

HOUSE BILL NO. 153

INTRODUCED BY V. RICCI

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND
5 HUMAN SERVICES TO REQUEST A WAIVER TO PROHIBIT THE USE OF SUPPLEMENTAL NUTRITION
6 ASSISTANCE PROGRAM BENEFITS FOR THE PURCHASE OF ENERGY DRINKS; REQUIRING REPORTING
7 TO THE LEGISLATURE; UPDATING TERMINOLOGY; AMENDING SECTIONS 39-51-403, 39-51-2208,
8 39-71-118, 40-4-215, 45-6-312, 50-49-103, 53-2-108, 53-2-201, 53-2-211, 53-2-606, 53-2-901, 53-2-902,
9 53-2-903, 53-2-904, 53-3-115, 53-4-601, 53-4-602, 53-4-609, 53-4-704, AND 53-4-717, MCA; AND PROVIDING
10 AN IMMEDIATE EFFECTIVE DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 **NEW SECTION. Section 1. Waiver for limitations on purchases of energy drinks -- report to**
15 **legislature.** (1) (a) The department shall seek a waiver from the U.S. department of agriculture within 3 months
16 of [the effective date of this act] to prohibit the use of supplemental nutrition assistance program benefits for the
17 purchase of energy drinks.

18 (b) If the waiver request is approved, the department shall apply for continuation of the waiver in a timely
19 manner.

20 (c) If the waiver request is denied, the department shall submit the request annually until it is approved.

21 (2) The department may require other limitations on food or beverage items that are low in nutrients and
22 that may contribute to chronic diseases such as diabetes and heart disease.

23 (3) The department shall report annually to the children, families, health, and human services interim
24 committee on the status of the waiver request.

25 (4) For the purposes of this section, "energy drink" means a drink that:

26 (a) contains a high level of caffeine;

27 (b) may contain sugars, amino acids, or other plant-based stimulants, including but not limited to
28 guarana, ginseng, and taurine; and

29 (c) is marketed as a means of boosting physical energy or mental alertness.

30

1 **Section 2.** Section 39-51-403, MCA, is amended to read:

2 **"39-51-403. Money to be requisitioned from unemployment trust fund solely for payment of**
 3 **benefits.** (1) Money may be requisitioned from this state's account in the unemployment trust fund solely for the
 4 payment of benefits and in accordance with section 904 of the Social Security Act, 42 U.S.C. 1104, and with
 5 regulations prescribed by the department. Money withheld by the department from a benefits payment at the
 6 request of an individual, in accordance with the department's rules pertaining to deductions and withholding for
 7 federal income tax purposes pursuant to 39-51-2207, for repayment of an overissuance of ~~food stamp~~
 8 supplemental nutrition assistance program benefits pursuant to 39-51-2208, or for repayment of child support
 9 obligations pursuant to 39-51-3106 must be considered benefits for the purposes of this subsection.

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

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

18 (4) Any balance of money requisitioned from the unemployment trust fund that remains unclaimed or
 19 unpaid in the benefit account after the expiration of the period for which the sums were requisitioned must be
 20 deducted from estimates for and may be used for the payment of benefits during succeeding periods or, in the
 21 discretion of the department, must be redeposited with the secretary of the treasury of the United States to the
 22 credit of this state's account in the unemployment trust fund, as provided in 39-51-402."
 23

24 **Section 3.** Section 39-51-2208, MCA, is amended to read:

25 **"39-51-2208. Deduction and withholding of unemployment benefits to repay overissuance of ~~food~~**
 26 **~~stamps~~ supplemental nutrition assistance program benefits -- definitions.** (1) For the purposes of this
 27 section, the following definitions apply:

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

1 (b) "Unemployment benefits" means benefits payable under the Montana unemployment insurance law,
 2 including amounts payable by the department pursuant to an agreement under any federal law that provides for
 3 benefits, assistance, or allowances with respect to unemployment.

