

HOUSE BILL NO. 60

INTRODUCED BY E. BUTTREY

BY REQUEST OF THE CODE COMMISSIONER

ABILL FOR AN ACT ENTITLED: "AN ACT REVISING AND CLARIFYING THE MONTANA CODE ANNOTATED; DIRECTING THE CODE COMMISSIONER TO CORRECT ERRONEOUS REFERENCES CONTAINED IN MATERIAL ENACTED BY THE 66TH LEGISLATURE AND PREVIOUS LEGISLATURES; AMENDING SECTIONS 3-5-102, 7-15-4282, 7-15-4286, 15-1-121, 15-1-123, 15-1-402, 15-10-420, 15-24-1410, 15-30-3313, 15-36-331, 15-39-110, 15-70-441, 16-11-102, 17-2-107, 18-2-101, 18-2-103, 20-7-306, 20-9-502, 20-25-211, 20-25-212, 30-20-204, 32-3-611, 37-7-605, 37-50-302, 41-3-802, 41-3-803, 46-18-201, 47-1-121, 50-32-222, 50-50-126, 53-1-402, 69-5-123, 72-30-213, 75-2-103, 76-4-125, 80-8-102, 82-11-111, 87-4-601, AND 90-6-309, MCA; AND AMENDING SECTION 5, CHAPTER 387, LAWS OF 2017, AND SECTION 12, CHAPTER 55, LAWS OF 2017."

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

Section 1. Section 3-5-102, MCA, is amended to read:

"3-5-102. Number of judges. In each judicial district, there must be the following number of judges of the district court:

- (1) in the 2nd, 7th, 16th, 20th, and 21st districts, two judges each;
- (2) in the 18th district, three judges;
- (3) in the 1st, 8th, and 11th districts, four judges each;
- (4) in the 4th district, five judges;
- (5) in the 13th district, eight judges;
- (6) in all other districts, one judge each."

Section 2. Section 7-15-4282, MCA, is amended to read:

"7-15-4282. Authorization for tax increment financing. (1) An urban renewal plan as defined in 7-15-4206 or a targeted economic development district comprehensive development plan created as provided in 7-15-4279 may contain a provision or be amended to contain a provision for the segregation and application

1 of tax increments as provided in 7-15-4282 through 7-15-4294.

2 (2) (a) Before adopting a tax increment financing provision as part of an urban renewal plan or a
3 comprehensive development plan, a municipality shall provide notice to the county and the school district ~~or~~
4 ~~targeted economic development district~~ in which the urban renewal district or targeted economic development
5 district is located and provide the county and school district with the opportunity to meet and consult in a public
6 meeting with the opportunity for public comment regarding the proposed tax increment financing provision and
7 its effect on the county or school district.

8 (b) Before adopting a tax increment financing provision as part of a comprehensive development plan,
9 a county shall provide notice to the school district in which the targeted economic development district is located
10 and provide the school district with the opportunity to meet and consult in a public meeting with the opportunity
11 for public comment regarding the proposed tax increment financing provision and its effect on the school district.

12 (3) The tax increment financing provision must take into account the effect on the county and school
13 districts that include local government territory."
14

15 **Section 3.** Section 7-15-4286, MCA, is amended to read:

16 **"7-15-4286. Procedure to determine and disburse tax increment.** (1) Mill rates of taxing bodies for
17 taxes levied after the effective date of the tax increment provision must be calculated on the basis of the sum of
18 the taxable value, as shown by the last equalized assessment roll, of all taxable property located outside the
19 urban renewal area or targeted economic development district and the base taxable value of all taxable property
20 located within the area or district. The mill rate determined must be levied against the sum of the actual taxable
21 value of all taxable property located within as well as outside the area or district.

22 (2) (a) Except as provided in subsection (2)(b), the tax increment, if any, received in each year from the
23 levy of the combined mill rates of all the affected taxing bodies against the incremental taxable value within the
24 area or district must be paid into a special fund held by the treasurer of the local government and used as
25 provided in 7-15-4282 through 7-15-4294.

26 (b) The combined mill rates used to calculate the tax increment may not include mill rates for:

27 (i) the university system mills levied pursuant to ~~15-10-408~~ 15-10-109 and 20-25-439; and

28 (ii) a new mill levy approved by voters as provided in 15-10-425 after the adoption of a tax increment
29 provision.

30 (c) The balance of the taxes collected in each year must be paid to each of the taxing bodies as

1 otherwise provided by law."

2

3 **Section 4.** Section 15-1-121, MCA, is amended to read:

4 **"15-1-121. Entitlement share payment -- purpose -- appropriation.** (1) As described in 15-1-120(3),
5 each local government is entitled to an annual amount that is the replacement for revenue received by local
6 governments for diminishment of property tax base and various earmarked fees and other revenue that, pursuant
7 to Chapter 574, Laws of 2001, amended by section 4, Chapter 13, Special Laws of August 2002, and later
8 enactments, were consolidated to provide aggregation of certain reimbursements, fees, tax collections, and other
9 revenue in the state treasury with each local government's share. The reimbursement under this section is
10 provided by direct payment from the state treasury rather than the ad hoc system that offset certain state
11 payments with local government collections due the state and reimbursements made by percentage splits, with
12 a local government remitting a portion of collections to the state, retaining a portion, and in some cases sending
13 a portion to other local governments.

14 (2) The sources of dedicated revenue that were relinquished by local governments in exchange for an
15 entitlement share of the state general fund were:

16 (a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter
17 584, Laws of 1999;

18 (b) vehicle, boat, and aircraft taxes and fees pursuant to:

19 (i) Title 23, chapter 2, part 5;

20 (ii) Title 23, chapter 2, part 6;

21 (iii) Title 23, chapter 2, part 8;

22 (iv) 61-3-317;

23 (v) 61-3-321;

24 (vi) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the amendment
25 of 61-3-509 in 2001;

26 (vii) Title 61, chapter 3, part 7;

27 (viii) 5% of the fees collected under 61-10-122;

28 (ix) 61-10-130;

29 (x) 61-10-148; and

30 (xi) 67-3-205;

- 1 (c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);
2 (d) district court fees pursuant to:
3 (i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);
4 (ii) 25-1-202;
5 (iii) 25-9-506; and
6 (iv) 27-9-103;
7 (e) certificate of title fees for manufactured homes pursuant to 15-1-116;
8 (f) financial institution taxes collected pursuant to the former provisions of Title 15, chapter 31, part 7;
9 (g) all beer, liquor, and wine taxes pursuant to:
10 (i) 16-1-404;
11 (ii) 16-1-406; and
12 (iii) 16-1-411;
13 (h) late filing fees pursuant to 61-3-220;
14 (i) title and registration fees pursuant to 61-3-203;
15 (j) veterans' cemetery license plate fees pursuant to 61-3-459;
16 (k) county personalized license plate fees pursuant to 61-3-406;
17 (l) special mobile equipment fees pursuant to 61-3-431;
18 (m) single movement permit fees pursuant to 61-4-310;
19 (n) state aeronautics fees pursuant to 67-3-101; and
20 (o) department of natural resources and conservation payments in lieu of taxes pursuant to former Title
21 77, chapter 1, part 5.

22 (3) Except as provided in subsection (7)(b), the total amount received by each local government in the
23 prior fiscal year as an entitlement share payment under this section is the base component for the subsequent
24 fiscal year distribution, and in each subsequent year the prior year entitlement share payment, including any
25 reimbursement payments received pursuant to subsection (7), is each local government's base component. The
26 sum of all local governments' base components is the fiscal year entitlement share pool.

27 (4) (a) Except as provided in subsections (4)(b)(iv) and (7)(b), the base entitlement share pool must be
28 increased annually by an entitlement share growth rate as provided for in this subsection (4). The amount
29 determined through the application of annual growth rates is the entitlement share pool for each fiscal year.

30 (b) By October 1 of each year, the department shall calculate the growth rate of the entitlement share

1 pool for the next fiscal year in the following manner:

2 (i) The department shall calculate the entitlement share growth rate based on the ratio of two factors of
3 state revenue sources for the first, second, and third most recently completed fiscal years as recorded on the
4 statewide ~~budgeting and accounting, budgeting, and human resource~~ system. The first factor is the sum of the
5 revenue for the first and second previous completed fiscal years received from the sources referred to in
6 subsections (2)(b), (2)(c), and (2)(g) divided by the sum of the revenue for the second and third previous
7 completed fiscal years received from the same sources multiplied by 0.75. The second factor is the sum of the
8 revenue for the first and second previous completed fiscal years received from individual income tax as provided
9 in Title 15, chapter 30, and corporate income tax as provided in Title 15, chapter 31, divided by the sum of the
10 revenue for the second and third previous completed fiscal years received from the same sources multiplied by
11 0.25.

12 (ii) Except as provided in subsections (4)(b)(iii) and (4)(b)(iv), the entitlement share growth rate is the
13 lesser of:

14 (A) the sum of the first factor plus the second factor; or

15 (B) 1.03 for counties, 1.0325 for consolidated local governments, and 1.035 for cities and towns.

16 (iii) In no instance can the entitlement growth factor be less than 1. Subject to subsection (4)(b)(iv), the
17 entitlement share growth rate is applied to the most recently completed fiscal year entitlement payment to
18 determine the subsequent fiscal year payment.

19 (iv) The entitlement share growth rate, as described in this subsection (4), is:

20 (A) for fiscal year 2018, 1.005;

21 (B) for fiscal year 2019, 1.0187;

22 (C) for fiscal year 2020 and thereafter, determined as provided in subsection (4)(b)(ii). The rate must be
23 applied to the entitlement payment for the previous fiscal year as if the payment had been calculated using
24 entitlement share growth rates for fiscal years 2018 and 2019 as provided in subsection (4)(b)(ii).

25 (5) As used in this section, "local government" means a county, a consolidated local government, an
26 incorporated city, and an incorporated town. A local government does not include a tax increment financing
27 district provided for in subsection (8). The county or consolidated local government is responsible for making an
28 allocation from the county's or consolidated local government's share of the entitlement share pool to each special
29 district within the county or consolidated local government in a manner that reasonably reflects each special
30 district's loss of revenue sources for which reimbursement is provided in this section. The allocation for each

1 special district that existed in 2002 must be based on the relative proportion of the loss of revenue in 2002.

2 (6) (a) The entitlement share pools calculated in this section, the amounts determined under 15-1-123(2)
3 for local governments, the funding provided for in subsection (8) of this section, and the amounts determined
4 under 15-1-123(3) for tax increment financing districts are statutorily appropriated, as provided in 17-7-502, from
5 the general fund to the department for distribution to local governments.

6 (b) (i) The growth amount is the difference between the entitlement share pool in the current fiscal year
7 and the entitlement share pool in the previous fiscal year. The growth factor in the entitlement share must be
8 calculated separately for:

9 (A) counties;

10 (B) consolidated local governments; and

11 (C) incorporated cities and towns.

12 (ii) In each fiscal year, the growth amount for counties must be allocated as follows:

13 (A) 50% of the growth amount must be allocated based upon each county's percentage of the prior fiscal
14 year entitlement share pool for all counties; and

15 (B) 50% of the growth amount must be allocated based upon the percentage that each county's
16 population bears to the state population not residing within consolidated local governments as determined by the
17 latest interim year population estimates from the Montana department of commerce as supplied by the United
18 States bureau of the census.

19 (iii) In each fiscal year, the growth amount for consolidated local governments must be allocated as
20 follows:

21 (A) 50% of the growth amount must be allocated based upon each consolidated local government's
22 percentage of the prior fiscal year entitlement share pool for all consolidated local governments; and

23 (B) 50% of the growth amount must be allocated based upon the percentage that each consolidated local
24 government's population bears to the state's total population residing within consolidated local governments as
25 determined by the latest interim year population estimates from the Montana department of commerce as
26 supplied by the United States bureau of the census.

27 (iv) In each fiscal year, the growth amount for incorporated cities and towns must be allocated as follows:

28 (A) 50% of the growth amount must be allocated based upon each incorporated city's or town's
29 percentage of the prior fiscal year entitlement share pool for all incorporated cities and towns; and

30 (B) 50% of the growth amount must be allocated based upon the percentage that each city's or town's

1 population bears to the state's total population residing within incorporated cities and towns as determined by the
2 latest interim year population estimates from the Montana department of commerce as supplied by the United
3 States bureau of the census.

4 (v) In each fiscal year, the amount of the entitlement share pool before the growth amount or adjustments
5 made under subsection (7) are applied is to be distributed to each local government in the same manner as the
6 entitlement share pool was distributed in the prior fiscal year.

7 (7) (a) If the legislature enacts a reimbursement provision that is to be distributed pursuant to this section,
8 the department shall determine the reimbursement amount as provided in the enactment and add the appropriate
9 amount to the entitlement share distribution under this section. The total entitlement share distributions in a fiscal
10 year, including distributions made pursuant to this subsection, equal the local fiscal year entitlement share pool.
11 The ratio of each local government's distribution from the entitlement share pool must be recomputed to
12 determine each local government's ratio to be used in the subsequent year's distribution determination under
13 subsections (6)(b)(ii)(A), (6)(b)(iii)(A), and (6)(b)(iv)(A).

14 (b) For fiscal year 2018 and thereafter, the growth rate provided for in subsection (4) does not apply to
15 the portion of the entitlement share pool attributable to the reimbursement provided for in 15-1-123(2). The
16 department shall calculate the portion of the entitlement share pool attributable to the reimbursement in
17 15-1-123(2), including the application of the growth rate in previous fiscal years, for counties, consolidated local
18 governments, and cities and, for fiscal year 2018 and thereafter, apply the growth rate for that portion of the
19 entitlement share pool as provided in 15-1-123(2).

20 (c) The growth amount resulting from the application of the growth rate in 15-1-123(2) must be allocated
21 as provided in subsections (6)(b)(ii)(A), (6)(b)(iii)(A), and (6)(b)(iv)(A) of this section.

22 (8) (a) Except for a tax increment financing district entitled to a reimbursement under 15-1-123(3), if a
23 tax increment financing district was not in existence during the fiscal year ending June 30, 2000, then the tax
24 increment financing district is not entitled to any funding. If a tax increment financing district referred to in
25 subsection (8)(b) terminates, then the funding for the district provided for in subsection (8)(b) terminates.

26 (b) One-half of the payments provided for in this subsection (8)(b) must be made by November 30 and
27 the other half by May 31 of each year. Subject to subsection (8)(a), the entitlement share for tax increment
28 financing districts is as follows:

29 Flathead	Kalispell - District 2	\$4,638
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1	Flathead	Kalispell - District 3	37,231
2	Flathead	Whitefish District	148,194
3	Gallatin	Bozeman - downtown	31,158
4	Missoula	Missoula - 1-1C	225,251
5	Missoula	Missoula - 4-1C	30,009

6 (9) The estimated fiscal year entitlement share pool and any subsequent entitlement share pool for local
7 governments do not include revenue received from tax increment financing districts.

8 (10) When there has been an underpayment of a local government's share of the entitlement share pool,
9 the department shall distribute the difference between the underpayment and the correct amount of the
10 entitlement share. When there has been an overpayment of a local government's entitlement share, the local
11 government shall remit the overpaid amount to the department.

12 (11) A local government may appeal the department's estimation of the base component, the entitlement
13 share growth rate, or a local government's allocation of the entitlement share pool, according to the uniform
14 dispute review procedure in 15-1-211.

15 (12) (a) Except as provided in 2-7-517, a payment required pursuant to this section may not be offset by
16 a debt owed to a state agency by a local government in accordance with Title 17, chapter 4, part 1.

17 (b) A payment required pursuant to this section must be withheld if a local government:

18 (i) fails to meet a deadline established in 2-7-503(1), 7-6-611(2), 7-6-4024(3), or 7-6-4036(1); and

19 (ii) fails to remit any amounts collected on behalf of the state as required by 15-1-504 or any other
20 amounts owed to the state or another taxing jurisdiction, as otherwise required by law, within 45 days of the end
21 of a month.

22 (c) A payment required pursuant to this section may be withheld if, for more than 90 days, a local
23 government fails to:

24 (i) file a financial report required by 15-1-504;

25 (ii) remit any amounts collected on behalf of the state as required by 15-1-504; or

26 (iii) remit any other amounts owed to the state or another taxing jurisdiction."
27

28 **Section 5.** Section 15-1-123, MCA, is amended to read:

29 **"15-1-123. Reimbursement for class eight rate reduction and exemption -- distribution --**

1 **appropriations.** (1) For the tax rate reductions in 15-6-138(3), the increased exemption amount in 15-6-138(4),
 2 the effective tax rate reductions on property under 15-6-145 because of the rate reductions required by the
 3 amendments of 15-6-138 in section 2, Chapter 411, Laws of 2011, and section 2, Chapter 396, Laws of 2013,
 4 and the effective tax rate reductions on property under 15-6-145 because of the increased exemption amount
 5 required by the amendment of 15-6-138 in section 2, Chapter 396, Laws of 2013, the department shall reimburse
 6 each local government, as defined in 15-1-121(5), each tax increment financing district, and the 6-mill university
 7 levy for the purposes of ~~15-10-108~~ 15-10-109 the difference between property tax collections under 15-6-138 as
 8 amended by section 2, Chapter 411, Laws of 2011, and section 2, Chapter 396, Laws of 2013, and under
 9 15-6-145 and the property tax revenue that would have been collected under 15-6-138 and 15-6-145 if 15-6-138
 10 had not been amended by section 2, Chapter 411, Laws of 2011, and section 2, Chapter 396, Laws of 2013. The
 11 difference is the annual reimbursable amount for each local government, each tax increment financing district,
 12 and the 6-mill levy for the support of the Montana university system under ~~15-10-108~~ 15-10-109.

13 (2) The department shall distribute the reimbursements calculated in subsection (1) to local governments
 14 with the entitlement share payments under 15-1-121(7). ~~For fiscal year 2018 and thereafter, the~~ The growth rate
 15 applied to the reimbursement is one-half of the average rate of inflation for the prior 3 years.

16 (3) The amount determined under subsection (1) for each tax increment financing district must be added
 17 to the reimbursement amount for the tax increment financing district as provided in 15-1-121(8)(b) if the tax
 18 increment financing district is still in existence. If a tax increment financing district that is entitled to a
 19 reimbursement under this section is not listed under 15-1-121(8)(b), the reimbursement must be made to that tax
 20 increment financing district at the same time as other districts.

21 (4) (a) The amount determined under subsection (1) for the 6-mill university levy must be added to
 22 current collections and reimbursements for the support of the Montana university system as provided in
 23 ~~15-10-108~~ 15-10-109.

24 (b) The department of administration shall transfer the amount determined under this subsection (4) from
 25 the general fund to the state special revenue fund for the support of the Montana university system as provided
 26 in ~~15-10-108~~ 15-10-109."

27

28 **Section 6.** Section 15-1-402, MCA, is amended to read:

29 **"15-1-402. Payment of property taxes or fees under protest.** (1) (a) The person upon whom a
 30 property tax or fee is being imposed under this title may, before the property tax or fee becomes delinquent, pay

1 under written protest that portion of the property tax or fee protested.

