

## HOUSE BILL NO. 454

INTRODUCED BY K. WHITE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE ADMINISTRATION OF  
5 RECREATIONAL RESOURCE PROGRAMS; ADMINISTRATIVELY ATTACHING THE STATE PARKS AND  
6 RECREATION BOARD TO THE DEPARTMENT OF COMMERCE; RENAMING THE DEPARTMENT OF FISH,  
7 WILDLIFE, AND PARKS TO BE THE DEPARTMENT OF FISH AND WILDLIFE; CLARIFYING DEPARTMENTAL  
8 AND BOARD POWERS AND DUTIES; AUTHORIZING THE HIRING OF AN EXECUTIVE DIRECTOR OF  
9 STATE PARKS AND RECREATION; PROVIDING A STATUTORY APPROPRIATION; PROVIDING  
10 RULEMAKING AUTHORITY; AMENDING SECTIONS 2-15-104, 2-15-243, 2-15-3308, 2-15-3330, 2-15-3401,  
11 2-15-3404, 2-15-3405, 5-5-223, 5-5-231, 7-3-1105, 7-3-1222, 7-8-2507, 7-22-2151, 7-31-4110, 10-2-112,  
12 10-2-603, 10-3-801, 10-3-1204, 15-1-122, 15-30-2380, 15-30-2618, 15-35-108, 15-38-202, 15-65-121, 16-4-210,  
13 17-7-161, 17-7-502, 18-2-301, 19-8-101, 19-8-301, 19-8-501, 19-8-504, 20-7-132, 22-3-1002, 22-3-1003,  
14 23-1-101, 23-1-102, 23-1-105, 23-1-108, 23-1-110, 23-1-111, 23-1-122, 23-1-126, 23-1-127, 23-1-128, 23-1-201,  
15 23-1-202, 23-2-101, 23-2-102, 23-2-103, 23-2-301, 23-2-403, 23-2-404, 23-2-407, 23-2-408, 23-2-409, 23-2-410,  
16 23-2-502, 23-2-519, 23-2-533, 23-2-536, 23-2-601, 23-2-615, 23-2-616, 23-2-633, 23-2-634, 23-2-636, 23-2-641,  
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18 45-6-201, 45-6-203, 45-8-109, 45-8-321, 50-53-209, 60-3-201, 61-3-321, 61-5-104, 70-16-302, 70-30-102,  
19 75-1-201, 75-1-220, 75-1-324, 75-5-318, 75-7-103, 75-20-216, 76-13-421, 76-16-107, 77-1-202, 77-1-405,  
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21 80-8-201, 81-7-102, 82-11-127, 82-11-185, 85-1-802, 85-2-102, 85-2-223, 85-2-436, 85-9-104, 85-9-202,  
22 85-9-204, 87-1-101, 87-1-106, 87-1-201, 87-1-202, 87-1-209, 87-1-256, 87-1-301, 87-1-503, 87-1-601, 87-1-603,  
23 87-1-621, 87-1-622, 87-2-504, 87-2-505, 87-2-510, 87-2-522, 87-2-817, 87-4-406, 87-4-422, 87-5-601, 87-5-602,  
24 87-5-603, 87-5-605, 90-14-105, AND 90-15-102, MCA; REPEALING SECTION 2-15-3406, MCA; AND  
25 PROVIDING A DELAYED EFFECTIVE DATE."

26  
27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

28  
29 **NEW SECTION. Section 1. State parks and recreation board -- allocation -- composition --**  
30 **quasi-judicial.** (1) There is a state parks and recreation board within the department of commerce. The board

1 is attached to the department for administrative purposes only, as prescribed in 2-15-121. However,  
2 2-15-121(2)(d) does not apply, and the board may hire its own personnel, including an executive director of state  
3 parks and recreation to oversee day-to-day operations and serve as secretary of the board, and may prescribe  
4 their duties and compensation. The board is responsible for directing and supervising its budget.

5 (2) The board consists of five members appointed by the governor, as prescribed in 2-15-124. The  
6 governor shall appoint one member from each of the following districts:

7 (a) District No. 1, consisting of Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Powell, Ravalli,  
8 Granite, and Lewis and Clark Counties;

9 (b) District No. 2, consisting of Deer Lodge, Silver Bow, Beaverhead, Madison, Jefferson, Broadwater,  
10 Gallatin, Park, and Sweet Grass Counties;

11 (c) District No. 3, consisting of Glacier, Toole, Liberty, Hill, Pondera, Teton, Chouteau, Cascade, Judith  
12 Basin, Fergus, Blaine, Meagher, and Wheatland Counties;

13 (d) District No. 4, consisting of Phillips, Valley, Daniels, Sheridan, Roosevelt, Petroleum, Garfield,  
14 McCone, Richland, Dawson, and Wibaux Counties;

15 (e) District No. 5, consisting of Golden Valley, Musselshell, Stillwater, Carbon, Yellowstone, Big Horn,  
16 Treasure, Rosebud, Custer, Powder River, Carter, Fallon, and Prairie Counties.

17 (3) Appointments must be made without regard to political affiliation and must be made solely for the  
18 wise management of state parks and outdoor recreational resources administered pursuant to Title 23, chapter  
19 1, and Title 23, chapter 2, parts 1, 4, 6, 8, and 9.

20 (4) A person appointed to the board must be informed or experienced in the conservation and protection  
21 of state parks, heritage resources, natural resources, tourism promotion and development, or outdoor recreation.

22 (5) A vacancy on the board must be filled by the governor in the same manner and from the district in  
23 which the vacancy occurs.

24 (6) The board is designated as a quasi-judicial board for purposes of 2-15-124, except that the  
25 requirement that at least one member be an attorney does not apply.

26

27 **Section 2.** Section 2-15-104, MCA, is amended to read:

28 **"2-15-104. Structure of executive branch.** (1) In accordance with the constitution, all executive and  
29 administrative offices, boards, commissions, agencies, and instrumentalities of the executive branch of state  
30 government and their respective functions are allocated by this chapter among and within the following

- 1 departments or entities:
- 2 (a) department of administration;
- 3 (b) department of military affairs;
- 4 (c) department of revenue;
- 5 (d) state board of education;
- 6 (e) department of labor and industry;
- 7 (f) department of commerce;
- 8 (g) department of justice;
- 9 (h) department of public health and human services;
- 10 (i) department of corrections;
- 11 (j) department of transportation;
- 12 (k) department of public service regulation;
- 13 (l) department of agriculture;
- 14 (m) department of livestock;
- 15 (n) department of natural resources and conservation;
- 16 (o) department of fish; and wildlife; ~~and parks~~;
- 17 (p) department of environmental quality.

18 (2) For its internal structure, each department shall adhere to the following standard terms:

- 19 (a) The principal unit of a department is a division. Each division is headed by an administrator.
- 20 (b) The principal unit of a division is a bureau. Each bureau is headed by a chief.
- 21 (c) The principal unit of a bureau is a section. Each section is headed by a supervisor."
- 22

23 **Section 3.** Section 2-15-243, MCA, is amended to read:

24 **"2-15-243. Montana sage grouse oversight team -- composition.** (1) There is a Montana sage grouse  
25 oversight team. The oversight team is attached to the governor's office for administrative purposes only, as  
26 prescribed in 2-15-121.

27 (2) The oversight team consists of:

- 28 (a) the directors of the departments of:
- 29 (i) environmental quality;
- 30 (ii) fish; and wildlife; ~~and parks~~;

- 1 (iii) natural resources and conservation; and  
2 (iv) transportation;  
3 (b) the administrator of the division of oil and gas conservation within the department of natural resources  
4 and conservation;  
5 (c) one member of the rangeland resources committee established in 2-15-3305;  
6 (d) one member of the senate appointed by the president of the senate;  
7 (e) one member of the house of representatives appointed by the speaker of the house; and  
8 (f) a designated representative of the governor. The governor's designated representative is the  
9 presiding officer of the oversight team.

10 (3) The oversight team shall meet at least quarterly to fulfill the requirements of Title 76, chapter 22, part  
11 1. Each meeting must be recorded electronically.

12 (4) Unless otherwise provided by law, each member is entitled to be reimbursed for travel expenses, as  
13 provided for in 2-18-501 through 2-18-503, incurred while performing oversight team duties."  
14

15 **Section 4.** Section 2-15-3308, MCA, is amended to read:

16 **"2-15-3308. Drought and water supply advisory committee.** (1) There is a drought and water supply  
17 advisory committee in the department of natural resources and conservation.

18 (2) The drought and water supply advisory committee is chaired by a representative of the governor and  
19 consists of representatives of the departments of natural resources and conservation; agriculture; commerce; fish;  
20 and wildlife, ~~and parks~~; military affairs; environmental quality; and livestock. The governor's representative must  
21 be appointed by the governor, and the representative of each department must be appointed by the head of that  
22 department. Additional, nonvoting members who represent federal and local government agencies and public  
23 and private interests affected by drought or flooding may also be appointed by the governor.

24 (3) The drought and water supply advisory committee shall:

25 (a) with the approval of the governor, develop and implement a state plan that considers drought and  
26 flooding;

27 (b) review and report drought and water supply monitoring information to the public;

28 (c) coordinate timely drought and flooding impact assessments;

29 (d) identify areas of the state with a high probability of drought or flooding and target reporting and  
30 assistance efforts to those areas;

1 (e) upon request, assist in organizing local advisory committees for the areas identified under subsection  
2 (3)(d);

3 (f) request state agency staff to provide technical assistance to local advisory committees; and

4 (g) promote ideas and activities for groups and individuals to consider that may reduce drought or  
5 flooding vulnerability.

6 (4) The drought and water supply advisory committee shall meet, at a minimum, on or around October  
7 15 and March 15 of each year to assess moisture conditions and forecasts and, as appropriate, begin  
8 preparations for drought or flood mitigation.

9 (5) By April 15 of each year, the drought and water supply advisory committee shall submit a report to  
10 the governor describing the potential for drought or flooding in the coming year. If the potential for drought or  
11 flooding merits additional activity by the drought and water supply advisory committee, the report must also  
12 describe:

13 (a) activities to be taken by the drought and water supply advisory committee for informing the public  
14 about the potential impacts of drought or flooding;

15 (b) a schedule for completing activities;

16 (c) geographic areas for which the creation of local drought and water supply advisory committees will  
17 be suggested to local governments and citizens; and

18 (d) requests for the use of any available state resources that may be necessary to prevent or minimize  
19 drought or flood impacts.

20 (6) Nothing in this section is intended to remove or interfere with the duties and responsibilities of the  
21 governor or the division of disaster and emergency services for disaster coordination and emergency response,  
22 as provided in Title 10, chapter 3, part 1. The duties and responsibilities of the drought and water supply advisory  
23 committee supplement and are consistent with those of the division of disaster and emergency services for  
24 drought or flood planning, preparation, coordination, and mitigation."  
25

26 **Section 5.** Section 2-15-3330, MCA, is amended to read:

27 **"2-15-3330. Flathead basin commission -- membership -- compensation.** (1) There is a Flathead  
28 basin commission.

29 (2) The commission consists of 23 members selected as follows:

30 (a) seven members appointed by the governor from industrial, environmental, and other interests

- 1 affected by Title 75, chapter 7, part 3, one of whom must be on the governor's staff;
- 2 (b) one member, appointed by the director of the department of natural resources and conservation,
- 3 representing the northwestern land office of the department of natural resources and conservation;
- 4 (c) one member appointed by the Flathead County commissioners;
- 5 (d) one member appointed by the Lake County commissioners;
- 6 (e) one member appointed by the Confederated Salish and Kootenai Tribes;
- 7 (f) one member appointed by the United States department of agriculture, forest service regional forester
- 8 for the northern region;
- 9 (g) one member appointed by the United States department of the interior, national park service regional
- 10 director for the Rocky Mountain region;
- 11 (h) one member appointed by the Flathead County conservation district board of supervisors;
- 12 (i) one member appointed by the Lake County conservation district board of supervisors;
- 13 (j) five ex officio members appointed respectively by the chief executive of the provincial government of
- 14 the Province of British Columbia; the regional administrator of the United States environmental protection agency;
- 15 the regional administrator of the United States department of the interior, bureau of reclamation; a representative
- 16 of the Bonneville power administration; and the holder of a license issued for the Flathead project under the
- 17 Federal Power Act;
- 18 (k) three ex officio members who are the director of the department of natural resources and
- 19 conservation, the director of the department of environmental quality, and the director of the department of fish;
- 20 and wildlife, ~~and parks~~ or their designees.

21 (3) The commissioners shall serve without pay. The commissioners listed in subsection (2)(a), except

22 the commissioner on the governor's staff, are entitled to reimbursement for travel, meals, and lodging while

23 engaged in commission business, as provided in 2-18-501 through 2-18-503.

24 (4) The commission is attached to the department of natural resources and conservation for

25 administrative purposes only."

26

27 **Section 6.** Section 2-15-3401, MCA, is amended to read:

28 **"2-15-3401. Department of fish; and wildlife, ~~and parks~~ -- head.** There is a department of fish; and

29 wildlife, ~~and parks~~. The department head is the director of fish; and wildlife, ~~and parks~~ appointed by the governor

30 in accordance with 2-15-111. The director is the secretary of the:

1 ~~\_\_\_\_\_ (1) fish and wildlife commission established in 2-15-3402; and~~  
 2 ~~\_\_\_\_\_ (2) state parks and recreation board established in 2-15-3406."~~

3

4 **Section 7.** Section 2-15-3404, MCA, is amended to read:

5 **"2-15-3404. Fish; and wildlife, ~~and parks~~ crimestoppers board.** (1) There is a fish; and wildlife; ~~and~~  
 6 ~~parks~~ crimestoppers board.

7 (2) (a) The board consists of five members, four of whom are appointed by the director of the department  
 8 of fish; and wildlife; ~~and parks~~ as follows:

9 (i) a person within the department responsible for the enforcement of fish and wildlife laws;

10 (ii) a member of a hunter's, angler's, or conservation group;

11 (iii) a member who is actively engaged in agricultural production; and

12 (iv) a member of the public with an interest in ~~parks and~~ fish and wildlife-related recreation.

13 (b) The fifth member is a member of the fish and wildlife commission who must be designated by the  
 14 commission.

15 (3) The board shall elect a presiding officer from its members.

16 (4) A member must be appointed for a term of 2 years and may be reappointed.

17 (5) (a) A vacancy must be filled within 14 days of occurrence in the same manner as the original  
 18 appointment.

19 (b) A vacancy does not impair the right of the remaining members to exercise the powers of the board.

20 (6) The board is allocated to the department of fish; and wildlife; ~~and parks~~ for administrative purposes  
 21 only as provided in 2-15-121."

22

23 **Section 8.** Section 2-15-3405, MCA, is amended to read:

24 **"2-15-3405. Appointment of wetlands protection advisory council.** (1) The director of fish; and  
 25 wildlife; ~~and parks~~ shall appoint an advisory council pursuant to 2-15-122 to review proposals developed by the  
 26 department of fish; and wildlife; ~~and parks~~ that involve the use of money received by the department under  
 27 87-2-411 for the protection, conservation, and development of wetlands in Montana.

28 (2) Members must be appointed to the advisory council who represent Montana migratory game bird  
 29 hunters, nonconsumptive users of wildlife, and the agricultural industry."

30

1           **Section 9.** Section 5-5-223, MCA, is amended to read:

2           **"5-5-223. Economic affairs interim committee.** (1) ~~The~~ Except as provided in 75-1-324, the economic  
3 affairs interim committee has administrative rule review, draft legislation review, program evaluation, and  
4 monitoring functions for the following executive branch agencies and the entities attached to agencies for  
5 administrative purposes:

6           (a) department of agriculture;

7           (b) department of commerce;

8           (c) department of labor and industry;

9           (d) department of livestock;

10          (e) office of the state auditor and insurance commissioner;

11          (f) office of economic development;

12          (g) the state compensation insurance fund provided for in 39-71-2313, including the board of directors  
13 of the state compensation insurance fund established in 2-15-1019; and

14          (h) the division of banking and financial institutions provided for in 32-1-211.

15          (2) The state compensation insurance fund shall annually provide to the committee a report on its budget  
16 as approved by the state compensation insurance fund board of directors."

17

18           **Section 10.** Section 5-5-231, MCA, is amended to read:

19           **"5-5-231. Water policy committee.** (1) There is a water policy committee. The committee shall:

20           (a) determine which water policy issues it examines;

21           (b) conduct interim studies as assigned pursuant to 5-5-217;

22           (c) subject to the provisions of 5-5-202(4), coordinate with the environmental quality council and other  
23 interim committees to avoid duplication of efforts;

24           (d) report its activities, findings, recommendations, and any proposed legislation as provided in 5-11-210;

25           and

26           (e) in accordance with 5-5-215, for issues where the primary concern is the quality or quantity of water,  
27 perform the administrative rule review, draft legislation review, program evaluation, and monitoring functions of  
28 an interim committee for the following executive branch agencies and the entities attached to the agencies for  
29 administrative purposes:

30           (i) department of environmental quality;

- 1 (ii) department of fish; ~~and wildlife, and parks~~; and  
 2 (iii) department of natural resources and conservation.

3 (2) At least two members of the committee must possess experience in agriculture."  
 4

5 **Section 11.** Section 7-3-1105, MCA, is amended to read:

6 **"7-3-1105. Rules, ordinances, and resolutions of consolidated unit.** (1) Within 2 years after  
 7 ratification of the consolidation, the governing body of the consolidated unit of local government shall revise,  
 8 repeal, or reaffirm all rules, ordinances, and resolutions in force within the participating county, cities, and towns  
 9 at the time of consolidation. Each rule, ordinance, or resolution in force at the time of consolidation must remain  
 10 in force within the former geographic jurisdiction until superseded by action of the new governing body.  
 11 Ordinances and resolutions relating to public improvements to be paid for in whole or in part by special  
 12 assessments may not be repealed.

13 (2) (a) A consolidated government may adopt, for the portion of the consolidated government that was  
 14 formerly a city or town, a plan to control, remove, and restrict game animals, as defined in 87-2-101, within the  
 15 defined boundaries of the city or town limits for public health and safety purposes. Upon adoption of a plan, the  
 16 consolidated government shall notify the department of fish; ~~and wildlife, and parks~~ of the plan. If the department  
 17 of fish; ~~and wildlife, and parks~~ approves the plan or approves the plan with conditions, the consolidated  
 18 government may implement the plan as approved or as approved with conditions.

19 (b) The plan may allow the hunting of game animals and provide restrictions on the feeding of game  
 20 animals."  
 21

22 **Section 12.** Section 7-3-1222, MCA, is amended to read:

23 **"7-3-1222. Procedure to enact ordinances and resolutions.** (1) Ordinances and resolutions must be  
 24 introduced in the commission only in written or printed form. All ordinances or resolutions, except ordinances  
 25 making appropriations, must be confined to one subject, which must be clearly expressed in the title, except as  
 26 provided in 7-3-1226. Ordinances making appropriations must be confined to the subject of appropriations. An  
 27 ordinance may not be passed until it has been read on 3 separate days, unless the requirement of reading on  
 28 3 separate days has been dispensed with by a vote of not less than two-thirds of the members of the commission.  
 29 The final reading must be in full unless a written or printed copy of the measure has been furnished to each  
 30 member of the commission prior to final reading.

1 (2) The enacting clause of all ordinances passed by the commission must be: "Be it ordained by the city  
2 and county of \_\_\_\_\_", and the enacting clause of all ordinances submitted by the initiative must be: "Be it  
3 ordained by the people of the city and county of \_\_\_\_\_".

4 (3) An ordinance, resolution, or section of an ordinance or resolution may not be revised or amended  
5 unless the new ordinance or resolution contains the entire ordinance, resolution, or section of the ordinance or  
6 resolution as revised or amended.

7 (4) Every ordinance or resolution, upon its final passage, must be recorded in a book kept for that  
8 purpose and must be authenticated by the signatures of the president and clerk. Within 10 days after its final  
9 passage, each ordinance or resolution must be published at least once in the manner that the commission may  
10 provide by ordinance.

11 (5) Initiated ordinances adopted by the electors must be published and may be amended or repealed  
12 by the commission, as in the case of other ordinances.

13 (6) (a) A consolidated government may adopt, for the portion of the consolidated government that was  
14 formerly a city or town, a plan to control, remove, and restrict game animals, as defined in 87-2-101, within the  
15 boundaries that are within the city or town limits for public health and safety purposes. Upon adoption of a plan,  
16 the consolidated government shall notify the department of fish; and wildlife, ~~and parks~~ of the plan. If the  
17 department of fish; and wildlife, ~~and parks~~ approves the plan or approves the plan with conditions, the  
18 consolidated government may implement the plan as approved or as approved with conditions.

19 (b) The plan may allow the hunting of game animals and provide restrictions on the feeding of game  
20 animals."

21

22 **Section 13.** Section 7-8-2507, MCA, is amended to read:

23 **"7-8-2507. Land management alternatives.** The board may:

24 (1) (a) grant permits or licenses to use the lands in the manner that the board determines and in the best  
25 interests of the county and for the public benefit and welfare; and

26 (b) fix the terms, conditions, and price of the permits or licenses;

27 (2) enter into cooperative use agreements with individuals, groups of individuals, corporations,  
28 associations, cooperative state grazing districts, the state of Montana, the United States of America, and any state  
29 or federal subdivision, department, bureau, commission, or agency, including but not limited to the Montana  
30 department of fish; and wildlife, ~~and parks~~, the bureau of land management, conservation districts, and the

- 1 Montana department of natural resources and conservation;
- 2 (3) trade or exchange the lands with individuals or other state or federal governmental agencies,
- 3 pursuant to terms, conditions, and procedures adopted by the board;
- 4 (4) (a) grant leases of the lands for the purposes and uses that the board determines are in the best
- 5 interests of the county, including the exploration and development of oil, gas, and other minerals; and
- 6 (b) fix the terms and conditions of the leases and the consideration to be paid by any lessee; and
- 7 (5) sell the lands or any part of the lands pursuant to the procedures provided in this part."

8

9 **Section 14.** Section 7-22-2151, MCA, is amended to read:

10 **"7-22-2151. Cooperative agreements.** (1) A state agency that controls land within a district, including

11 the department of transportation,~~;~~ the department of fish, and wildlife, ~~and parks~~; the department of corrections,~~;~~

12 the department of natural resources and conservation,~~;~~ the state parks and recreation board, and the university

13 system, shall enter into a written agreement with the board. The agreement must specify mutual responsibilities

14 for integrated noxious weed management on state-owned or state-controlled land within the district. The

15 agreement must include the following:

- 16 (a) an integrated noxious weed management plan, which must be updated biennially;
- 17 (b) a noxious weed management goals statement;
- 18 (c) a specific plan of operations for the biennium, including a budget to implement the plan; and
- 19 (d) a provision requiring a biennial performance report by the board to the state weed coordinator in the
- 20 department of agriculture, on a form to be provided by the state weed coordinator, regarding the success of the
- 21 plan.

22 (2) The board and the governing body of each incorporated municipality within the district shall enter into

23 a written agreement and shall cooperatively plan for the management of noxious weeds within the boundaries

24 of the municipality. The board may implement management procedures described in the plan within the

25 boundaries of the municipality for noxious weeds only. Control of nuisance weeds within the municipality remains

26 the responsibility of the governing body of the municipality, as specified in 7-22-4101.

27 (3) A board may develop and carry out its noxious weed management program in cooperation with

28 boards of other districts, with state and federal governments and their agencies, or with any person within the

29 district. The board may enter into cooperative agreements with any of these parties.

30 (4) Each agency or entity listed in subsection (1) shall submit a statement or summary of all noxious

1 weed actions that are subject to the agreement required under subsection (1) to the state weed coordinator and  
2 shall post a copy of the statement or summary on a state electronic access system."

3

4 **Section 15.** Section 7-31-4110, MCA, is amended to read:

5 **"7-31-4110. Restriction of wildlife.** (1) A city or town may adopt a plan to control, remove, and restrict  
6 game animals, as defined in 87-2-101, within the boundaries of the city or town limits for public health and safety  
7 purposes. Upon adoption of a plan, the city or town shall notify the department of fish; and wildlife; ~~and parks~~ of  
8 the plan. If the department of fish; and wildlife; ~~and parks~~ approves the plan or approves the plan with conditions,  
9 the city or town may implement the plan as approved or as approved with conditions.

10 (2) The plan may allow the hunting of game animals and provide restrictions on the feeding of game  
11 animals."

12

13 **Section 16.** Section 10-2-112, MCA, is amended to read:

14 **"10-2-112. Veterans' services special revenue account -- sources of funds -- designated uses.** (1)  
15 There is a veterans' services account in the state special revenue fund, established pursuant to 17-2-102(1)(b),  
16 to the credit of the board.

17 (2) Money transferred pursuant to 15-1-122~~(3)(d)~~ from license plate sales as described in 10-2-114 and  
18 from gifts, grants, or donations must be deposited in the veterans' services account.

19 (3) Legislative appropriations of money in the veterans' services account must be used for the purposes  
20 identified in 10-2-102 or other functions authorized by the board.

21 (4) There is a veterans' services federal account in the federal special revenue fund established for  
22 federal funds received under 10-2-106."

23

24 **Section 17.** Section 10-2-603, MCA, is amended to read:

25 **"10-2-603. Special revenue account -- use of funds -- solicitation.** (1) There is an account in the  
26 special revenue fund to the credit of the board for the state veterans' cemeteries.

27 (2) Plot allowances, donations to the cemetery program, and fund transfers pursuant to 15-1-122~~(3)(d)~~  
28 must be deposited into the account.

29 (3) The account is statutorily appropriated, as provided in 17-7-502, to the department and may be used  
30 by the board only for the construction, maintenance, operation, and administration of the state veterans'

1 cemeteries.

2 (4) The board shall solicit veterans' license plate sales and donations on behalf of the state veterans'  
3 cemeteries."

4

5 **Section 18.** Section 10-3-801, MCA, is amended to read:

6 **"10-3-801. Account created for funding search and rescue operations -- rules.** (1) There is an  
7 account in the state special revenue fund established in 17-2-102. The account must be administered by the  
8 disaster and emergency services division of the department exclusively for the purposes of search and rescue  
9 as provided in this section. The department may retain up to 5% of the money in the account to pay its costs of  
10 administering this section.

11 (2) There must be deposited in the account:

12 (a) fund transfers pursuant to 15-1-122~~(3)(e)~~;

13 (b) fund transfers pursuant to 87-1-601~~(40)~~. These funds may be used only as provided in 87-1-601~~(40)~~.

14 (c) all money received by the department in the form of gifts, grants, reimbursements, or appropriations  
15 from any source intended to be used for search and rescue operations.

16 (3) (a) Not less than 50% of the money in the account must be used by the department to defray costs  
17 of:

18 (i) local search and rescue units for search and rescue missions conducted through a county sheriff's  
19 office at a maximum of \$6,000 for each rescue mission, regardless of the number of counties or county search  
20 and rescue organizations involved. To fulfill the purposes of this subsection (3)(a)(i), the department shall transmit  
21 reimbursement money to the county treasurer, who shall deposit the funds in a separate search and rescue fund  
22 accessible by the local search and rescue unit that requested the reimbursement. The county treasurer shall  
23 notify the reimbursed local search and rescue unit by mail when the deposit occurs.

24 (ii) a county sheriff's office at a maximum of \$6,000 for each rescue mission, regardless of the number  
25 of counties or county search and rescue organizations involved.

26 (b) The remaining money in the account may be used by the department:

27 (i) to match local funds for the purchase of equipment for use by local search and rescue units at a  
28 maximum of \$6,000 for each unit in a calendar year. The cost-sharing match must be 35% local funds to 65%  
29 from the account.

30 (ii) for reimbursement of expenses related to the training of search and rescue volunteers.

1 (4) The department may adopt rules to implement the proper administration of the account. The rules  
2 may include:

3 (a) a method of reimbursing local search and rescue units or a county sheriff's office, on a case-by-case  
4 basis, for authorized search and rescue operations conducted pursuant to subsection (3)(a), including verification  
5 of search missions, claims procedures, fiscal accountability, and the number and circumstances of search  
6 missions involving persons engaged in hunting, fishing, and trapping in a fiscal year;

7 (b) methods for processing requests for equipment matching funds and training funds made pursuant  
8 to subsection (3)(b), including any verification and accounting necessary to ensure that the provisions of  
9 subsection (3)(b) are met, and determining the percentage of all search missions involving persons engaged in  
10 hunting, fishing, or trapping in a fiscal year;

11 (c) a system involving input from representatives of county sheriff organizations and state and local  
12 search and rescue organizations for assistance in verifying and processing claims for reimbursement, equipment,  
13 and training; and

14 (d) a method for compiling and keeping current a contact list of all search and rescue units in Montana  
15 and in neighboring states and provinces in order to ensure collaboration, communication, and cooperation  
16 between the various county search and rescue units and between the department and the county units and  
17 dedication of a page on the department's website for posting the contact list and other relevant search and rescue  
18 information."

19

20 **Section 19.** Section 10-3-1204, MCA, is amended to read:

21 **"10-3-1204. State emergency response commission -- members -- duties -- establishment of**  
22 **incident response and incident management teams.** (1) There is a state emergency response commission  
23 that is attached to the department for administrative purposes. The commission consists of 29 members  
24 appointed by the governor. The commission must include representatives of the national guard, the air force, the  
25 department of environmental quality, the division, the department of transportation, the department of justice, the  
26 department of natural resources and conservation, the department of public health and human services, a fire  
27 service association, the fire services training school, the emergency medical services and trauma systems section  
28 of the public health and safety division in the department of public health and human services, the department  
29 of fish; ~~and wildlife, and parks~~, the department of agriculture, Montana hospitals, an emergency medical services  
30 association, a law enforcement association, an emergency management association, a public health-related

1 association, a trucking association, a utility company doing business in Montana, a railroad company doing  
2 business in Montana, Montana's petroleum industry, Montana's insurance industry, the university system, a tribal  
3 emergency response commission, the national weather service, the Montana association of counties, the  
4 Montana league of cities and towns, and the office of the governor. At least one representative must be a member  
5 of a local emergency planning committee. Members of the commission serve terms of 4 years and may be  
6 reappointed. The members shall serve without compensation. The governor shall appoint two presiding officers  
7 from the appointees, who shall act as copresiding officers.

8 (2) The commission shall implement the provisions of this part. The commission may create and  
9 implement a state hazardous material incident response team to respond to hazardous material incidents. The  
10 members of the team must be certified in accordance with the plan.

11 (3) The commission may enter into written agreements with each entity or person providing equipment  
12 or services to the state hazardous material incident response team.

13 (4) The commission or its designee may direct that the state hazardous material incident response team  
14 be available and respond, when requested by a local emergency response authority, to hazardous material  
15 incidents according to the plan.

16 (5) The commission may contract with persons to meet state emergency response needs for the state  
17 hazardous material incident response team.

18 (6) The commission may advise, consult, cooperate, and enter into agreements with agencies of the  
19 state and federal government, other states and their state agencies, cities, counties, tribal governments, and other  
20 persons concerned with emergency response and matters relating to and arising out of incidents.

21 (7) The commission may encourage, participate in, or conduct studies, investigations, training, research,  
22 and demonstrations for and with the state hazardous material incident response team, local emergency  
23 responders, and other interested persons.

24 (8) The commission may collect and disseminate information relating to emergency response to  
25 incidents.

26 (9) The commission may accept and administer grants, gifts, or other funds, conditional or otherwise,  
27 made to the state for emergency response activities provided for in this part.

28 (10) The commission may prepare, coordinate, implement, and update a plan that coordinates state and  
29 local emergency authorities to respond to incidents within the state. The plan must be consistent with this part.  
30 All state emergency response responsibilities relating to an incident must be defined by the plan.

1 (11) The commission has the powers and duties of a state emergency response commission under the  
2 federal Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11001, et seq., except that  
3 the division shall oversee the creation, annual local review, and exercise and revision of the local emergency  
4 operations plan as provided by state law.

5 (12) The commission shall promulgate rules and procedures limited to cost recovery procedures,  
6 certification of state hazardous material incident response team members and all-hazard incident management  
7 assistance team members, and deployment of the state hazardous material incident response team and  
8 all-hazard incident management assistance teams, which must be a part of the plan.

9 (13) The commission shall act as an all-hazard advisory board to the division by:

10 (a) assisting the division in carrying out its responsibilities by providing the division with  
11 recommendations on issues pertaining to all-hazard emergency management;

12 (b) authorizing the establishment of subcommittees to develop and provide the recommendations called  
13 for in subsection (13)(a); and

14 (c) establishing all-hazard incident management assistance teams.

15 (14) The commission shall appoint the members of the Montana intrastate mutual aid committee provided  
16 for in 10-3-904.

17 (15) All state agencies and institutions shall cooperate with the commission in the commission's efforts  
18 to carry out its duties under this part."

19

20 **Section 20.** Section 15-1-122, MCA, is amended to read:

21 **"15-1-122. (Bracketed language effective July 1, 2021) Fund transfers.** (1) There is transferred from  
22 the state general fund to the adoption services account, provided for in 42-2-105, a base amount of \$59,209, and  
23 the amount of the transfer must be increased by 10% in each succeeding fiscal year.

24 (2) For fiscal years 2016 through 2019, there is transferred \$1.275 million on an annual basis from the  
25 state general fund to the research and commercialization state special revenue account provided for in  
26 90-3-1002.

27 (3) For each fiscal year, there is transferred from the state general fund to the accounts, entities, or  
28 recipients indicated the following amounts:

29 (a) to the motor vehicle recycling and disposal program provided for in Title 75, chapter 10, part 5, 1.48%  
30 of the motor vehicle revenue deposited in the state general fund in each fiscal year. The amount of 9.48% of the

1 allocation in each fiscal year must be used for the purpose of reimbursing the hired removal of abandoned  
 2 vehicles. Any portion of the allocation not used for abandoned vehicle removal reimbursement must be used as  
 3 provided in 75-10-532.

4 (b) to the noxious weed state special revenue account provided for in 80-7-816, 1.50% of the motor  
 5 vehicle revenue deposited in the state general fund in each fiscal year;

6 (c) to the department of fish, ~~and~~ wildlife, ~~and parks~~: 0.09% of the motor vehicle revenue deposited in  
 7 the state general fund to administer and enforce the provisions of Title 23, chapter 2, part 5;

8 ~~(i) 0.46% of the motor vehicle revenue deposited in the state general fund, with the applicable~~  
 9 ~~percentage to be:~~

10 ~~—— (A) used to:~~

11 ~~(d) to the department of commerce:~~

12 ~~(†)(i) 0.023% of the motor vehicle revenue deposited in the state general fund to acquire and maintain~~  
 13 ~~pumpout equipment and other boat facilities, 4.8% in each fiscal year;~~

14 ~~(†) administer and enforce the provisions of Title 23, chapter 2, part 5, 19.1% in each fiscal year;~~

15 ~~(‡)(ii) 0.05% of the motor vehicle revenue deposited in the state general fund to enforce the provisions~~  
 16 ~~of 23-2-804, 11.1% in each fiscal year Title 23, chapter 2, part 8; and~~

17 ~~(††)(iii) 0.077% of the motor vehicle revenue deposited in the state general fund to develop and~~  
 18 ~~implement a comprehensive program and to plan appropriate off-highway vehicle recreational use, 16.7% in each~~  
 19 ~~fiscal year; and~~

20 ~~(B)(iv) 0.22% of the motor vehicle revenue deposited in the state general fund to be deposited in the state~~  
 21 ~~special revenue fund established in 23-1-105 in an amount equal to 48.3% in each fiscal year;~~

22 ~~(‡)(v) 0.10% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 50%~~  
 23 ~~of the amount to be used for enforcing the purposes of Title 23, chapter 2, part 6, and 50% of the amount~~  
 24 ~~designated for use in the development, maintenance, and operation of snowmobile facilities; and~~

25 ~~(‡)(vi) 0.16% of the motor vehicle revenue deposited in the state general fund in each fiscal year to be~~  
 26 ~~deposited in the motorboat account to be used as provided established in 23-2-533;~~

27 ~~(†)(e) 0.81% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with~~  
 28 ~~24.55% to be deposited in the state veterans' cemetery account provided for in 10-2-603 and with 75.45% to be~~  
 29 ~~deposited in the veterans' services account provided for in 10-2-112(1); and~~

30 ~~(e)(f) to the search and rescue account provided for in 10-3-801, 0.04% of the motor vehicle revenue~~

1 deposited in the state general fund in each fiscal year.

2 (4) The amount of \$200,000 is transferred from the state general fund to the livestock loss [reduction  
3 and] mitigation restricted state special revenue account provided for in 81-1-112 in each fiscal year.

4 (5) For the purposes of this section, "motor vehicle revenue deposited in the state general fund" means  
5 revenue received from:

6 (a) fees for issuing a motor vehicle title paid pursuant to 61-3-203;

7 (b) fees, fees in lieu of taxes, and taxes for vehicles, vessels, and snowmobiles registered or reregistered  
8 pursuant to 61-3-321 and 61-3-562;

9 (c) GVW fees for vehicles registered for licensing pursuant to Title 61, chapter 3, part 3; and

10 (d) all money collected pursuant to 15-1-504(3).

11 (6) Except as provided in subsection (2), the amounts transferred from the general fund to the designated  
12 recipient must be appropriated as state special revenue in the general appropriations act for the designated  
13 purposes. (Bracketed language in subsection (4) effective July 1, 2021--sec. 8, Ch. 349, L. 2015.)"

14

15 **Section 21.** Section 15-30-2380, MCA, is amended to read:

16 **"15-30-2380. (Temporary) Credit for unlocking public lands program -- definitions.** (1) A taxpayer  
17 is allowed a credit against the taxes imposed by Title 15, chapter 30 or 31, in the amount of \$750 for each  
18 qualified access to public land that is provided. The maximum credit that a taxpayer may claim in a year under  
19 this section is \$3,000.

20 (2) If the amount of the credit exceeds the taxpayer's liability under Title 15, chapter 30 or 31, the amount  
21 of the excess must be refunded to the taxpayer. The credit may be claimed even if the claimant has no taxable  
22 income.

23 (3) If the property through which access is provided is owned by multiple taxpayers, the taxpayers may  
24 claim a proportionate share of the \$750 credit based on their respective ownership interests in that property.

25 (4) If qualified access to the same parcel of public land is provided through separate properties owned  
26 by different taxpayers, the taxpayer for each property may claim a \$750 credit.

27 (5) For purposes of this section:

28 (a) "public land" means:

29 (i) state land, as defined in 77-1-101; or

30 (ii) federal land managed by the U.S. forest service or the bureau of land management; and

1 (b) "qualified access to public land":

2 (i) means an access or corridor established through a taxpayer's property to a parcel of public land for  
3 recreational use and certified by the department of fish, and wildlife, ~~and parks~~ pursuant to 87-1-294;

4 (ii) does not include a corridor established between two or more parcels of public land when the public  
5 land parcels are surrounded by private land that the landowner or landowners have not granted permission to  
6 cross and there is no other legal access. (Terminates December 31, 2020--sec. 3, Ch. 392, L. 2015.)"

7

8 **Section 22.** Section 15-30-2618, MCA, is amended to read:

9 **"15-30-2618. Confidentiality of tax records.** (1) Except as provided in 5-12-303, 15-1-106, 17-7-111,  
10 and subsections (8) and (9) of this section, in accordance with a proper judicial order, or as otherwise provided  
11 by law, it is unlawful to divulge or make known in any manner:

12 (a) the amount of income or any particulars set forth or disclosed in any individual report or individual  
13 return required under this chapter or any other information secured in the administration of this chapter; or

14 (b) any federal return or federal return information disclosed on any return or report required by rule of  
15 the department or under this chapter.

16 (2) (a) The officers charged with the custody of the reports and returns may not be required to produce  
17 them or evidence of anything contained in them in an action or proceeding in a court, except in an action or  
18 proceeding:

19 (i) to which the department is a party under the provisions of this chapter or any other taxing act; or

20 (ii) on behalf of a party to any action or proceedings under the provisions of this chapter or other taxes  
21 when the reports or facts shown by the reports are directly involved in the action or proceedings.

22 (b) The court may require the production of and may admit in evidence only as much of the reports or  
23 of the facts shown by the reports as are pertinent to the action or proceedings.

24 (3) This section does not prohibit:

25 (a) the delivery to a taxpayer or the taxpayer's authorized representative of a certified copy of any return  
26 or report filed in connection with the taxpayer's tax;

27 (b) the publication of statistics classified to prevent the identification of particular reports or returns and  
28 the items of particular reports or returns; or

29 (c) the inspection by the attorney general or other legal representative of the state of the report or return  
30 of any taxpayer who brings an action to set aside or review the tax based on the report or return or against whom

1 an action or proceeding has been instituted in accordance with the provisions of 15-30-2630.

2 (4) The department may deliver to a taxpayer's spouse the taxpayer's return or information related to  
3 the return for a tax year if the spouse and the taxpayer filed the return with the filing status of married filing  
4 separately on the same return. The information being provided to the spouse or reported on the return, including  
5 subsequent adjustments or amendments to the return, must be treated in the same manner as if the spouse and  
6 the taxpayer filed the return using a joint filing status for that tax year.

7 (5) Reports and returns must be preserved for at least 3 years and may be preserved until the  
8 department orders them to be destroyed.

9 (6) Any offense against subsections (1) through (5) is punishable by a fine not exceeding \$500. If the  
10 offender is an officer or employee of the state, the offender must be dismissed from office or employment and  
11 may not hold any public office or public employment in this state for a period of 1 year after dismissal or, in the  
12 case of a former officer or employee, for 1 year after conviction.

