

## 1 HOUSE BILL NO. 628

2 INTRODUCED BY W. STAHL

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO RECREATIONAL  
5 RESOURCE PROGRAMS; TRANSFERRING THE MANAGEMENT OF STATE PARKS, BOATING,  
6 SNOWMOBILES, AND OFF-HIGHWAY VEHICLES FROM THE DEPARTMENT OF FISH, WILDLIFE, AND  
7 PARKS TO THE DEPARTMENT OF COMMERCE; CREATING THE STATE PARKS, RECREATION, AND  
8 HERITAGE BOARD TO PROVIDE COMBINED OVERSIGHT OF THE DEPARTMENT OF COMMERCE'S  
9 ADMINISTRATION OF STATE PARKS AND HERITAGE AND OUTDOOR RECREATIONAL RESOURCES;  
10 ELIMINATING THE HERITAGE PRESERVATION AND DEVELOPMENT COMMISSION; PROVIDING  
11 DEPARTMENTAL AND BOARD DUTIES, RESPONSIBILITIES, AND RULEMAKING AUTHORITY; REQUIRING  
12 REVIEW OF STATE PARK LANDS; AUTHORIZING THE SALE OR EXCHANGE OF STATE PARK LAND OR  
13 PROPERTY TO OTHER PUBLIC ENTITIES; INCREASING THE MOTOR VEHICLE REGISTRATION FEE THAT  
14 FUNDS STATE PARKS; ALLOWING PARK RANGERS TO CARRY FIREARMS; RENAMING THE  
15 DEPARTMENT OF FISH, WILDLIFE, AND PARKS AS THE DEPARTMENT OF FISH AND WILDLIFE;  
16 AMENDING SECTIONS 2-15-104, 2-15-3110, 2-15-3113, 2-15-3308, 2-15-3330, 2-15-3401, 2-15-3402,  
17 2-15-3404, 2-15-3405, 2-17-803, 7-3-1105, 7-3-1222, 7-8-2507, 7-22-2151, 7-31-4110, 10-3-1204, 15-1-122,  
18 15-30-2618, 15-38-202, 15-65-121, 16-4-205, 16-4-210, 16-4-305, 17-7-161, 17-7-502, 18-2-301, 19-8-101,  
19 19-8-301, 19-8-501, 19-8-504, 20-7-132, 22-3-1001, 22-3-1003, 22-3-1004, 23-1-101, 23-1-102, 23-1-105,  
20 23-1-106, 23-1-107, 23-1-108, 23-1-110, 23-1-121, 23-1-122, 23-1-126, 23-1-127, 23-1-128, 23-1-201, 23-1-202,  
21 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, 23-2-502,  
22 23-2-506, 23-2-512, 23-2-525, 23-2-527, 23-2-529, 23-2-531, 23-2-534, 23-2-536, 23-2-601, 23-2-614, 23-2-631,  
23 23-2-633, 23-2-634, 23-2-641, 23-2-642, 23-2-644, 23-2-801, 23-2-806, 23-2-814, 27-1-721, 37-47-201,  
24 37-47-310, 37-47-317, 37-47-318, 37-47-345, 40-5-701, 44-4-115, 45-6-101, 45-6-201, 45-6-203, 45-8-109,  
25 45-8-321, 50-53-209, 60-3-201, 61-3-321, 61-5-104, 70-16-302, 70-30-102, 75-1-220, 75-1-324, 75-5-318,  
26 75-7-103, 75-20-216, 76-13-421, 76-16-107, 77-1-405, 77-1-801, 77-1-802, 77-1-804, 77-1-815, 77-2-101,  
27 80-7-1003, 80-7-1010, 80-8-201, 81-7-102, 82-11-127, 82-11-185, 85-1-802, 85-2-102, 85-2-223, 85-2-436,  
28 85-9-104, 85-9-202, 85-9-204, 87-1-101, 87-1-102, 87-1-106, 87-1-201, 87-1-202, 87-1-209, 87-1-230, 87-1-256,  
29 87-1-301, 87-1-603, 87-1-621, 87-2-101, 87-2-504, 87-2-505, 87-2-510, 87-2-522, 87-2-803, 87-4-406, 87-4-422,  
30 87-4-432, 87-5-601, 87-5-602, 87-5-603, 87-5-605, 90-14-105, AND 90-15-102, MCA; REPEALING SECTIONS

1 22-3-1002, 23-1-103, 23-1-109, AND 23-2-652, MCA; AND PROVIDING EFFECTIVE DATES AND A  
2 TERMINATION DATE."

3

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

5

6 NEW SECTION. **Section 1. State parks, recreation, and heritage board -- composition --**  
7 **quasi-judicial.** (1) There is a state parks, recreation, and heritage board within the department of commerce.

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

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

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

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

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

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

20 (3) Appointments must be made without regard to political affiliation and must be made solely for the wise  
21 management of state parks and heritage and outdoor recreational resources pursuant to Title 22, chapter 3, part  
22 10, Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 5, 6, 8, and 9. A person may not be appointed to the  
23 state parks, recreation, and heritage board unless the person is informed or interested and experienced in the  
24 subject, conservation, and protection of state parks, heritage resources, natural resources, tourism promotion  
25 and development, or outdoor recreation and the requirements for their conservation.

26 (4) A vacancy occurring on the board must be filled by the governor in the same manner and from the  
27 district in which the vacancy occurs.

28 (5) The state parks, recreation, and heritage board is designated as a quasi-judicial board for purposes  
29 of 2-15-124. Notwithstanding the provisions of 2-15-124(1), the governor is not required to appoint an attorney  
30 to serve as a member of the board.

1

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

3           **"2-15-104. Structure of executive branch.** (1) In accordance with the constitution, all executive and  
4 administrative offices, boards, commissions, agencies, and instrumentalities of the executive branch of state  
5 government and their respective functions are allocated by this chapter among and within the following  
6 departments or entities:

7           (a) department of administration;

8           (b) department of military affairs;

9           (c) department of revenue;

10          (d) state board of education;

11          (e) department of labor and industry;

12          (f) department of commerce;

13          (g) department of justice;

14          (h) department of public health and human services;

15          (i) department of corrections;

16          (j) department of transportation;

17          (k) department of public service regulation;

18          (l) department of agriculture;

19          (m) department of livestock;

20          (n) department of natural resources and conservation;

21          (o) department of fish, and wildlife, ~~and parks~~;

22          (p) department of environmental quality.

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

24           (a) The principal unit of a department is a division. Each division is headed by an administrator.

25           (b) The principal unit of a division is a bureau. Each bureau is headed by a chief.

26           (c) The principal unit of a bureau is a section. Each section is headed by a supervisor."

27

28           **Section 3.** Section 2-15-3110, MCA, is amended to read:

29           **"2-15-3110. Livestock loss reduction and mitigation board -- purpose, membership, and**  
30 **qualifications.** (1) There is a livestock loss reduction and mitigation board. The purpose of the board is to

1 administer the programs called for in the Montana gray wolf management plan and established in 2-15-3111  
2 through 2-15-3113, with funds provided through the accounts established in 81-1-110, in order to minimize losses  
3 caused by wolves to livestock producers and to reimburse livestock producers for livestock losses from wolf  
4 predation.

5 (2) The board consists of seven members, appointed by the governor, as follows:

6 (a) three members from a list of names recommended by the board of livestock;

7 (b) three members from a list of names recommended by the fish, and wildlife, ~~and parks~~ commission;

8 and

9 (c) one member of the general public.

10 (3) Each board member must have knowledge of or have experience in at least one of the following:

11 (a) the raising of livestock in Montana;

12 (b) livestock marketing, valuations, sales, or breeding associations;

13 (c) the interaction of wolves with livestock and livestock mortality caused by wolves;

14 (d) wildlife conservation;

15 (e) administration; and

16 (f) fundraising.

17 (4) The board is designated as a quasi-judicial board for the purposes of 2-15-124. Notwithstanding the  
18 provisions of 2-15-124(1), the governor is not required to appoint an attorney to serve as a member of the board.

19 (5) The board is allocated to the department of livestock for administrative purposes only as provided  
20 in 2-15-121.

21 (6) The board shall adopt rules to implement the provisions of 2-15-3110 through 2-15-3114, 81-1-110,  
22 and 81-1-111."

23

24 **Section 4.** Section 2-15-3113, MCA, is amended to read:

25 **"2-15-3113. Additional powers and duties of livestock loss reduction and mitigation board. (1)**

26 The livestock loss reduction and mitigation board shall:

27 (a) process claims;

28 (b) seek information necessary to ensure that claim documentation is complete;

29 (c) provide payments authorized by the board for confirmed and probable livestock losses, along with  
30 a written explanation of payment;

1 (d) submit monthly and annual reports to the board of livestock summarizing claims and expenditures  
2 and the results of action taken on claims and maintain files of all claims received, including supporting  
3 documentation;

4 (e) provide information to the board of livestock regarding appealed claims and implement any decision  
5 by the board;

6 (f) prepare the annual budget for the board; and

7 (g) provide proper documentation of staff time and expenditures.

8 (2) The livestock loss reduction and mitigation board may enter into an agreement with any Montana  
9 tribe, if the tribe has adopted a wolf management plan for reservation lands that is consistent with the state wolf  
10 management plan, to provide that tribal lands within reservation boundaries are eligible for mitigation grants  
11 pursuant to 2-15-3111 and that livestock losses on tribal lands within reservation boundaries are eligible for  
12 reimbursement payments pursuant to 2-15-3112.

13 (3) The livestock loss reduction and mitigation board shall:

14 (a) coordinate and share information with state, federal, and tribal officials, livestock producers,  
15 nongovernmental organizations, and the general public in an effort to reduce livestock losses caused by wolves;

16 (b) establish an annual budget for the prevention, mitigation, and reimbursement of livestock losses  
17 caused by wolves;

18 (c) perform or contract for the performance of periodic program audits and reviews of program  
19 expenditures, including payments to individuals, incorporated entities, and producers who receive loss reduction  
20 grants and reimbursement payments;

21 (d) adjudicate appeals of claims;

22 (e) investigate alternative or enhanced funding sources, including possible agreements with public  
23 entities and private wildlife or livestock organizations that have active livestock loss reimbursement programs in  
24 place;

25 (f) meet as necessary to conduct business; and

26 (g) report annually to the governor, the legislature, members of the Montana congressional delegation,  
27 the board of livestock, the fish, and wildlife, ~~and parks~~ commission, and the public regarding results of the  
28 programs established in 2-15-3111 through 2-15-3113."  
29

30 **Section 5.** Section 2-15-3308, MCA, is amended to read:

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

3           (2) The drought advisory committee is chaired by a representative of the governor and consists of  
4 representatives of the departments of natural resources and conservation; agriculture; commerce; fish; and  
5 wildlife, ~~and parks~~; military affairs; environmental quality; and livestock. The governor's representative must be  
6 appointed by the governor, and the representative of each department must be appointed by the head of that  
7 department. Additional, nonvoting members who represent drought-affected federal and local government  
8 agencies and public and private interests may also be appointed by the governor.

9           (3) The drought advisory committee shall:

10           (a) with the approval of the governor, develop and implement a state drought plan;

11           (b) review and report drought monitoring information to the public;

12           (c) coordinate timely drought impact assessments;

13           (d) identify areas of the state with a high probability of drought and target reporting and assistance efforts  
14 to those areas;

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

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

18           (g) promote ideas and activities for groups and individuals to consider that may reduce drought  
19 vulnerability.

20           (4) The drought advisory committee shall meet, at a minimum, on or around October 15 and March 15  
21 of each year to assess moisture conditions and, as appropriate, begin preparations for drought mitigation.

22           (5) By April 15 of each year, the drought advisory committee shall submit a report to the governor  
23 describing the potential for drought in the coming year. If the potential for drought merits additional activity by the  
24 drought advisory committee, the report must also describe:

25           (a) activities to be taken by the drought advisory committee for informing the public about the potential  
26 for drought;

27           (b) a schedule for completing activities;

28           (c) geographic areas for which the creation of local drought advisory committees will be suggested to  
29 local governments and citizens; and

30           (d) requests for the use of any available state resources that may be necessary to prevent or minimize

1 drought impacts.

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

7

8 **Section 6.** Section 2-15-3330, MCA, is amended to read:

9 **"2-15-3330. Flathead basin commission -- membership -- compensation.** (1) There is a Flathead  
10 basin commission.

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

12 (a) seven members appointed by the governor from industrial, environmental, and other interests  
13 affected by Title 75, chapter 7, part 3, one of whom must be on the governor's staff;

14 (b) one member, appointed by the director of the department of natural resources and conservation,  
15 representing the northwestern land office of the department of natural resources and conservation;

16 (c) one member appointed by the Flathead County commissioners;

17 (d) one member appointed by the Lake County commissioners;

18 (e) one member appointed by the Confederated Salish and Kootenai Tribes;

19 (f) one member appointed by the United States department of agriculture, forest service regional forester  
20 for the northern region;

21 (g) one member appointed by the United States department of the interior, national park service regional  
22 director for the Rocky Mountain region;

23 (h) one member appointed by the Flathead County conservation district board of supervisors;

24 (i) one member appointed by the Lake County conservation district board of supervisors;

25 (j) five ex officio members appointed respectively by the chief executive of the provincial government of  
26 the Province of British Columbia; the regional administrator of the United States environmental protection  
27 agency; the regional administrator of the United States department of the interior, bureau of reclamation; a  
28 representative of the Bonneville power administration; and the holder of a license issued for the Flathead project  
29 under the Federal Power Act;

30 (k) three ex officio members who are the director of the department of natural resources and

1 conservation, the director of the department of environmental quality, and the director of the department of fish;  
2 and wildlife,~~and parks~~ or their designees.

3 (3) The commissioners shall serve without pay. The commissioners listed in subsection (2)(a), except  
4 the commissioner on the governor's staff, are entitled to reimbursement for travel, meals, and lodging while  
5 engaged in commission business, as provided in 2-18-501 through 2-18-503.

6 (4) The commission is attached to the department of natural resources and conservation for  
7 administrative purposes only."

8

9 **Section 7.** Section 2-15-3401, MCA, is amended to read:

10 **"2-15-3401. Department of fish; and wildlife,~~and parks~~ -- head.** There is a department of fish; and  
11 wildlife,~~and parks~~. The department head is the director of fish; and wildlife,~~and parks~~ appointed by the governor  
12 in accordance with 2-15-111. The director is the secretary of the commission."

13

14 **Section 8.** Section 2-15-3402, MCA, is amended to read:

15 **"2-15-3402. Fish; and wildlife,~~and parks~~ commission.** (1) There is a fish; and wildlife,~~and parks~~  
16 commission.

17 (2) The commission consists of five members. At least one member must be experienced in the breeding  
18 and management of domestic livestock. The governor shall appoint one member from each of the following  
19 districts:

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

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

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

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

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

30 (3) Appointments must be made without regard to political affiliation and must be made solely for the



1 wise management of fish; and wildlife, ~~and state parks~~ and other ~~outdoor~~ related recreational resources of this  
 2 state. A person may not be appointed to the commission unless the person is informed or interested and  
 3 experienced in the subject of fish, wildlife, parks, and outdoor recreation and the requirements for the  
 4 conservation and protection of fish, wildlife, parks, and outdoor recreational resources.

5 (4) A vacancy occurring on the commission must be filled by the governor in the same manner and from  
 6 the district in which the vacancy occurs.

7 (5) The fish; and wildlife, ~~and parks~~ commission is designated as a quasi-judicial board for purposes of  
 8 2-15-124. Notwithstanding the provisions of 2-15-124(1), the governor is not required to appoint an attorney to  
 9 serve as a member of the commission."  
 10

11 **Section 9.** Section 2-15-3404, MCA, is amended to read:

12 **"2-15-3404. Fish; and wildlife, ~~and parks~~ crimestoppers board.** (1) There is a fish; and wildlife, ~~and~~  
 13 ~~parks~~ crimestoppers board.

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

- 16 (i) a person within the department responsible for the enforcement of fish and wildlife laws;
- 17 (ii) a member of a hunter's, angler's, or conservation group;
- 18 (iii) a member who is actively engaged in agricultural production; and
- 19 (iv) a member of the public with an interest in ~~parks and~~ fish and wildlife-related recreation.

20 (b) The fifth member is a member of the fish; and wildlife, ~~and parks~~ commission who must be  
 21 designated by the commission.

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

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

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

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

27 (6) The board is allocated to the department of fish; and wildlife, ~~and parks~~ for administrative purposes  
 28 only as provided in 2-15-121."  
 29

30 **Section 10.** Section 2-15-3405, MCA, is amended to read:

1           **"2-15-3405. Appointment of wetlands protection advisory council.** (1) The director of fish; and  
 2 wildlife; ~~and parks~~ shall appoint an advisory council pursuant to 2-15-122 to review proposals developed by the  
 3 department of fish; and wildlife; ~~and parks~~ that involve the use of money received by the department under  
 4 87-2-411 for the protection, conservation, and development of wetlands in Montana.

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

7

8           **Section 11.** Section 2-17-803, MCA, is amended to read:

9           **"2-17-803. Capitol complex advisory council established -- membership -- staff services --**  
 10 **compensation.** (1) There is a capitol complex advisory council.

11           (2) The council consists of nine members as follows:

12           (a) two members of the house of representatives appointed by the speaker on a bipartisan basis;

13           (b) two members of the senate appointed by the committee on committees on a bipartisan basis;

14           (c) a public representative appointed by the governor; and

15           (d) the director or the director's designee of each of the following agencies:

16           (i) the Montana historical society established in 22-3-101;

17           (ii) the Montana arts council established in 2-15-1513;

18           (iii) the department of administration established in 2-15-1001; and

19           (iv) the department of fish; and wildlife; ~~and parks~~ established in 2-15-3401.

20           (3) The council shall select a presiding officer, who may call meetings to conduct council business. The  
 21 department of administration shall provide staff services to the council.

22           (4) (a) The council member appointed under subsection (2)(c) is entitled to compensation not to exceed  
 23 the daily allowance provided for in 5-2-301(3) for compensation of legislators for each day in which the member  
 24 is actually and necessarily engaged in performing council duties and to travel expense reimbursement as  
 25 provided in 2-18-501 through 2-18-503.

26           (b) A council member designated under subsection (2)(d) is not entitled to compensation for services  
 27 as a member of the council.

28           (c) A council member appointed under subsection (2)(a) or (2)(b) is entitled to compensation and  
 29 expenses as provided in 5-2-302."

30

1           **Section 12.** Section 7-3-1105, MCA, is amended to read:

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

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

15           (b) The plan may allow the hunting of game animals and provide restrictions on the feeding of game  
16 animals."  
17

18           **Section 13.** Section 7-3-1222, MCA, is amended to read:

19           **"7-3-1222. Procedure to enact ordinances and resolutions.** (1) Ordinances and resolutions must be  
20 introduced in the commission only in written or printed form. All ordinances or resolutions, except ordinances  
21 making appropriations, must be confined to one subject, which must be clearly expressed in the title, except as  
22 provided in 7-3-1226. Ordinances making appropriations must be confined to the subject of appropriations. An  
23 ordinance may not be passed until it has been read on 3 separate days, unless the requirement of reading on  
24 3 separate days has been dispensed with by a vote of not less than two-thirds of the members of the commission.  
25 The final reading must be in full unless a written or printed copy of the measure has been furnished to each  
26 member of the commission prior to final reading.

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

30           (3) An ordinance, resolution, or section of an ordinance or resolution may not be revised or amended

1 unless the new ordinance or resolution contains the entire ordinance, resolution, or section of the ordinance or  
2 resolution as revised or amended.

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

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

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

15 (b) The plan may allow the hunting of game animals and provide restrictions on the feeding of game  
16 animals."  
17

18 **Section 14.** Section 7-8-2507, MCA, is amended to read:

19 **"7-8-2507. Land management alternatives.** The board may:

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

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

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

28 (3) trade or exchange the lands with individuals or other state or federal governmental agencies,  
29 pursuant to terms, conditions, and procedures adopted by the board;

30 (4) (a) grant leases of the lands for the purposes and uses that the board determines are in the best

1 interests of the county, including the exploration and development of oil, gas, and other minerals; and  
2 (b) fix the terms and conditions of the leases and the consideration to be paid by any lessee; and  
3 (5) sell the lands or any part of the lands pursuant to the procedures provided in this part."  
4

5 **Section 15.** Section 7-22-2151, MCA, is amended to read:

6 **"7-22-2151. Cooperative agreements.** (1) A state agency that controls land within a district, including  
7 the department of transportation; ~~the department of fish; and wildlife, and parks; the department of commerce,~~  
8 the department of corrections; ~~the department of natural resources and conservation;~~ and the university system,  
9 shall enter into a written agreement with the board. The agreement must specify mutual responsibilities for  
10 integrated noxious weed management on state-owned or state-controlled land within the district. The agreement  
11 must include the following:

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

18 (2) The board and the governing body of each incorporated municipality within the district shall enter into  
19 a written agreement and shall cooperatively plan for the management of noxious weeds within the boundaries  
20 of the municipality. The board may implement management procedures described in the plan within the  
21 boundaries of the municipality for noxious weeds only. Control of nuisance weeds within the municipality remains  
22 the responsibility of the governing body of the municipality, as specified in 7-22-4101.

23 (3) A board may develop and carry out its noxious weed management program in cooperation with  
24 boards of other districts, with state and federal governments and their agencies, or with any person within the  
25 district. The board may enter into cooperative agreements with any of these parties.

26 (4) Each agency or entity listed in subsection (1) shall submit a statement or summary of all noxious  
27 weed actions that are subject to the agreement required under subsection (1) to the state weed coordinator and  
28 shall post a copy of the statement or summary on a state electronic access system."  
29

30 **Section 16.** Section 7-31-4110, MCA, is amended to read:

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

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

8

9           **Section 17.** Section 10-3-1204, MCA, is amended to read:

10           **"10-3-1204. State emergency response commission.** (1) There is a state emergency response  
11 commission that is attached to the department for administrative purposes. The commission consists of 29  
12 members appointed by the governor. The commission must include representatives of the national guard, the  
13 air force, the department of environmental quality, the division, the department of transportation, the department  
14 of justice, the department of natural resources and conservation, the department of public health and human  
15 services, a fire service association, the fire services training school, the emergency medical services and trauma  
16 systems section of the public health and safety division in the department of public health and human services,  
17 the department of fish; and wildlife; ~~and parks~~, the department of agriculture, Montana hospitals, an emergency  
18 medical services association, a law enforcement association, an emergency management association, a public  
19 health-related association, a trucking association, a utility company doing business in Montana, a railroad  
20 company doing business in Montana, Montana's petroleum industry, Montana's insurance industry, the university  
21 system, a tribal emergency response commission, the national weather service, the Montana association of  
22 counties, the Montana league of cities and towns, and the office of the governor. At least one representative must  
23 be a member of a local emergency planning committee. Members of the commission serve terms of 4 years and  
24 may be reappointed. The members shall serve without compensation. The governor shall appoint two presiding  
25 officers from the appointees, who shall act as copresiding officers.

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

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

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

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

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

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

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

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

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

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

23 (12) The commission shall promulgate rules and procedures limited to cost recovery procedures,  
24 certification of state hazardous material incident response team members, and deployment of the state hazardous  
25 material incident response team, which must be a part of the plan.

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

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

29 (b) authorizing the establishment of subcommittees to develop and provide the recommendations called  
30 for in subsection (13)(a).

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

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

5

6 **Section 18.** Section 15-1-122, MCA, is amended to read:

7 **"15-1-122. Fund transfers.** (1) There is transferred from the state general fund to the adoption services  
8 account, provided for in 42-2-105, a base amount of \$59,209, and the amount of the transfer must be increased  
9 by 10% in each succeeding fiscal year.

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

12 (a) to the motor vehicle recycling and disposal program provided for in Title 75, chapter 10, part 5, 1.48%  
13 of the motor vehicle revenue deposited in the state general fund in each fiscal year. The amount of 9.48% of the  
14 allocation in each fiscal year must be used for the purpose of reimbursing the hired removal of abandoned  
15 vehicles. Any portion of the allocation not used for abandoned vehicle removal reimbursement must be used as  
16 provided in 75-10-532.

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

19 (c) to the department of ~~fish, wildlife, and parks~~ commerce:

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

22 (A) used to:

23 (I) acquire and maintain pumpout equipment and other boat facilities, 4.8% in each fiscal year;

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

25 (III) enforce the provisions of 23-2-804, 11.1% in each fiscal year; and

26 (IV) develop and implement a comprehensive program and to plan appropriate off-highway vehicle  
27 recreational use, 16.7% in each fiscal year; and

28 (B) deposited in the state special revenue fund established in 23-1-105 in an amount equal to 48.3% in  
29 each fiscal year;

30 (ii) 0.10% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 50%



1 of the amount to be used for enforcing the purposes of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-618,  
 2 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644 and 50% of the amount  
 3 designated for use in the development, maintenance, and operation of snowmobile facilities; and

4 (iii) 0.16% of the motor vehicle revenue deposited in the state general fund in each fiscal year to be  
 5 deposited in the motorboat account to be used as provided in 23-2-533;

6 (d) 0.64% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with  
 7 24.55% to be deposited in the state veterans' cemetery account provided for in 10-2-603 and with 75.45% to be  
 8 deposited in the veterans' services account provided for in 10-2-112(1);

9 (e) 0.30% of the motor vehicle revenue deposited in the state general fund in each fiscal year for deposit  
 10 in the state special revenue fund to the credit of the senior citizens and persons with disabilities transportation  
 11 services account provided for in 7-14-112; and

12 (f) to the search and rescue account provided for in 10-3-801, 0.04% of the motor vehicle revenue  
 13 deposited in the state general fund in each fiscal year.

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

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

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

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

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

21 (4) The amounts transferred from the general fund to the designated recipient must be appropriated as  
 22 state special revenue in the general appropriations act for the designated purposes."

23

24 **Section 19.** Section 15-30-2618, MCA, is amended to read:

25 **"15-30-2618. Confidentiality of tax records.** (1) Except as provided in 5-12-303, 15-1-106, 17-7-111,  
 26 and subsections (7) and (8) of this section, in accordance with a proper judicial order, or as otherwise provided  
 27 by law, it is unlawful to divulge or make known in any manner:

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

30 (b) any federal return or federal return information disclosed on any return or report required by rule of

1 the department or under this chapter.

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

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

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

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

10 (3) This section does not prohibit:

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

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

15 (c) the inspection by the attorney general or other legal representative of the state of the report or return  
16 of any taxpayer who brings an action to set aside or review the tax based on the report or return or against whom  
17 an action or proceeding has been instituted in accordance with the provisions of 15-30-2630.

18 (4) Reports and returns must be preserved for at least 3 years and may be preserved until the  
19 department orders them to be destroyed.

20 (5) Any offense against subsections (1) through (4) is punishable by a fine not exceeding \$500. If the  
21 offender is an officer or employee of the state, the offender must be dismissed from office or employment and  
22 may not hold any public office or public employment in this state for a period of 1 year after dismissal or, in the  
23 case of a former officer or employee, for 1 year after conviction.

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

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

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

30 (7) The department may permit the commissioner of internal revenue of the United States or the proper

1 officer of any state imposing a tax upon the incomes of individuals or the authorized representative of either officer  
2 to inspect the return of income of any individual or may furnish to the officer or an authorized representative an  
3 abstract of the return of income of any individual or supply the officer with information concerning an item of  
4 income contained in a return or disclosed by the report of an investigation of the income or return of income of  
5 an individual, but the permission may be granted or information furnished only if the statutes of the United States  
6 or of the other state grant substantially similar privileges to the proper officer of this state charged with the  
7 administration of this chapter.

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

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

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

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

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

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

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

26 (g) to the department of transportation farm income information based on the most recent income tax  
27 return filed by an applicant applying for a refund under 15-70-223 or 15-70-362, provided that notice to the  
28 applicant has been given as provided in 15-70-223 and 15-70-362. The information obtained by the department  
29 of transportation is subject to the same restrictions on disclosure as are individual income tax returns.

30 (h) to the commissioner of insurance's office all information necessary for the administration of the small

1 business health insurance tax credit provided for in Title 33, chapter 22, part 20."

2

3 **Section 20.** Section 15-38-202, MCA, is amended to read:

4 **"15-38-202. Investment of resource indemnity trust fund -- expenditure -- minimum balance.** (1)

5 All money paid into the resource indemnity trust fund must be invested at the discretion of the board of  
6 investments. Only the net earnings, excluding unrealized gains and losses, may be appropriated and expended  
7 until the fund balance, excluding unrealized gains and losses, reaches \$100 million. After the fund balance  
8 reaches \$100 million, all net earnings, excluding unrealized gains and losses, and all receipts may be  
9 appropriated by the legislature and expended, provided that the fund balance, excluding unrealized gains and  
10 losses, may never be less than \$100 million.

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

13 (i) \$3.5 million to be deposited in the natural resources projects state special revenue account,  
14 established in 15-38-302, for the purpose of making grants;

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

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

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

21 (i) an amount not to exceed \$50,000 to be deposited in the oil and gas production damage mitigation  
22 account pursuant to the conditions of 82-11-161;

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

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

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

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

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

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

3 (3) Any formal budget document prepared by the legislature or the executive branch that proposes to  
4 appropriate funds other than as provided for by the allocations in subsection (2) must specify the amount of  
5 money from each allocation that is proposed to be diverted and the proposed use of the diverted funds. A formal  
6 budget document includes a printed and publicly distributed budget proposal or recommendation, an introduced  
7 bill, or a bill developed during the legislative appropriation process or otherwise during a legislative session."  
8

9 **Section 21.** Section 15-65-121, MCA, is amended to read:

10 **"15-65-121. Distribution of tax proceeds.** (1) The proceeds of the tax imposed by 15-65-111 must,  
11 in accordance with the provisions of 17-2-124, be deposited in an account in the state special revenue fund to  
12 the credit of the department. The department may spend from that account in accordance with an expenditure  
13 appropriation by the legislature based on an estimate of the costs of collecting and disbursing the proceeds of  
14 the tax. Before allocating the balance of the tax proceeds in accordance with the provisions of 17-2-124 and as  
15 provided in subsections (1)(a) through (1)(e) of this section, the department shall determine the expenditures by  
16 state agencies for in-state lodging for each reporting period and deduct 4% of that amount from the tax proceeds  
17 received each reporting period. The amount deducted must be deposited in the fund or funds from which in-state  
18 lodging expenditures were paid by state agencies. The amount of \$400,000 each year must be deposited in the  
19 Montana heritage preservation and development account provided for in 22-3-1004. The balance of the tax  
20 proceeds received each reporting period and not deducted pursuant to the expenditure appropriation, deposited  
21 in the fund or funds from which in-state lodging expenditures were paid by state agencies, or deposited in the  
22 heritage preservation and development account is statutorily appropriated, as provided in 17-7-502, and must  
23 be transferred to an account in the state special revenue fund to the credit of the department of commerce for  
24 tourism promotion, ~~and~~ promotion of the state as a location for the production of motion pictures and television  
25 commercials, and state parks, to the Montana historical society, and to the university system, ~~and to the~~  
26 ~~department of fish, wildlife, and parks~~, as follows:

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

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

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

3 (d) 67.5% to be used directly by the department of commerce; and

4 (e) (i) except as provided in subsection (1)(e)(ii), 22.5% to be distributed by the department to regional  
5 nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds  
6 collected statewide; and

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

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

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

21  
22 **Section 22.** Section 16-4-205, MCA, is amended to read:

23 **"16-4-205. Limit one license to person -- business in name of licensee.** (1) A person may not be  
24 issued more than one all-beverages license in any year, with the exception of a secured party issued an  
25 additional all-beverages license as the result of a default. A secured party shall transfer ownership of any  
26 additional all-beverages license within 180 days of issuance. A business may not be carried on under any license  
27 issued under this chapter except in the name of the licensee.