2 (b) The protested payment must:

3 (i) be made to the officer designated and authorized to collect it;

4 (ii) specify the grounds of protest; and

5 (iii) not exceed the difference between the payment for the immediately preceding tax year and the
6 amount owing in the tax year protested unless a different amount results from the specified grounds of protest,
7 which may include but are not limited to changes in assessment due to reappraisal under 15-7-111.

8 (c) If the protested property tax or fee is on property that is subject to central assessment pursuant to
9 15-23-101, the person shall report to the department the grounds of the protest and the amount of the protested
10 payment for each county in which a protested payment was made.

11 (2) A person appealing a property tax or fee pursuant to Title 15, chapter 2 or 15, including a person
12 appealing a property tax or fee on property that is annually assessed by the department or subject to central
13 assessment pursuant to 15-23-101(1) or (2), shall pay the tax or fee under protest when due in order to receive
14 a refund. If the tax or fee is not paid under protest when due, the appeal or mediation may continue but a tax or
15 fee may not be refunded as a result of the appeal or mediation.

16 (3) If a protested property tax or fee is payable in installments, a subsequent installment portion
17 considered unlawful by the state tax appeal board need not be paid and an action or suit need not be commenced
18 to recover the subsequent installment. The determination of the action or suit commenced to recover the first
19 installment portion paid under protest determines the right of the party paying the subsequent installment to have
20 it or any part of it refunded to the party or the right of the taxing authority to collect a subsequent installment not
21 paid by the taxpayer plus interest from the date the subsequent installment was due.

22 (4) (a) Except as provided in subsection (4)(b), all property taxes and fees paid under protest to a county
23 or municipality must be deposited by the treasurer of the county or municipality to the credit of a special fund to
24 be designated as a protest fund and must be retained in the protest fund until the final determination of any action
25 or suit to recover the taxes and fees unless they are released at the request of the county, municipality, or other
26 local taxing jurisdiction pursuant to subsection (5). This section does not prohibit the investment of the money
27 of this fund in the state unified investment program or in any manner provided in Title 7, chapter 6. The provision
28 creating the special protest fund does not apply to any payments made under protest directly to the state.

29 (b) (i) Property taxes that are levied by the state against property that is centrally assessed pursuant to
30 15-23-101 and any protested taxes on industrial property that is annually assessed by the department in a school

1 district that has elected to waive its right to protested taxes in a specific year pursuant to 15-1-409 must be
2 remitted by the county treasurer to the department for deposit as provided in subsections (4)(b)(ii) through
3 (4)(b)(iv).

4 (ii) The department shall deposit 50% of that portion of the funds levied for the university system pursuant
5 to ~~45-10-108~~ 15-10-109 in the state special revenue fund to the credit of the university system, and the other 50%
6 of the funds levied pursuant to ~~45-10-108~~ 15-10-109 must be deposited in a centrally assessed property tax state
7 special revenue fund.

8 (iii) Fifty percent of the funds remaining after the deposit of university system funds must be deposited
9 in the state general fund, and the other 50% must be deposited in a centrally assessed property tax state special
10 revenue fund.

11 (iv) Fifty percent of the funds from a school district that has waived its right to protested taxes must be
12 deposited in the state general fund, and the other 50% must be deposited in a school district property tax protest
13 state special revenue fund.

14 (5) (a) Except as provided in subsections (5)(b) and (5)(c), the governing body of a taxing jurisdiction
15 affected by the payment of taxes under protest in the second and subsequent years that a tax protest remains
16 unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all
17 or a portion of the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year
18 of the protest. The decision in a previous year of a taxing jurisdiction to leave protested taxes in the protest fund
19 does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled, except
20 the first-year protest amount.

21 (b) The governing body of a taxing jurisdiction affected by the payment of taxes under protest on property
22 that is centrally assessed pursuant to 15-23-101 or on industrial property that is assessed annually by the
23 department in the first and subsequent years that a tax protest remains unresolved may demand that the
24 treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest
25 payments to which it is entitled. The decision in a previous year of a taxing jurisdiction to leave protested taxes
26 of centrally assessed property in the protest fund does not preclude it from demanding in a subsequent year any
27 or all of the payments to which it is entitled.

28 (c) The provisions of subsection (5)(b) do not apply to a school district that has elected to waive its right
29 to its portion of protested taxes on centrally assessed property and on industrial property that is assessed
30 annually by the department for that specific year as provided in 15-1-409.

1 (6) (a) If action before the county tax appeal board, state tax appeal board, or district court is not
2 commenced within the time specified or if the action is commenced and finally determined in favor of the
3 department of revenue, county, municipality, or treasurer of the county or the municipality, the amount of the
4 protested portions of the property tax or fee must be taken from the protest fund or the centrally assessed
5 property tax state special revenue fund and deposited to the credit of the fund or funds to which the property tax
6 belongs, less a pro rata deduction for the costs of administration of the protest fund and related expenses
7 charged to the local government units.

8 (b) (i) If the action is finally determined adversely to the governmental entity levying the tax, then the
9 treasurer of the municipality, county, or state entity levying the tax shall, upon receipt of a certified copy of the
10 final judgment in the action and upon expiration of the time set forth for appeal of the final judgment, refund to
11 the person in whose favor the judgment is rendered the amount of the protested portions of the property tax or
12 fee that the person holding the judgment is entitled to recover, together with interest from the date of payment
13 under protest. The department shall refund from the school district property tax protest state special revenue fund
14 the protested portions of property taxes and interest to a taxpayer in a school district in which the school district
15 has elected to waive its right to its portion of protested taxes for that specific year as provided in 15-1-409. If the
16 amount available for the refund in the school district property tax protest state special revenue fund is insufficient
17 to refund the property tax payments, the department shall pay the remainder of the refund from the state general
18 fund.

19 (ii) The taxing jurisdiction shall pay interest at the rate of interest earned by the pooled investment fund
20 provided for in 17-6-203 for the applicable period.

21 (c) If the amount retained in the protest fund is insufficient to pay all sums due the taxpayer, the treasurer
22 shall apply the available amount first to tax repayment, then to interest owed, and lastly to costs.

23 (d) (i) If the protest action is decided adversely to a taxing jurisdiction and the amount retained in the
24 protest fund is insufficient to refund the tax payments and costs to which the taxpayer is entitled and for which
25 local government units are responsible, the treasurer shall bill and the taxing jurisdiction shall refund to the
26 treasurer that portion of the taxpayer refund, including tax payments and costs, for which the taxing jurisdiction
27 is proratably responsible. The treasurer is not responsible for the amount required to be refunded by the state
28 treasurer as provided in subsection (6)(b).

29 (ii) For an adverse protest action against the state for centrally assessed property, the department shall
30 refund from the centrally assessed property tax state special revenue fund the amount of protested taxes and

1 from the state general fund the amount of interest as required in subsection (6)(b). The amount refunded for an
 2 adverse protested action from the centrally assessed property tax state special revenue fund may not exceed
 3 the amount of protested taxes or fees required to be deposited for that action pursuant to subsections (4)(b)(ii)
 4 and (4)(b)(iii) or, for taxes or fees protested prior to April 28, 2005, an equivalent amount of the money transferred
 5 to the fund pursuant to section 3, Chapter 536, Laws of 2005. If the amount available for the adverse protested
 6 action in the centrally assessed property tax state special revenue fund is insufficient to refund the tax payments
 7 to which the taxpayer is entitled and for which the state is responsible, the department shall pay the remainder
 8 of the refund proportionally from the state general fund and from money deposited in the state special revenue
 9 fund levied pursuant to ~~15-10-108~~ 15-10-109.

10 (e) In satisfying the requirements of subsection (6)(d), the taxing jurisdiction, including the state, is
 11 allowed not more than 1 year from the beginning of the fiscal year following a final resolution of the protest. The
 12 taxpayer is entitled to interest on the unpaid balance at the rate referred to in subsection (6)(b) from the date of
 13 payment under protest until the date of final resolution of the protest and at the combined rate of the federal
 14 reserve discount rate quoted from the federal reserve bank in New York, New York, on the date of final resolution,
 15 plus 4 percentage points, from the date of final resolution of the protest until refund is made.

16 (7) A taxing jurisdiction, except the state, may satisfy the requirements of this section by use of funds
 17 from one or more of the following sources:

- 18 (a) imposition of a property tax to be collected by a special tax protest refund levy;
- 19 (b) the general fund or any other funds legally available to the governing body; and
- 20 (c) proceeds from the sale of bonds issued by a county, city, or school district for the purpose of deriving
 21 revenue for the repayment of tax protests lost by the taxing jurisdiction. The governing body of a county, city, or
 22 school district is authorized to issue the bonds pursuant to procedures established by law. The bonds may be
 23 issued without being submitted to an election. Property taxes may be levied to amortize the bonds.

24 (8) If the department revises an assessment that results in a refund of taxes of \$5 or less, a refund is
 25 not owed."

26
 27 **Section 7.** Section 15-10-420, MCA, is amended to read:

28 **"15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a
 29 governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount
 30 of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3

1 years. The maximum number of mills that a governmental entity may impose is established by calculating the
2 number of mills required to generate the amount of property tax actually assessed in the governmental unit in the
3 prior year based on the current year taxable value, less the current year's newly taxable value, plus one-half of
4 the average rate of inflation for the prior 3 years.

5 (b) A governmental entity that does not impose the maximum number of mills authorized under
6 subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between
7 the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority
8 carried forward may be imposed in a subsequent tax year.

9 (c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of
10 inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using
11 the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

12 (2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional
13 levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly
14 taxable property.

15 (3) (a) For purposes of this section, newly taxable property includes:

16 (i) annexation of real property and improvements into a taxing unit;

17 (ii) construction, expansion, or remodeling of improvements;

18 (iii) transfer of property into a taxing unit;

19 (iv) subdivision of real property; and

20 (v) transfer of property from tax-exempt to taxable status.

21 (b) Newly taxable property does not include an increase in value that arises because of an increase in
22 the incremental value within a tax increment financing district.

23 (4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the
24 release of taxable value from the incremental taxable value of a tax increment financing district because of:

25 (i) a change in the boundary of a tax increment financing district;

26 (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or

27 (iii) the termination of a tax increment financing district.

28 (b) If a tax increment financing district terminates prior to the certification of taxable values as required
29 in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment
30 financing district terminates. If a tax increment financing district terminates after the certification of taxable values

1 as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.

2 (c) For the purpose of subsection (3)(a)(ii), the value of newly taxable class four property that was
3 constructed, expanded, or remodeled property since the completion of the last reappraisal cycle is the current
4 year market value of that property less the previous year market value of that property.

5 (d) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real
6 property that results in the property being taxable as class four property under 15-6-134 or as nonqualified
7 agricultural land as described in 15-6-133(1)(c).

8 (5) Subject to subsection (8), subsection (1)(a) does not apply to:

9 (a) school district levies established in Title 20; or

10 (b) a mill levy imposed for a newly created regional resource authority.

11 (6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received
12 under 15-6-131 and 15-6-132.

13 (7) In determining the maximum number of mills in subsection (1)(a), the governmental entity:

14 (a) may increase the number of mills to account for a decrease in reimbursements; and

15 (b) may not increase the number of mills to account for a loss of tax base because of legislative action
16 that is reimbursed under the provisions of 15-1-121(7).

17 (8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes
18 of ~~15-10-108~~ 15-10-109, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated
19 by the department may not exceed the mill levy limits established in those sections. The mill calculation must be
20 established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the
21 calculation must be rounded up to the nearest tenth of a mill.

22 (9) (a) The provisions of subsection (1) do not prevent or restrict:

23 (i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

24 (ii) a levy to repay taxes paid under protest as provided in 15-1-402;

25 (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326;

26 (iv) a levy for the support of a study commission under 7-3-184;

27 (v) a levy for the support of a newly established regional resource authority;

28 (vi) the portion that is the amount in excess of the base contribution of a governmental entity's property
29 tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703;

30 (vii) a levy for reimbursing a county for costs incurred in transferring property records to an adjoining

1 county under 7-2-2807 upon relocation of a county boundary; or

2 (viii) a levy used to fund the sheriffs' retirement system under 19-7-404(2)(b).

3 (b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes
4 actually assessed in a subsequent year.

5 (10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402,
6 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport
7 authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating
8 funds by a county or municipality during that time.

9 (11) The department may adopt rules to implement this section. The rules may include a method for
10 calculating the percentage of change in valuation for purposes of determining the elimination of property, new
11 improvements, or newly taxable value in a governmental unit."

12

13 **Section 8.** Section 15-24-1410, MCA, is amended to read:

14 **"15-24-1410. (Temporary) Manufacturer of ammunition components -- exemption from statewide**
15 **property taxes.** As provided in 30-20-204, property used in the manufacture of ammunition components is
16 exempt from the property taxes levied for state educational purposes under ~~15-10-108~~ 15-10-109, 20-9-331,
17 20-9-333, 20-9-360, and 20-25-439. The exemption must be administered and applied for as provided in Title 30,
18 chapter 20, part 2. (Terminates December 31, 2024--sec. 16, Ch. 440, L. 2015.)"

19

20 **Section 9.** Section 15-30-3313, MCA, is amended to read:

21 **"15-30-3313. Consent or withholding -- rulemaking.** (1) A pass-through entity that is required to file
22 an information return as provided in 15-30-3302 and that reports a distributive share of income of \$1,000 or more
23 of Montana source income during the tax year to a partner, shareholder, member, or other owner who is a
24 nonresident individual, a foreign C. corporation, or any other entity, organization, or account whose principal place
25 of business or administration is outside the state of Montana or that is itself a pass-through entity shall, on or
26 before the due date, including extensions, for the information return:

27 (a) with respect to any partner, shareholder, member, or other owner who is a nonresident individual:

28 (i) file a composite return;

29 (ii) file an agreement of the individual nonresident to:

30 (A) file a return in accordance with the provisions of 15-30-2602;

- 1 (B) timely pay all taxes imposed with respect to income of the pass-through entity; and
- 2 (C) be subject to the personal jurisdiction of the state for the collection of income taxes and related
- 3 interest, penalties, and fees imposed with respect to the income of the pass-through entity; or
- 4 (iii) remit an amount equal to the highest marginal tax rate in effect under 15-30-2103 multiplied by the
- 5 nonresident individual's share of Montana source income reflected on the pass-through entity's information return;
- 6 (b) with respect to any partner, shareholder, member, or other owner that is a foreign C. corporation:
- 7 (i) file a composite return;
- 8 (ii) file the foreign C. corporation's agreement to:
- 9 (A) file a return in accordance with the provisions of 15-31-111;
- 10 (B) timely pay all taxes imposed with respect to income of the pass-through entity; and
- 11 (C) be subject to the personal jurisdiction of the state for the collection of income taxes, corporate income
- 12 taxes, and alternative corporate income taxes and related interest, penalties, and fees imposed with respect to
- 13 the income of the pass-through entity; or
- 14 (iii) remit an amount equal to the tax rate in effect under 15-31-121 multiplied by the foreign C.
- 15 corporation's share of Montana source income reflected on the pass-through entity's information return; and
- 16 (c) with respect to any partner, shareholder, member, or other owner that is a pass-through entity, also
- 17 referred to in this section as a "second-tier pass-through entity":
- 18 (i) file a composite return; or
- 19 (ii) remit an amount equal to the highest marginal tax rate in effect under 15-30-2103 multiplied by its
- 20 share of Montana source income reflected on the pass-through entity's information return.
- 21 (2) Any amount paid by a pass-through entity with respect to a nonresident individual pursuant to
- 22 subsection (1)(a)(iii) must be considered as a payment on the account of the nonresident individual for the income
- 23 tax imposed on the nonresident individual for the tax year pursuant to 15-30-2104. On or before the due date,
- 24 including extensions, of the pass-through entity's information return provided in 15-30-3302, the pass-through
- 25 entity shall furnish to the nonresident individual a record of the amount of tax paid on the taxpayer's behalf.
- 26 (3) Any amount paid by a pass-through entity with respect to a foreign C. corporation pursuant to
- 27 subsection (1)(b)(iii) must be considered as a payment on the account of the foreign C. corporation for the
- 28 corporate income tax imposed on the foreign C. corporation for the tax year pursuant to 15-31-101 or the
- 29 alternative corporate income tax imposed on the foreign C. corporation for the tax year pursuant to 15-31-403.
- 30 On or before the due date, including extensions, of the pass-through entity's information return provided in

1 15-30-3302, the pass-through entity shall furnish to the foreign C. corporation a record of the amount of tax paid
2 on its behalf.

3 (4) Any amount paid by a pass-through entity with respect to a second-tier pass-through entity pursuant
4 to subsection (1)(c)(ii) must be considered as payment on the account of the individual, trust, estate, or C.
5 corporation to which Montana source income is directly or indirectly passed through and must be claimed as the
6 distributable share of a refundable credit of the pass-through entity partner, shareholder, member, or other owner
7 on behalf of which the amount was paid. On or before the due date, including extensions, of the pass-through
8 entity's information return provided in 15-30-3302, the pass-through entity shall furnish to the second-tier
9 pass-through entity a record of the refundable credit that may be claimed for the amount paid on its behalf.

10 (5) A pass-through entity is entitled to recover a payment made pursuant to subsection (1)(a)(iii),
11 (1)(b)(iii), or (1)(c)(ii) from the partner, shareholder, member, or other owner on whose behalf the payment was
12 made.

13 (6) Following the department's notice to a pass-through entity that a nonresident individual or foreign C.
14 corporation did not file a return or timely pay all taxes as provided in subsection (1), the pass-through entity must,
15 with respect to any tax year thereafter for which the nonresident individual or foreign C. corporation is not included
16 in the pass-through entity's composite return, remit the amount described in subsection (1)(a)(iii) for the
17 nonresident individual and the amount described in subsection (1)(b)(iii) for the foreign C. corporation.

18 (7) (a) A publicly traded partnership described in 15-30-3302(4) that agrees to file an annual information
19 return reporting the name, address, and taxpayer identification number for each person or entity that has an
20 interest in the partnership that results in Montana source income or that has sold its interest in the partnership
21 during the tax year is exempt from the composite return and withholding requirements of Title 15, chapter 30. A
22 publicly traded partnership shall provide the department with the information in an electronic form that is capable
23 of being sorted and exported. Compliance with this subsection does not relieve a person or entity from its
24 obligation to pay Montana income taxes.

25 (b) A pass-through entity may be allowed a waiver of the provisions of subsection (1)(c) if one or more
26 publicly traded partnerships has a direct or indirect majority interest in the income distributed by the pass-through
27 entity. The pass-through entity shall apply to the department in writing for the waiver of the withholding
28 requirements set forth in subsection (1)(c).

29 (c) Waivers issued by the department prior to January 1, 2016, to pass-through entities in which a
30 publicly traded partnership has a direct or indirect majority interest will remain in effect in accordance with the law

1 and rules in effect at the time the waiver was granted.

2 (d) The department shall adopt rules outlining the requirements for the waiver request.

3 (8) (a) A pass-through entity may be allowed a waiver of the provisions of subsection (1)(c) for any
4 partner, shareholder, member, or other owner that is a domestic second-tier pass-through entity if:

5 (i) the pass-through entity files a statement setting forth the name, address, and social security number
6 or federal identification number of each of the domestic second-tier pass-through entity's partners, shareholders,
7 members, or other owners; and

8 (ii) the information establishes that the domestic second-tier pass-through entity's share of Montana
9 source income should be fully accounted for in an income tax return required under Title 15, chapter 30 or 31.