13 (7) This section may not be construed to prohibit the department from providing taxpayer return  
14 information and information from employers' payroll withholding reports to:

15 (a) the department of labor and industry to be used for the purpose of investigation and prevention of  
16 noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws; or

17 (b) the state fund to be used for the purpose of investigation and prevention of noncompliance, fraud,  
18 and abuse under the workers' compensation program.

19 (8) The department may permit the commissioner of internal revenue of the United States or the proper  
20 officer of any state imposing a tax on the incomes of individuals or the authorized representative of either officer  
21 to inspect the return of income of any individual or may furnish to the officer or an authorized representative an  
22 abstract of the return of income of any individual or supply the officer with information concerning an item of  
23 income contained in a return or disclosed by the report of an investigation of the income or return of income of  
24 an individual, but the permission may be granted or information furnished only if the statutes of the United States  
25 or of the other state grant substantially similar privileges to the proper officer of this state charged with the  
26 administration of this chapter.

27 (9) On written request to the director or a designee of the director, the department shall furnish:

28 (a) to the department of justice all information necessary to identify those persons qualifying for the  
29 additional exemption for blindness pursuant to 15-30-2114(4), for the purpose of enabling the department of  
30 justice to administer the provisions of 61-5-105;

1 (b) to the department of public health and human services information acquired under 15-30-2616,  
2 pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public  
3 assistance fraud and abuse, provided notice to the applicant has been given;

4 (c) to the department of labor and industry for the purpose of prevention and detection of fraud and  
5 abuse in and eligibility for benefits under the unemployment compensation and workers' compensation programs  
6 information on whether a taxpayer who is the subject of an ongoing investigation by the department of labor and  
7 industry is an employee, an independent contractor, or self-employed;

8 (d) to the department of fish, and wildlife, ~~and parks~~ specific information that is available from income  
9 tax returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and  
10 fishing licenses;

11 (e) to the board of regents information required under 20-26-1111;

12 (f) to the legislative fiscal analyst and the office of budget and program planning individual income tax  
13 information as provided in 5-12-303, 15-1-106, and 17-7-111. The information provided to the office of budget  
14 and program planning must be the same as the information provided to the legislative fiscal analyst.

15 (g) to the department of transportation farm income information based on the most recent income tax  
16 return filed by an applicant applying for a refund under 15-70-430, provided that notice to the applicant has been  
17 given as provided in 15-70-430. The information obtained by the department of transportation is subject to the  
18 same restrictions on disclosure as are individual income tax returns.

19 (h) to the commissioner of insurance's office all information necessary for the administration of the small  
20 business health insurance tax credit provided for in Title 33, chapter 22, part 20;

21 (i) to the department of commerce tax information about a taxpayer whose debt is assigned to the  
22 department of revenue for offset or collection pursuant to the terms of Title 17, chapter 4, part 1. The information  
23 provided to the department of commerce must be used for the purposes of preventing and detecting fraud or  
24 abuse and determining eligibility for grants or loans.

25 (j) to the superintendent of public instruction information required under 20-9-905. (Subsection (9)(j)  
26 terminates December 31, 2023--sec. 33, Ch. 457, L. 2015.)"

27

28 **Section 23.** Section 15-35-108, MCA, is amended to read:

29 **"15-35-108. (Temporary) Disposal of severance taxes.** Severance taxes collected under this chapter  
30 must, in accordance with the provisions of 17-2-124, be allocated as follows:

1 (1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX,  
2 section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under  
3 17-6-203(6) and invested by the board of investments as provided by law.

4 (2) The amount of 12% of coal severance tax collections is allocated to the long-range building program  
5 account established in 17-7-205.

6 (3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated  
7 by the legislature for provision of basic library services for the residents of all counties through library federations  
8 and for payment of the costs of participating in regional and national networking, conservation districts, and the  
9 Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account.  
10 Money may not be transferred from this account to another account other than the general fund. Any unreserved  
11 fund balance at the end of each fiscal year must be deposited in the general fund.

12 (4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks  
13 acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses,  
14 must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas  
15 described in ~~23-4-402~~ 23-1-111.

16 (5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable  
17 resource loan debt service fund.

18 (6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art  
19 in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding  
20 unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other  
21 cultural and aesthetic projects.

22 (7) The amount of 5.8% through June 30, 2017, and beginning July 1, 2017, the amount of 2.9% must  
23 be credited to the coal natural resource account established in 90-6-1001(2).

24 (8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must  
25 be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

26 (9) (a) Subject to subsection (9)(b), all other revenue from severance taxes collected under the  
27 provisions of this chapter must be credited to the general fund of the state and is statutorily appropriated, as  
28 provided in 17-7-502, on July 1 each year to the trust fund for the public employees' retirement system defined  
29 benefit plan established pursuant to 19-3-103.

30 (b) The interest income of the coal severance tax permanent fund that is deposited in the general fund,

1 less the annual transfer of \$1.275 million to the research and commercialization state special revenue account  
2 pursuant to 15-1-122(2), is statutorily appropriated, as provided in 17-7-502, on July 1 each year as follows:

- 3 (i) \$65,000 to the cooperative development center;  
4 (ii) \$625,000 for the growth through agriculture program provided for in Title 90, chapter 9;  
5 (iii) to the department of commerce:  
6 (A) \$125,000 for a small business development center;  
7 (B) \$50,000 for a small business innovative research program;  
8 (C) \$425,000 for certified regional development corporations;  
9 (D) \$200,000 for the Montana manufacturing extension center at Montana state university-Bozeman;

10 and

- 11 (E) \$300,000 for export trade enhancement; and  
12 (iv) except as provided in subsection (9)(c), up to \$21 million to the public employees' retirement system  
13 defined benefit plan trust fund.

14 (c) If the legislative finance committee determines that the public employees' retirement board has failed  
15 to provide a sufficient report pursuant to 19-3-117, it shall recommend that \$5 million be subtracted from the  
16 amount allocated in subsection (9)(b)(iv) subject to legislative approval. (Terminates June 30, 2019--secs. 2, 3,  
17 Ch. 459, L. 2009.)

18 **15-35-108. (Effective July 1, 2019) Disposal of severance taxes.** Severance taxes collected under  
19 this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

20 (1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX,  
21 section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under  
22 17-6-203(6) and invested by the board of investments as provided by law.

23 (2) The amount of 12% of coal severance tax collections is allocated to the long-range building program  
24 account established in 17-7-205.

25 (3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated  
26 by the legislature for provision of basic library services for the residents of all counties through library federations  
27 and for payment of the costs of participating in regional and national networking, conservation districts, and the  
28 Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account.  
29 Money may not be transferred from this account to another account other than the general fund. Any unreserved  
30 fund balance at the end of each fiscal year must be deposited in the general fund.

1 (4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks  
2 acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses,  
3 must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas  
4 described in ~~23-1-102~~ 23-1-111.

5 (5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable  
6 resource loan debt service fund.

7 (6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art  
8 in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding  
9 unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other  
10 cultural and aesthetic projects.

11 (7) The amount of 2.9% must be credited to the coal natural resource account established in  
12 90-6-1001(2).

13 (8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must  
14 be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

15 (9) (a) Subject to subsection (9)(b), all other revenue from severance taxes collected under the  
16 provisions of this chapter must be credited to the general fund of the state and is statutorily appropriated, as  
17 provided in 17-7-502, on July 1 each year to the trust fund for the public employees' retirement system defined  
18 benefit plan pursuant to 19-3-103.

19 (b) Except as provided in subsection (9)(c), up to \$24 million of the interest income from the coal  
20 severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in  
21 17-7-502, on July 1 each year to the public employees' retirement system defined benefit plan trust fund.

22 (c) If the legislative finance committee determines that the public employees' retirement board has failed  
23 to provide a sufficient report pursuant to 19-3-117, it shall recommend that \$5 million be subtracted from the  
24 amount allocated in subsection (9)(b) subject to legislative approval."

25

26 **Section 24.** Section 15-38-202, MCA, is amended to read:

27 **"15-38-202. Investment of resource indemnity trust fund -- expenditure -- minimum balance. (1)**

28 All money paid into the resource indemnity trust fund must be invested at the discretion of the board of  
29 investments. Only the net earnings, excluding unrealized gains and losses, may be appropriated and expended  
30 until the fund balance, excluding unrealized gains and losses, reaches \$100 million. After the fund balance

1 reaches \$100 million, all net earnings, excluding unrealized gains and losses, and all receipts may be  
2 appropriated by the legislature and expended, provided that the fund balance, excluding unrealized gains and  
3 losses, may never be less than \$100 million.

4 (2) (a) At the beginning of each fiscal year, there is allocated from the interest income of the resource  
5 indemnity trust fund:

6 (i) \$3.2 million to be deposited in the natural resources projects state special revenue account,  
7 established in 15-38-302, for the purpose of making grants;

8 (ii) \$300,000 to be deposited in the ground water assessment account established in 85-2-905;

9 (iii) \$500,000 to the department of fish; and wildlife; ~~and parks~~ for the purposes of 87-1-283. The future  
10 fisheries review panel shall approve and fund qualified mineral reclamation projects before other types of qualified  
11 projects.

12 (b) At the beginning of each biennium, there is allocated from the interest income of the resource  
13 indemnity trust fund:

14 (i) \$650,000 to be deposited in the oil and gas production damage mitigation account pursuant to the  
15 conditions of 82-11-161;

16 (ii) \$500,000 to be deposited in the water storage state special revenue account created by 85-1-631;  
17 and

18 (iii) \$175,000 to be deposited in the environmental contingency account established in 75-1-1101.

19 (c) The remainder of the interest income is allocated as follows:

20 (i) Sixty-five percent of the interest income of the resource indemnity trust fund must be allocated to the  
21 natural resources operations state special revenue account established in 15-38-301.

22 (ii) Twenty-six percent of the interest income of the resource indemnity trust fund must be allocated to  
23 the hazardous waste/CERCLA special revenue account provided for in 75-10-621.

24 (iii) Nine percent of the interest income of the resource indemnity trust fund must be allocated to the  
25 environmental quality protection fund provided for in 75-10-704.

26 (3) Any formal budget document prepared by the legislature or the executive branch that proposes to  
27 appropriate funds other than as provided for by the allocations in subsection (2) must specify the amount of  
28 money from each allocation that is proposed to be diverted and the proposed use of the diverted funds. A formal  
29 budget document includes a printed and publicly distributed budget proposal or recommendation, an introduced  
30 bill, or a bill developed during the legislative appropriation process or otherwise during a legislative session."

1

2           **Section 25.** Section 15-65-121, MCA, is amended to read:

3           **"15-65-121. Distribution of tax proceeds.** (1) The proceeds of the tax imposed by 15-65-111 must,  
4 in accordance with the provisions of 17-2-124, be deposited in an account in the state special revenue fund to  
5 the credit of the department. The department may spend from that account in accordance with an expenditure  
6 appropriation by the legislature based on an estimate of the costs of collecting and disbursing the proceeds of  
7 the tax. Before allocating the balance of the tax proceeds in accordance with the provisions of 17-2-124 and as  
8 provided in subsections (2)(a) through (2)(f) of this section, the department shall determine the expenditures by  
9 state agencies for in-state lodging for each reporting period and deduct 4% of that amount from the tax proceeds  
10 received each reporting period. The department shall distribute the portion of the 4% that was paid with federal  
11 funds to the agency that made the in-state lodging expenditure and deposit 30% of the amount deducted less  
12 the portion paid with federal funds in the state general fund. The amount of \$400,000 each year must be  
13 deposited in the Montana heritage preservation and development account provided for in 22-3-1004.

14           (2) The balance of the tax proceeds received each reporting period and not deducted pursuant to the  
15 expenditure appropriation, deposited in the state general fund, distributed to agencies that paid the tax with  
16 federal funds, or deposited in the heritage preservation and development account must be transferred to an  
17 account in the state special revenue fund to the credit of the department of commerce for tourism promotion, ~~and~~  
18 promotion of the state as a location for the production of motion pictures and television commercials, and state  
19 parks, to the Montana historical interpretation state special revenue account, to the Montana historical society,  
20 and to the university system, ~~and to the department of fish, wildlife, and parks~~, as follows:

21           (a) 1% to the Montana historical society to be used for the installation or maintenance of roadside  
22 historical signs and historic sites;

23           (b) 2.5% to the university system for the establishment and maintenance of a Montana travel research  
24 program;

25           (c) 6.5% to the department of ~~fish, wildlife, and parks~~ commerce for ~~the maintenance by the state parks~~  
26 and recreation board of facilities in state parks that have both resident and nonresident use;

27           (d) 64.9% to be used directly by the department of commerce;

28           (e) (i) except as provided in subsection (2)(e)(ii), 22.5% to be distributed by the department to regional  
29 nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds  
30 collected statewide; and

1 (ii) if 22.5% of the proceeds collected annually within the limits of a city, consolidated city-county, resort  
 2 area, or resort area district exceeds \$35,000, 50% of the amount available for distribution to the regional nonprofit  
 3 tourism corporation in the region where the city, consolidated city-county, resort area, or resort area district is  
 4 located, to be distributed to the nonprofit convention and visitors bureau in that city, consolidated city-county,  
 5 resort area, or resort area district; and

6 (f) 2.6% to the Montana historical interpretation state special revenue account established in 22-3-115.

7 (3) If a city, consolidated city-county, resort area, or resort area district qualifies under this section for  
 8 funds but fails to either recognize a nonprofit convention and visitors bureau or submit and gain approval for an  
 9 annual marketing plan as required in 15-65-122, then those funds must be allocated to the regional nonprofit  
 10 tourism corporation in the region in which the city, consolidated city-county, resort area, or resort area district is  
 11 located.

12 (4) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing  
 13 plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation  
 14 may be used by the department of commerce for tourism promotion and promotion of the state as a location for  
 15 the production of motion pictures and television commercials.

16 (5) The tax proceeds received that are transferred to a state special revenue account pursuant to  
 17 subsections (2)(a) through (2)(e) are statutorily appropriated to the entities as provided in 17-7-502.

18 (6) The tax proceeds received that are transferred to the Montana historical interpretation state special  
 19 revenue account pursuant to subsection (2)(f) are subject to appropriation by the legislature."  
 20

21 **Section 26.** Section 16-4-210, MCA, is amended to read:

22 **"16-4-210. Resort license -- tour boat endorsement.** (1) A holder of a resort all-beverages license  
 23 issued under 16-4-202 may be issued a tour boat endorsement to allow the sale of alcoholic beverages to  
 24 passengers on boats at least 40 feet in length and equipped to carry at least 50 passengers.

25 (2) The endorsement must be issued upon written application to the department and submission of an  
 26 annual fee of \$200. The applicant must also submit proof:

27 (a) of compliance with the following requirements:

28 (i) county health department inspection and approval of food services offered on the boat;

29 (ii) inspection and approval by the department of fish; and wildlife; ~~and parks~~ of boat safety equipment  
 30 requirements;

- 1 (iii) current boat registration; and  
 2 (iv) business liability insurance coverage; and  
 3 (b) that the registered owner of the tour boat is:  
 4 (i) a resort all-beverages licensee;  
 5 (ii) an individual named on a resort all-beverages license; or  
 6 (iii) a stockholder owning 10% or more of any class of stock in a corporate resort all-beverages license.  
 7 (3) Alcoholic beverages may be sold pursuant to the endorsement authorized in subsection (1) only while  
 8 the boat is underway within 30 miles of the resort boundary or is in preparation for scheduled departure. Except  
 9 as provided in this subsection, no alcoholic beverages may be sold or served when the boat is secured at its or  
 10 any other mooring.  
 11 (4) Sale of alcoholic beverages under the endorsement is subject to all other requirements imposed for  
 12 any all-beverages license issued under this part."

- 13  
 14 **Section 27.** Section 17-7-161, MCA, is amended to read:  
 15 **"17-7-161. Game warden positions exempt from vacancy savings.** (1) Vacancy savings may not be  
 16 imposed on authorized game warden positions in the department.  
 17 (2) For purposes of this section:  
 18 (a) "authorized game warden positions" means those game warden positions included in the list of  
 19 current authorized positions that the department is required to maintain under 2-18-206;  
 20 (b) "department" means the department of fish; and wildlife, ~~and parks~~ established in 2-15-3401; and  
 21 (c) "vacancy savings" means the difference between the cost of fully funding authorized positions for an  
 22 entire fiscal year and the actual cost of funding those authorized positions during that fiscal year."

- 23  
 24 **Section 28.** Section 17-7-502, MCA, is amended to read:  
 25 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory  
 26 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the  
 27 need for a biennial legislative appropriation or budget amendment.  
 28 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both  
 29 of the following provisions:  
 30 (a) The law containing the statutory authority must be listed in subsection (3).

1 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory  
2 appropriation is made as provided in this section.

3 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;  
4 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312;  
5 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101;  
6 15-70-433; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215;  
7 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;  
8 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-517; 20-9-520; 20-9-534; 20-9-622; 20-9-905; 20-26-617;  
9 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; [section 50]; [section 51]; 23-4-105; 23-5-306; 23-5-409;  
10 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 39-71-503; 41-5-2011; 42-2-105;  
11 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115;  
12 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362;  
13 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102];  
14 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

15 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,  
16 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued  
17 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana  
18 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state  
19 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory  
20 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion  
21 of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded  
22 liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and  
23 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L.  
24 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under  
25 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion  
26 of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004  
27 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30,  
28 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017;  
29 pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency;  
30 pursuant to sec. 5, Ch. 244, L. 2013, the inclusion of 22-1-327 terminates July 1, 2017; pursuant to sec. 27, Ch.

1 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec.  
 2 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015,  
 3 the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of  
 4 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of  
 5 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117  
 6 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates  
 7 September 30, 2019; and pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December  
 8 31, 2023.)"

9

10 **Section 29.** Section 18-2-301, MCA, is amended to read:

11 **"18-2-301. Bids required -- advertising.** (1) It is unlawful for any offices, departments, institutions, or  
 12 any agent of the state of Montana acting for or in behalf of the state to do, to cause to be done, or to let any  
 13 contract for the construction of buildings or the alteration and improvement of buildings and adjacent grounds on  
 14 behalf of and for the benefit of the state when the amount involved is \$75,000 or more without first advertising  
 15 in at least one issue each week for 3 consecutive weeks in two newspapers published in the state, one of which  
 16 must be published at the seat of government and the other in the county where the work is to be performed,  
 17 calling for sealed bids to perform the work and stating the time and place bids will be considered.

18 (2) All work may be done, caused to be done, or contracted for only after competitive bidding.

19 (3) If responsible bids are not received after two attempts, the department or agency may contract for  
 20 the work in a manner determined to be cost-effective for the state.

21 (4) This section does not apply to work done by inmates at an institution in the department of corrections.

22 (5) (a) The provisions of Montana law governing advertising and competitive bidding do not apply when  
 23 the ~~department of fish, wildlife, and parks~~ state parks and recreation board is preserving or restoring the historic  
 24 buildings and resources that it owns at Bannack if:

25 (i) the options listed in subsection (5)(b) are determined to be more cost-effective for the state; and

26 (ii) the implementation of the options listed in subsection (5)(b) is necessary to save historic buildings and  
 27 resources from degradation and loss.

28 (b) For the preservation or restoration of historic buildings and resources at Bannack when the conditions  
 29 listed in subsection (5)(a) are met, the ~~department of fish, wildlife, and parks~~ state parks and recreation board  
 30 may accomplish the preservation or restoration through:

- 1 (i) a memorandum of understanding with a local, state, or federal entity or nonprofit organization when  
2 the entity or organization demonstrates the competence, knowledge, and qualifications to preserve or restore  
3 historic resources;
- 4 (ii) the use of qualified and trained ~~department of fish, wildlife, and parks~~ employees and volunteers;
- 5 (iii) a training program in historic preservation and restoration conducted by a qualified local, state, or  
6 federal entity or a qualified nonprofit organization; or
- 7 (iv) any combination of the options described in this subsection (5)(b)."  
8

9 **Section 30.** Section 19-8-101, MCA, is amended to read:

10 **"19-8-101. Definitions.** Unless the context requires otherwise, the following definitions apply in this  
11 chapter:

12 (1) (a) "Compensation" means remuneration paid from funds controlled by an employer in payment for  
13 the member's services or for time during which the member is excused from work because the member has taken  
14 compensatory leave, sick leave, annual leave, banked holiday time, or a leave of absence before any pretax  
15 deductions allowed by state or federal law are made.

16 (b) Compensation does not include:

- 17 (i) maintenance, allowances, and expenses; or
- 18 (ii) bonuses provided after July 1, 2013, that are one-time, temporary payments in addition to and not  
19 considered part of base pay.

20 (2) (a) "Highest average compensation" means:

21 (i) for members hired prior to July 1, 2011, the highest average monthly compensation during any 36  
22 consecutive months of membership service;

23 (ii) for members hired on or after July 1, 2011, the highest average monthly compensation during any 60  
24 consecutive months of membership service; or

25 (iii) in the event a member has not served the minimum specified period of membership service, the total  
26 compensation earned divided by the number of months of service.

27 (b) Lump-sum payments for severance pay, including payment for compensatory leave, sick leave,  
28 annual leave, and banked holiday time, paid to the member upon termination of employment may be used in the  
29 calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis,  
30 the normal compensation for a month or months included in the calculation of the highest average compensation.

1 A lump-sum payment may not be added to a single month's compensation.

2 (c) Excess earnings limits must be applied to the calculation of the highest average compensation  
3 pursuant to 19-2-1005(2).

4 (3) "Game warden" means a state fish and game warden hired by the department of fish; and wildlife;  
5 ~~and parks~~ and includes all warden supervisory personnel whose salaries or compensation is paid out of the  
6 department of fish; and wildlife; ~~and parks~~ money.

7 (4) "Motor carrier officer" means an employee of the department of transportation designated or  
8 appointed as a peace officer pursuant to 61-10-154 or 61-12-201.

9 (5) "Peace officer" or "state peace officer" means a person who by virtue of the person's employment  
10 with the state is vested by law with a duty to maintain public order or make arrests for offenses while acting within  
11 the scope of the person's authority or who is charged with specific law enforcement responsibilities on behalf of  
12 the state."

13

14 **Section 31.** Section 19-8-301, MCA, is amended to read:

15 **"19-8-301. Membership -- inactive vested members -- inactive nonvested members.** (1) Except as  
16 provided in 19-8-302, the following state peace officers must be covered under the game wardens' and peace  
17 officers' retirement system and, beginning on the first day of employment, must become and shall remain active  
18 members for as long as they are employed as peace officers:

19 (a) game wardens who are assigned to law enforcement in the department of fish; and wildlife; ~~and~~  
20 ~~parks~~;

21 (b) motor carrier officers employed by the department of transportation;

22 (c) campus security officers employed by the university system;

23 (d) wardens and deputy wardens employed by the department of corrections;

24 (e) corrections officers employed by the department of corrections;

25 (f) probation and parole officers employed by the department of corrections;

26 (g) stock inspectors and detectives employed by the department of livestock; and

27 (h) drill instructors employed by the department of corrections.

28 (2) (a) An inactive member with at least 5 years of membership service is an inactive vested member  
29 and retains the right to purchase service credit and to receive a retirement benefit under the provisions of this  
30 chapter.

1 (b) If an inactive vested member chooses to take a lump-sum payment rather than a retirement benefit,  
2 the lump-sum payment consists of only the member's accumulated contributions and not the employer's  
3 contributions.

4 (3) (a) An inactive member with less than 5 years of membership service is an inactive nonvested  
5 member and is not eligible for any benefits from the retirement system.

6 (b) An inactive nonvested member is eligible only for a refund of the member's accumulated  
7 contributions."  
8

9 **Section 32.** Section 19-8-501, MCA, is amended to read:

10 **"19-8-501. Contributions to pension trust fund.** The following must be paid to the board and must be  
11 credited to the pension trust fund:

12 (1) all contributions by the state from department of fish; and wildlife; ~~and parks~~ money;

13 (2) all contributions by the state game wardens; and

14 (3) all interest on and increase of the investments and money in the pension trust fund."  
15

16 **Section 33.** Section 19-8-504, MCA, is amended to read:

17 **"19-8-504. Employer's contribution.** The employer shall pay as employer contributions 9% of the  
18 compensation paid to all of the employer's employees, except those properly excluded from membership. The  
19 department of fish; and wildlife; ~~and parks~~ shall include in its budget and shall request for legislative appropriation  
20 an amount necessary to defray the state's portion of the costs of this section."  
21

22 **Section 34.** Section 20-7-132, MCA, is amended to read:

23 **"20-7-132. Firearms safety education.** The trustees of a district are encouraged to establish and  
24 maintain a firearms safety education course. The trustees may adopt a course of instruction developed by the  
25 department of fish; and wildlife; ~~and parks~~; a law enforcement agency, or a firearms association as its firearms  
26 safety education course. Instructors from the department of fish; and wildlife; ~~and parks~~; a law enforcement  
27 agency, or a firearms association or a person recognized by the trustees as having expertise in firearms safety  
28 education may be used to provide the instruction."  
29

30 **Section 35.** Section 22-3-1002, MCA, is amended to read:

1           **"22-3-1002. Montana heritage preservation and development commission.** (1) There is a Montana  
2 heritage preservation and development commission. The commission is attached to the department of commerce  
3 for administrative purposes only, pursuant to 2-15-121. The commission and the department shall negotiate a  
4 specific indirect administrative rate annually, with biennial review by a designated, appropriate legislative interim  
5 committee.

6           (2) (a) The commission consists of 14 members. The members shall broadly represent the state. Nine  
7 members must be appointed by the governor, one member must be appointed by the president of the senate,  
8 and one member must be appointed by the speaker of the house.

9           (b) If the president of the senate and the speaker of the house do not appoint the members for which  
10 they are responsible within 6 months of a vacancy having occurred in those positions, the members must be  
11 appointed by the governor.

12           (c) The director of the Montana historical society, the ~~director of the department of fish, wildlife, and parks~~  
13 executive director of state parks and recreation, and the director of the department of commerce shall serve as  
14 members. Of the members appointed by the governor under subsection (2)(a):

15           (i) one member must have extensive experience in managing facilities that cater to the needs of tourists;

16           (ii) one member must have experience in community planning;

17           (iii) one member must have experience in historic preservation;

18           (iv) two members must have broad experience in business;

19           (v) one member must be a member of the tourism advisory council established in 2-15-1816;

20           (vi) one member must be a Montana historian; and

21           (vii) two members must be from the public at large.

22           (3) Except for the initial appointments, members appointed by the governor under subsection (2)(a) shall  
23 serve 3-year terms. Members appointed by the president of the senate and the speaker of the house or by the  
24 governor under subsection (2)(b) shall serve 2-year terms. If a vacancy occurs, the appointing authority shall  
25 make an appointment for the unexpired portion of the term.

26           (4) (a) The commission may employ:

27           (i) an executive director who has general responsibility for the selection and management of commission  
28 staff, developing recommendations for the purchase of property, and overseeing the management of acquired  
29 property;

30           (ii) a curator who is responsible for the display and preservation of the acquired property; and

1 (iii) other staff that the commission and the executive director determine are necessary to manage and  
2 operate commission properties.

3 (b) The commission shall prescribe the duties and annual salary of the executive director, the curator,  
4 and other commission staff."

5

6 **Section 36.** Section 22-3-1003, MCA, is amended to read:

7 **"22-3-1003. Powers of commission -- contracts -- rules.** (1) (a) The Montana heritage preservation  
8 and development commission may contract with private organizations to assist in carrying out the purpose of  
9 22-3-1001. The term of a contract may not exceed 20 years.

10 (b) The provisions of Title 18 may not be construed as prohibiting contracts under this section from being  
11 let by direct negotiation. The contracts may be entered into directly with a vendor and are not subject to state  
12 procurement laws.

13 (c) Architectural and engineering review and approval do not apply to the historic renovation projects  
14 or projects at historic sites unless stated in specific state appropriations for construction permitted under the  
15 commission's jurisdiction.

16 (d) The contracts must provide for the payment of prevailing wages.

17 (e) A contract for supplies or services, or both, may be negotiated in accordance with commission rules.

18 (f) Management activities must be undertaken to encourage the operation of properties in a manner that  
19 results in economic stability.

20 (g) Contracts may include the lease of property managed by the commission. Provisions for the renewal  
21 of a contract must be contained in the contract.

22 (2) (a) Except as provided in subsection (2)(b), the commission may not contract for the construction of  
23 a building, as defined in 18-2-101, in excess of \$300,000 without the consent of the legislature. Building  
24 construction must be in conformity with applicable guidelines developed by the national park service of the U.S.  
25 department of the interior, the Montana historical society, and the ~~Montana department of fish, wildlife, and parks~~  
26 Montana state parks and recreation board. Funding for these projects must pass through directly to the  
27 commission.

28 (b) The commission may contract for the preservation, stabilization, or maintenance of existing structures  
29 or buildings for an amount that exceeds \$300,000 without legislative consent if the commission determines that  
30 waiting for legislative consent would cause unnecessary damage to the structures or buildings or would result

1 in a significant increase in cost to conduct those activities in the future.

2 (3) (a) Subject to subsection (3)(b), the commission, as part of a contract, shall require that a portion of  
3 any profit be reinvested in the property and that a portion be used to pay the administrative costs of the property  
4 and the commission.

5 (b) The commission shall deposit the portion of profits not used for administrative costs and restoration  
6 of the properties in the general fund.

7 (4) The commission may solicit funds from other sources, including the federal government, for the  
8 management and operation of properties.

9 (5) (a) The commission may use volunteers to further the purposes of this part.

10 (b) The commission and volunteers stand in the relationship of employer and employee for purposes  
11 of and as those terms are defined in Title 39, chapter 71. The commission shall provide each volunteer with  
12 workers' compensation coverage, as provided in Title 39, chapter 71, during the course of the volunteer's  
13 assistance.

14 (6) Volunteers are not salaried employees and are not entitled to wages and benefits. The commission  
15 may, in its discretion, reimburse volunteers for their otherwise uncompensated out-of-pocket expenses, including  
16 but not limited to their expenditures for transportation, food, and lodging.

17 (7) The commission shall establish a subcommittee composed of an equal number of members of the  
18 Montana historical society board of trustees and commission members to review and recommend the sale of  
19 personal property from the former Bovey assets acquired by the 55th legislature. A recommendation to sell may  
20 be presented to the commission only if the recommendation is supported by a majority of the members of the  
21 subcommittee.

22 (8) The commission shall adopt rules establishing a policy for making acquisitions and sales of real and  
23 personal property. With respect to each acquisition or sale, the policy must give consideration to:

24 (a) whether the property represents the state's culture and history;

25 (b) whether the property can become economically stable;

26 (c) whether the property can contribute to the economic and social enrichment of the state;

27 (d) whether the property lends itself to programs to interpret Montana history;

28 (e) whether the acquisition or sale will create significant social and economic impacts to affected local  
29 governments and the state;

30 (f) whether the sale is supported by the director of the Montana historical society;

1 (g) whether the commission should include any preservation covenants in a proposed sale agreement  
2 for real property;

3 (h) whether the commission should incorporate any design review ordinances established by Virginia  
4 City into a proposed sale agreement for real property; and

5 (i) other matters that the commission considers necessary or appropriate.

6 (9) Except as provided in subsection (11), the proceeds of any sale under subsection (8) must be placed  
7 in the account established in 22-3-1004.

8 (10) Public notice and the opportunity for a hearing must be given in the geographical area of a proposed  
9 acquisition or sale of real property before a final decision to acquire or sell the property is made. The commission  
10 shall approve proposals for acquisition or sale of real property and recommend the approved proposal to the  
11 board of land commissioners.

12 (11) The commission, working with the board of investments, may establish trust funds to benefit historic  
13 properties. Interest from any trust fund established under this subsection must be used to preserve and manage  
14 assets owned by the commission.

15 (12) Prior to the convening of each regular session, the commission shall report to the governor and the  
16 legislature, as provided in 5-11-210, concerning financial activities during the prior biennium, including the  
17 acquisition or sale of any assets."

18

19 **Section 37.** Section 23-1-101, MCA, is amended to read:

20 **"23-1-101. Purposes -- definitions.** (1) For the purposes of conserving the scenic, historic,  
21 archaeologic, scientific, and recreational resources of the state, providing for their use and enjoyment, and  
22 contributing to the cultural, recreational, and economic life of the people and their health, the department and  
23 board are vested with the duties and powers set forth in this part.

24 (2) For the purposes of this part, the following definitions apply:

25 (a) "Board" means the state parks and recreation board established in ~~2-15-3406~~ [section 1].

26 ~~(b) "Commission" means the fish and wildlife commission established in 2-15-3402.~~

27 ~~(c)(b) "Department" means the department of fish, wildlife, and parks commerce established in 2-15-3401~~  
28 2-15-1801.

29 ~~(d) "Director" means the director of fish, wildlife, and parks as provided in 2-15-3401.~~

30 (c) "Executive director" means the executive director of state parks and recreation hired by the board

1 pursuant to [section 1]."

2

3 **Section 38.** Section 23-1-102, MCA, is amended to read:

4 **"23-1-102. Powers and duties of department Acceptance of gifts and other funds or property. (4)**

5 The department shall make a study to determine the scenic, historic, archaeological, scientific, and recreational  
6 resources of the state. The department may:

7 ~~\_\_\_\_\_ (a) by purchase, lease, agreement, or acceptance of donations acquire for the state any areas, sites,  
8 or objects that in its opinion should be held, improved, and maintained as state parks, state recreational areas,  
9 state monuments, or state historic sites;~~

10 ~~\_\_\_\_\_ (b) with the consent of the board, acquire by condemnation, pursuant to Title 70, chapter 30, lands or  
11 structures for the purposes provided in 87-1-209(2);~~

12 ~~\_\_\_\_\_ (c) with the consent of the board, enter into a contract pursuant to 18-4-313(2)(e);~~

13 ~~\_\_\_\_\_ (d) accept in the name of the state, in fee or otherwise, any areas, sites, or objects conveyed, entrusted,  
14 donated, or devised to the state; and~~

15 ~~\_\_\_\_\_ (e) lease those portions of designated lands that are necessary for the proper administration of the lands  
16 in keeping with the basic purposes of this part.~~

17 ~~(2) The department may accept gifts, grants, bequests, or contributions of money or other property to  
18 be spent or used for any of the purposes of this part.~~

19 ~~(3) A contract, for any of the purposes of this part, may not be entered into or another obligation incurred  
20 until money has been appropriated by the legislature or is otherwise available. If the contract or obligation pertains  
21 to acquisition of areas or sites in excess of either 100 acres or \$100,000 in value, the board of land  
22 commissioners shall specifically approve the acquisition.~~

23 ~~\_\_\_\_\_ (4) The department has jurisdiction, custody, and control of all state parks, recreational areas, public  
24 camping grounds, historic sites, and monuments, except wayside camps and other public conveniences acquired,  
25 improved, and maintained by the department of transportation and contiguous to the state highway system. The  
26 department may designate lands under its control as state parks, state historic sites, state monuments, or any  
27 other designation that it considers appropriate. The department may remove or change the designation of any  
28 area or portion of an area and may name or change the name of any area."~~

29

30 **Section 39.** Section 23-1-105, MCA, is amended to read:

1           **"23-1-105. Fees and charges -- use of motor vehicle registration fee.** (1) The ~~department~~ board may  
2 levy and collect reasonable fees or other charges for the use of privileges and conveniences that may be provided  
3 and ~~to~~ may grant concessions that it considers advisable, except as provided in subsections (2) and (6). All  
4 money derived from the activities of the ~~department~~ board, except as provided in subsection (5), must be  
5 deposited in the state treasury in a state special revenue fund to the credit of the department and used for the  
6 purposes of this part.

7           (2) Overnight camping fees established by the ~~department~~ under subsection (1) must be discounted 50%  
8 for a campsite rented by a person who is a resident of Montana, as defined in 87-2-102, and is either 62 years  
9 of age or older or certified as disabled in accordance with rules adopted by the ~~department~~ board.

10           (3) For a violation of ~~any~~ a fee collection rule involving a vehicle, the registered owner of the vehicle at  
11 the time of the violation is personally responsible if an adult is not in the vehicle at the time the violation is  
12 discovered by an authorized officer. A defense that the vehicle was driven into the fee area by another person  
13 is not allowable unless it is shown that at that ~~time,~~ time the vehicle was being used without the consent of the  
14 registered owner.

15           (4) Money received from the collection of fees and charges is subject to the deposit requirements of  
16 17-6-105(6) unless the department has submitted and received approval for a modified deposit schedule pursuant  
17 to 17-6-105(8).

18           (5) There is a fund of the enterprise fund type, as defined in 17-2-102(2)(a), for the purpose of managing  
19 state park visitor services revenue. The fund is to be used by the ~~department~~ board to serve the recreating public  
20 by providing for the obtaining of inventory through purchase, production, or donation and for the sale of  
21 educational, commemorative, and interpretive merchandise and other related goods and services at ~~department~~  
22 sites and facilities administered pursuant to this part. The fund consists of money from the sale of educational,  
23 commemorative, and interpretive merchandise and other related goods and services and from donations. Gross  
24 revenue from the sale of educational, commemorative, and interpretive merchandise and other related goods and  
25 services must be deposited in the fund. All interest and earnings on money deposited in the fund must be credited  
26 to the fund for use as provided in this subsection.

27           (6) In recognition of the fact that individuals support state parks through the payment of certain motor  
28 vehicle registration fees, persons who pay the fee provided for in 61-3-321(19)(a) may not be required to pay a  
29 day-use fee for access to state parks. Other fees for the use of state parks ~~and fishing access sites~~, such as  
30 overnight camping fees, are still chargeable and may be collected ~~by the department~~.

1 (7) Any increase in the motor vehicle registration fee collected pursuant to 61-3-321(19)(a) on or after  
 2 January 1, 2012, that is dedicated to state parks must be used by the department for maintenance and operation  
 3 of state parks."

4

5 **Section 40.** Section 23-1-108, MCA, is amended to read:

6 **"23-1-108. Acquisition of certain state parks, monuments, or historic sites.** (1) Any person,  
 7 association, or representative of a governing unit may submit a proposal for the acquisition of a site or area  
 8 described in ~~23-1-102~~ 23-1-111 from the income of the trust fund created in 15-35-108 to the ~~department~~ board  
 9 by July 1 of the year preceding the convening of a legislative session.

10 (2) The board shall present to the legislature by the 15th day of any legislative session a list of areas,  
 11 sites, or objects that were proposed for purchase for use as state parks, state recreational areas, state  
 12 monuments, or state historic sites with the money contained in the parks account.

13 (3) The legislature must appropriate funds from this account before any park, area, monument, or site  
 14 may be purchased."

15

16 **Section 41.** Section 23-1-110, MCA, is amended to read:

17 **"23-1-110. Improvement or development of state park ~~or fishing access site~~ -- required public**  
 18 **involvement -- rules.** (1) Any proposed improvement or development of a state park ~~or fishing access site~~ that  
 19 significantly changes park ~~or fishing access site~~ features or use patterns is subject to notice of proposed  
 20 modifications, both statewide and locally, and to opportunity for a public meeting and public comment on the  
 21 advisability and acceptability of the proposal. Rules to govern the notice, meeting, and comment process must  
 22 be adopted:

23 ~~\_\_\_\_\_ (a) for state parks by the board; and~~

24 ~~\_\_\_\_\_ (b) for fishing access sites by the commission.~~

25 (2) The ~~department~~ board shall prepare a public report regarding any project that is subject to the  
 26 provisions of subsection (1). The report must include conclusions relating to the following aspects of the proposal:

27 (a) the desires of the public as expressed to the ~~department~~ board;

28 (b) the capacity of the park ~~or fishing access site~~ for development;

29 (c) environmental impacts associated with the improvement or development;

30 (d) the long-range maintenance of the improvements;

- 1 (e) the protection of natural, cultural, and historical park or fishing access site features;  
 2 (f) potential impacts on tourism; and  
 3 (g) site-specific modifications as they relate to the park or fishing access site system as a whole."  
 4

5 **Section 42.** Section 23-1-111, MCA, is amended to read:

6 **"23-1-111. Powers and duties of board -- rulemaking -- meetings.** (1) ~~Except as provided in~~  
 7 ~~subsection (2), for~~ For state parks, primitive parks, state recreational areas, public camping grounds, state historic  
 8 sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant  
 9 to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 6, 8, and 9, the board shall:

10 (a) direct and set the policies and ~~provide direction to the department~~ for:

11 (i) ~~the management, protection, conservation, and preservation of~~ managing, protecting, conserving, and  
 12 preserving these properties, lands, and waters and their appropriate role relative to tourism and the economic  
 13 health of Montana; and

14 (ii) coordinating, integrating, promoting, and furthering opportunities for education and recreation at these  
 15 sites, including but not limited to camping, hiking, snowmobiling, off-highway vehicle use, horseback riding,  
 16 mountain biking, boating, and swimming;

17 (b) work with the fish and wildlife commission established in 2-15-3402 to maintain hunting and angling  
 18 opportunities on these lands and waters;

19 (c) establish the rules ~~of the department~~ governing the use of these properties and lands. The rules must  
 20 be adopted in the interest of public health, public safety, public welfare, and protection of property and public  
 21 resources in regulating recreation, including picnicking, camping, and swimming, and sanitation. These rules are  
 22 subject to review and approval by the department of public health and human services with regard to issues of  
 23 public health and sanitation before becoming effective. Copies of the rules must show that endorsement.