28 (2) The provisions of this section do not apply to licenses held by the ~~Montana heritage preservation and~~  
29 ~~development commission~~ department of commerce under the provisions of 16-4-305."

30

1           **Section 23.** Section 16-4-210, MCA, is amended to read:

2           **"16-4-210. Resort license -- tour boat endorsement.** (1) A holder of a resort all-beverages license  
3 issued under 16-4-202 may be issued a tour boat endorsement to allow the sale of alcoholic beverages to  
4 passengers on boats at least 40 feet in length and equipped to carry at least 50 passengers.

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

7           (a) of compliance with the following requirements:

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

9           (ii) inspection and approval by the department of ~~fish, wildlife, and parks~~ commerce of boat safety  
10 equipment requirements;

11           (iii) current boat registration; and

12           (iv) business liability insurance coverage; and

13           (b) that the registered owner of the tour boat is:

14           (i) a resort all-beverages licensee;

15           (ii) an individual named on a resort all-beverages license; or

16           (iii) a stockholder owning 10% or more of any class of stock in a corporate resort all-beverages license.

17           (3) Alcoholic beverages may be sold pursuant to the endorsement authorized in subsection (1) only while  
18 the boat is underway within 30 miles of the resort boundary or is in preparation for scheduled departure. Except  
19 as provided in this subsection, no alcoholic beverages may be sold or served when the boat is secured at its or  
20 any other mooring.

21           (4) Sale of alcoholic beverages under the endorsement is subject to all other requirements imposed for  
22 any all-beverages license issued under this part."

23

24           **Section 24.** Section 16-4-305, MCA, is amended to read:

25           **"16-4-305. Montana heritage retail alcoholic beverage licenses -- use -- quota.** (1) (a) The ~~Montana~~  
26 ~~heritage preservation and development commission~~ department of commerce may use Montana heritage retail  
27 alcoholic beverage licenses within the quota area in which the licenses were originally issued, for the purpose  
28 of providing retail alcoholic beverage sales on property acquired by the state under Title 22, chapter 3, part 10.  
29 The licenses are to be considered when determining the appropriate quotas for issuance of other retail liquor  
30 licenses.

1 (b) The department may issue a wine amendment pursuant to 16-4-105(2) if the use of a Montana  
2 heritage retail alcoholic beverage license for the sale of beer meets all the requirements of that section.

3 (2) The ~~Montana heritage preservation and development commission~~ department of commerce may  
4 lease a Montana heritage retail alcoholic beverage license to an individual or entity approved by the department.

5 (3) Montana heritage retail alcoholic beverage licenses are subject to all laws and rules governing the  
6 use and operation of retail liquor licenses.

7 (4) For the purposes of this section, "Montana heritage retail alcoholic beverage licenses" are  
8 all-beverages liquor licenses and retail on-premises beer licenses that ~~have been~~ were transferred to the former  
9 Montana heritage preservation and development commission under the provisions of section 2, Chapter 251,  
10 Laws of 1999."

11

12 **Section 25.** Section 17-7-161, MCA, is amended to read:

13 **"17-7-161. Game warden positions exempt from vacancy savings -- report to audit committee.** (1)

14 Vacancy savings may not be imposed on authorized game warden positions in the department.

15 (2) For purposes of this section:

16 (a) "authorized game warden positions" means those game warden positions included in the list of  
17 current authorized positions that the department is required to maintain under 2-18-206;

18 (b) "department" means the department of fish, and wildlife, ~~and parks~~ established in 2-15-3401; and

19 (c) "vacancy savings" means the difference between the cost of fully funding authorized positions for an  
20 entire fiscal year and the actual cost of funding those authorized positions during that fiscal year.

21 (3) Each fiscal year, the department shall provide to the legislative audit committee provided for in  
22 5-13-201 a detailed report on all authorized game warden positions in the department. At a minimum, the report  
23 must include the following information:

24 (a) the number of authorized game warden positions that were filled during the year and the average  
25 salary paid at hire;

26 (b) the total number of vacancies incurred during the year broken out by position title, the cause of each  
27 vacancy, and the length of time the authorized game warden position remained vacant;

28 (c) the total number of hours worked in authorized game warden positions during the year broken out  
29 by enforcement activity and position title."

30



1           **Section 26.** Section 17-7-502, MCA, is amended to read:

2           **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory  
3 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the  
4 need for a biennial legislative appropriation or budget amendment.

5           (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both  
6 of the following provisions:

7           (a) The law containing the statutory authority must be listed in subsection (3).

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

10          (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;  
11 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;  
12 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121;  
13 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101;  
14 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;  
15 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; sections 48, 50, and  
16 52; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011;  
17 42-2-105; 44-4-1101; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-9-113; 53-24-108; 53-24-206; 60-11-115;  
18 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-108; 77-2-362; 80-2-222; 80-4-416;  
19 80-11-518; 81-10-103; 82-11-161; 87-1-230; 87-1-603; 87-1-621; 90-1-115; 90-1-205; 90-1-504; 90-3-1003;  
20 90-6-331; and 90-9-306.

21          (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,  
22 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued  
23 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana  
24 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state  
25 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory  
26 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion  
27 of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is  
28 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch.  
29 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 17, Ch. 593, L. 2005, and  
30 sec. 1, Ch. 186, L. 2009, the inclusion of 15-31-906 terminates January 1, 2015; pursuant to sec. 73, Ch. 44, L.

1 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the  
 2 supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113  
 3 terminates June 30, 2015; pursuant to sec. 8, Ch. 427, L. 2009, the inclusion of 87-1-230 terminates June 30,  
 4 2013; and pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019.)"  
 5

6 **Section 27.** Section 18-2-301, MCA, is amended to read:

7 **"18-2-301. Bids required -- advertising.** (1) It is unlawful for any offices, departments, institutions, or  
 8 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  
 9 contract for the construction of buildings or the alteration and improvement of buildings and adjacent grounds on  
 10 behalf of and for the benefit of the state when the amount involved is \$75,000 or more without first advertising  
 11 in at least one issue each week for 3 consecutive weeks in two newspapers published in the state, one of which  
 12 must be published at the seat of government and the other in the county where the work is to be performed,  
 13 calling for sealed bids to perform the work and stating the time and place bids will be considered.

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

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

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

18 (5) (a) The provisions of Montana law governing advertising and competitive bidding do not apply when  
 19 the department of ~~fish, wildlife, and parks~~ commerce is preserving or restoring the historic buildings and resources  
 20 that it owns at Bannack if:

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

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

24 (b) For the preservation or restoration of historic buildings and resources at Bannack when the conditions  
 25 listed in subsection (5)(a) are met, the department of ~~fish, wildlife, and parks~~ commerce may accomplish the  
 26 preservation or restoration through:

27 (i) a memorandum of understanding with a local, state, or federal entity or nonprofit organization when  
 28 the entity or organization demonstrates the competence, knowledge, and qualifications to preserve or restore  
 29 historic resources;

30 (ii) the use of qualified and trained department of ~~fish, wildlife, and parks~~ commerce employees and

1 volunteers;

2 (iii) a training program in historic preservation and restoration conducted by a qualified local, state, or  
3 federal entity or a qualified nonprofit organization; or

4 (iv) any combination of the options described in subsection (5)(b)."

5

6 **Section 28.** Section 19-8-101, MCA, is amended to read:

7 **"19-8-101. Definitions.** Unless the context requires otherwise, the following definitions apply in this  
8 chapter:

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

13 (b) Compensation does not include maintenance, allowances, and expenses.

14 (2) "Highest average compensation" means a member's highest average monthly compensation during  
15 any 36 consecutive months of membership service or, in the event a member has not served at least 36 months,  
16 the total compensation earned divided by the number of months of service. Lump-sum payments for severance  
17 pay, including payment for compensatory leave, sick leave, and annual leave, paid to the member upon  
18 termination of employment may be used in the calculation of a retirement benefit only to the extent that they are  
19 used to replace, on a month-for-month basis, the normal compensation for a month or months included in the  
20 calculation of the highest average compensation. A lump-sum payment may not be added to a single month's  
21 compensation.

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

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

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

1

2           **Section 29.** Section 19-8-301, MCA, is amended to read:

3           **"19-8-301. Membership -- inactive vested members -- inactive nonvested members.** (1) Except as  
4 provided in 19-8-302, the following state peace officers must be covered under the game wardens' and peace  
5 officers' retirement system and, beginning on the first day of employment, must become and shall remain active  
6 members for as long as they are employed as peace officers:

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

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

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

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

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

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

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

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

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

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

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

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

26

27           **Section 30.** Section 19-8-501, MCA, is amended to read:

28           **"19-8-501. Contributions to pension trust fund.** The following must be paid to the board and must be  
29 credited to the pension trust fund:

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

- 1 (2) all contributions by the state game wardens; and  
 2 (3) all interest on and increase of the investments and money in the pension trust fund."

3

4 **Section 31.** Section 19-8-504, MCA, is amended to read:

5 **"19-8-504. Employer's contribution.** The employer shall pay as employer contributions 9% of the  
 6 compensation paid to all of the employer's employees, except those properly excluded from membership. The  
 7 department of fish; and wildlife; ~~and parks~~ shall include in its budget and shall request for legislative appropriation  
 8 an amount necessary to defray the state's portion of the costs of this section."

9

10 **Section 32.** Section 20-7-132, MCA, is amended to read:

11 **"20-7-132. Firearms safety education.** The trustees of a district are encouraged to establish and  
 12 maintain a firearms safety education course. The trustees may adopt a course of instruction developed by the  
 13 department of fish; and wildlife; ~~and parks~~, a law enforcement agency, or a firearms association as its firearms  
 14 safety education course. Instructors from the department of fish; and wildlife; ~~and parks~~, a law enforcement  
 15 agency, or a firearms association or a person recognized by the trustees as having expertise in firearms safety  
 16 education may be used to provide the instruction."

17

18 **Section 33.** Section 22-3-1001, MCA, is amended to read:

19 **"22-3-1001. Purpose -- definitions.** (1) The purpose of this part is to acquire and manage, on behalf  
 20 of the state, properties that possess outstanding historical value, display exceptional qualities worth preserving,  
 21 are genuinely representative of the state's culture and history, and demonstrate the ability to become  
 22 economically self-supporting. The ~~Montana heritage preservation and development commission board~~ board shall  
 23 achieve this purpose by purchasing fee title interests in real and personal property and ~~by managing the~~  
 24 department shall manage those properties in a manner that protects the properties and encourages economic  
 25 independence.

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

27 (a) "Board" means the state parks, recreation, and heritage board established in [section 1].

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

29

30 **Section 34.** Section 22-3-1003, MCA, is amended to read:

1           **"22-3-1003. Powers and duties of commission department and board -- contracts -- rules.** (1) (a)

2     The ~~Montana heritage preservation and development commission~~ department may contract with private  
3     organizations to assist in carrying out the purpose of 22-3-1001. The term of a contract may not exceed 20 years.

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

7           (c) Architectural and engineering review and approval do not apply to the historic renovation projects  
8     or projects at historic sites unless stated in specific state appropriations for construction permitted under the  
9     ~~commission's~~ department's jurisdiction pursuant to this part.

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

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

13          (f) Management activities must be undertaken to encourage the profitable operation of properties.

14          (g) Contracts may include the lease of property managed by the ~~commission~~ department. Provisions for  
15     the renewal of a contract must be contained in the contract.

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

21          (b) The ~~commission~~ department may contract for the preservation, stabilization, or maintenance of  
22     existing structures or buildings for an amount that exceeds \$300,000 without legislative consent if the ~~commission~~  
23     department determines that waiting for legislative consent would cause unnecessary damage to the structures  
24     or buildings or would result in a significant increase in cost to conduct those activities in the future.

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

28          (b) (i) Until the balance in the cultural and aesthetic trust established in 15-35-108 reaches \$7,750,000,  
29     the ~~commission~~ department shall deposit the portion of profits not used for administrative costs and restoration  
30     of the properties in the cultural and aesthetic trust.

1 (ii) Once the balance in the cultural and aesthetic trust reaches \$7,750,000, the ~~commission~~ department  
2 shall deposit the portion of profits not used for administrative costs and restoration of the properties in the general  
3 fund.

4 (c) It is the intent of the 58th legislature that no general fund money be provided for the operations and  
5 maintenance of Virginia City and Nevada City beyond what has been appropriated by the 55th legislature.

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

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

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

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

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

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

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

24 (b) whether the property can become self-supporting;

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

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

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

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

30 (g) whether the ~~commission~~ board should include any preservation covenants in a proposed sale

1 agreement for real property;

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

4 (i) other matters that the ~~commission board~~ considers necessary or appropriate.

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

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

11 (11) The ~~commission department~~, working with the board of investments, may establish trust funds to  
12 benefit historic properties. Interest from any trust fund established under this subsection must be used to preserve  
13 and manage assets ~~owned by the commission controlled by the department pursuant to this part~~. Funds from the  
14 sale of personal property from the Bovey assets must be placed in a trust fund, and interest from the trust fund  
15 must be used to manage and protect the remaining personal property.

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

19

20 **Section 35.** Section 22-3-1004, MCA, is amended to read:

21 **"22-3-1004. Montana heritage preservation and development account.** (1) (a) There is a Montana  
22 heritage preservation and development account in the state special revenue fund and in the federal special  
23 revenue fund.

24 (b) The ~~Montana heritage preservation and development commission department~~ shall deposit any  
25 federal money that the ~~commission department~~ obtains into the appropriate account provided for in this section.

26 (2) Money deposited in the accounts must be used for:

27 (a) the purchase of properties in Virginia City and Nevada City;

28 (b) restoration, maintenance, and operation of historic properties in Virginia City and Nevada City; and

29 (c) purchasing, restoring, and maintaining historically significant properties in Montana that are in need  
30 of preservation.



1 (3) The accounts are statutorily appropriated, as provided in 17-7-502, to the ~~commission~~ department  
2 to be used as provided in this section.

3 (4) Unless otherwise prohibited by law or agreement, all interest earned on money in the accounts must  
4 be deposited in the state special revenue fund to the credit of the ~~commission~~ department."

5

6 **Section 36.** Section 23-1-101, MCA, is amended to read:

7 **"23-1-101. Purpose -- definitions.** (1) ~~For the~~ The purpose of conserving this part is to conserve the  
8 scenic, historic, archaeologic, scientific, and recreational resources of the state and ~~providing to serve the public~~  
9 in providing for their the use and enjoyment of those resources, thereby contributing to the cultural, recreational,  
10 and economic life and health of the people ~~and their health, the department of fish, wildlife, and parks (hereinafter~~  
11 ~~referred to as department) is hereby vested with the duties and powers hereinafter set forth~~ of Montana.

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

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

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

15 (c) "Director" means the director of the department of commerce as provided in 2-15-1801.

16 (d) "State park" includes state parks, primitive parks, public camping grounds, state recreational areas,  
17 state monuments, and state historical sites."

18

19 **Section 37.** Section 23-1-102, MCA, is amended to read:

20 **"23-1-102. Powers and duties of department of fish, wildlife, and parks and board.** (1) ~~The~~  
21 ~~department shall make a study to determine the scenic, historic, archaeologic, scientific, and recreational~~  
22 ~~resources of the state. The department may by purchase, lease, agreement, or acceptance of donations acquire~~  
23 ~~for the state any areas, sites, or objects that in its opinion should be held, improved, and maintained as state~~  
24 ~~parks, state recreational areas, state monuments, or state historical sites. The department, with the consent of~~  
25 ~~the commission, may acquire by condemnation, pursuant to Title 70, chapter 30, lands or structures for the~~  
26 ~~purposes provided in 87-1-209(2).~~

27 ~~—— (2) The department may accept in the name of the state, in fee or otherwise, any areas, sites, or objects~~  
28 ~~conveyed, entrusted, donated, or devised to the state. It~~ (1) It is the duty of the department and board to carry  
29 out the provisions of this part for the purposes provided in 23-1-101.

30 (2) In carrying out the provisions of this part:

1 (a) the board shall review and establish the budget priorities of the department; and  
2 (b) the department may employ short-term workers, as defined in 2-18-101, for a period of 180 days in  
3 a continuous 12-month period.

4 (3) The department has jurisdiction, custody, and control of all state parks listed in [section 54]. This  
5 provision does not prevent the board from acquiring property or land pursuant to 23-1-108 or transferring or  
6 selling property or land pursuant to [section 53].

7 (4) (a) The department shall review the scenic, historic, archaeological, scientific, and recreational value  
8 of land, areas, sites, and objects under the department's jurisdiction. As part of this review, the department shall  
9 evaluate its ability to effectively manage and maintain each for the long-term benefit of the people of Montana.  
10 In making this evaluation, the department shall place a priority on ensuring that the most valuable resources can  
11 be effectively managed and maintained.

12 (b) The board shall review the department's evaluation conducted pursuant to subsection (4)(a) and,  
13 subject to the provisions of [section 53], may transfer or sell property or land that it determines the department  
14 cannot effectively manage or maintain.

15 (5) Except as provided in 23-1-116, the department may:

16 (a) designate land under its control as a state park, a state recreational area, a state monument, a state  
17 historical site, or any other designation that it considers appropriate;

18 (b) remove or change the designation of any land or portion of land under its control;

19 (c) name or change the name of any designated land under its control; and

20 (d) lease those portions of designated land under the its control that are necessary for the proper  
21 administration of the lands in keeping with the basic purpose of this part.

22 (6) The department may accept gifts, grants, bequests, or contributions of money or other property to be  
23 spent or used for any of the purposes of this part.

24 (7) The department may enter into cooperative agreements with the department of fish and wildlife and  
25 any other state, city, county, or other governmental unit to carry out and enforce the provisions of this part. This  
26 includes funding agreements for management of property and land under the department's control.

27 (8) The department shall report to the economic affairs interim committee regarding the progress of  
28 implementing [this act] by July 1, 2014.

29 ~~—————(3) A contract, for any of the purposes of this part, may not be entered into or another obligation incurred~~  
30 ~~until money has been appropriated by the legislature or is otherwise available. If the contract or obligation pertains~~

1 to acquisition of areas or sites in excess of either 100 acres or \$100,000 in value, the board of land  
2 commissioners shall specifically approve the acquisition:

3 ~~—— (4) The department has jurisdiction, custody, and control of all state parks, recreational areas, public  
4 camping grounds, historical sites, and monuments, except wayside camps and other public conveniences  
5 acquired, improved, and maintained by the department of transportation and contiguous to the state highway  
6 system. The department may designate lands under its control as state parks, state historical sites, state  
7 monuments, or by any other designation that it considers appropriate. The department may remove or change  
8 the designation of any area or portion of an area and may name or change the name of any area. The department  
9 may lease those portions of designated lands that are necessary for the proper administration of the lands in  
10 keeping with the basic purpose of this part."~~

11

12 **Section 38.** Section 23-1-105, MCA, is amended to read:

13 **"23-1-105. Fees and charges.** (1) The department may levy and collect reasonable fees or other  
14 charges for the use of privileges and conveniences that may be provided and to grant concessions that it  
15 considers advisable, except as provided in subsections (2) and (6). All money derived from the activities of the  
16 department, except as provided in subsection (5), must be deposited in the state treasury in a state special  
17 revenue fund to the credit of the department.

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

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

26 (4) Money received from the collection of fees and charges is subject to the deposit requirements of  
27 17-6-105(6) unless the department has submitted and received approval for a modified deposit schedule pursuant  
28 to 17-6-105(8).

29 (5) There is a fund of the enterprise fund type, as defined in 17-2-102(2)(a), for the purpose of managing  
30 state park visitor services revenue. The fund is to be used by the department to serve the recreating public by

1 providing for the obtaining of inventory through purchase, production, or donation and for the sale of educational,  
 2 commemorative, and interpretive merchandise and other related goods and services at department sites and  
 3 facilities. The fund consists of money from the sale of educational, commemorative, and interpretive merchandise  
 4 and other related goods and services and from donations. Gross revenue from the sale of educational,  
 5 commemorative, and interpretive merchandise and other related goods and services must be deposited in the  
 6 fund. All interest and earnings on money deposited in the fund must be credited to the fund for use as provided  
 7 in this subsection.

8 (6) In recognition of the fact that individuals support state parks through the payment of certain motor  
 9 vehicle registration fees, persons who pay the fee provided for in 61-3-321(18)(a) may not be required to pay a  
 10 day-use fee for access to state parks. Other fees for the use of state parks, ~~and fishing access sites,~~ such as  
 11 overnight camping fees, are still chargeable and may be collected by the department."  
 12

13 **Section 39.** Section 23-1-106, MCA, is amended to read:

14 **"23-1-106. Rules -- penalties -- enforcement.** (1) The department may make rules governing the use,  
 15 occupancy, and protection of and establishing fees collected for the use of the property under its control.

16 (2) ~~Any A~~ person who violates ~~any of the rules this section or a rule made by the department~~ established  
 17 pursuant to ~~subsection (1)~~ this section is guilty of a misdemeanor and shall be fined not more than \$500 or be  
 18 imprisoned in the county jail for not more than 6 months.

19 (3) ~~It is unlawful and a misdemeanor punishable as provided in subsection (2) to A person may not~~  
 20 refuse to exhibit for inspection any park permit, proof of age, or proof of residency upon request by a fish and  
 21 game warden, park ranger, ~~or~~ peace officer, or any other authorized officer of the department.

22 (4) The department shall enforce the provisions of this chapter and rules implementing this chapter. The  
 23 director of the department ~~shall~~ may employ or contract for all necessary and qualified personnel for enforcement  
 24 purposes.

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

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

29 (b) to investigate activities in this state regulated by this chapter and rules of the department and the ~~fish,~~  
 30 ~~wildlife, and parks commission~~ board; and

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

2

3 **Section 40.** Section 23-1-107, MCA, is amended to read:

4 **"23-1-107. Cooperation.** In carrying out the provisions of this part, the department may seek and accept  
5 the cooperation of other state and local agencies and the agencies of the federal government and may assist and  
6 cooperate with other state agencies, political subdivisions of the state, with neighboring states, and with the  
7 federal government in matters relating to acquiring, planning, establishing, developing, improving, or maintaining  
8 any state park, parkway, recreational area, monument, historic site, or archaeological site."

9

10 **Section 41.** Section 23-1-108, MCA, is amended to read:

11 **"23-1-108. Acquisition of certain state parks, monuments, or historical sites.** ~~(1) Any person,~~  
12 ~~association, or representative of a governing unit may submit a proposal for the acquisition of a site or area~~  
13 ~~described in 23-1-102 from the income of the trust fund created in 15-35-108 to the department of fish, wildlife,~~  
14 ~~and parks by July 1 of the year preceding the convening of a legislative session.~~

15 ~~———(2) The fish, wildlife, and parks commission shall present to the legislature by the 15th day of any~~  
16 ~~legislative session a list of areas, sites, or objects that were proposed for purchase for use as a state parks, state~~  
17 ~~recreational areas, state monuments, or state historical sites with the money contained in the parks account.~~

18 ~~———(3) The legislature must appropriate funds from this account before any park, area, monument, or site~~  
19 ~~may be purchased. (1) The board may:~~

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

22 (b) accept in the name of the state, in fee or otherwise, any areas, sites, or objects conveyed, entrusted,  
23 donated, or devised to the state; and

24 (c) acquire by condemnation, as provided in Title 70, chapter 30, land or structures for the preservation  
25 of historical or archaeological sites that are threatened with destruction or alteration.

26 (2) Any land acquisition involving more than 100 acres or \$100,000 in value must be approved by the  
27 board of land commissioners.

28 (3) For all proposed land acquisitions, the board shall provide notice to the board of county  
29 commissioners in the county where the proposed acquisition is located. The notice must:

30 (a) be provided at least 30 days before the proposed acquisition appears before the board for its consent;

- 1           (b) include a description of the proposed acquisition, including acreage and the proposed use;  
 2           (c) include an estimate of the:  
 3           (i) measures and costs the department plans to undertake in furtherance of the proposed use, including  
 4 operating, staffing, and maintenance costs; and  
 5           (ii) property taxes payable on the proposed acquisition and a statement that if the board acquires the  
 6 land, the department would pay a sum equal to the amount of taxes that would be payable on the county  
 7 assessment of the property if it was taxable to a private citizen pursuant to [section 50];  
 8           (d) include a draft agenda of the meeting at which the proposed acquisition will be presented to the board  
 9 and information on how the board of county commissioners may provide comment.  
 10           (4) (a) Any acquisition must include an additional 20% above the purchase price to be used for  
 11 maintenance of the property acquired by the board. The additional amount above the purchase price or \$300,000,  
 12 whichever is less, must be deposited in the state parks maintenance account established in [section 48].  
 13           (b) As used in this subsection (4), "maintenance" means that term as defined in and consistent with the  
 14 good neighbor policy in 23-1-127.  
 15           (5) The department may develop, operate, and maintain property acquired by the board for state parks  
 16 and outdoor recreation."

17  
 18           **Section 42.** Section 23-1-110, MCA, is amended to read:

19           **"23-1-110. Improvement or development of state park or fishing access site parks -- required**  
 20 **public involvement -- rules.** (1) The fish, wildlife, and parks commission department shall adopt rules  
 21 establishing a policy whereby any proposed improvement or development of a state park ~~or fishing access site~~  
 22 that significantly changes park ~~or fishing access site~~ features or use patterns is subject to notice of proposed  
 23 modifications, both statewide and locally, and to opportunity for a public meeting and public comment on the  
 24 advisability and acceptability of the proposal.

25           (2) The department shall prepare a public report regarding any project that is subject to the provisions  
 26 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;  
 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 43.** Section 23-1-121, MCA, is amended to read:

6 **"23-1-121. Park rangers -- qualifications -- powers and duties.** (1) The department is authorized to  
 7 establish a corps of park rangers and to select and appoint park rangers who must be qualified by their  
 8 experience, training, skill, and interest in the protection, conservation, and stewardship of the natural and cultural  
 9 resources and state parks administered by the department.

10 (2) Park rangers shall enforce the laws of this state and the rules of the department and the ~~fish, wildlife,~~  
 11 ~~and parks commission board~~ that provide for the protection, conservation, and stewardship of the natural and  
 12 cultural resources in the state parks system.

13 (3) Park rangers shall:

14 (a) protect campers, picnickers, and other park users;

15 (b) keep the peace;

16 (c) supervise public use; ~~and~~

17 (d) maintain public order in all units of the state parks system; ~~and~~

18 ~~(4)(e) Park rangers shall perform all other duties prescribed by the department.~~

19 (4) Park rangers may carry firearms in the execution of their duties."  
 20

21 **Section 44.** Section 23-1-122, MCA, is amended to read:

22 **"23-1-122. Enforcement powers of park rangers and game wardens authorized officers.** (1) Park  
 23 rangers appointed pursuant to 23-1-121 and ~~fish and game wardens appointed pursuant to 87-1-501~~ any persons  
 24 authorized under cooperative agreements pursuant to 23-1-102(7) are authorized officers of the department with  
 25 the authority to enforce the laws and adopted rules relating to parks and outdoor recreation contained in ~~chapters~~  
 26 ~~1 and 2 of this title, except chapter 2, part 7~~ Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 5, 6, 8, and 9.

27 (2) An authorized officer may:

28 (a) arrest, in accordance with Title 46, chapter 6, any person within an area managed by the department  
 29 upon probable cause to believe that the person has ~~committed an offense against chapters 1 and 2 of this title,~~  
 30 ~~except chapter 2, part 7,~~ violated a provision of Title 23, chapter 1, or Title 23, chapter 2, parts 1, 4, 5, 6, 8, and

1 9, or rules of the department or the ~~fish, wildlife, and parks commission board~~;

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

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

5 (i) laws relating to parks and outdoor recreation contained in ~~chapters 1 and 2 of this title, except chapter~~  
6 ~~2, part 7~~ Title 23, chapter 1, or Title 23, chapter 2, parts 1, 4, 5, 6, 8, and 9;

7 (ii) rules of the department and the ~~fish, wildlife, and parks commission board~~; and

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

9

10 **Section 45.** Section 23-1-126, MCA, is amended to read:

11 **"23-1-126. (Temporary) Good neighbor policy -- public recreational land.** (1) The good neighbor  
12 policy of public land use, as applied to public recreational land, seeks a goal of no impact upon adjoining private  
13 and public land by preventing impact on the adjoining land from noxious weeds, trespass, litter, noise and light  
14 pollution, streambank erosion, and loss of privacy. To facilitate the good neighbor policy regarding impact to  
15 adjoining land from noxious weeds, the department of ~~fish, wildlife, and parks~~ shall, prior to purchasing any land  
16 where noxious weeds are present, develop a noxious weed management agreement that complies with the  
17 county weed management district's noxious weed management program, as required in 7-22-2154.

18 (2) In order to implement the good neighbor policy expeditiously, the legislature finds it necessary to  
19 require the department of ~~fish, wildlife, and parks~~ to place maintenance as a priority:

20 (a) over additional development at all state parks ~~and fishing access sites~~; and

21 (b) on recreational land or water acquired pursuant to ~~87-1-209~~ for ~~public hunting, fishing, trapping, or~~  
22 outdoor recreation.

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

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

25 (b) at the discretion of the department of ~~fish, wildlife, and parks~~;

26 (i) projects on the Missouri reach of the Missouri-Madison hydropower project or the Clark Fork basin  
27 hydropower project, undertaken pursuant to the federal energy regulatory commission's hydropower relicensing  
28 requirements and in conjunction with private entities, political subdivisions of the state of Montana, and federal  
29 agencies; or

30 ~~(c)(ii) at the discretion of the department of fish, wildlife, and parks, projects on Fort Peck reservoir~~



1 undertaken in conjunction with the U.S. army corps of engineers; ~~or~~

2 ~~(d)(c)~~ partnership projects as designated within the park master plan.

3 (4) Any development in state parks ~~and fishing access sites~~ beyond those defined as maintenance in  
4 23-1-127(1) must be approved by the legislature. (Terminates June 30, 2013--sec. 8, Ch. 427, L. 2009.)