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

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

14 (a) the amount specified by the individual to the department to be deducted and withheld, in which case
 15 subsections (3)(b) and (3)(c) are not applicable;

16 (b) the amount, if any, determined by a state ~~food stamp~~ supplemental nutrition assistance program
 17 agency for enforcing obligations for overissuance of ~~food stamp~~ supplemental nutrition assistance program
 18 benefits, pursuant to an agreement submitted to the department under ~~section 13(c)(3)(A) of the Food Stamp Act~~
 19 ~~of 1977~~, 7 U.S.C. 2022(c)(3)(A), unless subsection (3)(c) is applicable; or

20 (c) any amount otherwise required to be deducted and withheld from unemployment benefits pursuant
 21 to ~~section 13(c)(3)(B) of the Food Stamp Act of 1977~~, 7 U.S.C. 2022 (c)(3)(B).

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

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

28 (6) Any amount deducted and withheld under subsection (3) must be treated as if it were paid to the
 29 individual as unemployment benefits and then paid by the individual to the state ~~food stamp~~ supplemental nutrition
 30 assistance program agency in satisfaction of the individual's uncollected overissuance of ~~food stamp~~

1 supplemental nutrition assistance program benefits.

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

4

5 **Section 4.** Section 39-71-118, MCA, is amended to read:

6 **"39-71-118. Employee, worker, volunteer, volunteer firefighter, and volunteer emergency medical**
7 **technician defined.** (1) As used in this chapter, the term "employee" or "worker" means:

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

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

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

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

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

1 (i) compensation benefits must be limited to medical expenses pursuant to 39-71-704 and an impairment
2 award pursuant to 39-71-703 that is based upon the minimum wage established under Title 39, chapter 3, part
3 4, for a full-time employee at the time of the injury; and

4 (ii) premiums must be paid by the employer, as defined in 39-71-117(3), and must be based upon the
5 minimum wage established under Title 39, chapter 3, part 4, for the number of hours of community service
6 required under the order from the court or hearings officer.

7 (f) an inmate working in a federally certified prison industries program authorized under 53-30-132;

8 (g) a volunteer firefighter as described in 7-33-4109 or a person who provides ambulance services under
9 Title 7, chapter 34, part 1;

10 (h) a person placed at a public or private entity's worksite pursuant to 53-4-704. The person is
11 considered an employee for workers' compensation purposes only. The department of public health and human
12 services shall provide workers' compensation coverage for recipients of financial assistance, as defined in
13 53-4-201, or for participants in the ~~food stamp~~ supplemental nutrition assistance program, as defined in 53-2-902,
14 who are placed at public or private worksites through an endorsement to the department of public health and
15 human services' workers' compensation policy naming the public or private worksite entities as named insureds
16 under the policy. The endorsement may cover only the entity's public assistance participants and may be only
17 for the duration of each participant's training while receiving financial assistance or while participating in the ~~food~~
18 ~~stamp~~ supplemental nutrition assistance program under a written agreement between the department of public
19 health and human services and each public or private entity. The department of public health and human services
20 may not provide workers' compensation coverage for individuals who are covered for workers' compensation
21 purposes by another state or federal employment training program. Premiums and benefits must be based upon
22 the wage that a probationary employee is paid for work of a similar nature at the assigned worksite.

23 (i) subject to subsection (11), a member of a religious corporation, religious organization, or religious
24 trust while performing services for the religious corporation, religious organization, or religious trust, as described
25 in 39-71-117(1)(d).

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

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

29 (b) performing services as a volunteer, except for a person who is otherwise entitled to coverage under
30 the laws of this state. As used in this subsection (2)(b), "volunteer" means a person who performs services on

1 behalf of an employer, as defined in 39-71-117, but who does not receive wages as defined in 39-71-123.

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

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

13 (3) With the approval of the insurer, an employer may elect to include as an employee under the
14 provisions of this chapter a volunteer as defined in subsection (2)(b) or a volunteer firefighter as defined in
15 7-33-4510.

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

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

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

27 (d) All weekly compensation benefits must be based on the amount of elected wages, subject to the
28 minimum and maximum limitations of this subsection (4)(d). For premium ratemaking and for the determination
29 of the weekly wage for weekly compensation benefits, the electing employer may elect an amount of not less than
30 \$900 a month and not more than 1 1/2 times the state's average weekly wage.