24 (d) review and approve all acquisitions or transfers of interest in these properties, lands, and waters ~~by~~  
 25 ~~the department~~, except as provided in ~~87-1-209(4)~~ [section 47(4)];

26 (e) review and approve the budget ~~of the department~~ for the administration of these properties, lands,  
 27 and waters prior to its transmittal to the office of budget and program planning;

28 (f) review and approve construction projects that have an estimated cost of more than \$5,000;

29 (g) work with local, state, and federal agencies to evaluate, integrate, coordinate, and promote  
 30 recreational opportunities statewide; and

1 (h) encourage citizen involvement in management planning for these properties, lands, and waters.

2 ~~(2) Pursuant to 87-1-301(1), the board does not oversee department activities related to the~~  
3 ~~administration of fishing access sites.~~

4 (2) A contract, for any purposes of this part, may not be entered into or another obligation may not be  
5 incurred until money has been appropriated by the legislature or is otherwise available.

6 (3) The board may enter into cooperative agreements with the department of fish and wildlife and any  
7 other state, city, county, or other governmental unit to carry out and enforce the provisions of Title 23, chapter  
8 2, parts 1, 4, 6, 8, and 9, and this part. This includes funding agreements for management of property and land  
9 administered by the board.

10 (4) The board may lease:

11 (a) the portions of designated lands needed for the proper administration of the lands in keeping with  
12 the basic purposes of this part; and

13 (b) land that it administers in exchange for services to be provided by the lessee.

14 (5) The board may enter into a contract for concessions or visitor services pursuant to 18-4-313(2)(e).

15 (6) The board shall, in accordance with [section 51], address fire mitigation and pine beetle infestation,  
16 giving priority to forested lands in excess of 50 contiguous acres in any state park.

17 (7) The board may designate lands it administers pursuant to this part as state parks, state historic sites,  
18 state monuments, or another designation that it considers appropriate. The board may remove or change the  
19 designation of an area or portion of an area and may name or change the name of an area.

20 (8) The board does not oversee wayside camps and other public conveniences acquired, improved, and  
21 maintained by the department of transportation and contiguous to the state highway system.

22 ~~(9)~~(9) The members of the board shall hold quarterly or other meetings for the transaction of business  
23 at times and places considered necessary and proper. The meetings must be called by the presiding officer or  
24 by a majority of the board and must be held at the time and place specified in the call for the meeting. A majority  
25 of the members constitutes a quorum for the transaction of any business. The board shall keep a record of all  
26 the business it transacts. The presiding officer and secretary shall sign all orders, minutes, or documents for the  
27 board."

28

29 **Section 43.** Section 23-1-122, MCA, is amended to read:

30 **"23-1-122. Enforcement powers of park rangers and game wardens authorized officers.** (1) Park

1 rangers appointed pursuant to 23-1-121 and ~~fish and game wardens appointed pursuant to 87-1-501~~ any persons  
 2 authorized under cooperative agreements pursuant to 23-1-111(3) are authorized officers of the board with the  
 3 authority to enforce the laws and adopted rules relating to parks and outdoor recreation contained in ~~chapters~~  
 4 ~~1 and 2 of this title, except chapter 2, part 7~~ Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 6, 8, and 9.

5 (2) An authorized officer may:

6 (a) arrest, in accordance with Title 46, chapter 6, any person within an area managed by the ~~department~~  
 7 board upon probable cause to believe that the person has ~~committed an offense against chapters 1 and 2 of this~~  
 8 ~~title, except chapter 2, part 7, violated a provision of Title 23, chapter 1, or Title 23, chapter 2, parts 1, 4, 6, 8, and~~  
 9 9, or rules of the ~~department, the board, or the commission;~~

10 (b) enforce the disorderly conduct and public nuisance laws under 45-8-101 and 45-8-111 as they apply  
 11 to the operation of motorboats on waters within areas managed by the ~~department~~ board under this part; and

12 (c) exercise other powers of peace officers in the enforcement of:

13 (i) laws relating to parks and outdoor recreation contained in ~~chapters 1 and 2 of this title, except chapter~~  
 14 ~~2, part 7~~ Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 6, 8, and 9;

15 (ii) rules of the ~~department, the board, and the commission;~~ and

16 (iii) judgments obtained for violations of the laws and rules specified in this subsection (2)(c)."

17

18 **Section 44.** Section 23-1-126, MCA, is amended to read:

19 **"23-1-126. Good neighbor policy -- public recreational lands.** (1) The good neighbor policy of public  
 20 land use, as applied to public recreational lands, seeks a goal of no impact upon adjoining private and public  
 21 lands by preventing impact on those adjoining lands from noxious weeds, trespass, litter, noise and light pollution,  
 22 streambank erosion, and loss of privacy.

23 (2) In order to implement the good neighbor policy expeditiously, the legislature finds it necessary to  
 24 require the ~~department of fish, wildlife, and parks~~ board to place maintenance as a priority over additional  
 25 development at all state parks ~~and fishing access sites.~~

26 (3) The restriction in subsection (2) does not apply to:

27 (a) ~~development and improvement projects for which the legislature has appropriated funds prior to~~  
 28 ~~October 1, 1999;~~

29 (b)(a) activities directly related to the historic preservation, restoration, or protection of assets in state  
 30 parks;

1 ~~(c) at the discretion of the department of fish, wildlife, and parks, projects on the Missouri reach of the~~  
 2 ~~Missouri-Madison hydropower project or the Clark Fork basin hydropower project, undertaken pursuant to the~~  
 3 ~~federal energy regulatory commission's hydropower relicensing requirements and in conjunction with private~~  
 4 ~~entities, political subdivisions of the state of Montana, and federal agencies;~~

5 ~~— (d) at the discretion of the department of fish, wildlife, and parks, projects on Fort Peck reservoir~~  
 6 ~~undertaken in conjunction with the U.S. army corps of engineers; or~~

7 ~~(e)(b)~~ partnership projects as designated within the park master plan.

8 (4) Any development in state parks ~~and fishing access sites~~ beyond those that defined as maintenance  
 9 in 23-1-127 must be approved by the legislature."

10  
 11 **Section 45.** Section 23-1-127, MCA, is amended to read:

12 **"23-1-127. Maintenance priority -- maintenance defined.** With regard to state parks ~~and fishing access~~  
 13 ~~sites~~, implementation of the good neighbor policy requires that priority is to be given to maintenance of existing  
 14 facilities, rather than to development or improvement. For purposes of 23-1-126 and this section, "maintenance"  
 15 means:

16 (1) placing, cleaning, and stocking of latrines;

17 (2) garbage and litter removal;

18 (3) fence installation and repair of existing fences;

19 (4) weed control;

20 (5) implementation of safety and health measures required by law to protect the public;

21 (6) upkeep of established trails, roads, parking areas, boat docks, and similar facilities existing in state  
 22 parks ~~and fishing access sites~~ on October 1, 1999;

23 (7) in-kind replacement of existing facilities, including electric lines or facilities, or replacement of those  
 24 existing facilities with facilities that have less impact on the state park ~~or fishing access site~~;

25 (8) erosion control;

26 (9) streambank stabilization;

27 (10) erection of barriers necessary to preserve riparian vegetation and habitat;

28 (11) minimal signage necessary to inform users of appropriate state park ~~or fishing access site~~ use and  
 29 applicable regulations and of historical, natural, cultural, geographical, and geological features in the area;

30 (12) measures necessary to ensure compliance with the federal Americans With Disabilities Act of 1990,

1 when applicable;

2 (13) planting of native trees, grasses, and shrubs for habitat stabilization and privacy shielding;

3 (14) installation of fire rings, picnic tables, and trash collection facilities; and

4 (15) other necessary activities and expenditures consistent with the good neighbor policy and the intent  
5 of 23-1-126, 23-1-128, and this section, including new trails, new boat ramps, and necessary new access roads  
6 into and within the state park ~~or fishing access site.~~"

7

8 **Section 46.** Section 23-1-128, MCA, is amended to read:

9 **"23-1-128. Limits on camping in riparian areas and operation of off-highway vehicles.** (1) In order  
10 to protect riparian vegetation, provide for stable streambanks, reduce erosion, and provide for nutrient barriers  
11 to protect the quality of rivers and streams, camping in a motor vehicle, as defined in 61-1-101, is discouraged  
12 within 25 feet of a river or stream in state parks ~~and fishing access sites.~~

13 (2) The operation of an off-highway vehicle, as defined in 23-2-801, within state parks ~~and fishing access~~  
14 ~~sites~~ is prohibited except:

15 (a) for administrative purposes; or

16 (b) as designated by the ~~department~~ board on roads, trails, or specific areas."

17

18 NEW SECTION. **Section 47. Land acquisition -- notice.** (1) The board shall make a study to  
19 determine the scenic, historic, archaeological, scientific, and recreational resources of the state. Except as provided  
20 in subsection (4) and subject to the provisions of subsection (5), the board may:

21 (a) by purchase, lease, agreement, or acceptance of donations acquire for the state any areas, sites,  
22 or objects that in its opinion should be held, improved, and maintained as state parks, state recreational areas,  
23 state monuments, or state historic sites;

24 (b) acquire by condemnation, pursuant to Title 70, chapter 30, lands or structures for the preservation  
25 of historic or archaeological sites that are threatened with destruction or alteration; and

26 (c) accept in the name of the state, in fee or otherwise, any areas, sites, or objects conveyed, entrusted,  
27 donated, or devised to the state for the purposes of this part.

28 (2) For all land acquisitions proposed pursuant to this section, the board shall provide notice to the board  
29 of county commissioners in the county where the proposed acquisition is located at least 30 days before the  
30 proposed acquisition appears before the board for its consent. The notice must include:

- 1 (a) a description of the proposed acquisition, including acreage and the use proposed by the board;
- 2 (b) an estimate of the measures and costs the board plans to undertake to further the proposed use,  
3 including operating, staffing, and maintenance costs;
- 4 (c) an estimate of the property taxes payable on the proposed acquisition and a statement that if the  
5 board acquires the land, pursuant to [section 50], the board will pay a sum equal to the amount of taxes that  
6 would be payable on the county assessment of the property if it was taxable to a private citizen; and
- 7 (d) a draft agenda of the meeting at which the proposed acquisition will be presented to the board and  
8 information on how the board of county commissioners may provide comment.
- 9 (3) For all land acquisitions of 640 acres or more, the board shall also:
- 10 (a) conduct a public scoping process to identify issues and concerns as the initial phase of an  
11 environmental review pursuant to Title 75, chapter 1, part 2;
- 12 (b) provide the public with sufficient notice of the proposed acquisition and an opportunity to offer input  
13 on reasonable alternatives, mitigation alternatives, mitigation measures, issues, and potential impacts to be  
14 addressed in the environmental review; and
- 15 (c) respond to comments received during the public scoping process as part of the environmental review  
16 document.
- 17 (4) (a) When necessary and advisable for the management and use of property, the executive director  
18 is authorized to grant or acquire from willing sellers right-of-way easements for utilities, roads, drainage facilities,  
19 ditches for water conveyance, and pipelines if the full market value of the interest to be acquired is less than  
20 \$20,000. Whenever possible, easements must include a weed management plan.
- 21 (b) Approval of the board is not required for grants and acquisitions made pursuant to this subsection  
22 (4).
- 23 (c) In granting any right-of-way pursuant to this subsection (4), the executive director shall obtain a fair  
24 market value but is not otherwise required to follow the disposal requirements of [section 48].
- 25 (d) The executive director shall report any easement grant or acquisition made pursuant to this  
26 subsection (4) to the board at its next regular meeting.
- 27 (5) In the case of an acquisition involving more than 100 acres or more than \$100,000 in value, the  
28 acquisition must be specifically approved by the board of land commissioners.
- 29

30 NEW SECTION. **Section 48. Disposal of land -- notice -- disposition of proceeds.** (1) (a) The board

1 may dispose of lands and water rights acquired by it on those terms after public notice as required by subsection  
2 (2), without regard to other laws that provide for sale or disposal of state lands and with or without reservation,  
3 as it considers necessary and advisable.

4 (b) The executive director, with the consent of the board, may convey lands and water rights  
5 administered by the board for full market value to other governmental entities or to adjacent landowners without  
6 regard to the requirements of subsection (2) if the land is less than 10 acres or if the full market value of the  
7 interest to be conveyed is less than \$20,000.

8 (c) When land or water rights are conveyed to another governmental entity or to an adjacent landowner  
9 pursuant to subsection (1)(a), the executive director, in addition to giving notice pursuant to subsection (2)(a),  
10 shall give notice by mail to the landowners whose property adjoins the property being conveyed.

11 (2) (a) Notice of sale describing the lands or waters to be disposed of must be published once a week  
12 for 3 consecutive weeks in a newspaper with general circulation printed and published in the county where the  
13 lands or waters are situated or, if a newspaper is not published in that county, then in a newspaper with general  
14 circulation in that county.

15 (b) The notice must advertise for cash bids to be presented to the executive director within 60 days from  
16 the date of the first publication. Each bid must be accompanied by a cashier's check or cash deposit in an amount  
17 equal to 10% of the amount bid. The highest bid must be accepted upon payment of the balance due within 10  
18 days after mailing notice by certified mail to the highest bidder. If that bidder defaults on payment of the balance  
19 due, then the next highest bidders must be similarly notified in succession until a sale is completed. Deposits  
20 must be returned to the unsuccessful bidders except bidders defaulting after notification.

21 (c) The board shall reserve the right to reject bids that do not equal or exceed the full market value of  
22 the lands and waters as determined by the board. If the board does not receive a bid that equals or exceeds fair  
23 market value, the board may then sell the lands and water rights at private sale. The price accepted on a private  
24 sale must exceed the highest bid rejected in the bid process.

25 (3) The board shall convey lands and water rights without covenants of warranty by deed executed by  
26 the governor or in the governor's absence or disability by the lieutenant governor, attested by the secretary of  
27 state and further countersigned by the executive director.

28 (4) Money received from the sale or lease of lands administered by the board must be deposited in the  
29 state special revenue fund in the account established for miscellaneous funds received for state parks and may  
30 be used only for the purposes of Title 23, chapter 1.

1  
2           **NEW SECTION. Section 49. Posting of land use regulations.** Site-specific land use regulations  
3 applicable to a particular state park or other land administered by the board, including but not limited to speed  
4 limits, road and off-road restrictions or closures, places where camping is allowed or prohibited, and seasonal  
5 closures for management purposes, must be indicated to the public by signs on the premises of the particular  
6 state park or other land administered by the board.

7  
8           **NEW SECTION. Section 50. Payments to counties for state park land -- exceptions.** (1) This  
9 section applies only to state park land purchased after May 10, 2009.

10           (2) Before November 30 of each year, the treasurer of each county in which the board administers state  
11 park land purchased after May 10, 2009, shall describe the land, state the number of acres in each parcel, and  
12 request the drawing of a warrant to the county in a sum equal to the amount of taxes that would be payable on  
13 county assessment of the property if it was taxable to a private citizen.

14           (3) (a) The executive director shall approve or disapprove the request. The executive director may  
15 disapprove a request only if the executive director finds it to be inconsistent with this section.

16           (b) If the executive director disapproves a request, the executive director shall return it with an  
17 explanation detailing the reasons for the disapproval to the appropriate county treasurer for correction.

18           (c) If the executive director approves a request, the executive director shall transmit it to the department  
19 of administration, which shall draw a warrant payable to the county in the amount shown on the request and shall  
20 send the warrant to the county treasurer. The warrant is payable out of any funds credited to the department for  
21 the administration of state parks.

22           (4) The amount to be paid to each county pursuant to this section is statutorily appropriated, as provided  
23 in 17-7-502.

24  
25           **NEW SECTION. Section 51. Forest management on state park lands -- forest management**  
26 **account -- definition.** (1) In order to address fire mitigation and pine beetle infestation on land that it administers,  
27 the board shall adopt a forest management plan based on an annual sustainable yield, giving priority to forested  
28 lands in excess of 50 contiguous acres.

29           (2) The annual sustainable yield must be determined through a study by a qualified independent third  
30 party, using scientific principles, pursuant to all state and federal laws.

1 (3) The annual timber sale on lands administered by the board to address fire mitigation and pine beetle  
2 infestation may not exceed the annual sustainable yield.

3 (4) The board shall review and redetermine the annual sustainable yield at least once every 5 years.

4 (5) (a) There is a forest management account in the special revenue fund to the credit of the department.  
5 The forest management account consists of money deposited into the account from forest management projects  
6 undertaken pursuant to this section and from any other source. Any interest earned by the account must be  
7 deposited into the account.

8 (b) Except as otherwise directed by state or federal law, funds from the forest management account are  
9 statutorily appropriated, as provided in 17-7-502, to the board and must be used to implement forest management  
10 projects that may result pursuant to this section.

11 (6) For the purposes of this section, the term "annual sustainable yield" means the quantity of timber that  
12 can be harvested from forested lands administered by the board each year, taking into account the ability of  
13 forested lands to generate replacement tree growth and in accordance with state and federal laws, including but  
14 not limited to the laws pertaining to wildlife, recreation, and maintenance of watersheds, and water quality  
15 standards that protect fisheries and aquatic life and that are adopted under the provisions of Title 75, chapter 5.

16

17 **Section 52.** Section 23-1-201, MCA, is amended to read:

18 **"23-1-201. Establishment of state scientific and recreational park.** In order to preserve and protect  
19 the biological station grounds ~~hereafter referred to~~ and to remove fire hazards and the danger of other  
20 encroachments tending to detract from the scientific values and uses ~~thereof~~ of the biological station grounds,  
21 the ~~department~~ board is authorized to maintain a state scientific and recreational park on ~~a suitable~~ an area ~~to~~  
22 ~~be designated by it not exceeding~~ greater than 15 acres at the southeast portion of the lands granted by the  
23 United States of America to the state of Montana for ~~the use of~~ by the university of Montana-Missoula for  
24 biological station purposes."  
25

26

27 **Section 53.** Section 23-1-202, MCA, is amended to read:

28 **"23-1-202. Rules governing use.** The ~~department~~ board shall make such rules governing the park's  
29 use; and occupancy; and the protection of the remaining lands of the grant as necessary to promote and continue  
30 the use of all of the lands for biological station purposes. The park itself ~~shall be so~~ must be maintained ~~as~~  
to develop and encourage public interest in the scientific and biological resources of the area. Nothing ~~herein~~

1 ~~contained in this section~~ prevents the use of the area within the park for biological station purposes whenever  
 2 it ~~becomes is~~ useful or necessary ~~for such purposes.~~"

3

4 **Section 54.** Section 23-2-101, MCA, is amended to read:

5 **"23-2-101. Legislative findings -- purpose -- definition.** (1) Montana is uniquely endowed with scenic  
 6 landscapes and areas rich in recreational value. This outdoor heritage enriches the lives of citizens, attracts new  
 7 residents and businesses to the state, and is of major significance to the expanding tourist industry. It is the  
 8 purpose of this part to give authority to the ~~department of fish, wildlife, and parks~~ board to plan, and develop, and  
 9 manage outdoor recreational resources in the state, ~~which authority shall permit receiving and expending~~ The  
 10 board may receive and expend funds including federal grants for this purpose.

11 (2) For the purposes of this part, "board" means the state parks and recreation board established in  
 12 [section 1]."

13

14 **Section 55.** Section 23-2-102, MCA, is amended to read:

15 **"23-2-102. Department of fish, wildlife, and parks State parks and recreation board to implement**  
 16 **federal act.** The ~~department of fish, wildlife, and parks~~ board is hereby designated as the state agency to  
 17 represent and act for the state for the purpose of implementing the Land and Water Conservation Fund Act of  
 18 1965."

19

20 **Section 56.** Section 23-2-103, MCA, is amended to read:

21 **"23-2-103. Compliance with federal act authorized -- powers of department board.** The ~~department~~  
 22 ~~of fish, wildlife, and parks~~ board shall ~~do those things necessary to~~ comply with the provisions of the Land and  
 23 Water Conservation Fund Act of 1965. ~~Among other things, the department of fish, wildlife, and parks~~ and may:

24 (1) prepare a comprehensive statewide outdoor recreational plan ~~which shall contain an evaluation of~~  
 25 that evaluates the demand for and supply of outdoor recreational resources and facilities in Montana and  
 26 establishes a program for implementation of the plan;

27 (2) accept and administer ~~moneys~~ money paid by the secretary of the interior for approved projects;

28 (3) contract with other state agencies, cities, counties, and other political subdivisions of the state, private  
 29 organizations, and agencies of the federal government;

30 (4) acquire, other than by eminent domain, and develop outdoor recreational areas and facilities ~~and as~~

1 well as land and waters and interests in land and waters for ~~such~~ those areas and facilities; and  
 2 (5) for the purpose of implementing the Land and Water Conservation Fund Act of 1965, coordinate its  
 3 activities with and represent the interests of all agencies of state, city, county, and other governmental units with  
 4 outdoor recreational responsibilities."

5  
 6 **Section 57.** Section 23-2-301, MCA, is amended to read:

7 **"23-2-301. Definitions.** For purposes of this part, the following definitions apply:

8 (1) "Barrier" means an artificial obstruction located in or over a water body, restricting passage on or  
 9 through the water, that totally or effectively obstructs the recreational use of the surface water at the time of use.  
 10 A barrier may include but is not limited to a bridge or fence or any other artificial obstacle to the natural flow of  
 11 water.

12 (2) "Class I waters" means surface waters, other than lakes, that:

13 (a) lie within the officially recorded federal government survey meander lines of the waters;

14 (b) flow over lands that have been judicially determined to be owned by the state by reason of application  
 15 of the federal navigability test for state streambed ownership;

16 (c) are or have been capable of supporting the following commercial activities: log floating, transportation  
 17 of furs and skins, shipping, commercial guiding using multiperson watercraft, public transportation, or the  
 18 transportation of merchandise, as these activities have been defined by published judicial opinion as of April 19,  
 19 1985; or

20 (d) are or have been capable of supporting commercial activity within the meaning of the federal  
 21 navigability test for state streambed ownership.

22 (3) "Class II waters" means all surface waters that are not class I waters, except lakes.

23 (4) "Commission" means the fish and wildlife commission provided for in 2-15-3402.

24 (5) "Department" means the department of fish; and wildlife, ~~and parks~~ provided for in 2-15-3401.

25 (6) "Diverted away from a natural water body" means a diversion of surface water through a constructed  
 26 water conveyance system, including but not limited to:

27 (a) an irrigation or drainage canal or ditch;

28 (b) an industrial, municipal, or domestic water system, excluding the lake, stream, or reservoir from which  
 29 the system obtains water;

30 (c) a flood control channel; or

1 (d) a hydropower inlet and discharge facility.

2 (7) "Lake" means a body of water where the surface water is retained by either natural or artificial means  
3 and the natural flow of water is substantially impeded.

4 (8) "Occupied dwelling" means a building used for a human dwelling at least once a year.

5 (9) "Ordinary high-water mark" means the line that water impresses on land by covering it for sufficient  
6 periods to cause physical characteristics that distinguish the area below the line from the area above it.  
7 Characteristics of the area below the line include, when appropriate, but are not limited to deprivation of the soil  
8 of substantially all terrestrial vegetation and destruction of its agricultural vegetative value. A flood plain adjacent  
9 to surface waters is not considered to lie within the surface waters' high-water marks.

10 (10) "Recreational use" means with respect to surface waters: fishing, hunting, swimming, floating in small  
11 craft or other flotation devices, boating in motorized craft unless otherwise prohibited or regulated by law, or craft  
12 propelled by oar or paddle, other water-related pleasure activities, and related unavoidable or incidental uses.

13 (11) "Supervisors" means the board of supervisors of a soil conservation district, the directors of a grazing  
14 district, or the board of county commissioners if a request pursuant to 23-2-311(3)(b) is not within the boundaries  
15 of a conservation district or if the request is refused by the board of supervisors of a soil conservation district or  
16 the directors of a grazing district.

17 (12) "Surface water" means, for the purpose of determining the public's access for recreational use, a  
18 natural water body, its bed, and its banks up to the ordinary high-water mark."  
19

20 **Section 58.** Section 23-2-403, MCA, is amended to read:

21 **"23-2-403. Definitions.** As used in this part, the following definitions apply:

22 (1) "Board" means the state parks and recreation board established in ~~2-15-3406~~ [section 1].

23 ~~(2) "Commission" means the fish and wildlife commission established in 2-15-3402.~~

24 ~~(3)(2)~~ (2) "Department" means the department of fish, wildlife, and parks commerce provided for in  
25 ~~2-15-3404~~ 2-15-1801."

26

27 **Section 59.** Section 23-2-404, MCA, is amended to read:

28 **"23-2-404. Applicability.** This part applies to that portion of the Smith River waterway located in  
29 Meagher and Cascade Counties lying between Camp Baker in Meagher County and the confluence of the Smith  
30 River with the Missouri River. This description does not prevent the ~~department~~ board from naming or renaming

1 areas pursuant to ~~23-1-102~~ 23-1-111."

2

3 **Section 60.** Section 23-2-407, MCA, is amended to read:

4 **"23-2-407. Management responsibility and plan.** The ~~department~~ board has the primary recreational  
5 management responsibility for the Smith River waterway described in 23-2-404, consistent with the purpose  
6 stated in 23-1-101 and 23-2-402. The Smith River waterway must be administered to:

7 (1) allow the continuation of compatible existing recreational and public land uses;

8 (2) maintain the opportunity to enjoy the natural scenic beauty and solitude; and

9 (3) conserve fish and wildlife and scientific and recreational values. The board may cooperate and enter  
10 into agreements as necessary with the department of fish and wildlife for the purposes of this subsection (3)."

11

12 **Section 61.** Section 23-2-408, MCA, is amended to read:

13 **"23-2-408. Rulemaking authority.** The board has authority to provide for the administration of the Smith  
14 River waterway. The board may adopt rules to:

15 (1) regulate and allocate recreational and commercial floating and camping to preserve the biological  
16 and social benefits of recreational and commercial use of the Smith River waterway in its natural state.  
17 Recreational use may be restricted to preserve the experience of floating, fishing, and camping in a natural  
18 environment and to protect the river's fish, wildlife, water, and canyon resources. The restrictions must:

19 (a) consider the tolerance of adjacent landowners to recreational use;

20 (b) consider the capability of the river and adjoining lands to accommodate floating and camping use;

21 and

22 (c) ensure an acceptable level of user satisfaction, including minimizing user conflicts and providing for  
23 a level of solitude.

24 (2) restrict recreational use, if necessary, through the implementation of a permit system. An allocation  
25 of a portion of the permits may be made to licensed outfitters to preserve the availability of outfitting services to  
26 the public.

27 (3) regulate the activities of recreational and commercial users of the water and land in the Smith River  
28 waterway that are legally accessible to the public and regulate the land in the river corridor that is ~~under the~~  
29 ~~control of the department and~~ administered by the board:

30 (a) for the purposes of safety, health, and protection of property;

- 1 (b) to preserve the experience of floating, fishing, and camping in a natural environment;  
 2 (c) to protect the river's fish, wildlife, water, and canyon resources; and  
 3 (d) to minimize conflicts between recreationists and private landowners; and  
 4 (4) establish recreational and commercial user fees for floating and camping on the Smith River  
 5 waterway."

6  
 7 **Section 62.** Section 23-2-409, MCA, is amended to read:

8 **"23-2-409. Allocation of user fees -- expenditure of Smith River corridor enhancement account.**

9 (1) All money collected as recreational and commercial user fees for floating and camping on the Smith River  
 10 waterway pursuant to 23-2-408 must be deposited in the state treasury in an account in the state special revenue  
 11 fund to the credit of the department.

12 (2) Money deposited in the Smith River corridor enhancement account must be expended by the board  
 13 to:

14 (a) protect and enhance the integrity of the natural and scenic beauty of the Smith River waterway and  
 15 its recreational, fisheries, and wildlife values through the lease or acquisition of property, including lease or  
 16 acquisition of partial interests in property ~~by the department~~ within the Smith River corridor;

17 (b) pursue projects that serve to protect, enhance, and restore fisheries habitat, streambank stabilization,  
 18 erosion control, and recreational values within the Smith River corridor, including Smith River tributaries; and

19 (c) pursue projects that serve to maintain and enhance instream flows for recognized recreational and  
 20 aquatic ecosystem values in the Smith River corridor.

21 (3) The board may cooperate and enter into agreements as necessary with the department of fish and  
 22 wildlife for the purposes of subsection (2)."

23  
 24 **Section 63.** Section 23-2-410, MCA, is amended to read:

25 **"23-2-410. Penalty -- enforcement.** (1) A person who violates a rule of the board adopted pursuant to  
 26 this part is guilty of a misdemeanor punishable by a fine of not less than \$50 or more than \$500 or by  
 27 imprisonment in a county jail for not more than 6 months, or both.

28 (2) The ~~department~~ board is a criminal justice agency for the purpose of obtaining the technical  
 29 assistance and support services provided by the board of crime control under the provisions of 44-4-301.

30 Authorized officers of the ~~department~~ board are granted peace officer status with the power:

1 (a) of search, seizure, and arrest;

2 (b) to investigate activities in this state regulated by this part and rules of the ~~department, the board, and~~  
3 ~~the commission~~; and

4 (c) to report violations to the county attorney of the county in which they occur."  
5

6 **Section 64.** Section 23-2-502, MCA, is amended to read:

7 **"23-2-502. Definitions.** As used in this part, unless the context clearly requires a different meaning, the  
8 following definitions apply:

9 (1) "Board" means the state parks and recreation board established in [section 1].

10 ~~(1)~~(2) "Certificate of number" means the certificate issued by the department of justice, an authorized  
11 agent, as defined in 61-1-101, or a county treasurer to the owner of a motorboat or sailboat, assigning the  
12 motorboat or sailboat an identifying number and containing other information as required by the department of  
13 justice.

14 ~~(2)~~(3) "Department" means the department of fish; and wildlife; ~~and parks~~ of the state of Montana.

15 ~~(3)~~(4) "Documented vessel" means a vessel that has and is required to have a valid marine document  
16 as a vessel of the United States.

17 ~~(4)~~(5) "Identifying number" means the boat number set forth in the certificate of number and properly  
18 displayed on the motorboat or sailboat.

19 ~~(5)~~(6) "Lienholder" means a person holding a security interest.

20 ~~(6)~~(7) "Manufacturer" means a person engaged in the business of manufacturing or importing new and  
21 unused vessels or new and unused outboard motors for the purpose of sale or trade.

22 ~~(7)~~(8) (a) "Motorboat" means a vessel, including a personal watercraft or pontoon, propelled by any  
23 machinery, motor, or engine of any description, whether or not the machinery, motor, or engine is the principal  
24 source of propulsion. The term includes boats temporarily equipped with detachable motors or engines.

25 (b) The term does not include a vessel that has a valid marine document issued by the U.S. coast guard  
26 or any successor federal agency.

27 ~~(8)~~(9) "Operate" means to navigate or otherwise use a motorboat or a vessel.

28 ~~(9)~~(10) "Operator" means the person who navigates, drives, or is otherwise in immediate control of a  
29 motorboat or vessel.

30 ~~(10)~~(11) (a) "Owner" means a person, other than a lienholder, having the property in or title to a

1 motorboat or vessel. The term includes a person entitled to the use or possession of a motorboat or vessel  
2 subject to an interest in another person, reserved or created by an agreement securing payment or performance  
3 of an obligation.

4 (b) The term does not include a lessee under a lease not intended as security.

5 ~~(11)~~(12) "Passenger" means each person carried on board a vessel other than:

6 (a) the owner or the owner's representative;

7 (b) the operator;

8 (c) bona fide members of the crew engaged in the business of the vessel who have not contributed any  
9 consideration for their carriage and who are paid for their services; or

10 (d) a guest on board a vessel that is being used exclusively for pleasure purposes who has not  
11 contributed any consideration, directly or indirectly, for the guest's carriage.

12 ~~(12)~~(13) "Person" means an individual, partnership, firm, corporation, association, or other entity.

13 ~~(13)~~(14) "Personal watercraft" means a vessel that uses an outboard motor or an inboard engine  
14 powering a water jet pump as its primary source of propulsion and that is designed to be operated by a person  
15 sitting, standing, or kneeling on the vessel rather than by the conventional method of sitting or standing in the  
16 vessel.

17 ~~(14)~~(15) "Registration decal" means an adhesive sticker produced by the department of justice and  
18 issued by the department of justice, an authorized agent as defined in 61-1-101, or a county treasurer to the  
19 owner of a motorboat, sailboat, or personal watercraft as proof of payment of fees imposed on the motorboat,  
20 sailboat, or personal watercraft for the registration period indicated on the decal as recorded by the department  
21 of justice under 61-3-101.

22 ~~(15)~~(16) (a) "Sailboat" means a vessel that uses a sail and wind as its primary source of propulsion.

23 (b) The term does not include a canoe or kayak propelled by wind.

24 ~~(16)~~(17) "Security interest" means an interest that is reserved or created by an agreement that secures  
25 payment or performance of an obligation and is valid against third parties generally.

26 ~~(17)~~(18) "Uniform state waterway marking system" means one of two categories:

27 (a) a system of aids to navigation to supplement the federal system of marking in state waters; or

28 (b) a system of regulatory markers to warn a vessel operator of dangers or to provide general information  
29 and directions.

30 ~~(18)~~(19) "Validation decal" means an adhesive sticker produced by the department and issued by the

1 department or a county treasurer to the owner of a motorboat, sailboat, or personal watercraft verifying the  
 2 identifying number assigned to the motorboat, sailboat, or personal watercraft and the name and address of the  
 3 owner to meet requirements of the federal standard numbering system.

4 ~~(19)(20)~~ "Vessel" means every description of watercraft, unless otherwise defined by the department,  
 5 other than a seaplane on the water, used or capable of being used as a means of transportation on water.

6 ~~(20)(21)~~ "Waters of this state" means any waters within the territorial limits of this state."  
 7

8 **Section 65.** Section 23-2-519, MCA, is amended to read:

9 **"23-2-519. Penalty -- disposition.** (1) Failure to pay the registration fee as provided for in 61-3-321(10)  
 10 is a misdemeanor, punishable by a fine equal to four times the registration fee that is due on the motorboat,  
 11 sailboat, personal watercraft, or motorized pontoon for the current year of registration.

12 (2) All fines collected pursuant to subsection (1) must be distributed in the following ratio:

13 (a) 50% to the general fund of the county in which the motorboat, sailboat, personal watercraft, or  
 14 motorized pontoon is issued a certification number; and

15 (b) 50% to ~~the motorboat account of the~~ an account in the state special revenue fund for use by to the  
 16 credit of the department in for the enforcement of this part."  
 17

18 **Section 66.** Section 23-2-533, MCA, is amended to read:

19 **"23-2-533. Use Motorboat account -- use of allocated funds for boating facilities.** (1) There is a  
 20 motorboat account in the state special revenue fund established in 17-2-102. Funds allocated to the motorboat  
 21 account must be used by the ~~department~~ board to:

22 (a) improve, operate, or maintain boating facilities; and

23 (b) cover costs associated with the boating advisory council created in 23-2-536.

24 (2) The ~~department~~ board may use the funds to match available federal funds to the extent possible.  
 25 Expenditure of funds must be made after consideration of recommendations by the boating advisory council."  
 26

27 **Section 67.** Section 23-2-536, MCA, is amended to read:

28 **"23-2-536. Creation of boating advisory council -- appointment of members -- duties.** (1) The  
 29 ~~department executive~~ director ~~appointed~~ hired under ~~2-15-3401~~ [section 1] shall appoint a boating advisory  
 30 council to advise the ~~department~~ board on the expenditure of funds in the motorboat account ~~in the state special~~

1 ~~revenue fund~~ established in 23-2-533.

2 (2) The boating advisory council must be composed of at least five members of the public, each of whom  
3 must be interested in boating activities and the use of public boating facilities.

4 (3) The boating advisory council is attached to the department of commerce in an advisory capacity only,  
5 as defined in 2-15-102.

6 (4) All costs associated with the boating advisory council must be paid from the motorboat account ~~in~~  
7 ~~the state special revenue fund~~ established in 25-2-533. Council members are not entitled to compensation or  
8 travel expenses as provided in 2-15-122."

9

10 **Section 68.** Section 23-2-601, MCA, is amended to read:

11 **"23-2-601. Definition of terms.** As used in this part, unless the context requires otherwise, the following  
12 definitions apply:

13 (1) "Board" means the state parks and recreation board established in [section 1].

14 ~~(1)(2)~~ "Certificate of registration" means the owner's receipt evidencing payment of fees due in order for  
15 the snowmobile to be validly registered.

16 ~~(2)(3)~~ "Certificate of title" means the document issued by the department of justice as prima facie  
17 evidence of ownership.

18 ~~(3)(4)~~ "dbA" means sound pressure level measured on the "A" weight scale in decibels.

19 ~~(4)(5)~~ "Department" means the department of fish, wildlife, and parks of the state of Montana commerce  
20 established in 2-15-1801.

21 ~~(5)(6)~~ "Mechanical transport" means any contrivance for moving a person over land that has moving  
22 parts and provides a mechanical advantage to the user.

23 ~~(6)(7)~~ "New snowmobile" means a snowmobile that has not been previously sold to an owner.

24 ~~(7)(8)~~ "Operator" includes each person who operates or is in actual physical control of the operation of  
25 a snowmobile.

26 ~~(8)(9)~~ "Owner" includes each person, other than a lienholder or person having a security interest in a  
27 snowmobile, that holds a certificate of title to a snowmobile and is entitled to the use or possession of the  
28 snowmobile.

29 ~~(9)(10)~~ "Person" means an individual, partnership, association, corporation, and any other body or group  
30 of persons, regardless of the degree of formal organization.

1           ~~(10)~~(11) "Registration decal" means an adhesive sticker produced and issued by the department of  
2 justice, its authorized agent, or a county treasurer to the owner of a snowmobile as proof of payment of all fees  
3 imposed for the registration period indicated on the sticker as recorded by the department of justice under  
4 61-3-101.

5           ~~(11)~~(12) "Roadway" means only those portions of a highway, road, or street improved, designed, or  
6 ordinarily used for travel or parking of motor vehicles.

7           ~~(12)~~(13) "Snowmobile" means a self-propelled vehicle of an overall width of 48 inches or less, excluding  
8 accessories, designed for travel on snow or ice, that may be steered by skis or runners and that is not otherwise  
9 registered or licensed under the laws of the state of Montana.

10          ~~(13)~~(14) "Snowmobile area" means those areas designated as snowmobile trails or areas open to the  
11 operation of snowmobiles.

12          ~~(14)~~(15) "Snowmobile area operators" means those persons responsible for the maintenance of  
13 snowmobile trails and for the designation of open areas or those persons providing rental snowmobile equipment.  
14 Operators may include but are not limited to the United States forest service, the ~~Montana department of fish,~~  
15 ~~wildlife, and parks board,~~ the Montana snowmobile association, individual snowmobile clubs, landowners or their  
16 tenants, persons who offer snowmobile equipment for rent, and private trail grooming contractors.

17          ~~(15)~~(16) "Snowmobiler" means any person operating or riding a snowmobile."  
18

19           **Section 69.** Section 23-2-615, MCA, is amended to read:

20           **"23-2-615. Nonresident temporary-use snowmobile permits -- use of fees.** (1) The requirements  
21 for a nonresident temporary-use snowmobile permit are as follows:

22           (a) Application for the issuance of the permit must be made at locations and upon forms prescribed by  
23 the ~~department~~ board. The forms must include but are not limited to:

24           (i) the applicant's name and permanent address; and

25           (ii) an affidavit declaring the nonresidency of the applicant.

26           (b) Upon submission of the application and a fee of \$25, of which 50 cents is a search and rescue  
27 surcharge, a nonresident temporary-use snowmobile sticker must be issued. The sticker must be permanently  
28 affixed in a conspicuous manner on the snowmobile.

29           (2) The temporary-use snowmobile permit is valid during the fiscal year in which it is issued.

30           (3) The temporary-use snowmobile permit is not proof of ownership, and a certificate of title may not be

1 issued.

2 (4) (a) A nonresident temporary-use snowmobile permit is not required for a snowmobile that qualifies  
3 as a racing snowmobile under 23-2-622.

4 (b) A nonresident temporary-use snowmobile permit is not required for a snowmobile that will be used  
5 only on trails that are managed jointly by agreement between Montana and another state.

6 (5) Except as provided in subsection (1)(b), money collected by payment of fees under this section must  
7 be deposited in the state special revenue fund to the credit of the department and used as follows:

8 (a) \$11 must be expended in areas that are impacted by nonresident snowmobile use to assist in  
9 offsetting snowmobile trail grooming costs;

10 (b) \$2.50 must be used by the ~~department~~ board for the enforcement of snowmobile laws pursuant to  
11 23-2-641;

12 (c) \$1 must be remitted to the license agent who sold the nonresident temporary-use snowmobile permit;  
13 and

14 (d) \$10 must be used by the ~~department~~ board for the statewide snowmobile trail grooming program.

15 (6) The failure to display the permit as required by this section or the making of false statements in  
16 obtaining the permit is a misdemeanor, punishable by a fine of not less than \$25 or more than \$100."

17

18 **Section 70.** Section 23-2-616, MCA, is amended to read:

19 **"23-2-616. Registration and registration decal -- application and issuance -- use of certain fees.**

20 (1) Except for a snowmobile registered under 23-2-621, a snowmobile may not be operated on public lands by  
21 any person unless it has been registered and a registration decal is displayed in a conspicuous place on the left  
22 side of the cowl.