5 **23-1-126. (Effective July 1, 2013) Good neighbor policy -- public recreational lands land.** (1) The  
6 good neighbor policy of public land use, as applied to public recreational ~~lands land~~, seeks a goal of no impact  
7 upon adjoining private and public ~~lands land~~ by preventing impact on ~~those the adjoining lands land~~ from noxious  
8 weeds, trespass, litter, noise and light pollution, streambank erosion, and loss of privacy.

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

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

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

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

17 ~~(e)(b)~~ at the discretion of the department of fish, wildlife, and parks; ~~;~~

18 (i) projects on the Missouri reach of the Missouri-Madison hydropower project or the Clark Fork basin  
19 hydropower project, undertaken pursuant to the federal energy regulatory commission's hydropower relicensing  
20 requirements and in conjunction with private entities, political subdivisions of the state of Montana, and federal  
21 agencies; or

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

24 ~~(e)(c)~~ partnership projects as designated within the park master plan.

25 (4) Any development in state parks ~~and fishing access sites~~ beyond those defined as maintenance in  
26 23-1-127 must be approved by the legislature."

27

28 **Section 46.** Section 23-1-127, MCA, is amended to read:

29 **"23-1-127. (Temporary) Maintenance priority -- maintenance defined.** (1) With regard to state parks  
30 ~~and fishing access sites~~, implementation of the good neighbor policy requires that priority is to be given to

1 maintenance of existing facilities, rather than to development or improvement. For purposes of 23-1-126(2)(a)  
2 and this subsection, "maintenance" means:

- 3 (a) weed control;
- 4 (b) fence installation and repair of existing fences;
- 5 (c) placing, cleaning, and stocking of latrines;
- 6 (d) garbage and litter removal;
- 7 (e) implementation of safety and health measures required by law to protect the public;
- 8 (f) upkeep of established trails, roads, parking areas, boat docks, and similar facilities existing in state  
9 parks ~~and fishing access sites~~ on October 1, 1999;
- 10 (g) in-kind replacement of existing facilities, including electric lines or facilities, or replacement of those  
11 existing facilities with facilities that have less impact on the state park ~~or fishing access site~~;
- 12 (h) erosion control;
- 13 (i) streambank stabilization;
- 14 (j) erection of barriers necessary to preserve riparian vegetation and habitat;
- 15 (k) minimal signage necessary to inform users of appropriate state park ~~or fishing access site~~ use and  
16 applicable regulations and of historical, natural, cultural, geographical, and geological features in the area;
- 17 (l) measures necessary to ensure compliance with the federal Americans With Disabilities Act of 1990,  
18 when applicable;
- 19 (m) planting of native trees, grasses, and shrubs for habitat stabilization and privacy shielding;
- 20 (n) installation of fire rings, picnic tables, and trash collection facilities; and
- 21 (o) other necessary activities and expenditures consistent with the good neighbor policy and the intent  
22 of 23-1-126, 23-1-128, and this section, including new trails, new boat ramps, and necessary new access roads  
23 into and within the state park ~~or fishing access site~~.

24 (2) With regard to recreational land or water rights acquired ~~pursuant to 87-1-209~~ for ~~public hunting,~~  
25 ~~fishing, trapping, or~~ outdoor recreation, implementation of the good neighbor policy requires that priority is to be  
26 given to maintenance. For purposes of 23-1-126(2)(b) and this subsection, "maintenance" means:

- 27 (a) weed control;
- 28 (b) garbage and litter removal;
- 29 (c) repair of existing fences;
- 30 (d) implementation of safety and health measures required by law to protect the public;

- 1 (e) in-kind replacement of existing facilities, including electric lines or facilities, or replacement of those  
2 existing facilities with facilities that have less impact on the land or water;
- 3 (f) erosion control;
- 4 (g) streambank stabilization;
- 5 (h) erection of barriers necessary to preserve riparian vegetation and habitat;
- 6 (i) planting of native trees, grasses, and shrubs for habitat stabilization; and
- 7 (j) other necessary activities and expenditures consistent with the good neighbor policy and the intent  
8 of 23-1-126 and this section. (Terminates June 30, 2013--sec. 8, Ch. 427, L. 2009.)

9 **23-1-127. (Effective July 1, 2013) Maintenance priority -- maintenance defined.** With regard to state  
10 parks ~~and fishing access sites~~, implementation of the good neighbor policy requires that priority is to be given to  
11 maintenance of existing facilities, rather than to development or improvement. For purposes of 23-1-126 and this  
12 section, "maintenance" means:

- 13 (1) placing, cleaning, and stocking of latrines;
- 14 (2) garbage and litter removal;
- 15 (3) fence installation and repair of existing fences;
- 16 (4) weed control;
- 17 (5) implementation of safety and health measures required by law to protect the public;
- 18 (6) upkeep of established trails, roads, parking areas, boat docks, and similar facilities existing in state  
19 parks ~~and fishing access sites~~ on October 1, 1999;
- 20 (7) in-kind replacement of existing facilities, including electric lines or facilities, or replacement of those  
21 existing facilities with facilities that have less impact on the state park ~~or fishing access site~~;
- 22 (8) erosion control;
- 23 (9) streambank stabilization;
- 24 (10) erection of barriers necessary to preserve riparian vegetation and habitat;
- 25 (11) minimal signage necessary to inform users of appropriate state park ~~or fishing access site~~ use and  
26 applicable regulations and of historical, natural, cultural, geographical, and geological features in the area;
- 27 (12) measures necessary to ensure compliance with the federal Americans With Disabilities Act of 1990,  
28 when applicable;
- 29 (13) planting of native trees, grasses, and shrubs for habitat stabilization and privacy shielding;
- 30 (14) installation of fire rings, picnic tables, and trash collection facilities; and

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

4

5 **Section 47.** Section 23-1-128, MCA, is amended to read:

6 **"23-1-128. Protection of riparian vegetation -- limit on motorized camping, operation of**  
7 **off-highway vehicles.** In order to protect riparian vegetation, provide for stable streambanks, reduce erosion,  
8 and provide for nutrient barriers to protect the quality of rivers and streams:

9 (1) camping in a motor vehicle, as defined in 61-1-101, is discouraged within 25 feet of a river or stream  
10 in state parks ~~and fishing access sites~~; and

11 (2) the off-road operation of an off-highway vehicle, as defined in 23-2-801, ~~within state parks and fishing~~  
12 ~~access sites~~ is prohibited within state parks except for administrative purposes."

13

14 NEW SECTION. **Section 48. State parks maintenance account.** (1) There is a state parks  
15 maintenance account in the state special revenue fund. In addition to the funds set aside for maintenance of land  
16 acquired by the board pursuant to 23-1-108, the department shall also deposit into the account:

17 (a) interest earned on the account; and

18 (b) any other money that the department considers appropriate or necessary for maintenance of state  
19 parks.

20 (2) Funds deposited in the account are statutorily appropriated, as provided in 17-7-502, to the  
21 department and may be used only for maintenance of state parks.

22 (3) (a) The department shall provide an annual report regarding deposits into and withdrawals from the  
23 account established in subsection (1) to the economic affairs interim committee for the purpose of demonstrating  
24 the use of funds in the account toward the good neighbor policy.

25 (b) The report must describe the types of maintenance completed by site and maintenance plans for the  
26 subsequent fiscal year.

27 (c) The report is due by September 1 following the end of each fiscal year.

28

29 NEW SECTION. **Section 49. Posting of land use regulations.** Site-specific land use regulations  
30 applicable to a particular state park or other land under the department's control, including but not limited to speed

1 limits, road and off-road restrictions or closures, places where camping is allowed or prohibited, and seasonal  
2 closures for management purposes, must be indicated to the public by signs on the premises of the particular  
3 state park or other land under the department's control.

4

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

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

11 (3) The director shall approve or disapprove the request. The director may disapprove a request only if  
12 the director finds it to be inconsistent with this section. If the director:

13 (a) disapproves a request, the director shall return it with an explanation detailing the reasons for the  
14 disapproval to the appropriate county treasurer for correction; or

15 (b) approves a request, the director shall transmit it to the department of administration, which shall draw  
16 a warrant payable to the county in the amount shown on the request and shall send the warrant to the county  
17 treasurer. The warrant is payable out of any funds credited to the department for the administration of state parks.

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

20

21 **NEW SECTION. Section 51. State park lands -- forest management.** The department shall address  
22 fire mitigation and pine beetle infestation on state park lands, giving priority to forested lands in excess of 50  
23 contiguous acres.

24

25 **NEW SECTION. Section 52. State park lands -- forest management account.** (1) There is a forest  
26 management account in the special revenue fund to the credit of the department.

27 (2) The forest management account consists of money deposited into the account from forest  
28 management projects undertaken pursuant to [section 51] and from any other source. Any interest earned by the  
29 account must be deposited into the account.

30 (3) Except as otherwise directed by state or federal law, funds from the forest management account are

1 statutorily appropriated, as provided in 17-7-502, to the department and must be used by the department to  
2 implement forest management projects that may result pursuant to the provisions of [section 51].

3  
4 **NEW SECTION. Section 53. Sale and transfer of land -- disposition of proceeds.** (1) The board may  
5 dispose of property, land, and water rights after public notice as required by subsection (4), without regard to  
6 other laws that provide for sale or disposal of state property or land and with or without reservation, as it considers  
7 necessary and advisable.

8 (2) The board may convey land and water rights under its jurisdiction for full market value to adjacent  
9 landowners without regard to the requirements of subsection (4) or (5) if the land is less than 10 acres or if the  
10 full market value of the interest to be conveyed is less than \$20,000.

11 (3) Except as provided in subsection (2), when the board conveys land or water rights to an adjacent  
12 landowner pursuant to this section, the board, in addition to giving notice pursuant to subsection (4), shall give  
13 notice by mail to the landowners whose property adjoins the property being conveyed.

14 (4) Notice of sale describing the land or water rights to be disposed of must be published once a week  
15 for 3 successive weeks in a newspaper with general circulation printed and published in the county where the  
16 land or water right is situated or, if a newspaper is not published in that county, then in any newspaper with  
17 general circulation in that county.

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

24 (6) The board shall reserve the right to reject any bids that do not equal or exceed the full market value  
25 of the land or water right as determined by the board. If the board does not receive a bid that equals or exceeds  
26 fair market value, it may then sell the land or water rights at private sale. The price accepted on any private sale  
27 must exceed the highest bid rejected in the bid process.

28 (7) (a) Any land or property may be sold to or exchanged for other land or property or for other  
29 consideration with another public entity on terms and in a manner that the board, after consultation with the  
30 economic affairs interim committee, may determine to be in the state's best interest, subject to The Enabling Act

1 and constitutional restrictions. In the case of land that is not granted to or held by the state in trust for the support  
2 of the common schools, for a state institution, or for another specific purpose, the board may accept as partial  
3 or total consideration for the transfer of the land a binding commitment by the transferee to use the property to  
4 provide a community service or a benefit that fulfills a public purpose.

5 (b) The sale or exchange of land or property may not be finally concluded until 60 days' public notice of  
6 the terms of the proposed sale or exchange has been given.

7 (c) As used in this subsection (7), "public entity" means any state agency, county, city, municipal  
8 corporation, school district, or special improvement or taxing district.

9 (8) Proceeds from the sale or exchange of any property or land under the department's control must be  
10 deposited in the state treasury in a state special revenue fund to the credit of the board.

11  
12 **NEW SECTION. Section 54. State park inventory.** On [the effective date of this act], the legislature  
13 finds that the following are state parks and under the custody, jurisdiction, and control of the board and the  
14 department:

- 15 (1) Ackley Lake;
- 16 (2) Anaconda Smoke Stack;
- 17 (3) Bannack;
- 18 (4) Beaverhead Rock;
- 19 (5) Beavertail Hill;
- 20 (6) Big Arm;
- 21 (7) Black Sandy;
- 22 (8) Brush Lake;
- 23 (9) Chief Plenty Coups;
- 24 (10) Clark's Lookout;
- 25 (11) Cooney;
- 26 (12) Council Grove;
- 27 (13) Elkhorn;
- 28 (14) Finley Point;
- 29 (15) First Peoples Buffalo Jump;
- 30 (16) Fish Creek;

- 1 (17) Fort Owen;
- 2 (18) Frenchtown Pond;
- 3 (19) Giant Springs;
- 4 (20) Granite Ghost Town;
- 5 (21) Greycliff Prairie Dog Town;
- 6 (22) Hell Creek;
- 7 (23) Lake Elmo;
- 8 (24) Lake Mary Ronan;
- 9 (25) Les Mason;
- 10 (26) Lewis and Clark Caverns;
- 11 (27) Logan;
- 12 (28) Lone Pine;
- 13 (29) Lost Creek;
- 14 (30) Madison Buffalo Jump;
- 15 (31) Makoshika;
- 16 (32) Marias River;
- 17 (33) Medicine Rocks;
- 18 (34) Milltown;
- 19 (35) Missouri Headwaters;
- 20 (36) North Shore;
- 21 (37) Painted Rocks;
- 22 (38) Pictograph Cave;
- 23 (39) Pirogue Island;
- 24 (40) Placid Lake;
- 25 (41) Rosebud Battlefield;
- 26 (42) Salmon Lake;
- 27 (43) Sluice Boxes;
- 28 (44) Smith River;
- 29 (45) Spring Meadow Lake;
- 30 (46) Thompson Falls;



- 1 (47) Tongue River Reservoir;  
 2 (48) Tower Rock;  
 3 (49) Travelers' Rest;  
 4 (50) Wayfarers;  
 5 (51) West Shore;  
 6 (52) Whitefish Lake;  
 7 (53) Wild Horse Island;  
 8 (54) Yellow Bay;  
 9 (55) Yellowstone River.

10

11 **Section 55.** Section 23-1-201, MCA, is amended to read:

12 **"23-1-201. Establishment of state scientific and recreational park.** In order to preserve and protect  
 13 the biological station grounds ~~hereafter referred to~~ and to remove fire hazards and the danger of other  
 14 encroachments tending to detract from the scientific values and uses ~~thereof~~ of the biological station grounds,  
 15 the department of commerce is authorized to maintain a state scientific and recreational park on ~~a suitable~~ an  
 16 ~~area to be designated by it not exceeding~~ greater than 15 acres at the southeast portion of the lands granted by  
 17 the United States of America to the state of Montana for the use of the university of Montana-Missoula for  
 18 biological station purposes."

19

20 **Section 56.** Section 23-1-202, MCA, is amended to read:

21 **"23-1-202. Rules governing use.** The department of commerce shall make ~~such~~ rules governing the  
 22 park's use, occupancy, and the protection of the remaining lands of the grant as necessary to promote and  
 23 continue the use of all of the lands for biological station purposes. The park ~~itself shall be so~~ must be maintained  
 24 ~~as~~ to develop and encourage public interest in the scientific and biological resources of the area. Nothing ~~herein~~  
 25 ~~contained in this section~~ prevents the use of the area within the park for biological station purposes whenever  
 26 it ~~becomes~~ is useful or necessary ~~for such purposes.~~"

27

28 **Section 57.** Section 23-2-101, MCA, is amended to read:

29 **"23-2-101. Legislative findings -- purpose -- definitions.** (1) Montana is uniquely endowed with scenic  
 30 landscapes and areas rich in recreational value. This outdoor heritage enriches the lives of citizens, attracts new

1 residents and businesses to the state, and is of major significance to the expanding tourist industry. It is the  
 2 purpose of this part to give authority to the department of fish, wildlife, and parks to plan, and develop, and  
 3 manage outdoor recreational resources in the state, ~~which authority shall permit receiving and expending~~ The  
 4 department may receive and expend funds including federal grants for this purpose.

5 (2) For the purposes of this part, "department" means the department of commerce established in  
 6 2-15-1801."

7  
 8 **Section 58.** Section 23-2-102, MCA, is amended to read:  
 9 **"23-2-102. Department of fish, wildlife, and parks to implement federal act.** The department of fish,  
 10 ~~wildlife, and parks~~ is hereby designated as the state agency to represent and act for the state for the purpose of  
 11 implementing the Land and Water Conservation Fund Act of 1965."  
 12

13 **Section 59.** Section 23-2-103, MCA, is amended to read:  
 14 **"23-2-103. Compliance with federal act authorized -- powers of department.** The department of fish,  
 15 ~~wildlife, and parks~~ shall ~~do those things necessary to~~ comply with the provisions of the Land and Water  
 16 Conservation Fund Act of 1965. ~~Among other things, the department of fish, wildlife, and parks~~ and may:  
 17

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

21 (2) accept and administer ~~moneys~~ money paid by the secretary of the interior for approved projects;  
 22 (3) contract with other state agencies, cities, counties, and other political subdivisions of the state, private  
 23 organizations, and agencies of the federal government;

24 (4) acquire, other than by eminent domain, and develop outdoor recreational areas and facilities and land  
 25 and waters and interests in land and waters for ~~such~~ those areas and facilities; and

26 (5) for the purpose of implementing the Land and Water Conservation Fund Act of 1965, coordinate its  
 27 activities with and represent the interests of all agencies of state, city, county, and other governmental units with  
 28 outdoor recreational responsibilities."  
 29

30 **Section 60.** Section 23-2-301, MCA, is amended to read:  
**"23-2-301. Definitions.** For purposes of this part, the following definitions apply:

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

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

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

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

9 (c) are or have been capable of supporting the following commercial activities: log floating, transportation  
10 of furs and skins, shipping, commercial guiding using multiperson watercraft, public transportation, or the  
11 transportation of merchandise, as these activities have been defined by published judicial opinion as of April 19,  
12 1985; or

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

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

16 (4) "Commission" means the fish; and wildlife; ~~and parks~~ commission provided for in 2-15-3402.

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

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

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

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

23 (c) a flood control channel; or

24 (d) a hydropower inlet and discharge facility.

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

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

28 (9) "Ordinary high-water mark" means the line that water impresses on land by covering it for sufficient  
29 periods to cause physical characteristics that distinguish the area below the line from the area above it.

30 Characteristics of the area below the line include, when appropriate, but are not limited to deprivation of the soil

1 of substantially all terrestrial vegetation and destruction of its agricultural vegetative value. A flood plain adjacent  
2 to surface waters is not considered to lie within the surface waters' high-water marks.

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

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

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

13 **Section 61.** Section 23-2-403, MCA, is amended to read:

14 **"23-2-403. Definitions.** As used in this part, the following definitions apply:

15 (1) "~~Commission~~" "Board" means the ~~fish, wildlife, and state parks, recreation, and heritage board~~  
16 ~~commission~~ provided for in ~~2-15-3402~~ [section 1].

17 (2) "Department" means the department of ~~fish, wildlife, and parks~~ commerce provided for in ~~2-15-3401~~  
18 2-15-1801."  
19

20 **Section 62.** Section 23-2-404, MCA, is amended to read:

21 **"23-2-404. Applicability.** This part applies to that portion of the Smith River waterway located in  
22 Meagher and Cascade Counties lying between the Camp Baker state ~~fishing access site~~ park in Meagher County  
23 and the confluence of the Smith River with the Missouri River. This description does not prevent the department  
24 from naming or renaming areas pursuant to 23-1-102."  
25

26 **Section 63.** Section 23-2-407, MCA, is amended to read:

27 **"23-2-407. Management responsibility and plan.** The department has the primary recreational  
28 management responsibility for the Smith River waterway described in 23-2-404, consistent with the purpose  
29 stated in 23-1-101 and 23-2-402. The Smith River waterway must be administered to:

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

1 (2) maintain the opportunity to enjoy the natural scenic beauty and solitude; and  
 2 (3) conserve fish and wildlife and scientific and recreational values. The department may cooperate and  
 3 enter into agreements as necessary with the department of fish and wildlife for the purposes of this subsection  
 4 (3)."

5  
 6 **Section 64.** Section 23-2-408, MCA, is amended to read:

7 **"23-2-408. Rulemaking authority.** The ~~commission~~ board has authority to provide for the administration  
 8 of the Smith River waterway. The ~~commission~~ board may adopt rules to:

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

13 (a) consider the tolerance of adjacent landowners to recreational use;  
 14 (b) consider the capability of the river and adjoining lands to accommodate floating and camping use;  
 15 and  
 16 (c) ensure an acceptable level of user satisfaction, including minimizing user conflicts and providing for  
 17 a level of solitude.

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

21 (3) regulate the activities of recreational and commercial users of the water and land in the Smith River  
 22 waterway that are legally accessible to the public and regulate the land in the river corridor that is under the  
 23 control of the department and ~~commission~~ board:

24 (a) for the purposes of safety, health, and protection of property;  
 25 (b) to preserve the experience of floating, fishing, and camping in a natural environment;  
 26 (c) to protect the river's fish, wildlife, water, and canyon resources; and  
 27 (d) to minimize conflicts between recreationists and private landowners; and  
 28 (4) establish recreational and commercial user fees for floating and camping on the Smith River  
 29 waterway."  
 30

1           **Section 65.** Section 23-2-409, MCA, is amended to read:

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

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

6           (2) Money deposited in the Smith River corridor enhancement account must be expended to:

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

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

12           (c) pursue projects that serve to maintain and enhance instream flows for recognized recreational and  
13 aquatic ecosystem values in the Smith River corridor."  
14

15           **Section 66.** Section 23-2-410, MCA, is amended to read:

16           **"23-2-410. Penalty -- enforcement.** (1) A person who violates a rule of the ~~commission~~ board adopted  
17 pursuant to this part is guilty of a misdemeanor punishable by a fine of not less than \$50 or more than \$500; or  
18 by imprisonment in a county jail for not more than 6 months, ~~or by both fine and imprisonment.~~

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

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

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

25           (c) to report violations to the county attorney of the county in which they occur."  
26

27           **Section 67.** Section 23-2-502, MCA, is amended to read:

28           **"23-2-502. Definitions.** As used in this part, unless the context clearly requires a different meaning, the  
29 following definitions apply:

30           (1) "Board" means the state parks, recreation, and heritage board provided for in [section 1].

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

5           ~~(2)~~(3) "Department" means the department of ~~fish, wildlife, and parks of the state of Montana~~ commerce  
6 established in 2-15-1801.

7           ~~(3)~~(4) "Documented vessel" means a vessel that has and is required to have a valid marine document  
8 as a vessel of the United States.

9           ~~(4)~~(5) "Identifying number" means the boat number set forth in the certificate of number and properly  
10 displayed on the motorboat or sailboat.

11           ~~(5)~~(6) "Lienholder" means a person holding a security interest.

12           ~~(6)~~(7) "Manufacturer" means a person engaged in the business of manufacturing or importing new and  
13 unused vessels or new and unused outboard motors for the purpose of sale or trade.

14           ~~(7)~~(8) (a) "Motorboat" means a vessel, including a personal watercraft or pontoon, propelled by any  
15 machinery, motor, or engine of any description, whether or not the machinery, motor, or engine is the principal  
16 source of propulsion. The term includes boats temporarily equipped with detachable motors or engines.

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

19           ~~(8)~~(9) "Operate" means to navigate or otherwise use a motorboat or a vessel.

20           ~~(9)~~(10) "Operator" means the person who navigates, drives, or is otherwise in immediate control of a  
21 motorboat or vessel.

22           ~~(10)~~(11) (a) "Owner" means a person, other than a lienholder, having the property in or title to a  
23 motorboat or vessel. The term includes a person entitled to the use or possession of a motorboat or vessel  
24 subject to an interest in another person, reserved or created by an agreement securing payment or performance  
25 of an obligation.

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

27           ~~(11)~~(12) "Passenger" means each person carried on board a vessel other than:

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

29           (b) the operator;

30           (c) bona fide members of the crew engaged in the business of the vessel who have not contributed any

1 consideration for their carriage and who are paid for their services; or

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

4 ~~(12)~~(13) "Person" means an individual, partnership, firm, corporation, association, or other entity.

5 ~~(13)~~(14) "Personal watercraft" means a vessel that uses an outboard motor or an inboard engine  
6 powering a water jet pump as its primary source of propulsion and that is designed to be operated by a person  
7 sitting, standing, or kneeling on the vessel rather than by the conventional method of sitting or standing in the  
8 vessel.

9 ~~(14)~~(15) "Registration decal" means an adhesive sticker produced by the department of justice and  
10 issued by the department of justice, an authorized agent as defined in 61-1-101, or a county treasurer to the  
11 owner of a motorboat, sailboat, or personal watercraft as proof of payment of fees imposed on the motorboat,  
12 sailboat, or personal watercraft for the registration period indicated on the decal as recorded by the department  
13 of justice under 61-3-101.

14 ~~(15)~~(16) (a) "Sailboat" means a vessel that uses a sail and wind as its primary source of propulsion.

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

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

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

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

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

22 ~~(18)~~(19) "Validation decal" means an adhesive sticker produced by the department and issued by the  
23 department or a county treasurer to the owner of a motorboat, sailboat, or personal watercraft verifying the  
24 identifying number assigned to the motorboat, sailboat, or personal watercraft and the name and address of the  
25 owner to meet requirements of the federal standard numbering system.

26 ~~(19)~~(20) "Vessel" means every description of watercraft, unless otherwise defined by the department,  
27 other than a seaplane on the water, used or capable of being used as a means of transportation on water.

28 ~~(20)~~(21) "Waters of this state" means any waters within the territorial limits of this state."  
29

30 **Section 68.** Section 23-2-506, MCA, is amended to read:



1           **"23-2-506. Enforcement.** (1) The department is a criminal justice agency for the purpose of obtaining  
2 the technical assistance and support services provided by the board of crime control under the provisions of  
3 44-4-301. Authorized officers of the department are granted peace officer status with the power:

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

5           (b) to investigate activities in this state regulated by this part and rules of the department and the fish,  
6 ~~wildlife, and parks commission board~~; and

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

8           (2) All sheriffs and peace officers of the state of Montana and all United States coast guard law  
9 enforcement officers shall have authority to enforce provisions of this part, as amended."

10

11           **Section 69.** Section 23-2-512, MCA, is amended to read:

12           **"23-2-512. Identifying number.** (1) The owner of each motorboat, sailboat, or personal watercraft  
13 requiring numbering by this state shall file an application for number in the office of the county treasurer in the  
14 county where the motorboat, sailboat, or personal watercraft is owned, on forms prepared and furnished by the  
15 department of justice. The application must be signed by the owner of the motorboat, sailboat, or personal  
16 watercraft and be accompanied by the fee prescribed in 61-3-321(10). Any alteration, change, or false statement  
17 contained in the application renders the certificate of number void. Upon receipt of the application in approved  
18 form, the county treasurer shall issue to the applicant a certificate of number prepared and furnished by the  
19 department of justice, stating the number assigned to the motorboat, sailboat, or personal watercraft and the  
20 name and address of the owner. Validation decals verifying the identifying number for each motorboat, sailboat,  
21 or personal watercraft must be issued along with the certificate of number and must be displayed on the  
22 motorboat, sailboat, or personal watercraft.

23           (2) The fine for failing to display the validation decals may not be more than the cost incurred by the  
24 justice's court.

25           ~~(3) The department may give only verbal or written warnings until December 31, 2007, for failing to~~  
26 ~~display validation decals in an attempt to educate the boating public.~~

27           ~~(4)~~(3) If the ownership of a motorboat, sailboat, or personal watercraft changes, a new application form  
28 with the certification fee must be filed within 40 days with the county treasurer and a new certificate of number  
29 assigned in the same manner as provided for in an original assignment of number. New validation decals must  
30 be issued simultaneously.

1           ~~(5)~~(4) If an agency of the United States government has in force a comprehensive system of identification  
2 numbering for motorboats in the United States, the numbering system employed pursuant to this part by the  
3 department of justice must be in conformity.

4           ~~(6)~~(5) A certificate of number and validation decals issued under this part are effective unless terminated  
5 or discontinued in accordance with the provisions of this part. All motorboats, sailboats, or personal watercraft  
6 already numbered must exhibit validation decals by December 31, 2005. All validation decals expire on February  
7 28, 2008. Validation decals must be obtained by the expiration date at any ~~regional~~ office of the department or  
8 through the department website and are in effect for another 3-year period ending February 28, 2011. The  
9 requirement of renewal validation decals must continue in subsequent 3-year periods, and renewal validation  
10 decals must be identified by color in accordance with the federal numbering system. Except as provided in  
11 23-2-511(2) and subsection ~~(4)~~ (3) of this section, the operation of a motorboat, sailboat, or personal watercraft  
12 is prohibited without current validation decals.

13           ~~(7)~~(6) Validation decals must be approximately 3 square inches. The validation decals must be serially  
14 numbered in accordance with the federal numbering system and must be displayed on each side of the vessel.

15           ~~(8)~~(7) If ownership is transferred, the purchaser shall notify the county treasurer within 40 days of the  
16 acquisition of all or any part of the purchaser's interest, other than the creation of a security interest, in a  
17 motorboat, sailboat, or personal watercraft numbered in this state or of the loss, theft, destruction, or  
18 abandonment of the motorboat, sailboat, or personal watercraft. The transfer, loss, theft, destruction, or  
19 abandonment terminates the certificate of number for the motorboat, sailboat, or personal watercraft. Recovery  
20 from theft or transfer of a part interest that does not affect the owner's right to operate the motorboat, sailboat,  
21 or personal watercraft does not terminate the certificate of number.

22           ~~(9)~~(8) A holder of a certificate of number shall notify the county treasurer within a reasonable time if the  
23 holder's address no longer conforms to the address appearing on the certificate and shall furnish the county  
24 treasurer with the new address. The department of justice may provide by rule for the surrender of the certificate  
25 bearing the former address and its replacement with a certificate bearing the new address or the alteration of an  
26 outstanding certificate to show the new address of the holder.

27           ~~(10)~~(9) (a) The identifying number assigned must be painted on or attached to each outboard side of the  
28 forward half of the motorboat, sailboat, or personal watercraft or, if there are no sides, at a corresponding location  
29 on both outboard sides of the foredeck of the motorboat, sailboat, or personal watercraft. The identifying number  
30 assigned must read from left to right in Arabic numerals and block characters of good proportion at least 3 inches

1 tall excluding border or trim of a color that contrasts with the color of the background and be so maintained as  
2 to be clearly visible and legible. The identifying number may not be placed on the obscured underside of the  
3 flared bow where it cannot be easily seen from another vessel or ashore. Numerals, letters, or devices other than  
4 those used in connection with the identifying number issued may not be placed in the proximity of the identifying  
5 number. Numerals, letters, or devices that might interfere with the ready identification of the motorboat, sailboat,  
6 or personal watercraft by its identifying number may not be carried in a manner that interferes with the  
7 motorboat's, sailboat's, or personal watercraft's identification. A number other than the identifying number  
8 assigned to a motorboat, sailboat, or personal watercraft or granted reciprocity under this part may not be painted,  
9 attached, or otherwise displayed on either side of the forward half of the motorboat, sailboat, or personal  
10 watercraft. A registration decal issued under this part must be placed next to the identifying number located on  
11 the left side of a motorboat, sailboat, or personal watercraft or, if there are no sides, at the corresponding location  
12 on the left outboard side of the foredeck of the motorboat, sailboat, or personal watercraft. The validation decal  
13 must be placed immediately aft of the registration decal on the left side and immediately aft of the identifying  
14 number on the right side of a motorboat, sailboat, or personal watercraft.