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

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

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

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

15 (6) Except as provided in Title 39, chapter 8, an employee or worker in this state whose services are
16 furnished by a person, association, contractor, firm, limited liability company, limited liability partnership, or
17 corporation, other than a temporary service contractor, to an employer, as defined in 39-71-117, is presumed to
18 be under the control and employment of the employer. This presumption may be rebutted as provided in
19 39-71-117(3).

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

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

26 (a) a resident of Montana who is employed by an employer and whose employment duties are primarily
27 carried out or controlled within this state;

28 (b) a nonresident of Montana whose principal employment duties are conducted within this state on a
29 regular basis for an employer;

30 (c) a nonresident employee of an employer from another state engaged in the construction industry, as

1 defined in 39-71-116, within this state; or

2 (d) a nonresident of Montana who does not meet the requirements of subsection (8)(b) and whose
3 employer elects coverage with an insurer that allows an election for an employer whose:

4 (i) nonresident employees are hired in Montana;

5 (ii) nonresident employees' wages are paid in Montana;

6 (iii) nonresident employees are supervised in Montana; and

7 (iv) business records are maintained in Montana.

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

11 (10) (a) An ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer
12 nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or county may elect to include as
13 an employee within the provisions of this chapter a volunteer emergency medical technician who serves public
14 safety through the ambulance service not otherwise covered by subsection (1)(g) or the paid or volunteer
15 nontransporting medical unit. The ambulance service or nontransporting medical unit may purchase workers'
16 compensation coverage from any entity authorized to provide workers' compensation coverage under plan No.
17 1, 2, or 3 as provided in this chapter.

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

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

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

4 (e) (i) The term "volunteer emergency medical technician" means a person who has received a certificate
5 issued by the board of medical examiners as provided in Title 50, chapter 6, part 2, and who serves the public
6 through an ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting
7 medical unit, as defined in 50-6-302, in service to a town, city, or county.

8 (ii) The term does not include a volunteer emergency medical technician who serves an employer as
9 defined in 7-33-4510.

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

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

16

17 **Section 5.** Section 40-4-215, MCA, is amended to read:

18 **"40-4-215. Investigations and reports.** (1) If a parent or a court-appointed third party requests, or if
19 the court finds that a parenting proceeding is contested, the court may order an investigation and report
20 concerning parenting arrangements for the child. The investigator may be the child's guardian ad litem or other
21 professional considered appropriate by the court. The department of public health and human services may not
22 be ordered to conduct the investigation or draft a report unless the person requesting the investigation is a
23 recipient of financial assistance, as defined in 53-4-201, or a participant in the ~~food-stamp~~ supplemental nutrition
24 assistance program, as defined in 53-2-902, and all reasonable options for payment of the investigation, if
25 conducted by a person not employed by the department, are exhausted. The department may consult with any
26 investigator and share information relevant to the child's best interests. The cost of the investigation and report
27 must be paid according to the final order. The cost of the educational evaluation under subsection (2)(a) must
28 be paid by the state as provided in 3-5-901.

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

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

5 (3) In preparing a report concerning a child, the investigator may consult any person who has information
 6 about the child and the child's potential parenting arrangements. Upon order of the court, the investigator may
 7 refer the child to professional personnel for diagnosis. Except as required for children 16 years of age or older,
 8 the investigator may consult with and obtain information from medical, psychiatric, or other expert persons who
 9 have served the child in the past without obtaining the consent of the persons or entities authorized by law to
 10 grant or withhold access to the records. The child's consent must be obtained if the child is 16 years of age or
 11 older unless the court finds that the child lacks mental capacity to consent. If the requirements of subsection (4)
 12 are fulfilled, the investigator's report may be received in evidence at the hearing.

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

21
 22 **Section 6.** Section 45-6-312, MCA, is amended to read:

23 **"45-6-312. Unauthorized acquisition or transfer of ~~food stamps~~ supplemental nutrition assistance**
 24 **program benefits.** (1) A person commits the offense of unauthorized acquisition or transfer of ~~food stamp~~
 25 ~~supplemental nutrition assistance program~~ benefits if the person knowingly:

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

30 (2) A person convicted of an offense under this section shall be fined not more than \$1,500 or be