10 (b) For purposes of this subsection (8), the following definitions apply:

11 (i) "Domestic C. corporation" is a corporation that is engaged in or doing business in the state, as
12 provided in 15-31-101.

13 (ii) "Domestic second-tier pass-through entity" is a pass-through entity whose interest is entirely held,
14 either directly or indirectly, by one or more resident individuals, domestic C. corporations, or any other entities,
15 organizations, or accounts whose principal place of business or administration is located in the state of Montana
16 or any combination of interests held by resident individuals, domestic C. corporations, or any other entities,
17 organizations, or accounts whose principal place of business or administration is located in the state of Montana.

18 (c) Subsequent to the initial approval of a waiver, the department may revoke the waiver if it determines
19 that the partner, shareholder, member, or other owner no longer qualifies.

20 (9) Nothing in this section may be construed as modifying the provisions of Article IV(18) of 15-1-601
21 and 15-31-312 allowing a taxpayer to petition for and the department to require methods to fairly represent the
22 extent of the taxpayer's business activity in the state.

23 (10) The department may adopt rules to administer and enforce the provisions of this section."
24

25 **Section 10.** Section 15-36-331, MCA, is amended to read:

26 **"15-36-331. Distribution of taxes.** (1) (a) For each calendar quarter, the department shall determine
27 the amount of tax, late payment interest, and penalties collected under this part.

28 (b) For the purposes of distribution of oil and natural gas production taxes to county and school district
29 taxing units under 15-36-332 and to the state, the department shall determine the amount of oil and natural gas
30 production taxes paid on production in the taxing unit.

1 (2) (a) The amount of oil and natural gas production taxes collected for the privilege and license tax
 2 pursuant to 82-11-131 must be deposited, in accordance with the provisions of 17-2-124, in the state special
 3 revenue fund for the purpose of paying expenses of the board, as provided in 82-11-135.

4 (b) The amount of the tax allocated in 15-36-304(7)(b) for the oil and gas natural resource distribution
 5 account established in 90-6-1001(1) must be deposited in the account.

6 (3) (a) For each tax year, the amount of oil and natural gas production taxes determined under
 7 subsection (1)(b) is allocated to each county according to the following schedule:

8	Big Horn	45.05%
9	Blaine	58.39%
10	Carbon	48.27%
11	Chouteau	58.14%
12	Custer	69.53%
13	Daniels	50.81%
14	Dawson	47.79%
15	Fallon	41.78%
16	Fergus	69.18%
17	Garfield	45.96%
18	Glacier	58.83%
19	Golden Valley	58.37%
20	Hill	64.51%
21	Liberty	57.94%
22	McCone	49.92%
23	Musselshell	48.64%
24	Petroleum	48.04%
25	Phillips	54.02%
26	Pondera	54.26%
27	Powder River	60.9%
28	Prairie	40.38%
29	Richland	47.47%

1	Roosevelt	45.71%
2	Rosebud	39.33%
3	Sheridan	47.99%
4	Stillwater	53.51%
5	Sweet Grass	61.24%
6	Teton	46.1%
7	Toole	57.61%
8	Valley	51.43%
9	Wibaux	49.16%
10	Yellowstone	46.74%
11	All other counties	50.15%

12 (b) The oil and natural gas production taxes allocated to each county must be deposited in the state
13 special revenue fund and transferred to each county for distribution, as provided in 15-36-332.

14 (4) The department shall, in accordance with the provisions of 17-2-124, distribute the state portion of
15 oil and natural gas production taxes remaining after the distributions pursuant to subsections (2) and (3) as
16 follows:

17 (a) for each fiscal year through the fiscal year ending June 30, 2011, to be distributed as follows:

18 (i) 1.23% to the coal bed methane protection account established in 76-15-904;

19 (ii) 1.45% to the natural resources projects state special revenue account established in 15-38-302;

20 (iii) 1.45% to the natural resources operations state special revenue account established in 15-38-301;

21 (iv) 2.99% to the orphan share account established in 75-10-743;

22 (v) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the
23 purposes of the state tax levy as provided in ~~45-10-108~~ 15-10-109; and

24 (vi) all remaining proceeds to the state general fund;

25 (b) for fiscal years beginning after June 30, 2011, to be distributed as follows:

26 (i) 2.16% to the natural resources projects state special revenue account established in 15-38-302;

27 (ii) 2.02% to the natural resources operations state special revenue account established in 15-38-301;

28 (iii) 2.95% to the orphan share account established in 75-10-743;

29 (iv) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the

1 purposes of the state tax levy as provided in ~~15-10-108~~ 15-10-109; and

2 (v) all remaining proceeds to the state general fund.

3 (5) A payment required pursuant to this section may be withheld if, for more than 90 days, a local
4 government fails to:

5 (a) file a financial report required by 15-1-504;

6 (b) remit any amounts collected on behalf of the state as required by 15-1-504; or

7 (c) remit any other amounts owed to the state or another taxing jurisdiction."
8

9 **Section 11.** Section 15-39-110, MCA, is amended to read:

10 **"15-39-110. Distribution of taxes.** (1) (a) For each semiannual period, the department shall determine
11 the amount of tax, late payment interest, and penalties collected under this part from bentonite mines that
12 produced bentonite before January 1, 2005. The tax is distributed as provided in subsections (2) through (9).

13 (b) For each semiannual period, the department shall determine the amount of tax, late payment interest,
14 and penalties collected under this part from bentonite mines that first began producing bentonite after December
15 31, 2004. The tax is distributed as provided in subsection (10).

16 (2) The percentage of the tax determined under subsection (1)(a) and specified in subsections (3)
17 through (9) is allocated according to the following schedule:

18 (a) 2.33% to the state special revenue fund to be appropriated to the Montana university system for the
19 purposes of the state tax levy as provided in ~~15-10-108~~ 15-10-109;

20 (b) 18.14% to the state general fund to be appropriated for the purposes of the tax levies as provided
21 in 20-9-331, 20-9-333, and 20-9-360;

22 (c) 3.35% to Carbon County to be distributed in proportion to current fiscal year mill levies in the taxing
23 jurisdictions in which production occurs, except a distribution may not be made for county and state levies under
24 ~~15-10-108~~ 15-10-109, 20-9-331, 20-9-333, and 20-9-360; and

25 (d) 76.18% to Carter County to be distributed in proportion to current fiscal year mill levies in the taxing
26 jurisdictions in which production occurs, except a distribution may not be made for county and state levies under
27 ~~15-10-108~~ 15-10-109, 20-9-331, 20-9-333, and 20-9-360.

28 (3) For the production of bentonite occurring after December 31, 2008, and before January 1, 2010, 60%
29 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 40% must
30 be distributed as provided in subsection (10).

1 (4) For the production of bentonite occurring after December 31, 2009, and before January 1, 2011, 50%
2 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 50% must
3 be distributed as provided in subsection (10).

4 (5) For the production of bentonite occurring after December 31, 2010, and before January 1, 2012, 40%
5 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 60% must
6 be distributed as provided in subsection (10).

7 (6) For the production of bentonite occurring after December 31, 2011, and before January 1, 2013, 30%
8 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 70% must
9 be distributed as provided in subsection (10).

10 (7) For the production of bentonite occurring after December 31, 2012, and before January 1, 2014, 20%
11 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 80% must
12 be distributed as provided in subsection (10).

13 (8) For the production of bentonite occurring after December 31, 2013, and before January 1, 2015, 10%
14 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 90% must
15 be distributed as provided in subsection (10).

16 (9) For the production of bentonite occurring in tax years beginning after December 31, 2014, 100% of
17 the tax determined under subsection (1)(a) must be distributed as provided in subsection (10).

18 (10) For the production of bentonite, 100% of the tax determined under subsection (1)(b) and the
19 distribution percentages determined under subsections (3) through (9) are allocated according to the following
20 schedule:

21 (a) 1.30% to the state special revenue fund to be appropriated to the Montana university system for the
22 purposes of the state tax levy as provided in ~~45-10-408~~ 15-10-109;

23 (b) 20.75% to the state general fund to be appropriated for the purposes of the tax levies as provided
24 in 20-9-331, 20-9-333, and 20-9-360;

25 (c) 77.95% to the county in which production occurred to be distributed in proportion to current fiscal year
26 mill levies in the taxing jurisdictions in which production occurs, except a distribution may not be made for county
27 and state levies under ~~45-10-408~~ 15-10-109, 20-9-331, 20-9-333, and 20-9-360.

28 (11) Except as provided by subsection (14), the department shall remit the amounts to be distributed in
29 this section to the county treasurer by the following dates:

30 (a) On or before October 1 of each year, the department shall remit the county's share of bentonite

1 production tax payments received for the semiannual period ending June 30 of the current year to the county
2 treasurer.

3 (b) On or before April 1 of each year, the department shall remit the county's share of bentonite
4 production tax payments received to the county treasurer for the semiannual period ending December 31 of the
5 previous year.

6 (12) (a) The department shall also provide to each county the amount of gross yield of value from
7 bentonite, including royalties, for the previous calendar year. Thirty-three and one-third percent of the gross yield
8 of value must be treated as taxable value for determining school district debt limits under 20-9-406.

9 (b) The percentage amount of the gross yield of value determined under subsection (12)(a) must be
10 treated as assessed value under 15-8-111 for the purposes of local government debt limits and other bonding
11 provisions as provided by law.

12 (13) The bentonite tax proceeds are statutorily appropriated, as provided in 17-7-502, to the department
13 for distribution as provided in this section.

14 (14) A payment required pursuant to this section may be withheld if, for more than 90 days, a local
15 government fails to:

- 16 (a) file a financial report required by 15-1-504;
- 17 (b) remit any amounts collected on behalf of the state as required by 15-1-504; or
- 18 (c) remit any other amounts owed to the state or another taxing jurisdiction."

19
20 **Section 12.** Section 15-70-441, MCA, is amended to read:

21 **"15-70-441. Dyed special fuel restrictions -- penalties.** (1) (a) A person may not use dyed special fuel
22 to operate a motor vehicle on the public roads and highways of this state unless:

23 (i) the motor vehicle has a gross vehicle weight of greater than 12,000 pounds, exclusive of any towed
24 units, is equipped with a feed delivery box that is permanently affixed to the vehicle, and is used solely for the
25 feeding of livestock; or

26 (ii) the use is permitted pursuant to rules adopted under subsection ~~(2)(c)~~ (1)(c).

27 (b) (i) The purposeful or knowing use of dyed special fuel in a motor vehicle operating on the public roads
28 and highways of this state in violation of this subsection (1) is subject to the civil penalty imposed under
29 subsection (1)(b)(ii). Each use is a separate offense. The civil penalty may be in addition to criminal penalties
30 imposed under 15-70-443.

1 (ii) The department shall, after giving notice and holding a hearing, if requested, impose a civil penalty
 2 not to exceed \$1,000 for the first offense and \$5,000 for the second offense for using dyed special fuel in violation
 3 of the provisions of this section. A subsequent offense is subject to criminal penalties imposed under 15-70-443.

4 (c) The department shall adopt and enforce reasonable rules for the movement of off-highway vehicles
 5 traveling from one location to another on the public roads and highways of this state when using dyed special fuel
 6 or nontaxed fuel.

7 (2) The operator of the vehicle is liable for the tax imposed in 15-70-403. If the operator refuses or fails
 8 to pay the tax, in whole or in part, the seller of the dyed special fuel is jointly and severally liable for the tax
 9 imposed under 15-70-403 and for the penalties described in this section if the seller knows or has reason to know
 10 that the fuel will be used for a taxable purpose."

11

12 **Section 13.** Section 16-11-102, MCA, is amended to read:

13 **"16-11-102. Definitions.** (1) As used in this chapter, the following definitions apply, unless the context
 14 requires otherwise:

15 (a) "Contraband" means:

16 (i) any tobacco product possessed, sold, offered for sale, distributed, held, owned, acquired, transported,
 17 imported, or caused to be imported in violation of this part;

18 (ii) any cigarette or roll-your-own tobacco that is possessed, sold, offered for sale, distributed, held,
 19 owned, acquired, transported, imported, or caused to be imported in violation of part 4 or part 5;

20 (iii) any cigarettes that bear trademarks that are counterfeit under state or federal trademark laws;

21 (iv) any cigarettes bearing false or counterfeit insignia or tax stamps from any state; or

22 (v) any cigarettes or tobacco products that violate 16-10-306.

23 (b) "Department" means the department of revenue provided for in 2-15-1301.

24 (c) "Person" means an individual, firm, partnership, corporation, association, company, committee, other
 25 group ~~or~~ of persons, or other business entity, however formed.

26 (2) As used in this part, the following definitions apply, unless the context requires otherwise:

27 (a) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under
 28 ordinary conditions of use, and consists of or contains:

29 (i) any roll of tobacco wrapped in paper or in any substance not containing tobacco;

30 (ii) tobacco, in any form, that is functional in the product and that, because of its appearance, the type

1 of tobacco used in the filler, or its packaging and labeling, is likely to be offered to or purchased by consumers
2 as a cigarette; or

3 (iii) any roll of tobacco wrapped in any substance containing tobacco that, because of its appearance or
4 the type of tobacco used in the filler and regardless of its packaging and labeling, is likely to be offered to or
5 purchased by consumers as a cigarette described in subsection (2)(a)(i).

6 (b) "Controlling person" means a person who owns an equity interest of 10% or more of a business or
7 the equivalent.

8 (c) "Directory" means the tobacco product directory as provided in 16-11-504.

9 (d) "Full face value of insignia" means the total amount of the tax levied under this part.

10 (e) "Insignia" or "indicia" means the impression, mark, or stamp approved by the department under the
11 provisions of this part.

12 (f) "Licensed retailer" means any person, other than a wholesaler, subjobber, or tobacco product vendor,
13 who is licensed under the provisions of this part.

14 (g) "Licensed subjobber" means a subjobber licensed under the provisions of this part. The person must
15 be treated as a wholesaler.

16 (h) "Licensed wholesaler" means a wholesaler licensed under the provisions of this part.

17 (i) "Manufacturer" means any person who fabricates tobacco products from raw materials for the purpose
18 of resale.

19 (j) "Manufacturer's original container" means the original master shipping case or original shipping case
20 used by the tobacco product manufacturer to ship multipack units, such as boxes, cartons, and sleeves, to
21 warehouse distribution points.

22 (k) "Moist snuff" means any finely cut, ground, or powdered tobacco, other than dry snuff, that is intended
23 to be placed in the oral cavity.

24 (l) "Record" means an original document, a legible facsimile, or an electronically preserved copy.

25 (m) "Retailer" means a person, other than a wholesaler, who is engaged in the business of selling
26 tobacco products to the ultimate consumer. The term includes a person who operates fewer than 10 tobacco
27 product vending machines.

28 (n) "Roll-your-own tobacco" means any tobacco that, because of its appearance, type, packaging, or
29 labeling, is suitable for use and likely to be offered to or purchased by consumers as tobacco for making
30 cigarettes.

1 (o) "Sale" or "sell" means any transfer of tobacco products for consideration, exchange, barter, gift, offer
2 for sale, or distribution in any manner or by any means.

3 (p) "Sole distributor" means a person who either causes a unique brand of tobacco products to be
4 manufactured according to distinctive specifications and acts as the exclusive distributor of the tobacco products
5 or is the exclusive distributor of a brand of tobacco products within the continental United States.

6 (q) "Subjobber" means a person who purchases from a licensed wholesaler cigarettes with the Montana
7 cigarette tax insignia affixed and sells or offers to sell tobacco products to a licensed retailer or tobacco product
8 vendor. An isolated sale or exchange of cigarettes between licensed retailers does not constitute those retailers
9 as subjobbers.

10 (r) "Tobacco product" means cigarettes and all other products containing tobacco that are intended for
11 human consumption or use.

12 (s) (i) "Tobacco product vendor" means a person doing business in the state who purchases tobacco
13 products through a wholesaler, subjobber, or retailer for 10 or more tobacco product vending machines that the
14 person operates for a profit in premises or locations other than the person's own.

15 (ii) A tobacco product vendor must be treated as a wholesaler.

16 (t) "Wholesale price" means the established price for which a manufacturer sells a tobacco product to
17 a wholesaler or any other person before any discount or reduction.

18 (u) "Wholesaler" means a person who:

19 (i) purchases tobacco products from a manufacturer for the purpose of selling tobacco products to
20 subjobbers, tobacco product vendors, wholesalers, or retailers; or

21 (ii) purchases tobacco products from a sole distributor, another wholesaler, or any other person for the
22 purpose of selling tobacco products to subjobbers, tobacco product vendors, wholesalers, or retailers."

23

24 **Section 14.** Section 17-2-107, MCA, is amended to read:

25 **"17-2-107. Accurate accounting records and interentity loans.** (1) The department shall record
26 receipts and disbursements for treasury funds and for accounting entities within treasury funds and shall maintain
27 records in a manner that reflects the total cash and invested balance of each fund and each accounting entity.
28 The department shall adopt the necessary procedures to ensure that interdepartmental or intradepartmental
29 transfers of money or loans do not result in inflation of figures reflecting total governmental costs and revenue.

30 (2) (a) Except as provided in 77-1-108 and subject to 17-2-105, when the expenditure of an appropriation

1 from a fund designated in 17-2-102(1) through (3) is necessary and the cash balance in the accounting entity from
2 which the appropriation was made is insufficient, the department may authorize a temporary loan, bearing no
3 interest, of unrestricted money from other accounting entities if there is reasonable evidence that the income will
4 be sufficient to repay the loan within 1 calendar year and if the loan is recorded in the state accounting records.
5 An accounting entity receiving a loan or an accounting entity from which a loan is made may not be so impaired
6 that all proper demands on the accounting entity cannot be met even if the loan is extended.

7 (b) (i) When an expenditure from a fund or subfund designated in 17-2-102(4) is necessary and the cash
8 balance in the fund or subfund from which the expenditure is to be made is insufficient, the commissioner of
9 higher education may authorize a temporary loan, bearing interest as provided in subsection (4) of this section,
10 of money from the agency's other funds or subfunds if there is reasonable evidence that the income will be
11 sufficient to repay the loan within 1 calendar year and if the loan is recorded in the state accounting records. A
12 fund or subfund receiving a loan or from which a loan is made may not be so impaired that all proper demands
13 on the fund or subfund cannot be met even if the loan is extended.

14 (ii) One accounting entity within each fund or subfund designated in 17-2-102(4) must be established for
15 the sole purpose of recording loans between the funds or subfunds. This accounting entity is the only accounting
16 entity within each fund or subfund that may receive a loan or from which a loan may be made.

17 (c) A loan made under subsection (2)(a) or (2)(b) must be repaid within 1 calendar year of the date on
18 which the loan is approved unless it is extended under subsection (3) or by specific legislative authorization.

19 (3) Under unusual circumstances, the director of the department or the board of regents may grant one
20 extension for up to 1 year for a loan made under subsection (2)(a) or (2)(b). The director or board shall prepare
21 a written justification and proposed repayment plan for each loan extension authorized and shall furnish a copy
22 of the written justification and proposed repayment plan to the house appropriations and senate finance and
23 claims committees at the next legislative session.