15 (b) The certificate of number must be pocket size and available to federal, state, or local law enforcement  
16 officers at all reasonable times for inspection on the motorboat, sailboat, or personal watercraft whenever the  
17 motorboat, sailboat, or personal watercraft is on waters of this state.

18 (c) Boat liveries are not required to have the certificate of number on board each motorboat, sailboat,  
19 or personal watercraft, but a rental agreement must be carried on board livery motorboats, sailboats, or personal  
20 watercraft in place of the certificate of number.

21 ~~(11)~~(10) An owner of a motorboat, sailboat, or personal watercraft shall within a reasonable time notify  
22 the department of justice, giving the motorboat's, sailboat's, or personal watercraft's identifying number and the  
23 owner's name if the motorboat, sailboat, or personal watercraft is transferred, lost, destroyed, or abandoned or  
24 within 60 days after a change of the state of principal use or if a motorboat becomes documented as a vessel of  
25 the United States.

26 ~~(12) The department shall reimburse the department of justice for any programming costs necessary to~~  
27 ~~implement the provisions of this section that are incurred in fiscal year 2005."~~

28

29 **Section 70.** Section 23-2-525, MCA, is amended to read:

30 **"23-2-525. Restricted areas.** (1) A person may not anchor a vessel or other obstacle for fishing or

1 pleasure purposes on any body of water over which the state has jurisdiction in a position that obstructs a  
2 passageway ordinarily used by other vessels.

3 (2) A person may not operate a pleasure vessel within 20 feet of the exterior boundary of a water area  
4 that is clearly marked by buoys or some other distinguishing device as a bathing or swimming area. Swimming  
5 areas must be marked with white buoys having international orange markings in conformance with the uniform  
6 state waterway marking system by the owners of the areas.

7 (3) A person may not operate a vessel within 75 feet of a person engaged in fishing or hunting waterfowl,  
8 unless unavoidable. If unavoidable, the vessel must be operated at not greater than no-wake speed or at a  
9 minimum speed necessary to maintain upstream progress while within 75 feet of the person engaged in fishing  
10 or hunting waterfowl.

11 (4) (a) A person may not purposely, knowingly, or negligently operate a motorboat upon the waters of  
12 this state within 200 feet of a tow-float or buoy displaying a "diver-down" symbol, red with a white slash, on a flag.

13 (b) The motorboat may enter the 200-foot safety zone by use of sail or oar. In an emergency or if there  
14 is insufficient water on either side of the 200-foot safety zone to pass by and stay out of the zone, the operator  
15 may use power within the zone but may not exceed no-wake speed. The burden of proving that an emergency  
16 exists or that there is insufficient water is on the operator.

17 (c) ~~The fish, wildlife, and parks commission~~ board may by rule determine areas where establishment of  
18 a 200-foot safety zone is not allowed in order to provide for diver safety or the regulation of water traffic."

19

20 **Section 71.** Section 23-2-527, MCA, is amended to read:

21 **"23-2-527. Collisions, accidents, and casualties.** (1) The operator of a vessel involved in a collision,  
22 accident, or other casualty, so far as the operator can do so without serious danger to the operator's own vessel,  
23 crew, and passengers, shall render to other persons affected by the collision, accident, or other casualty  
24 assistance that may be practicable and that may be necessary in order to save them from or minimize any danger  
25 caused by the collision, accident, or other casualty. The operator shall give the operator's name, address, and  
26 identification of the operator's vessel in writing to any person injured and to the owner or person in control of any  
27 property damaged in the collision, accident, or other casualty.

28 (2) The department shall prepare and distribute to each sheriff's office, ~~and each game warden of this~~  
29 state park ranger, or other authorized officer of the department a standardized accident report form. A person  
30 involved in a collision, accident, or other casualty involving a death, disappearance, personal injury, or property

1 damage in excess of \$100 shall immediately report the collision, accident, or other casualty to the sheriff's office,  
 2 ~~or game warden or park ranger, or other authorized officer of the department in~~ the county in which the collision,  
 3 accident, or casualty occurred and fill out a standardized accident report form.

4 (3) A sheriff advised of a collision, accident, or other casualty reported under this part shall:

5 (a) conduct an appropriate investigation of the collision, accident, or other casualty; and

6 (b) prepare and submit a report of the results of the investigation, together with the completed  
 7 standardized accident report forms, to the department."  
 8

9 **Section 72.** Section 23-2-529, MCA, is amended to read:

10 **"23-2-529. Waterskis and surfboards.** (1) A person may not operate a motorboat or vessel on any  
 11 waters of this state for the purpose of towing a person or persons on waterskis, a surfboard, or similar device  
 12 unless the operator is accompanied by an observer. If the operator is 12 years of age or younger, there must be  
 13 a second person, at least 18 years of age, in the vessel to observe the person being towed. ~~The fish, wildlife, and~~  
 14 ~~parks commission board~~ shall adopt rules regarding the proper observation and safe towing of persons on  
 15 waterskis or similar devices, based on density of use of a body of water.

16 (2) A person may not operate a motorboat or vessel towing a person engaged in waterskiing,  
 17 surfboarding, or similar activity or towing some other contrivances nor may a person engage in those activities  
 18 at any time between the hours from sunset to sunrise, except that this subsection does not apply to a performer  
 19 engaged in a professional exhibition or a person engaged in a regatta or race authorized under this part.

20 (3) All right-of-way rules applying to a towing vessel apply to a person being towed."  
 21

22 **Section 73.** Section 23-2-531, MCA, is amended to read:

23 **"23-2-531. Personal watercraft operation.** In addition to applicable provisions in this part, a person may  
 24 not operate a personal watercraft:

25 (1) unless a person operating or riding on the vessel is wearing a United States coast guard approved  
 26 type I, II, III, or V personal flotation device;

27 (2) if the vessel is equipped by the manufacturer with a lanyard type engine cutoff switch unless the  
 28 lanyard is attached to the operator's person, clothing, or personal flotation device as is appropriate for the specific  
 29 vessel;

30 (3) (a) except as provided for standup personal watercraft in subsection (3)(b) or when towing a

1 waterskier from or to a dock or shore, at greater than no-wake speed within 200 feet of a dock, swimmer,  
2 swimming raft, nonmotorized boat, or anchored vessel on a lake or river;

3 (b) at greater than the minimum speed necessary to operate a personal watercraft when leaving or  
4 returning directly from or to a dock or shore for the purpose of launching or docking; or

5 (4) on any surface waters restricted in whole or in part by rule of the ~~fish, wildlife, and parks commission~~  
6 board;

7 (5) in a reckless or negligent manner. Actions prohibited in 23-2-523 are considered reckless operation."  
8

9 **Section 74.** Section 23-2-534, MCA, is amended to read:

10 **"23-2-534. Funding of state recreational boating safety program -- certification of county**  
11 **programs -- administration by counties.** (1) The department may in its discretion use available state funds and  
12 federal matching funds to contract with other state agencies and counties to implement designated parts of the  
13 state recreational boating safety program. If a county accepts a grant, the county shall agree to implement a  
14 program that is certified by the department as fulfilling the requirements of the state recreational boating safety  
15 program.

16 (2) A county may allocate funds to the department for the recreational boating safety program. This  
17 money must be used by the department for contracts with counties for the recreational boating safety program."  
18

19 **Section 75.** Section 23-2-536, MCA, is amended to read:

20 **"23-2-536. Creation of boating advisory council -- appointment of members -- duties.** (1) The  
21 department director ~~appointed under 2-15-3401~~ shall appoint a boating advisory council to advise the department  
22 on the expenditure of funds in the motorboat account in the state special revenue fund.

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

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

27 (4) All costs associated with the boating advisory council must be paid from the motorboat account in  
28 the state special revenue fund. Council members are not entitled to compensation or travel expenses as provided  
29 in 2-15-122."  
30

1           **Section 76.** Section 23-2-601, MCA, is amended to read:

2           "**23-2-601. Definition of terms.** As used in ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-618,~~  
3 ~~23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644~~ this part, unless the context  
4 requires otherwise, the following definitions apply:

5           (1) "Board" means the state parks, recreation, and heritage board provided for in [section 1].

6           ~~(1)(2)~~ (2) "Certificate of registration" means the owner's receipt evidencing payment of fees due in order for  
7 the snowmobile to be validly registered.

8           ~~(2)(3)~~ (3) "Certificate of title" means the document issued by the department of justice as prima facie  
9 evidence of ownership.

10           ~~(3)(4)~~ (4) "dbA" means sound pressure level measured on the "A" weight scale in decibels.

11           ~~(4)(5)~~ (5) "Department" means the department of ~~fish, wildlife, and parks of the state of Montana~~ commerce  
12 established in 2-15-1801.

13           ~~(5)(6)~~ (6) "New snowmobile" means a snowmobile that has not been previously sold to an owner.

14           ~~(6)(7)~~ (7) "Operator" includes each person who operates or is in actual physical control of the operation of  
15 a snowmobile.

16           ~~(7)(8)~~ (8) "Owner" includes each person, other than a lienholder or person having a security interest in a  
17 snowmobile, that holds a certificate of title to a snowmobile and is entitled to the use or possession of the  
18 snowmobile.

19           ~~(8)(9)~~ (9) "Person" means an individual, partnership, association, corporation, and any other body or group  
20 of persons, regardless of the degree of formal organization.

21           ~~(9)(10)~~ (10) "Registration decal" means an adhesive sticker produced and issued by the department of  
22 justice, its authorized agent, or a county treasurer to the owner of a snowmobile as proof of payment of all fees  
23 imposed for the registration period indicated on the sticker as recorded by the department of justice under  
24 61-3-101.

25           ~~(10)(11)~~ (11) "Roadway" means only those portions of a highway, road, or street improved, designed, or  
26 ordinarily used for travel or parking of motor vehicles.

27           ~~(11)(12)~~ (12) "Snowmobile" means a self-propelled vehicle of an overall width of 48 inches or less, excluding  
28 accessories, designed primarily for travel on snow or ice, that may be steered by skis or runners and that is not  
29 otherwise registered or licensed under the laws of the state of Montana.

30           (13) "Snowmobile area" means those areas designated as snowmobile trails or areas open to the

1 operation of snowmobiles.

2 (14) "Snowmobile area operators" means those persons responsible for the maintenance of snowmobile  
 3 trails and for the designation of open areas or those persons providing rental snowmobile equipment. Operators  
 4 may include but are not limited to the United States forest service, the department, the Montana snowmobile  
 5 association, individual snowmobile clubs, landowners or their tenants, persons who offer snowmobile equipment  
 6 for rent, and private trail grooming contractors.

7 (15) "Snowmobiler" means any person operating or riding a snowmobile."

8

9 **Section 77.** Section 23-2-614, MCA, is amended to read:

10 **"23-2-614. Exemptions.** (1) (a) ~~The provisions of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through~~  
 11 ~~23-2-618, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644 with With respect to~~  
 12 ~~registration, registration decals, certificates of title, and certificates of ownership, the provisions of this part do not~~  
 13 ~~apply to snowmobiles owned or used by the United States or another state or any agency or political subdivision~~  
 14 ~~of the United States or another state.~~

15 (b) Snowmobiles owned by the state of Montana or any agency or political subdivision of this state are  
 16 exempt only from the payment of fees and must otherwise comply with all the requirements of ~~23-2-601,~~  
 17 ~~23-2-602, 23-2-611, 23-2-614 through 23-2-618, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641~~  
 18 ~~through 23-2-644 this part.~~

19 (2) ~~The provisions of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-618, 23-2-621, 23-2-622,~~  
 20 ~~23-2-631 through 23-2-635, and 23-2-641 through 23-2-644 with With respect to registration, registration decals,~~  
 21 ~~certificates of title, and certificates of ownership, the provisions of this part do not apply to unregistered~~  
 22 ~~snowmobiles owned by nonresidents of Montana who either:~~

23 (a) display visual proof that a nonresident temporary-use snowmobile permit has been purchased; or

24 (b) use the snowmobile only in races and for not more than 30 days in the state. "Race" means an  
 25 organized competition on a predetermined course that is run according to accepted rules."

26

27 **Section 78.** Section 23-2-631, MCA, is amended to read:

28 **"23-2-631. Operation on public roads, streets, and highways.** (1) A person may not operate a  
 29 snowmobile upon a controlled-access highway or facility at any time. Snowmobile operation is permitted on the  
 30 roadway or shoulder of any public road or highway, state highway, county road, or city street located within the



1 boundaries of any municipality only in the event that:

2 (a) the street, road, or highway is drifted or covered by snow to the extent that travel on the street, road,  
3 or highway by other motor vehicles is impractical or impossible;

4 (b) the operator has received permission or is otherwise authorized for that travel by the municipality in  
5 the case of town or city streets, the board of county commissioners for county roads, or the state highway patrol  
6 for all other highways; or

7 (c) operation has been authorized on municipal streets by a municipal ordinance.

8 (2) A snowmobile may make a direct crossing of a street or highway whenever the crossing is necessary  
9 to get to another authorized area of operation. The crossing must be made at an angle of approximately 90  
10 degrees to the direction of traffic at a place where no obstruction prevents a quick and safe crossing. The  
11 snowmobile must make a complete stop before entering upon any part of the traffic way, and the operator shall  
12 yield the right-of-way to all oncoming traffic.

13 (3) A snowmobile may not be operated upon a public street or highway when permitted to do so by  
14 ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-618, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and~~  
15 ~~23-2-641 through 23-2-644~~ under the provisions of this part unless equipped with at least one headlamp and one  
16 taillamp, which must be lighted at all times during operation, and unless equipped with a suitable braking device  
17 operable by either hand or foot.

18 (4) (a) Unless operation is otherwise allowed under subsection (4)(b) or (4)(c), the operator of a  
19 snowmobile who operates the snowmobile upon a public roadway, street, or highway when allowed to do so  
20 under the provisions of ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-618, 23-2-621, 23-2-622, 23-2-631~~  
21 ~~through 23-2-635, and 23-2-641 through 23-2-644~~ this part must have in possession a license to drive a motor  
22 vehicle as required by the laws of the state of Montana.

23 (b) The operator of a snowmobile may operate the snowmobile upon a public roadway, street, or highway  
24 when allowed to do so under the provisions of ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-618,~~  
25 ~~23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644~~ this part if the operator:

26 (i) has in possession a certificate showing the successful completion of a Montana-approved snowmobile  
27 safety education course; and

28 (ii) is in the physical presence and under the supervision of a person who is 18 years of age or older.

29 (c) An operator who crosses a street, road, or highway, who operates a snowmobile upon a street, road,  
30 or highway that is drifted or covered with snow to the extent that travel on the street, road, or highway by other

1 motor vehicles is impractical or impossible, or who operates a snowmobile in any other areas of the state where  
2 operation is lawfully permitted is not required to apply for or possess a driver's license under the laws of the state  
3 of Montana."

4

5 **Section 79.** Section 23-2-633, MCA, is amended to read:

6 **"23-2-633. Other unlawful operation.** A person while operating a snowmobile may not:

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

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

14 (3) operate the snowmobile without a lighted headlight and taillight between the hours of dusk and  
15 dawn."

16

17 **Section 80.** Section 23-2-634, MCA, is amended to read:

18 **"23-2-634. Regulation of snowmobile noise.** (1) Except as provided in this section, each snowmobile  
19 must be equipped at all times with noise-suppression devices, including an exhaust muffler in good working order  
20 and in constant operation. A snowmobile may not be modified by any person in any manner that will amplify or  
21 otherwise increase total noise emissions to a level greater than that emitted by the snowmobile as originally  
22 constructed, regardless of date of manufacture.

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

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

1 (4) A manufacturer who certifies that a new snowmobile can comply with the noise limitation  
 2 requirements of ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-618, 23-2-621, 23-2-622, 23-2-631 through~~  
 3 ~~23-2-635, and 23-2-641 through 23-2-644~~ this part shall affix a permanent notice of that certification to every  
 4 snowmobile offered for sale in the state of Montana.

5 (5) In certifying that a new snowmobile can comply with the noise limitation requirements of ~~23-2-601,~~  
 6 ~~23-2-602, 23-2-611, 23-2-614 through 23-2-618, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641~~  
 7 ~~through 23-2-644~~ this part, a manufacturer shall make the certification based upon measurements made in  
 8 accordance with SAE recommended practice J192, as amended. The department, in enforcing the provisions  
 9 of this section, shall make measurements of snowmobile noise in accordance with applicable practices outlined  
 10 in the "Procedure for Sound Level Measurements of Snowmobiles" (January, 1969), as amended, used by the  
 11 international snowmobile industry association or with other standards for measurement of sound level that the  
 12 department may adopt.

13 (6) This section does not apply to organized races or similar competitive events held on:  
 14 (a) private lands or waters, with the permission of the owner, lessee, or custodian of the land or waters;  
 15 or  
 16 (b) public lands or waters, with the consent of the public agency having the authority to grant consent."  
 17

18 **Section 81.** Section 23-2-641, MCA, is amended to read:

19 **"23-2-641. Enforcement.** (1) With respect to the sale of any new snowmobile that is subject to the  
 20 provisions of ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-618, 23-2-621, 23-2-622, 23-2-631 through~~  
 21 ~~23-2-635, and 23-2-641 through 23-2-644~~ this part, the attorney general shall, upon the request of the  
 22 department, sue for the recovery of the penalties provided in 23-2-642 and bring an action for a restraining order  
 23 or temporary or permanent injunction against a person who sells or offers to sell a new snowmobile that does not  
 24 satisfy the sound level limitations imposed by ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-618,~~  
 25 ~~23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644~~ this part.

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

29 (i) of search, seizure, and arrest;  
 30 (ii) to investigate activities in this state regulated by this part and rules of the department and the fish,

1 ~~wildlife, and parks commission board~~; and

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

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

5

6 **Section 82.** Section 23-2-642, MCA, is amended to read:

7 "**23-2-642. Penalties.** (1) The failure to display a current registration decal on a snowmobile is a  
8 misdemeanor, punishable by a fine in an amount equal to five times the applicable registration fee payable under  
9 61-3-321.

10 (2) A person who violates any other provision of ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through~~  
11 ~~23-2-618, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644~~ this part or a rule  
12 adopted pursuant to ~~those sections~~ this part shall pay a civil penalty of not less than \$15 or more than \$500 for  
13 each separate violation. If the violation is willful, the person shall pay a civil penalty of not less than \$50 or more  
14 than \$1,000 for each separate violation.

15 (3) A manufacturer who certifies that a new snowmobile meets the sound level limitations imposed by  
16 ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-618, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and~~  
17 ~~23-2-641 through 23-2-644~~ this part is subject to the penalty provisions of subsection (2) if the machine so  
18 certified does not meet the appropriate sound level limitation. For the purposes of this section, each sale of a new  
19 snowmobile that does not meet the sound level limitations imposed by ~~23-2-601, 23-2-602, 23-2-611, 23-2-614~~  
20 ~~through 23-2-618, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644~~ this part  
21 constitutes a separate violation."

22

23 **Section 83.** Section 23-2-644, MCA, is amended to read:

24 "**23-2-644. Deposit of funds from fines and forfeitures.** All fines and forfeitures collected ~~under~~  
25 ~~23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-618, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and~~  
26 ~~23-2-641 through 23-2-644~~ for a violation of this part relating to snowmobiles, except those collected by a justice's  
27 court, must be transmitted to the state, as provided in 15-1-504, for deposit in the state general fund."

28

29 **Section 84.** Section 23-2-801, MCA, is amended to read:

30 "**23-2-801. Definition.** (†) As used in this part, the following definitions apply:

1           (1) "Board" means the state parks, recreation, and heritage board provided for in [section 1].

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

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

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

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

9           ~~(b)~~(ii) snowmobiles; or

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

12

13           **Section 85.** Section 23-2-806, MCA, is amended to read:

14           "**23-2-806. Enforcement.** (1) ~~The department of fish, wildlife, and parks enforcement personnel, park~~  
15 ~~rangers,~~ Authorized officers of the department, sheriffs and their deputies, the Montana highway patrol, and the  
16 police of each municipality shall enforce the provisions of this part.

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

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

21           (b) to investigate activities in this state regulated by this part and rules of the department and the ~~fish,~~  
22 ~~wildlife, and parks commission~~ board; and

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

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

25

26           **Section 86.** Section 23-2-814, MCA, is amended to read:

27           "**23-2-814. Nonresident temporary-use permits.** (1) An off-highway vehicle that is owned by a  
28 nonresident and that is not registered in another state of the United States or in another country may not be  
29 operated by a person in Montana unless a nonresident temporary-use permit is obtained.

30           (2) The requirements pertaining to a nonresident temporary-use permit for an off-highway vehicle are

1 as follows:

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

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

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

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

7 (b) Upon submission of the application and a fee of \$5, a nonresident off-highway vehicle temporary-use  
8 sticker must be issued. The sticker must be displayed in a conspicuous manner on the off-highway vehicle. The  
9 sticker is the temporary-use permit.

10 (3) The temporary-use permit is valid for the calendar year designated on the permit.

11 (4) The permit is not proof of ownership, and a certificate of title may not be issued.

12 (5) All money collected by payment of fees under this section must be transmitted to the department of  
13 revenue for deposit in the state general fund.

14 (6) Failure to display the permit as required by this section or making false statements in obtaining the  
15 permit is a misdemeanor and is punishable by a fine of not less than \$25 or more than \$100. All fines collected  
16 under this section must be transmitted to the department of revenue for deposit in the state general fund."

17

18 **Section 87.** Section 27-1-721, MCA, is amended to read:

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

25

26 **Section 88.** Section 37-47-201, MCA, is amended to read:

27 **"37-47-201. Powers and duties of board relating to outfitters, guides, and professional guides.**

28 The board shall:

29 (1) cooperate with the federal government in matters of mutual concern regarding the business of  
30 outfitting and guiding in Montana;

- 1 (2) enforce the provisions of this chapter and rules adopted pursuant to this chapter;
- 2 (3) establish outfitter standards, guide standards, and professional guide standards;
- 3 (4) adopt:
- 4 (a) rules to administer and enforce this chapter, including rules prescribing all requisite qualifications for
- 5 licensure as an outfitter, guide, or professional guide. Qualifications for outfitters must include training, testing,
- 6 experience in activities similar to the service to be provided, knowledge of rules of governmental bodies pertaining
- 7 to outfitting and condition and type of gear and equipment, and the filing of an operations plan.
- 8 (b) any reasonable rules, not in conflict with this chapter, necessary for safeguarding the public health,
- 9 safety, and welfare, including evidence of qualification and licensure under this chapter for any person practicing
- 10 or offering to practice as an outfitter, guide, or professional guide;
- 11 (c) rules specifying standards for review and approval of proposed new operations plans involving
- 12 hunting use or the proposed expansion of net client hunter use, as set forth in 37-47-316 and 37-47-317, under
- 13 an outfitter's existing operations plan. Approval is not required when part or all of an existing operations plan is
- 14 transferred from one licensed outfitter to another licensed outfitter. Rules adopted pursuant to this section must
- 15 provide for solicitation and consideration of comments from hunters and sportspersons in the area to be affected
- 16 by the proposal who do not make use of outfitter services.
- 17 (d) rules establishing outfitter reporting requirements. The reports must be filed annually and report
- 18 actual leased acreage actively used by clients during that year and actual leased acres unused by clients during
- 19 that year, plus any other information designated by the board and developed in collaboration with the department
- 20 of fish, ~~and wildlife, and parks~~ or the review committee established in 87-1-269 that is considered necessary to
- 21 evaluate the effectiveness of the hunter management and hunting access enhancement programs.
- 22 (5) hold hearings and proceedings to suspend or revoke licenses of outfitters, guides, and professional
- 23 guides for due cause;
- 24 (6) maintain records of actual clients served by all Montana outfitters that fulfill the requirements of
- 25 subsection (4)(d)."

26

27 **Section 89.** Section 37-47-310, MCA, is amended to read:

28 **"37-47-310. Transfer or amendment of outfitter's license -- transfer of river-use days to new owner**

29 **of fishing outfitter business.** (1) An outfitter's license may not be transferred.

30 (2) An individual person may, upon proper showing, have that person's outfitter's license amended to

1 indicate that the license is being held for the use and benefit of a named proprietorship, partnership, or  
2 corporation.

3 (3) Subject to approval by the board, a person designated by the family of a deceased licensed outfitter  
4 may continue to outfit for the deceased outfitter's unexpired license year or until the heirs or personal  
5 representative of the estate sells the outfitting business or obtains relicensure of the business.

6 (4) (a) When a fishing outfitter's business is sold or transferred in its entirety, any river-use days that  
7 have been allocated to that fishing outfitter through the fishing outfitter's historic use of or activities on  
8 restricted-use streams are transferable to the new owner of the fishing outfitter's business. ~~Upon~~ Except as  
9 provided in subsection (4)(b), upon the sale or transfer of a fishing outfitter's business, the outfitter who sells or  
10 transfers the business shall notify the new owner that the use of any transferred river-use days is subject to  
11 change pursuant to rules adopted by the fish, and wildlife, ~~and parks~~ commission and that a property right does  
12 not attach to the transferred river-use days.

13 (b) Any transferred river-use days on the Smith River are subject to change pursuant to rules adopted  
14 by the state parks, recreation, and heritage board pursuant to 23-2-408. "

15

16 **Section 90.** Section 37-47-317, MCA, is amended to read:

17 **"37-47-317. Criteria for board evaluation of NCHU expansion request -- public comments.** (1) The  
18 criteria listed in subsection (2) must be applied by the board in evaluating and deciding whether to grant an NCHU  
19 expansion request. The criteria must be considered in light of the cumulative effect of the current expansion  
20 request and any previously approved expansion requests. The board may not approve an expansion request  
21 unless, by a preponderance of the evidence, a reasonable person would conclude that the criteria support an  
22 expansion request.

23 (2) An NCHU expansion request may not be granted if any of the following criteria are established:

24 (a) The request creates closure of a public right-of-way.

25 (b) The requestor has current license restrictions imposed by the board or is currently subject to a  
26 disciplinary action imposed by the board.

27 (c) The requestor has been convicted or pleaded guilty to a violation of Montana hunting or fishing  
28 statutes, rules, or regulations in the last 3 years.

29 (d) Any information in the request is inaccurate or untrue.

30 (e) The request does not cover adequate land to ensure the personal safety of hunters.



1 (f) Sufficient wildlife is not available to support the proposed number of hunters covered under the  
2 request.

3 (g) The proposed expansion would create or exacerbate a game damage situation.

4 (h) The proposed expansion would restrict the current efforts of the department of fish; and wildlife; ~~and~~  
5 ~~parks~~ to manage area wildlife through permits issued to public hunters.

6 (3) Failure by a requestor to provide all pertinent information and documentation will result in the  
7 expansion request being deferred without action until the subsequent meeting of the board. If the requestor fails  
8 to provide the pertinent information and documentation before the subsequent board meeting, the request must  
9 be denied.

10 (4) Public comments concerning an NCHU expansion must be solicited and compiled by the department  
11 of fish; and wildlife; ~~and parks~~ from affected recreationists and recreationist organizations, public land  
12 management agencies, affected landowners and landowner organizations, affected outfitters and outfitter  
13 organizations, and the general public. Public comment must be solicited through the issuance of press releases  
14 and by identification of proposed leased private land by its popular description. The department of fish; and  
15 wildlife; ~~and parks~~ shall incorporate the public comments into the analysis of the expansion request required  
16 under subsection (5). In addition, the board shall consider the public comments separately from the department  
17 of fish; ~~wildlife, and parks'~~ and wildlife's analysis.

18 (5) In considering an NCHU expansion request, the board shall also consider any analysis and  
19 comments submitted by the department of fish; and wildlife; ~~and parks~~. Departmental analysis may include but  
20 is not limited to the following criteria:

21 (a) whether historic hunting data, such as the past occurrence of outfitting or public hunting, supports  
22 the request;

23 (b) whether negative impacts to the wildlife population will occur, given documented wildlife trends in the  
24 geographical region encompassed by the expansion request;

25 (c) whether public access or public hunting trends in the geographic region affected by the request will  
26 be negatively impacted;

27 (d) whether there have been past substantiated conflicts between the hunting public and outfitters or  
28 between individual outfitters and their clients in the local geographic region affected by the request;

29 (e) if the expansion will create a negative effect on wildlife habitat;

30 (f) if the expansion will have negative implications on hunting on public land, hunting access, or outfitting;

1 (g) whether analysis of existing data regarding wildlife, hunting access, or other relevant information  
2 supports the expansion request; and

3 (h) whether there will be impacts on previously available hunting access in the local geographic region  
4 affected by the request, such as impact on the block management program.

5 (6) The outfitter making the expansion request shall address the criteria outlined in subsection (5) to the  
6 best of the outfitter's knowledge. The analysis required in subsection (5) must be compiled using information  
7 supplied by the applicant, through public comment, and through any other available data.

8 (7) In making its final decision regarding an expansion request, the board shall respond in the decision  
9 notice to comments received by outlining the comment and delineating how, if at all, the comment was  
10 incorporated into the final decision. The board shall also consider whether:

11 (a) the expansion will open private or public lands to public hunting that did not previously exist;

12 (b) the request addresses existing game damage by opening new public equivalent hunting opportunities  
13 for both outfitters and the public; and

14 (c) the expansion would directly restrict public access to public lands.

15 (8) For the purposes of this section, "right-of-way" means dedicated roads, such as county roads or  
16 forest service roads, or rights-of-way with historical use that have been established as legal public rights-of-way."

17

18 **Section 91.** Section 37-47-318, MCA, is amended to read:

19 **"37-47-318. Fees in addition to annual license fee -- allocation.** (1) In addition to the fees required  
20 in 37-47-306 for an outfitter providing hunting services, the following fees apply:

21 (a) An outfitter shall pay an annual fee of \$2 for each client served.

22 (b) An outfitter who is granted a net client hunter use expansion shall pay a fee of \$500 for each new  
23 client added to that outfitter's operations plan.

24 (c) (i) An outfitter who operates hunting camps in more than one department of fish, and wildlife, ~~and~~  
25 ~~parks~~ administrative region shall pay an annual fee of \$5,000 for each camp that is located beyond a 100-mile  
26 radius of the outfitter's base of operations and that is in an administrative region other than the region containing  
27 the outfitter's base of operations.

28 (ii) A fee is not required for the following:

29 (A) an outfitter's base of operations camp;

30 (B) camps established before January 1, 1999;

- 1 (C) camps established on public land when use is directly regulated by public land use policies; or  
 2 (D) camps on corporate timberlands where public access is not restricted.  
 3 (d) An outfitter who desires a net client hunter use expansion shall pay a nonrefundable fee of \$2,000  
 4 for each expansion request.