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

5 (3) As used in this section, "~~food stamp~~ supplemental nutrition assistance program benefits" means any
 6 stamp, coupon, or type of certification provided for the purchase of eligible food pursuant to ~~the Food Stamp Act~~
 7 ~~of 1977~~, 7 U.S.C. 2011 through 2029; or any similar public assistance program."
 8

9 **Section 7.** Section 50-49-103, MCA, is amended to read:

10 **"50-49-103. Definitions.** For purposes of this part, unless the context requires otherwise, the following
 11 definitions apply:

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

13 (2) "Food programs and nutrition services" means public or private programs to provide food and nutrition
 14 assistance to persons who have need. The term includes but is not limited to the ~~food stamp~~ supplemental
 15 nutrition assistance program, food programs for the elderly, and supplemental food programs for women, infants,
 16 and children."
 17

18 **Section 8.** Section 53-2-108, MCA, is amended to read:

19 **"53-2-108. Overpayment of assistance -- department errors involving food stamps supplemental**
 20 **nutrition assistance program benefits -- civil penalty when fraud.** (1) If, because of department or recipient
 21 error, a recipient receives public assistance for which the recipient is not eligible, the portion of payment that the
 22 recipient is not entitled to receive may be returned at the discretion of the department.

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

26 (i) the recipient notifies the department of the potential error; and

27 (ii) the department informs the recipient that no error occurred or fails to respond to the notification within
 28 30 days.

29 (b) If a federal agency seeks repayment of an overpayment of ~~food stamps~~ supplemental nutrition
 30 assistance program benefits in a case meeting the provisions of subsection (2)(a):

1 (i) the department is considered a person connected to the household for purposes of 7 CFR 273.18 and
2 is liable for reimbursing the federal claim for the overpayment; and

3 (ii) the recipient is exempt from the unemployment withholding requirements of 39-51-2208.

4 (3) If a person obtains any part of an assistance payment through fraudulent means as specified in
5 53-2-107, 125% of the amount of assistance to which the person was not entitled must be repaid and, until fully
6 paid, is a debt due the state."

7

8 **Section 9.** Section 53-2-201, MCA, is amended to read:

9 **"53-2-201. Powers and duties of department.** (1) The department shall:

10 (a) administer and supervise public assistance, including the provision of ~~food stamps~~ supplemental
11 nutrition assistance program benefits, food commodities, financial assistance and nonfinancial assistance, as
12 defined in 53-2-902, energy assistance, weatherization, vocational rehabilitation, services for persons with severe
13 disabilities, developmental disability services, medical care payments in behalf of recipients of public assistance,
14 employment and training services for recipients of public assistance, and other programs as necessary to
15 strengthen and preserve families;

16 (b) give consultant service to private institutions providing care for adults who are needy, indigent, or
17 dependent or who have disabilities;

18 (c) cooperate with other state agencies and develop provisions for services to the blind, including the
19 prevention of blindness, the location of blind persons, medical services for eye conditions, and vocational
20 guidance and training of the blind;

21 (d) organize and supervise the local offices of public assistance in an efficient and economical manner;

22 (e) assist and cooperate with other state and federal departments, bureaus, agencies, and institutions,
23 when requested, by performing services in conformity with public assistance purposes;

24 (f) administer all state and federal funds allocated to the department for public assistance and do all
25 things necessary, in conformity with federal and state law, for the proper fulfillment of public assistance purposes;

26 (g) make rules governing payment for services and supplies provided to recipients of public assistance;
27 and

28 (h) adopt rules regarding assignment of monetary and medical support upon application for financial
29 assistance, as defined in 53-2-902, and related medical assistance.

30 (2) The department may:

1 (a) purchase, exchange, condemn, as provided in Title 70, chapter 30, or receive by gift either real or
2 personal property that is necessary to carry out its public assistance functions. Title to property obtained under
3 this subsection must be taken in the name of the state of Montana for the use and benefit of the department.

4 (b) contract with the federal government to carry out its public assistance functions. The department may
5 do all things necessary in order to avail itself of federal aid and assistance.