24 (4) Any loan from the current unrestricted subfund to funds designated in 17-2-102(4)(a)(iv) and (4)(b)
25 through (4)(f) must bear interest at a rate equivalent to the previous fiscal year's average rate of return on the
26 board of investments' short-term investment pool.

27 (5) If for 2 consecutive fiscal years a loan or an extension of a loan has been authorized to the same
28 accounting entity as provided in subsection (2) or (3), the department or the commissioner of higher education
29 shall submit to the legislative fiscal analyst by September 1 of the following fiscal year a written report containing
30 an explanation as to why the second loan or extension was made, an analysis of the solvency of the accounting

1 entity or accounting entities within the university fund or subfund, and a plan for repaying the loans. The report
2 must be provided in an electronic format.

3 (6) If for 2 consecutive fiscal yearends an accounting entity in a fund or subfund designated in
4 17-2-102(4) has a negative cash balance, the commissioner of higher education shall submit to the legislative
5 fiscal analyst by September 1 of the following fiscal year a written report containing an explanation as to why the
6 accounting entity has a negative cash balance, an analysis of the solvency of the accounting entity, and a plan
7 to address any problems concerning the accounting entity's negative cash balance or solvency. The report must
8 be provided in an electronic format.

9 (7) (a) An accounting entity in a fund designated in 17-2-102(1) through (3) may not have a negative
10 cash balance at fiscal yearend. The department may, however, allow a fund type within each agency to carry a
11 negative balance at any point during the fiscal year if the negative cash balance does not exist for more than 7
12 working days.

13 (b) (i) Except as provided in subsection (7)(b)(ii) of this section, a unit of the university system shall
14 maintain a positive cash balance in the funds and subfunds designated in 17-2-102(4).

15 (ii) If a fund or subfund inadvertently has a negative cash balance, the department may allow the fund
16 or subfund to carry the negative cash balance for no more than 7 working days. If the negative cash balance
17 exists for more than 7 working days, a transaction may not be processed through the statewide accounting,
18 budgeting, and human resource system for that fund or subfund.

19 (8) Notwithstanding the provisions of subsections (2) through (4), the department may authorize loans
20 to accounting entities in the federal and state special revenue funds with long-term repayment whenever
21 necessary because of the timing of the receipt of agreed-upon reimbursements from federal, private, or other
22 governmental entity sources for disbursements made. If possible, the loans must be made from funds other than
23 the general fund. The department may approve the loans if the requesting agency can demonstrate that the total
24 loan balance does not exceed total receivables from federal, private, or other governmental entity sources and
25 receivables have been billed on a timely basis. The loan must be repaid under terms and conditions that may be
26 determined by the department or by specific legislative authorization.

27 (9) A loan may not be authorized under this section to any fund or accounting entity that is owed federal
28 or other third-party funds unless the requesting agency certifies to the agency approving the loan that it has and
29 will continue to bill the federal government or other third party for the requesting agency's share of costs incurred
30 in the fund or accounting entity on the earliest date allowable under federal or other third-party regulations

1 applicable to the program. The requesting agency shall recertify its timely billing status to the agency that
 2 approved the loan at least monthly during the term of the loan. If at any time the requesting agency fails to
 3 recertify the timely billing, the agency that approved the loan shall cancel the loan and return the money to its
 4 original source."

5

6 **Section 15.** Section 18-2-101, MCA, is amended to read:

7 **"18-2-101. Definitions of building, costs, and construction.** In part 1 of this chapter, with the
 8 exception of 18-2-104, 18-2-107, 18-2-113, 18-2-114, 18-2-122, and 18-2-123, the following definitions apply:

9 (1) (a) "Building" includes a building, facility, or structure:

10 (i) constructed or purchased wholly or in part with state money;

11 (ii) at a state institution;

12 (iii) owned or to be owned by a state agency, including the department of transportation; or

13 (iv) constructed for the use or benefit of the state with federal or private money as provided in
 14 18-2-102~~(2)(d)~~(2)(e).

15 (b) "Building" does not include a building, facility, or structure:

16 (i) owned or to be owned by a county, city, town, school district, or special improvement district;

17 (ii) used as a component part of an environmental remediation or abandoned mine land reclamation
 18 project, a highway, or a water conservation project, unless the building will require a continuing state general fund
 19 financial obligation after the environmental remediation or abandoned mine land reclamation project is completed;

20 or

21 (iii) leased or to be leased by a state agency.

22 (2) (a) "Construction" includes the construction, alteration, repair, maintenance, and remodeling of a
 23 building and the equipping and furnishing of a building during construction, alteration, repair, maintenance, and
 24 remodeling.

25 (b) "Construction" does not include work performed under an energy performance contract entered into
 26 pursuant to Title 90, chapter 4, part 11.

27 (3) "Costs" means those expenses defined in 17-5-801."

28

29 **Section 16.** Section 18-2-103, MCA, is amended to read:

30 **"18-2-103. Supervision of construction of buildings.** (1) For the construction of a building costing

1 more than \$150,000, the department shall:

2 (a) review and accept all plans, specifications, and cost estimates prepared by architects or consulting
3 engineers;

4 (b) approve all bond issues or other financial arrangements and supervise and approve the expenditure
5 of all money;

6 (c) solicit, accept, and reject bids and, except as provided in Title 18, chapter 2, part 5, award all
7 contracts to the lowest qualified bidder considering conformity with specifications and terms and reasonableness
8 of the bid amount;

9 (d) review and approve all change orders; and

10 (e) accept the building when completed according to accepted plans and specifications.

11 (2) The department may delegate on a project-by-project basis any powers and duties under subsection
12 (1) to other state agencies, including units of the Montana university system, upon terms and conditions specified
13 by the department.

14 (3) Before a contract under subsection (1) is awarded, two formal bids must have been received, if
15 reasonably available.

16 (4) The department need not require the provisions of Montana law relating to advertising, bidding, or
17 supervision when proposed construction costs are \$75,000 or less. However, with respect to a project having a
18 proposed cost of \$75,000 or less but more than \$25,000, the agency awarding the contract shall procure at least
19 three informal bids from contractors registered in Montana, if reasonably available.

20 (5) For the construction of buildings owned or to be owned by a school district, the department shall,
21 upon request, provide inspection to ensure compliance with the plans and specifications for the construction of
22 the buildings. "Construction" includes construction, repair, alteration, equipping, and furnishing during
23 construction, repair, or alteration. These services must be provided at a cost to be contracted for between the
24 department and the school district, with the receipts to be deposited in the department's construction regulation
25 account in a state special revenue fund.

26 (6) It is the intent of the legislature that student housing and other facilities constructed under the
27 authority of the regents of the university system are subject to the provisions of subsections (1) through (3).

28 (7) The department of military affairs may act as the contracting agency for buildings constructed under
29 the authority of 18-2-102~~(2)(d)~~(2)(e). However, the department of administration may agree to act as the
30 contracting agency on behalf of the department of military affairs. Montana law applies to any controversy

1 involving a contract."

2

3 **Section 17.** Section 20-7-306, MCA, is amended to read:

4 **"20-7-306. Distribution of secondary K-12 career and vocational/technical education funds. (1)**

5 The superintendent of public instruction shall categorize secondary K-12 career and vocational/technical
6 education programs based on weighted factors, including but not limited to:

7 (a) K-12 career and vocational/technical education enrollment;

8 (b) approved career and technical student organizations;

9 (c) field supervision of students beyond the school year for K-12 career and vocational/technical
10 education;

11 (d) district expenditures related to the K-12 career and vocational/technical education programs; and

12 (e) student participation in workforce development activities, including but not limited to:

13 (i) attainment of industry-recognized professional certifications; and

14 (ii) work-based learning programs, such as internships and registered apprenticeships.

15 (2) The superintendent of public instruction shall adjust the weighted factors outlined in subsection (1)
16 as necessary to ensure that the allocations do not exceed the amount appropriated.

17 (3) Except for other expenditures outlined in subsection (1)(d), funding must be based upon the
18 calculation for secondary K-12 career and vocational/technical education programs of the high school district in
19 the year preceding the year for which funding is requested. Funding for the expenditures referred to in subsection
20 (1)(d) must be based on the calculation for the secondary K-12 career and vocational/technical education
21 programs of the high school district for the 2 years preceding the year for which funding is requested. The funding
22 must be computed for each separate secondary K-12 career and vocational/technical education program.

23 (4) For secondary career and vocational/technical education programs, the total funding must be
24 distributed to eligible programs based on the ~~four~~ factors listed in ~~subsections (1)(a) through (1)(d)~~ subsection
25 (1).

26 (5) The superintendent of public instruction shall annually distribute the funds allocated in this section
27 by November 1. The money received by the high school district must be deposited into the subfund of the
28 miscellaneous programs fund established by 20-9-507 and may be expended only for approved secondary K-12
29 career and vocational/technical education programs. The expenditure of the money must be reported in the
30 annual trustees' report as required by 20-9-213.

1 (6) Any increase in the amount distributed to a school district from the biennial state appropriation for
2 secondary K-12 career and vocational/technical education must be used for the expansion and enhancement of
3 career and vocational/technical education programs and may not be used to reduce previous district spending
4 on career and vocational/technical education programs."
5

6 **Section 18.** Section 20-9-502, MCA, is amended to read:

7 **"20-9-502. Purpose and authorization of building reserve fund -- levy for school transition costs.**

8 (1) The trustees of any district may establish a building reserve fund to budget for and expend funds for any of
9 the purposes set forth in this section. Appropriate subfunds must be created to ensure separate tracking of the
10 expenditure of funds from voted and nonvoted levies and transfers for school safety pursuant to 20-9-236.

11 (2) (a) A voted levy may be imposed and a subfund must be created with the approval of the qualified
12 electors of the district for the purpose of raising money for the future construction, equipping, or enlarging of
13 school buildings or for the purpose of purchasing land needed for school purposes in the district. In order to
14 submit to the qualified electors of the district a building reserve proposition for the establishment of or addition
15 to a building reserve, the trustees shall pass a resolution that specifies:

16 (i) the purpose or purposes for which the new or addition to the building reserve will be used;

17 (ii) the duration of time over which the new or addition to the building reserve will be raised in annual,
18 equal installments;

19 (iii) the total amount of money that will be raised during the duration of time specified for the levy; and

20 (iv) any other requirements under 15-10-425 and 20-20-201 for the calling of an election.

21 (b) Except as provided in subsection (4)(b), a building reserve tax authorization may not be for more than
22 20 years.

23 (c) The election must be conducted in accordance with the school election laws of this title, and the
24 electors qualified to vote in the election must be qualified under the provisions of 20-20-301. The ballot for a
25 building reserve proposition must be substantially in compliance with 15-10-425.

26 (d) The building reserve proposition is approved if a majority of those electors voting at the election
27 approve the establishment of or addition to the building reserve. The annual budgeting and taxation authority of
28 the trustees for a building reserve is computed by dividing the total authorized amount by the specified number
29 of years. The authority of the trustees to budget and impose the taxation for the annual amount to be raised for
30 the building reserve lapses when, at a later time, a bond issue is approved by the qualified electors of the district

1 for the same purpose or purposes for which the building reserve fund of the district was established. Whenever
2 a subsequent bond issue is made for the same purpose or purposes of a building reserve, the money in the
3 building reserve must be used for the purpose or purposes before any money realized by the bond issue is used.

4 (3) (a) A subfund must be created to account for revenue and expenditures for school major
5 maintenance and repairs authorized under this subsection (3). Except as provided in subsection (3)(g), the
6 trustees of a district may authorize and impose a levy of no more than 10 mills on the taxable value of all taxable
7 property within the district for that school fiscal year for the purposes of raising revenue for identified school major
8 maintenance projects meeting the requirements of 20-9-525(2). The 10-mill limit under this section must be
9 calculated using the district's total taxable valuation most recently certified by the department of revenue under
10 15-10-202. The amount of money raised by the levy, the deposits and transfers authorized under subsection (3)(f)
11 of this section, and anticipated state aid pursuant to 20-9-525(3) may not exceed the district's school major
12 maintenance amount. For the purposes of this section, the term "school major maintenance amount" means the
13 sum of \$15,000 and the product of \$100 multiplied by the district's budgeted ANB for the prior fiscal year. To
14 authorize and impose a levy under this subsection (3), the trustees shall:

15 (i) following public notice requirements pursuant to 20-9-116, adopt no later than June 1 for fiscal year
16 2017 only and no later than March 31 for fiscal years 2018 and subsequent fiscal years, a resolution:

17 (A) identifying the anticipated school major maintenance projects for which the proceeds of the levy, the
18 deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to
19 20-9-525(3) will be used; and

20 (B) estimating a total dollar amount of money to be raised by the levy, the deposits and transfers
21 authorized under subsection (3)(f) of this section, anticipated state aid pursuant to 20-9-525(3), and the resulting
22 estimated number of mills to be levied using the district's taxable valuation most recently certified by the
23 department of revenue under 15-10-202; and

24 (ii) include the amount of any final levy to be imposed as part of its final budget meeting noticed in
25 compliance with 20-9-131.

26 (b) Proceeds from the levy may be expended only for the purposes under 20-9-525(2), and the
27 expenditure of the money must be reported in the annual trustees' report as required by 20-9-213.

28 (c) Whenever the trustees of a district impose a levy pursuant to this section during the current school
29 fiscal year, they shall budget for the proceeds of the levy, the deposits and transfers authorized under subsection
30 (3)(f) of this section, and anticipated state aid pursuant to 20-9-525(3) in the district's building reserve fund

1 budget. Any expenditures of the funds must be made in accordance with the financial administration provisions
2 of this title for a budgeted fund.

3 (d) When a tax levy pursuant to this section is included as a revenue item on the final building reserve
4 fund budget, the county superintendent shall report the levy requirement to the county commissioners by the later
5 of the first Tuesday in September or within 30 calendar days after receiving certified taxable values and a levy
6 on the district must be made by the county commissioners in accordance with 20-9-142.

7 (e) A subfund in the building reserve fund must be created for the deposit of proceeds from the levy, the
8 deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to
9 20-9-525(3).

10 (f) If the imposition of 10 mills pursuant to subsection (3)(a) is estimated by the trustees to generate an
11 amount less than the maximum levy revenue specified in subsection (3)(a), the trustees may deposit additional
12 funds from any lawfully available revenue source and may transfer additional funds from any lawfully available
13 fund of the district to the subfund provided for in subsection (3)(a), up to the difference between the revenue
14 estimated to be raised by the imposition of 10 mills and the maximum levy revenue specified in subsection (3)(a).
15 The district's local effort for purposes of calculating its eligibility for state school major maintenance aid pursuant
16 to 20-9-525 consists of the combined total of funds raised from the imposition of 10 mills and additional funds
17 raised from deposits and transfers in compliance with this subsection (3)(f).

18 (g) A district awarded a quality schools facility grant pursuant to ~~former~~ former Title 90, chapter 6, part
19 8, during the biennium beginning July 1, 2017, may not impose the levy under this subsection (3) during the
20 biennium beginning July 1, 2017.

21 (4) (a) A voted levy may be imposed and a subfund must be created with the approval of the qualified
22 electors of the district to provide funding for transition costs incurred when the trustees:

23 (i) open a new school under the provisions of Title 20, chapter 6;

24 (ii) close a school;

25 (iii) replace a school building;

26 (iv) consolidate with or annex another district under the provisions of Title 20, chapter 6; or

27 (v) receive approval from voters to expand an elementary district into a K-12 district pursuant to
28 20-6-326.

29 (b) Except as provided in subsection (4)(c), the total amount the trustees may submit to the electorate
30 for transition costs may not exceed the number of years specified in the proposition times the greater of 5% of

1 the district's maximum general fund budget for the current year or \$250 per ANB for the current year. The duration
2 of the levy for transition costs may not exceed 6 years.

3 (c) If the levy for transition costs is for consolidation or annexation:

4 (i) the limitation on the amount levied is calculated using the ANB and the maximum general fund budget
5 for the districts that are being combined; and

6 (ii) the proposition must be submitted to the qualified electors in the combined district.

7 (d) The levy for transition costs may not be considered as outstanding indebtedness for the purpose of
8 calculating the limitation in 20-9-406.

9 (5) A subfund in the building reserve fund must be created for the funds transferred to the building
10 reserve fund for school safety and security pursuant to 20-9-236."

11

12 **Section 19.** Section 20-25-211, MCA, is amended to read:

13 **"20-25-211. Montana ~~tech of the~~ technological university of Montana -- purpose -- fees for assays.**

14 (1) Montana ~~tech of the~~ technological university of Montana has for its purpose instruction and education in
15 chemistry, metallurgy, mineralogy, geology, mining, milling, engineering, mathematics, mechanics and drawing,
16 and the laws of the United States and Montana relating to mining.

17 (2) A department designated as "the Montana state bureau of mines and geology", which is under the
18 direction of the regents, is established at Montana ~~tech of the~~ technological university of Montana.

19 (3) The chancellor of Montana ~~tech of the~~ technological university of Montana may charge and collect
20 reasonable fees for any assays and analyses made by the college.

21 (4) The chancellor shall keep an account of the fees and pay them monthly to the treasurer for deposit
22 to the college fund."

23

24 **Section 20.** Section 20-25-212, MCA, is amended to read:

25 **"20-25-212. Bureau of mines and geology -- purpose.** The bureau of mines and geology shall:

26 (1) compile and publish statistics relative to Montana geology, mining, milling, and metallurgy;

27 (2) collect:

28 (a) typical geological and mineral specimens;

29 (b) samples of products;

30 (c) photographs, models, and drawings of appliances used in the mines, mills, and smelters of Montana;

1 and

2 (d) a library and a bibliography of literature relative to the progress of geology, mining, milling, and
3 smelting in Montana;

4 (3) study the geological formations of Montana, with special reference to their economic mineral
5 resources and ground water;

6 (4) examine the topography and physical features of Montana relative to their bearing upon the
7 occupation of the people;

8 (5) study the mining, milling, and smelting in Montana relative to their improvement;

9 (6) publish bulletins and reports of a general and detailed description of the natural resources, geology,
10 mines, mills, and reduction plants of Montana;

11 (7) make qualitative examinations of rocks and mineral samples;

12 (8) consider scientific and economic problems that the regents consider valuable to the people of
13 Montana;

14 (9) communicate special information on Montana geology, mining, and metallurgy;

15 (10) cooperate with:

16 (a) departments of the university system;

17 (b) the state mine inspector;

18 (c) departments of the state;

19 (d) the United States geological survey; and

20 (e) the United States bureau of mines;

21 (11) make examinations of state land regarding its geology and mineral value at the request of the
22 department of natural resources and conservation and make investments. These services are limited to the time
23 available for the services after all other duties of the bureau of mines and geology are served. Written reports
24 must be made. Travel expenses incurred by the examiner must be paid, as provided for in 2-18-501 through
25 2-18-503, by the agency requesting the examination upon the presentation of claims in the ordinary form.

26 (12) deposit all material collected in the state museums or at Montana ~~tech~~ of the technological university
27 of Montana after completed use by the bureau of mines and geology;

28 (13) distribute duplicates of representative material to the units of the university system to their best
29 educational advantage; and

30 (14) print the regular and special reports with illustrations and maps and distribute them on direction of

1 the board of regents."