23 (2) (a) A Montana resident who owns a snowmobile operated on public land shall register the  
24 snowmobile at the county treasurer's office in the county where the owner resides.

25 (b) A county treasurer shall register a snowmobile if:

26 (i) as of the date that the snowmobile is to be registered, the owner delivers or has delivered an  
27 application for a certificate of title to the ~~department~~ board, its authorized agent, or a county treasurer; or

28 (ii) the county treasurer has confirmed that the department of justice has an electronic record of title for  
29 the snowmobile as provided in 61-3-101.

30 (c) To register a snowmobile, the county treasurer shall update the electronic record of title maintained

1 by the department of justice, by entering the fees paid and recording any changes to the record.

2 (3) The owner registering a snowmobile shall pay the registration fee prescribed in 61-3-321(11) and,  
3 if the snowmobile has previously been registered, show the county treasurer the registration receipt for the most  
4 recent year in which the snowmobile was registered. Upon payment of the proper fee, the treasurer shall issue  
5 a registration receipt that contains information considered necessary by the department of justice and a listing  
6 of fees paid. The owner shall retain possession of the registration receipt until it is surrendered to the county  
7 treasurer or to a purchaser or subsequent owner pursuant to a transfer of ownership.

8 (4) The county treasurer shall forward the application to the department of justice and shall issue to the  
9 applicant a registration decal in the style and design prescribed by the department of justice.

10 (5) The county treasurer may not register a snowmobile under this section unless the applicant has paid  
11 the registration fee.

12 (6) All money collected from payment of registration fees and all interest accruing from use of this money  
13 must be forwarded to the state, as provided in 15-1-504, for deposit in the state general fund."  
14

15 **Section 71.** Section 23-2-633, MCA, is amended to read:

16 **"23-2-633. Other unlawful operation.** A person while operating a snowmobile may not:

17 (1) use the snowmobile for the purpose of driving, rallying, or harassing game animals, game birds, or  
18 fur-bearing animals of the state or livestock, including ostriches, rheas, and emus. An owner of livestock is not  
19 prohibited from managing or driving the owner's livestock by the use of snowmobiles and may direct other  
20 persons to manage or drive the owner's livestock by use of snowmobiles. The department of fish; and wildlife,  
21 and ~~parks, including its~~ duly authorized employees thereof, is not prohibited from managing or driving game  
22 animals, game birds, or fur-bearing animals by the use of snowmobiles.

23 (2) discharge a firearm from or upon a snowmobile; or

24 (3) operate the snowmobile without a lighted headlight and taillight between the hours of dusk and  
25 dawn."  
26

27 **Section 72.** Section 23-2-634, MCA, is amended to read:

28 **"23-2-634. Regulation of snowmobile noise.** (1) Except as provided in this section, each snowmobile  
29 must be equipped at all times with noise-suppression devices, including an exhaust muffler in good working order  
30 and in constant operation. A snowmobile may not be modified by any person in any manner that will amplify or

1 otherwise increase total noise emissions to a level greater than that emitted by the snowmobile as originally  
2 constructed, regardless of date of manufacture.

3 (2) Each person who owns or operates a snowmobile manufactured after June 30, 1972, but prior to  
4 June 30, 1975, shall maintain the machine in such a manner that it will not exceed a sound level limitation of 82  
5 dbA measured at 50 feet.

6 (3) A snowmobile manufactured after June 30, 1975, except snowmobiles designated for competition  
7 purposes only, may not be sold or offered for sale unless that machine has been certified by the manufacturer  
8 as being able to conform to a sound level limitation of not more than 78 dbA measured at 50 feet. Each person  
9 who owns or operates a snowmobile manufactured after June 30, 1975, shall maintain the machine in a manner  
10 so that it will not exceed a sound level limitation of 78 dbA measured at 50 feet.

11 (4) A manufacturer who certifies that a new snowmobile can comply with the noise limitation  
12 requirements of ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-617, 23-2-621, 23-2-622, 23-2-631 through~~  
13 ~~23-2-635, and 23-2-641 through 23-2-644~~ this part shall affix a permanent notice of that certification to every  
14 snowmobile offered for sale in the state of Montana.

15 (5) In certifying that a new snowmobile can comply with the noise limitation requirements of ~~23-2-601,~~  
16 ~~23-2-602, 23-2-611, 23-2-614 through 23-2-617, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641~~  
17 ~~through 23-2-644~~ this part, a manufacturer shall make the certification based upon measurements made in  
18 accordance with SAE recommended practice J192, as amended. The ~~department~~ board, in enforcing the  
19 provisions of this section, shall make measurements of snowmobile noise in accordance with applicable practices  
20 used by the international snowmobile manufacturers association or with other standards for measurement of  
21 sound level that the ~~department~~ board may adopt.

22 (6) This section does not apply to organized races or similar competitive events held on:

23 (a) private lands or waters, with the permission of the owner, lessee, or custodian of the land or waters;

24 or

25 (b) public lands or waters, with the consent of the public agency having the authority to grant consent."  
26

27 **Section 73.** Section 23-2-636, MCA, is amended to read:

28 **"23-2-636. Snowmobile trail pass -- fees -- penalties.** (1) Except as provided in subsection (4), to be  
29 eligible to operate a snowmobile or use motorized equipment or mechanical transport in snowmobile areas  
30 groomed with a grant or funding assistance awarded by the ~~department~~ board, a person shall first purchase a

1 snowmobile trail pass for \$18.

2 (2) The trail pass is valid for 3 years from the date of purchase and must be affixed in a conspicuous  
3 place to each snowmobile, motorized equipment, or mechanical transport used. A trail pass is not transferable  
4 between a snowmobile, motorized equipment, or mechanical transport.

5 (3) Application for the issuance of the trail pass must be made at locations and ~~upon~~ on forms prescribed  
6 by the ~~department~~ board.

7 (4) A person renting a snowmobile registered pursuant to 61-3-321(11)(b) is not required to purchase  
8 a snowmobile trail pass but shall carry proof of rental if operating a snowmobile in a snowmobile area that  
9 otherwise requires a trail pass pursuant to subsection (1).

10 (5) Money collected by payment of fees under this section must be deposited in the state special revenue  
11 fund to the credit of the department and used as follows:

12 (a) \$2 must be remitted to the vendor who sold the trail pass if the vendor is not the ~~department~~ board;

13 (b) \$1 must be used for the enforcement of snowmobile laws pursuant to this part; and

14 (c) the remainder must be used ~~by the department~~ to award grants or funding assistance to snowmobile  
15 area operators for the grooming of snowmobile areas.

16 (6) The failure to affix the trail pass as required by this section or the making of false statements in  
17 obtaining the trail pass is a misdemeanor, punishable by a fine of not less than \$25 or more than \$100."

18

19 **Section 74.** Section 23-2-641, MCA, is amended to read:

20 "**23-2-641. Enforcement.** (1) With respect to the sale of any new snowmobile that is subject to the  
21 provisions of ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-617, 23-2-621, 23-2-622, 23-2-631 through~~  
22 ~~23-2-635, and 23-2-641 through 23-2-644~~ this part, the attorney general shall, upon the request of the ~~department~~  
23 board, sue for the recovery of the penalties provided in 23-2-642 and bring an action for a restraining order or  
24 temporary or permanent injunction against a person who sells or offers to sell a new snowmobile that does not  
25 satisfy the sound level limitations imposed by ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-617,~~  
26 ~~23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644~~ this part.

27 (2) (a) The ~~department~~ board is a criminal justice agency for the purpose of obtaining the technical  
28 assistance and support services provided by the board of crime control under the provisions of 44-4-301.  
29 Authorized officers of the ~~department~~ board are granted peace officer status with the power:

30 (i) of search, seizure, and arrest;

1 (ii) to investigate activities in this state regulated by this part and rules of the ~~department and the fish and~~  
 2 ~~wildlife commission board~~; and

3 (iii) to report violations to the county attorney of the county in which they occur.

4 (b) Sheriffs and their deputies of the various counties of the state, the Montana highway patrol,  
 5 authorized officers of the ~~department board~~, and the police of each municipality shall enforce the provisions of  
 6 this part."

7

8 **Section 75.** Section 23-2-657, MCA, is amended to read:

9 **"23-2-657. Environmental review compliance -- exemption.** (1) Except as provided in subsection (2),  
 10 the ~~department of fish, wildlife, and parks board~~ shall comply with the provisions of Title 75, chapter 1, parts 1  
 11 and 2, when:

12 (a) acting as a snowmobile area operator pursuant to this part; or

13 (b) awarding a grant or other funding assistance to a snowmobile area operator.

14 (2) The ~~department of fish, wildlife, and parks board~~ is exempt from the provisions of Title 75, chapter  
 15 1, parts 1 and 2, when taking actions as a snowmobile area operator pursuant to this part or when awarding a  
 16 grant or other funding assistance to a snowmobile area operator if the action or award has been previously  
 17 subject to environmental review under Title 75, chapter 1, parts 1 and 2, and there is no proposed change to the  
 18 action or the use of the award."

19

20 **Section 76.** Section 23-2-801, MCA, is amended to read:

21 **"23-2-801. Definition Definitions.** (1) As used in this part, the following definitions apply:

22 (1) "Board" means the state parks and recreation board established in [section 1].

23 (2) "Department" means the department of commerce established in 2-15-1801.

24 (3) (a) ~~"off-highway~~ "Off-highway vehicle" means a self-propelled vehicle used for recreation or  
 25 cross-country travel on public lands, trails, easements, lakes, rivers, or streams. The term includes but is not  
 26 limited to motorcycles, quadricycles, dune buggies, amphibious vehicles, air cushion vehicles, and any other  
 27 means of land transportation deriving motive power from any source other than muscle or wind.

28 (2)(b) ~~Off-highway vehicle~~ The term does not include:

29 (a)(i) vehicles designed primarily for travel on, over, or in the water;

30 (b)(ii) snowmobiles; or

1           ~~(c)(iii)~~ except as provided in 23-2-804, vehicles otherwise issued a certificate of title and registered under  
2 the laws of the state, unless the vehicle is used for off-road recreation on public lands."

3

4           **Section 77.** Section 23-2-806, MCA, is amended to read:

5           "**23-2-806. Enforcement.** (1) ~~The department of fish, wildlife, and parks enforcement personnel, park~~  
6 ~~rangers, Authorized officers of the board, sheriffs and their deputies, the Montana highway patrol, and the police~~  
7 of each municipality shall enforce the provisions of this part.

8           (2) The ~~department~~ board is a criminal justice agency for the purpose of obtaining the technical  
9 assistance and support services provided by the board of crime control under the provisions of 44-4-301.  
10 Authorized officers of the ~~department~~ board are granted peace officer status with the power:

11           (a) of search, seizure, and arrest;

12           (b) to investigate activities in this state regulated by this part and rules of the ~~department and the fish~~  
13 ~~and wildlife commission~~ board; and

14           (c) to report violations to the county attorney of the county in which they occur.

15           (3) Park rangers may not carry firearms in the execution of their duties."

16

17           **Section 78.** Section 23-2-814, MCA, is amended to read:

18           "**23-2-814. Nonresident temporary-use permits -- use of fees.** (1) Except as provided in 23-2-802,  
19 an off-highway vehicle that is owned by a nonresident may not be operated by a person in Montana unless a  
20 nonresident temporary-use permit is obtained.

21           (2) The requirements pertaining to a nonresident temporary-use permit for an off-highway vehicle are  
22 as follows:

23           (a) Application for the issuance of the permit must be made at locations and ~~upon~~ on forms prescribed  
24 by the ~~department of fish, wildlife, and parks~~ board. The forms must include but are not limited to:

25           (i) the applicant's name and permanent address;

26           (ii) the make, model, year, and serial number of the off-highway vehicle; and

27           (iii) an affidavit declaring the nonresidency of the applicant.

28           (b) Upon submission of the application and a fee of \$27, of which \$1 is a search and rescue surcharge,  
29 a nonresident off-highway vehicle temporary-use sticker must be issued. The sticker must be displayed in a  
30 conspicuous manner on the off-highway vehicle. The sticker is the temporary-use permit.

- 1 (3) The temporary-use permit is valid for the calendar year designated on the permit.
- 2 (4) The permit is not proof of ownership, and a certificate of title may not be issued.
- 3 (5) (a) Except as provided in subsection (5)(b), money collected by payment of fees under this section  
4 must be deposited in the state special revenue fund to the credit of the department of fish, wildlife, and parks and  
5 used as follows:
- 6 (i) \$15 must be expended to maintain off-highway vehicle trails;
- 7 (ii) \$2.50 must be used by the ~~department~~ board for enforcement of off-highway vehicle laws pursuant  
8 to 23-2-806;
- 9 (iii) \$1 must be remitted to the license agent who sold the nonresident temporary-use permit;
- 10 (iv) \$6 must be used by the ~~department~~ board for off-highway vehicle safety education; and
- 11 (v) \$1.50 must be used by the ~~department~~ board to mitigate and eradicate noxious weeds along  
12 off-highway vehicle trails.
- 13 (b) The \$1 search and rescue surcharge must be deposited in the account established in 10-3-801 for  
14 use as provided in that section.
- 15 (6) Failure to display the permit as required by this section or making false statements in obtaining the  
16 permit is a misdemeanor and is punishable by a fine of not less than \$25 or more than \$100. All fines collected  
17 under this section must be transmitted to the department of revenue for deposit in the state general fund."  
18

- 19 **Section 79.** Section 23-2-824, MCA, is amended to read:
- 20 **"23-2-824. Operation on public roads, streets, and highways.** (1) A person may operate an  
21 off-highway vehicle on a controlled-access highway or facility only if the vehicle is registered and licensed under  
22 61-3-301 and the operator possesses a license to drive the vehicle issued under Title 61, chapter 5.
- 23 (2) Off-highway vehicle operation is permitted on the roadway or shoulder of any public road or highway,  
24 state highway, county road, or city street located within the boundaries of any municipality only if:
- 25 (a) the operator has received permission or is otherwise authorized for that travel by the municipality in  
26 the case of town or city streets, the board of county commissioners for county roads, or the state highway patrol  
27 for all other highways; or
- 28 (b) operation is authorized on municipal streets by municipal ordinance.
- 29 (3) An off-highway vehicle may not be operated as allowed under subsection (2) unless it is equipped  
30 with at least one headlamp and one taillamp, which must be lighted at all times during operation, and unless it

1 is equipped with a suitable braking device operable by either hand or foot.

2 (4) (a) Except as provided in subsection (4)(b), a person who operates an off-highway vehicle when  
3 allowed under subsection (2) must have in the person's possession a license to drive a motor vehicle issued  
4 under Title 61, chapter 5.

5 (b) An operator is exempt from the requirement to possess a license when operating an off-highway  
6 vehicle as allowed under subsection (2) if the person:

7 (i) is under 16 years of age but at least 12 years of age; and

8 (ii) at the time of operation of the off-highway vehicle, has in the person's possession a certificate showing  
9 the successful completion of an off-highway vehicle safety education course approved by the ~~department of fish,~~  
10 ~~wildlife, and parks~~ board and is in the physical presence of a person who possesses a license to drive a motor  
11 vehicle."  
12

13 **Section 80.** Section 27-1-721, MCA, is amended to read:

14 **"27-1-721. Immunity of certain firearms and hunter safety or hunter education instructors.** A  
15 person who is designated as a hunter safety instructor or hunter education instructor by the department of fish;  
16 and wildlife, ~~and parks~~ under 87-2-105 or certified as an instructor by a national firearms association, who trains  
17 people in the lawful use of firearms, and who is not employed by a governmental entity is not liable for the  
18 conduct, acts, or omissions of a student handling firearms unless the instructor exhibits gross negligence giving  
19 rise to causation of the damages."  
20

21 **Section 81.** Section 37-47-345, MCA, is amended to read:

22 **"37-47-345. Enforcement.** Investigations and arrests for violations of this chapter or rules adopted  
23 pursuant to this chapter may be made by any peace officer, ~~;~~ warden of the department of fish; and wildlife, ~~and~~  
24 ~~parks;~~ or federal agency enforcement personnel."  
25

26 **Section 82.** Section 40-5-701, MCA, is amended to read:

27 **"40-5-701. Definitions.** As used in this part, the following definitions apply:

28 (1) (a) "Child" means:

29 (i) a person under 18 years of age who is not emancipated, self-supporting, married, or a member of the  
30 armed forces of the United States;

- 1 (ii) a person under 19 years of age who is still in high school;
- 2 (iii) a person who is mentally or physically incapacitated when the incapacity began prior to that person  
3 reaching 18 years of age; and
- 4 (iv) in IV-D cases, a person for whom:
- 5 (A) support rights are assigned under 53-2-613;
- 6 (B) a public assistance payment has been made;
- 7 (C) the department is providing support enforcement services under 40-5-203; or
- 8 (D) the department has received a referral for IV-D services under the provisions of the Uniform  
9 Interstate Family Support Act, the Revised Uniform Reciprocal Enforcement of Support Act, the Uniform  
10 Reciprocal Enforcement of Support Act, or Title IV-D of the Social Security Act.
- 11 (b) The term may not be construed to limit the ability of the department to enforce a support order  
12 according to its terms when the order provides for support extending beyond the time the child reaches 18 years  
13 of age.
- 14 (2) "Delinquency" means a support debt or support obligation due under a support order in an amount  
15 greater than or equal to 6 months' support payments as of the date of service of a notice of intent to suspend a  
16 license.
- 17 (3) "Department" means the department of public health and human services.
- 18 (4) "License" means a license, certificate, registration, permit, or any other authorization issued by an  
19 agency of the state of Montana granting a person a right or privilege to engage in a business, occupation,  
20 profession, recreational activity, or any other privilege that is subject to suspension, revocation, forfeiture,  
21 termination, or a declaration of ineligibility to purchase by the licensing authority prior to its date of expiration.
- 22 (5) "Licensing authority" means any department, division, board, agency, or instrumentality of this state  
23 that issues a license.
- 24 (6) "Obligee" means:
- 25 (a) a person to whom a support debt or support obligation is owed; or
- 26 (b) a public agency of this or another state or an Indian tribe that has the right to receive current or  
27 accrued support payments or that is providing support enforcement services under this chapter.
- 28 (7) "Obligor" means a person who owes a duty of support or who is subject to a subpoena or warrant  
29 in a paternity or child support proceeding.
- 30 (8) "Order suspending a license" means an order issued by a support enforcement entity to suspend a

1 license. The order must contain the name of the obligor, the type of license, and, if known, the social security  
2 number of the obligor.

3 (9) "Payment plan" includes but is not limited to a plan approved by the support enforcement entity that  
4 provides sufficient security to ensure compliance with a support order and that incorporates voluntary or  
5 involuntary income withholding under part 3 or 4 of this chapter or a similar plan for periodic payment of a support  
6 debt and, if applicable, current and future support.

7 (10) "Recreational activity" means an activity for which a license or permit is issued by the department  
8 of fish, and wildlife, ~~and parks~~ under Title 87, chapter 2, part 6 or 7, except 87-2-708 or 87-2-711, or under  
9 87-2-505, 87-2-507, 87-2-508, or 87-2-510.

10 (11) "Subpoena" means a writ or order issued by a court or the department in a proceeding or as part  
11 of an investigation related to the paternity or support of a child that commands a person to appear at a particular  
12 place and time to testify or produce documents or things under the person's control.

13 (12) "Support debt" or "support obligation" means the amount created by the failure to provide or pay:

- 14 (a) support to a child under the laws of this or any other state or under a support order;  
15 (b) court-ordered spousal maintenance or other court-ordered support for the child's custodial parent;  
16 (c) fines, fees, penalties, interest, and other funds and costs that the support enforcement entity is  
17 authorized to collect by the use of any procedure available to the entity for the payment, enforcement, and  
18 collection of child support or spousal maintenance or support; or  
19 (d) contributions ordered pursuant to 41-5-1525.

20 (13) "Support enforcement entity" means:

- 21 (a) in IV-D cases, the department; or  
22 (b) in all other cases, the district court that entered the support order or a district court in which the  
23 support order is registered.

24 (14) (a) "Support order" means an order that provides a determinable amount for temporary or final  
25 periodic payment of a support debt or support obligation and that may include payment of a determinable or  
26 indeterminable amount for insurance covering the child issued by:

- 27 (i) a district court of this state;  
28 (ii) a court of appropriate jurisdiction of another state, an Indian tribe, or a foreign country;  
29 (iii) an administrative agency pursuant to proceedings under Title 40, chapter 5, part 2; or  
30 (iv) an administrative agency of another state or an Indian tribe with a hearing function and process

1 similar to those of the department.

2 (b) If an action for child support is commenced under this part and the context so requires, support order  
3 also includes:

4 (i) judgments and orders providing periodic payments for the maintenance or support of the child's  
5 custodial parent; and

6 (ii) amounts for the recovery of fines, fees, penalties, interest, and other funds and costs that the support  
7 enforcement entity is authorized to collect by the use of any procedure available to the entity for the payment,  
8 enforcement, and collection of child support or spousal maintenance or support.

9 (15) "Suspension" includes the withdrawal, withholding, revocation, forfeiture, or nonissuance of a license  
10 and license privileges.

11 (16) "Warrant" means a bench warrant, a warrant to appear, an order to show cause, or any other order  
12 issued by a court relating to the appearance of a party in a paternity or child support proceeding.

13 (17) "IV-D case" means a case in which the department is providing support enforcement services as  
14 a result of:

15 (a) an assignment of support rights under 53-2-613;

16 (b) a payment of public assistance;

17 (c) an application for support enforcement services under 40-5-203; or

18 (d) a referral for services from an agency of another state or an Indian tribe under the provisions of the  
19 Uniform Reciprocal Enforcement of Support Act, the Revised Uniform Reciprocal Enforcement of Support Act,  
20 the Uniform Interstate Family Support Act, or Title IV-D of the Social Security Act."

21

22 **Section 83.** Section 44-4-115, MCA, is amended to read:

23 **"44-4-115. Fish; and wildlife; and parks enforcement program.** There is a fish; and wildlife; and parks  
24 enforcement program in the department of justice, which must be administered by the entity in the department  
25 that assists county attorneys with prosecutions. The program staff may investigate and may prosecute criminal  
26 cases concerning the violation of the laws administered by the department of fish; and wildlife; and parks. The  
27 program is under the supervision and control of the attorney general and consists of a half-time attorney licensed  
28 to practice law in Montana who may prosecute, or assist county attorneys and the department in the prosecution  
29 of, criminal violations of Title 87."

30

1           **Section 84.** Section 45-6-101, MCA, is amended to read:

2           **"45-6-101. Criminal mischief.** (1) A person commits the offense of criminal mischief if the person  
3 knowingly or purposely:

4           (a) injures, damages, or destroys any property of another or public property without consent;

5           (b) without consent tampers with property of another or public property so as to endanger or interfere  
6 with persons or property or its use;

7           (c) damages or destroys property with the purpose to defraud an insurer; or

8           (d) fails to close a gate previously unopened that the person has opened, leading in or out of any  
9 enclosed premises. This does not apply to gates located in cities or towns.

10           (2) A person convicted of criminal mischief must be ordered to make restitution in an amount and manner  
11 to be set by the court. The court shall determine the manner and amount of restitution after full consideration of  
12 the convicted person's ability to pay the restitution. Upon good cause shown by the convicted person, the court  
13 may modify any previous order specifying the amount and manner of restitution. Full payment of the amount of  
14 restitution ordered must be made prior to the release of state jurisdiction over the person convicted.

15           (3) A person convicted of the offense of criminal mischief shall be fined not to exceed \$1,500 or be  
16 imprisoned in the county jail for any term not to exceed 6 months, or both. If the offender commits the offense of  
17 criminal mischief and causes pecuniary loss in excess of \$1,500, injures or kills a commonly domesticated hoofed  
18 animal, or causes a substantial interruption or impairment of public communication, transportation, supply of  
19 water, gas, or power, or other public services, the offender shall be fined an amount not to exceed \$50,000 or  
20 be imprisoned in the state prison for a term not to exceed 10 years, or both.

21           (4) Amounts involved in criminal mischiefs committed pursuant to a common scheme or the same  
22 transaction, whether against the public or the same person or several persons, may be aggregated in determining  
23 pecuniary loss.

24           (5) A person convicted of or who forfeits bond or bail for committing an act of criminal mischief involving  
25 property owned or administered by the department of fish, ~~and wildlife, and parks~~ pursuant to Title 87 or the state  
26 parks and recreation board pursuant to Title 23, chapter 1, shall forfeit any current hunting, fishing, or trapping  
27 license issued by this state and the privilege to hunt, fish, or trap in this state for at least 24 months from the date  
28 of conviction or forfeiture."  
29

30           **Section 85.** Section 45-6-201, MCA, is amended to read:

1           **"45-6-201. Definition of enter or remain unlawfully.** (1) A person enters or remains unlawfully in or  
2 upon any vehicle, occupied structure, or premises when the person is not licensed, invited, or otherwise privileged  
3 to do so. Privilege to enter or remain upon land is extended either by the explicit permission of the landowner or  
4 other authorized person or by the failure of the landowner or other authorized person to post notice denying entry  
5 onto private land. The privilege may be revoked at any time by personal communication of notice by the  
6 landowner or other authorized person to the entering person.

7           (2) To provide for effective posting of private land through which the public has no right-of-way, the notice  
8 provided for in subsection (1) must satisfy the following requirements:

9           (a) notice must be placed on a post, structure, or natural object by marking it with written notice or with  
10 not less than 50 square inches of fluorescent orange paint, except that when metal fenceposts are used, the  
11 entire post must be painted; and

12           (b) the notice described in subsection (2)(a) must be placed at each outer gate and normal point of  
13 access to the property, including both sides of a water body crossing the property wherever the water body  
14 intersects an outer boundary line.

15           (3) To provide for effective posting of private land through which or along which the public has an  
16 unfenced right-of-way by means of a public road, a landowner shall:

17           (a) place a conspicuous sign no closer than 30 feet of the centerline of the roadway where it enters the  
18 private land, stating words substantially similar to "PRIVATE PROPERTY, NO TRESPASSING OFF ROAD NEXT  
19 \_\_\_ MILES"; or

20           (b) place notice, as described in subsection (2)(a), no closer than 30 feet of the centerline of the roadway  
21 at regular intervals of not less than one-fourth mile along the roadway where it borders unfenced private land,  
22 except that orange markings may not be placed on posts where the public roadway enters the private land.

23           (4) If property has been posted in substantial compliance with subsection (2) or (3), it is considered  
24 closed to public access unless explicit permission to enter is given by the landowner or the landowner's  
25 authorized agent.

26           (5) The department of fish, ~~and wildlife, and parks~~ shall attempt to educate and inform all persons holding  
27 hunting, fishing, or trapping licenses or permits by including on any publication concerning the licenses or permits,  
28 in condensed form, the provisions of this section concerning entry on private land. The department shall use  
29 public media, as well as its own publications, in attempting to educate and inform other recreational users of the  
30 provisions of this section. In the interests of providing the public with clear information regarding the public nature

1 of certain unfenced rural rights-of-way, the department may develop and distribute posting signs that satisfy the  
2 requirements of subsection (3).

3 (6) For purposes of this section, "land" means land as defined in 70-15-102.

4 (7) Civil liability may not be imposed upon the owner or occupier of premises by reason of any privilege  
5 created by this section."

6

7 **Section 86.** Section 45-6-203, MCA, is amended to read:

8 **"45-6-203. Criminal trespass to property.** (1) Except as provided in 15-7-139, 70-16-111, and  
9 76-13-116, a person commits the offense of criminal trespass to property if the person knowingly:

10 (a) enters or remains unlawfully in an occupied structure; or

11 (b) enters or remains unlawfully in or upon the premises of another.

12 (2) A person convicted of the offense of criminal trespass to property shall be fined not to exceed \$500  
13 or be imprisoned in the county jail for any term not to exceed 6 months, or both.

14 (3) A person convicted of or who forfeits bond or bail for committing an act of criminal trespass involving  
15 property owned or administered by the department of fish; ~~and wildlife, and parks~~ pursuant to Title 87 or the state  
16 parks and recreation board pursuant to Title 23, chapter 1, or while hunting, fishing, or trapping may be subject  
17 to revocation of the person's privilege to hunt, fish, or trap in this state for up to 24 months from the date of  
18 conviction or forfeiture."

19

20 **Section 87.** Section 45-8-109, MCA, is amended to read:

21 **"45-8-109. Civil disorder -- prohibited activities -- penalties -- exceptions.** (1) A person is guilty of  
22 a crime if, with one or more other persons, the person purposely or knowingly assembles for the purpose of  
23 training in, instructing in the use of, or practicing with any technique or means capable of causing property  
24 damage, bodily injury, or death, with the purpose of employing the training, instruction, or practice in a civil  
25 disorder.

26 (2) A person convicted of violating the provisions of subsection (1) is guilty of a felony and shall be  
27 imprisoned in the state prison for a period not to exceed 10 years or be fined not to exceed \$50,000, or both.

28 (3) Subsection (1) does not prohibit:

29 (a) an act protected pursuant to Article II of the Montana constitution;

30 (b) an act of a governmental military force;

- 1 (c) an act of a peace officer performed in the lawful performance of the officer's duties;
- 2 (d) an authorized activity of the department of fish; ~~and wildlife, and parks;~~ the department of corrections; ~~;~~
- 3 a law enforcement agency; ~~;~~ or the law enforcement academy;
- 4 (e) training in nonviolent civil disobedience techniques;
- 5 (f) lawful self-defense or defense of others or an activity intended to teach or practice self-defense or
- 6 self-defense techniques; or
- 7 (g) a facility, program, or lawful activity related to firearms instruction or training intended to teach the
- 8 safe handling and use of firearms or activities or sports related to recreational use or possession of firearms.
- 9 (4) Sections 45-8-107 through 45-8-109 do not apply to an employer or employees involved in a labor
- 10 dispute."

11

12 **Section 88.** Section 45-8-321, MCA, is amended to read:

13 **"45-8-321. Permit to carry concealed weapon.** (1) A county sheriff shall, within 60 days after the filing

14 of an application, issue a permit to carry a concealed weapon to the applicant. The permit is valid for 4 years from

15 the date of issuance. An applicant must be a United States citizen who is 18 years of age or older and who holds

16 a valid Montana driver's license or other form of identification issued by the state that has a picture of the person

17 identified. An applicant must have been a resident of the state for at least 6 months. Except as provided in

18 subsection (2), this privilege may not be denied an applicant unless the applicant:

- 19 (a) is ineligible under Montana or federal law to own, possess, or receive a firearm;
- 20 (b) has been charged and is awaiting judgment in any state or federal crime that is punishable
- 21 by incarceration for 1 year or more;
- 22 (c) subject to the provisions of subsection (6), has been convicted in any state or federal court of:
- 23 (i) a crime punishable by more than 1 year of incarceration; or
- 24 (ii) regardless of the sentence that may be imposed, a crime that includes as an element of the crime an
- 25 act, attempted act, or threat of intentional homicide, serious bodily harm, unlawful restraint, sexual abuse, or
- 26 sexual intercourse or contact without consent;
- 27 (d) has been convicted under 45-8-327 or 45-8-328, unless the applicant has been pardoned or 5 years
- 28 have elapsed since the date of the conviction;
- 29 (e) has a warrant of any state or the federal government out for the applicant's arrest;
- 30 (f) has been adjudicated in a criminal or civil proceeding in any state or federal court to be an unlawful

1 user of an intoxicating substance and is under a court order of imprisonment or other incarceration, probation,  
2 suspended or deferred imposition of sentence, treatment or education, or other conditions of release or is  
3 otherwise under state supervision;

4 (g) has been adjudicated in a criminal or civil proceeding in any state or federal court to be mentally ill,  
5 mentally disordered, or mentally disabled and is still subject to a disposition order of that court; or

6 (h) was dishonorably discharged from the United States armed forces.

7 (2) The sheriff may deny an applicant a permit to carry a concealed weapon if the sheriff has reasonable  
8 cause to believe that the applicant is mentally ill, mentally disordered, or mentally disabled or otherwise may be  
9 a threat to the peace and good order of the community to the extent that the applicant should not be allowed to  
10 carry a concealed weapon. At the time an application is denied, the sheriff shall, unless the applicant is the  
11 subject of an active criminal investigation, give the applicant a written statement of the reasonable cause upon  
12 which the denial is based.

13 (3) An applicant for a permit under this section must, as a condition to issuance of the permit, be required  
14 by the sheriff to demonstrate familiarity with a firearm by:

15 (a) completion of a hunter education or safety course approved or conducted by the department of fish;  
16 and wildlife, and parks or a similar agency of another state;

17 (b) completion of a firearms safety or training course approved or conducted by the department of fish;  
18 and wildlife, and parks, a similar agency of another state, a national firearms association, a law enforcement  
19 agency, an institution of higher education, or an organization that uses instructors certified by a national firearms  
20 association;

21 (c) completion of a law enforcement firearms safety or training course offered to or required of public or  
22 private law enforcement personnel and conducted or approved by a law enforcement agency;

23 (d) possession of a license from another state to carry a firearm, concealed or otherwise, that is granted  
24 by that state upon completion of a course described in subsections (3)(a) through (3)(c); or

25 (e) evidence that the applicant, during military service, was found to be qualified to operate firearms,  
26 including handguns.

27 (4) A photocopy of a certificate of completion of a course described in subsection (3), an affidavit from  
28 the entity or instructor that conducted the course attesting to completion of the course, or a copy of any other  
29 document that attests to completion of the course and can be verified through contact with the entity or instructor  
30 that conducted the course creates a presumption that the applicant has completed a course described in

1 subsection (3).

2 (5) If the sheriff and applicant agree, the requirement in subsection (3) of demonstrating familiarity with  
3 a firearm may be satisfied by the applicant's passing, to the satisfaction of the sheriff or of any person or entity  
4 to which the sheriff delegates authority to give the test, a physical test in which the applicant demonstrates the  
5 applicant's familiarity with a firearm.

6 (6) A person, except a person referred to in subsection (1)(c)(ii), who has been convicted of a felony and  
7 whose rights have been restored pursuant to Article II, section 28, of the Montana constitution is entitled to  
8 issuance of a concealed weapons permit if otherwise eligible."

9

10 **Section 89.** Section 50-53-209, MCA, is amended to read:

11 **"50-53-209. Cooperative agreements -- inspections.** (1) The department may enter into cooperative  
12 agreements with local boards of health to authorize those boards to act as agents of the department and to  
13 conduct inspections of and enforce applicable statutes and department rules relating to public swimming pools  
14 and public bathing places within the jurisdictions of the respective boards.

15 (2) The department or a local board of health, pursuant to a cooperative agreement, shall annually  
16 conduct:

17 (a) at least one full facility inspection and one critical point inspection of each public swimming pool or  
18 public bathing place operated throughout the year; and

19 (b) at least one full facility inspection of each seasonal public swimming pool or public bathing place.

20 (3) The department shall enter into cooperative agreements with the ~~department of fish, wildlife, and~~  
21 ~~parks~~ state parks and recreation board and other state agencies that operate public swimming pools or public  
22 bathing places to address the enforcement of this chapter and rules adopted under this chapter."

23

24 **Section 90.** Section 60-3-201, MCA, is amended to read:

25 **"60-3-201. Distribution and use of proceeds of gasoline tax.** (1) All money received in payment of  
26 the gasoline tax under 15-70-403, except those amounts paid out of the department's suspense account for  
27 gasoline tax refund, must be used and expended as provided in this section. The portion of that money on hand  
28 at any time that is needed to pay highway bonds and interest on highway bonds when due and to accumulate  
29 and maintain a reserve for payment of highway bonds and interest, as provided in laws and in resolutions of the  
30 state board of examiners authorizing the bonds, must be deposited in the highway bond account in the debt

1 service fund established by 17-2-102. After deductions for amounts paid out of the suspense account for gasoline  
2 tax refunds, the remainder is allocated as follows:

3 (a) 9/10 of 1% to the state park account;

4 (b) 15/28 of 1% to a snowmobile account in the state special revenue fund;

5 (c) 1/8 of 1% to an off-highway vehicle account in the state special revenue fund;

6 (d) 1/25 of 1% to the aeronautics revenue fund of the department under the provisions of 67-1-301; and

7 (e) the remaining amount:

8 (i) for use by the department on the highways in this state selected and designated by the commission;

9 (ii) for collection of the fuel taxes; and

10 (iii) for the enforcement of the Montana highway code under Article VIII, section 6, of the constitution of  
11 this state.

12 (2) The department shall, in expending this money, carry forward construction from year to year, using  
13 the money expended in accordance with this title. Nothing in this title conflicts with Title 23 of the United States  
14 Code and the rules by which it is administered.

15 (3) The department may enter into cooperative agreements with the national park service and the federal  
16 highway administration for the purpose of maintaining national park approach roads in Montana.

17 (4) Money credited to the state park account in the state special revenue fund may be used only for the  
18 creation, improvement, and maintenance of state parks where motorboating is allowed. The legislature finds that  
19 of all the fuel sold in the state for consumption in internal combustion engines, except fuel for which refunds have  
20 been made, not less than 9/10 of 1% is used for propelling boats on waterways of this state.

21 (5) (a) Money credited to the snowmobile account may be used only to develop and maintain facilities  
22 open to the general public at no admission cost, to promote snowmobile safety, for enforcement purposes, and  
23 for the control of noxious weeds.

24 (b) Of the amounts deposited in the snowmobile account:

25 (i) 13% of the amount deposited must be used by the ~~department of fish, wildlife, and parks~~ state parks  
26 and recreation board to promote snowmobile safety and education and to enforce snowmobile laws. Two-thirds  
27 of the 13% deposited must be used to promote snowmobile safety and education and one-third of the 13%  
28 deposited must be used for the enforcement of snowmobile laws.

29 (ii) 1% of the amount deposited must be credited to the noxious weed management special revenue fund  
30 provided for in 80-7-816.

1 (c) The legislature finds that of all fuels sold in this state for consumption in internal combustion engines,  
 2 except fuel for which refunds have been made, not less than 15/28 of 1% is used for propelling registered  
 3 snowmobiles in this state.

4 (6) (a) Money credited to the off-highway vehicle account under subsection (1)(c) may be used only to  
 5 develop and maintain facilities open to the general public at no admission cost, to repair areas that are damaged  
 6 by off-highway vehicles, and to promote off-highway vehicle safety. Ten percent of the money deposited in the  
 7 off-highway vehicle account must be used to promote off-highway vehicle safety. Up to 10% of the money  
 8 deposited in the off-highway vehicle account may be used to repair areas that are damaged by off-highway  
 9 vehicles.

10 (b) The legislature finds that of all fuel sold in this state for consumption in internal combustion engines,  
 11 except fuel for which refunds have been made, not less than 1/8 of 1% is used for propelling off-highway vehicles  
 12 in this state.

13 (7) Money credited to the aeronautics account of the department of transportation may be used only to  
 14 develop, improve, and maintain facilities open to the public at no admission cost and to promote aviation safety.  
 15 The legislature finds that of all the fuel sold in this state for consumption in internal combustion engines, except  
 16 fuel for which refunds have been made, not less than 1/25 of 1% is used for propelling aircraft in this state."  
 17

18 **Section 91.** Section 61-3-321, MCA, is amended to read:

19 **"61-3-321. Registration fees of vehicles and vessels -- certain vehicles exempt from registration**  
 20 **fees -- disposition of fees.** (1) Except as otherwise provided in this section, registration fees must be paid upon  
 21 registration or, if applicable, renewal of registration of motor vehicles, snowmobiles, watercraft, trailers,  
 22 semitrailers, and pole trailers as provided in subsections (2) through (20).

23 (2) Unless a light vehicle is permanently registered under 61-3-562, the annual registration fee for light  
 24 vehicles, trucks and buses under 1 ton, and logging trucks less than 1 ton is as follows:

- 25 (a) if the vehicle is 4 or less years old, \$217;
- 26 (b) if the vehicle is 5 through 10 years old, \$87; and
- 27 (c) if the vehicle is 11 or more years old, \$28.

28 (3) Except as provided in subsection (15), the one-time registration fee based on the declared weight  
 29 of a trailer, semitrailer, or pole trailer is as follows:

- 30 (a) if the declared weight is less than 6,000 pounds, \$61.25; or

- 1 (b) if the declared weight is 6,000 pounds or more, \$148.25.
- 2 (4) Except as provided in subsection (15), the one-time registration fee for motor vehicles owned and  
3 operated solely as collector's items pursuant to 61-3-411, based on the weight of the vehicle, is as follows:
- 4 (a) 2,850 pounds and over, \$10; and  
5 (b) under 2,850 pounds, \$5.
- 6 (5) Except as provided in subsection (15), the one-time registration fee for off-highway vehicles other  
7 than a quadricycle or motorcycle is \$61.25.
- 8 (6) The annual registration fee for heavy trucks, buses, and logging trucks in excess of 1 ton is \$22.75.
- 9 (7) (a) The annual registration fee for a motor home, based on the age of the motor home, is as follows:
- 10 (i) less than 2 years old, \$282.50;  
11 (ii) 2 years old and less than 5 years old, \$224.25;  
12 (iii) 5 years old and less than 8 years old, \$132.50; and  
13 (iv) 8 years old and older, \$97.50.
- 14 (b) The owner of a motor home that is 11 years old or older and that is subject to the registration fee  
15 under this section may permanently register the motor home upon payment of:
- 16 (i) a one-time registration fee of \$237.50;  
17 (ii) unless a new set of license plates is being issued, an insurance verification fee of \$5, which must be  
18 deposited in the account established under 61-6-158;  
19 (iii) if applicable, five times the renewal fees for personalized license plates under 61-3-406; and  
20 (iv) if applicable, the donation fee for a generic specialty license plate under 61-3-480 or a collegiate  
21 license plate under 61-3-465.
- 22 (8) (a) Except as provided in subsection (15), the one-time registration fee for motorcycles and  
23 quadricycles registered for use on public highways is \$53.25, and the one-time registration fee for motorcycles  
24 and quadricycles registered for both off-road use and for use on the public highways is \$114.50.
- 25 (b) An additional fee of \$16 must be collected for the registration of each motorcycle or quadricycle as  
26 a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002.
- 27 (9) Except as provided in subsection (15), the one-time registration fee for travel trailers, based on the  
28 length of the travel trailer, is as follows:
- 29 (a) under 16 feet in length, \$72; and  
30 (b) 16 feet in length or longer, \$152.