6 (c) make rules, consistent with state and federal law, establishing the amount, scope, and duration of
7 services to be provided to recipients of public assistance."
8

9 **Section 10.** Section 53-2-211, MCA, is amended to read:

10 **"53-2-211. Department to share eligibility data.** (1) The department shall make available to the
11 unemployment compensation program of the department of labor and industry all information contained in its files
12 and records pertaining to eligibility of persons for medicaid, financial assistance and nonfinancial assistance, as
13 defined in 53-2-902, and ~~food stamps~~ supplemental nutrition assistance program benefits. The information made
14 available must include information on the amount and source of an applicant's income. The information received
15 from the department must be used by the department of labor and industry for the purpose of determining fraud,
16 abuse, or eligibility for benefits under the unemployment compensation program of the state and for no other
17 purpose.

18 (2) The department shall make available to the unemployment compensation and workers' compensation
19 programs of the department of labor and industry all information contained in its files and records pertaining to
20 eligibility of persons for low-income energy assistance and weatherization. The information made available must
21 include information on the amount and source of an applicant's income. The information received from the
22 department must be used by the department of labor and industry for the purpose of determining fraud, abuse,
23 or eligibility for benefits under the unemployment compensation and workers' compensation programs of the state
24 and for no other purpose.

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

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

1 eligibility for benefits.

2 (4) The department may, to the extent permitted by federal law, make available to an agency of the state
3 or to any other organization information contained in its files and records pertaining to the eligibility of persons
4 for medicaid, financial assistance and nonfinancial assistance, as defined in 53-2-902, ~~food stamps~~ supplemental
5 nutrition assistance program benefits, low-income energy assistance, weatherization, or other public assistance."
6

7 **Section 11.** Section 53-2-606, MCA, is amended to read:

8 **"53-2-606. Right of appeal.** (1) If an application for assistance for ~~food stamps~~ supplemental nutrition
9 assistance program benefits, financial assistance or nonfinancial assistance, as defined in 53-2-902, or medicaid
10 is not acted upon promptly or if a decision is made by which the applicant or recipient is aggrieved, the applicant
11 or recipient may appeal to the board of public assistance for a fair hearing by addressing a request for a hearing
12 to the department of public health and human services. The board of public assistance shall, upon receipt of a
13 request for a hearing, give the applicant or recipient prompt notice and opportunity for a fair hearing.

14 (2) The department may upon its own motion review any decision of a local office of public assistance
15 and may consider any application upon which a decision has not been made within a reasonable time from the
16 filing of the decision. The department may have an additional eligibility determination made and shall make a
17 decision as to the granting of assistance and the amount of assistance to be granted the applicant as in its
18 opinion is justified and in conformity with the provisions of this title.

19 (3) If the department reviews a decision on its own motion, applicants or recipients affected by the
20 decisions of the department shall upon request be given reasonable notice and an opportunity for a fair hearing
21 by the board of public assistance."
22

23 **Section 12.** Section 53-2-901, MCA, is amended to read:

24 **"53-2-901. Administration of ~~food stamp~~ supplemental nutrition assistance program -- rulemaking**
25 **authority.** (1) The department is authorized to administer the ~~food stamp~~ supplemental nutrition assistance
26 program in compliance with all federal laws and requirements, within the limitations established by this part.

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

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

30 (a) eligibility for assistance, including income and resource limitations, income and resource exclusions,

- 1 and transfers of resources;
- 2 (b) amounts of assistance and methods for determining benefit amount;
- 3 (c) periodic redetermination of eligibility;
- 4 (d) reporting requirements;
- 5 (e) work registration, employment, and training requirements and exemptions from those requirements;
- 6 (f) procedures and policies of the employment and training program;
- 7 (g) disqualification because of intentional program violations, for voluntarily quitting a job without good
- 8 cause, or for any other violation of program rules; and
- 9 (h) penalties applicable to recipients of financial assistance who have been sanctioned because of failure
- 10 to meet any requirement of that program.
- 11 (4) The department may adopt rules that include but are not limited to rules concerning:
- 12 (a) requirements for recipients to assign the right of support;
- 13 (b) requirements for recipients to cooperate with the state agency administering the child support
- 14 enforcement program established under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq.; and
- 15 (c) disqualification for failure to perform actions required by other means-tested programs, for failure to
- 16 cooperate with the state agency administering the child support enforcement program under Title IV-D of the
- 17 Social Security Act, 42 U.S.C. 651, et seq., or for failure to pay court-ordered child support as provided in sections
- 18 819, 822, and 823 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 7 U.S.C.
- 19 2015."