5 (2) Fees collected pursuant to this section must be expended by the board, pursuant to the authority in  
 6 37-47-306, and by the department of fish; ~~and wildlife, and parks~~, pursuant to the authority in 87-1-601, and used  
 7 to fund administrative costs related to implementation of this chapter. The fees collected must be allocated as  
 8 follows:

9 (a) Revenue generated by the \$2 fee imposed in subsection (1)(a), the \$500 fee imposed in subsection  
 10 (1)(b), and the \$2,000 fee imposed in subsection (1)(d) must be split equally between the board and the  
 11 department of fish; ~~and wildlife, and parks~~.

12 (b) Revenue generated by the \$5,000 fee imposed in subsection (1)(c) must be deposited in the state  
 13 special revenue fund to the credit of the board."  
 14

15 **Section 92.** Section 37-47-345, MCA, is amended to read:

16 **"37-47-345. Enforcement.** Investigations and arrests for violations of this chapter or rules adopted  
 17 pursuant to this chapter may be made by any peace officer; ~~1~~ warden of the department of fish; ~~and wildlife, and~~  
 18 ~~parks;~~ ~~2~~ or federal agency enforcement personnel."  
 19

20 **Section 93.** Section 40-5-701, MCA, is amended to read:

21 **"40-5-701. Definitions.** As used in this part, the following definitions apply:

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

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

25 (ii) a person under 19 years of age who is still in high school;

26 (iii) a person who is mentally or physically incapacitated when the incapacity began prior to that person  
 27 reaching 18 years of age; and

28 (iv) in IV-D cases, a person for whom:

29 (A) support rights are assigned under 53-2-613;

30 (B) a public assistance payment has been made;

1 (C) the department is providing support enforcement services under 40-5-203; or

2 (D) the department has received a referral for IV-D services under the provisions of the Uniform  
3 Interstate Family Support Act, the Revised Uniform Reciprocal Enforcement of Support Act, the Uniform  
4 Reciprocal Enforcement of Support Act, or Title IV-D of the Social Security Act.

5 (b) The term may not be construed to limit the ability of the department to enforce a support order  
6 according to its terms when the order provides for support extending beyond the time the child reaches 18 years  
7 of age.

8 (2) "Delinquency" means a support debt or support obligation due under a support order in an amount  
9 greater than or equal to 6 months' support payments as of the date of service of a notice of intent to suspend a  
10 license.

11 (3) "Department" means the department of public health and human services.

12 (4) "License" means a license, certificate, registration, permit, or any other authorization issued by an  
13 agency of the state of Montana granting a person a right or privilege to engage in a business, occupation,  
14 profession, recreational activity, or any other privilege that is subject to suspension, revocation, forfeiture,  
15 termination, or a declaration of ineligibility to purchase by the licensing authority prior to its date of expiration.

16 (5) "Licensing authority" means any department, division, board, agency, or instrumentality of this state  
17 that issues a license.

18 (6) "Obligee" means:

19 (a) a person to whom a support debt or support obligation is owed; or

20 (b) a public agency of this or another state or an Indian tribe that has the right to receive current or  
21 accrued support payments or that is providing support enforcement services under this chapter.

22 (7) "Obligor" means a person who owes a duty of support or who is subject to a subpoena or warrant  
23 in a paternity or child support proceeding.

24 (8) "Order suspending a license" means an order issued by a support enforcement entity to suspend a  
25 license. The order must contain the name of the obligor, the type of license, and, if known, the social security  
26 number of the obligor.

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

1 (10) "Recreational activity" means an activity for which a license or permit is issued by the department  
2 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  
3 87-2-505, 87-2-507, 87-2-508, or 87-2-510.

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

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

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

14 (13) "Support enforcement entity" means:

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

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

- 21 (i) a district court of this state;  
22 (ii) a court of appropriate jurisdiction of another state, an Indian tribe, or a foreign country;  
23 (iii) an administrative agency pursuant to proceedings under Title 40, chapter 5, part 2; or  
24 (iv) an administrative agency of another state or an Indian tribe with a hearing function and process  
25 similar to those of the department.

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

- 28 (i) judgments and orders providing periodic payments for the maintenance or support of the child's  
29 custodial parent; and  
30 (ii) amounts for the recovery of fines, fees, penalties, interest, and other funds and costs that the support

1 enforcement entity is authorized to collect by the use of any procedure available to the entity for the payment,  
2 enforcement, and collection of child support or spousal maintenance or support.

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

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

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

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

10 (b) a payment of public assistance;

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

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

15

16 **Section 94.** Section 44-4-115, MCA, is amended to read:

17 **"44-4-115. Fish, and wildlife, and parks enforcement program.** There is a fish; and wildlife; and parks  
18 enforcement program in the department of justice, which must be administered by the entity in the department  
19 that assists county attorneys with prosecutions. The program staff may investigate and may prosecute criminal  
20 cases concerning the violation of the laws administered by the department of fish; and wildlife; and parks. The  
21 program is under the supervision and control of the attorney general and consists of a half-time attorney licensed  
22 to practice law in Montana who may prosecute, or assist county attorneys and the department in the prosecution  
23 of, criminal violations of Title 87."

24

25 **Section 95.** Section 45-6-101, MCA, is amended to read:

26 **"45-6-101. Criminal mischief.** (1) A person commits the offense of criminal mischief if the person  
27 knowingly or purposely:

28 (a) injures, damages, or destroys any property of another or public property without consent;

29 (b) without consent tampers with property of another or public property so as to endanger or interfere  
30 with persons or property or its use;

1 (c) damages or destroys property with the purpose to defraud an insurer; or

2 (d) fails to close a gate previously unopened that the person has opened, leading in or out of any  
3 enclosed premises. This does not apply to gates located in cities or towns.

4 (2) A person convicted of criminal mischief must be ordered to make restitution in an amount and manner  
5 to be set by the court. The court shall determine the manner and amount of restitution after full consideration of  
6 the convicted person's ability to pay the restitution. Upon good cause shown by the convicted person, the court  
7 may modify any previous order specifying the amount and manner of restitution. Full payment of the amount of  
8 restitution ordered must be made prior to the release of state jurisdiction over the person convicted.

9 (3) A person convicted of the offense of criminal mischief shall be fined not to exceed \$1,500 or be  
10 imprisoned in the county jail for any term not to exceed 6 months, or both. If the offender commits the offense of  
11 criminal mischief and causes pecuniary loss in excess of \$1,500, injures or kills a commonly domesticated hoofed  
12 animal, or causes a substantial interruption or impairment of public communication, transportation, supply of  
13 water, gas, or power, or other public services, the offender shall be fined an amount not to exceed \$50,000 or  
14 be imprisoned in the state prison for a term not to exceed 10 years, or both.

15 (4) Amounts involved in criminal mischiefs committed pursuant to a common scheme or the same  
16 transaction, whether against the public or the same person or several persons, may be aggregated in determining  
17 pecuniary loss.

18 (5) A person convicted of or who forfeits bond or bail for committing an act of criminal mischief involving  
19 property owned or administered by the department of fish; ~~and wildlife, and parks~~ or the department of commerce  
20 pursuant to Title 23, chapter 1, is subject to an additional penalty as provided in 87-1-102(2)(e)."  
21

22 **Section 96.** Section 45-6-201, MCA, is amended to read:

23 **"45-6-201. Definition of enter or remain unlawfully.** (1) A person enters or remains unlawfully in or  
24 upon any vehicle, occupied structure, or premises when the person is not licensed, invited, or otherwise privileged  
25 to do so. Privilege to enter or remain upon land is extended either by the explicit permission of the landowner or  
26 other authorized person or by the failure of the landowner or other authorized person to post notice denying entry  
27 onto private land. The privilege may be revoked at any time by personal communication of notice by the  
28 landowner or other authorized person to the entering person.

29 (2) To provide for effective posting of private land through which the public has no right-of-way, the notice  
30 provided for in subsection (1) must satisfy the following requirements:

1 (a) notice must be placed on a post, structure, or natural object by marking it with written notice or with  
2 not less than 50 square inches of fluorescent orange paint, except that when metal fenceposts are used, the  
3 entire post must be painted; and

4 (b) the notice described in subsection (2)(a) must be placed at each outer gate and normal point of  
5 access to the property, including both sides of a water body crossing the property wherever the water body  
6 intersects an outer boundary line.

7 (3) To provide for effective posting of private land through which or along which the public has an  
8 unfenced right-of-way by means of a public road, a landowner shall:

9 (a) place a conspicuous sign no closer than 30 feet of the centerline of the roadway where it enters the  
10 private land, stating words substantially similar to "PRIVATE PROPERTY, NO TRESPASSING OFF ROAD NEXT  
11 ..... MILES"; or

12 (b) place notice, as described in subsection (2)(a), no closer than 30 feet of the centerline of the roadway  
13 at regular intervals of not less than one-fourth mile along the roadway where it borders unfenced private land,  
14 except that orange markings may not be placed on posts where the public roadway enters the private land.

15 (4) If property has been posted in substantial compliance with subsection (2) or (3), it is considered  
16 closed to public access unless explicit permission to enter is given by the landowner or the landowner's  
17 authorized agent.

18 (5) The department of fish, ~~and wildlife, and parks~~ shall attempt to educate and inform all persons holding  
19 hunting, fishing, or trapping licenses or permits by including on any publication concerning the licenses or permits,  
20 in condensed form, the provisions of this section concerning entry on private land. The department shall use  
21 public media, as well as its own publications, in attempting to educate and inform other recreational users of the  
22 provisions of this section. In the interests of providing the public with clear information regarding the public nature  
23 of certain unfenced rural rights-of-way, the department may develop and distribute posting signs that satisfy the  
24 requirements of subsection (3).

25 (6) For purposes of this section, "land" means land as defined in 70-15-102.

26 (7) Civil liability may not be imposed upon the owner or occupier of premises by reason of any privilege  
27 created by this section."

28

29 **Section 97.** Section 45-6-203, MCA, is amended to read:

30 **"45-6-203. Criminal trespass to property.** (1) Except as provided in 15-7-139, 70-16-111, and



1 76-13-116, a person commits the offense of criminal trespass to property if the person knowingly:

2 (a) enters or remains unlawfully in an occupied structure; or

3 (b) enters or remains unlawfully in or upon the premises of another.

4 (2) A person convicted of the offense of criminal trespass to property shall be fined not to exceed \$500  
5 or be imprisoned in the county jail for any term not to exceed 6 months, or both.

6 (3) A person convicted of or who forfeits bond or bail for committing an act of criminal trespass involving  
7 property owned or administered by the department of fish; ~~and wildlife, and parks~~ or the department of commerce  
8 pursuant to Title 23, chapter 1, or while hunting, fishing, or trapping is subject to an additional penalty as provided  
9 in 87-1-102(2)(f)."

10

11 **Section 98.** Section 45-8-109, MCA, is amended to read:

12 **"45-8-109. Civil disorder -- prohibited activities -- penalties -- exceptions.** (1) A person is guilty of  
13 a crime if, with one or more other persons, the person purposely or knowingly assembles for the purpose of  
14 training in, instructing in the use of, or practicing with any technique or means capable of causing property  
15 damage, bodily injury, or death, with the purpose of employing the training, instruction, or practice in a civil  
16 disorder.

17 (2) A person convicted of violating the provisions of subsection (1) is guilty of a felony and shall be  
18 imprisoned in the state prison for a period not to exceed 10 years or be fined not to exceed \$50,000, or both.

19 (3) Subsection (1) does not prohibit:

20 (a) an act protected pursuant to Article II of the Montana constitution;

21 (b) an act of a governmental military force;

22 (c) an act of a peace officer performed in the lawful performance of the officer's duties;

23 (d) an authorized activity of the department of fish; ~~and wildlife, and parks~~; the department of corrections; ~~;~~  
24 a law enforcement agency; ~~;~~ or the law enforcement academy;

25 (e) training in nonviolent civil disobedience techniques;

26 (f) lawful self-defense or defense of others or an activity intended to teach or practice self-defense or  
27 self-defense techniques; or

28 (g) a facility, program, or lawful activity related to firearms instruction or training intended to teach the  
29 safe handling and use of firearms or activities or sports related to recreational use or possession of firearms.

30 (4) Sections 45-8-107 through 45-8-109 do not apply to an employer or employees involved in a labor

1 dispute."

2

3 **Section 99.** Section 45-8-321, MCA, is amended to read:

4 **"45-8-321. Permit to carry concealed weapon.** (1) A county sheriff shall, within 60 days after the filing  
5 of an application, issue a permit to carry a concealed weapon to the applicant. The permit is valid for 4 years from  
6 the date of issuance. An applicant must be a United States citizen who is 18 years of age or older and who holds  
7 a valid Montana driver's license or other form of identification issued by the state that has a picture of the person  
8 identified. An applicant must have been a resident of the state for at least 6 months. Except as provided in  
9 subsection (2), this privilege may not be denied an applicant unless the applicant:

10 (a) is ineligible under Montana or federal law to own, possess, or receive a firearm;

11 (b) has been charged and is awaiting judgment in any state or federal crime that is punishable  
12 by incarceration for 1 year or more;

13 (c) subject to the provisions of subsection (6), has been convicted in any state or federal court of:

14 (i) a crime punishable by more than 1 year of incarceration; or

15 (ii) regardless of the sentence that may be imposed, a crime that includes as an element of the crime an  
16 act, attempted act, or threat of intentional homicide, serious bodily harm, unlawful restraint, sexual abuse, or  
17 sexual intercourse or contact without consent;

18 (d) has been convicted under 45-8-327 or 45-8-328, unless the applicant has been pardoned or 5 years  
19 have elapsed since the date of the conviction;

20 (e) has a warrant of any state or the federal government out for the applicant's arrest;

21 (f) has been adjudicated in a criminal or civil proceeding in any state or federal court to be an unlawful  
22 user of an intoxicating substance and is under a court order of imprisonment or other incarceration, probation,  
23 suspended or deferred imposition of sentence, treatment or education, or other conditions of release or is  
24 otherwise under state supervision;

25 (g) has been adjudicated in a criminal or civil proceeding in any state or federal court to be mentally ill,  
26 mentally defective, or mentally disabled and is still subject to a disposition order of that court; or

27 (h) was dishonorably discharged from the United States armed forces.

28 (2) The sheriff may deny an applicant a permit to carry a concealed weapon if the sheriff has reasonable  
29 cause to believe that the applicant is mentally ill, mentally defective, or mentally disabled or otherwise may be  
30 a threat to the peace and good order of the community to the extent that the applicant should not be allowed to

1 carry a concealed weapon. At the time an application is denied, the sheriff shall, unless the applicant is the  
2 subject of an active criminal investigation, give the applicant a written statement of the reasonable cause upon  
3 which the denial is based.

4 (3) An applicant for a permit under this section must, as a condition to issuance of the permit, be required  
5 by the sheriff to demonstrate familiarity with a firearm by:

6 (a) completion of a hunter education or safety course approved or conducted by the department of fish;  
7 ~~and wildlife, and parks~~ or a similar agency of another state;

8 (b) completion of a firearms safety or training course approved or conducted by the department of fish;  
9 ~~and wildlife, and parks~~, a similar agency of another state, a national firearms association, a law enforcement  
10 agency, an institution of higher education, or an organization that uses instructors certified by a national firearms  
11 association;

12 (c) completion of a law enforcement firearms safety or training course offered to or required of public or  
13 private law enforcement personnel and conducted or approved by a law enforcement agency;

14 (d) possession of a license from another state to carry a firearm, concealed or otherwise, that is granted  
15 by that state upon completion of a course described in subsections (3)(a) through (3)(c); or

16 (e) evidence that the applicant, during military service, was found to be qualified to operate firearms,  
17 including handguns.

18 (4) A photocopy of a certificate of completion of a course described in subsection (3), an affidavit from  
19 the entity or instructor that conducted the course attesting to completion of the course, or a copy of any other  
20 document that attests to completion of the course and can be verified through contact with the entity or instructor  
21 that conducted the course creates a presumption that the applicant has completed a course described in  
22 subsection (3).

23 (5) If the sheriff and applicant agree, the requirement in subsection (3) of demonstrating familiarity with  
24 a firearm may be satisfied by the applicant's passing, to the satisfaction of the sheriff or of any person or entity  
25 to which the sheriff delegates authority to give the test, a physical test in which the applicant demonstrates the  
26 applicant's familiarity with a firearm.

27 (6) A person, except a person referred to in subsection (1)(c)(ii), who has been convicted of a felony and  
28 whose rights have been restored pursuant to Article II, section 28, of the Montana constitution is entitled to  
29 issuance of a concealed weapons permit if otherwise eligible."  
30

1           **Section 100.** Section 50-53-209, MCA, is amended to read:

2           **"50-53-209. Cooperative agreements -- inspections.** (1) The department may enter into cooperative  
3 agreements with local boards of health to authorize those boards to act as agents of the department and to  
4 conduct inspections of and enforce applicable statutes and department rules relating to public swimming pools  
5 and public bathing places within the jurisdictions of the respective boards.

6           (2) The department or a local board of health, pursuant to a cooperative agreement, shall annually  
7 conduct:

8           (a) at least one full facility inspection and one critical point inspection of each public swimming pool or  
9 public bathing place operated throughout the year; and

10           (b) at least one full facility inspection of each seasonal public swimming pool or public bathing place.

11           (3) The department shall enter into cooperative agreements with the department of ~~fish, wildlife, and~~  
12 ~~parks~~ commerce and other state agencies that operate public swimming pools or public bathing places to address  
13 the enforcement of this chapter and rules adopted under this chapter."  
14

15           **Section 101.** Section 60-3-201, MCA, is amended to read:

16           **"60-3-201. Distribution and use of proceeds of gasoline dealers' license tax.** (1) All money received  
17 in payment of license taxes under the Distributor's Gasoline License Tax Act, except those amounts paid out of  
18 the department's suspense account for gasoline tax refund, must be used and expended as provided in this  
19 section. The portion of that money on hand at any time that is needed to pay highway bonds and interest on  
20 highway bonds when due and to accumulate and maintain a reserve for payment of highway bonds and interest,  
21 as provided in laws and in resolutions of the state board of examiners authorizing the bonds, must be deposited  
22 in the highway bond account in the debt service fund established by 17-2-102. After deductions for amounts paid  
23 out of the suspense account for gasoline tax refunds, the remainder is allocated as follows:

24           (a) 9/10 of 1% to the state park account;

25           (b) 15/28 of 1% to a snowmobile account in the state special revenue fund;

26           (c) 1/8 of 1% to an off-highway vehicle account in the state special revenue fund; and

27           (d) 1/25 of 1% to the aeronautics revenue fund of the department under the provisions of 67-1-301.

28           (e) The remainder of the money must be used:

29           (i) by the department on the highways in this state selected and designated by the commission;

30           (ii) for collection of the license taxes; and

1 (iii) for the enforcement of the Montana highway code under Article VIII, section 6, of the constitution of  
2 this state.

3 (2) The department shall, in expending this money, carry forward construction from year to year, using  
4 the money expended in accordance with this title. Nothing in this title conflicts with Title 23, U.S.C., and the rules  
5 by which it is administered.

6 (3) The department may enter into cooperative agreements with the national park service and the federal  
7 highway administration for the purpose of maintaining national park approach roads in Montana.

8 (4) Money credited to the state park account in the state special revenue fund may be used only for the  
9 creation, improvement, and maintenance of state parks where motorboating is allowed. The legislature finds that  
10 of all the fuel sold in the state for consumption in internal combustion engines, except fuel for which refunds have  
11 been made, not less than 9/10 of 1% is used for propelling boats on waterways of this state.

12 (5) (a) Money credited to the snowmobile account may be used only to develop and maintain facilities  
13 open to the general public at no admission cost, to promote snowmobile safety, for enforcement purposes, and  
14 for the control of noxious weeds.

15 (b) Of the amounts deposited in the snowmobile account:

16 (i) 13% of the amount deposited must be used by the department of ~~fish, wildlife, and parks~~ commerce  
17 to promote snowmobile safety and education and to enforce snowmobile laws. Two-thirds of the 13% deposited  
18 must be used to promote snowmobile safety and education and one-third of the 13% deposited must be used  
19 for the enforcement of snowmobile laws.

20 (ii) 1% of the amount deposited must be credited to the noxious weed management special revenue fund  
21 provided for in 80-7-816.

22 (c) The legislature finds that of all fuels sold in this state for consumption in internal combustion engines,  
23 except fuel for which refunds have been made, not less than 15/28 of 1% is used for propelling registered  
24 snowmobiles in this state.

25 (6) (a) Money credited to the off-highway vehicle account under subsection (1)(c) may be used only to  
26 develop and maintain facilities open to the general public at no admission cost, to repair areas that are damaged  
27 by off-highway vehicles, and to promote off-highway vehicle safety. Ten percent of the money deposited in the  
28 off-highway vehicle account must be used to promote off-highway vehicle safety. Up to 10% of the money  
29 deposited in the off-highway vehicle account may be used to repair areas that are damaged by off-highway  
30 vehicles.

1 (b) The legislature finds that of all fuel sold in this state for consumption in internal combustion engines,  
2 except fuel for which refunds have been made, not less than 1/8 of 1% is used for propelling off-highway vehicles  
3 in this state.

4 (7) Money credited to the aeronautics account of the department of transportation may be used only to  
5 develop, improve, and maintain facilities open to the public at no admission cost and to promote aviation safety.  
6 The legislature finds that of all the fuel sold in this state for consumption in internal combustion engines, except  
7 fuel for which refunds have been made, not less than 1/25 of 1% is used for propelling aircraft in this state."  
8

9 **Section 102.** Section 61-3-321, MCA, is amended to read:

10 **"61-3-321. Registration fees of vehicles and vessels -- certain vehicles exempt from registration**  
11 **fees -- disposition of fees.** (1) Except as otherwise provided in this section, registration fees must be paid upon  
12 registration or, if applicable, renewal of registration of motor vehicles, snowmobiles, watercraft, trailers,  
13 semitrailers, and pole trailers as provided in subsections (2) through (19):

14 (2) Unless a light vehicle is permanently registered under 61-3-562, the annual registration fee for light  
15 vehicles, trucks and buses under 1 ton, and logging trucks less than 1 ton is as follows:

16 (a) if the vehicle is 4 or less years old, \$217;

17 (b) if the vehicle is 5 through 10 years old, \$87; and

18 (c) if the vehicle is 11 or more years old, \$28.

19 (3) Except as provided in subsection (14), the one-time registration fee based on the declared weight  
20 of a trailer, semitrailer, or pole trailer is as follows:

21 (a) if the declared weight is less than 6,000 pounds, \$61.25; or

22 (b) if the declared weight is 6,000 pounds or more, \$148.25.

23 (4) Except as provided in subsection (14), the one-time registration fee for motor vehicles owned and  
24 operated solely as collector's items pursuant to 61-3-411, based on the weight of the vehicle, is as follows:

25 (a) 2,850 pounds and over, \$10; and

26 (b) under 2,850 pounds, \$5.

27 (5) Except as provided in subsection (14), the one-time registration fee for off-highway vehicles other  
28 than a quadricycle or motorcycle is \$61.25.

29 (6) The annual registration fee for heavy trucks, buses, and logging trucks in excess of 1 ton is \$22.75.

30 (7) (a) The annual registration fee for a motor home, based on the age of the motor home, is as follows:

- 1 (i) less than 2 years old, \$282.50;
- 2 (ii) 2 years old and less than 5 years old, \$224.25;
- 3 (iii) 5 years old and less than 8 years old, \$132.50; and
- 4 (iv) 8 years old and older, \$97.50.
- 5 (b) The owner of a motor home that is 11 years old or older and that is subject to the registration fee
- 6 under this section may permanently register the motor home upon payment of:
- 7 (i) a one-time registration fee of \$237.50;
- 8 (ii) unless a new set of license plates is being issued, an insurance verification fee of \$5, which must be
- 9 deposited in the account established under 61-6-158; and
- 10 (iii) if applicable, five times the renewal fees for personalized license plates under 61-3-406.
- 11 (8) (a) Except as provided in subsection (14), the one-time registration fee for motorcycles and
- 12 quadricycles registered for use on public highways is \$53.25, and the one-time registration fee for motorcycles
- 13 and quadricycles registered for both off-road use and for use on the public highways is \$114.50.
- 14 (b) An additional fee of \$16 must be collected for the registration of each motorcycle or quadricycle as
- 15 a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002.
- 16 (9) Except as provided in subsection (14), the one-time registration fee for travel trailers, based on the
- 17 length of the travel trailer, is as follows:
- 18 (a) under 16 feet in length, \$72; and
- 19 (b) 16 feet in length or longer, \$152.
- 20 (10) Except as provided in subsection (14), the one-time registration fee for a motorboat, sailboat,
- 21 personal watercraft, or motorized pontoon required to be numbered under 23-2-512 is as follows:
- 22 (a) for a personal watercraft or a motorboat, sailboat, or motorized pontoon less than 16 feet in length,
- 23 \$65.50;
- 24 (b) for a motorboat, sailboat, or motorized pontoon at least 16 feet in length but less than 19 feet in
- 25 length, \$125.50; and
- 26 (c) for a motorboat, sailboat, or motorized pontoon 19 feet in length or longer, \$295.50.
- 27 (11) (a) Except as provided in subsections (11)(b) and (14), the one-time registration fee for a
- 28 snowmobile is \$60.50.
- 29 (b) (i) A snowmobile that is licensed by a Montana business and is owned exclusively for the purpose
- 30 of daily rental to customers is assessed:

1 (A) a fee of \$40.50 in the first year of registration; and

2 (B) if the business reregisters the snowmobile for a second year, a fee of \$20.

3 (ii) If the business reregisters the snowmobile for a third year, the snowmobile must be permanently  
4 registered and the business is assessed the registration fee imposed in subsection (11)(a).

5 (12) (a) Except as provided in subsection (12)(b), a fee of \$10 must be collected when a new set of  
6 standard license plates, a new single standard license plate, or a replacement set of special license plates  
7 required under 61-3-332 is issued. The \$10 fee imposed under this subsection does not apply when previously  
8 issued license plates are transferred under 61-3-335. All registration fees imposed under this section must be  
9 paid if the vehicle to which the plates are transferred is not currently registered.

10 (b) Until January 1, 2015, an additional fee of \$15 must be collected if a vehicle owner elects to keep  
11 the same license plate number from license plates issued on or after January 1, 2006, but before January 1,  
12 2010, when replacement of those plates is required under 61-3-332(3).

13 (c) The fees imposed in this subsection (12) must be deposited in the account established under  
14 61-6-158, except that \$2 of the fee imposed in subsection (12)(a) must be deposited in the state general fund.

15 (13) The provisions of this part with respect to the payment of registration fees do not apply to and are  
16 not binding upon motor vehicles, trailers, semitrailers, snowmobiles, watercraft, or tractors owned or controlled  
17 by the United States of America or any state, county, city, or special district, as defined in 18-8-202, or to a vehicle  
18 or vessel that meets the description of property exempt from taxation under 15-6-201(1)(a), (1)(c), (1)(d), (1)(e),  
19 (1)(f), (1)(g), (1)(i), (1)(j), (1)(l), or (1)(m), 15-6-203, or 15-6-215, except as provided in 61-3-520.

20 (14) Whenever ownership of a trailer, semitrailer, pole trailer, off-highway vehicle, motorcycle,  
21 quadricycle, travel trailer, motor home, motorboat, sailboat, personal watercraft, motorized pontoon, snowmobile,  
22 or motor vehicle owned and operated solely as a collector's item pursuant to 61-3-411 is transferred, the new  
23 owner shall title and register the vehicle or vessel as required by this chapter and pay the fees imposed under  
24 this section.

25 (15) A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section.

26 (16) Except as otherwise provided in this section, revenue collected under this section must be deposited  
27 in the state general fund.

28 (17) The fees imposed by subsections (2) through (11) are not required to be paid by a dealer for the  
29 enumerated vehicles or vessels that constitute inventory of the dealership.

30 (18) (a) Unless a person exercises the option in subsection (18)(b), an additional fee of ~~\$4~~ \$5 must be



1 collected for each light vehicle registered under this part. This fee must be accounted for and transmitted  
 2 separately from the registration fee. ~~The fee must be deposited in an account in the state special revenue fund~~  
 3 ~~to be used for state parks, for fishing access sites, and for the operation of state-owned facilities.~~ Of the \$4 \$5  
 4 fee, ~~the department of fish, wildlife, and parks shall use \$3.50~~

5 (i) \$4.50 must be deposited in the state special revenue account established in 23-1-105 and used for  
 6 state parks;

7 (ii) 25 cents must be deposited in an account in the state special revenue fund to the credit of the  
 8 department of fish and wildlife and used for fishing access sites; and

9 (iii) 25 cents must be deposited in the Montana heritage preservation and development account  
 10 established in 22-3-1004 and used for the operation of state-owned facilities at Virginia City and Nevada City.

11 (b) A person who registers a light vehicle may, at the time of annual registration, certify that the person  
 12 does not intend to use the vehicle to visit state parks and fishing access sites and may make a written election  
 13 not to pay the additional \$4 \$5 fee provided for in subsection (18)(a). If a written election is made, the fee may  
 14 not be collected.

15 (19) For each light vehicle, trailer, semitrailer, pole trailer, heavy truck, motor home, motorcycle,  
 16 quadricycle, and travel trailer subject to a registration fee under this section, an additional fee of \$5 must be  
 17 collected and forwarded to the state for deposit in the account established in 44-1-504.

18 (20) This section does not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is governed by  
 19 61-3-721."

20

21 **Section 103.** Section 61-5-104, MCA, is amended to read:

22 **"61-5-104. Exemptions.** (1) The following persons are exempt from licensure under this chapter:

23 (a) a person who is a member of the armed forces of the United States while operating a motor vehicle  
 24 owned by or leased to the United States government and being operated on official business;

25 (b) a person who is a member of the armed forces of the United States on active duty in Montana who  
 26 holds a valid license issued by another state and the spouse of the person who holds a valid license issued by  
 27 another state and who is not employed in Montana, except as a member of the armed forces. If a spouse of a  
 28 member of the armed forces becomes gainfully employed in Montana, the spouse must be licensed, as required  
 29 by 61-5-102, within 90 days of becoming employed.

30 (c) a person on active duty in the armed forces of the United States and in immediate possession of a

1 valid license issued to that person in a foreign country by the armed forces of the United States, for a period of  
2 45 days from the date of the person's return to the United States;

3 (d) a person who temporarily drives, operates, or moves a road machine, farm tractor, as defined in  
4 61-9-102, or implement of husbandry for use in intrastate commerce on a highway;

5 (e) a person who is a locomotive engineer, assistant engineer, conductor, brake tender, railroad utility  
6 person, or other member of the crew of a railroad locomotive or train being operated upon rails, including  
7 operation on a railroad crossing a public street, road, or highway. A person employed as described in this  
8 subsection is not required to display a driver's license to a law enforcement officer in connection with the  
9 operation of a railroad train within Montana.