2

3 **Section 21.** Section 30-20-204, MCA, is amended to read:

4 **"30-20-204. (Temporary) Property tax exemption for manufacturing of ammunition components**

5 **-- conditions -- real property exemption applies to safety zone.** (1) A person or entity in this state engaged

6 in the primary business of the manufacture of ammunition components that meets the conditions in subsections

7 (2) through (4) is exempt from:

8 (a) property taxes levied for state educational purposes under ~~15-10-108~~ 15-10-109, 20-9-331, 20-9-333,

9 20-9-360, and 20-25-439; and

10 (b) business equipment tax levied pursuant to 15-6-138.

11 (2) A person or entity in this state engaged in the primary business of the manufacture of ammunition

12 components is exempt from property taxation as provided under subsection (1) if the person's or entity's business

13 meets the following conditions:

14 (a) the products of the business are and remain available to commercial and individual consumers in
15 the state;

16 (b) the business sells its products to in-state commercial and individual consumers for a price no greater
17 than that for out-of-state purchasers, including any products that leave the state regardless of destination or
18 purchaser; and

19 (c) the business does not enter into any agreement or contract that could actually or potentially command
20 or commit all of its production to out-of-state consumers or interfere with or prohibit sales and provision of
21 products to in-state consumers.

22 (3) The exemptions allowed under subsection (1) apply only to the property and business activity
23 attributable to the manufacture of ammunition components.

24 (4) The real property exemption allowed under subsection (1)(a) encompasses any property within 500
25 yards of a structure used for the manufacture of ammunition components or of any structure used for storage of
26 products manufactured onsite.(Terminates December 31, 2024--sec. 16, Ch. 440, L. 2015.)"

27

28 **Section 22.** Section 32-3-611, MCA, is amended to read:

29 **"32-3-611. Share insurance.** (1) Each credit union shall maintain insurance on its share accounts under

30 the provisions of Title II of the Federal Credit Union Act or through a legally constituted insurance plan approved

1 by the commissioner of insurance and the department of administration.

2 (2) A credit union may not begin operation or transact any business until proof that it has obtained
3 insurance under the provisions of Title II of the Federal Credit Union Act or under an approved insurance plan
4 has been furnished to the department.

5 (3) A credit union operating in violation of this section is subject to an order of suspension as provided
6 for in 32-3-205.

7 (4) Subject to the provisions of ~~32-2-207~~ 32-3-207, the department shall make available reports of
8 condition and examination reports to the national credit union administration or any official of an insurance plan
9 and may accept any report of examination made on behalf of the national credit union administration or insurance
10 plan official. The department may appoint the national credit union administration or any official of an insurance
11 plan as liquidating agent of an insured credit union."
12

13 **Section 23.** Section 37-7-605, MCA, is amended to read:

14 **"37-7-605. Out-of-state licensing requirements.** (1) An out-of-state wholesale distributor, third-party
15 logistics provider, manufacturer, or repackager may not conduct business in this state without first obtaining a
16 license from the board and paying the license fee established by the board.

17 (2) Application for a license under this section must be made on an approved form.

18 (3) The issuance of a license may not affect tax liability imposed by the department of revenue on any
19 out-of-state ~~license~~ licensee.

20 (4) A person acting as principal or agent for an out-of-state licensee may not sell or distribute prescription
21 drugs in this state unless the wholesale distributor, third-party logistics provider, manufacturer, or repackager has
22 obtained a license."
23

24 **Section 24.** Section 37-50-302, MCA, is amended to read:

25 **"37-50-302. Certified public accountants -- licensure -- qualifications and requirements.** The board
26 shall grant an initial license as a certified public accountant to any person who:

27 (1) is of good moral character;

28 (2) has successfully passed the certified public ~~accountants'~~ accountant examination;

29 (3) meets the requirements of education and accounting experience set forth in this chapter and in board
30 rules; and

1 (4) has successfully completed the professional ethics for CPAs course of the American institute of
 2 certified public accountants or its successor organization as defined in board rule."

3

4 **Section 25.** Section 41-3-802, MCA, is amended to read:

5 **"41-3-802. Service of process -- service by publication -- effect.** (1) Except as otherwise provided
 6 in this ~~chapter part~~, service of process must be made as provided in the Montana Rules of Civil Procedure.

7 (2) If a person cannot be served personally or by certified mail, the person may be served by publication
 8 as provided in 41-3-803. Publication constitutes conclusive evidence of service, and a hearing must then proceed
 9 at the time and date set, with or without the appearance of the person served by publication. During or after the
 10 hearing, the court may issue an order that will adjudicate the interests of the person served by publication.

11 (3) If the parent cannot be found prior to the hearings allowed by 41-3-801, the court may grant the
 12 petition as filed or may order the person filing the petition to continue to attempt to locate the person whose
 13 parental rights are subject to termination through service by publication."

14

15 **Section 26.** Section 41-3-803, MCA, is amended to read:

16 **"41-3-803. Service by publication -- summons -- form.** (1) Before service by publication is authorized
 17 in a proceeding under this part, the person filing the petition pursuant to 41-3-801(4) shall file with the court an
 18 affidavit stating that, after due diligence, the parent whose rights are subject to termination cannot be identified
 19 or found and stating the diligent efforts made to identify, locate, and serve the person. The affidavit is sufficient
 20 evidence of the diligence of any inquiry made by the person filing the petition. The affidavit may be combined with
 21 another affidavit filed by the person filing the petition. Upon complying with this subsection, the person filing the
 22 petition may obtain an order for the service to be made on the party by publication. The order may be issued by
 23 either the judge or the clerk of the court.

24 (2) Service by publication must be made by publishing notice three times, once each week for 3
 25 successive weeks:

26 (a) in a newspaper in a community in which the publication can reasonably be calculated to be seen by
 27 the person whose parental rights are subject to termination, based on the last-known address or whereabouts,
 28 if known, of the person if in the state of Montana; or

29 (b) if no last-known address exists, if the last-known address is outside Montana, or if the identity of the
 30 person whose parental rights are subject to termination is unknown, in a newspaper in the county in which the

1 action is pending, if a newspaper is published in the county, or, if a newspaper is not published in the county, in
2 a newspaper published in an adjoining county and having a general circulation in the county.

3 (3) Service by publication is complete on the date of the last publication required by subsection (2).

4 (4) A summons required under this ~~chapter~~ part must:

5 (a) be directed to the parent whose parental rights are subject to termination; and

6 (b) be signed by the clerk of court, be under the seal of the court, and contain:

7 (i) the name of the court and the cause number;

8 (ii) the initials of the child who is the subject of the proceedings;

9 (iii) the name of the person filing the petition pursuant to 41-3-801(4);

10 (iv) the timeframe within which an interested person shall appear;

11 (v) a statement in general terms of the nature of the proceedings, including the date and place of birth
12 of the child, the date and place of the hearing, and the phone number of the clerk of the court in which the hearing
13 is scheduled; and

14 (vi) notification apprising the person served by publication that failure to appear at the hearing will
15 constitute a denial of interest in the child, which may result, without further notice of the proceeding or any
16 subsequent proceeding, in judgment by default being entered for the relief requested in the petition."

17

18 **Section 27.** Section 46-18-201, MCA, is amended to read:

19 **"46-18-201. Sentences that may be imposed.** (1) (a) Whenever a person has been found guilty of an
20 offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may defer imposition
21 of sentence, except as otherwise specifically provided by statute, for a period:

22 (i) not exceeding 1 year for a misdemeanor or for a period not exceeding 3 years for a felony; or

23 (ii) not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for a felony if a
24 financial obligation is imposed as a condition of sentence for either the misdemeanor or the felony, regardless
25 of whether any other conditions are imposed.

26 (b) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred in the
27 case of an offender who has been convicted of a felony on a prior occasion, whether or not the sentence was
28 imposed, imposition of the sentence was deferred, or execution of the sentence was suspended.

29 (2) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or
30 nolo contendere, a sentencing judge may suspend execution of sentence, except as otherwise specifically

1 provided by statute, for a period up to the maximum sentence allowed or for a period of 6 months, whichever is
2 greater, for each particular offense.

3 (3) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty
4 or nolo contendere, a sentencing judge may impose a sentence that may include:

5 (i) a fine as provided by law for the offense;

6 (ii) payment of costs, as provided in 46-18-232, or payment of costs of assigned counsel as provided in
7 46-8-113;

8 (iii) a term of incarceration, as provided in Title 45 for the offense, at a county detention center or at a
9 state prison to be designated by the department of corrections;

10 (iv) commitment of:

11 (A) an offender not referred to in subsection (3)(a)(iv)(B) to the department of corrections with a
12 recommendation for placement in an appropriate correctional facility or program; however, all but the first 5 years
13 of the commitment to the department of corrections must be suspended, except as provided in 45-5-503(4),
14 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), and 45-5-625(4); or

15 (B) a youth transferred to district court under 41-5-206 and found guilty in the district court of an offense
16 enumerated in 41-5-206 to the department of corrections for a period determined by the court for placement in
17 an appropriate correctional facility or program;

18 (v) chemical treatment of sexual offenders, as provided in 45-5-512, if applicable, that is paid for by and
19 for a period of time determined by the department of corrections, but not exceeding the period of state supervision
20 of the person;

21 (vi) commitment of an offender to the department of corrections with the requirement that immediately
22 subsequent to sentencing or disposition the offender is released to community supervision and that any
23 subsequent violation must be addressed as provided in 46-23-1011 through 46-23-1015; or

24 (vii) any combination of ~~subsections (2) and (3)(a)(i) through (3)(a)(vii)~~ subsection (2) and this subsection
25 (3)(a).

26 (b) A court may permit a part or all of a fine to be satisfied by a donation of food to a food bank program.

27 (4) When deferring imposition of sentence or suspending all or a portion of execution of sentence, the
28 sentencing judge may impose on the offender any reasonable restrictions or conditions during the period of the
29 deferred imposition or suspension of sentence. Reasonable restrictions or conditions imposed under subsection
30 (1)(a) or (2) may include but are not limited to:

- 1 (a) limited release during employment hours as provided in 46-18-701;
- 2 (b) incarceration in a detention center not exceeding 180 days;
- 3 (c) conditions for probation;
- 4 (d) payment of the costs of confinement;
- 5 (e) payment of a fine as provided in 46-18-231;
- 6 (f) payment of costs as provided in 46-18-232 and 46-18-233;
- 7 (g) payment of costs of assigned counsel as provided in 46-8-113;
- 8 (h) with the approval of the facility or program, an order that the offender be placed in a community
- 9 corrections facility or program as provided in 53-30-321;
- 10 (i) with the approval of the prerelease center or prerelease program and confirmation by the department
- 11 of corrections that space is available and that the offender is a suitable candidate, an order that the offender be
- 12 placed in a chemical dependency treatment program, prerelease center, or prerelease program for a period not
- 13 to exceed 1 year;
- 14 (j) community service;
- 15 (k) home arrest as provided in Title 46, chapter 18, part 10;
- 16 (l) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;
- 17 (m) participation in a day reporting program provided for in 53-1-203;
- 18 (n) participation in the 24/7 sobriety and drug monitoring program provided for in Title 44, chapter 4, part
- 19 12, for a violation of 61-8-465, a second or subsequent violation of 61-8-401, 61-8-406, or 61-8-411, or a second
- 20 or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if the abuse of alcohol
- 21 or dangerous drugs was a contributing factor in the commission of the crime or for a violation of any statute
- 22 involving domestic abuse or the abuse or neglect of a minor if the abuse of alcohol or dangerous drugs was a
- 23 contributing factor in the commission of the crime regardless of whether the charge or conviction was for a first,
- 24 second, or subsequent violation of the statute;
- 25 (o) participation in a restorative justice program approved by court order and payment of a participation
- 26 fee of up to \$150 for program expenses if the program agrees to accept the offender;
- 27 (p) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the
- 28 protection of the victim or society;
- 29 (q) with approval of the program and confirmation by the department of corrections that space is
- 30 available, an order that the offender be placed in a residential treatment program; or

1 (r) any combination of the restrictions or conditions listed in this subsection (4).

2 (5) In addition to any other penalties imposed, if a person has been found guilty of an offense upon a
3 verdict of guilty or a plea of guilty or nolo contendere and the sentencing judge finds that a victim, as defined in
4 46-18-243, has sustained a pecuniary loss, the sentencing judge shall, as part of the sentence, require payment
5 of full restitution to the victim, as provided in 46-18-241 through 46-18-249, whether or not any part of the
6 sentence is deferred or suspended.

7 (6) In addition to any of the penalties, restrictions, or conditions imposed pursuant to subsections (1)
8 through (5), the sentencing judge may include the suspension of the license or driving privilege of the person to
9 be imposed upon the failure to comply with any penalty, restriction, or condition of the sentence. A suspension
10 of the license or driving privilege of the person must be accomplished as provided in 61-5-214 through 61-5-217.

11 (7) In imposing a sentence on an offender convicted of a sexual or violent offense, as defined in
12 46-23-502, the sentencing judge may not waive the registration requirement provided in Title 46, chapter 23, part
13 5.

14 (8) If a felony sentence includes probation, the department of corrections shall supervise the offender
15 unless the court specifies otherwise.

16 (9) When imposing a sentence under this section that includes incarceration in a detention facility or the
17 state prison, as defined in 53-30-101, the court shall provide credit for time served by the offender before trial or
18 sentencing.

19 (10) As used in this section, "dangerous drug" has the meaning provided in 50-32-101."
20

21 **Section 28.** Section 47-1-121, MCA, is amended to read:

22 **"47-1-121. Contracted services.** (1) The director shall establish standards for a statewide contracted
23 services program to be managed by the central services division provided for in 47-1-119. The director shall
24 ensure that contracting for public defender services is done fairly and consistently statewide and within each
25 public defender region.

26 (2) There is a contract manager position in the central services division hired by the central services
27 division administrator. The contract manager is responsible for the administrative oversight of contracting for
28 attorney and nonattorney support for units of the office of state public defender.

29 (3) All contracting pursuant to this section is exempt from the Montana Procurement Act as provided in
30 18-4-132.

1 (4) Contracts may not be awarded based solely on the lowest bid or provide compensation to contractors
2 based solely on a fixed fee paid irrespective of the number of cases assigned.

3 (5) Contracting for attorney services must be done through a competitive process that must, at a
4 minimum, involve the following considerations:

5 (a) attorney qualifications necessary to provide effective assistance of counsel;

6 (b) attorney qualifications necessary to provide effective assistance of counsel that meets the standards
7 issued by the Montana supreme court for counsel for indigent persons in capital cases;

8 (c) attorney access to support services, such as paralegal and investigator services;

9 (d) attorney caseload, including the amount of private practice engaged in outside the contract;

10 (e) reporting protocols and caseload monitoring processes;

11 (f) a process for the supervision and evaluation of performance;

12 (g) a process for conflict resolution;

13 (h) continuing education requirements; and

14 (i) cost of the services.

15 (6) The public defender division administrator, deputy public defenders, appellate defender division
16 administrator, and conflict defender division administrator shall supervise the personnel contracted for their
17 respective offices and ensure compliance with the standards established in the contract.

18 (7) The director shall establish reasonable compensation for attorneys contracted to provide public
19 defender and appellate defender services and for others contracted to provide nonattorney services.

20 (8) Contract attorneys may not take any money or benefit from an appointed client or from anyone for
21 the benefit of the appointed client.

22 (9) The director shall limit the number of contract attorneys so that all contracted attorneys may be
23 meaningfully evaluated.

24 (10) The director shall ensure that there are procedures for conducting an evaluation of every contract
25 attorney on a biennial basis by the ~~chief~~ contract manager based on written evaluation criteria."

26

27 **Section 29.** Section 50-32-222, MCA, is amended to read:

28 **"50-32-222. Specific dangerous drugs included in Schedule I.** Schedule I consists of the drugs and
29 other substances, by whatever official, common, usual, chemical, or brand name designated, listed in this section.

30 (1) Opiates. Unless specifically excepted or listed in another schedule, any of the following are opiates,

1 including isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of those
2 isomers, esters, ethers, and salts is possible within the specific chemical designation:

3 (a) a c e t y l - a l p h a - m e t h y l f e n t a n y l , a l s o k n o w n a s
4 N-(1-(1-methyl-2-phenethyl)-4-piperidinyl)-N-phenylacetamide;

5 (b) a c e t y l m e t h a d o l , a l s o k n o w n a s 4-(dimethylamino)-1-ethyl-2,2-diphenylpentyl acetate or methadyl
6 acetate;

7 (c) a l l y l p r o d i n e , a l s o k n o w n a s 1-methyl-4-phenyl-3-(prop-2-en-1-yl)piperidin-4-yl propanoate;

8 (d) a l p h a c e t y l m e t h a d o l , e x c e p t l e v o - a l p h a c e t y l m e t h a d o l , a l s o k n o w n a s l e v o - a l p h a - a c e t y l m e t h a d o l ,
9 levomethadyl acetate, or LAAM;

10 (e) a l p h a m e p r o d i n e ;

11 (f) a l p h a m e t h a d o l ;

12 (g) a l p h a - m e t h y l f e n t a n y l , a l s o k n o w n a s (N - [1 - (a l p h a - m e t h y l - b e t a - p h e n y l) e t h y l - 4 - p i p e r i d y l]
13 p r o p i o n a n i l i d e ; 1 - (1 - m e t h y l - 2 - p h e n y l e t h y l) - 4 - (N - p r o p a n i l i d o) p i p e r i d i n e) ;

14 (h) a l p h a - m e t h y l t h i o f e n t a n y l , a l s o k n o w n a s
15 N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide;

16 (i) b e n z e t h i d i n e ;

17 (j) b e t a c e t y l m e t h a d o l ;

18 (k) b e t a - h y d r o x y f e n t a n y l , a l s o k n o w n a s
19 N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide;

20 (l) b e t a - h y d r o x y - 3 - m e t h y l f e n t a n y l , a l s o k n o w n a s
21 N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;

22 (m) b e t a m e p r o d i n e ;

23 (n) b e t a m e t h a d o l ;

24 (o) b e t a p r o d i n e ;

25 (p) c l o n i t a z e n e ;

26 (q) d e x t r o m o r a m i d e ;

27 (r) d i a m p r o m i d e ;

28 (s) d i e t h y l t h i a m b u t e n e ;

29 (t) d i f e n o x i n ;

30 (u) d i m e n o x a d o l ;

- 1 (v) dimepheptanol;
- 2 (w) dimethylthiambutene;
- 3 (x) dioxaphetyl butyrate;
- 4 (y) dipipanone;
- 5 (z) ethylmethylthiambutene;
- 6 (aa) etonitazene;
- 7 (bb) etoxeridine;
- 8 (cc) furethidine;
- 9 (dd) hydroxypethidine;
- 10 (ee) ketobemidone;
- 11 (ff) levomoramide;
- 12 (gg) levophenacilmorphan;
- 13 (hh) 3-methylfentanyl, also known as N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide;
- 14 (i i) 3 - m e t h y l t h i o f e n t a n y l , a l s o k n o w n a s
- 15 N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide;
- 16 (jj) morpheridine;
- 17 (kk) MPPP, also known as desmethylprodine and (1-methyl-4-phenyl-4-propionoxypiperidine);
- 18 (ll) noracymethadol;
- 19 (mm) norlevorphanol;
- 20 (nn) normethadone;
- 21 (oo) norpipanone;
- 22 (pp) para-fluorofentanyl, also known as N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]propanamide;
- 23 (qq) PEPAP, also known as (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- 24 (rr) phenadoxone;
- 25 (ss) phenampromide;
- 26 (tt) phenomorphan;
- 27 (uu) phenoperidine;
- 28 (vv) piritramide;
- 29 (ww) proheptazine;
- 30 (xx) properidine;

- 1 (yy) propiram;
2 (zz) racemoramide;
3 (aaa) thiofentanyl, also known as N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidiny]-propanamide;
4 (bbb) tilidine; and
5 (ccc) trimeperidine.