20

21 **Section 13.** Section 53-2-902, MCA, is amended to read:

22 **"53-2-902. Definitions.** As used in this part, the following definitions apply:

23 (1) "Department" means the department of public health and human services provided in Title 2, chapter

24 15, part 22.

25 (2) "Employment and training demonstration project" means the employment and training program for

26 recipients of financial assistance who are participating in the FAIM project.

27 (3) "FAIM project" means the families achieving independence in Montana project, including the financial

28 assistance part, a ~~food stamp~~ supplemental nutrition assistance program part administered pursuant to ~~the Food~~

29 ~~Stamp Act of 1977~~, 7 U.S.C. ~~2026~~ 2011, et seq., and a medicaid part administered pursuant to the Social Security

30 Act, 42 U.S.C. 1315.

1 (4) (a) "Financial assistance" means the programs funded, in part, with temporary assistance for needy
2 families, as provided in 45 CFR 260.31(a).

3 (b) The term does not include nonfinancial assistance.

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

6 ~~(6)(5)~~ "Nonfinancial assistance" means the programs funded, in part, with temporary assistance for
7 needy families, as provided in 45 CFR 260.31(b).

8 (6) "Supplemental nutrition assistance program" means the program established pursuant to 7 U.S.C.
9 2011, et seq.

10 (7) "Temporary assistance for needy families" means the block grant established pursuant to 42 U.S.C.
11 601, et seq."

12

13 **Section 14.** Section 53-2-903, MCA, is amended to read:

14 **"53-2-903. Employment and training program.** The department shall establish and administer an
15 employment and training program for ~~food stamp~~ supplemental nutrition assistance program recipients that is in
16 compliance with federal requirements. For purposes of the FAIM project, in accordance with waivers of federal
17 law that are granted by the food and consumer service of the U.S. department of agriculture, the department may
18 merge its ~~food stamp~~ supplemental nutrition assistance program employment and training program with its
19 financial assistance employment and training program or may modify the rules and requirements of the ~~food~~
20 ~~stamp~~ supplemental nutrition assistance program employment and training program as necessary to make them
21 consistent with those of the employment and training demonstration project."

22

23 **Section 15.** Section 53-2-904, MCA, is amended to read:

24 **"53-2-904. Income and resource exclusions -- FAIM participants.** In accordance with waivers of
25 federal law that are granted by the food and consumer service of the U.S. department of agriculture, the
26 department may by rule establish special income and resource exclusions to be applied to participants of the
27 FAIM project in determining their eligibility for ~~food stamps~~ supplemental nutrition assistance program benefits
28 and in determining the benefit amount."

29

30 **Section 16.** Section 53-3-115, MCA, is amended to read:

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

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

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

10 (i) medicaid;

11 (ii) financial assistance, as defined in 53-2-902;

12 (iii) ~~food stamps~~ supplemental nutrition assistance program;

13 (iv) commodities; and

14 (v) low-income energy assistance.

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

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

21

22 **Section 17.** Section 53-4-601, MCA, is amended to read:

23 **"53-4-601. Demonstration project -- purpose.** (1) The department is authorized to administer a
24 demonstration project pursuant to section 1115 of the Social Security Act, 42 U.S.C. 1315, to provide assistance
25 under Title IV of that act, 42 U.S.C. 601, et seq., to families who are currently receiving, eligible for, or at risk of
26 becoming eligible for financial assistance. This demonstration project may be cited as the families achieving
27 independence in Montana (FAIM) project.

28 (2) The purpose of the demonstration project is to promote self-sufficiency and responsibility of
29 participants by providing supports and incentives, such as child-care assistance, training, education, medical
30 assistance, and resource referrals, and to make procedures and requirements less complex and more uniform

1 in the financial assistance, ~~food stamp~~ supplemental nutrition assistance, and medicaid programs.

2 (3) The department is authorized, in accordance with the provisions of 53-2-215, to amend the
3 demonstration project authorized under 53-6-101 and this part to expand the demonstration project to implement
4 the purposes authorized in 53-2-215."