10 (f) a person who temporarily drives, operates, or moves an off-highway vehicle on a forest development  
11 road in this state, as defined in 61-8-110, that has been designated and approved for off-highway vehicle use by  
12 the United States forest service if the person:

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

14 (ii) at the time of driving, operating, or moving the off-highway vehicle, has in the person's possession  
15 a certificate showing the successful completion of an off-highway vehicle safety education course approved by  
16 the department of ~~fish, wildlife, and parks~~ commerce and is in the physical presence of a person who possesses  
17 a license issued under this chapter.

18 (2) A nonresident who is at least 15 years of age and who is in immediate possession of a valid  
19 operator's license issued to the nonresident by the nonresident's home state or country may operate a motor  
20 vehicle, except a commercial motor vehicle, in this state.

21 (3) (a) A nonresident who is in immediate possession of a valid commercial driver's license issued to the  
22 nonresident by the nonresident's home jurisdiction, in accordance with the licensing and testing standards of 49  
23 CFR, part 383, may operate a commercial motor vehicle in this state.

24 (b) For the purpose of this chapter, "jurisdiction" means a state, territory, or possession of the United  
25 States, the District of Columbia, a province or territory of Canada, or the federal district of Mexico.

26 (4) A nonresident who is at least 18 years of age, whose home state or country does not require the  
27 licensing of operators, may operate a motor vehicle as an operator only, for a period of not more than 90 days  
28 in any calendar year, if the motor vehicle is registered in the home state or country of the nonresident.

29 (5) (a) A driver's license issued under this chapter to a person who enters the United States armed  
30 forces, if valid and in effect at the time that the person enters the service, continues in effect so long as the

1 service continues, unless the license is suspended, revoked, or canceled for a cause as provided by law, and  
2 for up to 30 days following the date on which the licensee is honorably separated from the service.

3 (b) A person serving in the United States armed forces may renew the person's driver's license at any  
4 point of the person's service, and any renewed license continues in effect as long as the service continues, unless  
5 the license is suspended, revoked, or canceled for a cause as provided by law, and for up to 30 days following  
6 the date on which the licensee is honorably separated from the service.

7 (c) A person serving in the United States armed forces may apply for a Montana driver's license upon  
8 meeting the requirements in 61-5-103, and this license continues in effect as long as the service continues,  
9 unless the license is suspended, revoked, or canceled for a cause as provided by law, and for up to 30 days  
10 following the date on which the licensee is honorably separated from the service."

11

12 **Section 104.** Section 70-16-302, MCA, is amended to read:

13 **"70-16-302. (Temporary) Restriction on liability of landowner -- definitions.** (1) A person who uses  
14 property, including property owned or leased by a public entity, for recreational purposes, with or without  
15 permission, does so without any assurance from the landowner that the property is safe for any purpose if the  
16 person does not give a valuable consideration to the landowner in exchange for the recreational use of the  
17 property. The landowner owes the person no duty of care with respect to the condition of the property, except  
18 that the landowner is liable to the person for any injury to person or property for an act or omission that constitutes  
19 willful or wanton misconduct. For purposes of this section, valuable consideration does not include the state land  
20 recreational use license fee imposed under 77-1-802 or other funds provided under 77-1-815.

21 (2) As used in this part, the following definitions apply:

22 (a) (i) "Airstrip" means improved or unimproved landing areas on private land used by pilots to land, park,  
23 take off, unload, load, and taxi aircraft.

24 (ii) The term does not include municipal airports governed under Title 67, chapter 10, part 1.

25 (b) "Flying of aircraft" means the operation of aircraft, including but not limited to landing, parking, taking  
26 off, unloading, loading, and taxiing of aircraft at an airstrip.

27 (c) "Landowner" means a person or entity of any nature, whether private, governmental, or  
28 quasi-governmental, and includes the landowner's agent, tenant, lessee, occupant, grantee of conservation  
29 easement, water users' association, irrigation district, drainage district, and persons or entities in control of the  
30 property or with an agreement to use or occupy property.

1 (d) "Property" means land, roads, airstrips, water, watercourses, and private ways. The term includes  
2 any improvements, buildings, structures, machinery, and equipment on property.

3 (3) The department of ~~fish, wildlife, and parks~~ commerce, when operating under an agreement with a  
4 landowner or tenant to provide recreational snowmobiling opportunities, including but not limited to a snowmobile  
5 area, subject to the provisions of subsection (1), on the landowner's property and when not also acting as a  
6 snowmobile area operator on the property, does not extend any assurance that the property is safe for any  
7 purpose, and the department, the landowner, or the landowner's tenant may not be liable to any person for any  
8 injury to person or property resulting from any act or omission of the department unless the act or omission  
9 constitutes willful or wanton misconduct. (Void on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)

10 **70-16-302. (Effective on occurrence of contingency) Restriction on liability of landowner --**  
11 **definitions.** (1) A person who uses property, including property owned or leased by a public entity, for  
12 recreational purposes, with or without permission, does so without any assurance from the landowner that the  
13 property is safe for any purpose if the person does not give a valuable consideration to the landowner in  
14 exchange for the recreational use of the property. The landowner owes the person no duty of care with respect  
15 to the condition of the property, except that the landowner is liable to the person for any injury to person or  
16 property for an act or omission that constitutes willful or wanton misconduct. For purposes of this section, valuable  
17 consideration does not include the state land recreational use license fee imposed under 77-1-802.

18 (2) As used in this part, the following definitions apply:

19 (a) (i) "Airstrip" means either improved or unimproved landing areas on private land used by pilots to  
20 land, park, take off, unload, load, and taxi aircraft.

21 (ii) The term does not include municipal airports governed under Title 67, chapter 10, part 1.

22 (b) "Flying of aircraft" means the operation of aircraft, including but not limited to landing, parking, taking  
23 off, unloading, loading, and taxiing of aircraft at an airstrip.

24 (c) "Landowner" means a person or entity of any nature, whether private, governmental, or  
25 quasi-governmental, and includes the landowner's agent, tenant, lessee, occupant, grantee of conservation  
26 easement, water users' association, irrigation district, drainage district, and persons or entities in control of the  
27 property or with an agreement to use or occupy property.

28 (d) "Property" means land, roads, airstrips, water, watercourses, and private ways. The term includes  
29 any improvements, buildings, structures, machinery, and equipment on property.

30 (3) The department of ~~fish, wildlife, and parks~~ commerce, when operating under an agreement with a

1 landowner or tenant to provide recreational snowmobiling opportunities, including but not limited to a snowmobile  
2 area, subject to the provisions of subsection (1), on the landowner's property and when not also acting as a  
3 snowmobile area operator on the property, does not extend any assurance that the property is safe for any  
4 purpose, and the department, the landowner, or the landowner's tenant may not be liable to any person for any  
5 injury to person or property resulting from any act or omission of the department unless the act or omission  
6 constitutes willful or wanton misconduct."

7

8 **Section 105.** Section 70-30-102, MCA, is amended to read:

9 **"70-30-102. Public uses enumerated.** Subject to the provisions of this chapter, the right of eminent  
10 domain may be exercised for the following public uses:

11 (1) all public uses authorized by the government of the United States;

12 (2) public buildings and grounds for the use of the state and all other public uses authorized by the  
13 legislature of the state;

14 (3) public buildings and grounds for the use of any county, city, town, or school district;

15 (4) canals, aqueducts, flumes, ditches, or pipes conducting water, heat, or gas for the use of the  
16 inhabitants of any county, city, or town;

17 (5) projects to raise the banks of streams, remove obstructions from streambanks, and widen, deepen,  
18 or straighten stream channels;

19 (6) water and water supply systems as provided in Title 7, chapter 13, part 44;

20 (7) roads, streets, alleys, controlled-access facilities, and other publicly owned buildings and facilities  
21 for the benefit of a county, city, or town or the inhabitants of a county, city, or town;

22 (8) acquisition of road-building material as provided in 7-14-2123;

23 (9) stock lanes as provided in 7-14-2621;

24 (10) parking areas as provided in 7-14-4501 and 7-14-4622;

25 (11) airport purposes as provided in 7-14-4801, 67-2-301, 67-7-210, and Title 67, chapters 10 and 11;

26 (12) urban renewal projects as provided in Title 7, chapter 15, parts 42 and 43, except that private  
27 property may be acquired for urban renewal through eminent domain only if the property is determined to be a  
28 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  
29 through eminent domain if the purpose of the project is to increase government tax revenue;

30 (13) housing authority purposes as provided in Title 7, chapter 15, part 44;

- 1 (14) county recreational and cultural purposes as provided in 7-16-2105;
- 2 (15) city or town athletic fields and civic stadiums as provided in 7-16-4106;
- 3 (16) county cemetery purposes pursuant to 7-11-1021, cemetery association purposes as provided in  
4 35-20-104, and state veterans' cemetery purposes as provided in 10-2-604;
- 5 (17) preservation of historical or archaeological sites as provided in ~~23-1-102~~ and ~~87-1-209(2)~~ 23-1-108;
- 6 (18) public assistance purposes as provided in 53-2-201;
- 7 (19) highway purposes as provided in 60-4-103 and 60-4-104;
- 8 (20) common carrier pipelines as provided in 69-13-104;
- 9 (21) water supply, water transportation, and water treatment systems as provided in 75-6-313;
- 10 (22) mitigation of the release or threatened release of a hazardous or deleterious substance as provided  
11 in 75-10-720;
- 12 (23) the acquisition of nonconforming outdoor advertising as provided in 75-15-123;
- 13 (24) screening for or the relocation or removal of junkyards, motor vehicle graveyards, motor vehicle  
14 wrecking facilities, garbage dumps, and sanitary landfills as provided in 75-15-223;
- 15 (25) water conservation and flood control projects as provided in 76-5-1108;
- 16 (26) acquisition of natural areas as provided in 76-12-108;
- 17 (27) acquisition of water rights for the natural flow of water as provided in 85-1-204;
- 18 (28) property and water rights necessary for waterworks as provided in 85-1-209 and 85-7-1904;
- 19 (29) conservancy district purposes as provided in 85-9-410;
- 20 (30) wharves, docks, piers, chutes, booms, ferries, bridges, private roads, plank and turnpike roads, and  
21 railroads;
- 22 (31) canals, ditches, flumes, aqueducts, and pipes for:
- 23 (a) supplying mines, mills, and smelters for the reduction of ores;
- 24 (b) supplying farming neighborhoods with water and drainage;
- 25 (c) reclaiming lands; and
- 26 (d) floating logs and lumber on streams that are not navigable;
- 27 (32) sites for reservoirs necessary for collecting and storing water. However, reservoir sites must possess  
28 a public use demonstrable to the district court as the highest and best use of the land.
- 29 (33) roads, tunnels, and dumping places for working mines, mills, or smelters for the reduction of ores;
- 30 (34) outlets, natural or otherwise, for the flow, deposit, or conduct of tailings or refuse matter from mines,

1 mills, and smelters for the reduction of ores;

2 (35) an occupancy in common by the owners or the possessors of different mines of any place for the  
3 flow, deposit, or conduct of tailings or refuse matter from their several mines, mills, or smelters for reduction of  
4 ores and sites for reservoirs necessary for collecting and storing water for the mines, mills, or smelters. However,  
5 the reservoir sites must possess a public use demonstrable to the district court as the highest and best use of  
6 the land.

7 (36) private roads leading from highways to residences or farms;

8 (37) telephone or electrical energy lines, except that local government entities as defined in 2-7-501,  
9 municipal utilities, or competitive electricity suppliers may not use this chapter to acquire existing telephone or  
10 electrical energy lines and appurtenant facilities owned by a public utility or cooperative for the purpose of  
11 transmitting or distributing electricity or providing telecommunications services;

12 (38) telegraph lines;

13 (39) sewerage of any:

14 (a) county, city, or town or any subdivision of a county, city, or town, whether incorporated or  
15 unincorporated;

16 (b) settlement consisting of not less than 10 families; or

17 (c) public buildings belonging to the state or to any college or university;

18 (40) tramway lines;

19 (41) logging railways;

20 (42) temporary logging roads and banking grounds for the transportation of logs and timber products to  
21 public streams, lakes, mills, railroads, or highways for a time that the court or judge may determine. However,  
22 the grounds of state institutions may not be used for this purpose.

23 (43) underground reservoirs suitable for storage of natural gas;

24 (44) projects to mine and extract ores, metals, or minerals owned by the condemnor located beneath or  
25 upon the surface of property where the title to the surface vests in others. However, the use of the surface of  
26 property for strip mining or open-pit mining of coal (i.e., any mining method or process in which the strata or  
27 overburden is removed or displaced in order to extract the coal) is not a public use, and eminent domain may not  
28 be exercised for this purpose.

29 (45) projects to restore and reclaim lands that were strip mined or underground mined for coal and not  
30 reclaimed in accordance with Title 82, chapter 4, part 2, and to abate or control adverse effects of strip or

1 underground mining on those lands."

2

3 **Section 106.** Section 75-1-220, MCA, is amended to read:

4 **"75-1-220. Definitions.** For the purposes of this part, the following definitions apply:

5 (1) "Appropriate board" means, for administrative actions taken under this part by the:

6 (a) department of environmental quality, the board of environmental review, as provided for in 2-15-3502;

7 (b) department of fish; ~~and wildlife, and parks~~, the fish; ~~and wildlife, and parks~~ commission, as provided  
8 for in 2-15-3402;

9 (c) department of commerce, the state parks, recreation, and heritage board, as provided for in [section  
10 1];

11 ~~(e)~~(d) department of transportation, the transportation commission, as provided for in 2-15-2502;

12 ~~(d)~~(e) department of natural resources and conservation for state trust land issues, the board of land  
13 commissioners, as provided for in Article X, section 4, of the Montana constitution;

14 ~~(e)~~(f) department of natural resources and conservation for oil and gas issues, the board of oil and gas  
15 conservation, as provided for in 2-15-3303; and

16 ~~(f)~~(g) department of livestock, the board of livestock, as provided for in 2-15-3102.

17 (2) "Complete application" means, for the purpose of complying with this part, an application for a permit,  
18 license, or other authorization that contains all data, studies, plans, information, forms, fees, and signatures  
19 required to be included with the application sufficient for the agency to approve the application under the  
20 applicable statutes and rules.

21 (3) "Cumulative impacts" means the collective impacts on the human environment of the proposed action  
22 when considered in conjunction with other past, present, and future actions related to the proposed action by  
23 location or generic type.

24 (4) "Environmental review" means any environmental assessment, environmental impact statement, or  
25 other written analysis required under this part by a state agency of a proposed action to determine, examine, or  
26 document the effects and impacts of the proposed action on the quality of the human and physical environment  
27 as required under this part.

28 (5) "Project sponsor" means any applicant, owner, operator, agency, or other entity that is proposing an  
29 action that requires an environmental review. If the action involves state agency-initiated actions on state trust  
30 lands, the term also includes each institutional beneficiary of any trust as described in The Enabling Act of



1 Congress (approved February 22, 1899, 25 Stat. 676), as amended, the Morrill Act of 1862 (7 U.S.C. 301 through  
2 308), and the Morrill Act of 1890 (7 U.S.C. 321 through 329).

3 (6) "Public scoping process" means any process to determine the scope of an environmental review."  
4

5 **Section 107.** 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) perform the administrative rule review, draft legislation review, program evaluation, and monitoring  
5 functions of an interim committee for the following executive branch agencies and the entities attached to the  
6 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."  
10

11 **Section 108.** Section 75-5-318, MCA, is amended to read:

12 **"75-5-318. Short-term water quality standards for turbidity.** (1) Upon authorization by the department  
13 or the department of fish; and wildlife; ~~and parks~~ pursuant to subsection (4), the short-term water quality  
14 standards for total suspended sediment and turbidity resulting from stream-related construction activities or  
15 stream enhancement projects are the narrative standards for total suspended sediment adopted by the board  
16 under 75-5-301. If a short-term narrative standard is authorized under this section, the numeric standard for  
17 turbidity adopted by the board under 75-5-301 does not apply to the affected water body during the term of the  
18 narrative standard.

19 (2) The department shall review each application for short-term standards on a case-by-case basis to  
20 determine whether there are reasonable alternatives that preclude the need for a narrative standard. If the  
21 department determines that the numeric standard for turbidity adopted by the board under 75-5-301 cannot be  
22 achieved during the term of the activity and that there are no reasonable alternatives to achieve the numeric  
23 standard, the department may authorize the use of a narrative standard for a specified term.

24 (3) Each authorization issued by the department must include conditions that minimize, to the extent  
25 practicable, the magnitude of any change in water quality and the length of time during which any change may  
26 occur. The authorization must also include site-specific conditions that ensure that the activity is not harmful,  
27 detrimental, or injurious to public health and the uses of state waters and that ensure that existing and designated  
28 beneficial uses of state water are protected and maintained upon completion of the activity. The department may  
29 not authorize short-term narrative standards for activities requiring a discharge permit under rules adopted by the  
30 board pursuant to 75-5-401. Authorizations issued under this section may include conditions that require water

1 quality or quantity monitoring and reporting.

2 (4) In the performance of its responsibilities under this section, the department may negotiate operating  
3 agreements with other departments of state government that are intended to minimize duplication in review of  
4 activities eligible for authorizations under this section. The department of fish; and wildlife; ~~and parks~~ may, in  
5 accordance with subsections (1), (2), and (3), authorize short-term water quality standards for total suspended  
6 sediment and turbidity for any stream construction project that it reviews under Title 75, chapter 7, part 1, or Title  
7 87, chapter 5, part 5."

8

9 **Section 109.** Section 75-7-103, MCA, is amended to read:

10 **"75-7-103. Definitions.** As used in this part, the following definitions apply:

11 (1) "Applicant" means any person presenting notice of a project to the supervisors.

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

13 (3) "District" means:

14 (a) a conservation district under Title 76, chapter 15, in which the project will take place;

15 (b) a grass conservation district under Title 76, chapter 16, where a conservation district does not exist;

16 or

17 (c) the board of county commissioners in a county where a district does not exist.

18 (4) "Person" means any individual, corporation, firm, partnership, association, or other legal entity not  
19 covered under 87-5-502.

20 (5) (a) "Project" means a physical alteration or modification that results in a change in the state of a  
21 natural, perennial-flowing stream or river, its bed, or its immediate banks.

22 (b) Project does not include:

23 (i) an activity for which a plan of operation has been submitted to and approved by the district. Any  
24 modification to the plan must have prior approval of the district.

25 (ii) customary and historic maintenance and repair of existing irrigation facilities that do not significantly  
26 alter or modify the stream in contravention of 75-7-102; or

27 (iii) livestock grazing activities.

28 (6) "Stream" means any natural, perennial-flowing stream or river, its bed, and its immediate banks  
29 except a stream or river that has been designated by district rule as not having significant aquatic and riparian  
30 attributes in need of protection or preservation under 75-7-102.

1 (7) "Supervisors" means the board of supervisors of a conservation district, the directors of a grass  
2 conservation district, or the board of county commissioners where a proposed project is not within a district.

3 (8) "Team" means one representative of the supervisors, one representative of the department, and the  
4 applicant or the applicant's representative.

5 (9) "Written consent of the supervisors" means a written decision of the supervisors approving a project  
6 and specifying activities authorized to be performed in completing the project."  
7

8 **Section 110.** Section 75-20-216, MCA, is amended to read:

9 **"75-20-216. Study, evaluation, and report on proposed facility -- assistance by other agencies.**

10 (1) After receipt of an application, the department shall within 30 days notify the applicant in writing that:

11 (a) the application is in compliance and is accepted as complete; or

12 (b) the application is not in compliance and shall list the deficiencies. Upon correction of these  
13 deficiencies and resubmission by the applicant, the department shall within 15 days notify the applicant in writing  
14 that the application is in compliance and is accepted as complete.

15 (2) Upon receipt of an application complying with 75-20-211 through 75-20-213, 75-20-215, and this  
16 section, the department shall commence an evaluation of the proposed facility and its effects, considering all  
17 applicable criteria listed in 75-20-301, and shall issue a decision, opinion, order, certification, or permit as  
18 provided in subsection (3). The department shall use, to the extent that it considers applicable, valid and useful  
19 existing studies and reports submitted by the applicant or compiled by a state or federal agency.

20 (3) Except as provided in 75-1-205(4), 75-1-208(4)(b), and 75-20-231, the department shall issue, within  
21 9 months following the date of acceptance of an application, any decision, opinion, order, certification, or permit  
22 required under the laws, other than those contained in this chapter, administered by the department. A decision,  
23 opinion, order, certification, or permit, with or without conditions, must be made under those laws. Nevertheless,  
24 the department retains authority to make the determination required under 75-20-301(1)(c) or (3). The decision,  
25 opinion, order, certification, or permit must be used in the final site selection process. Prior to the issuance of a  
26 preliminary decision by the board and pursuant to rules adopted by the department, the department shall provide  
27 an opportunity for public review and comment.

28 (4) Except as provided in 75-1-205(4), 75-1-208(4)(b), and 75-20-231, within 9 months following  
29 acceptance of an application for a facility, the department shall issue a report that must contain the department's  
30 studies, evaluations, recommendations, customer fiscal impact analysis, if required pursuant to 69-2-216, and

1 other pertinent documents resulting from its study and evaluation. An environmental impact statement or analysis  
 2 prepared pursuant to the Montana Environmental Policy Act may be included in the department findings if  
 3 compelling evidence indicates that adverse environmental impacts are likely to result due to the construction and  
 4 operation of a proposed facility. If the application is for a combination of two or more facilities, the department  
 5 shall issue its report within the greater of the lengths of time provided for in this subsection for either of the  
 6 facilities.

7 (5) For projects subject to joint review by the department and a federal land management agency, the  
 8 department's certification decision may be timed to correspond to the record of decision issued by the  
 9 participating federal agency.

10 (6) The departments of transportation, fish, and wildlife, ~~and parks~~, commerce, natural resources and  
 11 conservation, revenue, and public service regulation and the consumer counsel shall report to the department  
 12 information relating to the impact of the proposed site on each department's area of expertise. The report may  
 13 include opinions as to the advisability of granting, denying, or modifying the certificate. The department shall  
 14 allocate funds obtained from filing fees to ~~the departments~~ those state agencies making reports ~~and to the office~~  
 15 ~~of consumer counsel~~ pursuant to this subsection to reimburse them for the costs of compiling information and  
 16 issuing the required report."

17

18 **Section 111.** Section 76-13-421, MCA, is amended to read:

19 **"76-13-421. Onsite consultation.** (1) The department shall make its decision on whether or not to  
 20 require an onsite consultation based on whether:

21 (a) the proposed timber sale is in a high-priority location for watershed resources;

22 (b) a consultation could contribute to improved watershed management; and

23 (c) the department has sufficient resources to conduct the consultation.

24 (2) The department shall schedule an onsite consultation at a time mutually agreeable to the operator,  
 25 the owner (if the owner can be contacted and wishes to participate), and the department. Unless otherwise  
 26 agreeable to the operator and a participating owner, a consultation must be held no later than:

27 (a) 10 calendar days after the mailing of the notice by the department, if the site is accessible; or

28 (b) if the site is temporarily inaccessible due to road conditions, weather conditions, or other factors, 10  
 29 calendar days after the operator indicates that the site is accessible.

30 (3) The onsite consultation must include representatives of the department, the operator, and, if the

1 owner desires representation, the owner. Representatives of the ~~department~~ departments of environmental  
 2 quality, ~~the department of fish, and wildlife, and parks, and commerce~~ and the local conservation district may also  
 3 participate but shall meet the consultation schedule established under 76-13-420(3)(c) or subsection (2) of this  
 4 section.

5 (4) If the department and the operator are not able to schedule an onsite consultation within the time  
 6 limits provided in subsection (2)(a) or (2)(b) or at another mutually agreeable time, the requirement for a  
 7 consultation is terminated. The operator may then proceed with forest practices immediately upon the expiration  
 8 of the time limits provided in subsection (2)(a) or (2)(b)."

9

10 **Section 112.** Section 76-16-107, MCA, is amended to read:

11 **"76-16-107. Range for wild game animals.** In each state district a sufficient carrying capacity of range  
 12 must be reserved for the maintenance of a reasonable number of wild game animals to use the range in common  
 13 with livestock grazing in the state district. The commission may act in an advisory capacity to the department of  
 14 fish, and wildlife, ~~and parks~~ in the protection of wildlife within the boundaries of all state districts."

15

16 **Section 113.** Section 77-1-405, MCA, is amended to read:

17 **"77-1-405. Island parks established -- development limited.** (1) In order to retain the integrity of the  
 18 recreational experience associated with Montana's river and lake islands, development of undisputed state-owned  
 19 or state-leased island property, which is hereby designated as island parks, including islands designated as state  
 20 property under 70-18-203, lying within and surrounded by a navigable river, stream, or lake is limited, after April  
 21 30, 1997, to:

22 (a) the installation of minimal signage indicating that the island is a designated island park in which  
 23 development has been limited and encouraging the public to help in maintaining the island park's primitive  
 24 character by packing out trash;

25 (b) necessary latrine facilities if approved by the ~~fish, wildlife, and parks commission~~ department of  
 26 commerce;

27 (c) footings or pilings necessary for the construction of a bridge; and

28 (d) oil and gas leasing.

29 (2) Improvements made to and agricultural operations on state-owned or state-leased island property  
 30 prior to April 30, 1997, may be maintained or continued, but further development is limited as provided in this

1 section.

2 (3) Notwithstanding the provisions of 77-1-203 regarding multiple-use management, the legislature finds  
3 that the highest and best use of island property administered as school trust land, except islands designated as  
4 natural areas pursuant to Title 76, chapter 12, is for recreation and grazing and that those islands should be left  
5 in as primitive state as possible to protect from the loss of potential future revenue that could result from the  
6 failure to leave the islands in an undeveloped condition.

7 (4) For purposes of this section, state ownership or state lease of island property is disputed if the  
8 dispute arises before, on, or after April 30, 1997."

9

10 **Section 114.** Section 77-1-801, MCA, is amended to read:

11 **"77-1-801. (Temporary) Recreational use license required to use state lands for general**  
12 **recreational purposes -- penalty -- exemption.** (1) Except as provided in subsection (3), a person 12 years of  
13 age or older shall obtain an annual recreational use license pursuant to 77-1-802 to use state lands, as defined  
14 in 77-1-101, for general recreational purposes.

15 (2) Except as provided in subsection (3), a person shall, upon the request of a peace officer or fish and  
16 game warden, present for inspection the person's recreational use license.

17 (3) If the department and the department of fish; and wildlife; ~~and parks~~ consent to and sign an  
18 agreement for hunting, fishing, and trapping purposes, as provided in 77-1-815, a person is not required to obtain  
19 a recreational use license for use of legally accessible state trust land for hunting, fishing, and trapping purposes.

20 (4) A violator of subsection (1) or (2) is guilty of a misdemeanor and shall be fined not less than \$50 or  
21 more than \$500 or be imprisoned in the county jail for not more than 6 months, or both.(Void on occurrence of  
22 contingency--sec. 8, Ch. 596, L. 2003.)

23 **77-1-801. (Effective on occurrence of contingency) Recreational use license required to use state**  
24 **lands for general recreational purposes -- penalty.** (1) A person 12 years of age or older shall obtain an annual  
25 recreational use license pursuant to 77-1-802 to use state lands, as defined in 77-1-101, for general recreational  
26 purposes.

27 (2) A person shall, upon the request of a peace officer or fish and game warden, present for inspection  
28 the person's recreational use license.

29 (3) A violator of subsection (1) or (2) is guilty of a misdemeanor and shall be fined not less than \$50 or  
30 more than \$500 or be imprisoned in the county jail for not more than 6 months, or both."

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**Section 115.** Section 77-1-802, MCA, is amended to read:

**"77-1-802. (Temporary) Recreational use -- fee.** (1) The fee for recreational use on state trust land must attain full market value whether the license is sold on an individual basis or on a group basis through an agreement with the department of fish; and wildlife; ~~and parks~~ as provided in 77-1-815.

(2) Money received by the department from the sale of recreational use licenses must be credited as follows:

(a) Except as provided in subsection (2)(b), license fees must be apportioned on a pro rata basis to the land trusts, in proportion to the respective trust's percentage of acreage in the total acreage of all state land trusts.

(b) Revenue from recreational use license fees, less 50 cents from the fee for each license that must be returned to the license dealer as a commission, is distributable revenue and must be deposited pursuant to 77-1-109 and used to pay for administrative costs as provided in 77-1-108.

(3) The department may contract with the department of fish; and wildlife; ~~and parks~~ for the distribution and sale of recreational use licenses through the license agents appointed by and the administrative offices of the department of fish; and wildlife; ~~and parks~~ and in accordance with the provisions of Title 87, chapter 2, part 9. (Void on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)

**77-1-802. (Effective on occurrence of contingency) Recreational use license -- fee.** (1) The fee for a recreational use license must attain full market value.

(2) Money received by the department from the sale of recreational use licenses must be credited as follows:

(a) Except as provided in subsection (2)(b), license fees must be apportioned on a pro rata basis to the land trusts, in proportion to the respective trust's percentage contribution to the total acreage of all state land trusts.

(b) Revenue from recreational use license fees, less 50 cents from the fee for each license that must be returned to the license dealer as a commission, is distributable revenue and must be deposited pursuant to 77-1-109 and used to pay for administrative costs as provided in 77-1-108.

(3) The department may contract with the department of fish; and wildlife; ~~and parks~~ for the distribution and sale of recreational use licenses through the license agents appointed by and the administrative offices of the department of fish; and wildlife; ~~and parks~~ and in accordance with the provisions of Title 87, chapter 2, part 9."



1

2           **Section 116.** Section 77-1-804, MCA, is amended to read:

3           **"77-1-804. Rules for recreational use of state lands -- penalty.** (1) The board shall adopt rules  
4 authorizing and governing the recreational use of state lands allowed under 77-1-203. The board shall use local  
5 offices of the department to administer this program whenever practical.

6           (2) Rules adopted under this section must address the circumstances under which the board may close  
7 legally accessible state lands to recreational use. Action by the board may be taken upon its own initiative or upon  
8 petition by an individual, organization, corporation, or governmental agency. Closures may be of an emergency,  
9 seasonal, temporary, or permanent nature. State lands may be closed by the board only after public notice and  
10 opportunity for public hearing in the area of the proposed closure, except when the department is acting under  
11 rules adopted by the board for an emergency closure. Closed lands must be posted by the lessee at customary  
12 access points, with signs provided or authorized by the department.

13           (3) Closure rules adopted pursuant to subsection (2) may categorically close state lands whose use or  
14 status is incompatible with recreational use. Categorical or blanket closures may be imposed on state lands due  
15 to:

- 16           (a) cabin site and home site leases and licenses;  
17           (b) the seasonal presence of growing crops; and  
18           (c) active military, commercial, or mineral leases.

19           (4) The board shall adopt rules that provide an opportunity for any individual, organization, or  
20 governmental agency to petition the board for purposes of excluding a specified portion of state land from a  
21 categorical closure that has been imposed under subsection (3).