- 1 (10) Except as provided in subsection (15), the one-time registration fee for a motorboat, sailboat,  
2 personal watercraft, or motorized pontoon required to be numbered under 23-2-512 is as follows:
- 3 (a) for a personal watercraft or a motorboat, sailboat, or motorized pontoon less than 16 feet in length,  
4 \$65.50;
- 5 (b) for a motorboat, sailboat, or motorized pontoon at least 16 feet in length but less than 19 feet in  
6 length, \$125.50; and
- 7 (c) for a motorboat, sailboat, or motorized pontoon 19 feet in length or longer, \$295.50.
- 8 (11) (a) Except as provided in subsections (11)(b) and (15), the one-time registration fee for a  
9 snowmobile is \$60.50.
- 10 (b) (i) A snowmobile that is licensed by a Montana business and is owned exclusively for the purpose  
11 of daily rental to customers is assessed:
- 12 (A) a fee of \$40.50 in the first year of registration; and
- 13 (B) if the business reregisters the snowmobile for a second year, a fee of \$20.
- 14 (ii) If the business reregisters the snowmobile for a third year, the snowmobile must be permanently  
15 registered and the business is assessed the registration fee imposed in subsection (11)(a).
- 16 (12) (a) The one-time registration fee for a low-speed electric vehicle is \$25.
- 17 (b) The one-time registration fee for a golf cart that is owned by a person who has or is applying for a  
18 low-speed restricted driver's license is \$25.
- 19 (c) The one-time registration fee for golf carts authorized to operate on certain public streets and  
20 highways pursuant to 61-8-391 is \$25. Upon receipt of the fee, the department shall issue the owner a decal,  
21 which must be displayed visibly on the golf cart.
- 22 (13) (a) Except as provided in subsection (13)(b), a fee of \$10 must be collected when a new set of  
23 standard license plates, a new single standard license plate, or a replacement set of special license plates  
24 required under 61-3-332 is issued. The \$10 fee imposed under this subsection does not apply when previously  
25 issued license plates are transferred under 61-3-335. All registration fees imposed under this section must be  
26 paid if the vehicle to which the plates are transferred is not currently registered.
- 27 (b) An additional fee of \$15 must be collected if a vehicle owner elects to keep the same license plate  
28 number from license plates issued before January 1, 2010, when replacement of those plates is required under  
29 61-3-332(3).
- 30 (c) The fees imposed in this subsection (13) must be deposited in the account established under

1 61-6-158, except that \$2 of the fee imposed in subsection (13)(a) must be deposited in the state general fund.

2 (14) The provisions of this part with respect to the payment of registration fees do not apply to and are  
3 not binding upon motor vehicles, trailers, semitrailers, snowmobiles, watercraft, or tractors owned or controlled  
4 by the United States of America or any state, county, city, or special district, as defined in 18-8-202, or to a vehicle  
5 or vessel that meets the description of property exempt from taxation under 15-6-201(1)(a), (1)(d), (1)(e), (1)(g),  
6 (1)(h), (1)(i), (1)(k), (1)(l), (1)(n), or (1)(o), 15-6-203, or 15-6-215, except as provided in 61-3-520.

7 (15) Whenever ownership of a trailer, semitrailer, pole trailer, off-highway vehicle, motorcycle,  
8 quadricycle, travel trailer, motor home, motorboat, sailboat, personal watercraft, motorized pontoon, snowmobile,  
9 motor vehicle owned and operated solely as a collector's item pursuant to 61-3-411, or low-speed electric vehicle  
10 is transferred, the new owner shall title and register the vehicle or vessel as required by this chapter and pay the  
11 fees imposed under this section.

12 (16) A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section.

13 (17) Except as otherwise provided in this section, revenue collected under this section must be deposited  
14 in the state general fund.

15 (18) The fees imposed by subsections (2) through (12) are not required to be paid by a dealer for the  
16 enumerated vehicles or vessels that constitute inventory of the dealership.

17 (19) (a) Unless a person exercises the option in either subsection (19)(b) or (19)(c), an additional fee of  
18 \$6 must be collected for each light vehicle registered under this part. This fee must be accounted for and  
19 transmitted separately from the registration fee. The fee must be deposited in an account in the state special  
20 revenue fund to be used for state parks, for fishing access sites, and for the operation of state-owned facilities.  
21 ~~Of the \$6 fee, the department of fish, wildlife, and parks shall use~~

22 (i) \$5.37 must be deposited in the state special revenue account established in 23-1-105 and used for  
23 state parks;

24 (ii) 25 cents must be deposited in an account in the state special revenue fund to the credit of the  
25 department of fish and wildlife and used for fishing access sites; and

26 (iii) and 38 cents must be deposited in the Montana heritage preservation and development account  
27 established in 22-3-1004 and used for the operation of state-owned facilities at Virginia City and Nevada City.

28 (b) A person who registers a light vehicle may, at the time of annual registration, certify that the person  
29 does not intend to use the vehicle to visit state parks and fishing access sites and may make a written election  
30 not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election is made, the fee may not

1 be collected.

2 (c) (i) A person who registers one or more light vehicles may, at the time of annual registration, certify  
3 that the person does not intend to use any of the vehicles to visit state parks and fishing access sites and may  
4 make a written election not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election is  
5 made, the fee may not be collected at any subsequent annual registration unless the person makes the written  
6 election to pay the additional fee on one or more of the light vehicles.

7 (ii) The written election not to pay the additional fee on a light vehicle expires if the vehicle is registered  
8 to a different person.

9 (20) For each light vehicle, trailer, semitrailer, pole trailer, heavy truck, motor home, motorcycle,  
10 quadricycle, and travel trailer subject to a registration fee under this section, an additional fee of \$5 must be  
11 collected and forwarded to the state for deposit in the account established in 44-1-504.

12 (21) This section does not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is governed by  
13 61-3-721."

14

15 **Section 92.** Section 61-5-104, MCA, is amended to read:

16 **"61-5-104. Exemptions.** (1) The following persons are exempt from licensure under this chapter:

17 (a) a person who is a member of the armed forces of the United States while operating a motor vehicle  
18 owned by or leased to the United States government and being operated on official business;

19 (b) a person who is a member of the armed forces of the United States on active duty in Montana who  
20 holds a valid license issued by another state and the spouse of the person who holds a valid license issued by  
21 another state and who is not employed in Montana, except as a member of the armed forces. If a spouse of a  
22 member of the armed forces becomes gainfully employed in Montana, the spouse must be licensed, as required  
23 by 61-5-102, within 90 days of becoming employed.

24 (c) a person on active duty in the armed forces of the United States and in immediate possession of a  
25 valid license issued to that person in a foreign country by the armed forces of the United States, for a period of  
26 45 days from the date of the person's return to the United States;

27 (d) a person who temporarily drives, operates, or moves a road machine, farm tractor, as defined in  
28 61-9-102, or implement of husbandry for use in intrastate commerce on a highway;

29 (e) a person who is a locomotive engineer, assistant engineer, conductor, brake tender, railroad utility  
30 person, or other member of the crew of a railroad locomotive or train being operated upon rails, including

1 operation on a railroad crossing a public street, road, or highway. A person employed as described in this  
2 subsection is not required to display a driver's license to a law enforcement officer in connection with the  
3 operation of a railroad train within Montana.

4 (f) a person who temporarily drives, operates, or moves an off-highway vehicle on a forest development  
5 road in this state, as defined in 61-8-110, that has been designated and approved for off-highway vehicle use by  
6 the United States forest service if the person:

7 (i) is under 16 years of age but at least 12 years of age; and

8 (ii) at the time of driving, operating, or moving the off-highway vehicle, has in the person's possession  
9 a certificate showing the successful completion of an off-highway vehicle safety education course approved by  
10 the ~~department of fish, wildlife, and parks~~ state parks and recreation board and is in the physical presence of a  
11 person who possesses a license issued under this chapter.

12 (2) A nonresident who is at least 15 years of age and who is in immediate possession of a valid  
13 operator's license issued to the nonresident by the nonresident's home state or country may operate a motor  
14 vehicle, except a commercial motor vehicle, in this state.

15 (3) (a) A nonresident who is in immediate possession of a valid commercial driver's license issued to the  
16 nonresident by the nonresident's home jurisdiction, in accordance with the licensing and testing standards of 49  
17 CFR, part 383, may operate a commercial motor vehicle in this state.

18 (b) For the purpose of this chapter, "jurisdiction" means a state, territory, or possession of the United  
19 States, the District of Columbia, a province or territory of Canada, or the federal district of Mexico.

20 (4) A nonresident who is at least 18 years of age, whose home state or country does not require the  
21 licensing of operators, may operate a motor vehicle as an operator only, for a period of not more than 90 days  
22 in any calendar year, if the motor vehicle is registered in the home state or country of the nonresident.

23 (5) (a) A driver's license issued under this chapter to a person who enters the United States armed  
24 forces, if valid and in effect at the time that the person enters the service, continues in effect so long as the  
25 service continues, unless the license is suspended, revoked, or canceled for a cause as provided by law, and  
26 for up to 30 days following the date on which the licensee is honorably separated from the service.

27 (b) A person serving in the United States armed forces may renew the person's driver's license at any  
28 point of the person's service, and any renewed license continues in effect as long as the service continues, unless  
29 the license is suspended, revoked, or canceled for a cause as provided by law, and for up to 30 days following  
30 the date on which the licensee is honorably separated from the service.

1 (c) A person serving in the United States armed forces may apply for a Montana driver's license upon  
 2 meeting the requirements in 61-5-103, and this license continues in effect as long as the service continues,  
 3 unless the license is suspended, revoked, or canceled for a cause as provided by law, and for up to 30 days  
 4 following the date on which the licensee is honorably separated from the service."

5

6 **Section 93.** Section 70-16-302, MCA, is amended to read:

7 **"70-16-302. (Temporary) Restriction on liability of landowner -- definitions.** (1) A person who uses  
 8 property, including property owned or leased by a public entity, for recreational purposes, with or without  
 9 permission, does so without any assurance from the landowner that the property is safe for any purpose if the  
 10 person does not give a valuable consideration to the landowner in exchange for the recreational use of the  
 11 property. The landowner owes the person no duty of care with respect to the condition of the property, except  
 12 that the landowner is liable to the person for any injury to person or property for an act or omission that constitutes  
 13 willful or wanton misconduct. For purposes of this section, valuable consideration does not include the state land  
 14 recreational use license fee imposed under 77-1-802 or other funds provided under 77-1-815.

15 (2) As used in this part, the following definitions apply:

16 (a) (i) "Airstrip" means improved or unimproved landing areas on private land used by pilots to land, park,  
 17 take off, unload, load, and taxi aircraft.

18 (ii) The term does not include municipal airports governed under Title 67, chapter 10, part 1.

19 (b) "Flying of aircraft" means the operation of aircraft, including but not limited to landing, parking, taking  
 20 off, unloading, loading, and taxiing of aircraft at an airstrip.

21 (c) "Landowner" means a person or entity of any nature, whether private, governmental, or  
 22 quasi-governmental, and includes the landowner's agent, tenant, lessee, occupant, grantee of conservation  
 23 easement, water users' association, irrigation district, drainage district, and persons or entities in control of the  
 24 property or with an agreement to use or occupy property.

25 (d) "Property" means land, roads, airstrips, water, watercourses, and private ways. The term includes  
 26 any improvements, buildings, structures, machinery, and equipment on property.

27 (3) ~~The department of fish, wildlife, and parks~~ state parks and recreation board, when operating under  
 28 an agreement with a landowner or tenant to provide recreational snowmobiling opportunities, including but not  
 29 limited to a snowmobile area, subject to the provisions of subsection (1), on the landowner's property and when  
 30 not also acting as a snowmobile area operator on the property, does not extend any assurance that the property

1 is safe for any purpose, and the ~~department~~ board, the landowner, or the landowner's tenant may not be liable  
 2 to any person for any injury to person or property resulting from any act or omission of the ~~department~~ board  
 3 unless the act or omission constitutes willful or wanton misconduct. (Void on occurrence of contingency--sec. 8,  
 4 Ch. 596, L. 2003.)

5 **70-16-302. (Effective on occurrence of contingency) Restriction on liability of landowner --**

6 **definitions.** (1) A person who uses property, including property owned or leased by a public entity, for  
 7 recreational purposes, with or without permission, does so without any assurance from the landowner that the  
 8 property is safe for any purpose if the person does not give a valuable consideration to the landowner in  
 9 exchange for the recreational use of the property. The landowner owes the person no duty of care with respect  
 10 to the condition of the property, except that the landowner is liable to the person for any injury to person or  
 11 property for an act or omission that constitutes willful or wanton misconduct. For purposes of this section, valuable  
 12 consideration does not include the state land recreational use license fee imposed under 77-1-802.

13 (2) As used in this part, the following definitions apply:

14 (a) (i) "Airstrip" means either improved or unimproved landing areas on private land used by pilots to  
 15 land, park, take off, unload, load, and taxi aircraft.

16 (ii) The term does not include municipal airports governed under Title 67, chapter 10, part 1.

17 (b) "Flying of aircraft" means the operation of aircraft, including but not limited to landing, parking, taking  
 18 off, unloading, loading, and taxiing of aircraft at an airstrip.

19 (c) "Landowner" means a person or entity of any nature, whether private, governmental, or  
 20 quasi-governmental, and includes the landowner's agent, tenant, lessee, occupant, grantee of conservation  
 21 easement, water users' association, irrigation district, drainage district, and persons or entities in control of the  
 22 property or with an agreement to use or occupy property.

23 (d) "Property" means land, roads, airstrips, water, watercourses, and private ways. The term includes  
 24 any improvements, buildings, structures, machinery, and equipment on property.

25 (3) The ~~department of fish, wildlife, and parks~~ state parks and recreation board, when operating under  
 26 an agreement with a landowner or tenant to provide recreational snowmobiling opportunities, including but not  
 27 limited to a snowmobile area, subject to the provisions of subsection (1), on the landowner's property and when  
 28 not also acting as a snowmobile area operator on the property, does not extend any assurance that the property  
 29 is safe for any purpose, and the ~~department~~ board, the landowner, or the landowner's tenant may not be liable  
 30 to any person for any injury to person or property resulting from any act or omission of the ~~department~~ board

1 unless the act or omission constitutes willful or wanton misconduct."

2

3 **Section 94.** Section 70-30-102, MCA, is amended to read:

4 **"70-30-102. Public uses enumerated.** Subject to the provisions of this chapter, the right of eminent  
5 domain may be exercised for the following public uses:

6 (1) all public uses authorized by the government of the United States;

7 (2) public buildings and grounds for the use of the state and all other public uses authorized by the  
8 legislature of the state;

9 (3) public buildings and grounds for the use of any county, city, town, or school district;

10 (4) canals, aqueducts, flumes, ditches, or pipes conducting water, heat, or gas for the use of the  
11 inhabitants of any county, city, or town;

12 (5) projects to raise the banks of streams, remove obstructions from streambanks, and widen, deepen,  
13 or straighten stream channels;

14 (6) water and water supply systems as provided in Title 7, chapter 13, part 44;

15 (7) roads, streets, alleys, controlled-access facilities, and other publicly owned buildings and facilities  
16 for the benefit of a county, city, or town or the inhabitants of a county, city, or town;

17 (8) acquisition of road-building material as provided in 7-14-2123;

18 (9) stock lanes as provided in 7-14-2621;

19 (10) parking areas as provided in 7-14-4501 and 7-14-4622;

20 (11) airport purposes as provided in 7-14-4801, 67-2-301, 67-7-210, and Title 67, chapters 10 and 11;

21 (12) urban renewal projects as provided in Title 7, chapter 15, parts 42 and 43, except that private  
22 property may be acquired for urban renewal through eminent domain only if the property is determined to be a  
23 blighted area, as defined in 7-15-4206(2)(a), (2)(h), (2)(k), or (2)(n), and may not be acquired for urban renewal  
24 through eminent domain if the purpose of the project is to increase government tax revenue;

25 (13) housing authority purposes as provided in Title 7, chapter 15, part 44;

26 (14) county recreational and cultural purposes as provided in 7-16-2105;

27 (15) city or town athletic fields and civic stadiums as provided in 7-16-4106;

28 (16) county cemetery purposes pursuant to 7-11-1021, cemetery association purposes as provided in  
29 35-20-104, and state veterans' cemetery purposes as provided in 10-2-604;

30 (17) preservation of historical or archaeological sites as provided in ~~23-1-102 and 87-1-209(2)~~ [section

- 1 47];
- 2 (18) public assistance purposes as provided in 53-2-201;
- 3 (19) highway purposes as provided in 60-4-103 and 60-4-104;
- 4 (20) common carrier pipelines as provided in 69-13-104;
- 5 (21) water supply, water transportation, and water treatment systems as provided in 75-6-313;
- 6 (22) mitigation of the release or threatened release of a hazardous or deleterious substance as provided
- 7 in 75-10-720;
- 8 (23) the acquisition of nonconforming outdoor advertising as provided in 75-15-123;
- 9 (24) screening for or the relocation or removal of junkyards, motor vehicle graveyards, motor vehicle
- 10 wrecking facilities, garbage dumps, and sanitary landfills as provided in 75-15-223;
- 11 (25) water conservation and flood control projects as provided in 76-5-1108;
- 12 (26) acquisition of natural areas as provided in 76-12-108;
- 13 (27) acquisition of water rights for the natural flow of water as provided in 85-1-204;
- 14 (28) property and water rights necessary for waterworks as provided in 85-1-209 and 85-7-1904;
- 15 (29) conservancy district purposes as provided in 85-9-410;
- 16 (30) wharves, docks, piers, chutes, booms, ferries, bridges, private roads, plank and turnpike roads, and
- 17 railroads;
- 18 (31) canals, ditches, flumes, aqueducts, and pipes for:
- 19 (a) supplying mines, mills, and smelters for the reduction of ores;
- 20 (b) supplying farming neighborhoods with water and drainage;
- 21 (c) reclaiming lands; and
- 22 (d) floating logs and lumber on streams that are not navigable;
- 23 (32) sites for reservoirs necessary for collecting and storing water. However, reservoir sites must possess
- 24 a public use demonstrable to the district court as the highest and best use of the land.
- 25 (33) roads, tunnels, and dumping places for working mines, mills, or smelters for the reduction of ores;
- 26 (34) outlets, natural or otherwise, for the flow, deposit, or conduct of tailings or refuse matter from mines,
- 27 mills, and smelters for the reduction of ores;
- 28 (35) an occupancy in common by the owners or the possessors of different mines of any place for the
- 29 flow, deposit, or conduct of tailings or refuse matter from their several mines, mills, or smelters for reduction of
- 30 ores and sites for reservoirs necessary for collecting and storing water for the mines, mills, or smelters. However,

1 the reservoir sites must possess a public use demonstrable to the district court as the highest and best use of  
2 the land.

3 (36) private roads leading from highways to residences or farms;

4 (37) telephone or electrical energy lines, except that local government entities as defined in 2-7-501,  
5 municipal utilities, or competitive electricity suppliers may not use this chapter to acquire existing telephone or  
6 electrical energy lines and appurtenant facilities owned by a public utility or cooperative for the purpose of  
7 transmitting or distributing electricity or providing telecommunications services;

8 (38) telegraph lines;

9 (39) sewerage of any:

10 (a) county, city, or town or any subdivision of a county, city, or town, whether incorporated or  
11 unincorporated;

12 (b) settlement consisting of not less than 10 families; or

13 (c) public buildings belonging to the state or to any college or university;

14 (40) tramway lines;

15 (41) logging railways;

16 (42) temporary logging roads and banking grounds for the transportation of logs and timber products to  
17 public streams, lakes, mills, railroads, or highways for a time that the court or judge may determine. However,  
18 the grounds of state institutions may not be used for this purpose.

19 (43) underground reservoirs suitable for storage of natural gas;

20 (44) projects to mine and extract ores, metals, or minerals owned by the condemnor located beneath or  
21 upon the surface of property where the title to the surface vests in others. However, the use of the surface of  
22 property for strip mining or open-pit mining of coal (i.e., any mining method or process in which the strata or  
23 overburden is removed or displaced in order to extract the coal) is not a public use, and eminent domain may not  
24 be exercised for this purpose.

25 (45) projects to restore and reclaim lands that were strip-mined or underground-mined for coal and not  
26 reclaimed in accordance with Title 82, chapter 4, part 2, and to abate or control adverse effects of strip or  
27 underground mining on those lands."

28

29 **Section 95.** Section 75-1-201, MCA, is amended to read:

30 **"75-1-201. (Temporary) General directions -- environmental impact statements.** (1) The legislature

1 authorizes and directs that, to the fullest extent possible:

2 (a) the policies, regulations, and laws of the state must be interpreted and administered in accordance  
3 with the policies set forth in parts 1 through 3;

4 (b) under this part, all agencies of the state, except the legislature and except as provided in subsections  
5 (2) and (3), shall:

6 (i) use a systematic, interdisciplinary approach that will ensure:

7 (A) the integrated use of the natural and social sciences and the environmental design arts in planning  
8 and in decisionmaking for a state-sponsored project that may have an impact on the Montana human  
9 environment by projects in Montana; and

10 (B) that in any environmental review that is not subject to subsection (1)(b)(iv), when an agency  
11 considers alternatives, the alternative analysis will be in compliance with the provisions of subsections  
12 (1)(b)(iv)(C)(I) and (1)(b)(iv)(C)(II) and, if requested by the project sponsor or if determined by the agency to be  
13 necessary, subsection (1)(b)(iv)(C)(III);

14 (ii) identify and develop methods and procedures that will ensure that presently unquantified  
15 environmental amenities and values may be given appropriate consideration in decisionmaking for  
16 state-sponsored projects, along with economic and technical considerations;

17 (iii) identify and develop methods and procedures that will ensure that state government actions that may  
18 impact the human environment in Montana are evaluated for regulatory restrictions on private property, as  
19 provided in subsection (1)(b)(iv)(D);

20 (iv) include in each recommendation or report on proposals for projects, programs, and other major  
21 actions of state government significantly affecting the quality of the human environment in Montana a detailed  
22 statement on:

23 (A) the environmental impact of the proposed action;

24 (B) any adverse effects on Montana's environment that cannot be avoided if the proposal is  
25 implemented;

26 (C) alternatives to the proposed action. An analysis of any alternative included in the environmental  
27 review must comply with the following criteria:

28 (I) any alternative proposed must be reasonable, in that the alternative must be achievable under current  
29 technology and the alternative must be economically feasible as determined solely by the economic viability for  
30 similar projects having similar conditions and physical locations and determined without regard to the economic

1 strength of the specific project sponsor;

2 (II) the agency proposing the alternative shall consult with the project sponsor regarding any proposed  
3 alternative, and the agency shall give due weight and consideration to the project sponsor's comments regarding  
4 the proposed alternative;

5 (III) the agency shall complete a meaningful no-action alternative analysis. The no-action alternative  
6 analysis must include the projected beneficial and adverse environmental, social, and economic impact of the  
7 project's noncompletion.

8 (D) any regulatory impacts on private property rights, including whether alternatives that reduce,  
9 minimize, or eliminate the regulation of private property rights have been analyzed. The analysis in this  
10 subsection (1)(b)(iv)(D) need not be prepared if the proposed action does not involve the regulation of private  
11 property.

12 (E) the relationship between local short-term uses of the Montana human environment and the  
13 maintenance and enhancement of long-term productivity;

14 (F) any irreversible and irretrievable commitments of resources that would be involved in the proposed  
15 action if it is implemented;

16 (G) the customer fiscal impact analysis, if required by 69-2-216; and

17 (H) the details of the beneficial aspects of the proposed project, both short-term and long-term, and the  
18 economic advantages and disadvantages of the proposal;

19 (v) in accordance with the criteria set forth in subsection (1)(b)(iv)(C), study, develop, and describe  
20 appropriate alternatives to recommend courses of action in any proposal that involves unresolved conflicts  
21 concerning alternative uses of available resources. If the alternatives analysis is conducted for a project that is  
22 not a state-sponsored project and alternatives are recommended, the project sponsor may volunteer to implement  
23 the alternative. Neither the alternatives analysis nor the resulting recommendations bind the project sponsor to  
24 take a recommended course of action, but the project sponsor may agree pursuant to subsection (4)(b) to a  
25 specific course of action.

26 (vi) recognize the potential long-range character of environmental impacts in Montana and, when  
27 consistent with the policies of the state, lend appropriate support to initiatives, resolutions, and programs  
28 designed to maximize cooperation in anticipating and preventing a decline in the quality of Montana's  
29 environment;

30 (vii) make available to counties, municipalities, institutions, and individuals advice and information useful

1 in restoring, maintaining, and enhancing the quality of Montana's environment;

2 (viii) initiate and use ecological information in the planning and development of resource-oriented  
3 projects; and

4 (ix) assist the legislature and the environmental quality council established by 5-16-101;

5 (c) prior to making any detailed statement as provided in subsection (1)(b)(iv), the responsible state  
6 official shall consult with and obtain the comments of any state agency that has jurisdiction by law or special  
7 expertise with respect to any environmental impact involved in Montana and with any Montana local government,  
8 as defined in 7-12-1103, that may be directly impacted by the project. The responsible state official shall also  
9 consult with and obtain comments from any state agency in Montana with respect to any regulation of private  
10 property involved. Copies of the statement and the comments and views of the appropriate state, federal, and  
11 local agencies that are authorized to develop and enforce environmental standards must be made available to  
12 the governor, the environmental quality council, and the public and must accompany the proposal through the  
13 existing agency review processes.

14 (d) a transfer of an ownership interest in a lease, permit, license, certificate, or other entitlement for use  
15 or permission to act by an agency, either singly or in combination with other state agencies, does not trigger  
16 review under subsection (1)(b)(iv) if there is not a material change in terms or conditions of the entitlement or  
17 unless otherwise provided by law.

18 (2) (a) Except as provided in subsection (2)(b), an environmental review conducted pursuant to  
19 subsection (1) may not include a review of actual or potential impacts beyond Montana's borders. It may not  
20 include actual or potential impacts that are regional, national, or global in nature.

21 (b) An environmental review conducted pursuant to subsection (1) may include a review of actual or  
22 potential impacts beyond Montana's borders if it is conducted by:

23 (i) the department of fish, and wildlife, ~~and parks~~ for the management of wildlife and fish;

24 (ii) an agency reviewing an application for a project that is not a state-sponsored project to the extent that  
25 the review is required by law, rule, or regulation; or

26 (iii) a state agency and a federal agency to the extent the review is required by the federal agency.

27 (3) The department of public service regulation, in the exercise of its regulatory authority over rates and  
28 charges of railroads, motor carriers, and public utilities, is exempt from the provisions of parts 1 through 3.

29 (4) (a) The agency may not withhold, deny, or impose conditions on any permit or other authority to act  
30 based on parts 1 through 3 of this chapter.

1 (b) Nothing in this subsection (4) prevents a project sponsor and an agency from mutually developing  
2 measures that may, at the request of a project sponsor, be incorporated into a permit or other authority to act.

3 (c) Parts 1 through 3 of this chapter do not confer authority to an agency that is a project sponsor to  
4 modify a proposed project or action.

5 (5) (a) (i) A challenge to an agency action under this part may only be brought against a final agency  
6 action and may only be brought in district court or in federal court, whichever is appropriate.

7 (ii) Any action or proceeding challenging a final agency action alleging failure to comply with or  
8 inadequate compliance with a requirement under this part must be brought within 60 days of the action that is  
9 the subject of the challenge.

10 (iii) For an action taken by the board of land commissioners or the department of natural resources and  
11 conservation under Title 77, "final agency action" means the date that the board of land commissioners or the  
12 department of natural resources and conservation issues a final environmental review document under this part  
13 or the date that the board approves the action that is subject to this part, whichever is later.

14 (b) Any action or proceeding under subsection (5)(a)(ii) must take precedence over other cases or  
15 matters in the district court unless otherwise provided by law.

16 (c) Any judicial action or proceeding brought in district court under subsection (5)(a) involving an equine  
17 slaughter or processing facility must comply with 81-9-240 and 81-9-241.

18 (6) (a) (i) In an action alleging noncompliance or inadequate compliance with a requirement of parts 1  
19 through 3, including a challenge to an agency's decision that an environmental review is not required or a claim  
20 that the environmental review is inadequate, the agency shall compile and submit to the court the certified record  
21 of its decision at issue, and except as provided in subsection (6)(b), the person challenging the decision has the  
22 burden of proving the claim by clear and convincing evidence contained in the record.

23 (ii) Except as provided in subsection (6)(b), in a challenge to the agency's decision or the adequacy of  
24 an environmental review, a court may not consider any information, including but not limited to an issue,  
25 comment, argument, proposed alternative, analysis, or evidence, that was not first presented to the agency for  
26 the agency's consideration prior to the agency's decision or within the time allowed for comments to be submitted.

27 (iii) Except as provided in subsection (6)(b), the court shall confine its review to the record certified by  
28 the agency. The court shall affirm the agency's decision or the environmental review unless the court specifically  
29 finds that the agency's decision was arbitrary and capricious or was otherwise not in accordance with law.

30 (iv) A customer fiscal impact analysis pursuant to 69-2-216 or an allegation that the customer fiscal

1 impact analysis is inadequate may not be used as the basis of an action challenging or seeking review of the  
2 agency's decision.

3 (b) (i) When a party challenging the decision or the adequacy of the environmental review or decision  
4 presents information not in the record certified by the agency, the challenging party shall certify under oath in an  
5 affidavit that the information is new, material, and significant evidence that was not publicly available before the  
6 agency's decision and that is relevant to the decision or the adequacy of the agency's environmental review.

7 (ii) If upon reviewing the affidavit the court finds that the proffered information is new, material, and  
8 significant evidence that was not publicly available before the agency's decision and that is relevant to the  
9 decision or to the adequacy of the agency's environmental review, the court shall remand the new evidence to  
10 the agency for the agency's consideration and an opportunity to modify its decision or environmental review  
11 before the court considers the evidence as a part of the administrative record under review.

12 (iii) If the court finds that the information in the affidavit does not meet the requirements of subsection  
13 (6)(b)(i), the court may not remand the matter to the agency or consider the proffered information in making its  
14 decision.

15 (c) The remedy in any action brought for failure to comply with or for inadequate compliance with a  
16 requirement of parts 1 through 3 of this chapter is limited to remand to the agency to correct deficiencies in the  
17 environmental review conducted pursuant to subsection (1).

18 (d) A permit, license, lease, or other authorization issued by an agency is valid and may not be enjoined,  
19 voided, nullified, revoked, modified, or suspended pending the completion of an environmental review that may  
20 be remanded by a court.

21 (e) An individual or entity seeking a lease, permit, license, certificate, or other entitlement or authority  
22 to act may intervene in a lawsuit in court challenging a decision or statement by a department or agency of the  
23 state as a matter of right if the individual or entity has not been named as a defendant.

24 (f) Attorney fees or costs may not be awarded to the prevailing party in an action alleging noncompliance  
25 or inadequate compliance with a requirement of parts 1 through 3.

26 (7) For purposes of judicial review, to the extent that the requirements of this section are inconsistent  
27 with the provisions of the National Environmental Policy Act, the requirements of this section apply to an  
28 environmental review or any severable portion of an environmental review within the state's jurisdiction that is  
29 being prepared by a state agency pursuant to this part in conjunction with a federal agency proceeding pursuant  
30 to the National Environmental Policy Act.

1 (8) The director of the agency responsible for the determination or recommendation shall endorse in  
 2 writing any determination of significance made under subsection (1)(b)(iv) or any recommendation that a  
 3 determination of significance be made.

4 (9) A project sponsor may request a review of the significance determination or recommendation made  
 5 under subsection (8) by the appropriate board, if any. The appropriate board may, at its discretion, submit an  
 6 advisory recommendation to the agency regarding the issue. The period of time between the request for a review  
 7 and completion of a review under this subsection may not be included for the purposes of determining compliance  
 8 with the time limits established for environmental review in 75-1-208. (Terminates on occurrence of  
 9 contingency--sec. 11, Ch. 396, L. 2011.)

10 **75-1-201. (Effective on occurrence of contingency) General directions -- environmental impact**  
 11 **statements.** (1) The legislature authorizes and directs that, to the fullest extent possible:

12 (a) the policies, regulations, and laws of the state must be interpreted and administered in accordance  
 13 with the policies set forth in parts 1 through 3;

14 (b) under this part, all agencies of the state, except the legislature and except as provided in subsections  
 15 (2) and (3), shall:

16 (i) use a systematic, interdisciplinary approach that will ensure:

17 (A) the integrated use of the natural and social sciences and the environmental design arts in planning  
 18 and in decisionmaking for a state-sponsored project that may have an impact on the Montana human  
 19 environment by projects in Montana; and

20 (B) that in any environmental review that is not subject to subsection (1)(b)(iv), when an agency  
 21 considers alternatives, the alternative analysis will be in compliance with the provisions of subsections  
 22 (1)(b)(iv)(C)(I) and (1)(b)(iv)(C)(II) and, if requested by the project sponsor or if determined by the agency to be  
 23 necessary, subsection (1)(b)(iv)(C)(III);

24 (ii) identify and develop methods and procedures that will ensure that presently unquantified  
 25 environmental amenities and values may be given appropriate consideration in decisionmaking for  
 26 state-sponsored projects, along with economic and technical considerations;

27 (iii) identify and develop methods and procedures that will ensure that state government actions that may  
 28 impact the human environment in Montana are evaluated for regulatory restrictions on private property, as  
 29 provided in subsection (1)(b)(iv)(D);

30 (iv) include in each recommendation or report on proposals for projects, programs, and other major

1 actions of state government significantly affecting the quality of the human environment in Montana a detailed  
2 statement on:

3 (A) the environmental impact of the proposed action;

4 (B) any adverse effects on Montana's environment that cannot be avoided if the proposal is  
5 implemented;

6 (C) alternatives to the proposed action. An analysis of any alternative included in the environmental  
7 review must comply with the following criteria:

8 (I) any alternative proposed must be reasonable, in that the alternative must be achievable under current  
9 technology and the alternative must be economically feasible as determined solely by the economic viability for  
10 similar projects having similar conditions and physical locations and determined without regard to the economic  
11 strength of the specific project sponsor;

12 (II) the agency proposing the alternative shall consult with the project sponsor regarding any proposed  
13 alternative, and the agency shall give due weight and consideration to the project sponsor's comments regarding  
14 the proposed alternative;

15 (III) the agency shall complete a meaningful no-action alternative analysis. The no-action alternative  
16 analysis must include the projected beneficial and adverse environmental, social, and economic impact of the  
17 project's noncompletion.

18 (D) any regulatory impacts on private property rights, including whether alternatives that reduce,  
19 minimize, or eliminate the regulation of private property rights have been analyzed. The analysis in this  
20 subsection (1)(b)(iv)(D) need not be prepared if the proposed action does not involve the regulation of private  
21 property.

22 (E) the relationship between local short-term uses of the Montana human environment and the  
23 maintenance and enhancement of long-term productivity;

24 (F) any irreversible and irretrievable commitments of resources that would be involved in the proposed  
25 action if it is implemented;

26 (G) the customer fiscal impact analysis, if required by 69-2-216; and

27 (H) the details of the beneficial aspects of the proposed project, both short-term and long-term, and the  
28 economic advantages and disadvantages of the proposal;

29 (v) in accordance with the criteria set forth in subsection (1)(b)(iv)(C), study, develop, and describe  
30 appropriate alternatives to recommend courses of action in any proposal that involves unresolved conflicts

1 concerning alternative uses of available resources. If the alternatives analysis is conducted for a project that is  
2 not a state-sponsored project and alternatives are recommended, the project sponsor may volunteer to implement  
3 the alternative. Neither the alternatives analysis nor the resulting recommendations bind the project sponsor to  
4 take a recommended course of action, but the project sponsor may agree pursuant to subsection (4)(b) to a  
5 specific course of action.

6 (vi) recognize the potential long-range character of environmental impacts in Montana and, when  
7 consistent with the policies of the state, lend appropriate support to initiatives, resolutions, and programs  
8 designed to maximize cooperation in anticipating and preventing a decline in the quality of Montana's  
9 environment;

10 (vii) make available to counties, municipalities, institutions, and individuals advice and information useful  
11 in restoring, maintaining, and enhancing the quality of Montana's environment;

12 (viii) initiate and use ecological information in the planning and development of resource-oriented  
13 projects; and

14 (ix) assist the legislature and the environmental quality council established by 5-16-101;

15 (c) prior to making any detailed statement as provided in subsection (1)(b)(iv), the responsible state  
16 official shall consult with and obtain the comments of any state agency that has jurisdiction by law or special  
17 expertise with respect to any environmental impact involved in Montana and with any Montana local government,  
18 as defined in 7-12-1103, that may be directly impacted by the project. The responsible state official shall also  
19 consult with and obtain comments from any state agency in Montana with respect to any regulation of private  
20 property involved. Copies of the statement and the comments and views of the appropriate state, federal, and  
21 local agencies that are authorized to develop and enforce environmental standards must be made available to  
22 the governor, the environmental quality council, and the public and must accompany the proposal through the  
23 existing agency review processes.

24 (d) a transfer of an ownership interest in a lease, permit, license, certificate, or other entitlement for use  
25 or permission to act by an agency, either singly or in combination with other state agencies, does not trigger  
26 review under subsection (1)(b)(iv) if there is not a material change in terms or conditions of the entitlement or  
27 unless otherwise provided by law.

28 (2) (a) Except as provided in subsection (2)(b), an environmental review conducted pursuant to  
29 subsection (1) may not include a review of actual or potential impacts beyond Montana's borders. It may not  
30 include actual or potential impacts that are regional, national, or global in nature.

1 (b) An environmental review conducted pursuant to subsection (1) may include a review of actual or  
2 potential impacts beyond Montana's borders if it is conducted by:

3 (i) the department of fish, and wildlife, ~~and parks~~ for the management of wildlife and fish;

4 (ii) an agency reviewing an application for a project that is not a state-sponsored project to the extent that  
5 the review is required by law, rule, or regulation; or

6 (iii) a state agency and a federal agency to the extent the review is required by the federal agency.

7 (3) The department of public service regulation, in the exercise of its regulatory authority over rates and  
8 charges of railroads, motor carriers, and public utilities, is exempt from the provisions of parts 1 through 3.

9 (4) (a) The agency may not withhold, deny, or impose conditions on any permit or other authority to act  
10 based on parts 1 through 3 of this chapter.

11 (b) Nothing in this subsection (4) prevents a project sponsor and an agency from mutually developing  
12 measures that may, at the request of a project sponsor, be incorporated into a permit or other authority to act.

13 (c) Parts 1 through 3 of this chapter do not confer authority to an agency that is a project sponsor to  
14 modify a proposed project or action.

15 (5) (a) (i) A challenge to an agency action under this part may only be brought against a final agency  
16 action and may only be brought in district court or in federal court, whichever is appropriate.

17 (ii) Any action or proceeding challenging a final agency action alleging failure to comply with or  
18 inadequate compliance with a requirement under this part must be brought within 60 days of the action that is  
19 the subject of the challenge.

20 (iii) For an action taken by the board of land commissioners or the department of natural resources and  
21 conservation under Title 77, "final agency action" means the date that the board of land commissioners or the  
22 department of natural resources and conservation issues a final environmental review document under this part  
23 or the date that the board approves the action that is subject to this part, whichever is later.

24 (b) Any action or proceeding under subsection (5)(a)(ii) must take precedence over other cases or  
25 matters in the district court unless otherwise provided by law.

26 (c) Any judicial action or proceeding brought in district court under subsection (5)(a) involving an equine  
27 slaughter or processing facility must comply with 81-9-240 and 81-9-241.

28 (6) (a) (i) In an action alleging noncompliance or inadequate compliance with a requirement of parts 1  
29 through 3, including a challenge to an agency's decision that an environmental review is not required or a claim  
30 that the environmental review is inadequate, the agency shall compile and submit to the court the certified record

1 of its decision at issue, and except as provided in subsection (6)(b), the person challenging the decision has the  
2 burden of proving the claim by clear and convincing evidence contained in the record.

3 (ii) Except as provided in subsection (6)(b), in a challenge to the agency's decision or the adequacy of  
4 an environmental review, a court may not consider any information, including but not limited to an issue,  
5 comment, argument, proposed alternative, analysis, or evidence, that was not first presented to the agency for  
6 the agency's consideration prior to the agency's decision or within the time allowed for comments to be submitted.