6 (2) For the purposes of subsection (1)(hh), the term "isomer" includes the optical, positional, and
7 geometric isomers.

8 (3) Opium derivatives. Unless specifically excepted or listed in another schedule, any of the following
9 are opium derivatives, including salts, isomers, and salts of isomers whenever the existence of those salts,
10 isomers, and salts of isomers is possible within the specific chemical designation:

- 11 (a) acetorphine;
12 (b) acetyldihydrocodeine;
13 (c) benzylmorphine;
14 (d) codeine methylbromide;
15 (e) codeine-N-oxide;
16 (f) cyprenorphine;
17 (g) desomorphine;
18 (h) dihydromorphine;
19 (i) drotebanol;
20 (j) etorphine, except hydrochloride salt;
21 (k) heroin;
22 (l) hydromorphenol;
23 (m) methyldesorphine;
24 (n) methyldihydromorphine;
25 (o) morphine methylbromide;
26 (p) morphine methylsulfonate;
27 (q) morphine-N-oxide;
28 (r) myrophine;
29 (s) nicocodeine;
30 (t) nicomorphine;

- 1 (u) normorphine;
- 2 (v) pholcodine; and
- 3 (w) thebacon.
- 4 (4) Hallucinogenic substances. Unless specifically excepted or listed in another schedule, any material,
- 5 compound, mixture, or preparation that contains any quantity of the following is a hallucinogenic substance,
- 6 including salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers
- 7 is possible within the specific chemical designation:
- 8 (a) alpha-ethyltryptamine, also known as etryptamine, monase, alpha-ethyl-1H-indole-3-ethanamine,
- 9 3-(2-aminobutyl) indole, alpha-ET, and AET;
- 10 (b) alpha-methyltryptamine, also known as AMT;
- 11 (c) 4-bromo-2,5-dimethoxyamphetamine, also known as 4-bromo-2,
- 12 5-dimethoxy-alpha-methylphenethylamine, and 4-bromo-2,5-DMA;
- 13 (d) 4-bromo-2,5-dimethoxyphenethylamine, also known as
- 14 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane, alpha-desmethyl DOB, and 2C-B, Nexus;
- 15 (e) 2,5-dimethoxyamphetamine, also known as 2,5-dimethoxy-alpha-methylphenethylamine and
- 16 2,5-DMA;
- 17 (f) 2,5-dimethoxy-4-(N)-propylthiophenethylamine, also known as 2C-T-7;
- 18 (g) 3,4-methylenedioxyamphetamine;
- 19 (h) 2,5-dimethoxy-4-ethylamphetamine, also known as ~~is~~ DOET;
- 20 (i) 5-methoxy-N,N-diisopropyltryptamine, also known as 5-MeO-DIPT;
- 21 (j) 5-methoxy-N,N-dimethyltryptamine, also known as 5-MeO-DMT;
- 22 (k) 4-methoxyamphetamine, also known as 4-methoxy-alpha-methylphenethylamine;
- 23 (l) 5-methoxy-3,4-methylenedioxyamphetamine;
- 24 (m) 4-methyl-2,5-dimethoxyamphetamine, also known as 4-methyl-2,
- 25 5-dimethoxy-alpha-methylphenethylamine, DOM, and STP;
- 26 (n) 3,4-methylenedioxymethamphetamine, also known as MDMA;
- 27 (o) 3,4-methylenedioxy-N-ethylamphetamine, also known as
- 28 N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, and MDEA;
- 29 (p) N-hydroxy-3,4-methylenedioxyamphetamine, also known as N-hydroxy-alpha-methyl-3,4
- 30 (methylenedioxy)phenethylamine and N-hydroxy MDA;

- 1 (q) 3,4,5-trimethoxyamphetamine;
- 2 (r) bufotenine, also known as 3-(beta-dimethylaminoethyl)-5-hydroxyindole,
3 3-(2-dimethylaminoethyl)-5-indolol, N,N-dimethylserotonin, 5-hydroxy-N,N-dimethyltryptamine, and mappine;
- 4 (s) diethyltryptamine, also known as N,N-diethyltryptamine and DET;
- 5 (t) dimethyltryptamine, also known as DMT;
- 6 (u) hashish;
- 7 (v) ibogaine, also known as 7-ethyl-6,6beta,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido
8 [1', 2':1,2] azepine [5,4-b] indole and tabernanthe iboga;
- 9 (w) lysergic acid diethylamide, also known as LSD;
- 10 (x) marijuana;
- 11 (y) mescaline;
- 12 (z) parahexyl, also known as 3-hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,8,9-trimethyl-6H-dibenzo[b,d]pyran
13 and synhexyl;
- 14 (aa) peyote, meaning all parts of the plant presently classified botanically as *lophophora williamsii*
15 *lemaire*, whether growing or not; the seed of the plant; any extract from any part of the plant; and every
16 compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seed, or extracts;
- 17 (bb) N-ethyl-3-piperidyl benzilate;
- 18 (cc) N-methyl-3-piperidyl benzilate;
- 19 (dd) psilocybin;
- 20 (ee) psilocyn;
- 21 (ff) tetrahydrocannabinols, including synthetic equivalents of the substances contained in the plant or in
22 the resinous extractives of cannabis, or synthetic substances, derivatives, and their isomers with similar chemical
23 structure and pharmacological activity, such as those listed in subsections (4)(ff)(i) through (4)(ff)(iii). Because
24 nomenclature of these substances is not internationally standardized, compounds of these structures, regardless
25 of numerical designation of atomic positions covered, are included in the category as follows:
- 26 (i) delta 1 (delta 9) cis or trans tetrahydrocannabinol and its optical isomers;
- 27 (ii) delta 6 cis or trans tetrahydrocannabinol and its optical isomers; and
- 28 (iii) delta 3,4 cis or trans tetrahydrocannabinol and its optical isomers;
- 29 (gg) ethylamine analog of phencyclidine, also known as N-ethyl-1-phenylcyclohexylamine,
30 (1-phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, and PCE;

- 1 (hh) pyrrolidine analog of phencyclidine, also known as 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, and
2 PHP;
- 3 (ii) thiophene analog of phencyclidine, also known as 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienyl
4 analog of phencyclidine, TPCP, and TCP;
- 5 (jj) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine, also known as TCPy;
- 6 (kk) synthetic cannabinoids, including:
- 7 (i) unless specifically excepted or listed in another schedule, any chemical compound chemically
8 synthesized from or structurally similar to any material, compound, mixture, or preparation that contains any
9 quantity of a synthetic cannabinoid found in any of the following chemical groups, or any of those groups that
10 contain synthetic cannabinoid salts, isomers, or salts of isomers, whenever the existence of those salts, isomers,
11 or salts of isomers is possible within the specific chemical designation, including all synthetic cannabinoid
12 chemical analogs in the following groups:
- 13 (A) naphthoylindoles, whether or not substituted in the indole ring to any extent or the naphthyl ring to
14 any extent;
- 15 (B) naphthylmethyloindoles, whether or not substituted in the indole ring to any extent or the naphthyl ring
16 to any extent;
- 17 (C) naphthoylpyrroles, whether or not substituted in the pyrrole ring to any extent or the naphthyl ring
18 to any extent;
- 19 (D) naphthylmethyloindenes, whether or not substituted in the indene ring to any extent or the naphthyl
20 ring to any extent;
- 21 (E) acetylindoles, whether or not substituted in the indole ring to any extent or the acetyl group to any
22 extent;
- 23 (F) cyclohexylphenols, whether or not substituted in the cyclohexyl ring to any extent or the phenyl ring
24 to any extent;
- 25 (G) dibenzopyrans, whether or not substituted in the cyclohexyl ring to any extent or the phenyl ring to
26 any extent; and
- 27 (H) benzoylindoles, whether or not substituted in the indole ring to any extent or the phenyl ring to any
28 extent;
- 29 (ii) any compound that has been demonstrated to have agonist binding activity at one or more
30 cannabinoid receptors or is a chemical analog or isomer of a compound that has been demonstrated to have

- 1 agonist binding activity at one or more cannabinoid receptors;
- 2 (iii) 1-pentyl-3-(1-naphthoyl)indole (also known as JWH-018);
- 3 (i v) (6 a R , 1 0 a R) - 9 - (h y d r o x y m e t h y l) - 6 ,
- 4 6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (also known as HU-210 or
- 5 1,1-dimethylheptyl-11-hydroxy-delta8-tetrahydrocannabinol);
- 6 (v) 2-(3-hydroxycyclohexyl)-5-(2-methyloctan-2-yl)phenol (also known as CP-47,497), and the
- 7 dimethylhexyl, dimethyloctyl, and dimethylnonyl homologues of CP-47,497;
- 8 (vi) 1-butyl-3-(1-naphthoyl)indole (also known as JWH-073);
- 9 (vii) 1-(2-(4-(morpholinyl)ethyl))-3-(1-naphthoyl) indole (also known as JWH-200);
- 10 (viii) 1-pentyl-3-(2-methoxyphenylacetyl)indole (also known as JWH-250);
- 11 (ix) 1-hexyl-3-(1-naphthoyl)indole (also known as JWH-019);
- 12 (x) 1-pentyl-3-(4-chloro-1-naphthoyl)indole (also known as JWH-398);
- 13 (xi) JWH-081: 1-pentyl-3-(4-methoxy-1-naphthoyl)indole, also known as
- 14 4-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone;
- 15 (xii) the following substances, except where contained in cannabis or cannabis resin, namely tetrahydro
- 16 derivatives of cannabinol and 3-alkyl homologues of cannabinol or of its tetrahydro derivatives:
- 17 (A) [2 , 3 - D i h y d r o - 5 - m e t h y l - 3 - (4 - m o r p h o l i n y l m e t h y l) p y r r o l o
- 18 [1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone (also known as WIN-55,212-2);
- 19 (B) 3-dimethylheptyl-11-hydroxyhexahydrocannabinol (also known as HU-243); or
- 20 (C) [9-hydroxy-6-methyl-3-[5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenanthridin-
- 21 1-yl]acetate;
- 22 (II) *Salvia divinorum*, also known as salvinorin A (2S,4aR,6aR,7R,9S,10aS,10bR)-9-
- 23 (acetyloxy)-2-(3-furanyl)dodecahydro-6a,10b-dimethyl-4, 10-dioxo-2H-naphtho[2,1-c] pyran-7-carboxylic acid
- 24 methyl ester;
- 25 (mm) substituted cathinones, including any compound, except bupropion or compounds listed in another
- 26 schedule, structurally derived from 2-amino-1-phenyl-1-propanone by modification in any of the following ways:
- 27 (i) by substitution in the phenyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl, hydroxyl,
- 28 or halide substituents, whether or not further substituted in the phenyl ring by one or more other univalent
- 29 substituents;
- 30 (ii) by substitution at the 3-position with an alkyl substituent;

1 (iii) by substitution at the nitrogen atom with alkyl or dialkyl groups, or by inclusion of the nitrogen atom
2 in a cyclic structure; and

3 (iv) any lengthening of the propanone chain between carbons 1 and 2 to any extent with alkyl groups,
4 whether further substituted or not;

5 (nn) any compound not listed in this code, in an administrative rule regulating controlled substances or
6 approved for use by the United States food and drug administration that is structurally derived from
7 2-amino-1-phenyl-1-propane by modification in any of the following ways:

8 (i) by substitution in the phenyl ring to any extent with alkyl, alkoxy, alkylenedioxy, haloalkyl, or halide
9 substituents, whether or not further substituted in the phenyl ring by one or more other univalent substituents;

10 (ii) by substitution at the 3-position with an alkyl substituent;

11 (iii) by substitution at the nitrogen atom with alkyl or dialkyl groups, or by inclusion of the nitrogen atom
12 in a cyclic structure; and

13 (iv) any lengthening of the propane chain between carbons 1 and 2 to any extent with alkyl groups,
14 whether further substituted or not.

15 (5) (a) For the purposes of subsection (4), the term "isomer" includes the optical, positional, and
16 geometric isomers.

17 (b) Subsection (4)(kk) does not apply to synthetic cannabinoids approved by the United States food and
18 drug administration and obtained by a lawful prescription through a licensed pharmacy. The department of public
19 health and human services shall adopt a rule listing the approved cannabinoids and shall update the rule as
20 necessary to keep the list current.

21 (6) Depressants. Unless specifically excepted or listed in another schedule, any material, compound,
22 mixture, or preparation that contains any quantity of the following substances is a depressant having a depressant
23 effect on the central nervous system, including salts, isomers, and salts of isomers whenever the existence of
24 those salts, isomers, and salts of isomers is possible within the specific chemical designation:

25 (a) gamma-hydroxybutyric acid, also known as gamma-hydroxybutyrate, 4-hydroxybutyrate,
26 4-hydroxybutanoic acid, sodium oxybate, sodium oxybutyrate, and GHB;

27 (b) mecloqualone; and

28 (c) methaqualone.

29 (7) Stimulants. Unless specifically excepted or listed in another schedule, any material, compound,
30 mixture, or preparation that contains any quantity of the following substances is a stimulant having a stimulant

1 effect on the central nervous system, including its salts, isomers, and salts of isomers:

2 (a) aminorex, also known as aminoxaphen, 2-amino-5-phenyl-2-oxazoline, and
3 4,5-dihydro-5-phenyl-2-oxazolamine;

4 (b) cathinone, also known as 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone,
5 2-aminopropiophenone, and norephedrone;

6 (c) fenethylamine;

7 (d) methcathinone, also known as 2-(methylamino)-propionophenone, alpha-(methylamino)propionophenone,
8 2-(methylamino)-1-phenylpropan-1-one, alpha-N-methylaminopropiophenone, monomethylpropion, ephedrone,
9 N-methylcathinone, methylcathinone, AL-464, AL-422, AL-463, and UR1432, including its salts, optical isomers,
10 and salts of optical isomers;

11 (e) 4-Methylaminorex (cis isomer), also known as U4Euh, McN-422;

12 (f) (levo-dextro) cis-4-methylaminorex, also known as (levo-dextro) cis-4,
13 5-dihydro-4-methyl-5-phenyl-2-oxazolamine;

14 (g) N-benzylpiperazine, also known as 1-benzylpiperazine or BZP;

15 (h) N-ethylamphetamine; and

16 (i) N,N-dimethylamphetamine, also known as N,N-alpha-trimethyl-benzeneethanamine and
17 N,N-alpha-trimethylphenethylamine.

18 (8) Substances subject to emergency scheduling. Any material, compound, mixture, or preparation that
19 contains any quantity of the following substances is included in this category:

20 (a) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts, and salts
21 of isomers); and

22 (b) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts,
23 and salts of isomers).

24 (9) If prescription or administration is authorized by the Federal Food, Drug and Cosmetic Act, then any
25 material, compound, mixture, or preparation containing tetrahydrocannabinols listed in subsection (4) must
26 automatically be rescheduled from Schedule I to Schedule II.

27 (10) Dangerous drug analogues. Unless specifically excepted or listed in another schedule, this
28 designation includes any material, compound, mixture, or preparation defined in 50-32-101 as a dangerous drug
29 analogue."
30

1 **Section 30.** Section 50-50-126, MCA, is amended to read:

2 **"50-50-126. Nonprofit retail food establishments authorized to serve wild game and fish meat --**
3 **rulemaking -- definitions.** (1) A retail food establishment that is owned and operated by a nonprofit organization
4 may use commercially processed meat from wild game and fish taken in Montana in meals served to individuals
5 at no charge.

6 (2) The department may adopt food safety rules for the implementation of this section.

7 (3) For the purposes of this section, the following terms apply:

8 (a) "Commercially processed meat" means wild game or fish processed by a person, firm, or corporation
9 that has a valid meat establishment license pursuant to 81-9-201.

10 (b) "Nonprofit organization" means an organization exempt from taxation under 26 U.S.C. 501(c)(3), as
11 amended.

12 ~~(c) "Retail food establishment" has the same meaning as provided in 50-50-102."~~

13

14 **Section 31.** Section 53-1-402, MCA, is amended to read:

15 **"53-1-402. Residents and financially responsible persons liable for cost of care.** (1) A resident and
16 a financially responsible person are liable to the department for the resident's cost of care as provided in this part.
17 The cost of care includes the applicable per diem and ancillary charges or all-inclusive rate charges for the care
18 of residents in the following institutions:

19 (a) Montana state hospital;

20 (b) Montana developmental center;

21 (c) Montana veterans' home;

22 (d) eastern Montana veterans' home;

23 (e) southwestern Montana veterans' home;

24 (f) Montana mental health nursing care center; and

25 (g) Montana chemical dependency treatment center.

26 (2) The eastern Montana veterans' home may assess charges on either a per diem and ancillary charge
27 basis or an all-inclusive rate basis if the department contracts with a private vendor to operate the facility as
28 provided for in 10-2-416.

29 (3) The Montana state hospital and the Montana mental health nursing care center may determine the
30 cost of care using an all-inclusive rate or per diem and ancillary charges if the department contracts with a private

1 entity to operate a mental health managed care program."

2

3 **Section 32.** Section 69-5-123, MCA, is amended to read:

4 **"69-5-123. Review and selection of contractor.** (1) (a) After an electric utility provides a cost estimate
5 to a small customer for an extension on the small customer's property to a residential, commercial, or added
6 structure, the small customer may request a contractor to provide an alternative cost estimate.

7 (b) If the small customer requesting an alternative cost estimate is served by ~~a public~~ an electric utility
8 as defined in 69-5-121(4)(a), the small customer shall pay a \$25 fee to the public service commission and file a
9 copy of the cost estimate and alternative cost estimate with the commission.

10 (2) (a) Subject to subsection (2)(b), after receiving an alternative cost estimate, the small customer may
11 hire the contractor to complete the extension on the small customer's property to the residential, commercial, or
12 added structure.

13 (b) At least 20 days prior to the contractor beginning work on the extension, the small customer shall
14 notify the electric utility that will be providing service to the small customer. The notification must be in writing.

15 (3) (a) Subject to subsections (3)(b) through (3)(d), if a contractor is selected, the extension must be built
16 on the small customer's property to meet the same standards proposed by the electric utility that will be providing
17 service to the small customer.

18 (b) Throughout construction and as the electric utility considers appropriate, the electric utility shall
19 inspect the extension and be onsite. The contractor shall notify the electric utility of construction progress as
20 needed for inspection.

21 (c) If a contractor is selected, the contract for an extension must require the payment of the standard
22 prevailing wage rate in effect and applicable to the work being performed.