22           (5) Under rules adopted by the board, state lands may be closed on a case-by-case basis for certain  
23 reasons, including but not limited to:

- 24           (a) damage attributable to recreational use that diminishes the income-generating potential of the state  
25 lands;  
26           (b) damage to surface improvements of the lessee;  
27           (c) the presence of threatened, endangered, or sensitive species or plant communities;  
28           (d) the presence of unique or special natural or cultural features;  
29           (e) wildlife protection;  
30           (f) noxious weed control; or

1 (g) the presence of buildings, structures, and facilities.

2 (6) Rules adopted under this section may impose restrictions upon general recreational activities,  
3 including the discharge of weapons, camping, open fires, vehicle use, and any use that will interfere with the  
4 presence of livestock. The board may also by rule restrict access on state lands in accordance with a block  
5 management program administered by the department of fish; ~~and wildlife, and parks~~. Motorized vehicle use by  
6 recreationists on state lands is restricted to federal, state, and dedicated county roads and to those roads  
7 designated by the department to be open to motorized vehicle use.

8 (7) The board shall adopt rules providing for the issuance of a recreational special use license.  
9 Commercial or concentrated recreational use, as defined in 77-1-101, is prohibited on state lands unless it occurs  
10 under the provisions of a recreational special use license. The board may also adopt rules requiring a recreational  
11 special use license for recreational use that is not commercial, concentrated, or within the definition of general  
12 recreational use.

13 (8) For a violation of rules adopted by the board pursuant to this section, the department may assess  
14 a civil penalty of up to \$1,000 for each day of violation. The board shall adopt rules providing for notice and  
15 opportunity for hearing in accordance with Title 2, chapter 4, part 6. Civil penalties collected under this subsection  
16 must be deposited as provided in 87-1-601(7)."

17

18 **Section 117.** Section 77-1-815, MCA, is amended to read:

19 **"77-1-815. (Temporary) Recreational use agreement for hunting, fishing, and trapping on legally**  
20 **accessible state trust land.** (1) The board is authorized to enter into an agreement with the department of fish;  
21 ~~and wildlife, and parks~~ to compensate state trust land beneficiaries for the use and impacts associated with  
22 hunting, fishing, and trapping on legally accessible state trust land as defined in department rule. The department  
23 may impose restrictions it considers necessary to coordinate the uses of state trust land or to preserve the  
24 purposes of the various trust lands. Hunting, fishing, and trapping on state trust land must be conducted in  
25 accordance with rules and provisions provided in this part.

26 (2) An agreement may be issued to the department of fish; ~~and wildlife, and parks~~ for a term of up to 10  
27 years. Through this agreement, the board shall recover for the beneficiaries of the trust the full market value for  
28 the use and impacts associated with hunting, fishing, and trapping on legally accessible state trust land. The  
29 department may use funds appropriated from the trust land administration account provided for in 77-1-108 to  
30 implement and manage the agreement. Except as provided for in 17-7-304, any unexpended amount in the

1 account that resulted from recreational use fees must be apportioned on a pro rata basis to the land trusts, in  
2 proportion to the respective trust's percentage of acreage in the total acreage of all state land trusts.

3 (3) Any agreement entered into is subject to the following conditions:

4 (a) The department maintains sole discretion, throughout the term of the agreement, with regard to  
5 identifying legally accessible parcels, coordinating uses on state trust land, and making any other necessary state  
6 trust land management decisions.

7 (b) An agreement between the department and the department of fish; and wildlife; ~~and parks~~ may not  
8 convey any additional authority to the department of fish; and wildlife; ~~and parks~~.

9 (4) During any period that the department of fish; and wildlife; ~~and parks~~ and the department have  
10 reached an agreement as provided in subsection (1), an individual recreational use license under 77-1-801 or  
11 77-1-802 may not be required for a member of the public to hunt, fish, or trap upon legally accessible state trust  
12 land. (Void on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)"

13

14 **Section 118.** Section 77-2-101, MCA, is amended to read:

15 **"77-2-101. Easements for specific uses.** (1) Upon proper application as provided in 77-2-102, the  
16 board may grant easements on state lands for the following purposes:

17 (a) schoolhouse sites and grounds;

18 (b) public parks;

19 (c) community buildings;

20 (d) cemeteries;

21 (e) conservation purposes:

22 (i) to the department of fish; and wildlife; ~~and parks~~ for parcels that are surrounded by or adjacent to land  
23 owned by the department of fish; and wildlife; ~~and parks~~ as of January 1, 2001;

24 (ii) to the department of commerce for parcels that are surrounded by or adjacent to land owned by the  
25 department of commerce after [the effective date of this act];

26 ~~(iii)~~(iii) to a nonprofit corporation for parcels that are surrounded by or adjacent to land owned by that  
27 same nonprofit corporation as of January 1, 2001; and

28 ~~(iii)~~(iv) to a nonprofit corporation for the Owen Sowerwine natural area located within section 16, township  
29 28 north, range 21 west, in Flathead County; and

30 (f) for other public uses.

1 (2) The board may grant easements on state lands for the following purposes:

2 (a) right-of-way across or upon any portion of state lands for any public highway or street, any ditch,  
3 reservoir, railroad, private road, or telegraph or telephone line, or any other public use as defined in 70-30-102;

4 or

5 (b) any private building or private sewage system that encroaches on state lands."  
6

7 **Section 119.** Section 80-7-1003, MCA, is amended to read:

8 **"80-7-1003. Definitions.** As used in this part, the following definitions apply:

9 (1) "Departments" means the department of agriculture and the department of fish; and wildlife;~~and~~  
10 ~~parks.~~

11 (2) "Invasive species" means, upon the mutual agreement of the directors of the departments of  
12 agriculture and fish; and wildlife;~~and parks~~, a nonnative, aquatic species that has caused, is causing, or is likely  
13 to cause harm to the economy, environment, recreational opportunities, or human health.

14 (3) "Invasive species management area" means a designation made by a department for a specific area,  
15 for a body or bodies of water, or for the entire state for a specific or indeterminate amount of time that regulates  
16 invasive species or potential carriers of invasive species within the boundaries of that area.

17 (4) "Person" means an individual, partnership, corporation, association, limited partnership, limited  
18 liability company, governmental subdivision, agency, or public or private organization of any character.

19 (5) "Vessel" has the meaning provided in 61-1-101."  
20

21 **Section 120.** Section 80-7-1010, MCA, is amended to read:

22 **"80-7-1010. Invasive species management area -- regulation.** (1) The owner, operator, or person in  
23 possession of any vessel authorized for use in an invasive species management area shall comply with any  
24 regulations imposed pursuant to 80-7-1008(3)(b).

25 (2) After use in a body of water within an invasive species management area, all vessels, bait containers,  
26 livewells, bilges, and other boating-related equipment, excluding marine sanitary systems, must be drained in a  
27 way that does not impact any state waters before being transported on land or a public highway, as defined in  
28 61-1-101, except where allowed by the department of fish; and wildlife;~~and parks~~.

29 (3) In a body of water designated as an invasive species management area, taking from the water or  
30 possessing any bait animal, dead or alive, including but not limited to crayfish, leeches, and minnows, is

1 prohibited unless approved by the department of fish; and wildlife, ~~and parks.~~"

2

3 **Section 121.** Section 80-8-201, MCA, is amended to read:

4 **"80-8-201. Registration.** (1) Each pesticide distributed, sold, or offered for sale within the state or  
5 delivered for transportation or transported in intrastate commerce or between points within the state must be  
6 registered with the department. The registration must be renewed annually by the manufacturer, formulator, or  
7 distributor of the pesticide. The department shall register all federally approved pesticides, and those registered  
8 are subject to registration fees and all other provisions of this chapter. All registrations of pesticides expire on  
9 December 31 following the date of issuance unless otherwise terminated.

10 (2) The applicant for registration shall file with the department a statement that includes:

11 (a) the name and address of the applicant and the name and address of the person whose name will  
12 appear on the label, if other than the registrant;

13 (b) a complete copy of the label of the pesticide, the United States environmental protection agency  
14 registration number if the pesticide is registered, and a statement of all claims to be made for it, including  
15 directions for use;

16 (c) the trade and chemical name of the pesticide;

17 (d) if requested by the department, a full description of tests made and the results upon which the claims  
18 are based. In the case of renewal of registration, a statement is required only for information that is different from  
19 that furnished when the pesticide was registered or last reregistered.

20 (3) A pesticide imported into the state that is subject to and has been registered under the provisions  
21 of a federal act providing for the registration of pesticides must be registered in the state. However, the state may  
22 restrict the sale or use and application of the pesticide by type of dealer, applicator, time, and place and may  
23 establish special registrations of pesticides as outlined in 80-8-105(3) and in subsection (8) of this section. The  
24 annual registration fee must also be paid, and registration information required by the department must be  
25 provided.

26 (4) The applicant shall pay an annual fee of \$90 for each pesticide registered. The applicant shall pay  
27 an annual fee of \$90 for:

28 (a) each emergency exemption requested by the state as provided in the Federal Insecticide, Fungicide,  
29 and Rodenticide Act, 7 U.S.C. 136p;

30 (b) a special local need registration, as provided in the Federal Insecticide, Fungicide, and Rodenticide

1 Act, 7 U.S.C. 136v(c)(1); or

2 (c) an experimental-use permit registration, as provided in 7 U.S.C. 136c.

3 (5) The department may require the submission of the complete formula and certified analytical  
4 standards of any pesticide. If it appears to the department that the composition of the pesticide warrants the  
5 proposed claims for it and if the pesticide, its labeling, and other material required to be submitted comply with  
6 the requirements of 80-8-202, the department shall register the pesticide.

7 (6) If it does not appear to the department that the pesticide warrants the proposed claims for it or if the  
8 pesticide, its labeling, and other material required to be submitted do not comply with this chapter, the department  
9 shall notify the applicant of the manner in which the pesticide, labeling, or other material required to be submitted  
10 fails to comply with the chapter to provide the applicant an opportunity to make the necessary corrections. If the  
11 applicant does not make the corrections upon receipt of the notice, the department may refuse to register the  
12 pesticide. The department may suspend or cancel the registration of a pesticide whenever it does not appear that  
13 the pesticide or its labeling comply with this chapter or whenever scientific evidence proves that the pesticide  
14 endangers humans or the general environment afforded protection under 80-8-105(3)(a). When an application  
15 for registration is refused or the department proposes to suspend or cancel a registration, the registrant may  
16 pursue administrative remedies under the Montana Administrative Procedure Act and rules of the department.

17 (7) Registration is not required in the case of a pesticide shipped from one plant in the state to another  
18 plant in the state by the same person.

19 (8) (a) The department, the department of public health and human services, and the department of fish;  
20 ~~and wildlife, and parks~~ shall review all applications for registration of an experimental-use permit or a registration  
21 for special local needs. The departments shall use the same requirements and standards for reviewing  
22 registrations established by the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, and regulations  
23 adopted under the act. The department shall provide the departments of public health and human services and  
24 fish; ~~and wildlife, and parks~~ with a complete copy of the application, related correspondence, and a statement  
25 of the department's proposed action on the application. The department, the department of public health and  
26 human services, and the department of fish; ~~and wildlife, and parks~~ shall approve or disapprove the application  
27 within 10 days after the receipt of the application. If the department, the department of public health and human  
28 services, and the department of fish; ~~and wildlife, and parks~~ are in agreement with the proposed registration, the  
29 department shall issue the registration.

30 (b) The department shall establish a time and place for an interagency conference for the purposes of

1 resolving the registration of any pesticide or device. If two of the departments approve the proposed registration,  
2 the department shall issue the registration.

3 (c) The registrant applying for registration must be notified as to proposed changes in registration. If the  
4 departments cannot resolve the proposed registration following the interagency conference, the registrant may  
5 request a joint administrative hearing before the departments of agriculture, public health and human services,  
6 and fish, ~~and~~ wildlife, ~~and~~ parks.

7 (d) Following the interagency conference and, if requested, the administrative hearing, if the proposed  
8 registration of a pesticide or device has not been resolved, the department of agriculture shall appoint an advisory  
9 council as outlined in 80-8-108 to resolve by majority vote the registration of any pesticide. The advisory council's  
10 recommendations on the registration must be accepted by the departments and implemented by the department  
11 of agriculture.

12 (9) (a) Pesticides registered under any federal law when canceled for sale and use in total or in part by  
13 a federal agency responsible for registration are considered canceled in total or in part for sale and use in  
14 Montana. The cancellation is effective on the final date of sale or use allowed under the federal law and rules or  
15 orders of the federal agency. Except as provided in subsection (9)(b), if the federal cancellation allows existing  
16 stock to be used past the final date of cancellation, the sale or use in this state may not exceed 2 years. The  
17 department shall provide technical assistance to any person in possession of the products to ensure their proper  
18 disposal, relabeling, or removal.

19 (b) Pesticide products canceled under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C.  
20 136a-1(i)(5) may be sold and used according to environmental protection agency labeling requirements or other  
21 requirements for a period not to exceed 6 years from the date that distribution from the registrant, manufacturer,  
22 formulator, or distributor is terminated."  
23

24 **Section 122.** Section 81-7-102, MCA, is amended to read:

25 **"81-7-102. Department to supervise destruction of predatory animals -- cooperation with other**  
26 **agencies -- administration of money.** (1) The department shall conduct the destruction and control of predatory  
27 animals capable of killing, destroying, maiming, or injuring domestic livestock or domestic poultry and the  
28 protection and safeguarding of livestock and poultry in this state against depredations from these animals. The  
29 department shall formulate the practical programs for accomplishing these objectives in this state and for carrying  
30 out the programs in an efficient and practical manner responsive to the need for control in each area of this state.

1           (2) The department shall adopt rules applicable to predatory animal control that are necessary and  
 2 proper for the systematic destruction of the predatory animals by hunting, trapping, and poisoning operations and  
 3 payments of bounties. The department shall make field, area, range, or other orders and instructions, including  
 4 orders and instructions to hunter and trapper personnel and others, that are appropriate in the various areas at  
 5 different seasons of the year, taking into consideration the habits, presence, migrations, or movements of the  
 6 animals and their attacks on livestock and poultry, either singly or in packs or bands.

7           (3) The department shall cooperate with authorized representatives of the federal government, including  
 8 the biological survey and the fish and wildlife service, the department of fish; and wildlife, ~~and parks~~, boards of  
 9 county commissioners, voluntary associations of stockgrowers, sheepgrowers, ranchers, farmers, hunters, and  
 10 anglers, and corporations and individuals, in the systematic destruction of predatory animals by hunting, trapping,  
 11 and poisoning operations.

12           (4) Section 81-7-103 and this section do not interfere with or impair the power and duties of the  
 13 department of fish; and wildlife, ~~and parks~~ in the control of predatory animals by the department of fish; and  
 14 wildlife, ~~and parks~~ as authorized by law or the obligation of the department of fish; and wildlife, ~~and parks~~ to  
 15 expend its funds in cooperation with the department for predatory animal control as required by law. Funds of the  
 16 department of fish; and wildlife, ~~and parks~~ for the cooperative predatory animal control must be administered and  
 17 expended by the department of fish; and wildlife, ~~and parks~~."

18

19           **Section 123.** Section 82-11-127, MCA, is amended to read:

20           **"82-11-127. (Temporary) Prohibited activity -- Makoshika state park.** (1) A person may not:

21           (a) cause pollution of any state waters or place or cause to be placed any liquid, gaseous, solid, or other  
 22 substance in a location where the substance is likely to cause pollution of any state waters;

23           (b) violate any provision set forth in a permit or stipulation, including but not limited to limitations and  
 24 conditions contained in it;

25           (c) violate an order issued pursuant to this chapter; or

26           (d) violate a provision of this chapter.

27           (2) A person may not drill, construct, convert, or operate a class II injection well or drill an oil or gas well  
 28 or stratigraphic test well or core hole as described under 82-11-134 without a valid permit or order from the board.

29           (3) Except as provided in subsection (5), on lands managed as Makoshika state park, pursuant to Title  
 30 23, chapter 1, and under the control of the department of fish, wildlife, and parks commerce, by grant, acquisition,



1 lease, easement, or other means, a person may not:

2 (a) drill, construct, convert, or operate an oil or gas well, stratigraphic test well, or core hole;

3 (b) conduct vibroseis, drill a seismic shot hole, or set a surface charge;

4 (c) explore for oil or gas in a manner that damages the land surface; or

5 (d) construct or place any surface facility associated with oil or gas exploration or development.

6 (4) The prohibitions in subsection (3) do not preclude the development of oil or gas resources from  
7 beneath Makoshika state park through directional drilling or access from property outside the boundaries of the  
8 state park provided that the surface resources of the state park are not disturbed.

9 (5) The prohibitions listed in subsection (3) do not apply to oil or gas resources within Makoshika state  
10 park that are owned by a private person, nor do the prohibitions apply to school trust lands within the boundaries  
11 of the park. The state acknowledges the mineral rights of Dawson County and the state school trust and the  
12 private property rights of persons owning private mineral rights within Makoshika state park. The department of  
13 ~~fish, wildlife, and parks~~ commerce is directed to conduct negotiations with the owners of mineral rights within  
14 Makoshika state park, with the purpose of acquiring those rights in the name of the state, and to report the results  
15 of the negotiations to the legislature no later than January 8, 2001.

16 **82-11-127. (Effective on occurrence of contingency) Prohibited activity.** (1) A person may not:

17 (a) cause pollution of any state waters or place or cause to be placed any liquid, gaseous, solid, or other  
18 substance in a location where the substance is likely to cause pollution of any state waters;

19 (b) violate any provision set forth in a permit or stipulation, including but not limited to limitations and  
20 conditions contained in it;

21 (c) violate an order issued pursuant to this chapter; or

22 (d) violate a provision of this chapter.

23 (2) A person may not drill, construct, convert, or operate a class II injection well or a carbon dioxide  
24 injection well or drill an oil or gas well or stratigraphic test well or core hole as described under 82-11-134 without  
25 a valid permit or order from the board."

26

27 **Section 124.** Section 82-11-185, MCA, is amended to read:

28 **"82-11-185. (Effective on occurrence of contingency) Makoshika state park requirements.**

29 (1) Except as provided in subsection (3), on lands managed as Makoshika state park pursuant to Title 23,  
30 chapter 1, and under the control of the department of ~~fish, wildlife, and parks~~ commerce by grant, acquisition,

1 lease, easement, or other means, a person may not:

2 (a) drill, construct, convert, or operate an oil or gas well, stratigraphic test well, or core hole;

3 (b) conduct vibroseis, drill a seismic shot hole, or set a surface charge;

4 (c) explore for oil or gas in a manner that damages the land surface; or

5 (d) construct or place any surface facility associated with oil or gas exploration or development.

6 (2) The prohibitions in subsection (1) do not preclude the development of geologic storage reservoirs  
7 or of oil or gas resources from beneath Makoshika state park through directional drilling or access from property  
8 outside the boundaries of the state park provided that the surface resources of the state park are not disturbed.

9 (3) The prohibitions listed in subsection (1) do not apply to geologic storage reservoirs or to oil or gas  
10 resources within Makoshika state park that are owned by a private person, nor do the prohibitions apply to school  
11 trust lands within the boundaries of the park. The state acknowledges the mineral rights of Dawson County and  
12 the state school trust and the private property rights of persons owning private mineral rights within Makoshika  
13 state park. The department of fish, ~~wildlife, and parks~~ commerce is directed to conduct negotiations with the  
14 owners of mineral rights within Makoshika state park with the purpose of acquiring those rights in the name of  
15 the state."

16

17 **Section 125.** Section 85-1-802, MCA, is amended to read:

18 **"85-1-802. Leases authorized.** (1) The department may lease all project lands appurtenant to a  
19 state-owned water project for purposes that the department considers appropriate.

20 (2) A lease of project lands to the department of fish; and ~~wildlife, and parks~~ or the department of  
21 commerce for public recreational use may not exceed 30 years. Other leases of project lands may not exceed  
22 10 years."

23

24 **Section 126.** Section 85-2-102, MCA, is amended to read:

25 **"85-2-102. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions  
26 apply:

27 (1) "Appropriate" means:

28 (a) to divert, impound, or withdraw, including by stock for stock water, a quantity of water for a beneficial  
29 use;

30 (b) in the case of a public agency, to reserve water in accordance with 85-2-316;

1 (c) in the case of the department of fish; ~~and wildlife, and parks~~, to change an appropriation right to  
2 instream flow to protect, maintain, or enhance streamflows to benefit the fishery resource in accordance with  
3 85-2-436;

4 (d) in the case of the United States department of agriculture, forest service:

5 (i) instream flows and in situ use of water created in 85-20-1401, Article V; or

6 (ii) to change an appropriation right to divert or withdraw water under subsection (1)(a) to instream flow  
7 to protect, maintain, or enhance streamflows in accordance with 85-2-320;

8 (e) temporary changes or leases for instream flow to maintain or enhance instream flow to benefit the  
9 fishery resource in accordance with 85-2-408;

10 (f) a use of water for aquifer recharge or mitigation as provided in 85-2-360 and 85-2-362; or

11 (g) a use of water for an aquifer storage and recovery project as provided in 85-2-368.

12 (2) "Aquifer recharge" means either the controlled subsurface addition of water directly to the aquifer or  
13 controlled application of water to the ground surface for the purpose of replenishing the aquifer to offset adverse  
14 effects resulting from net depletion of surface water.

15 (3) "Aquifer storage and recovery project" means a project involving the use of an aquifer to temporarily  
16 store water through various means, including but not limited to injection, surface spreading and infiltration, drain  
17 fields, or another department-approved method. The stored water may be either pumped from the injection well  
18 or other wells for beneficial use or allowed to naturally drain away for a beneficial use.

19 (4) "Beneficial use", unless otherwise provided, means:

20 (a) a use of water for the benefit of the appropriator, other persons, or the public, including but not limited  
21 to agricultural, stock water, domestic, fish and wildlife, industrial, irrigation, mining, municipal, power, and  
22 recreational uses;

23 (b) a use of water appropriated by the department for the state water leasing program under 85-2-141  
24 and of water leased under a valid lease issued by the department under 85-2-141;

25 (c) a use of water by the department of fish; ~~and wildlife, and parks~~ through a change in an appropriation  
26 right for instream flow to protect, maintain, or enhance streamflows to benefit the fishery resource authorized  
27 under 85-2-436;

28 (d) a use of water through a temporary change in appropriation right or lease to enhance instream flow  
29 to benefit the fishery resource in accordance with 85-2-408;

30 (e) a use of water for aquifer recharge or mitigation as provided in 85-2-360 and 85-2-362; or

- 1 (f) a use of water for an aquifer storage and recovery project as provided in 85-2-368.
- 2 (5) "Certificate" means a certificate of water right issued by the department.
- 3 (6) "Change in appropriation right" means a change in the place of diversion, the place of use, the  
4 purpose of use, or the place of storage.
- 5 (7) "Commission" means the fish, ~~and wildlife, and parks~~ commission provided for in 2-15-3402.
- 6 (8) "Correct and complete" means that the information required to be submitted conforms to the standard  
7 of substantial credible information and that all of the necessary parts of the form requiring the information have  
8 been filled in with the required information for the department to begin evaluating the information.
- 9 (9) "Declaration" means the declaration of an existing right filed with the department under section 8,  
10 Chapter 452, Laws of 1973.
- 11 (10) "Department" means the department of natural resources and conservation provided for in Title 2,  
12 chapter 15, part 33.
- 13 (11) "Developed spring" means any artificial opening or excavation in the ground, however made,  
14 including any physical alteration at the point of discharge regardless of whether it results in any increase in the  
15 yield of ground water, from which ground water is sought or can be obtained or through which it flows under  
16 natural pressures or is artificially withdrawn.
- 17 (12) "Existing right" or "existing water right" means a right to the use of water that would be protected  
18 under the law as it existed prior to July 1, 1973. The term includes federal non-Indian and Indian reserved water  
19 rights created under federal law and water rights created under state law.
- 20 (13) "Ground water" means any water that is beneath the ground surface.
- 21 (14) "Late claim" means a claim to an existing right forfeited pursuant to the conclusive presumption of  
22 abandonment under 85-2-226.
- 23 (15) "Mitigation" means the reallocation of surface water or ground water through a change in  
24 appropriation right or other means that does not result in surface water being introduced into an aquifer through  
25 aquifer recharge to offset adverse effects resulting from net depletion of surface water.
- 26 (16) "Municipality" means an incorporated city or town organized and incorporated under Title 7, chapter  
27 2.
- 28 (17) "Permit" means the permit to appropriate issued by the department under 85-2-301 through 85-2-303  
29 and 85-2-306 through 85-2-314.
- 30 (18) "Person" means an individual, association, partnership, corporation, state agency, political

1 subdivision, the United States or any agency of the United States, or any other entity.

2 (19) (a) "Political subdivision" means any county, incorporated city or town, public corporation, or district  
3 created pursuant to state law or other public body of the state empowered to appropriate water.

4 (b) The term does not mean a private corporation, association, or group.

5 (20) "Salvage" means to make water available for beneficial use from an existing valid appropriation  
6 through application of water-saving methods.

7 (21) "State water reservation" means a water right created under state law after July 1, 1973, that  
8 reserves water for existing or future beneficial uses or that maintains a minimum flow, level, or quality of water  
9 throughout the year or at periods or for defined lengths of time.

10 (22) "Substantial credible information" means probable, believable facts sufficient to support a reasonable  
11 legal theory upon which the department should proceed with the action requested by the person providing the  
12 information.

13 (23) "Waste" means the unreasonable loss of water through the design or negligent operation of an  
14 appropriation or water distribution facility or the application of water to anything but a beneficial use.

15 (24) "Water" means all water of the state, surface and subsurface, regardless of its character or manner  
16 of occurrence, including but not limited to geothermal water, diffuse surface water, and sewage effluent.

17 (25) "Water division" means a drainage basin as defined in 3-7-102.

18 (26) "Water judge" means a judge as provided for in Title 3, chapter 7.

19 (27) "Water master" means a master as provided for in Title 3, chapter 7.

20 (28) "Watercourse" means any naturally occurring stream or river from which water is diverted for  
21 beneficial uses. It does not include ditches, culverts, or other constructed waterways.

22 (29) "Well" means any artificial opening or excavation in the ground, however made, by which ground  
23 water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn."

24

25 **Section 127.** Section 85-2-223, MCA, is amended to read:

26 **"85-2-223. Public recreational uses.** The department of fish, and wildlife, ~~and parks~~ shall exclusively  
27 represent the public for purposes of establishing any prior and existing public recreational use in existing right  
28 determinations under this part, provided that the foregoing shall not exclude a federal governmental entity from  
29 representing the public for the purpose of establishing any prior and existing public recreational use in existing  
30 right determinations under this part. The foregoing shall not be construed in any manner as a legislative

1 determination of whether or not a recreational use sought to be established prior to July 1, 1973, is or was a  
2 beneficial use."

3

4 **Section 128.** Section 85-2-436, MCA, is amended to read:

5 **"85-2-436. Instream flow to protect, maintain, or enhance streamflows to benefit fishery resource**  
6 **-- change in appropriation rights by department of fish; and wildlife; ~~and parks~~ until June 30, 2019.** (1) The  
7 department of fish; and wildlife; ~~and parks~~ may change an appropriation right, which it either holds in fee simple  
8 or leases, to an instream flow purpose of use and a defined place of use to protect, maintain, or enhance  
9 streamflows to benefit the fishery resource.

10 (2) The change in purpose of use or place of use must meet all the criteria and process of 85-2-307  
11 through 85-2-309, 85-2-401, and 85-2-402 and the additional criteria and process in subsection (3) of this section  
12 to protect the rights of other appropriators from adverse impacts.

13 (3) (a) The department of fish; and wildlife; ~~and parks~~, with the consent of the commission, may lease  
14 existing rights for the purpose of protecting, maintaining, or enhancing streamflows to benefit the fishery resource.

15 (b) Upon receipt of a correct and complete application for a change in purpose of use or place of use  
16 from the department of fish; and wildlife; ~~and parks~~, the department shall publish notice of the application as  
17 provided in 85-2-307. Parties who believe that they may be adversely affected by the proposed change in  
18 appropriation right may file an objection as provided in 85-2-308. A change in appropriation right may not be  
19 approved until all objections are resolved. After resolving all objections filed under 85-2-308, the department shall  
20 authorize a change of an existing appropriation right for the purpose of protecting, maintaining, or enhancing  
21 streamflows to benefit the fishery resource if the applicant submits a correct and complete application and meets  
22 the requirements of 85-2-402.

23 (c) The application for a change in appropriation right authorization must include specific information on  
24 the length and location of the stream reach in which the streamflow is to be protected, maintained, or enhanced  
25 and must provide a detailed streamflow measuring plan that describes the points where and the manner in which  
26 the streamflow must be measured.

27 (d) The maximum quantity of water that may be changed to instream flow is the amount historically  
28 diverted. However, only the amount historically consumed, or a smaller amount if specified by the department  
29 in the change in appropriation right authorization, may be used to protect, maintain, or enhance streamflows  
30 below the point of diversion that existed prior to the change in appropriation right.

1 (e) A lease for instream flow purposes may be entered for a term of up to 10 years, except that a lease  
2 of water made available from the development of a water conservation or storage project may be for a term equal  
3 to the expected life of the project but not more than 30 years. All leases may be renewed an indefinite number  
4 of times but not for more than 10 years for each term. Upon receiving notice of a lease renewal, the department  
5 shall notify other appropriators potentially affected by the lease and shall allow 90 days for submission of new  
6 evidence of adverse effects to other water rights. A change in appropriation right authorization is not required for  
7 a renewal unless an appropriator other than an appropriator described in subsection (3)(i) submits evidence of  
8 adverse effects to the appropriator's rights that has not been considered previously. If new evidence is submitted,  
9 a change in appropriation right authorization must be obtained according to the requirements of 85-2-402.

10 (f) The department may modify or revoke the change in appropriation right authorization up to 10 years  
11 after it is approved if an appropriator other than an appropriator described in subsection (3)(i) submits new  
12 evidence not available at the time the change in appropriation right was approved that proves by a preponderance  
13 of evidence that the appropriator's water right is adversely affected.

14 (g) The priority of appropriation for a lease or change in appropriation right under this section is the same  
15 as the priority of appropriation of the right that is changed to an instream flow purpose.

16 (h) Neither a change in appropriation right nor any other authorization is required for the reversion of a  
17 leased appropriation right to the lessor's previous use.

18 (i) A person issued a water use permit with a priority of appropriation after the date of filing of an  
19 application for a change in appropriation right authorization under this section may not object to the exercise of  
20 the changed water right according to its terms or the reversion of a leased appropriation right to the lessor  
21 according to the lessor's previous use.

22 (j) The department of fish; and wildlife; ~~and parks~~ shall pay all costs associated with installing devices  
23 or providing personnel to measure streamflows according to the measuring plan required under this section.

24 (4) (a) The department of fish; and wildlife; ~~and parks~~ shall complete and submit to the department,  
25 commission, and environmental quality council a biennial progress report by December 1 of odd-numbered years.  
26 This report must include a summary of all appropriation rights changed to an instream flow purpose in the last  
27 2 years.