7 (iii) Except as provided in subsection (6)(b), the court shall confine its review to the record certified by  
8 the agency. The court shall affirm the agency's decision or the environmental review unless the court specifically  
9 finds that the agency's decision was arbitrary and capricious or was otherwise not in accordance with law.

10 (iv) A customer fiscal impact analysis pursuant to 69-2-216 or an allegation that the customer fiscal  
11 impact analysis is inadequate may not be used as the basis of an action challenging or seeking review of the  
12 agency's decision.

13 (b) (i) When a party challenging the decision or the adequacy of the environmental review or decision  
14 presents information not in the record certified by the agency, the challenging party shall certify under oath in an  
15 affidavit that the information is new, material, and significant evidence that was not publicly available before the  
16 agency's decision and that is relevant to the decision or the adequacy of the agency's environmental review.

17 (ii) If upon reviewing the affidavit the court finds that the proffered information is new, material, and  
18 significant evidence that was not publicly available before the agency's decision and that is relevant to the  
19 decision or to the adequacy of the agency's environmental review, the court shall remand the new evidence to  
20 the agency for the agency's consideration and an opportunity to modify its decision or environmental review  
21 before the court considers the evidence as a part of the administrative record under review.

22 (iii) If the court finds that the information in the affidavit does not meet the requirements of subsection  
23 (6)(b)(i), the court may not remand the matter to the agency or consider the proffered information in making its  
24 decision.

25 (c) (i) The remedies provided in this section for successful challenges to a decision of the agency or the  
26 adequacy of the statement are exclusive.

27 (ii) Notwithstanding the provisions of 27-19-201 and 27-19-314, a court having considered the pleadings  
28 of parties and intervenors opposing a request for a temporary restraining order, preliminary injunction, permanent  
29 injunction, or other equitable relief may not enjoin the issuance or effectiveness of a license or permit or a part  
30 of a license or permit issued pursuant to Title 75 or Title 82 unless the court specifically finds that the party

1 requesting the relief is more likely than not to prevail on the merits of its complaint given the uncontroverted facts  
2 in the record and applicable law and, in the absence of a temporary restraining order, a preliminary injunction,  
3 a permanent injunction, or other equitable relief, that the:

4 (A) party requesting the relief will suffer irreparable harm in the absence of the relief;

5 (B) issuance of the relief is in the public interest. In determining whether the grant of the relief is in the  
6 public interest, a court:

7 (I) may not consider the legal nature or character of any party; and

8 (II) shall consider the implications of the relief on the local and state economy and make written findings  
9 with respect to both.

10 (C) relief is as narrowly tailored as the facts allow to address both the alleged noncompliance and the  
11 irreparable harm the party asking for the relief will suffer. In tailoring the relief, the court shall ensure, to the extent  
12 possible, that the project or as much of the project as possible can go forward while also providing the relief to  
13 which the applicant has been determined to be entitled.

14 (d) The court may issue a temporary restraining order, preliminary injunction, permanent injunction, or  
15 other injunctive relief only if the party seeking the relief provides a written undertaking to the court in an amount  
16 reasonably calculated by the court as adequate to pay the costs and damages sustained by any party that may  
17 be found to have been wrongfully enjoined or restrained by a court through a subsequent judicial decision in the  
18 case. If the party seeking an injunction or a temporary restraining order objects to the amount of the written  
19 undertaking for any reason, including but not limited to its asserted inability to pay, that party shall file an affidavit  
20 with the court that states the party's income, assets, and liabilities in order to facilitate the court's consideration  
21 of the amount of the written undertaking that is required. The affidavit must be served on the party enjoined.

22 (e) An individual or entity seeking a lease, permit, license, certificate, or other entitlement or authority  
23 to act may intervene in a lawsuit in court challenging a decision or statement by a department or agency of the  
24 state as a matter of right if the individual or entity has not been named as a defendant.

25 (f) Attorney fees or costs may not be awarded to the prevailing party in an action alleging noncompliance  
26 or inadequate compliance with a requirement of parts 1 through 3.

27 (7) For purposes of judicial review, to the extent that the requirements of this section are inconsistent  
28 with the provisions of the National Environmental Policy Act, the requirements of this section apply to an  
29 environmental review or any severable portion of an environmental review within the state's jurisdiction that is  
30 being prepared by a state agency pursuant to this part in conjunction with a federal agency proceeding pursuant

1 to the National Environmental Policy Act.

2 (8) The director of the agency responsible for the determination or recommendation shall endorse in  
3 writing any determination of significance made under subsection (1)(b)(iv) or any recommendation that a  
4 determination of significance be made.

5 (9) A project sponsor may request a review of the significance determination or recommendation made  
6 under subsection (8) by the appropriate board, if any. The appropriate board may, at its discretion, submit an  
7 advisory recommendation to the agency regarding the issue. The period of time between the request for a review  
8 and completion of a review under this subsection may not be included for the purposes of determining compliance  
9 with the time limits established for environmental review in 75-1-208."

10

11 **Section 96.** Section 75-1-220, MCA, is amended to read:

12 **"75-1-220. Definitions.** For the purposes of this part, the following definitions apply:

13 (1) "Alternatives analysis" means an evaluation of different parameters, mitigation measures, or control  
14 measures that would accomplish the same objectives as those included in the proposed action by the applicant.  
15 For a project that is not a state-sponsored project, it does not include an alternative facility or an alternative to  
16 the proposed project itself. The term includes alternatives required pursuant to Title 75, chapter 20.

17 (2) "Appropriate board" means, for administrative actions taken under this part by the:

18 (a) department of environmental quality, the board of environmental review, as provided for in 2-15-3502;

19 (b) department of fish; and wildlife, ~~and parks~~, the fish and wildlife commission, as provided for in  
20 2-15-3402; ~~and~~

21 (c) state parks and recreation board, the state parks and recreation board, as provided for in ~~2-15-3406~~  
22 [section 1];

23 ~~(e)~~(d) department of transportation, the transportation commission, as provided for in 2-15-2502;

24 ~~(d)~~(e) department of natural resources and conservation for state trust land issues, the board of land  
25 commissioners, as provided for in Article X, section 4, of the Montana constitution;

26 ~~(e)~~(f) department of natural resources and conservation for oil and gas issues, the board of oil and gas  
27 conservation, as provided for in 2-15-3303; and

28 ~~(f)~~(g) department of livestock, the board of livestock, as provided for in 2-15-3102.

29 (3) "Complete application" means, for the purpose of complying with this part, an application for a permit,  
30 license, or other authorization that contains all data, studies, plans, information, forms, fees, and signatures

1 required to be included with the application sufficient for the agency to approve the application under the  
2 applicable statutes and rules.

3 (4) "Cumulative impacts" means the collective impacts on the human environment within the borders of  
4 Montana of the proposed action when considered in conjunction with other past, present, and future actions  
5 related to the proposed action by location or generic type.

6 (5) "Environmental review" means any environmental assessment, environmental impact statement, or  
7 other written analysis required under this part by a state agency of a proposed action to determine, examine, or  
8 document the effects and impacts of the proposed action on the quality of the human and physical environment  
9 within the borders of Montana as required under this part.

10 (6) "Project sponsor" means any applicant, owner, operator, agency, or other entity that is proposing an  
11 action that requires an environmental review. If the action involves state agency-initiated actions on state trust  
12 lands, the term also includes each institutional beneficiary of any trust as described in The Enabling Act of  
13 Congress, approved February 22, 1899, 25 Stat. 676, as amended, the Morrill Act of 1862, 7 U.S.C. 301 through  
14 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 329.

15 (7) "Public scoping process" means any process to determine the scope of an environmental review.

16 (8) (a) "State-sponsored project" means:

17 (i) a project, program, or activity initiated and directly undertaken by a state agency;

18 (ii) except as provided in subsection (8)(b)(i), a project or activity supported through a contract, grant,  
19 subsidy, loan, or other form of funding assistance from a state agency, either singly or in combination with one  
20 or more other state agencies; or

21 (iii) except as provided in subsection (8)(b)(i), a project or activity authorized by a state agency acting in  
22 a land management capacity for a lease, easement, license, or other authorization to act.

23 (b) The term does not include:

24 (i) a project or activity undertaken by a private entity that is made possible by the issuance of permits,  
25 licenses, leases, easements, grants, loans, or other authorizations to act by the:

26 (A) department of environmental quality pursuant to Titles 75, 76, or 82;

27 (B) department of fish, and wildlife, ~~and parks~~ pursuant to Title 87, chapter 4, part 4;

28 (C) board of oil and gas conservation pursuant to Title 82, chapter 11; or

29 (D) department of natural resources and conservation or the board of land commissioners pursuant to  
30 Titles 76, 77, 82, and 85; or

1 (ii) a project or activity involving the issuance of a permit, license, certificate, or other entitlement for  
2 permission to act by another agency acting in a regulatory capacity, either singly or in combination with other  
3 state agencies."

4

5 **Section 97.** Section 75-1-324, MCA, is amended to read:

6 **"75-1-324. Duties of environmental quality council.** The environmental quality council shall:

7 (1) gather timely and authoritative information concerning the conditions and trends in the quality of the  
8 environment, both current and prospective, analyze and interpret the information for the purpose of determining  
9 whether the conditions and trends are interfering or are likely to interfere with the achievement of the policy set  
10 forth in 75-1-103, and compile and submit to the governor and the legislature studies relating to the conditions  
11 and trends;

12 (2) review and appraise the various programs and activities of the state agencies, in the light of the policy  
13 set forth in 75-1-103, for the purpose of determining the extent to which the programs and activities are  
14 contributing to the achievement of the policy and make recommendations to the governor and the legislature with  
15 respect to the policy;

16 (3) develop and recommend to the governor and the legislature state policies to foster and promote the  
17 improvement of environmental quality to meet the conservation, social, economic, health, and other requirements  
18 and goals of the state;

19 (4) conduct investigations, studies, surveys, research, and analyses relating to ecological systems and  
20 environmental quality;

21 (5) document and define changes in the natural environment, including the plant and animal systems,  
22 and accumulate necessary data and other information for a continuing analysis of these changes or trends and  
23 an interpretation of their underlying causes;

24 (6) make and furnish studies, reports on studies, and recommendations with respect to matters of policy  
25 and legislation as the legislature requests;

26 (7) analyze legislative proposals in clearly environmental areas and in other fields in which legislation  
27 might have environmental consequences and assist in preparation of reports for use by legislative committees,  
28 administrative agencies, and the public;

29 (8) consult with and assist legislators who are preparing environmental legislation to clarify any  
30 deficiencies or potential conflicts with an overall ecologic plan;

1 (9) review and evaluate operating programs in the environmental field in the several agencies to identify  
2 actual or potential conflicts, both among the activities and with a general ecologic perspective, and suggest  
3 legislation to remedy the situations; and

4 (10) except as provided in 5-5-231, perform the administrative rule review, draft legislation review,  
5 program evaluation, and monitoring functions of an interim committee for the following executive branch agencies  
6 and the entities attached to the agencies for administrative purposes:

7 (a) department of environmental quality;

8 (b) department of fish; and wildlife; ~~and parks; and~~

9 (c) department of natural resources and conservation; and

10 (d) department of commerce for state parks and recreation programs administered pursuant to Title 23,  
11 chapter 1, and Title 23, chapter 2, parts 1, 4, 6, 8, and 9."  
12

13 **Section 98.** Section 75-5-318, MCA, is amended to read:

14 **"75-5-318. Short-term water quality standards for turbidity.** (1) Upon authorization by the department  
15 or the department of fish; and wildlife; ~~and parks~~ pursuant to subsection (4), the short-term water quality  
16 standards for total suspended sediment and turbidity resulting from stream-related construction activities or  
17 stream enhancement projects are the narrative standards for total suspended sediment adopted by the board  
18 under 75-5-301. If a short-term narrative standard is authorized under this section, the numeric standard for  
19 turbidity adopted by the board under 75-5-301 does not apply to the affected water body during the term of the  
20 narrative standard.

21 (2) The department shall review each application for short-term standards on a case-by-case basis to  
22 determine whether there are reasonable alternatives that preclude the need for a narrative standard. If the  
23 department determines that the numeric standard for turbidity adopted by the board under 75-5-301 cannot be  
24 achieved during the term of the activity and that there are no reasonable alternatives to achieve the numeric  
25 standard, the department may authorize the use of a narrative standard for a specified term.

26 (3) Each authorization issued by the department must include conditions that minimize, to the extent  
27 practicable, the magnitude of any change in water quality and the length of time during which any change may  
28 occur. The authorization must also include site-specific conditions that ensure that the activity is not harmful,  
29 detrimental, or injurious to public health and the uses of state waters and that ensure that existing and designated  
30 beneficial uses of state water are protected and maintained upon completion of the activity. The department may

1 not authorize short-term narrative standards for activities requiring a discharge permit under rules adopted by the  
 2 board pursuant to 75-5-401. Authorizations issued under this section may include conditions that require water  
 3 quality or quantity monitoring and reporting.

4 (4) In the performance of its responsibilities under this section, the department may negotiate operating  
 5 agreements with other departments of state government that are intended to minimize duplication in review of  
 6 activities eligible for authorizations under this section. The department of fish, and wildlife, ~~and parks~~ may, in  
 7 accordance with subsections (1), (2), and (3), authorize short-term water quality standards for total suspended  
 8 sediment and turbidity for any stream construction project that it reviews under Title 75, chapter 7, part 1, or Title  
 9 87, chapter 5, part 5."

10

11 **Section 99.** Section 75-7-103, MCA, is amended to read:

12 **"75-7-103. Definitions.** As used in this part, the following definitions apply:

13 (1) "Applicant" means any person presenting notice of a project to the supervisors.

14 (2) "Department" means the Montana department of fish, and wildlife, ~~and parks~~.

15 (3) "District" means:

16 (a) a conservation district under Title 76, chapter 15, in which the project will take place;

17 (b) a grass conservation district under Title 76, chapter 16, where a conservation district does not exist;

18 or

19 (c) the board of county commissioners in a county where a district does not exist.

20 (4) "Person" means any individual, corporation, firm, partnership, association, or other legal entity not  
 21 covered under 87-5-502.

22 (5) (a) "Project" means a physical alteration or modification that results in a change in the state of a  
 23 natural, perennial-flowing stream or river, its bed, or its immediate banks.

24 (b) Project does not include:

25 (i) an activity for which a plan of operation has been submitted to and approved by the district. Any  
 26 modification to the plan must have prior approval of the district.

27 (ii) customary and historic maintenance and repair of existing irrigation facilities that do not significantly  
 28 alter or modify the stream in contravention of 75-7-102; or

29 (iii) livestock grazing activities.

30 (6) "Stream" means any natural, perennial-flowing stream or river, its bed, and its immediate banks

1 except a stream or river that has been designated by district rule as not having significant aquatic and riparian  
2 attributes in need of protection or preservation under 75-7-102.

3 (7) "Supervisors" means the board of supervisors of a conservation district, the directors of a grass  
4 conservation district, or the board of county commissioners where a proposed project is not within a district.

5 (8) "Team" means one representative of the supervisors, one representative of the department, and the  
6 applicant or the applicant's representative.

7 (9) "Written consent of the supervisors" means a written decision of the supervisors approving a project  
8 and specifying activities authorized to be performed in completing the project."

9

10 **Section 100.** Section 75-20-216, MCA, is amended to read:

11 **"75-20-216. Study, evaluation, and report on proposed facility -- assistance by other agencies.**

12 (1) After receipt of an application, the department shall within 30 days notify the applicant in writing that:

13 (a) the application is in compliance and is accepted as complete; or

14 (b) the application is not in compliance and shall list the deficiencies. Upon correction of these  
15 deficiencies and resubmission by the applicant, the department shall within 15 days notify the applicant in writing  
16 that the application is in compliance and is accepted as complete.

17 (2) Upon receipt of an application complying with 75-20-211 through 75-20-213, 75-20-215, and this  
18 section, the department shall commence an evaluation of the proposed facility and its effects, considering all  
19 applicable criteria listed in 75-20-301, and shall issue a decision, opinion, order, certification, or permit as  
20 provided in subsection (3). The department shall use, to the extent that it considers applicable, valid and useful  
21 existing studies and reports submitted by the applicant or compiled by a state or federal agency.

22 (3) Except as provided in 75-1-205(4), 75-1-208(4)(b), and 75-20-231, the department shall issue, within  
23 9 months following the date of acceptance of an application, any decision, opinion, order, certification, or permit  
24 required under the laws, other than those contained in this chapter, administered by the department. A decision,  
25 opinion, order, certification, or permit, with or without conditions, must be made under those laws. Nevertheless,  
26 the department retains authority to make the determination required under 75-20-301(1)(c) or (3). The decision,  
27 opinion, order, certification, or permit must be used in the final site selection process. Prior to the issuance of a  
28 preliminary decision by the board and pursuant to rules adopted by the department, the department shall provide  
29 an opportunity for public review and comment.

30 (4) Except as provided in 75-1-205(4), 75-1-208(4)(b), and 75-20-231, within 9 months following

1 acceptance of an application for a facility, the department shall issue a report that must contain the department's  
 2 studies, evaluations, recommendations, customer fiscal impact analysis, if required pursuant to 69-2-216, and  
 3 other pertinent documents resulting from its study and evaluation. An environmental impact statement or analysis  
 4 prepared pursuant to the Montana Environmental Policy Act may be included in the department findings if  
 5 compelling evidence indicates that adverse environmental impacts are likely to result due to the construction and  
 6 operation of a proposed facility. If the application is for a combination of two or more facilities, the department  
 7 shall issue its report within the greater of the lengths of time provided for in this subsection for either of the  
 8 facilities.

9 (5) For projects subject to joint review by the department and a federal land management agency, the  
 10 department's certification decision may be timed to correspond to the record of decision issued by the  
 11 participating federal agency.

12 (6) The departments of transportation, fish, and wildlife, ~~and parks,~~ natural resources and conservation,  
 13 revenue, and public service regulation, ~~and the consumer counsel,~~ and the state parks and recreation board shall  
 14 report to the department information relating to the impact of the proposed site on each department's area of  
 15 expertise. The report may include opinions as to the advisability of granting, denying, or modifying the certificate.  
 16 The department shall allocate funds obtained from filing fees to ~~the departments~~ those state agencies making  
 17 reports ~~and to the office of consumer counsel~~ pursuant to this subsection to reimburse them for the costs of  
 18 compiling information and issuing the required report."

19

20 **Section 101.** Section 76-13-421, MCA, is amended to read:

21 **"76-13-421. Onsite consultation.** (1) The department shall make its decision on whether or not to  
 22 require an onsite consultation based on whether:

- 23 (a) the proposed timber sale is in a high-priority location for watershed resources;  
 24 (b) a consultation could contribute to improved watershed management; and  
 25 (c) the department has sufficient resources to conduct the consultation.

26 (2) The department shall schedule an onsite consultation at a time mutually agreeable to the operator,  
 27 the owner (if the owner can be contacted and wishes to participate), and the department. Unless otherwise  
 28 agreeable to the operator and a participating owner, a consultation must be held no later than:

- 29 (a) 10 calendar days after the mailing of the notice by the department, if the site is accessible; or  
 30 (b) if the site is temporarily inaccessible due to road conditions, weather conditions, or other factors, 10

1 calendar days after the operator indicates that the site is accessible.

2 (3) The onsite consultation must include representatives of the department, the operator, and, if the  
3 owner desires representation, the owner. Representatives of the department of environmental quality, the  
4 department of fish, ~~and wildlife, and parks,~~ the state parks and recreation board, and the local conservation  
5 district may also participate but shall meet the consultation schedule established under 76-13-420(3)(c) or  
6 subsection (2) of this section.

7 (4) If the department and the operator are not able to schedule an onsite consultation within the time  
8 limits provided in subsection (2)(a) or (2)(b) or at another mutually agreeable time, the requirement for a  
9 consultation is terminated. The operator may then proceed with forest practices immediately upon the expiration  
10 of the time limits provided in subsection (2)(a) or (2)(b)."

11

12 **Section 102.** Section 76-16-107, MCA, is amended to read:

13 **"76-16-107. Range for wild game animals.** In each state district a sufficient carrying capacity of range  
14 must be reserved for the maintenance of a reasonable number of wild game animals to use the range in common  
15 with livestock grazing in the state district. The commission may act in an advisory capacity to the department of  
16 fish, ~~and wildlife, and parks~~ in the protection of wildlife within the boundaries of all state districts."

17

18 **Section 103.** Section 77-1-202, MCA, is amended to read:

19 **"77-1-202. Powers and duties of board.** (1) ~~The~~ Except as provided in [section 48] and 87-1-209, the  
20 board shall exercise general authority, direction, and control over the care, management, and disposition of state  
21 lands and, subject to the investment authority of the board of investments, the funds arising from the leasing, use,  
22 sale, and disposition of those lands or otherwise coming under its administration. In the exercise of these powers,  
23 the guiding principle is that these lands and funds are held in trust for the support of education and for the  
24 attainment of other worthy objects helpful to the well-being of the people of this state as provided in The Enabling  
25 Act. The board shall administer this trust to:

26 (a) secure the largest measure of legitimate and reasonable advantage to the state; and

27 (b) provide for the long-term financial support of education.

28 (2) It is consistent with the powers and duties provided in subsection (1) that the people are entitled to  
29 general recreational use of state lands to the extent that the trusts are compensated for the value of the  
30 recreation.

1 (3) When acquiring land for the state, the board shall determine the value of the land after an appraisal  
2 by a qualified land appraiser."

3

4 **Section 104.** Section 77-1-405, MCA, is amended to read:

5 **"77-1-405. Island parks established -- development limited.** (1) In order to retain the integrity of the  
6 recreational experience associated with Montana's river and lake islands, development of undisputed state-owned  
7 or state-leased island property, which is hereby designated as island parks, including islands designated as state  
8 property under 70-18-203, lying within and surrounded by a navigable river, stream, or lake is limited, after April  
9 30, 1997, to:

10 (a) the installation of minimal signage indicating that the island is a designated island park in which  
11 development has been limited and encouraging the public to help in maintaining the island park's primitive  
12 character by packing out trash;

13 (b) necessary latrine facilities if approved by the state parks and recreation board established in  
14 ~~2-15-3406~~ [section 1];

15 (c) footings or pilings necessary for the construction of a bridge;

16 (d) oil and gas leasing; and

17 (e) development of a boat dock at Wild Horse Island state park.

18 (2) Improvements made to and agricultural operations on state-owned or state-leased island property  
19 prior to April 30, 1997, may be maintained or continued, but further development is limited as provided in this  
20 section.

21 (3) Notwithstanding the provisions of 77-1-203 regarding multiple-use management, the legislature finds  
22 that the highest and best use of island property administered as school trust land, except islands designated as  
23 natural areas pursuant to Title 76, chapter 12, is for recreation and grazing and that those islands should be left  
24 in as primitive a state as possible to protect from the loss of potential future revenue that could result from the  
25 failure to leave the islands in an undeveloped condition.

26 (4) For purposes of this section, state ownership or state lease of island property is disputed if the  
27 dispute arises before, on, or after April 30, 1997."

28

29 **Section 105.** Section 77-1-801, MCA, is amended to read:

30 **"77-1-801. (Temporary) Recreational use license required to use state lands for general**

1 **recreational purposes -- penalty -- exemption.** (1) Except as provided in subsection (3), a person 12 years of  
 2 age or older shall obtain an annual recreational use license pursuant to 77-1-802 to use state lands, as defined  
 3 in 77-1-101, for general recreational purposes.

4 (2) Except as provided in subsection (3), a person shall, upon the request of a peace officer or fish and  
 5 game warden, present for inspection the person's recreational use license.

6 (3) If the department and the department of fish, and wildlife, ~~and parks~~ consent to and sign an  
 7 agreement for hunting, fishing, and trapping purposes, as provided in 77-1-815, a person is not required to obtain  
 8 a recreational use license for use of legally accessible state trust land for hunting, fishing, and trapping purposes.

9 (4) A violator of subsection (1) or (2) is guilty of a misdemeanor and shall be fined not less than \$50 or  
 10 more than \$500 or be imprisoned in the county jail for not more than 6 months, or both. (Void on occurrence of  
 11 contingency--sec. 8, Ch. 596, L. 2003.)

12 **77-1-801. (Effective on occurrence of contingency) Recreational use license required to use state**  
 13 **lands for general recreational purposes -- penalty.** (1) A person 12 years of age or older shall obtain an annual  
 14 recreational use license pursuant to 77-1-802 to use state lands, as defined in 77-1-101, for general recreational  
 15 purposes.

16 (2) A person shall, upon the request of a peace officer or fish and game warden, present for inspection  
 17 the person's recreational use license.

18 (3) A violator of subsection (1) or (2) is guilty of a misdemeanor and shall be fined not less than \$50 or  
 19 more than \$500 or be imprisoned in the county jail for not more than 6 months, or both."

20

21 **Section 106.** Section 77-1-802, MCA, is amended to read:

22 **"77-1-802. (Temporary) Recreational use -- fee.** (1) The fee for recreational use on state trust land  
 23 must attain full market value whether the license is sold on an individual basis or on a group basis through an  
 24 agreement with the department of fish, and wildlife, ~~and parks~~ as provided in 77-1-815.

25 (2) Money received by the department from the sale of recreational use licenses must be credited as  
 26 follows:

27 (a) Except as provided in subsection (2)(b), license fees must be apportioned on a pro rata basis to the  
 28 land trusts, in proportion to the respective trust's percentage of acreage in the total acreage of all state land trusts.

29 (b) Revenue from recreational use license fees, less 50 cents from the fee for each license that must  
 30 be returned to the license dealer as a commission, is distributable revenue and must be deposited pursuant to

1 77-1-109 and used to pay for administrative costs as provided in 77-1-108.

2 (3) The department may contract with the department of fish; and wildlife; ~~and parks~~ for the distribution  
3 and sale of recreational use licenses through the license agents appointed by and the administrative offices of  
4 the department of fish; and wildlife; ~~and parks~~ and in accordance with the provisions of Title 87, chapter 2, part  
5 9. (Void on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)

6 **77-1-802. (Effective on occurrence of contingency) Recreational use license -- fee.** (1) The fee for  
7 a recreational use license must attain full market value.

8 (2) Money received by the department from the sale of recreational use licenses must be credited as  
9 follows:

10 (a) Except as provided in subsection (2)(b), license fees must be apportioned on a pro rata basis to the  
11 land trusts, in proportion to the respective trust's percentage contribution to the total acreage of all state land  
12 trusts.

13 (b) Revenue from recreational use license fees, less 50 cents from the fee for each license that must  
14 be returned to the license dealer as a commission, is distributable revenue and must be deposited pursuant to  
15 77-1-109 and used to pay for administrative costs as provided in 77-1-108.

16 (3) The department may contract with the department of fish; and wildlife; ~~and parks~~ for the distribution  
17 and sale of recreational use licenses through the license agents appointed by and the administrative offices of  
18 the department of fish; and wildlife; ~~and parks~~ and in accordance with the provisions of Title 87, chapter 2, part  
19 9."

20

21 **Section 107.** Section 77-1-804, MCA, is amended to read:

22 **"77-1-804. Rules for recreational use of state lands -- penalty.** (1) The board shall adopt rules  
23 authorizing and governing the recreational use of state lands allowed under 77-1-203. The board shall use local  
24 offices of the department to administer this program whenever practical.

25 (2) Rules adopted under this section must address the circumstances under which the board may close  
26 legally accessible state lands to recreational use. Action by the board may be taken upon its own initiative or upon  
27 petition by an individual, organization, corporation, or governmental agency. Closures may be of an emergency,  
28 seasonal, temporary, or permanent nature. State lands may be closed by the board only after public notice and  
29 opportunity for public hearing in the area of the proposed closure, except when the department is acting under  
30 rules adopted by the board for an emergency closure. Closed lands must be posted by the lessee or by the

1 department at the request of the lessee at customary access points, with signs provided or authorized by the  
2 department.

3 (3) Closure rules adopted pursuant to subsection (2) may categorically close state lands whose use or  
4 status is incompatible with recreational use. Categorical or blanket closures may be imposed on state lands due  
5 to:

6 (a) cabin site and home site leases and licenses;

7 (b) the seasonal presence of growing crops; and

8 (c) active military, commercial, or mineral leases.

9 (4) The board shall adopt rules that provide an opportunity for any individual, organization, or  
10 governmental agency to petition the board for purposes of excluding a specified portion of state land from a  
11 categorical closure that has been imposed under subsection (3).

12 (5) Under rules adopted by the board, state lands may be closed on a case-by-case basis for certain  
13 reasons, including but not limited to:

14 (a) damage attributable to recreational use that diminishes the income-generating potential of the state  
15 lands;

16 (b) damage to surface improvements of the lessee;

17 (c) the presence of threatened, endangered, or sensitive species or plant communities;

18 (d) the presence of unique or special natural or cultural features;

19 (e) wildlife protection;

20 (f) noxious weed control; or

21 (g) the presence of buildings, structures, and facilities.

22 (6) (a) Rules adopted under this section may impose restrictions on general recreational activities,  
23 including the discharge of weapons, camping, open fires, vehicle use, and any use that will interfere with the  
24 presence of livestock.

25 (b) The board may also by rule restrict access on state lands in accordance with a block management  
26 program administered by the department of fish; and wildlife; ~~and parks~~.

27 (c) Motorized vehicle use by recreationists on state lands is restricted to federal, state, and dedicated  
28 county roads, trails developed by the department for motorized use, and roads designated by the department to  
29 be open to motorized vehicle use.

30 (d) Recreational overnight use of state lands in a 30-day period is limited to 16 days:

- 1 (i) in a designated campground; and
- 2 (ii) on unleased, unlicensed lands outside a campground unless otherwise allowed by the department.
- 3 (e) Pets on state lands must be on a leash or otherwise controlled to prevent harassment of livestock
- 4 or wildlife.
- 5 (f) Horses may be kept overnight on state lands if:
- 6 (i) the horses do not remain in a stream riparian zone for more than 1 hour; and
- 7 (ii) only feed certified as noxious weed seed free is present on state lands.
- 8 (g) A horse kept overnight on state lands where there is a lease or license must be kept in compliance
- 9 with the provisions of subsection (6)(f) and must be restrained.
- 10 (h) Restrictions on general recreational activities must comply with the following:
- 11 (i) at least 30 days prior to a restriction, except in the case of emergency, the lessee or the department
- 12 if requested by the lessee shall:
- 13 (A) post notice of the proposed restriction at frequent access points to the land where the restriction is
- 14 proposed; and
- 15 (B) issue a press release or a public service announcement detailing the proposed restriction;
- 16 (ii) except for seasonal restrictions and unless required for public safety, a restriction in an area may not
- 17 exceed 1 year; and
- 18 (iii) if a misuse of the land, including littering, may lead to a restriction, common access points must be
- 19 posted with notice of the possible restriction for 30 days with information detailing the misuse of land and stating
- 20 the penalties for the violation. If the misuse persists at the end of 30 days, a proposed restriction notice may be
- 21 posted in accordance with subsection (6)(h)(i).
- 22 (7) The board shall adopt rules providing for the issuance of a recreational special use license.
- 23 Commercial or concentrated recreational use, as defined in 77-1-101, is prohibited on state lands unless it occurs
- 24 under the provisions of a recreational special use license. The board may also adopt rules requiring a recreational
- 25 special use license for recreational use that is not commercial, concentrated, or within the definition of general
- 26 recreational use.
- 27 (8) For a violation of rules adopted by the board pursuant to this section, the department may assess
- 28 a civil penalty of up to \$1,000 for each day of violation. The board shall adopt rules providing for notice and
- 29 opportunity for hearing in accordance with Title 2, chapter 4, part 6. Civil penalties collected under this subsection
- 30 must be deposited as provided in ~~87-1-601(8)~~ 87-1-601(7).

1 (9) Unauthorized dumping of refuse on state lands and destruction of property, which includes land and  
2 improvements, are misdemeanor crimes punishable by a fine of not more than \$1,500."

3

4 **Section 108.** Section 77-1-815, MCA, is amended to read:

5 **"77-1-815. (Temporary) Recreational use agreement for hunting, fishing, and trapping on legally**

6 **accessible state trust land.** (1) The board is authorized to enter into an agreement with the department of fish;

7 ~~and wildlife, and parks~~ to compensate state trust land beneficiaries for the use and impacts associated with

8 hunting, fishing, and trapping on legally accessible state trust land as defined in department rule. The department

9 may impose restrictions it considers necessary to coordinate the uses of state trust land or to preserve the

10 purposes of the various trust lands. Hunting, fishing, and trapping on state trust land must be conducted in

11 accordance with rules and provisions provided in this part.

12 (2) An agreement may be issued to the department of fish; ~~and wildlife, and parks~~ for a term of up to 10

13 years. Through this agreement, the board shall recover for the beneficiaries of the trust the full market value for

14 the use and impacts associated with hunting, fishing, and trapping on legally accessible state trust land. The

15 department may use funds appropriated from the trust land administration account provided for in 77-1-108 to

16 implement and manage the agreement. Except as provided for in 17-7-304, any unexpended amount in the

17 account that resulted from recreational use fees must be apportioned on a pro rata basis to the land trusts, in

18 proportion to the respective trust's percentage of acreage in the total acreage of all state land trusts.

19 (3) Any agreement entered into is subject to the following conditions:

20 (a) The department maintains sole discretion, throughout the term of the agreement, with regard to

21 identifying legally accessible parcels, coordinating uses on state trust land, and making any other necessary state

22 trust land management decisions.

23 (b) An agreement between the department and the department of fish; ~~and wildlife, and parks~~ may not

24 convey any additional authority to the department of fish; ~~and wildlife, and parks~~.

25 (4) During any period that the department of fish; ~~and wildlife, and parks~~ and the department have

26 reached an agreement as provided in subsection (1), an individual recreational use license under 77-1-801 or

27 77-1-802 may not be required for a member of the public to hunt, fish, or trap upon legally accessible state trust

28 land. (Void on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)"

29

30 **Section 109.** Section 77-2-101, MCA, is amended to read:

1           **"77-2-101. Easements for specific uses.** (1) Upon proper application as provided in 77-2-102, the  
2 board may grant easements on state lands for the following purposes:

3           (a) schoolhouse sites and grounds;

4           (b) public parks;

5           (c) community buildings;

6           (d) cemeteries;

7           (e) conservation purposes:

8           (i) to the department of fish; ~~and wildlife, and parks~~ for parcels that are surrounded by or adjacent to land  
9 owned by the department of fish, wildlife, and parks as of January 1, 2001;

10           (ii) to the state parks and recreation board for parcels that are surrounded by or adjacent to land  
11 administered by the board after [the effective date of this act];

12           ~~(ii)~~(iii) to a nonprofit corporation for parcels that are surrounded by or adjacent to land owned by that  
13 same nonprofit corporation as of January 1, 2001; and

14           ~~(iii)~~(iv) to a nonprofit corporation for the Owen Sowerwine natural area located within section 16, township  
15 28 north, range 21 west, in Flathead County; and

16           (f) for other public uses.

17           (2) The board may grant easements on state lands for the following purposes:

18           (a) right-of-way across or upon any portion of state lands for any public highway or street, any ditch,  
19 reservoir, railroad, private road, or telegraph or telephone line, or any other public use as defined in 70-30-102;

20           (b) any private building or private sewage system that encroaches on state lands; or

21           (c) the use of the bed of a navigable river pursuant to 77-1-1112 or 77-1-1115."  
22

23           **Section 110.** Section 80-7-1003, MCA, is amended to read:

24           **"80-7-1003. Definitions.** As used in this part, the following definitions apply:

25           (1) "Departments" means the department of agriculture, the department of fish; ~~and wildlife, and parks,~~  
26 the department of natural resources and conservation, and the department of transportation.

27           (2) "Equipment" means an implement or machinery that has been wholly or partially immersed in surface  
28 waters, including but not limited to boat lifts, trailers transporting vessels, floating docks, pilings, dredge pipes,  
29 and buoys.

30           (3) "Invasive species" means, upon the mutual agreement of the directors of the departments, a

1 nonnative, aquatic species that has caused, is causing, or is likely to cause harm to the economy, environment,  
2 recreational opportunities, or human health.

3 (4) "Invasive species management area" means a designation made by a department under 80-7-1008  
4 for a specific area or for a body or bodies of water for a specific or indeterminate amount of time that regulates  
5 invasive species or potential carriers of invasive species within the boundaries of that area.

6 (5) "Person" means an individual, partnership, corporation, association, limited partnership, limited  
7 liability company, governmental subdivision, agency, or public or private organization of any character.

8 (6) "Vessel" has the meaning provided in 61-1-101."  
9

10 **Section 111.** Section 80-7-1004, MCA, is amended to read:

11 **"80-7-1004. Invasive species account.** (1) There is an invasive species account in the state special  
12 revenue fund. The account is administered by the department of fish; and wildlife; ~~and parks~~.

13 (2) Money transferred from the general fund or received from any other lawful source, including but not  
14 limited to gifts, grants, donations, securities, or other assets, public or private, may be deposited in the account.

15 (3) Subject to subsection (4), money deposited in the account must be used for projects that prevent or  
16 control any nonnative, aquatic invasive species pursuant to this part.

17 (4) Any private contribution deposited in the account for a particular purpose, as stated by the donor,  
18 must be used exclusively for that purpose.

19 (5) Any interest and earnings on the account must be retained in the account."  
20

21 **Section 112.** Section 80-7-1006, MCA, is amended to read:

22 **"80-7-1006. Departmental responsibilities.** (1) The departments shall prepare a list of invasive species  
23 and identify those departments and other public agencies with jurisdiction over each species on the list. The  
24 jurisdiction of each department for the prevention and control of invasive species is according to the department's  
25 powers and duties as established by law.

26 (2) For those invasive species under the jurisdiction of more than one department, the departments with  
27 jurisdiction, through cooperative agreement, shall seek to clarify and coordinate their respective responsibilities.

28 (3) Working in collaboration with each other, the departments, individually or collectively, shall develop  
29 and adopt an invasive species strategic plan or plans to accomplish the purposes of this part. The plan or plans  
30 shall identify and prioritize threats and determine appropriate actions, in the following order of priority, related to:

- 1 (a) public awareness and education;
- 2 (b) prevention and detection of invasive species, including the use of invasive species management  
3 areas authorized under 80-7-1008 and the statewide invasive species management area established in  
4 80-7-1015;
- 5 (c) management, control, and restoration of infested areas; and
- 6 (d) emergency response.
- 7 (4) The departments shall enforce quarantine regulations and measures imposed by law or rule in an  
8 invasive species management area established under 80-7-1008 and in the statewide invasive species  
9 management area established in 80-7-1015, including the mandatory inspection of any interior portion of a vessel  
10 or equipment that may contain water for the presence of an invasive species.
- 11 (5) The departments may designate employees to carry out the provisions of this part.
- 12 (6) The department of fish; and wildlife; ~~and parks~~ shall authorize a request by another entity to operate  
13 a check station pursuant to this part if the entity agrees to the conditions of an agreement established by all  
14 parties, any cooperative funding requirements, and rules adopted under this part. The department of fish; and  
15 wildlife; ~~and parks~~ retains oversight authority over the operation of a check station pursuant to this subsection.
- 16 (7) The departments shall implement education and outreach programs that increase public knowledge  
17 and understanding of prevention, early detection, and control of invasive species."

18

19 **Section 113.** Section 80-7-1010, MCA, is amended to read:

20 **"80-7-1010. Invasive species management area -- regulation.** (1) The owner, operator, or person in  
21 possession of any vessel or equipment authorized for use in an invasive species management area shall comply  
22 with any regulations imposed pursuant to 80-7-1008(3)(b).

23 (2) After use in a body of water within an invasive species management area, all vessels, equipment,  
24 bait containers, livewells, bilges, and other boating-related equipment, excluding marine sanitary systems, must  
25 be drained in a way that does not impact any state waters before being transported on land or a public highway,  
26 as defined in 61-1-101, except where allowed by the department of fish; and wildlife; ~~and parks~~."

27

28 **Section 114.** Section 80-7-1015, MCA, is amended to read:

29 **"80-7-1015. Statewide invasive species management area.** (1) There is established a statewide  
30 invasive species management area for the purpose of preventing the introduction, importation, and infestation

1 of invasive species through the mandatory inspection of vessels and equipment at key entry points to the state  
2 on a seasonal basis and the mandatory decontamination of any vessel or equipment on or in which an invasive  
3 species is detected.

4 (2) To the greatest extent possible, the department of transportation shall cooperate with the department  
5 of fish; and wildlife; ~~and parks~~ to utilize ports of entry or adjacent department of transportation facilities as  
6 locations for check stations established pursuant to this section.

7 (3) As far as practical, signs indicating that the statewide invasive species management area is in place  
8 must be posted in an effective manner along the boundaries of and within the state. The signs must include  
9 information about the specific regulations that apply to the area. The signs must be paid for with funds from the  
10 invasive species account established in 80-7-1004. The departments may coordinate with any other governmental  
11 entity for the posting of signs.

12 (4) At a check station established pursuant to this section, the departments may examine vessels and  
13 equipment for the presence of an invasive species and compliance with this section and rules adopted pursuant  
14 to 80-7-1007. A department may examine any interior portion of a vessel or equipment that may contain water,  
15 including bilges, livewells, and bait containers, for compliance only if inspection of interior portions is included as  
16 part of quarantine measures established pursuant to rules adopted under 80-7-1007.

17 (5) The owner, operator, or person in possession of a vessel or equipment shall:

18 (a) comply with this section and rules imposed under 80-7-1007; and

19 (b) stop at any check station established pursuant to this section unless a medical emergency makes  
20 stopping likely to result in death or serious bodily injury.