23 (d) Either the contractor selected in accordance with subsection (3)(a) or the person selected by the
24 electric utility completing inspections onsite in accordance with subsection (3)(b) must be a journeyman lineman
25 or professional engineer.

26 (4) (a) When the extension is completed by the contractor, the electric utility that will be providing service
27 to the small customer shall complete a final inspection. After the final inspection and following the correction of
28 deficiencies, if any, the electric utility shall provide the small customer a written statement that construction is
29 complete.

30 (b) After the written statement is issued in accordance with subsection (4)(a), the electric utility shall

1 connect the extension to the electric utility's system.

2 (5) Construction and completion of an extension by a contractor does not:

3 (a) affect the location of a vector, a capacity decision, or any other agreement made in accordance with
4 69-5-101 through 69-5-114;

5 (b) allow the contractor to connect an extension to an electric utility without the electric utility's written
6 statement and final inspection in accordance with subsection (4); or

7 (c) affect the rights and duties of a rural electric cooperative organized in accordance with Title 35,
8 chapter 18, to adopt policies or to implement the provisions of this section.

9 (6) (a) If a contractor is hired in accordance with this section, the cost of engineering, construction, and
10 other services must be paid by the small customer who sought the alternative cost estimate and hired the
11 contractor.

12 (b) The small customer is also responsible for costs incurred by an electric utility while onsite during
13 construction and inspections in accordance with subsections (3) and (4).

14 (7) If a contractor is hired in accordance with this section, when construction is complete the customer
15 and the electric utility may negotiate ownership and maintenance of the extension."
16

17 **Section 33.** Section 72-30-213, MCA, is amended to read:

18 **"72-30-213. Relation to Electronic Signatures in Global and National Commerce Act.** This chapter
19 modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001,
20 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. 7001(a)(c), or authorize
21 electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. 7003(b)."
22

23 **Section 34.** Section 75-2-103, MCA, is amended to read:

24 **"75-2-103. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions
25 apply:

26 (1) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous
27 substances, or any combination of those air contaminants.

28 (2) "Air pollutants" means one or more air contaminants that are present in the outdoor atmosphere,
29 including those pollutants regulated pursuant to section 7412 and Subchapter V of the federal Clean Air Act, 42
30 U.S.C. 7401, et seq.

- 1 (3) "Air pollution" means the presence of air pollutants in a quantity and for a duration that are or tend
2 to be injurious to human health or welfare, animal or plant life, or property or that would unreasonably interfere
3 with the enjoyment of life, property, or the conduct of business.
- 4 (4) "Associated supporting infrastructure" means:
5 (a) electric transmission and distribution facilities;
6 (b) pipeline facilities;
7 (c) aboveground ponds and reservoirs and underground storage reservoirs;
8 (d) rail transportation;
9 (e) aqueducts and diversion dams;
10 (f) devices or equipment associated with the delivery of an energy form or product produced at an energy
11 development project; or
12 (g) other supporting infrastructure, as defined by board rule, that is necessary for an energy development
13 project.
- 14 (5) "Board" means the board of environmental review provided for in 2-15-3502.
- 15 (6) (a) "Commercial hazardous waste incinerator" means:
16 (i) an incinerator that burns hazardous waste; or
17 (ii) a boiler or industrial furnace subject to the provisions of 75-10-406.
18 (b) Commercial hazardous waste incinerator does not include a research and development facility that
19 receives federal or state research funds and that burns hazardous waste primarily to test and evaluate waste
20 treatment remediation technologies.
- 21 (7) "Department" means the department of environmental quality provided for in 2-15-3501.
- 22 (8) "Emission" means a release into the outdoor atmosphere of air contaminants.
- 23 (9) (a) "Energy development project" means each plant, unit, or other development and associated
24 developments, including any associated supporting infrastructure, designed for or capable of:
25 (i) generating electricity;
26 (ii) producing gas derived from coal;
27 (iii) producing liquid hydrocarbon products;
28 (iv) refining crude oil or natural gas;
29 (v) producing alcohol to be blended for ethanol-blended gasoline and that are eligible for a tax incentive
30 pursuant to Title 15, chapter 70, part 5;

1 (vi) producing biodiesel and that are eligible for a tax incentive for the production of biodiesel pursuant
2 to 15-32-701; or

3 (vii) transmitting electricity through an electric transmission line with a design capacity of equal to or
4 greater than 50 kilovolts.

5 (b) The term does not include a nuclear facility as defined in 75-20-1202.

6 (10) "Environmental protection law" means a law contained in or an administrative rule adopted pursuant
7 to Title 75, chapter 2, 5, 10, or 11.

8 (11) "Hazardous waste" means:

9 (a) a substance defined as hazardous under 75-10-403 or defined as hazardous in department
10 administrative rules adopted pursuant to Title 75, chapter 10, part 4; or

11 (b) a waste containing 2 parts or more per million of polychlorinated biphenyl (PCB).

12 (12) (a) "Incinerator" means any single- or multiple-chambered combustion device that burns combustible
13 material, alone or with a supplemental fuel or with catalytic combustion assistance, primarily for the purpose of
14 removal, destruction, disposal, or volume reduction of any portion of the input material.

15 (b) Incinerator does not include:

16 (i) safety flares used to combust or dispose of hazardous or toxic gases at industrial facilities, such as
17 refineries, gas sweetening plants, oil and gas wells, sulfur recovery plants, or elemental phosphorus plants;

18 (ii) space heaters that burn used oil;

19 (iii) wood-fired boilers; or

20 (iv) wood waste burners, such as tepee, wigwam, truncated cone, or silo burners.

21 (13) "Medical waste" means any waste that is generated in the diagnosis, treatment, or immunization of
22 human beings or animals, in medical research on humans or animals, or in the production or testing of biologicals.

23 The term includes:

24 (a) cultures and stocks of infectious agents;

25 (b) human pathological wastes;

26 (c) waste human blood or products of human blood;

27 (d) sharps;

28 (e) contaminated animal carcasses, body parts, and bedding that were known to have been exposed
29 to infectious agents during research;

30 (f) laboratory wastes and wastes from autopsy or surgery that were in contact with infectious agents; and

1 (g) biological waste and discarded material contaminated with blood, excretion, exudates, or secretions
2 from humans or animals.

3 (14) (a) "Oil or gas well facility" means a well that produces oil or natural gas. The term includes:

4 (i) equipment associated with the well and used for the purpose of producing, treating, separating, or
5 storing oil, natural gas, or other liquids produced by the well; and

6 (ii) a group of wells under common ownership or control that produce oil or natural gas and that share
7 common equipment used for the purpose of producing, treating, separating, or storing oil, natural gas, or other
8 liquids produced by the wells.

9 (b) The equipment referred to in subsection ~~(15)(a)~~ (14)(a) includes but is not limited to wellhead
10 assemblies, amine units, prime mover engines, phase separators, heater treater units, dehydrator units, tanks,
11 and connecting tubing.

12 (c) The term does not include equipment such as compressor engines used for transmission of oil or
13 natural gas.

14 (15) "Person" means an individual, a partnership, a firm, an association, a municipality, a public or private
15 corporation, the state or a subdivision or agency of the state, a trust, an estate, an interstate body, the federal
16 government or an agency of the federal government, or any other legal entity and includes persons resident in
17 Canada.

18 (16) "Principal" means a principal of a corporation, including but not limited to a partner, associate, officer,
19 parent corporation, or subsidiary corporation.

20 (17) "Small business stationary source" means a stationary source that:

21 (a) is owned or operated by a person who employs 100 or fewer individuals;

22 (b) is a small business concern as defined in the Small Business Act, 15 U.S.C. 631, et seq.;

23 (c) is not a major stationary source as defined in Subchapter V of the federal Clean Air Act, 42 U.S.C.
24 7661, et seq.;

25 (d) emits less than 50 tons per year of an air pollutant;

26 (e) emits less than a total of 75 tons per year of all air pollutants combined; and

27 (f) is not excluded from this definition under 75-2-108(3).

28 (18) (a) "Solid waste" means all putrescible and nonputrescible solid, semisolid, liquid, or gaseous
29 wastes, including but not limited to garbage; rubbish; refuse; ashes; swill; food wastes; commercial or industrial
30 wastes; medical waste; sludge from sewage treatment plants, water supply treatment plants, or air pollution

1 control facilities; construction, demolition, or salvage wastes; dead animals, dead animal parts, offal, animal
2 droppings, or litter; discarded home and industrial appliances; automobile bodies, tires, interiors, or parts thereof;
3 wood products or wood byproducts and inert materials; styrofoam and other plastics; rubber materials; asphalt
4 shingles; tarpaper; electrical equipment, transformers, or insulated wire; oil or petroleum products or oil or
5 petroleum products and inert materials; treated lumber and timbers; and pathogenic or infectious waste.

6 (b) Solid waste does not include municipal sewage, industrial wastewater effluents, mining wastes
7 regulated under the mining and reclamation laws administered by the department of environmental quality, or
8 slash and forest debris regulated under laws administered by the department of natural resources and
9 conservation."

10

11 **Section 35.** Section 76-4-125, MCA, is amended to read:

12 **"76-4-125. (Temporary) Land divisions excluded from review.** (1) A subdivision excluded from the
13 provisions of chapter 3 must be submitted for review according to the provisions of this part, except that the
14 following divisions or parcels, unless the exclusions are used to evade the provisions of this part, are not subject
15 to review:

16 (a) the exclusion cited in 76-3-201;

17 (b) divisions made for the purpose of acquiring additional land to become part of an approved parcel,
18 provided that water or sewage disposal facilities may not be constructed on the additional acquired parcel and
19 that the division does not fall within a previously platted or approved subdivision;

20 (c) divisions made for purposes other than the construction of water supply or sewage and solid waste
21 disposal facilities as the department specifies by rule;

22 (d) divisions located within jurisdictional areas that have adopted growth policies pursuant to chapter 1
23 or within first-class or second-class municipalities for which the governing body certifies, pursuant to 76-4-127,
24 that adequate storm water drainage and adequate municipal facilities will be provided; and

25 (e) subject to the provisions of subsection ~~(3)~~ (2), a remainder of an original tract created by segregating
26 a parcel from the tract for purposes of transfer if:

27 (i) the remainder is served by a public or multiple-user sewage system approved before January 1, 1997,
28 pursuant to local regulations or this chapter; or

29 (ii) the remainder is 1 acre or larger and has an individual sewage system serving a discharge source
30 that was in existence prior to April 29, 1993, and, if required when installed, the system was approved pursuant

1 to local regulations or this chapter.

2 (2) Consistent with the applicable provisions of 50-2-116, a local health officer may require that, prior
3 to the filing of a plat or a certificate of survey subject to review under this part for the parcel to be segregated from
4 the remainder referenced in subsection (1)(e)(ii), the remainder include acreage or features sufficient to
5 accommodate a replacement drainfield. (Terminates September 30, 2019--sec. 13, Ch. 344, L. 2017.)

6 **76-4-125. (Effective October 1, 2019) Review of subdivision application -- land divisions excluded**
7 **from review.** (1) Except as provided in subsection (2), an application for review of a subdivision must be
8 submitted to the reviewing authority. The review by the reviewing authority must be as follows:

9 (a) At any time after the developer has submitted an application under the Montana Subdivision and
10 Platting Act, the developer shall present a subdivision application to the reviewing authority. The application must
11 include preliminary plans and specifications for the proposed development, whatever information the developer
12 feels necessary for its subsequent review, any public comments or summaries of public comments collected as
13 provided in 76-3-604(7), and information required by the reviewing authority. Subdivision fees assessed by the
14 reviewing authority must accompany the application. If the proposed development includes onsite sewage
15 disposal facilities, the developer shall notify the designated agent of the local board of health prior to presenting
16 the subdivision application to the reviewing authority. The agent may conduct a preliminary site assessment to
17 determine whether the site meets applicable state and local requirements.

18 (b) Within 5 working days after receipt of an application that is not subject to review by a local reviewing
19 authority under 76-4-104, the department shall provide a written notice for informational purposes to the applicant
20 if the application does not include a copy of the certification from the local health department required by
21 76-4-104(6)(k) or, if applicable, contain an approval from the local governing body under Title 76, chapter 3,
22 together with any public comments or summaries of public comments collected as provided in 76-3-604(7)(a).

23 (c) If the reviewing authority denies an application and the applicant resubmits a corrected application
24 within 30 calendar days after the date of the denial letter, the reviewing authority shall complete review of the
25 resubmitted application within 30 calendar days after receipt of the resubmitted application. If the review of the
26 resubmitted application is conducted by a local department or board of health that is certified under 76-4-104,
27 the department shall make a final decision on the application within 10 calendar days after the local reviewing
28 authority completes its review.

29 (d) Except as provided in 75-1-205(4) and 75-1-208(4)(b), the department shall make a final decision
30 on the proposed subdivision within 55 calendar days after the submission of a complete application and payment

1 of fees to the reviewing authority unless an environmental impact statement is required, at which time this
2 deadline may be increased to 120 calendar days. The reviewing authority may not request additional information
3 for the purpose of extending the time allowed for a review and final decision on the proposed subdivision. If the
4 department approves the subdivision, the department shall issue a certificate of subdivision approval indicating
5 that it has approved the plans and specifications and that the subdivision is not subject to a sanitary restriction.

6 (2) A subdivision excluded from the provisions of chapter 3 must be submitted for review according to
7 the provisions of this part, except that the following divisions or parcels, unless the exclusions are used to evade
8 the provisions of this part, are not subject to review:

9 (a) the exclusion cited in 76-3-201;

10 (b) divisions made for the purpose of acquiring additional land to become part of an approved parcel,
11 provided that water or sewage disposal facilities may not be constructed on the additional acquired parcel and
12 that the division does not fall within a previously platted or approved subdivision;

13 (c) divisions made for purposes other than the construction of water supply or sewage and solid waste
14 disposal facilities as the department specifies by rule;

15 (d) divisions located within jurisdictional areas that have adopted growth policies pursuant to chapter 1
16 or within first-class or second-class municipalities for which the governing body certifies, pursuant to 76-4-127,
17 that adequate storm water drainage and adequate municipal facilities will be provided; and

18 (e) subject to the provisions of subsection (3), a remainder of an original tract created by segregating
19 a parcel from the tract for purposes of transfer if:

20 (i) the remainder is served by a public or multiple-user sewage system approved before January 1, 1997,
21 pursuant to local regulations or this chapter; or

22 (ii) the remainder is 1 acre or larger and has an individual sewage system serving a discharge source
23 that was in existence prior to April 29, 1993, and, if required when installed, the system was approved pursuant
24 to local regulations or this chapter.

25 (3) Consistent with the applicable provisions of 50-2-116, a local health officer may require that, prior
26 to the filing of a plat or a certificate of survey subject to review under this part for the parcel to be segregated from
27 the remainder referenced in subsection (2)(e)(ii), the remainder include acreage or features sufficient to
28 accommodate a replacement drainfield."

29

30 **Section 36.** Section 80-8-102, MCA, is amended to read:

- 1 **"80-8-102. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions
2 apply:
- 3 (1) "Active ingredient" means:
- 4 (a) in the case of a pesticide, other than a plant regulator, defoliant, or desiccant, an ingredient that will
5 prevent, destroy, repel, alter life processes, or mitigate insects, nematodes, fungi, rodents, weeds, or other pests;
- 6 (b) in the case of a plant regulator, an ingredient that acts upon the physiology to accelerate or retard
7 the rate of growth or rate of maturation or otherwise alter the normal processes of ornamental or crop plants or
8 their produce;
- 9 (c) in the case of a defoliant, an ingredient that will cause the leaves or foliage to drop from a plant;
- 10 (d) in the case of a desiccant, an ingredient that will artificially accelerate the drying of plant tissue.
- 11 (2) "Adulterated" applies to a pesticide if its strength of purity falls below the professed standard or quality
12 as expressed on labeling or under which it is sold, if any substance has been substituted wholly or in part for the
13 pesticide, or if any valuable constituent of the pesticide has been wholly or in part abstracted.
- 14 (3) "Applicator" means a person who applies pesticides by any method.
- 15 (4) "Beneficial insects" means those insects that, in the course of their life cycle, carry, transmit, or
16 spread pollen to and from vegetation, act as parasites and predators on other insects, or are otherwise beneficial.
- 17 (5) "Commercial applicator" means a person who by contract or for hire applies by aerial, ground, or
18 hand equipment pesticides to land, plants, seed, animals, waters, structures, or vehicles.
- 19 (6) "Commercial operator" means a person who applies pesticides under the supervision of a commercial
20 applicator.
- 21 (7) "Crop" means a food intended for human or animal consumption or a fiber product.
- 22 (8) "Dealer" means a person who sells, wholesales, offers or exposes for sale, exchanges, barter, or
23 gives away within this state any pesticide except those pesticides that are to be used for home, yard, ~~garden,~~ and
24 lawn, and garden.
- 25 (9) "Defoliant" means a substance or mixture of substances for causing the leaves or foliage to drop from
26 a plant, with or without causing abscission.
- 27 (10) "Desiccant" means a substance or mixture of substances for artificially accelerating the drying of
28 plant tissue.
- 29 (11) (a) "Device" means any instrument or contrivance intended for destroying, controlling, repelling, or
30 mitigating pests.

1 (b) The term does not include equipment used for the application of pesticides.

2 (12) "Environment" means the soil, air, water, plants, and animals.

3 (13) "Equipment" means equipment used in the actual application of pesticides, including aircraft, ground
4 sprayers and dusters, hand-held applicators, and water surface equipment.

5 (14) "Farm applicator" means a person applying pesticides to the person's own crops or land.

6 (15) "Fungi" means all nonchlorophyll-bearing thallophytes (all nonchlorophyll-bearing plants of a lower
7 order than mosses and liverworts), such as rusts, smuts, mildews, molds, and yeasts, except those resident on
8 or in living humans or other animals.

9 (16) "Herbicide" means a substance or mixture of substances for preventing, destroying, repelling, or
10 mitigating any weed.

11 (17) "Inert ingredient" means an ingredient that is not an active ingredient.

12 (18) "Ingredient statement" means either:

13 (a) a statement of the chemical name and common name and percentage of each active ingredient,
14 together with the total percentage of the inert ingredients, in the pesticide; or

15 (b) a statement of the chemical name and common name of each active ingredient, together with the
16 name of each and total percentage of the inert ingredients, if any, in the pesticide. However, subsection (18)(a)
17 applies if the preparation is highly toxic to humans, determined as provided in 80-8-105. If the pesticide contains
18 arsenic in any form, the ingredient statement must also include a statement of the percentage of total and
19 water-soluble arsenic, each calculated as elemental arsenic.

20 (19) "Insect" means any of the numerous small invertebrate animals generally having the body more or
21 less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, winged and
22 wingless forms, such as beetles, bugs, wasps, flies, and keds, and to other classes of arthropods whose
23 members are wingless and usually have more than six legs, such as spiders, mites, ticks, centipedes, and wood
24 lice.

25 (20) "Insecticide" means any substance or mixture of substances for preventing, destroying, repelling,
26 or mitigating any insects present in any environment.

27 (21) "Label" means the written, printed, or graphic matter on or attached to the pesticide or device or to
28 its immediate container and any outside container or wrapper of any retail package of the pesticide or device.

