

- (a) pandemics or other public health emergencies;
- (b) the regulation of natural resources or their exploration or development, including but not limited to coal and oil;
- (c) the regulation of the agriculture industry;
- (d) the use of land;
- (e) the regulation of the financial sector as it relates to environmental, social, or governance standards; or
- (f) any regulation affecting the constitutional rights of state residents, including but not limited to the right to keep and bear arms.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 2, chapter 1, part 4, and the provisions of Title 2, chapter 1, part 4, apply to [section 1].

Approved April 23, 2021

CHAPTER NO. 288

[SB 227]

AN ACT GENERALLY REVISING THE MONTANA ADMINISTRATIVE PROCEDURE ACT; PROVIDING THAT THE LEGISLATURE MAY REPEAL RULES OR AMENDMENTS BY JOINT RESOLUTION; LIMITING THE REPEAL TO RULES ADOPTED OR AMENDED DURING THE INTERIM; AMENDING SECTION 2-4-412, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-4-412, MCA, is amended to read:

“2-4-412. Legislative review of rules – effect of failure to object.

(1) (a) The legislature may, by bill, repeal any rule in the ARM. If a rule is repealed, the legislature shall in the bill state its objections to the repealed rule. If an agency adopts a new rule to replace the repealed rule, the agency shall adopt the new rule in accordance with the objections stated by the legislature in the bill. If the legislature does not repeal a rule filed with it before the adjournment of that regular session, the rule remains valid.

(b) *The legislature may, by joint resolution, repeal a rule or amendment to a rule in the ARM that was adopted after final adjournment of the most recent regular legislative session. If an agency adopts a new rule to replace the repealed rule, the agency shall adopt the new rule in accordance with the objections stated by the legislature in the joint resolution. In order to be effective, the joint resolution must be passed during the regular session and not during a special session. After the regular session adjourns, the rule or the amendment to the rule that was adopted during the period between the two regular legislative sessions remains valid and may not be repealed using a joint resolution.*

(2) The legislature may also by joint resolution request or advise or by bill direct the adoption, amendment, or repeal of any rule. If a change in a rule or the adoption of an additional rule is advised, requested, or directed to be made, the legislature shall in the joint resolution or bill state the nature of the change or the additional rule to be made and its reasons for the change or addition. The agency shall, in the manner provided in the Montana Administrative Procedure Act, adopt a new rule in accordance with the legislative direction in a bill.

(3) Rules and changes in rules made by agencies under subsection (2) must conform and be pursuant to statutory authority.

(4) Failure of the legislature or the appropriate administrative rule review committee to object in any manner to the adoption, amendment, or repeal of a rule is inadmissible in the courts of this state to prove the validity of any rule.”

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Applicability. [This act] applies to administrative rules adopted or amended on or after [the effective date of this act].

Approved April 12, 2021