21 (6) If during an inspection of a vessel or equipment the presence of an invasive species is detected, that  
22 vessel or equipment may not leave the check station without authorization until it is cleaned and decontaminated  
23 in a manner established in accordance with rules adopted pursuant to 80-7-1007. The department shall make  
24 every effort to ensure decontamination of the vessel or equipment as expeditiously as possible.

25 (7) After use in a body of water within the statewide invasive species management area, all vessels,  
26 equipment, bait containers, livewells, bilges, and other boating-related equipment, excluding marine sanitary  
27 systems, must be drained in a way that does not impact any state waters before being transported on land or on  
28 a public highway, as defined in 61-1-101, except when allowed by the department of fish; and wildlife; ~~and parks~~."

29

30 **Section 115.** Section 80-8-201, MCA, is amended to read:

1           **"80-8-201. Registration.** (1) Each pesticide distributed, sold, or offered for sale within the state or  
2 delivered for transportation or transported in intrastate commerce or between points within the state must be  
3 registered with the department. The registration must be renewed annually by the manufacturer, formulator, or  
4 distributor of the pesticide. The department shall register all federally approved pesticides, and those registered  
5 are subject to registration fees and all other provisions of this chapter. All registrations of pesticides expire on  
6 December 31 following the date of issuance unless otherwise terminated.

7           (2) The applicant for registration shall file with the department a statement that includes:

8           (a) the name and address of the applicant and the name and address of the person whose name will  
9 appear on the label, if other than the registrant;

10           (b) a complete copy of the label of the pesticide, the United States environmental protection agency  
11 registration number if the pesticide is registered, and a statement of all claims to be made for it, including  
12 directions for use;

13           (c) the trade and chemical name of the pesticide;

14           (d) if requested by the department, a full description of tests made and the results upon which the claims  
15 are based. In the case of renewal of registration, a statement is required only for information that is different from  
16 that furnished when the pesticide was registered or last reregistered.

17           (3) A pesticide imported into the state that is subject to and has been registered under the provisions  
18 of a federal act providing for the registration of pesticides must be registered in the state. However, the state may  
19 restrict the sale or use and application of the pesticide by type of dealer, applicator, time, and place and may  
20 establish special registrations of pesticides as outlined in 80-8-105(3) and in subsection (8) of this section. The  
21 annual registration fee must also be paid, and registration information required by the department must be  
22 provided.

23           (4) The applicant shall pay an annual fee of \$90 for each pesticide registered. The applicant shall pay  
24 an annual fee of \$90 for:

25           (a) each emergency exemption requested by the state as provided in the Federal Insecticide, Fungicide,  
26 and Rodenticide Act, 7 U.S.C. 136p;

27           (b) a special local need registration, as provided in the Federal Insecticide, Fungicide, and Rodenticide  
28 Act, 7 U.S.C. 136v(c)(1); or

29           (c) an experimental-use permit registration, as provided in 7 U.S.C. 136c.

30           (5) The department may require the submission of the complete formula and certified analytical

1 standards of any pesticide. If it appears to the department that the composition of the pesticide warrants the  
2 proposed claims for it and if the pesticide, its labeling, and other material required to be submitted comply with  
3 the requirements of 80-8-202, the department shall register the pesticide.

4 (6) If it does not appear to the department that the pesticide warrants the proposed claims for it or if the  
5 pesticide, its labeling, and other material required to be submitted do not comply with this chapter, the department  
6 shall notify the applicant of the manner in which the pesticide, labeling, or other material required to be submitted  
7 fails to comply with the chapter to provide the applicant an opportunity to make the necessary corrections. If the  
8 applicant does not make the corrections upon receipt of the notice, the department may refuse to register the  
9 pesticide. The department may suspend or cancel the registration of a pesticide whenever it does not appear that  
10 the pesticide or its labeling comply with this chapter or whenever scientific evidence proves that the pesticide  
11 endangers humans or the general environment afforded protection under 80-8-105(3)(a). When an application  
12 for registration is refused or the department proposes to suspend or cancel a registration, the registrant may  
13 pursue administrative remedies under the Montana Administrative Procedure Act and rules of the department.

14 (7) Registration is not required in the case of a pesticide shipped from one plant in the state to another  
15 plant in the state by the same person.

16 (8) (a) The department, the department of public health and human services, and the department of fish;  
17 ~~and wildlife, and parks~~ shall review all applications for registration of an experimental-use permit or a registration  
18 for special local needs. The departments shall use the same requirements and standards for reviewing  
19 registrations established by the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, and regulations  
20 adopted under the act. The department shall provide the departments of public health and human services and  
21 fish; ~~and wildlife, and parks~~ with a complete copy of the application, related correspondence, and a statement  
22 of the department's proposed action on the application. The department, the department of public health and  
23 human services, and the department of fish; ~~and wildlife, and parks~~ shall approve or disapprove the application  
24 within 10 days after the receipt of the application. If the department, the department of public health and human  
25 services, and the department of fish; ~~and wildlife, and parks~~ are in agreement with the proposed registration, the  
26 department shall issue the registration.

27 (b) The department shall establish a time and place for an interagency conference for the purposes of  
28 resolving the registration of any pesticide or device. If two of the departments approve the proposed registration,  
29 the department shall issue the registration.

30 (c) The registrant applying for registration must be notified as to proposed changes in registration. If the

1 departments cannot resolve the proposed registration following the interagency conference, the registrant may  
2 request a joint administrative hearing before the departments of agriculture, public health and human services,  
3 and fish; and wildlife, ~~and parks~~.

4 (d) Following the interagency conference and, if requested, the administrative hearing, if the proposed  
5 registration of a pesticide or device has not been resolved, the department of agriculture shall appoint an advisory  
6 council as outlined in 80-8-108 to resolve by majority vote the registration of any pesticide. The advisory council's  
7 recommendations on the registration must be accepted by the departments and implemented by the department  
8 of agriculture.

9 (9) (a) Pesticides registered under any federal law when canceled for sale and use in total or in part by  
10 a federal agency responsible for registration are considered canceled in total or in part for sale and use in  
11 Montana. The cancellation is effective on the final date of sale or use allowed under the federal law and rules or  
12 orders of the federal agency. Except as provided in subsection (9)(b), if the federal cancellation allows existing  
13 stock to be used past the final date of cancellation, the sale or use in this state may not exceed 2 years. The  
14 department shall provide technical assistance to any person in possession of the products to ensure their proper  
15 disposal, relabeling, or removal.

16 (b) Pesticide products canceled under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C.  
17 136a-1(i)(5) may be sold and used according to environmental protection agency labeling requirements or other  
18 requirements for a period not to exceed 6 years from the date that distribution from the registrant, manufacturer,  
19 formulator, or distributor is terminated."  
20

21 **Section 116.** Section 81-7-102, MCA, is amended to read:

22 **"81-7-102. Department to supervise destruction of predatory animals -- cooperation with other**  
23 **agencies -- administration of money.** (1) The department shall conduct the destruction and control of predatory  
24 animals capable of killing, destroying, maiming, or injuring domestic livestock or domestic poultry and the  
25 protection and safeguarding of livestock and poultry in this state against depredations from these animals. The  
26 department shall formulate the practical programs for accomplishing these objectives in this state and for carrying  
27 out the programs in an efficient and practical manner responsive to the need for control in each area of this state.

28 (2) The department shall adopt rules applicable to predatory animal control that are necessary and  
29 proper for the systematic destruction of the predatory animals by hunting, trapping, and poisoning operations and  
30 payments of bounties. The department shall make field, area, range, or other orders and instructions, including

1 orders and instructions to hunter and trapper personnel and others, that are appropriate in the various areas at  
 2 different seasons of the year, taking into consideration the habits, presence, migrations, or movements of the  
 3 animals and their attacks on livestock and poultry, either singly or in packs or bands.

4 (3) The department shall cooperate with authorized representatives of the federal government, including  
 5 the biological survey and the fish and wildlife service, the department of fish; and wildlife, ~~and parks~~, boards of  
 6 county commissioners, voluntary associations of stockgrowers, sheepgrowers, ranchers, farmers, hunters, and  
 7 anglers, and corporations and individuals, in the systematic destruction of predatory animals by hunting, trapping,  
 8 and poisoning operations.

9 (4) Section 81-7-103 and this section do not interfere with or impair the power and duties of the  
 10 department of fish; and wildlife, ~~and parks~~ in the control of predatory animals by the department of fish; and  
 11 wildlife, ~~and parks~~ as authorized by law or the obligation of the department of fish; and wildlife, ~~and parks~~ to  
 12 expend its funds in cooperation with the department for predatory animal control as required by law. Funds of the  
 13 department of fish; and wildlife, ~~and parks~~ for the cooperative predatory animal control must be administered and  
 14 expended by the department of fish; and wildlife, ~~and parks~~."

15

16 **Section 117.** Section 82-11-127, MCA, is amended to read:

17 **"82-11-127. (Temporary) Prohibited activity -- Makoshika state park.** (1) A person may not:

18 (a) cause pollution of any state waters or place or cause to be placed any liquid, gaseous, solid, or other  
 19 substance in a location where the substance is likely to cause pollution of any state waters;

20 (b) violate any provision set forth in a permit or stipulation, including but not limited to limitations and  
 21 conditions contained in it;

22 (c) violate an order issued pursuant to this chapter; or

23 (d) violate a provision of this chapter.

24 (2) A person may not drill, construct, convert, or operate a class II injection well or drill an oil or gas well  
 25 or stratigraphic test well or core hole as described under 82-11-134 without a valid permit or order from the board.

26 (3) Except as provided in subsection (5), on lands managed by the state parks and recreation board as  
 27 Makoshika state park, pursuant to Title 23, chapter 1, ~~and under the control of the department of fish, wildlife, and~~  
 28 ~~parks~~, by grant, acquisition, lease, easement, or other means, a person may not:

29 (a) drill, construct, convert, or operate an oil or gas well, stratigraphic test well, or core hole;

30 (b) conduct vibroseis, drill a seismic shot hole, or set a surface charge;

1 (c) explore for oil or gas in a manner that damages the land surface; or

2 (d) construct or place any surface facility associated with oil or gas exploration or development.

3 (4) The prohibitions in subsection (3) do not preclude the development of oil or gas resources from  
4 beneath Makoshika state park through directional drilling or access from property outside the boundaries of the  
5 state park provided that the surface resources of the state park are not disturbed.

6 (5) The prohibitions listed in subsection (3) do not apply to oil or gas resources within Makoshika state  
7 park that are owned by a private person, nor do the prohibitions apply to school trust lands within the boundaries  
8 of the park. The state acknowledges the mineral rights of Dawson County and the state school trust and the  
9 private property rights of persons owning private mineral rights within Makoshika state park. The ~~department of~~  
10 ~~fish, wildlife, and parks~~ state parks and recreation board is directed to conduct negotiations with the owners of  
11 mineral rights within Makoshika state park, with the purpose of acquiring those rights in the name of the state,  
12 and to report the results of the negotiations to the legislature no later than January 8, 2001.

13 **82-11-127. (Effective on occurrence of contingency) Prohibited activity.** (1) A person may not:

14 (a) cause pollution of any state waters or place or cause to be placed any liquid, gaseous, solid, or other  
15 substance in a location where the substance is likely to cause pollution of any state waters;

16 (b) violate any provision set forth in a permit or stipulation, including but not limited to limitations and  
17 conditions contained in it;

18 (c) violate an order issued pursuant to this chapter; or

19 (d) violate a provision of this chapter.

20 (2) A person may not drill, construct, convert, or operate a class II injection well or a carbon dioxide  
21 injection well or drill an oil or gas well or stratigraphic test well or core hole as described under 82-11-134 without  
22 a valid permit or order from the board."  
23

24 **Section 118.** Section 82-11-185, MCA, is amended to read:

25 **"82-11-185. (Effective on occurrence of contingency) Makoshika state park requirements.**

26 (1) Except as provided in subsection (3), on lands managed by the state parks and recreation board as  
27 Makoshika state park pursuant to Title 23, chapter 1, ~~and under the control of the department of fish, wildlife, and~~  
28 ~~parks~~ by grant, acquisition, lease, easement, or other means, a person may not:

29 (a) drill, construct, convert, or operate an oil or gas well, stratigraphic test well, or core hole;

30 (b) conduct vibroseis, drill a seismic shot hole, or set a surface charge;

1 (c) explore for oil or gas in a manner that damages the land surface; or

2 (d) construct or place any surface facility associated with oil or gas exploration or development.

3 (2) The prohibitions in subsection (1) do not preclude the development of geologic storage reservoirs  
4 or of oil or gas resources from beneath Makoshika state park through directional drilling or access from property  
5 outside the boundaries of the state park provided that the surface resources of the state park are not disturbed.

6 (3) The prohibitions listed in subsection (1) do not apply to geologic storage reservoirs or to oil or gas  
7 resources within Makoshika state park that are owned by a private person, nor do the prohibitions apply to school  
8 trust lands within the boundaries of the park. The state acknowledges the mineral rights of Dawson County and  
9 the state school trust and the private property rights of persons owning private mineral rights within Makoshika  
10 state park. The ~~department of fish, wildlife, and parks~~ state parks and recreation board is directed to conduct  
11 negotiations with the owners of mineral rights within Makoshika state park with the purpose of acquiring those  
12 rights in the name of the state."  
13

14 **Section 119.** Section 85-1-802, MCA, is amended to read:

15 **"85-1-802. Leases authorized.** (1) The department may lease all project lands appurtenant to a  
16 state-owned water project for purposes that the department considers appropriate.

17 (2) A lease of project lands to the department of fish; and wildlife, and parks or to the state parks and  
18 recreation board for public recreational use may not exceed 30 years. Other leases of project lands may not  
19 exceed 10 years."  
20

21 **Section 120.** Section 85-2-102, MCA, is amended to read:

22 **"85-2-102. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions  
23 apply:

24 (1) "Appropriate" means:

25 (a) to divert, impound, or withdraw, including by stock for stock water, a quantity of water for a beneficial  
26 use;

27 (b) in the case of a public agency, to reserve water in accordance with 85-2-316;

28 (c) in the case of the department of fish; and wildlife, and parks; to change an appropriation right to  
29 instream flow to protect, maintain, or enhance streamflows to benefit the fishery resource in accordance with  
30 85-2-436;

- 1 (d) in the case of the United States department of agriculture, forest service:  
2 (i) instream flows and in situ use of water created in 85-20-1401, Article V; or  
3 (ii) to change an appropriation right to divert or withdraw water under subsection (1)(a) to instream flow  
4 to protect, maintain, or enhance streamflows in accordance with 85-2-320;
- 5 (e) temporary changes or leases for instream flow to maintain or enhance instream flow to benefit the  
6 fishery resource in accordance with 85-2-408;
- 7 (f) a use of water for aquifer recharge or mitigation; or  
8 (g) a use of water for an aquifer storage and recovery project as provided in 85-2-368.
- 9 (2) "Aquifer recharge" means either the controlled subsurface addition of water directly to the aquifer or  
10 controlled application of water to the ground surface for the purpose of replenishing the aquifer to offset adverse  
11 effects resulting from net depletion of surface water.
- 12 (3) "Aquifer storage and recovery project" means a project involving the use of an aquifer to temporarily  
13 store water through various means, including but not limited to injection, surface spreading and infiltration, drain  
14 fields, or another department-approved method. The stored water may be either pumped from the injection well  
15 or other wells for beneficial use or allowed to naturally drain away for a beneficial use.
- 16 (4) "Beneficial use", unless otherwise provided, means:  
17 (a) a use of water for the benefit of the appropriator, other persons, or the public, including but not limited  
18 to agricultural, stock water, domestic, fish and wildlife, industrial, irrigation, mining, municipal, power, and  
19 recreational uses;
- 20 (b) a use of water appropriated by the department for the state water leasing program under 85-2-141  
21 and of water leased under a valid lease issued by the department under 85-2-141;
- 22 (c) a use of water by the department of fish; and wildlife, ~~and parks~~ through a change in an appropriation  
23 right for instream flow to protect, maintain, or enhance streamflows to benefit the fishery resource authorized  
24 under 85-2-436;
- 25 (d) a use of water through a temporary change in appropriation right or lease to enhance instream flow  
26 to benefit the fishery resource in accordance with 85-2-408;
- 27 (e) a use of water for aquifer recharge or mitigation; or  
28 (f) a use of water for an aquifer storage and recovery project as provided in 85-2-368.
- 29 (5) "Certificate" means a certificate of water right issued by the department.
- 30 (6) "Change in appropriation right" means a change in the place of diversion, the place of use, the

1 purpose of use, or the place of storage.

2 (7) "Commission" means the fish and wildlife commission provided for in 2-15-3402.

3 (8) "Correct and complete" means that the information required to be submitted conforms to the standard  
4 of substantial credible information and that all of the necessary parts of the form requiring the information have  
5 been filled in with the required information for the department to begin evaluating the information.

6 (9) "Declaration" means the declaration of an existing right filed with the department under section 8,  
7 Chapter 452, Laws of 1973.

8 (10) "Department" means the department of natural resources and conservation provided for in Title 2,  
9 chapter 15, part 33.

10 (11) "Developed spring" means any point where ground water emerges naturally, that  
11 has subsequently been physically altered, and from which ground water flows under natural pressures or is  
12 artificially withdrawn.

13 (12) "Existing right" or "existing water right" means a right to the use of water that would be protected  
14 under the law as it existed prior to July 1, 1973. The term includes federal non-Indian and Indian reserved water  
15 rights created under federal law and water rights created under state law.

16 (13) "Ground water" means any water that is beneath the ground surface.

17 (14) "Late claim" means a claim to an existing right forfeited pursuant to the conclusive presumption of  
18 abandonment under 85-2-226.

19 (15) "Mitigation" means the reallocation of surface water or ground water through a change in  
20 appropriation right or other means that does not result in surface water being introduced into an aquifer through  
21 aquifer recharge to offset adverse effects resulting from net depletion of surface water.

22 (16) "Municipality" means an incorporated city or town organized and incorporated under Title 7, chapter  
23 2.

24 (17) (a) "National forest system lands" means all lands within Montana that are owned by the United  
25 States and administered by the secretary of agriculture through the forest service.

26 (b) The term does not include any lands within the exterior boundaries of national forest system units  
27 that are not owned by the United States and administered by the secretary of agriculture through the forest  
28 service.

29 (18) "Permit" means the permit to appropriate issued by the department under 85-2-301 through 85-2-303  
30 and 85-2-306 through 85-2-314.

1 (19) "Person" means an individual, association, partnership, corporation, state agency, political  
2 subdivision, the United States or any agency of the United States, or any other entity.

3 (20) (a) "Political subdivision" means any county, incorporated city or town, public corporation, or district  
4 created pursuant to state law or other public body of the state empowered to appropriate water.

5 (b) The term does not mean a private corporation, association, or group.

6 (21) "Salvage" means to make water available for beneficial use from an existing valid appropriation  
7 through application of water-saving methods.

8 (22) "State water reservation" means a water right created under state law after July 1, 1973, that  
9 reserves water for existing or future beneficial uses or that maintains a minimum flow, level, or quality of water  
10 throughout the year or at periods or for defined lengths of time.

11 (23) "Stream depletion zone" means an area where hydrogeologic modeling concludes that as a result  
12 of a ground water withdrawal, the surface water would be depleted by a rate equal to at least 30% of the ground  
13 water withdrawn within 30 days after the first day a well or developed spring is pumped at a rate of 35 gallons  
14 a minute.

15 (24) "Substantial credible information" means probable, believable facts sufficient to support a reasonable  
16 legal theory upon which the department should proceed with the action requested by the person providing the  
17 information.

18 (25) "Waste" means the unreasonable loss of water through the design or negligent operation of an  
19 appropriation or water distribution facility or the application of water to anything but a beneficial use.

20 (26) "Water" means all water of the state, surface and subsurface, regardless of its character or manner  
21 of occurrence, including but not limited to geothermal water, diffuse surface water, and sewage effluent.

22 (27) "Water division" means a drainage basin as defined in 3-7-102.

23 (28) "Water judge" means a judge as provided for in Title 3, chapter 7.

24 (29) "Water master" means a master as provided for in Title 3, chapter 7.

25 (30) "Watercourse" means any naturally occurring stream or river from which water is diverted for  
26 beneficial uses. It does not include ditches, culverts, or other constructed waterways.

27 (31) "Well" means any artificial opening or excavation in the ground, however made, by which ground  
28 water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn."  
29

30 **Section 121.** Section 85-2-223, MCA, is amended to read:

1           **"85-2-223. Public recreational uses.** The department of fish; and wildlife, ~~and parks~~ shall exclusively  
2 represent the public for purposes of establishing any prior and existing public recreational use in existing right  
3 determinations under this part, provided that the foregoing shall not exclude a federal governmental entity from  
4 representing the public for the purpose of establishing any prior and existing public recreational use in existing  
5 right determinations under this part. The foregoing shall not be construed in any manner as a legislative  
6 determination of whether or not a recreational use sought to be established prior to July 1, 1973, is or was a  
7 beneficial use."

8

9           **Section 122.** Section 85-2-436, MCA, is amended to read:

10           **"85-2-436. Instream flow to protect, maintain, or enhance streamflows to benefit fishery resource**  
11 **-- change in appropriation rights.** (1) The department of fish; and wildlife, ~~and parks~~ may change an  
12 appropriation right, which it either holds in fee simple or leases, to an instream flow purpose of use and a defined  
13 place of use to protect, maintain, or enhance streamflows to benefit the fishery resource.

14           (2) The change in purpose of use or place of use must meet all of the criteria and process outlined in  
15 85-2-307 through 85-2-309, 85-2-401, and 85-2-402 and the additional criteria and process described in  
16 subsection (3) of this section to protect the rights of other appropriators from adverse impacts.

17           (3) (a) The department of fish; and wildlife, ~~and parks~~, with the consent of the commission, may lease  
18 existing rights for the purpose of protecting, maintaining, or enhancing streamflows to benefit the fishery resource.

19           (b) Upon receipt of a correct and complete application for a change in purpose of use or place of use  
20 from the department of fish; and wildlife, ~~and parks~~, the department shall publish notice of the application as  
21 provided in 85-2-307. Parties who believe that they may be adversely affected by the proposed change in  
22 appropriation right may file an objection as provided in 85-2-308. A change in appropriation right may not be  
23 approved until all objections are resolved. After resolving all objections filed under 85-2-308, the department shall  
24 authorize a change of an existing appropriation right for the purpose of protecting, maintaining, or enhancing  
25 streamflows to benefit the fishery resource if the applicant submits a correct and complete application and meets  
26 the requirements of 85-2-402.

27           (c) The application for a change in appropriation right authorization must include specific information on  
28 the length and location of the stream reach in which the streamflow is to be protected, maintained, or enhanced  
29 and must provide a detailed streamflow measuring plan that describes the points where and the manner in which  
30 the streamflow must be measured.

1 (d) The maximum quantity of water that may be changed to instream flow is the amount historically  
2 diverted. However, only the amount historically consumed, or a smaller amount if specified by the department  
3 in the change in appropriation right authorization, may be used to protect, maintain, or enhance streamflows  
4 below the point of diversion that existed prior to the change in appropriation right.

5 (e) A lease for instream flow purposes may be entered for a term of up to 10 years, except that a lease  
6 of water made available from the development of a water conservation or storage project may be for a term equal  
7 to the expected life of the project but not more than 30 years. All leases may be renewed an indefinite number  
8 of times but not for more than 10 years for each term. Upon receiving notice of a lease renewal, the department  
9 shall notify other appropriators potentially affected by the lease and shall allow 90 days for submission of new  
10 evidence of adverse effects to other water rights. A change in appropriation right authorization is not required for  
11 a renewal unless an appropriator other than an appropriator described in subsection (3)(i) submits evidence of  
12 adverse effects to the appropriator's rights that has not been considered previously. If new evidence is submitted,  
13 a change in appropriation right authorization must be obtained according to the requirements of 85-2-402.

14 (f) The department may modify or revoke the change in appropriation right authorization up to 10 years  
15 after it is approved if an appropriator other than an appropriator described in subsection (3)(i) submits new  
16 evidence not available at the time the change in appropriation right was approved that proves by a preponderance  
17 of evidence that the appropriator's water right is adversely affected.

18 (g) The priority of appropriation for a lease or change in appropriation right under this section is the same  
19 as the priority of appropriation of the right that is changed to an instream flow purpose.

20 (h) Neither a change in appropriation right nor any other authorization is required for the reversion of a  
21 leased appropriation right to the lessor's previous use.

22 (i) A person issued a water use permit with a priority of appropriation after the date of filing of an  
23 application for a change in appropriation right authorization under this section may not object to the exercise of  
24 the changed water right according to its terms or to the reversion of a leased appropriation right to the lessor  
25 according to the lessor's previous use.

26 (j) The department of fish; and wildlife; ~~and parks~~ shall pay all costs associated with installing devices  
27 or providing personnel to measure streamflows according to the measuring plan required under this section.

28 (4) (a) The department of fish; and wildlife; ~~and parks~~ shall complete and submit to the department,  
29 commission, and water policy committee established in 5-5-231 a biennial progress report by December 1 of  
30 odd-numbered years. This report must include a summary of all appropriation rights changed to an instream flow

1 purpose in the last 2 years.

2 (b) For each change in appropriation right to an instream flow purpose, the report must include a copy  
3 of the change authorization issued by the department and must address:

4 (i) the length of the stream reach and how it is determined;

5 (ii) critical streamflow or volume needed to protect, maintain, or enhance streamflow to benefit the fishery  
6 resource;

7 (iii) the amount of water available for instream flow as a result of the change in appropriation right;

8 (iv) contractual parameters, conditions, and other steps taken to ensure that each change in appropriation  
9 right does not harm other appropriators, particularly if the stream is one that experiences natural dewatering; and

10 (v) methods used to monitor use of water under each change in appropriation right.

11 (5) This section does not create the right for a person to bring suit to compel the renewal of a lease that  
12 has expired.

13 (6) (a) From May 8, 2007, through June 30, 2019, the department of fish; and wildlife; ~~and parks~~ may  
14 change, pursuant to this section, the appropriation rights that it holds in fee simple to instream flow purposes on  
15 no more than 12 stream reaches.

16 (b) After June 30, 2019, the department of fish; and wildlife; ~~and parks~~ may not change the appropriation  
17 rights that it holds in fee simple to instream flow purposes on any stream reaches.

18 (7) After June 30, 2019, the department of fish; and wildlife; ~~and parks~~ may not enter into any new lease  
19 agreements pursuant to this section or renew any leases that expire after that date."

20

21 **Section 123.** Section 85-9-104, MCA, is amended to read:

22 **"85-9-104. Limitations.** (1) This chapter may not be construed to grant to the district the power to  
23 generate, distribute, or sell electrical energy.

24 (2) The provisions of this chapter do not abrogate or limit in any manner the rights, powers, duties, and  
25 functions of the department, conservation districts, the department of environmental quality, or the department  
26 of fish; and wildlife; ~~and parks~~, but are supplementary to and in aid of those rights, powers, duties, and functions."

27

28 **Section 124.** Section 85-9-202, MCA, is amended to read:

29 **"85-9-202. Action by department upon receipt of request.** (1) Within 11 days after the request is  
30 received, the department shall acknowledge the request.

- 1 (2) The department shall itself, through cooperating agencies, or together with cooperating agencies:  
 2 (a) consult with the board of supervisors and all persons who may participate in the proposed project;  
 3 (b) conduct a preliminary survey of the proposed district;  
 4 (c) estimate costs of works, maintenance, and operation;  
 5 (d) determine sources of financing;  
 6 (e) reach a tentative decision on the feasibility, desirability, and compatibility with the state water plan  
 7 of the proposed district;  
 8 (f) adjust the boundaries of the proposed district to improve the feasibility, desirability, or consistency  
 9 with the state water plan;  
 10 (g) within 1 year after receipt of the request, send a report of the preliminary survey to the applicants,  
 11 the board of supervisors, the department of fish, and wildlife, ~~and parks~~, the department of environmental quality,  
 12 and other affected state and federal resource agencies for their comments."  
 13

14 **Section 125.** Section 85-9-204, MCA, is amended to read:

15 **"85-9-204. Feasibility study and report -- adjustment of proposed boundaries.** After the hearing,  
 16 the applicants or any one of them may request the department to prepare a detailed feasibility study of the  
 17 proposed district. If the department concludes that the proposed district is feasible, desirable, and consistent with  
 18 the state water plan, it shall prepare a feasibility report and, within 1 year after receipt of the request, send copies  
 19 to the applicants, if any, the department of fish, and wildlife, ~~and parks~~, the department of environmental quality,  
 20 and other affected state and federal water resource agencies. For good cause shown, based upon the actual  
 21 technical problems in completing the report, the department may use necessary additional time to complete and  
 22 distribute the report. The detailed feasibility report must describe the proposed works and contain an estimate  
 23 of the cost of the works, the means of financing, and the estimated costs of operation and maintenance. The  
 24 department may adjust the boundaries of the proposed district to improve the feasibility, desirability, and  
 25 consistency with the state water plan and to exclude land that would receive no direct or indirect benefits from  
 26 the proposed district."  
 27

28 **Section 126.** Section 87-1-101, MCA, is amended to read:

29 **"87-1-101. Definitions.** Unless the context requires otherwise, in this title the following definitions apply:  
 30 (1) ~~"Board" means the state parks and recreation board provided for in 2-15-3406.~~

1           ~~(2)~~(1) "Commission" means the fish and wildlife commission provided for in 2-15-3402.

2           ~~(3)~~(2) "Department" means the department of fish; and wildlife; ~~and parks~~ provided for in Title 2, chapter  
3 15, part 34.

4           ~~(4)~~(3) "Director" means the director of fish; and wildlife; ~~and parks~~ provided for in 2-15-3401.

5           ~~(5)~~(4) "Warden" means a state fish and game warden."  
6

7           **Section 127.** Section 87-1-106, MCA, is amended to read:

8           **"87-1-106. Fish; and wildlife; ~~and parks~~ offices.** The principal offices of the commission; ~~the board;~~  
9 and the department must be located in or near Helena, and suitable and adequate space therefor together with  
10 janitor services, light, heat, and water must be furnished by the state of Montana."  
11

12           **Section 128.** Section 87-1-201, MCA, is amended to read:

13           **"87-1-201. Powers and duties.** (1) Except as provided in subsection (11), the department shall  
14 supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals  
15 of the state and may implement voluntary programs that encourage hunting access on private lands and that  
16 promote harmonious relations between landowners and the hunting public. The department possesses all powers  
17 necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state for the  
18 enforcement of the fish and game laws and the rules adopted by the department.

19           (2) Except as provided in subsection (11), the department shall enforce all the laws of the state regarding  
20 the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and  
21 nongame birds within the state.

22           (3) The department has the exclusive power to spend for the protection, preservation, management, and  
23 propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or acquired  
24 for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or  
25 received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from  
26 fines or damages collected for violations of the fish and game laws, or from appropriations or received by the  
27 department from any other sources is under the control of the department and is available for appropriation to  
28 the department.

29           (4) The department may discharge any appointee or employee of the department for cause at any time.

30           (5) The department may dispose of all property owned by the state used for the protection, preservation,

1 management, and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no  
2 further value or use to the state and shall turn over the proceeds from the sale to the state treasurer to be credited  
3 to the fish and game account in the state special revenue fund.

4 (6) The department may not issue permits to carry firearms within this state to anyone except regularly  
5 appointed officers or wardens.

6 (7) Except as provided in subsection (11), the department is authorized to make, promulgate, and  
7 enforce reasonable rules and regulations not inconsistent with the provisions of Title 87, chapter 2, that in its  
8 judgment will accomplish the purpose of chapter 2.

9 (8) The department is authorized to promulgate rules relative to tagging, possession, or transportation  
10 of bear within or outside of the state.

11 (9) (a) The department shall implement programs that:

12 (i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing under  
13 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.;

14 (ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under  
15 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the  
16 maintenance or recovery of those species;

17 (iii) manage elk, deer, and antelope populations based on habitat estimates determined as provided in  
18 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as provided  
19 in 87-1-323. In implementing an elk management plan, the department shall, as necessary to achieve harvest  
20 and population objectives, request that land management agencies open public lands and public roads to public  
21 access during the big game hunting season.

22 (iv) in accordance with the forest management plan required by 87-1-622, address fire mitigation, pine  
23 beetle infestation, and wildlife habitat enhancement giving priority to forested lands in excess of 50 contiguous  
24 acres in any ~~state park~~, fishing access site, or wildlife management area under the department's jurisdiction.

25 (b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential  
26 candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or recovery  
27 of those species with the social and economic impacts of species maintenance or recovery.

28 (c) Any management plan developed by the department pursuant to this subsection (9) is subject to the  
29 requirements of Title 75, chapter 1, part 1.

30 (d) This subsection (9) does not affect the ownership or possession, as authorized under law, of a

1 privately held listed species, a sensitive species, or a species that is a potential candidate for listing.

2 (10) The department shall publish an annual game count, estimating to the department's best ability the  
3 numbers of each species of game animal, as defined in 87-2-101, in the hunting districts and administrative  
4 regions of the state. In preparing the publication, the department may incorporate field observations, hunter  
5 reporting statistics, or any other suitable method of determining game numbers. The publication must include an  
6 explanation of the basis used in determining the game count.

7 (11) The department may not regulate the use or possession of firearms, firearm accessories, or  
8 ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

9 (a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the  
10 establishment of special archery seasons;

11 (b) for human safety, the restriction of certain areas to the use of only specified hunting arms, including  
12 bows and arrows, traditional handguns, and muzzleloading rifles;

13 (c) the restriction of the use of shotguns for the hunting of deer and elk pursuant to 87-6-401(1)(f);

14 (d) the regulation of migratory game bird hunting pursuant to 87-3-403; or

15 (e) the restriction of the use of rifles for bird hunting pursuant to 87-6-401(1)(g) or (1)(h)."  
16

17 **Section 129.** Section 87-1-202, MCA, is amended to read:

18 **"87-1-202. Publication of orders and rules.** (1) Except as provided in subsection (2), annual and  
19 biennial rules adopted by the commission setting seasonal hunting, fishing, trapping, and land use regulations  
20 ~~or by the board setting seasonal land use regulations~~ must be published in a pamphlet format that is made  
21 available to the public at all department offices and through all license providers.

22 (2) Site-specific land use regulations applicable to a particular fishing access site, wildlife management  
23 area, ~~park site~~, or other department land, including but not limited to speed limits, road and off-road restrictions  
24 or closures, places where camping is allowed or prohibited, and seasonal closures for management purposes,  
25 must be indicated to the public by signs on the premises of the particular fishing access site, wildlife management  
26 area, ~~park site~~, or other department land.

27 (3) (a) Commission orders setting management seasons, providing for game damage hunts, and closing  
28 special seasons pursuant to 87-1-304 may be published by:

29 (i) use of the department's website;

30 (ii) use of a telephone hotline number; or

1 (iii) any other method that is readily available to the public.

2 (b) The method for notifying the public of the closure of a special season must be stated in the rule that  
3 establishes the special season.

4 (4) Public notification of emergency closures of department lands, public waterways, and hunting, fishing,  
5 and trapping seasons that are based on public health, safety, and welfare must be made in the manner and to  
6 the extent that the department considers necessary in light of the facts surrounding the emergency, including,  
7 when practical, onsite posting of the emergency closure."

8

9 **Section 130.** Section 87-1-209, MCA, is amended to read:

10 **"87-1-209. Acquisition and sale of lands or waters.** (1) Subject to 87-1-218 and ~~subsection (8) of this~~  
11 ~~section,~~ the department, with the consent of the commission ~~or the board~~ and, in the case of land acquisition  
12 involving more than 100 acres or \$100,000 in value, the approval of the board of land commissioners, may  
13 acquire by purchase, lease, agreement, gift, or devise and may acquire easements upon lands or waters for the  
14 purposes listed in this subsection. The department may develop, operate, and maintain acquired lands or waters:

15 (a) for fish hatcheries or nursery ponds;

16 (b) as lands or water suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or  
17 protection;

18 (c) for public hunting, fishing, or trapping areas;

19 (d) to capture, propagate, transport, buy, sell, or exchange any game, birds, fish, fish eggs, or fur-bearing  
20 animals needed for propagation or stocking purposes or to exercise control measures of undesirable species;

21 and

22 ~~(e) for state parks and outdoor recreation;~~

23 ~~(f)(e)~~ to extend and consolidate by exchange, lands or waters suitable for these purposes.

24 ~~(2) The department, with the consent of the board, may acquire by condemnation, as provided in Title~~  
25 ~~70, chapter 30, lands or structures for the preservation of historic or archaeological sites that are threatened with~~  
26 ~~destruction or alteration.~~

27 ~~(3)(2)~~ (a) Subject to section 2(3), Chapter 560, Laws of 2005, the department, with the consent of the  
28 commission ~~or the board~~, may dispose of lands and water rights acquired by it on those terms after public notice  
29 as required by subsection ~~(3)(b)~~ (2)(b) of this section, without regard to other laws that provide for sale or disposal  
30 of state lands and with or without reservation, as it considers necessary and advisable. The department, with the

1 consent of the commission ~~or the board~~, may convey department lands and water rights for full market value to  
2 other governmental entities or to adjacent landowners without regard to the requirements of subsection ~~(3)(b)~~  
3 (2)(b) or ~~(3)(c)~~ (2)(c) if the land is less than 10 acres or if the full market value of the interest to be conveyed is  
4 less than \$20,000. When the department conveys land or water rights to another governmental entity or to an  
5 adjacent landowner pursuant to this subsection, the department, in addition to giving notice pursuant to  
6 subsection ~~(3)(b)~~ (2)(b), shall give notice by mail to the landowners whose property adjoins the department  
7 property being conveyed.

8 (b) Subject to section 2(3), Chapter 560, Laws of 2005, notice of sale describing the lands or waters to  
9 be disposed of must be published once a week for 3 successive weeks in a newspaper with general circulation  
10 printed and published in the county where the lands or waters are situated or, if a newspaper is not published in  
11 that county, then in any newspaper with general circulation in that county.

12 (c) The notice must advertise for cash bids to be presented to the director within 60 days from the date  
13 of the first publication. Each bid must be accompanied by a cashier's check or cash deposit in an amount equal  
14 to 10% of the amount bid. The highest bid must be accepted upon payment of the balance due within 10 days  
15 after mailing notice by certified mail to the highest bidder. If that bidder defaults on payment of the balance due,  
16 then the next highest bidders must be similarly notified in succession until a sale is completed. Deposits must be  
17 returned to the unsuccessful bidders except bidders defaulting after notification.

18 (d) The department shall reserve the right to reject any bids that do not equal or exceed the full market  
19 value of the lands and waters as determined by the department. If the department does not receive a bid that  
20 equals or exceeds fair market value, it may then sell the lands or water rights at private sale. The price accepted  
21 on any private sale must exceed the highest bid rejected in the bid process.

22 ~~(4)(3)~~ When necessary and advisable for the management and use of department property, the director  
23 is authorized to grant or acquire from willing sellers right-of-way easements for purposes of utilities, roads,  
24 drainage facilities, ditches for water conveyance, and pipelines if the full market value of the interest to be  
25 acquired is less than \$20,000. Whenever possible, easements must include a weed management plan. Approval  
26 of the commission ~~or the board~~ is not required for grants and acquisitions made pursuant to this subsection. In  
27 granting any right-of-way pursuant to this subsection, the department shall obtain a fair market value, but the  
28 department is not otherwise required to follow the disposal requirements of subsection ~~(3)~~ (2). The director shall  
29 report any easement grant or acquisition made pursuant to this subsection to the commission ~~or the board~~ at its  
30 next regular meeting.

1           ~~(5)~~(4) The department shall convey lands and water rights without covenants of warranty by deed  
2           executed by the governor or in the governor's absence or disability by the lieutenant governor, attested by the  
3           secretary of state and further countersigned by the director.

4           ~~(6)~~(5) Subject to 87-1-218, the department, with the consent of the commission, is authorized to utilize  
5           the installment contract method to facilitate the acquisition of wildlife management areas in which game and  
6           nongame fur-bearing animals and game and nongame birds may breed and replenish and areas that provide  
7           access to fishing sites for the public. The total cost of installment contracts may not exceed the cost of purchases  
8           authorized by the department and appropriated by the legislature.

9           ~~(7)~~(6) The department is authorized to enter into leases of land under its control in exchange for services  
10          to be provided by the lessee on the leased land.

11          ~~(8) Approval of the board for the acquisition or disposal of land or water pursuant to this section is~~  
12          ~~required only for land and water administered under Title 23, chapter 1, or Title 23, chapter 2, parts 1 and 4."~~

13

14           **Section 131.** Section 87-1-256, MCA, is amended to read:

15           **"87-1-256. Definitions.** As used in 87-1-255 through 87-1-259, the following definitions apply:

- 16           (1) "Account" means the river restoration account provided for in 87-1-258.  
17           (2) "Associated lands" means the beds, banks, and immediately adjacent lands associated with a river.  
18           (3) "Department" means the department of fish, and wildlife, ~~and parks~~ provided for in 2-15-3401.  
19           (4) "Program" means the river restoration program provided for in 87-1-257.  
20           (5) "Restoration" means to restore to a good condition, regenerate, or make over in an improved form.  
21           (6) "River" means a river, stream, creek, or other naturally occurring body of flowing water."