29 (22) "Labeling" means all labels and other written, printed, or graphic matter:

30 (a) on the pesticide or device or any of its containers or wrappers;

- 1 (b) accompanying the pesticide or device at any time;
- 2 (c) to which reference is made on the label or in literature accompanying the pesticide or device, except
- 3 when accurate, nonmisleading reference is made to current official publications of:
- 4 (i) the United States environmental protection agency;
- 5 (ii) federal departments of agriculture, interior, or health and human services;
- 6 (iii) state experiment stations;
- 7 (iv) state agricultural colleges; or
- 8 (v) other similar federal institutions or official agencies of this state or other states authorized by law to
- 9 conduct research in the field of pesticides.
- 10 (23) "Misbranded" applies:
- 11 (a) to a pesticide or device if its labeling bears any statement, design, or graphic representation relative
- 12 to its ingredients that is false or misleading;
- 13 (b) to a pesticide if:
- 14 (i) it is an imitation of or is offered for sale under the name of another pesticide;
- 15 (ii) its labeling fails to bear the necessary information required by this chapter;
- 16 (iii) the labeling accompanying it does not contain instructions for use that when followed provide
- 17 adequate public protection;
- 18 (iv) the label does not contain a warning or caution statement necessary and, if complied with, adequate
- 19 to prevent injury to living humans or undue hazard to the environment;
- 20 (v) the label of the retail package that is presented or displayed under customary conditions of purchase
- 21 does not bear an ingredient statement on that part of the immediate container and on the outside or on a wrapper
- 22 through which the ingredient statement on the immediate container cannot be clearly read;
- 23 (vi) any word, statement, or other information required to appear on the labeling is not prominently placed
- 24 on the labeling with a conspicuousness (as compared with other words, statements, designs, or graphic matter
- 25 in the labeling) and in terms rendering it likely to be read and understood by the ordinary individual under
- 26 customary conditions of purchase and use;
- 27 (vii) in the case of an insecticide, nematicide, fungicide, or herbicide, when used as directed or in
- 28 accordance with commonly recognized practice, it is injurious to living humans or other vertebrate animals or
- 29 vegetation, except weeds, to which it is applied or to the person applying the pesticide;
- 30 (viii) in the case of a plant regulator, defoliant, or desiccant, when used as directed, it is injurious to

1 humans or other vertebrate animals or vegetation to which it is applied or to the person applying the pesticide.
2 Physical or physiological effects on plants or parts of plants are not injurious when this is the purpose for which
3 the plant regulator, defoliant, or desiccant is applied in accordance with the label claims and recommendations.

4 (24) "Person" means any natural person, individual, firm, partnership, association, corporation, company,
5 joint-stock association, body politic, or organized group of persons, whether incorporated or not, and any trustee,
6 receiver, assignee, or similar representative.

7 (25) "Pest" includes any insect, rodent, nematode, snail, slug, or weed and any form of plant or animal
8 life or virus, except a virus on or in living humans or other animals, that is normally considered a pest or that the
9 department declares a pest.

10 (26) "Pesticide" means any:

11 (a) substance or mixture of substances, including any living organism or any product derived from a living
12 organism, intended for preventing, destroying, controlling, repelling, altering life processes, or mitigating any
13 insects, rodents, nematodes, fungi, weeds, and other forms of plant or animal life or viruses, except viruses on
14 or in living humans or other animals, that may infect or be detrimental to persons, vegetation, crops, animals,
15 structures, or households or be present in any environment or that the department declares a pest;

16 (b) substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; and

17 (c) other substances intended for that use named by the department by rule.

18 (27) (a) "Plant regulator" means any substance or mixture of substances affecting the rate of growth or
19 rate of maturation or for otherwise altering physiological condition of plants.

20 (b) The term does not include substances to the extent that they are intended as plant nutrients, trace
21 elements, nutritional chemicals, plant inoculants, and soil amendments.

22 (28) "Public utility applicator" means a person applying pesticides to land and structures owned or leased
23 by a public utility.

24 (29) "Registrant" means the person registering any pesticide or device under the provisions of this
25 chapter.

26 (30) "Restricted-use pesticide" means any pesticide, including highly toxic pesticides, that the department
27 or the environmental protection agency has found and determined to be injurious, when used in accordance with
28 registration, label, directions, and cautions, to persons, beneficial insects, animals, crops, or the environment
29 other than the pests it is intended to prevent, destroy, control, or mitigate.

30 (31) "Retailer" means a person who sells, offers or exposes for sale, exchanges, barter, or gives away

1 within this state any pesticide for home, yard, lawn, and garden use in quantities or concentrations as determined
2 by the department.

3 (32) "Waste pesticide" means a pesticide that:

4 (a) may not be used legally because the environmental protection agency or the department has
5 canceled or suspended the pesticide's registration or has taken other administrative action to prohibit use of the
6 pesticide;

7 (b) will not be used for reasons including but not limited to product damage, toxicity, or obsolescence;

8 or

9 (c) cannot be disposed of in a legal or economically feasible manner.

10 (33) "Weed" means any plant or part of the plant that grows where it is not wanted."
11

12 **Section 37.** Section 82-11-111, MCA, is amended to read:

13 **"82-11-111. (Temporary) Powers and duties of board.** (1) The board shall make investigations that
14 it considers proper to determine whether waste exists or is imminent or whether other facts exist that justify any
15 action by the board under the authority granted by this chapter.

16 (2) Subject to the administrative control of the department under 2-15-121, the board shall:

17 (a) require measures to be taken to prevent contamination of or damage to surrounding land or
18 underground strata caused by drilling operations and production, including but not limited to regulating the
19 disposal or injection of water and disposal of oil field wastes;

20 (b) classify wells as oil or gas wells or class II injection wells for purposes material to the interpretation
21 or enforcement of this chapter;

22 (c) adopt and enforce rules and orders to implement this chapter.

23 (3) The board shall determine and prescribe which producing wells are defined as "stripper wells" and
24 which wells are defined as "wildcat wells" and make orders that in its judgment are required to protect those wells
25 and provide that stripper wells may be produced to capacity if that is considered necessary in the interest of
26 conservation.

27 (4) With respect to any pool from which gas was being produced by a gas well on or prior to April 1,
28 1953, this chapter does not authorize the board to limit or restrain the rate, daily or otherwise, of production of
29 gas from that pool by any existing well or a well drilled after that date and producing from that pool to less than
30 the rate at which the well can be produced without adversely affecting the quantity of gas ultimately recoverable

1 by the well.

2 (5) The board has exclusive jurisdiction over all class II injection wells and all pits and ponds in relation
3 to those injection wells. The board may:

4 (a) issue, suspend, revoke, modify, or deny permits to operate class II injection wells consistent with
5 rules made by it;

6 (b) examine plans and other information needed to determine whether a permit should be issued or
7 require changes in plans as a condition to the issuance of a permit;

8 (c) clearly specify in a permit any limitations imposed as to the volume and characteristics of the fluids
9 to be injected and the operation of the well;

10 (d) authorize its staff to enter upon any public or private property at reasonable times to:

11 (i) investigate conditions relating to violations of permit conditions;

12 (ii) have access to and copy records required under this chapter;

13 (iii) inspect monitoring equipment or methods; and

14 (iv) sample fluids that the operator is required to sample; and

15 (e) adopt standards for the design, construction, testing, and operation of class II injection wells.

16 (6) The board shall determine, for the purposes of using the oil and gas production damage mitigation
17 account established in 82-11-161:

18 (a) when the person responsible for an abandoned well, sump, or hole cannot be identified or located
19 or, if the person is identified or located, when the person does not have sufficient financial resources to properly
20 plug the well, sump, or hole; or

21 (b) when a previously abandoned well, sump, or hole is the cause of potential environmental problems
22 and no responsible party can be identified or located or, if a responsible party can be identified and located, when
23 the person does not have sufficient financial resources to correct the problems.

24 (7) The board may take measures to demonstrate to the general public the importance of the state's oil
25 and gas exploration and production industry, to encourage and promote the wise and efficient use of energy, to
26 promote environmentally sound exploration and production methods and technologies, to develop the state's oil
27 and gas resources, and to support research and educational activities concerning the oil and natural gas
28 exploration and production industry. The board may:

29 (a) make grants or loans and provide other forms of financial assistance as necessary or appropriate
30 from available funds to qualified persons for research, development, marketing, educational projects, and

1 processes or activities directly related to the state's oil and gas exploration and production industry;

2 (b) enter into contracts or agreements to carry out the purposes of this subsection (7), including the
3 authority to contract for the administration of an oil and gas research, development, marketing, and educational
4 program;

5 (c) cooperate with any private, local, state, or national commission, organization, agent, or group and
6 enter into contracts and agreements for programs benefiting the oil and gas exploration and production industry;

7 (d) coordinate with the Montana university system, including Montana ~~tech~~ of the technological university
8 of Montana or any of its affiliated research programs;

9 (e) accept donations, grants, contributions, and gifts from any public or private source for deposit in the
10 oil and gas education and research account established in 82-11-110;

11 (f) distribute funds from the oil and gas education and research account to carry out the provisions of
12 this subsection (7); and

13 (g) make orders and rules to implement the provisions of this subsection (7).

14 **82-11-111. (Effective on occurrence of contingency) Powers and duties of board.** (1) The board
15 shall investigate matters it considers proper to determine whether waste exists or is imminent or whether other
16 facts exist that justify any action by the board under the authority granted by this chapter.

17 (2) Subject to the administrative control of the department under 2-15-121, the board shall:

18 (a) require measures to be taken to prevent contamination of or damage to surrounding land or
19 underground strata caused by drilling operations and production, including but not limited to regulating the
20 disposal or injection of water or carbon dioxide and disposal of oil field wastes;

21 (b) classify wells as oil or gas wells, carbon dioxide injection wells, or class II injection wells for purposes
22 material to the interpretation or enforcement of this chapter;

23 (c) adopt and enforce rules and orders to implement this chapter.

24 (3) The board shall determine and prescribe which producing wells are defined as "stripper wells" and
25 which wells are defined as "wildcat wells" and make orders that in its judgment are required to protect those wells
26 and provide that stripper wells may be produced to capacity if that is considered necessary in the interest of
27 conservation.

28 (4) With respect to any pool with gas being produced by a gas well on or prior to April 1, 1953, this
29 chapter does not authorize the board to limit or restrain the rate, daily or otherwise, of production of gas from that
30 pool by any existing well or a well drilled after that date and producing from that pool to less than the rate at which

1 the well can be produced without adversely affecting the quantity of gas ultimately recoverable by the well.

2 (5) Subject to subsection (8), the board has exclusive jurisdiction over carbon dioxide injection wells,
3 geologic storage reservoirs, all class II injection wells, and all pits and ponds in relation to those injection wells.

4 The board may:

5 (a) issue, suspend, revoke, modify, or deny permits to operate carbon dioxide injection wells and class
6 II injection wells, consistent with rules made by it and pursuant to 82-11-123. If a permit for a carbon dioxide
7 injection well is revoked, an operator may not seek a refund of application or permitting fees or fees paid pursuant
8 to 82-11-181 or 82-11-184(2)(b).

9 (b) examine plans and other information needed to determine whether a permit should be issued or
10 require changes in plans as a condition to the issuance of a permit;

11 (c) clearly specify in a permit any limitations imposed as to the volume and characteristics of the fluids
12 to be injected and the operation of the well;

13 (d) authorize its staff to enter upon any public or private property at reasonable times to:

14 (i) investigate conditions relating to violations of permit conditions;

15 (ii) have access to and copy records required under this chapter;

16 (iii) inspect monitoring equipment or methods; and

17 (iv) sample fluids that the operator or geologic storage operator is required to sample; and

18 (e) adopt standards for the design, construction, testing, and operation of carbon dioxide injection wells
19 and class II injection wells.

20 (6) The board shall determine, for the purposes of using the oil and gas production damage mitigation
21 account established in 82-11-161 or the geologic storage reservoir program account established in 82-11-181:

22 (a) when the person responsible for an abandoned well, sump, or hole cannot be identified or located
23 or, if the person is identified or located, when the person does not have sufficient financial resources to properly
24 plug the well, sump, or hole; or

25 (b) when a previously abandoned well, sump, or hole is the cause of potential environmental problems
26 and a responsible party cannot be identified or located or, if a responsible party can be identified and located,
27 when the person does not have sufficient financial resources to correct the problems.

28 (7) The board may take measures to demonstrate to the general public the importance of the state's oil
29 and gas exploration and production industry, to encourage and promote the wise and efficient use of energy, to
30 promote environmentally sound exploration and production methods and technologies, to develop the state's oil

1 and gas resources, and to support research and educational activities concerning the oil and natural gas
2 exploration and production industry. The board may:

3 (a) make grants or loans and provide other forms of financial assistance as necessary or appropriate
4 from available funds to qualified persons for research, development, marketing, educational projects, and
5 processes or activities directly related to the state's oil and gas exploration and production industry;

6 (b) enter into contracts or agreements to carry out the purposes of this subsection (7), including the
7 authority to contract for the administration of an oil and gas research, development, marketing, and educational
8 program;

9 (c) cooperate with any private, local, state, or national commission, organization, agent, or group and
10 enter into contracts and agreements for programs benefiting the oil and gas exploration and production industry;

11 (d) coordinate with the Montana university system, including Montana ~~tech of the~~ technological university
12 ~~of Montana~~ or any of its affiliated research programs;

13 (e) accept donations, grants, contributions, and gifts from any public or private source for deposit in the
14 oil and gas education and research account established in 82-11-110;

15 (f) distribute funds from the oil and gas education and research account to carry out the provisions of
16 this subsection (7); and

17 (g) make orders and rules to implement the provisions of this subsection (7).

18 (8) (a) Before holding a hearing on a proposed permit for a carbon dioxide injection well, the board shall
19 solicit, document, consider, and address comments from the department of environmental quality on the proposal.

20 (b) Notwithstanding the provisions of subsection (8)(a), the board makes the final decision on issuance
21 of a permit.

22 (9) Solely for the purposes of administering carbon dioxide injection wells under this part, carbon dioxide
23 within a geologic storage reservoir is not a pollutant, a nuisance, or a hazardous or deleterious substance."
24

25 **Section 38.** Section 87-4-601, MCA, is amended to read:

26 **"87-4-601. Sale of fish or spawn.** (1) Until June 30, 2028, a person issued a paddlefish tag under
27 87-2-306 who legally takes a paddlefish from the Yellowstone River between the ~~burlington northern~~
28 bridge at Glendive to the North Dakota state line during an authorized paddlefish season may donate the
29 paddlefish roe, or eggs, to a Montana nonprofit corporation as specified in subsection (2) for processing and
30 marketing as caviar. A paddlefish may be brought only to the Intake fishing access site for donation to the

1 paddlefish roe donation program and must be a properly tagged, whole paddlefish. Roe separated from the
2 paddlefish is not acceptable for donation to the program. A paddlefish intentionally cut in any manner to identify
3 its sex is also unacceptable for donation to the program.

4 (2) The department shall develop rules for selecting one Montana nonprofit organization to accept
5 paddlefish egg donations and process and market the eggs as caviar. The department shall also develop rules
6 for the marketing and sale of caviar under this section.

7 (3) The department may enter into an agreement with the organization selected pursuant to the rules
8 provided for in subsection (2) specifying times, sites, and other conditions under which paddlefish eggs may be
9 collected. The agreement must require the organization to maintain records of revenue collected and related
10 expenses incurred and to make the records available to the department and the legislative auditor upon request.

11 (4) (a) Thirty percent of the proceeds from the sale of paddlefish egg caviar products in excess of the
12 costs of collection, processing, and marketing must be deposited in a state special revenue fund established for
13 the department. The fund and any interest earned on the fund must be used to benefit the paddlefish fishery,
14 including fishing access, administration, improvements, habitat, and fisheries management, or to provide
15 information to the public regarding fishing in eastern Montana, which could include the design and construction
16 of interpretive displays.

17 (b) Seventy percent of the proceeds from the sale of paddlefish egg caviar products in excess of the
18 costs of collection, processing, and marketing must be paid to the nonprofit organization that processes and
19 markets the caviar. The nonprofit organization's administrative costs must be paid from its share of the proceeds.
20 A paddlefish grant advisory committee must be appointed by the commission and consist of one member from
21 the organization selected pursuant to the rules provided for in subsection (2), two area local government
22 representatives, and two representatives of area anglers. The committee shall solicit and review historical,
23 cultural, recreational, and fish and wildlife proposals and fund projects. The committee shall notify the commission
24 of its actions. Proceeds may be used as seed money for grants.

25 (5) A person may possess and sell legally taken nongame fish, as provided in 87-4-609 and rules
26 adopted by the department pursuant to 87-4-609."

27

28 **Section 39.** Section 90-6-309, MCA, is amended to read:

29 **"90-6-309. Tax prepayment -- large-scale mineral development.** (1) After permission to commence
30 operation is granted by the appropriate governmental agency and upon request of the governing body of a county

1 in which a facility is to be located, a person intending to construct or locate a large-scale mineral development
 2 in this state shall prepay property taxes as specified in the impact plan. This prepayment must exclude the 6-mill
 3 university levy established under ~~45-10-108~~ 15-10-109 and may exclude the mandatory county levies for the
 4 school BASE funding program established in 20-9-331 and 20-9-333.

5 (2) The person who is to prepay under this section is not obligated to prepay the entire amount
 6 established in subsection (1) at one time. Upon request of the governing body of an affected local government
 7 unit, the person shall prepay the amount shown to be needed from time to time as determined by the board.

8 (3) The person who is to prepay shall guarantee to the hard-rock mining impact board, through an
 9 appropriate financial institution, as may be required by the board, that property tax prepayments will be paid as
 10 needed for expenditures created by the impacts of the large-scale mineral development.

11 (4) When the mineral development facilities are completed and assessed by the department of revenue,
 12 they are subject during the first 3 years and thereafter to taxation as all other property similarly situated, except
 13 that in each year after the start of production, the local government unit that received a property tax prepayment
 14 shall provide for repayment of prepaid property taxes in accordance with subsection (5).

15 (5) A local government unit that received all or a portion of the property tax prepayment under this
 16 section shall provide for tax crediting as specified in the impact plan. The tax credit allowed in any year may not,
 17 however, exceed the tax obligation of the developer for that year, and the time period for tax crediting is limited
 18 to the productive life of the mining operation."

19

20 **Section 40.** Section 12, Chapter 55, Laws of 2017, is amended to read:

21 **"Section 12. Termination.** ~~[Section 2] terminates~~ [Sections 1 and 2] terminate June 30, 2023."

22

23 **Section 41.** Section 21, Chapter 387, Laws of 2017, is amended to read:

24 **"Section 21. Termination.** (1) [Sections 1, 6, 13, 14, 15, 16, and 17] terminate February 29, 2020.

25 (2) [Sections 4 and 7(6)] terminate June 30, 2027.

26 (3) [Sections 2, and 3, and 5] and the references to [sections 2 and 3] in [section 6] terminate June 30,
 27 2019."

28

29 **NEW SECTION. Section 42. Directions to code commissioner.** Sections 2-15-2012 through
 30 2-15-2014 are intended to be renumbered and codified as an integral part of Title 44, chapter 7.