5

6 **Section 18.** Section 53-4-602, MCA, is amended to read:

7 **"53-4-602. Definitions.** As used in this part, unless the context requires otherwise, the following
8 definitions apply:

9 (1) "Cash assistance" means monetary payments to a recipient of financial assistance to meet basic
10 needs, such as shelter, utilities, clothing, and personal needs.

11 (2) "Child-care assistance" means payments to or on behalf of the specified caretaker relative of a
12 dependent child to defray the cost of having a third party care for the child.

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

14 (4) "FAIM project" means the families achieving independence in Montana project, including a financial
15 assistance part, a ~~food stamp~~ supplemental nutrition assistance program part administered under ~~the Food Stamp~~
16 ~~Act of 1977~~, 7 U.S.C. 2026 2011, et seq., and a medicaid part administered pursuant to the Social Security Act,
17 42 U.S.C. 1315.

18 (5) "Section 1931 medicaid benefits" means medical assistance authorized by 42 U.S.C. 1396u-1 for
19 families eligible for the Montana medicaid program, as established in Title 53, chapter 6, based on the
20 department's income limitations, as increased each year by that year's increase in the Consumer Price Index for
21 Urban Wage Earners, compiled by the U.S. department of labor, bureau of labor statistics, and other standards
22 approved by the federal government for 1996 for the federal aid to families with dependent children program, as
23 that program was established under Title IV of the federal Social Security Act (42 U.S.C. 601, et seq.)."

24

25 **Section 19.** Section 53-4-609, MCA, is amended to read:

26 **"53-4-609. Categorical eligibility for other assistance.** Recipients of financial assistance under the
27 FAIM project are not categorically eligible for ~~food stamp~~ supplemental nutrition assistance program benefits and
28 the low-income energy assistance program but are eligible only if they satisfy all the eligibility requirements for
29 those programs."

30

1 **Section 20.** Section 53-4-704, MCA, is amended to read:

2 **"53-4-704. Placement of financial assistance recipients or ~~food stamp~~ supplemental nutrition**
 3 **assistance program participants for purpose of training.** (1) The department or a person designated by the
 4 department may place an individual receiving financial assistance or participating in the ~~food stamp~~ supplemental
 5 nutrition assistance program into a position of employment with a public or private entity for the purpose of training
 6 the individual in the knowledge and skills necessary for the individual to become successfully employed.

7 (2) The department may, pursuant to subsection (1), place an individual into a position at a worksite only
 8 with the permission and assistance of the public or private entity at the worksite under a written training
 9 agreement between the department and the entity.

10 (3) The placement of an individual into a position at a public or private worksite pursuant to subsection
 11 (1) is only for the purpose of training the individual in employment knowledge and skills and is not for the purpose
 12 of providing paid employment for the individual. The placement may not supplant an existing employment position
 13 or another individual already employed at the worksite. Placement of the individual at the public or private
 14 worksite pursuant to subsection (1) should last no longer than is necessary to achieve the employment training
 15 purposes of the program.

16 (4) The private or public entity where an individual is placed pursuant to subsection (1) may choose
 17 whether or not to later employ the individual after the conclusion of the individual's training."
 18

19 **Section 21.** Section 53-4-717, MCA, is amended to read:

20 **"53-4-717. Sanctions.** If an individual receiving financial assistance is required to participate in the
 21 employment and training program as a condition of the individual's family investment agreement, as provided for
 22 in 53-4-606, and fails without good cause to participate, the individual must be sanctioned in accordance with
 23 rules established by the department. Except as required by federal law, a sanction may not include any restriction
 24 or termination of ~~food stamps~~ supplemental nutrition assistance program benefits or medicaid coverage, and
 25 child-care benefits may only be continued for employment-related activities required by the family investment
 26 agreement that the participant has signed that are to be performed during the sanction period. The department
 27 may establish rules to ensure that individuals who participate in good faith are sanctioned properly and avail
 28 themselves of additional case management services to ensure compliance with the family investment agreement."
 29

30 NEW SECTION. **Section 22. Codification instruction.** [Section 1] is intended to be codified as an

1 integral part of Title 53, chapter 2, part 9, and the provisions of Title 53, chapter 2, part 9, apply to [section 1].

2

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

4

- END -