22

23           NEW SECTION. **Section 132. Fishing access sites -- good neighbor policy.** (1) The good neighbor  
24           policy of public land use, as applied to public recreational lands, seeks a goal of no impact upon adjoining private  
25           and public lands by preventing impact on those adjoining lands from noxious weeds, trespass, litter, noise and  
26           light pollution, streambank erosion, and loss of privacy.

27           (2) In order to implement the good neighbor policy expeditiously, the legislature finds it necessary to  
28           require the department of fish and wildlife to place maintenance as a priority over additional development or  
29           improvement at all fishing access sites.

30           (3) At the discretion of the department, the restriction in subsection (2) does not apply to:

- 1 (a) projects on the Missouri reach of the Missouri-Madison hydropower project or the Clark Fork basin  
2 hydropower project, undertaken pursuant to the federal energy regulatory commission's hydropower relicensing  
3 requirements and in conjunction with private entities, political subdivisions of the state of Montana, and federal  
4 agencies; or
- 5 (b) projects on Fort Peck reservoir undertaken in conjunction with the U.S. army corps of engineers.
- 6 (4) Any development in fishing access sites beyond those defined as maintenance must be approved  
7 by the legislature.
- 8 (5) For the purposes of this section, "maintenance" means:
- 9 (a) placing, cleaning, and stocking of latrines;
- 10 (b) garbage and litter removal;
- 11 (c) fence installation and repair of existing fences;
- 12 (d) weed control;
- 13 (e) implementation of safety and health measures required by law to protect the public;
- 14 (f) upkeep of established trails, roads, parking areas, boat docks, and similar facilities existing in fishing  
15 access sites on October 1, 1999;
- 16 (g) in-kind replacement of existing facilities, including electric lines or facilities, or replacement of those  
17 existing facilities with facilities that have less impact on the fishing access site;
- 18 (h) erosion control;
- 19 (i) streambank stabilization;
- 20 (j) erection of barriers necessary to preserve riparian vegetation and habitat;
- 21 (k) minimal signage necessary to inform users of appropriate fishing access site use and applicable  
22 regulations and of historical, natural, cultural, geographical, and geological features in the area;
- 23 (l) measures necessary to ensure compliance with the federal Americans With Disabilities Act of 1990,  
24 when applicable;
- 25 (m) planting of native trees, grasses, and shrubs for habitat stabilization and privacy shielding;
- 26 (n) installation of fire rings, picnic tables, and trash collection facilities; and
- 27 (o) other necessary activities and expenditures consistent with the good neighbor policy and the intent  
28 of [section 135] and this section, including new trails, new boat ramps, and necessary new access roads into and  
29 within the fishing access site.
- 30

1            **NEW SECTION. Section 133. Fishing access sites -- fees and charges.** (1) The department may  
2 levy and collect reasonable fees or other charges for the use of privileges and conveniences that may be provided  
3 at fishing access sites and may grant concessions that it considers advisable, except as provided in subsections  
4 (2) and (5). All money derived from the activities of the department must be deposited in the state treasury in a  
5 state special revenue fund to the credit of the department.

6            (2) Overnight camping fees established by the department under subsection (1) must be discounted 50%  
7 for a campsite rented by a person who is a resident of Montana, as defined in 87-2-102, and is either 62 years  
8 of age or older or certified as disabled in accordance with rules adopted by the department.

9            (3) For a violation of a fee collection rule involving a vehicle, the registered owner of the vehicle at the  
10 time of the violation is personally responsible if an adult is not in the vehicle at the time the violation is discovered  
11 by an authorized officer. A defense that the vehicle was driven into the fee area by another person is not  
12 allowable unless it is shown that at that time the vehicle was being used without the consent of the registered  
13 owner.

14            (4) Money received from the collection of fees and charges is subject to the deposit requirements of  
15 17-6-105(6) unless the department has submitted and received approval for a modified deposit schedule pursuant  
16 to 17-6-105(8).

17            (5) In recognition of the fact that individuals support fishing access sites through the payment of certain  
18 motor vehicle registration fees, persons who pay the fee provided for in 61-3-321(19)(a) may not be required to  
19 pay a day-use fee for access to fishing access sites. Other fees for the use of fishing access sites, such as  
20 overnight camping fees, are still chargeable and may be collected by the department.

21  
22            **NEW SECTION. Section 134. Fishing access sites -- improvement or development -- required**  
23 **public involvement -- rules.** (1) The commission shall adopt rules establishing a policy whereby any proposed  
24 improvement or development of a fishing access site that significantly changes fishing access site features or use  
25 patterns is subject to notice of proposed modifications, both statewide and locally, and to opportunity for a public  
26 meeting and public comment on the advisability and acceptability of the proposal.

27            (2) The department shall prepare a public report regarding any project that is subject to the provisions  
28 of subsection (1). The report must include conclusions relating to the following aspects of the proposal:

- 29            (a) the desires of the public as expressed to the department;  
30            (b) the capacity of the fishing access site for development;

- 1 (c) environmental impacts associated with the improvement or development;
- 2 (d) the long-range maintenance of the improvements;
- 3 (e) the protection of natural, cultural, and historical fishing access site features;
- 4 (f) potential impacts on tourism; and
- 5 (g) site-specific modifications as they relate to the fishing access site system as a whole.

6

7 **NEW SECTION. Section 135. Fishing access sites -- protection of riparian vegetation -- limit on**  
 8 **motorized camping, operation of off-highway vehicles.** (1) In order to protect riparian vegetation, provide for  
 9 stable streambanks, reduce erosion, and provide for nutrient barriers to protect the quality of rivers and streams,  
 10 camping in a motor vehicle, as defined in 61-1-101, is discouraged within 25 feet of a river or stream in fishing  
 11 access sites.

12 (2) The operation of an off-highway vehicle, as defined in 23-2-801, within fishing access sites is  
 13 prohibited except:

- 14 (a) for administrative purposes; or
- 15 (b) as designated by the department on roads, trails, or specific areas.

16

17 **Section 136.** Section 87-1-301, MCA, is amended to read:  
 18 **"87-1-301. Powers of commission.** (1) Except as provided in ~~subsections (7) and (8)~~ subsection (7),  
 19 the commission:

- 20 (a) shall set the policies for the protection, preservation, management, and propagation of the wildlife,  
 21 fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment  
 22 of all other responsibilities of the department related to fish and wildlife as provided by law;
- 23 (b) shall establish the hunting, fishing, and trapping rules of the department;
- 24 (c) except as provided in 23-1-111 and 87-1-303(3), shall establish the rules of the department governing  
 25 the use of lands owned or controlled by the department and waters under the jurisdiction of the department;
- 26 (d) must have the power within the department to establish wildlife refuges and bird and game preserves;
- 27 (e) shall approve all acquisitions or transfers by the department of interests in land or water, except as  
 28 provided in 23-1-111 and 87-1-209(2) and (4);
- 29 (f) except as provided in 23-1-111, shall review and approve the budget of the department prior to its  
 30 transmittal to the office of budget and program planning;

1 (g) except as provided in 23-1-111, shall review and approve construction projects that have an  
2 estimated cost of more than \$1,000 but less than \$5,000;

3 (h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided  
4 in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as  
5 provided in 87-1-323. In developing or implementing an elk management plan, the commission shall consider  
6 landowner tolerance when deciding whether to restrict elk hunting on surrounding public land in a particular  
7 hunting district. As used in this subsection (1)(h), "landowner tolerance" means the written or documented verbal  
8 opinion of an affected landowner regarding the impact upon the landowner's property within the particular hunting  
9 district where a restriction on elk hunting on public property is proposed.

10 (i) shall set the policies for the salvage of antelope, deer, elk, or moose pursuant to 87-3-145; and

11 (j) shall comply with, adopt policies that comply with, and ensure the department implements in each  
12 region the provisions of state wildlife management plans adopted following an environmental review conducted  
13 pursuant to Title 75, chapter 1, parts 1 through 3.

14 (2) The commission may adopt rules regarding the use and type of archery equipment that may be  
15 employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in  
16 archery equipment change.

17 (3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons,  
18 conditions, programs, or other provisions that the commission considers appropriate to promote or enhance  
19 hunting by Montana's youth and persons with disabilities.

20 (4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

21 (i) separate deer licenses from nonresident elk combination licenses;

22 (ii) set the fees for the separated deer combination licenses and the elk combination licenses without the  
23 deer tag;

24 (iii) condition the use of the deer licenses; and

25 (iv) limit the number of licenses sold.

26 (b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and  
27 appropriate to regulate the harvest by nonresident big game combination license holders:

28 (i) for the biologically sound management of big game populations of elk, deer, and antelope;

29 (ii) to control the impacts of those elk, deer, and antelope populations on uses of private property; and

30 (iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-321

1 through 87-1-325.

2 (5) (a) Subject to the provisions of 87-2-115, the commission may adopt rules establishing license  
3 preference systems to distribute hunting licenses and permits:

4 (i) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant  
5 who has been unsuccessful for a shorter period of time; and

6 (ii) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(a), "qualifying  
7 landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by  
8 the commission.

9 (b) The commission shall square the number of points purchased by an applicant per species when  
10 conducting drawings for licenses and permits.

11 (6) (a) The commission may adopt rules to:

12 (i) limit the number of nonresident mountain lion hunters in designated hunting districts; and

13 (ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting  
14 districts.

15 (b) The commission shall consider, but is not limited to consideration of, the following factors:

16 (i) harvest of lions by resident and nonresident hunters;

17 (ii) history of quota overruns;

18 (iii) composition, including age and sex, of the lion harvest;

19 (iv) historical outfitter use;

20 (v) conflicts among hunter groups;

21 (vi) availability of public and private lands; and

22 (vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters.

23 (7) The commission may not regulate the use or possession of firearms, firearm accessories, or  
24 ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

25 (a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the  
26 establishment of special archery seasons;

27 (b) for human safety, the restriction of certain areas to the use of only specified hunting arms, including  
28 bows and arrows, traditional handguns, and muzzleloading rifles;

29 (c) the restriction of the use of shotguns for the hunting of deer and elk pursuant to 87-6-401(1)(f);

30 (d) the regulation of migratory game bird hunting pursuant to 87-3-403; or

1 (e) the restriction of the use of rifles for bird hunting pursuant to 87-6-401(1)(g) or (1)(h).

2 ~~(8) Pursuant to 23-1-111, the commission does not oversee department activities related to the~~  
 3 ~~administration of state parks, primitive parks, state recreational areas, public camping grounds, state historic~~  
 4 ~~sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant~~  
 5 ~~to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, and 9."~~

6

7 **Section 137.** Section 87-1-503, MCA, is amended to read:

8 **"87-1-503. Ex officio wardens.** (1) The following are ex officio wardens:

9 (a) all sheriffs and their deputies;

10 (b) all constables;

11 (c) all peace officers of the state or any subdivision of the state;

12 (d) the executive director and investigators of the board of outfitters;

13 (e) all state forest officers;

14 (f) as authorized by cooperative agreement, any officers of the United States forest service, agents of  
 15 the United States fish and wildlife service, and peace officers of the bureau of land management, national park  
 16 service, and corps of engineers that are assigned to duty in this state;

17 (g) as authorized by cooperative agreement, tribal fish and game wardens;

18 (h) former fish and game wardens; and

19 (i) field personnel of the department as may be appointed by the director.

20 (2) Ex officio wardens serve without pay, except that the department may, in its discretion, allow travel  
 21 expenses as provided for in 2-18-501 through 2-18-503. If allowed, travel expenses must be paid upon proper  
 22 vouchers from the state fish and game funds.

23 (3) Ex officio wardens have the same powers with reference to the enforcement of the fish and game  
 24 laws of this state ~~and the laws relating to parks and outdoor recreation contained in Title 23, chapters 1 and 2,~~  
 25 ~~except chapter 2, part 7,~~ as regularly appointed wardens, and it is their duty to assist, whenever possible, in the  
 26 enforcement of those laws."

27

28 **Section 138.** Section 87-1-601, MCA, is amended to read:

29 **"87-1-601. Use of fish and game money.** (1) (a) Except as provided in 87-1-290, [87-1-293,] 87-1-623,  
 30 and subsections ~~(8)~~ (7) and ~~(40)~~ (9) of this section, all money collected or received from the sale of hunting and

1 fishing licenses or permits, from the sale of seized game or hides, from damages collected for violations of the  
2 fish and game laws of this state, or from appropriations or received by the department from any other state source  
3 must be turned over to the department of revenue and placed in the state special revenue fund to the credit of  
4 the department.

5 (b) Any money received from federal sources must be deposited in the federal special revenue fund to  
6 the credit of the department.

7 (c) All interest earned on money from the following sources must be placed in the state special revenue  
8 fund to the credit of the department:

9 (i) the general license account;

10 (ii) the license drawing account;

11 (iii) accounts established to administer the provisions of 87-1-246, 87-1-258, 87-1-605, 87-2-411,  
12 87-2-722, and 87-2-724; and

13 (iv) money received from the sale of any other hunting and fishing license.

14 (2) Except as provided in 87-2-411, the money described in subsection (1) must be exclusively set apart  
15 and made available for the payment of all salaries, per diem, fees, expenses, and expenditures authorized to be  
16 made by the department under the terms of this title. The money described in subsection (1) must be spent for  
17 those purposes by the department, subject to appropriation by the legislature.

18 (3) Any reference to the fish and game fund in Title 87 means fish and game money in the state special  
19 revenue fund and the federal special revenue fund.

20 (4) Except as provided in subsections ~~(8)~~ (7) and ~~(9)~~ (8), all money collected or received from fines and  
21 forfeited bonds, except money collected or received by a justice's court, that relates to violations of state fish and  
22 game laws under Title 87 must be deposited by the department of revenue and credited to the department in a  
23 state special revenue fund account for this purpose. Out of any fine imposed by a court for the violation of the fish  
24 and game laws, the costs of prosecution must be paid to the county where the trial was held in any case in which  
25 the fine is not imposed in addition to the costs of prosecution.

26 (5) (a) Except as provided in 87-1-621, section 2(3), Chapter 560, Laws of 2005, and subsection ~~(6)~~ of  
27 this section, money must be deposited in an account in the permanent fund if it is received by the department  
28 from:

29 (i) the sale of surplus real property;

30 (ii) exploration or development of oil, gas, or mineral deposits from lands acquired by the department,

1 except royalties or other compensation based on production; and

2 (iii) leases of interests in department real property not contemplated at the time of acquisition.

3 (b) The interest derived from the account, but not the principal, may be used only for the purpose of  
4 operation, development, and maintenance of real property of the department and only upon appropriation by the  
5 legislature. If the use of money as set forth in this section would result in violation of applicable federal laws or  
6 state statutes specifically naming the department or money received by the department, then the use of this  
7 money must be limited in the manner, method, and amount to those uses that do not result in a violation.

8 ~~(6) Money received from the sale or lease of lands acquired and managed for the purposes of Title 23,~~  
9 ~~chapter 1, must be deposited in the state special revenue fund in the account established for miscellaneous funds~~  
10 ~~received for state parks and may be used only for the purposes of Title 23, chapter 1.~~

11 ~~(7)(6)~~ Money received from the collection of license drawing applications is subject to the deposit  
12 requirements of 17-6-105(6) unless the department has submitted and received approval for a modified deposit  
13 schedule pursuant to 17-6-105(8).

14 ~~(8)(7)~~ Money collected or received from fines or forfeited bonds for the violation of 77-1-801, 77-1-806,  
15 or rules adopted under 77-1-804 must be deposited in the state general fund.

16 ~~(9)(8)~~ The department of revenue shall deposit in the state general fund one-half of the money received  
17 from the fines imposed pursuant to Title 87, chapter 6.

18 ~~(10)(9)~~ (a) The department shall deposit all money received from the search and rescue surcharge in  
19 87-2-202 in a state special revenue account to the credit of the department for search and rescue purposes as  
20 provided for in 10-3-801.

21 (b) Upon certification by the department of reimbursement requests submitted by the department of  
22 military affairs for search and rescue missions involving persons engaged in hunting, fishing, or trapping, the  
23 department may transfer funds from the special revenue account to the search and rescue account provided for  
24 in 10-3-801 to reimburse counties for the costs of those missions as provided in 10-3-801.

25 (c) Using funds in the department's search and rescue account that are not already committed to  
26 reimbursement for search and rescue missions, the department may provide matching funds to the department  
27 of military affairs to reimburse counties for search and rescue training and equipment costs up to the proportion  
28 that the number of search and rescue missions involving persons engaged in hunting, fishing, or trapping bears  
29 to the statewide total of search and rescue missions.

30 (d) Any money deposited in the special revenue account is available for reimbursement of search and

1 rescue missions and to provide matching funds to reimburse counties for search and rescue training and  
 2 equipment costs. (Bracketed language in (1)(a) terminates June 30, 2019--sec. 7, Ch. 83, L. 2013.)"

3

4 **Section 139.** Section 87-1-603, MCA, is amended to read:

5 **"87-1-603. Payments to counties for department-owned land -- exceptions.** (1) Except as provided  
 6 in subsection (3), before November 30 of each year, the treasurer of each county in which the department owns  
 7 any land shall describe the land, state the number of acres in each parcel, and request the drawing of a warrant  
 8 to the county in a sum equal to the amount of taxes that would be payable on county assessment of the property  
 9 if it was taxable to a private citizen. The director shall approve or disapprove the request. The director may  
 10 disapprove a request only if the director finds it to be inconsistent with this section. If the director disapproves a  
 11 request, the director shall return it with an explanation detailing the reasons for the disapproval to the appropriate  
 12 county treasurer for correction. If the director approves a request, the director shall transmit it to the department  
 13 of administration, which shall draw a warrant payable to the county in the amount shown on the request and shall  
 14 send the warrant to the county treasurer. The warrant is payable out of any funds to the credit of the department  
 15 of fish; ~~and wildlife; and parks.~~ A payment may not be made to a county in which the department owns less than  
 16 100 acres. A payment may not be made to a county for lands owned by the department for game or bird farms  
 17 or for fish hatchery purposes ~~or lands acquired and managed for the purposes of Title 23, chapter 1.~~

18 (2) After May 10, 2009, for every department purchase of land, the department shall notify the treasurer  
 19 in the county where land was purchased.

20 (3) (a) After May 10, 2009, and before November 30 of each subsequent year, the treasurer of each  
 21 county in which the department owns land purchased after May 10, 2009, shall describe the land, state the  
 22 number of acres in each parcel, and request the drawing of a warrant to the county in a sum equal to the amount  
 23 of taxes that would be payable on county assessment of the property if it was taxable to a private citizen.

24 (b) The director shall approve or disapprove the request. The director may disapprove a request only  
 25 if the director finds it to be inconsistent with this subsection (3). If the director disapproves a request, the director  
 26 shall return it with an explanation detailing the reasons for the disapproval to the appropriate county treasurer for  
 27 correction. If the director approves a request, the director shall transmit it to the department of administration,  
 28 which shall draw a warrant payable to the county in the amount shown on the request and shall send the warrant  
 29 to the county treasurer. The warrant is payable out of any funds to the credit of the department of fish; ~~and wildlife;~~  
 30 ~~and parks.~~

1 (c) All land purchased by the department after May 10, 2009, is subject to this subsection (3).

2 (4) The amount to be paid to each county pursuant to this section is statutorily appropriated, as provided  
3 in 17-7-502."

4

5 **Section 140.** Section 87-1-621, MCA, is amended to read:

6 **"87-1-621. Forest management account.** (1) There is a special revenue account called the forest  
7 management account to the credit of the department of fish; ~~and~~ wildlife; ~~and~~ parks.

8 (2) The forest management account consists of money deposited into the account from forest  
9 management projects undertaken pursuant to 87-1-622 and from any other source. Any interest earned by the  
10 account must be deposited into the account.

11 (3) Except as otherwise directed by state or federal law, funds from the forest management account must  
12 be used by the department to implement forest management projects that may result pursuant to the provisions  
13 of 87-1-622."

14

15 **Section 141.** Section 87-1-622, MCA, is amended to read:

16 **"87-1-622. Forest management plan -- sustainable yield study required -- definition.** (1) The  
17 commission ~~and the board~~ shall adopt forest management plans for lands under ~~their~~ its jurisdiction, based on  
18 an annual sustainable yield, to implement the provisions of 87-1-201(9)(a)(iv).

19 (2) The department, under the direction of the commission, shall, before July 1, 2012, commission a  
20 study by a qualified independent third party to determine, using scientific principles, the annual sustainable yield  
21 on forested department lands. The department shall direct the qualified independent third party to determine the  
22 annual sustainable yield pursuant to all state and federal laws.

23 (3) The annual timber sale requirement for the timber sale program administered by the department to  
24 address fire mitigation, pine beetle infestation, and wildlife habitat enhancement may not exceed the annual  
25 sustainable yield.

26 (4) The commission ~~and the board~~ shall review and redetermine the annual sustainable yield for lands  
27 under ~~their~~ its jurisdiction at least once every 5 years.

28 (5) Expenditures necessary to meet the requirements of this section are authorized to be made by the  
29 department pursuant to 87-1-601.

30 (6) For the purposes of this section, the term "annual sustainable yield" means the quantity of timber that

1 can be harvested from forested department lands each year, taking into account the ability of forested lands to  
 2 generate replacement tree growth and in accordance with:

3 (a) the provisions of 87-1-201(9)(a)(iv);

4 (b) state and federal laws, including but not limited to the laws pertaining to wildlife, recreation, and  
 5 maintenance of watersheds; and

6 (c) water quality standards that protect fisheries and aquatic life and that are adopted under the  
 7 provisions of Title 75, chapter 5."

8

9 **Section 142.** Section 87-2-504, MCA, is amended to read:

10 **"87-2-504. Class B-7 and B-8--nonresident deer licenses.** (1) (a) Except as otherwise provided in this  
 11 chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will  
 12 turn 12 years old before or during the season for which the license is issued and is a holder of a nonresident  
 13 conservation license may, upon payment of the proper fee or fees and subject to the limitations prescribed by  
 14 law and department regulation, be entitled to apply to the fish, and wildlife, ~~and parks~~ office, Helena, Montana,  
 15 to purchase one each of the following licenses:

16 (i) Class B-7, deer A tag, \$250;

17 (ii) Class B-8, deer B tag, \$75.

18 (b) The license entitles a holder who is 12 years of age or older to hunt the game animal or animals  
 19 authorized by the license and to possess the carcasses of those animals as authorized by commission rules.

20 (2) Unless purchased as part of a Class B-10 or Class B-11 license, a Class B-7 license may be  
 21 assigned for use in a specific administrative region or regions or a portion of a specific administrative region or  
 22 regions or in a specific hunting district or districts or a portion of a specific hunting district or districts. If purchased  
 23 as part of a Class B-10 or Class B-11 license, the Class B-7 license is valid throughout the state, except as  
 24 provided in 87-2-512(1)(d). Not more than 5,000 Class B-7 licenses may be sold in any license year.

25 (3) The commission may prescribe the use of and set quotas for the sale of Class B-8 licenses by  
 26 hunting districts, portions of a hunting district, groups of districts, or administrative regions."

27

28 **Section 143.** Section 87-2-505, MCA, is amended to read:

29 **"87-2-505. Class B-10--nonresident big game combination license.** (1) Except as otherwise provided  
 30 in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who

1 will turn 12 years old before or during the season for which the license is issued may, upon payment of the fee  
2 of \$981 and subject to the limitations prescribed by law and department regulation, apply to the fish; and wildlife;  
3 ~~and parks~~ office, Helena, Montana, to purchase a B-10 nonresident big game combination license that entitles  
4 a holder who is 12 years of age or older to all the privileges of Class B, Class B-1, and Class B-7 licenses and  
5 an elk tag. This license includes the nonresident conservation license as prescribed in 87-2-202.

6 (2) Not more than 17,000 Class B-10 licenses may be sold in any 1 license year.

7 (3) Of the fee paid for the purchase of a Class B-10 nonresident big game combination license pursuant  
8 to subsection (1), 28.5% must be deposited in the account established in 87-1-290.

9 (4) The cost of the Class B-10 nonresident big game combination license must be adjusted annually  
10 based on any change to the consumer price index from the previous year. The consumer price index to be used  
11 for calculations is the consumer price index for all urban consumers (CPI-U). The adjusted cost must be rounded  
12 down to the nearest even-numbered amount."

13

14 **Section 144.** Section 87-2-510, MCA, is amended to read:

15 **"87-2-510. Class B-11--nonresident deer combination license.** (1) (a) Except as otherwise provided  
16 in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who  
17 will turn 12 years old before or during the season for which the license is issued may, upon payment of a fee of  
18 \$577 and subject to the limitations prescribed by law and department regulation, apply to the fish; and wildlife;  
19 ~~and parks~~ office, Helena, Montana, to purchase a Class B-11 nonresident deer combination license that entitles  
20 a holder who is 12 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses.  
21 This license includes the nonresident wildlife conservation license as prescribed in 87-2-202.

22 (b) Of the fee paid for the purchase of a Class B-11 nonresident deer combination license pursuant to  
23 subsection (1)(a), 28.5% must be deposited in the account established in 87-1-290.

24 (c) The cost of the Class B-11 nonresident deer combination license must be adjusted annually based  
25 on any change to the consumer price index from the previous year. The consumer price index to be used for  
26 calculations is the consumer price index for all urban consumers (CPI-U). The adjusted cost must be rounded  
27 down to the nearest even-numbered amount.

28 (2) Not more than 4,600 unreserved Class B-11 licenses may be sold in any 1 license year."

29

30 **Section 145.** Section 87-2-522, MCA, is amended to read:

1           **"87-2-522. Class B-13--nonresident youth big game combination license.** (1) Except as otherwise  
2 provided in this chapter, a person who is not a resident, as defined in 87-2-102, and who is 12 years of age or  
3 older or will turn 12 years old before or during the season for which the license is issued and who is under 18  
4 years of age may, upon payment of a fee of one-half of the cost of a regularly priced Class B-10 nonresident big  
5 game combination license and subject to the limitations prescribed by law and department regulation, apply to  
6 the fish, ~~and~~ wildlife, ~~and~~ parks office in Helena, Montana, to purchase a Class B-13 nonresident youth big game  
7 combination license.

8           (2) The holder of a Class B-13 license is entitled to all the privileges of a Class B license, a Class B-1  
9 license, a Class B-7 license, an elk tag, and a nonresident wildlife conservation license. When using a Class B-13  
10 license, the holder must be accompanied by an adult immediate family member who is the holder of a valid Class  
11 B-7, Class B-10, or Class B-11 license or who is the holder of a valid resident deer or elk tag. As used in this  
12 subsection, an adult immediate family member means an applicant's natural or adoptive parent, grandparent,  
13 brother, or sister who is 18 years of age or older.

14           (3) Class B-13 licenses are not included in the limit on the number of available Class B-10 nonresident  
15 big game combination licenses issued pursuant to 87-2-505.

16           (4) The holder of a valid Class B-13 license may apply for a Class B-12 nonresident elk B tag license  
17 when authorized by the commission pursuant to 87-2-104. The fee for a Class B-12 license is \$270. The license  
18 entitles the holder to hunt in the hunting district or portion of a hunting district and under the terms and conditions  
19 specified by the commission."  
20

21           **Section 146.** Section 87-2-817, MCA, is amended to read:

22           **"87-2-817. Licenses for service members.** (1) A veteran or a disabled member of the armed forces  
23 who meets the qualifications in 87-2-803(9) as a result of a combat-connected injury may apply at a fish, ~~and~~  
24 wildlife, ~~and~~ parks office for a regular Class A-3 deer A tag, a Class A-4 deer B tag, a Class B-7 deer A tag, a  
25 Class B-8 deer B tag, and a special antelope license made available under 87-2-506(3) for one-half of the license  
26 fee. Licenses issued to veterans or disabled members of the armed forces under this part do not count against  
27 the number of special antelope licenses reserved for people with permanent disabilities, as provided in 87-2-706.

28           (2) (a) A Montana resident who is a member of the Montana national guard or the federal reserve as  
29 provided in 10 U.S.C. 10101 or who was otherwise engaged in active duty and who participated in a contingency  
30 operation as provided in 10 U.S.C. 101(a)(13) that required the member to serve at least 2 months outside of the

1 state, upon request and upon presentation of the documentation described in subsection (2)(b), must be issued  
2 a free resident wildlife conservation license or a Class AAA resident combination sports license, which may not  
3 include a Class A-6 black bear tag, upon payment of the resident base hunting license fee in 87-2-116, in the  
4 license year that the member returns from military service or in the year following the member's return, based on  
5 the member's election, and in any of the 4 years after the member's election.

6 (b) To be eligible for the free resident wildlife conservation license or free Class AAA resident  
7 combination sports license provided for in subsection (2)(a), an applicant shall, in addition to the written  
8 application and proof of residency required in 87-2-202(1), provide to any regional department office or to the  
9 department headquarters in Helena, by mail or in person, the member's DD form 214 verifying the member's  
10 release or discharge from active duty. The applicant is responsible for providing documentation showing that the  
11 applicant participated in a contingency operation as provided in 10 U.S.C. 101(a)(13).

12 (c) A Montana resident who meets the service qualifications of subsection (2)(a) and provides the  
13 documentation required in subsection (2)(b) is entitled to a free Class A resident fishing license in the license year  
14 that the member returns from military service or in the year following the member's return, based on the member's  
15 election, and in any of the 4 years after the member's election.

16 (d) The department's general license account must be reimbursed by a quarterly transfer of funds from  
17 the general fund to the general license account for costs associated with the free licenses granted pursuant to  
18 this subsection (2) during the preceding calendar quarter. Reimbursement costs must be designated as license  
19 revenue.

20 (3) A member of the armed forces who forfeited a license or permit issued through a drawing as a result  
21 of deployment outside of the continental United States in support of a contingency operation as provided in 10  
22 U.S.C. 101(a)(13) is guaranteed the same license or permit, without additional fee, upon application in the year  
23 of the member's return from deployment or in the first year that the license or permit is made available after the  
24 member's return."

25

26 **Section 147.** Section 87-4-406, MCA, is amended to read:

27 **"87-4-406. Definitions.** As used in this part, the following definitions apply:

28 (1) "Alternative livestock" means a privately owned caribou, white-tailed deer, mule deer, elk, moose,  
29 antelope, mountain sheep, or mountain goat indigenous to the state of Montana, a privately owned reindeer, or  
30 any other cloven-hoofed ungulate as classified by the department. Black bear and mountain lion must be

1 regulated pursuant to Title 87, chapter 4, part 8.

2 (2) "Alternative livestock ranch" means the enclosed land area upon which alternative livestock may be  
3 kept for purposes of obtaining, rearing in captivity, keeping, or selling alternative livestock or parts of alternative  
4 livestock, as authorized under this part.

5 (3) "Cloven-hoofed ungulate" means an animal of the order Artiodactyla, except a member of the families  
6 suidae, camelidae, or hippopotamidae. The term does not include domestic pigs, domestic cows, domestic yaks,  
7 domestic sheep, domestic goats that are not naturally occurring in the wild in their country of origin, or bison.

8 (4) "Department" means the department of fish; and wildlife; ~~and parks~~.

9 (5) "Facilities" means perimeter fences and other enclosures that provide for the confinement, handling,  
10 and quarantine of alternative livestock.

11 (6) "Game animals" means game animals, as defined in 87-2-101, that are not the lawful property of any  
12 private person.

13 (7) "Person" means an individual, firm, corporation, association, or partnership."  
14

15 **Section 148.** Section 87-4-422, MCA, is amended to read:

16 **"87-4-422. Rulemaking.** (1) The department may adopt and enforce rules that are necessary to  
17 implement the provisions of this part over which the department has primary jurisdiction and to coordinate  
18 regulation of alternative livestock ranches with the department of livestock.

19 (2) The department of livestock may adopt and enforce rules that are necessary to implement the  
20 provisions of this part over which the department of livestock has primary jurisdiction and to coordinate regulation  
21 of alternative livestock ranches with the department of fish; and wildlife; ~~and parks~~."  
22

23 **Section 149.** Section 87-5-601, MCA, is amended to read:

24 **"87-5-601. Short title.** This part may be cited as the "Fish; and Wildlife; ~~and Parks~~ Crimestoppers Act". "  
25

26 **Section 150.** Section 87-5-602, MCA, is amended to read:

27 **"87-5-602. Definitions.** As used in this part, the following definitions apply:

28 (1) "Board" means the fish; and wildlife; ~~and parks~~ crimestoppers board created in 2-15-3404.

29 (2) "Department" means the department of fish; and wildlife; ~~and parks~~.

30 (3) "Program" means the fish; and wildlife; ~~and parks~~ crimestoppers program created under 87-5-605."

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**Section 151.** Section 87-5-603, MCA, is amended to read:

**"87-5-603. Functions of board.** The board shall recommend to the department:

- (1) the names of individuals to be rewarded for providing information used in detecting and combating fish; ~~and wildlife, and parks-related~~ wildlife-related crimes;
- (2) the amount of any reward recommended; and
- (3) means for promoting the program."

**Section 152.** Section 87-5-605, MCA, is amended to read:

**"87-5-605. Powers and duties of department -- rules.** (1) The department shall:

- (a) create, maintain, and promote a statewide fish; ~~and wildlife, and parks~~ crimestoppers program in order to assist law enforcement agencies in detecting and combating fish; ~~and wildlife, and parks-related~~ wildlife-related crimes; and
- (b) consider the board's recommendations and take action on them.
- (2) The department may:
  - (a) advise and assist in the creation and maintenance of local programs, including neighborhood watch programs;
  - (b) encourage the channeling of information from state and local programs to law enforcement agencies;
  - (c) foster the detection of fish; ~~and wildlife, and parks-related~~ wildlife-related crimes by the public;
  - (d) encourage the public, through a reward program or otherwise, to provide information that assists in the prosecution of fish; ~~and wildlife, and parks-related~~ wildlife-related crimes;
  - (e) promote state and local programs through the media;
  - (f) accept gifts, grants, or donations for the furtherance of the program and spend these in compliance with the conditions of the gifts, grants, or donations; and
  - (g) adopt rules necessary to administer the provisions of this part."

**Section 153.** Section 90-14-105, MCA, is amended to read:

**"90-14-105. Duties and powers of state agencies.** (1) The following state agencies are responsible for developing and implementing community service opportunities consistent with the mission and functions of each agency:

1 (a) The office of public instruction implements volunteer projects in elementary and secondary public,  
2 private, and home schools in Montana, including activities sponsored by schools or community-based agencies,  
3 to involve school-age youth, including dropouts and out-of-school youth, in service to the community, as well as  
4 for programs that involve adult volunteers in the schools. A school district is expected to be the first agency that  
5 informs students about the many opportunities to participate in broader community service under this part through  
6 federal service learning grants and any other revenue received for purposes consistent with this part.

7 (b) The Montana university system assists institutions of higher education in Montana, explores new  
8 ways to integrate service into the curriculum, supports model community service programs on campus, develops  
9 teacher and volunteer training programs, and involves students in community service. The community service  
10 may complement a student's course of study through the federal higher education innovative projects grants and  
11 any other revenue received for purposes consistent with this part.

12 (c) The departments of environmental quality, natural resources and conservation, transportation, and  
13 fish; and wildlife, ~~and parks~~ and the state parks and recreation board are the agencies for community and  
14 volunteer projects in conservation and natural resource settings that are designed to support and enhance state  
15 parks, wildlife, watchable wildlife, productivity of state lands, streams and lakes, county and city parks, tribal  
16 parks, scenic beauty and access, trails and signs, visitor information centers and rest areas, fairgrounds, and any  
17 other projects related to conservation or the environment that involve teenagers, young adults, or special  
18 community service members, such as adults or senior citizens who provide special skills for a project. Other  
19 projects may include bicycle paths and pedestrian trails, landscaping and scenic enhancements, historical and  
20 cultural preservation, roadside and stream restoration and enhancement, erosion control, disability enhancement,  
21 and experimental and research projects.

22 (d) The department of military affairs may support community and volunteer projects that are designed  
23 to involve the national guard in leadership or support roles for service through the provision of organizational and  
24 leadership skills, equipment, volunteer crewleaders, and other support, as well as the command and coordination  
25 of activities that may be mobilized for emergency projects, such as fire suppression or search and rescue.

26 (e) The governor may designate other agencies, after consultation with the director and the commission,  
27 for community service projects that focus on improving the quality of life for all Montanans, particularly low-income  
28 persons, senior citizens, homebound persons, disabled persons, or institutionalized persons, through preparing  
29 and delivering meals, assisting with shopping or other tasks, repairing and painting or otherwise modifying homes  
30 of qualifying persons, providing transportation to and from health care and other appointments, providing respite

1 care, cataloging library books, assisting rural health care providers, providing recreational aides, arranging for  
2 tutoring and literacy training, restoring historical photographs, and offering other human service support and  
3 community services.

4 (2) Each agency designated by the governor shall ensure that service opportunities that result in a public  
5 value are developed for everyone, regardless of race, creed, national origin, or geographical location, by providing  
6 leadership through its own network and by forming partnerships with other public or private, nonprofit entities.

7 (3) Each agency involved in community service shall coordinate and integrate its plans with and through  
8 the office of community service.

9 (4) Projects developed or approved under this part and funded by an agency must be limited to service  
10 projects that provide community service, conservation service, educational service, or other public service and  
11 that provide documented public value or benefit.

12 (5) The state agencies engaged in community service may:

13 (a) designate an agency volunteer coordinator to implement its responsibilities under this part;

14 (b) develop and approve work experience and volunteer projects that meet the requirements of this part;

15 (c) execute contracts or cooperative agreements that contain the terms and conditions necessary and  
16 desirable for the employment of volunteer crewleaders and other volunteers in approved work experience projects  
17 with federal, state, or local agencies, persons, firms, partnerships, associations, or corporations;

18 (d) execute contracts or cooperative agreements with federal, state, or local agencies, persons, firms,  
19 partnerships, associations, or corporations for the purpose of administering the requirements of this part;

20 (e) under the supervision of the office of community service, apply for and accept grants or contributions  
21 of services, funds, or lands from any public or private donors, including appropriations;

22 (f) develop procedures for participants to achieve incentive vouchers, education, credit toward education,  
23 skill training, scholarships, housing benefits, or other benefits upon completion of their term of service;

24 (g) purchase, rent, acquire, or obtain personal property, supplies, instruments, tools, or equipment  
25 necessary to complete work experience or volunteer projects;

26 (h) authorize use of volunteers for emergency projects, including but not limited to natural disasters, fire  
27 prevention and suppression, and rescue of lost or injured persons, and provide adequate training to volunteers  
28 prior to participation in an emergency project; and

29 (i) adopt rules and guidelines necessary to implement the provisions of this part and to effectively  
30 administer the program."

1  
2       **Section 154.** Section 90-15-102, MCA, is amended to read:  
3       **"90-15-102. Definitions.** As used in this chapter, the following definitions apply:  
4       (1) "Committee" means the natural resource data system advisory committee created by 2-15-1514.  
5       (2) "Library" means the state library provided for in 22-1-201.  
6       (3) "Natural heritage program" means a program of information acquisition, storage, and retrieval for data  
7 relating to the flora, fauna, and biological community types of Montana.  
8       (4) "Principal data source agencies" means any of the following state agencies: the department of natural  
9 resources and conservation; ~~the department of fish; and wildlife, and parks;~~ the department of environmental  
10 quality; ~~the department of agriculture;~~ ~~the department of transportation;~~ the state historical society; ~~and the~~  
11 Montana university system."

12  
13       NEW SECTION. **Section 155. Transfer of funds.** The department of fish and wildlife shall transfer to  
14 the state special revenue account established in 23-1-105 to the credit of the department of commerce all  
15 revenue held in benefit of state parks for state park management and operation on [the effective date of this act].  
16

17       NEW SECTION. **Section 156. Repealer.** The following section of the Montana Code Annotated is  
18 repealed:  
19 2-15-3406.       State parks and recreation board -- composition.  
20

21       NEW SECTION. **Section 157. Name change -- directions to code commissioner.** (1) Unless  
22 otherwise provided, wherever a reference to the department of fish, wildlife, and parks, meaning the department  
23 established in 2-15-3401, appears in legislation enacted by the 2017 legislature that refers to functions of the  
24 department related to fish and wildlife, the code commissioner is directed to change it to an appropriate reference  
25 to the department of fish and wildlife.

26       (2) Unless otherwise provided, wherever a reference to the department of fish, wildlife, and parks,  
27 meaning the department established in 2-15-3401, appears in legislation enacted by the 2017 legislature that  
28 refers to functions of the department related to state parks or other sites and resources managed under Title 23,  
29 chapter 1, and Title 23, chapter 2, parts 1, 4, 6, 8, and 9, the code commissioner is directed to change it to an  
30 appropriate reference to the state parks and recreation board.

1  
2           NEW SECTION. Section 158. Codification instruction. (1) [Section 1] is intended to be codified as  
3 an integral part of Title 2, chapter 15, part 18, and the provisions of Title 2, chapter 15, part 18, apply to [section  
4 1].

5           (2) [Sections 47 through 51] are intended to be codified as an integral part of Title 23, chapter 1, part 1,  
6 and the provisions of Title 23, chapter 1, part 1, apply to [sections 47 through 51].

7           (3) [Sections 132 through 135] are intended to be codified as an integral part of Title 87, chapter 1, and  
8 the provisions of Title 87, chapter 1, apply to [sections 132 through 135].

9  
10           NEW SECTION. Section 159. Saving clause. [This act] does not affect rights and duties that matured,  
11 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

12

13           NEW SECTION. Section 160. Effective date. [This act] is effective July 1, 2018.

14

- END -