28 (b) For each change in appropriation right to an instream flow purpose, the report must include a copy  
29 of the change authorization issued by the department and must address:

30 (i) the length of the stream reach and how it is determined;

1 (ii) critical streamflow or volume needed to protect, maintain, or enhance streamflow to benefit the fishery  
2 resource;

3 (iii) the amount of water available for instream flow as a result of the change in appropriation right;

4 (iv) contractual parameters, conditions, and other steps taken to ensure that each change in appropriation  
5 right does not harm other appropriators, particularly if the stream is one that experiences natural dewatering; and

6 (v) methods used to monitor use of water under each change in appropriation right.

7 (5) This section does not create the right for a person to bring suit to compel the renewal of a lease that  
8 has expired.

9 (6) (a) From May 8, 2007, through June 30, 2019, the department of fish; and wildlife; ~~and parks~~ may  
10 change, pursuant to this section, the appropriation rights that it holds in fee simple to instream flow purposes on  
11 no more than 12 stream reaches.

12 (b) After June 30, 2019, the department may not change the appropriation rights that it holds in fee  
13 simple to instream flow purposes on any stream reaches.

14 (7) After June 30, 2019, the department may not enter into any new lease agreements pursuant to this  
15 section or renew any leases that expire after that date."  
16

17 **Section 129.** Section 85-9-104, MCA, is amended to read:

18 **"85-9-104. Limitations.** (1) This chapter may not be construed to grant to the district the power to  
19 generate, distribute, or sell electrical energy.

20 (2) The provisions of this chapter do not abrogate or limit in any manner the rights, powers, duties, and  
21 functions of the department, conservation districts, the department of environmental quality, or the department  
22 of fish; and wildlife; ~~and parks~~; but are supplementary to and in aid of those rights, powers, duties, and functions."  
23

24 **Section 130.** Section 85-9-202, MCA, is amended to read:

25 **"85-9-202. Action by department upon receipt of request.** (1) Within 11 days after the request is  
26 received, the department shall acknowledge the request.

27 (2) The department shall itself, through cooperating agencies, or together with cooperating agencies:

28 (a) consult with the board of supervisors and all persons who may participate in the proposed project;

29 (b) conduct a preliminary survey of the proposed district;

30 (c) estimate costs of works, maintenance, and operation;



- 1 (d) determine sources of financing;
- 2 (e) reach a tentative decision on the feasibility, desirability, and compatibility with the state water plan  
3 of the proposed district;
- 4 (f) adjust the boundaries of the proposed district to improve the feasibility, desirability, or consistency  
5 with the state water plan;
- 6 (g) within 1 year after receipt of the request, send a report of the preliminary survey to the applicants,  
7 the board of supervisors, the department of fish; and wildlife; ~~and parks~~, the department of environmental quality,  
8 and other affected state and federal resource agencies for their comments."

9

10 **Section 131.** Section 85-9-204, MCA, is amended to read:

11 **"85-9-204. Feasibility study and report -- adjustment of proposed boundaries.** After the hearing,  
12 the applicants or any one of them may request the department to prepare a detailed feasibility study of the  
13 proposed district. If the department concludes that the proposed district is feasible, desirable, and consistent with  
14 the state water plan, it shall prepare a feasibility report and, within 1 year after receipt of the request, send copies  
15 to the applicants, if any, the department of fish; and wildlife; ~~and parks~~, the department of environmental quality,  
16 and other affected state and federal water resource agencies. For good cause shown, based upon the actual  
17 technical problems in completing the report, the department may use necessary additional time to complete and  
18 distribute the report. The detailed feasibility report must describe the proposed works and contain an estimate  
19 of the cost of the works, the means of financing, and the estimated costs of operation and maintenance. The  
20 department may adjust the boundaries of the proposed district to improve the feasibility, desirability, and  
21 consistency with the state water plan and to exclude land that would receive no direct or indirect benefits from  
22 the proposed district."

23

24 **Section 132.** Section 87-1-101, MCA, is amended to read:

25 **"87-1-101. Definitions.** Unless the context requires otherwise, in this title the following definitions apply:

26 (1) "Commission" means the fish; and wildlife; ~~and parks~~ commission provided for in 2-15-3402.

27 (2) "Department" means the department of fish; and wildlife; ~~and parks~~ provided for in Title 2, chapter  
28 15, part 34.

29 (3) "Director" means the director of fish; and wildlife; ~~and parks~~ provided for in 2-15-3401.

30 (4) "Warden" means a state fish and game warden."

1

2           **Section 133.** Section 87-1-102, MCA, is amended to read:

3           **"87-1-102. Penalties -- violation of state law.** (1) (a) A person who purposely, knowingly, or negligently  
4 violates a provision of this title or any other state law pertaining to fish and game is guilty of a misdemeanor,  
5 except if a felony is expressly provided by law, and shall be fined an amount of not less than \$50 or more than  
6 \$1,000, be imprisoned in the county detention center for not more than 6 months, or both unless a different  
7 punishment is expressly provided by law for the violation. In addition, the person, upon conviction or forfeiture  
8 of bond or bail, may be subject to forfeiture of that person's license and the privilege to hunt, fish, or trap in this  
9 state or to use state lands, as defined in 77-1-101, for recreational purposes for a period set by the court.

10           (b) (i) If the court imposes forfeiture of the person's license and privilege to hunt, fish, or trap or to use  
11 state lands, the department shall notify the person of the loss of privileges as imposed by the court. The person  
12 shall surrender all licenses, as ordered by the court, to the department within 10 days.

13           (ii) After a forfeiture period imposed pursuant to this section and upon receipt of notification from the court  
14 that the defendant has appeared and all terms of the court sentence, including making payment of any fine, costs,  
15 or restitution, have been met or the defendant is in compliance with installment payments specified by the court,  
16 the department shall reinstate the privileges unless the person is not otherwise entitled to reinstatement. After  
17 the privileges are reinstated, the department may revoke the privileges if it is notified by the clerk of court that the  
18 person is in default on any installment payment.

19           (iii) A person convicted of hunting, fishing, or trapping while the person's license or privilege is forfeited  
20 shall be imprisoned in the county detention center for not less than 5 days or more than 6 months and may be  
21 fined an amount of not less than \$500 or more than \$2,000.

22           (2) (a) A person convicted of unlawfully taking, killing, possessing, or transporting a bighorn sheep,  
23 moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or any part of these animals shall be fined  
24 an amount of not less than \$500 or more than \$2,000, be imprisoned in the county detention center for not more  
25 than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit any  
26 current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish,  
27 or trap in this state for 30 months from the date of conviction or forfeiture unless the court imposes a longer  
28 forfeiture period.

29           (b) A person convicted of unlawfully taking, killing, possessing, or transporting a deer, antelope, elk, or  
30 mountain lion or any part of these animals shall be fined an amount of not less than \$300 or more than \$1,000,

1 be imprisoned in the county detention center for not more than 6 months, or both. In addition, that person, upon  
2 conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this  
3 state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture  
4 unless the court imposes a longer forfeiture period.

5 (c) A person convicted of unlawfully attempting to trap or hunt a game animal shall be fined an amount  
6 of not less than \$200 or more than \$600, be imprisoned in the county detention center for not more than 60 days,  
7 or both.

8 (d) A person convicted of purposely, knowingly, or negligently taking, killing, trapping, possessing,  
9 transporting, shipping, labeling, or packaging a fur-bearing animal or pelt of a fur-bearing animal in violation of  
10 any provision of this title shall be fined an amount of not less than \$100 or more than \$1,000, be imprisoned in  
11 the county detention center for not more than 6 months, or both. In addition, that person, upon conviction or  
12 forfeiture of bond or bail, shall forfeit any current license and the privilege to hunt, fish, or trap in this state for 24  
13 months from the date of conviction or forfeiture unless the court imposes a longer forfeiture period, and any pelts  
14 possessed unlawfully must be confiscated.

15 (e) Upon conviction of or forfeiture of bond or bail imposed for an act of criminal mischief, as defined in  
16 45-6-101, involving property owned or administered by the department or the department of commerce pursuant  
17 to Title 23, chapter 1, a person shall forfeit any current license and the privilege to hunt, fish, or trap in this state  
18 for at least 24 months from the date of conviction or forfeiture.

19 (f) Upon conviction of or forfeiture of bond or bail imposed for committing an act of criminal trespass, as  
20 defined in 45-6-203, involving property owned or administered by the department or the department of commerce  
21 pursuant to Title 23, chapter 1, or while hunting, fishing, or trapping, the privilege of a person to hunt, fish, or trap  
22 in this state may be revoked for up to 24 months from the date of conviction or forfeiture.

23 (3) If a person is convicted of illegally taking an animal described in 87-1-111 or 87-1-115 through the  
24 use of projected artificial light, nightscopes, or infrared scopes, the person is prohibited from fishing or hunting  
25 in the state for an additional 5 years following the ending date of the original prohibition period. In addition, the  
26 person, upon conviction or forfeiture of bond or bail, shall successfully complete, at the person's own expense,  
27 a department-sponsored hunter education course.

28 (4) A person convicted or who has forfeited bond or bail under this section and whose license privileges  
29 are forfeited may not purchase, acquire, obtain, possess, or apply for a hunting, fishing, or trapping license or  
30 permit during the period when license privileges have been forfeited. A person convicted of unlawfully purchasing,

1 acquiring, obtaining, possessing, or applying for a hunting, fishing, or trapping license during the period when  
2 license privileges have been forfeited shall be fined an amount of not less than \$500 or more than \$2,000, be  
3 imprisoned in the county jail for not more than 60 days, or both.

4 (5) A person convicted or who has forfeited bond or bail under this section and who has been ordered  
5 to pay restitution under the provisions of 87-1-111 or 87-1-115 may not apply for any special license under Title  
6 87, chapter 2, part 7, or enter any drawing for a special license or permit for a period of 5 years following the date  
7 of conviction or restoration of license privileges, whichever is later. If the violation involved the unlawful taking of  
8 a moose, a bighorn sheep, or a mountain goat, the person may not apply for a special license or enter a drawing  
9 for a special license or permit for the same species of game animal that was unlawfully taken for an additional  
10 period of 5 years following the ending date of the first 5-year period. A person convicted of unlawfully applying  
11 for any special license under Title 87, chapter 2, part 7, or unlawfully entering a drawing for a special license or  
12 permit shall be fined an amount of not less than \$500 or more than \$2,000, be imprisoned in the county detention  
13 center for not more than 60 days, or both.

14 (6) (a) A person convicted of a second offense of any of the following offenses within 10 years of the first  
15 conviction or who is convicted of two or more of the following offenses at different times within a 10-year period  
16 is subject to the penalties provided in subsection (6)(b):

- 17 (i) hunting during a closed season;  
18 (ii) taking an animal or hunting while using projected artificial light;  
19 (iii) hunting without a license;  
20 (iv) unlawful taking of more than double the legal bag limit;  
21 (v) unlawful possession of more than double the legal bag limit; and  
22 (vi) waste of game by abandonment in the field.

23 (b) A person convicted of the offenses in subsection (6)(a) in the time periods specified in subsection  
24 (6)(a) shall be fined an amount of not less than \$2,000 or more than \$5,000, be imprisoned in the county jail for  
25 not more than 1 year, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit all  
26 current hunting, fishing, and trapping licenses issued by this state and the privilege to hunt, fish, or trap in this  
27 state for 60 months from the date of conviction or forfeiture unless the court imposes a longer forfeiture period.

28 (7) (a) A person convicted of a third offense of any of the following offenses within 10 years of the first  
29 conviction is subject to the penalties provided in subsection (7)(b):

- 30 (i) hunting during a closed season;

1 (ii) taking an animal or hunting while using projected artificial light;

2 (iii) hunting without a license; and

3 (iv) unlawful taking of more than double the legal bag limit.

4 (b) A person convicted of the offenses in subsection (7)(a) in the time period specified in subsection  
5 (7)(a) shall be fined an amount of not less than \$5,000 or more than \$10,000, be imprisoned in the county jail for  
6 not more than 1 year, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit all  
7 current hunting, fishing, and trapping licenses issued by this state and the privilege to hunt, fish, or trap in this  
8 state for life.

9 (8) Subject to sentencing restrictions, the court shall order a person who is convicted pursuant to this  
10 section to pay the costs of imprisonment under this section.

11 (9) A mandatory forfeiture of privileges imposed pursuant to this section does not apply to juveniles.  
12 However, the court may, at its discretion, order forfeiture of a juvenile's license and privilege to hunt, fish, or trap  
13 upon conviction or forfeiture of bond or bail for a violation of this title.

14 (10) Notwithstanding the provision of subsection (1), the penalties provided by this section are in addition  
15 to any penalties provided in Title 37, chapter 47, and Title 87, chapter 4, part 2.

16 (11) If an administrative authority suspends a license, permit, or privilege to obtain a license or permit  
17 issued under this title, the administrative authority or the department shall notify the person of the suspension and  
18 the person shall surrender the license or permit to the department within 10 days.

19 (12) For the purposes of this section, the terms "knowingly", "negligently", and "purposely" have the same  
20 meanings provided in 45-2-101."

21

22 **Section 134.** Section 87-1-106, MCA, is amended to read:

23 **"87-1-106. Fish, and wildlife, ~~and parks~~ offices.** The principal offices of the commission and  
24 department ~~shall be~~ are located in or near Helena, and suitable and adequate space ~~therefor~~ for the offices,  
25 together with janitor services, light, heat, and water, ~~shall~~ must be furnished by the state of Montana."

26

27 **Section 135.** Section 87-1-201, MCA, is amended to read:

28 **"87-1-201. Powers and duties.** (1) The department shall supervise all the wildlife, fish, game, game and  
29 nongame birds, waterfowl, and the game and fur-bearing animals of the state and may implement voluntary  
30 programs that encourage hunting access on private lands and that promote harmonious relations between

1 landowners and the hunting public. The department possesses all powers necessary to fulfill the duties prescribed  
2 by law and to bring actions in the proper courts of this state for the enforcement of the fish and game laws and  
3 the rules adopted by the department.

4 (2) The department shall enforce all the laws of the state regarding the protection, preservation,  
5 management, and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

6 (3) The department has the exclusive power to spend for the protection, preservation, management, and  
7 propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or acquired  
8 for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or  
9 received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from  
10 fines or damages collected for violations of the fish and game laws, or from appropriations or received by the  
11 department from any other sources is under the control of the department and is available for appropriation to  
12 the department.

13 (4) The department may discharge any appointee or employee of the department for cause at any time.

14 (5) The department may dispose of all property owned by the state used for the protection, preservation,  
15 management, and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no  
16 further value or use to the state and shall turn over the proceeds from the sale to the state treasurer to be credited  
17 to the fish and game account in the state special revenue fund.

18 (6) The department may not issue permits to carry firearms within this state to anyone except regularly  
19 appointed officers or wardens.

20 (7) The department is authorized to make, promulgate, and enforce reasonable rules and regulations  
21 not inconsistent with the provisions of Title 87, chapter 2, that in its judgment will accomplish the purpose of  
22 chapter 2.

23 (8) The department is authorized to promulgate rules relative to tagging, possession, or transportation  
24 of bear within or outside of the state.

25 (9) (a) The department shall implement programs that:

26 (i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing under  
27 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.;

28 (ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under  
29 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the  
30 maintenance or recovery of those species;

1 (iii) manage elk, deer, and antelope populations based on habitat estimates determined as provided in  
2 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as provided  
3 in 87-1-323. In implementing an elk management plan, the department shall, as necessary to achieve harvest  
4 and population objectives, request that land management agencies open public lands and public roads to public  
5 access during the big game hunting season.

6 (iv) address fire mitigation, pine beetle infestation, and wildlife habitat enhancement giving priority to  
7 forested lands in excess of 50 contiguous acres in any ~~state park~~, fishing access site; or wildlife management  
8 area under the department's jurisdiction.

9 (b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential  
10 candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or recovery  
11 of those species with the social and economic impacts of species maintenance or recovery.

12 (c) Any management plan developed by the department pursuant to this subsection (9) is subject to the  
13 requirements of Title 75, chapter 1, part 1.

14 (d) This subsection (9) does not affect the ownership or possession, as authorized under law, of a  
15 privately held listed species, a sensitive species, or a species that is a potential candidate for listing.

16 (10) The department shall publish an annual game count, estimating to the department's best ability the  
17 numbers of each species of game animal, as defined in 87-2-101, in the hunting districts and administrative  
18 regions of the state. In preparing the publication, the department may incorporate field observations, hunter  
19 reporting statistics, or any other suitable method of determining game numbers. The publication must include an  
20 explanation of the basis used in determining the game count."

21

22 **Section 136.** Section 87-1-202, MCA, is amended to read:

23 **"87-1-202. Publication of orders and rules.** (1) Except as provided in subsection (2), annual and  
24 biennial rules adopted by the commission setting seasonal hunting, fishing, trapping, and land use regulations  
25 must be published in a pamphlet format that is made available to the public at all department offices and through  
26 all license providers.

27 (2) Site-specific land use regulations applicable to a particular fishing access site, wildlife management  
28 area, ~~park site~~, or other department land, including but not limited to speed limits, road and off-road restrictions  
29 or closures, places where camping is allowed or prohibited, and seasonal closures for management purposes,  
30 must be indicated to the public by signs on the premises of the particular fishing access site, wildlife management

1 area, ~~park site~~, or other department land.

2 (3) (a) Commission orders setting management seasons, providing for game damage hunts, and closing  
3 special seasons pursuant to 87-1-304 may be published by:

4 (i) use of the department's website;

5 (ii) use of a telephone hotline number; or

6 (iii) any other method that is readily available to the public.

7 (b) The method for notifying the public of the closure of a special season must be stated in the rule that  
8 establishes the special season.

9 (4) Public notification of emergency closures of department lands, public waterways, and hunting, fishing,  
10 and trapping seasons that are based on public health, safety, and welfare must be made in the manner and to  
11 the extent that the department considers necessary in light of the facts surrounding the emergency, including,  
12 when practical, onsite posting of the emergency closure."

13

14 **Section 137.** Section 87-1-209, MCA, is amended to read:

15 **"87-1-209. (Temporary) Acquisition and sale of land or water.** (1) Subject to 87-1-218, the  
16 department, with the consent of the commission and, in the case of land acquisition involving more than 100  
17 acres or \$100,000 in value, the approval of the board of land commissioners, may acquire by purchase, lease,  
18 agreement, gift, or devise and may acquire easements upon land or water for the purposes listed in this  
19 subsection. Any acquisition of land or water rights for purposes of this subsection, except that portion of  
20 acquisitions made with funds provided under 87-1-242(1), must include an additional 20% above the purchase  
21 price to be used for maintenance of land or water acquired by the department. The additional amount above the  
22 purchase price or \$300,000, whichever is less, must be deposited in the account established in 87-1-230. As used  
23 in this subsection, "maintenance" means that term as defined in [section 142 or 143] and consistent with the good  
24 neighbor policy in ~~23-1-127(2)~~ [section 140 or 141]. The department may develop, operate, and maintain acquired  
25 land or water rights:

26 (a) for fish hatcheries or nursery ponds;

27 (b) as land or water suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or  
28 protection;

29 (c) for public hunting, fishing, or trapping areas;

30 (d) to capture, propagate, transport, buy, sell, or exchange any game, birds, fish, fish eggs, or fur-bearing



1 animals needed for propagation or stocking purposes or to exercise control measures of undesirable species;

2 ~~(e) for state parks and outdoor recreation;~~

3 ~~(f)(e)~~ to extend and consolidate by exchange, land or water rights suitable for these purposes.

4 ~~(2) The department, with the consent of the commission, may acquire by condemnation, as provided in~~  
 5 ~~Title 70, chapter 30, land or structures for the preservation of historical or archaeological sites that are threatened~~  
 6 ~~with destruction or alteration.~~

7 ~~(3)(2)~~ (a) Subject to section 2(3), Chapter 560, Laws of 2005, the department, with the consent of the  
 8 commission, may dispose of land and water rights acquired by it on those terms after public notice as required  
 9 by subsection ~~(3)(b)~~ (2)(b) of this section, without regard to other laws that provide for sale or disposal of state  
 10 land and with or without reservation, as it considers necessary and advisable. The department, with the consent  
 11 of the commission, may convey department land and water rights for full market value to other governmental  
 12 entities or to adjacent landowners without regard to the requirements of subsection ~~(3)(b)~~ (2)(b) or ~~(3)(c)~~ (2)(c)  
 13 if the land is less than 10 acres or if the full market value of the interest to be conveyed is less than \$20,000.  
 14 When the department conveys land or water rights to another governmental entity or to an adjacent landowner  
 15 pursuant to this subsection, the department, in addition to giving notice pursuant to subsection ~~(3)(b)~~ (2)(b), shall  
 16 give notice by mail to the landowners whose property adjoins the department property being conveyed.

17 (b) Subject to section 2(3), Chapter 560, Laws of 2005, notice of sale describing the land or water rights  
 18 to be disposed of must be published once a week for 3 successive weeks in a newspaper with general circulation  
 19 printed and published in the county where the land or water right is situated or, if a newspaper is not published  
 20 in that county, then in any newspaper with general circulation in that county.

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

27 (d) The department shall reserve the right to reject any bids that do not equal or exceed the full market  
 28 value of the land or water right as determined by the department. If the department does not receive a bid that  
 29 equals or exceeds fair market value, it may then sell the land or water rights at private sale. The price accepted  
 30 on any private sale must exceed the highest bid rejected in the bid process.

1           ~~(4)~~(3) When necessary and advisable for the management and use of department property, the director  
 2 is authorized to grant or acquire from willing sellers right-of-way easements for purposes of utilities, roads,  
 3 drainage facilities, ditches for water conveyance, and pipelines if the full market value of the interest to be  
 4 acquired is less than \$20,000. Whenever possible, easements must include a weed management plan. Approval  
 5 of the commission is not required for grants and acquisitions made pursuant to this subsection. In granting any  
 6 right-of-way pursuant to this subsection, the department shall obtain a fair market value, but the department is  
 7 not otherwise required to follow the disposal requirements of subsection ~~(3)~~ (2). The director shall report any  
 8 easement grant or acquisition made pursuant to this subsection to the commission at its next regular meeting.

9           ~~(5)~~(4) The department shall convey land and water rights without covenants of warranty by deed  
 10 executed by the governor or in the governor's absence or disability by the lieutenant governor, attested by the  
 11 secretary of state and further countersigned by the director.

12           ~~(6)~~(5) Subject to 87-1-218, the department, with the consent of the commission, is authorized to utilize  
 13 the installment contract method to facilitate the acquisition of wildlife management areas in which game and  
 14 nongame fur-bearing animals and game and nongame birds may breed and replenish and areas that provide  
 15 access to fishing sites for the public. The total cost of installment contracts may not exceed the cost of purchases  
 16 authorized by the department and appropriated by the legislature.

17           ~~(7)~~(6) The department is authorized to enter into leases of land under its control in exchange for services  
 18 to be provided by the lessee on the leased land. (Terminates June 30, 2013--sec. 8, Ch. 427, L. 2009.)

19           **87-1-209. (Effective July 1, 2013) Acquisition and sale of lands or waters.** (1) Subject to 87-1-218,  
 20 the department, with the consent of the commission and, in the case of land acquisition involving more than 100  
 21 acres or \$100,000 in value, the approval of the board of land commissioners, may acquire by purchase, lease,  
 22 agreement, gift, or devise and may acquire easements upon lands or waters for the purposes listed in this  
 23 subsection. The department may develop, operate, and maintain acquired lands or waters:

- 24           (a) for fish hatcheries or nursery ponds;  
 25           (b) as lands or water suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or  
 26 protection;  
 27           (c) for public hunting, fishing, or trapping areas;  
 28           (d) to capture, propagate, transport, buy, sell, or exchange any game, birds, fish, fish eggs, or fur-bearing  
 29 animals needed for propagation or stocking purposes or to exercise control measures of undesirable species;  
 30           ~~(e) for state parks and outdoor recreation;~~

1           ~~(f)(e)~~ to extend and consolidate by exchange, lands or waters suitable for these purposes.

2           ~~(2) The department, with the consent of the commission, may acquire by condemnation, as provided in~~  
3 ~~Title 70, chapter 30, lands or structures for the preservation of historical or archaeological sites that are~~  
4 ~~threatened with destruction or alteration.~~

5           ~~(3)(2)~~ (a) Subject to section 2(3), Chapter 560, Laws of 2005, the department, with the consent of the  
6 commission, may dispose of lands and water rights acquired by it on those terms after public notice as required  
7 by subsection ~~(3)(b)~~ (2)(b) of this section, without regard to other laws that provide for sale or disposal of state  
8 lands and with or without reservation, as it considers necessary and advisable. The department, with the consent  
9 of the commission, may convey department lands and water rights for full market value to other governmental  
10 entities or to adjacent landowners without regard to the requirements of subsection ~~(3)(b)~~ (2)(b) or ~~(3)(c)~~ (2)(c)  
11 if the land is less than 10 acres or if the full market value of the interest to be conveyed is less than \$20,000.  
12 When the department conveys land or water rights to another governmental entity or to an adjacent landowner  
13 pursuant to this subsection, the department, in addition to giving notice pursuant to subsection ~~(3)(b)~~ (2)(b), shall  
14 give notice by mail to the landowners whose property adjoins the department property being conveyed.

15           (b) Subject to section 2(3), Chapter 560, Laws of 2005, notice of sale describing the lands or waters to  
16 be disposed of must be published once a week for 3 successive weeks in a newspaper with general circulation  
17 printed and published in the county where the lands or waters are situated or, if a newspaper is not published in  
18 that county, then in any newspaper with general circulation in that county.

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

25           (d) The department shall reserve the right to reject any bids that do not equal or exceed the full market  
26 value of the lands and waters as determined by the department. If the department does not receive a bid that  
27 equals or exceeds fair market value, it may then sell the lands or water rights at private sale. The price accepted  
28 on any private sale must exceed the highest bid rejected in the bid process.

29           ~~(4)(3)~~ When necessary and advisable for the management and use of department property, the director  
30 is authorized to grant or acquire from willing sellers right-of-way easements for purposes of utilities, roads,

1 drainage facilities, ditches for water conveyance, and pipelines if the full market value of the interest to be  
 2 acquired is less than \$20,000. Whenever possible, easements must include a weed management plan. Approval  
 3 of the commission is not required for grants and acquisitions made pursuant to this subsection. In granting any  
 4 right-of-way pursuant to this subsection, the department shall obtain a fair market value, but the department is  
 5 not otherwise required to follow the disposal requirements of subsection ~~(3)~~ (2). The director shall report any  
 6 easement grant or acquisition made pursuant to this subsection to the commission at its next regular meeting.

7 ~~(5)~~(4) The department shall convey lands and water rights without covenants of warranty by deed  
 8 executed by the governor or in the governor's absence or disability by the lieutenant governor, attested by the  
 9 secretary of state and further countersigned by the director.

10 ~~(6)~~(5) Subject to 87-1-218, the department, with the consent of the commission, is authorized to utilize  
 11 the installment contract method to facilitate the acquisition of wildlife management areas in which game and  
 12 nongame fur-bearing animals and game and nongame birds may breed and replenish and areas that provide  
 13 access to fishing sites for the public. The total cost of installment contracts may not exceed the cost of purchases  
 14 authorized by the department and appropriated by the legislature.

15 ~~(7)~~(6) The department is authorized to enter into leases of land under its control in exchange for services  
 16 to be provided by the lessee on the leased land."

17

18 **Section 138.** Section 87-1-230, MCA, is amended to read:

19 **"87-1-230. (Temporary) Maintenance account -- annual report.** (1) There is a maintenance account  
 20 in the state special revenue fund. In addition to the funds set aside for maintenance of land or water acquired by  
 21 the department pursuant to 87-1-209(1), the department shall also deposit into the maintenance account:

22 (a) funds dedicated for development and maintenance of real property used for wildlife habitat under  
 23 87-1-242(4)(a);

24 (b) interest earned on the account; and

25 (c) any other money that the department considers appropriate or necessary for maintenance of the  
 26 department's land or water.

27 (2) Funds deposited in the account are statutorily appropriated, as provided in 17-7-502, to the  
 28 department and may be used only for maintenance of any land or water acquired by the department.

29 (3) (a) ~~e~~ The department shall provide an annual report regarding deposits into and withdrawals from  
 30 the account established in subsection (1) to the ~~oversight subcommittee of the~~ environmental quality council for

1 the purpose of demonstrating the use of funds in the account toward the good neighbor policy.

2 (b) The report must describe the types of maintenance completed by fish; and wildlife; ~~and parks~~ region  
3 and maintenance plans for the subsequent fiscal year.

4 (c) The report is due to the environmental quality council by September 1 following the end of each fiscal  
5 year. (Terminates June 30, 2013--sec. 8, Ch. 427, L. 2009.)"

6

7 **Section 139.** Section 87-1-256, MCA, is amended to read:

8 **"87-1-256. Definitions.** As used in 87-1-255 through 87-1-259, the following definitions apply:

9 (1) "Account" means the river restoration account provided for in 87-1-258.

10 (2) "Associated lands" means the beds, banks, and immediately adjacent lands associated with a river.

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

12 (4) "Program" means the river restoration program provided for in 87-1-257.

13 (5) "Restoration" means to restore to a good condition, regenerate, or make over in an improved form.

14 (6) "River" means a river, stream, creek, or other naturally occurring body of flowing water."

15

16 **NEW SECTION. Section 140. Good neighbor policy -- public recreational lands.** (1) The good  
17 neighbor policy of public land use, as applied to public recreational land, seeks a goal of no impact upon adjoining  
18 private and public land by preventing impact on the adjoining land from noxious weeds, trespass, litter, noise and  
19 light pollution, streambank erosion, and loss of privacy. To facilitate the good neighbor policy regarding impact  
20 to adjoining land from noxious weeds, the department shall, prior to purchasing any land where noxious weeds  
21 are present, develop a noxious weed management agreement that complies with the county weed management  
22 district's noxious weed management program, as required in 7-22-2154.

23 (2) In order to implement the good neighbor policy expeditiously, the legislature finds it necessary to  
24 require the department to place maintenance as a priority:

25 (a) over additional development at all fishing access sites; and

26 (b) on recreational land or water acquired pursuant to 87-1-209 for public hunting, fishing, trapping, or  
27 outdoor recreation.

28 (3) At the discretion of the department, the restriction in subsection (2) does not apply to:

29 (a) projects on the Missouri reach of the Missouri-Madison hydropower project or the Clark Fork basin  
30 hydropower project, undertaken pursuant to the federal energy regulatory commission's hydropower relicensing

1 requirements and in conjunction with private entities, political subdivisions of the state of Montana, and federal  
2 agencies; or

3 (b) projects on Fort Peck reservoir undertaken in conjunction with the U.S. army corps of engineers.

4 (4) Any development in fishing access sites beyond those defined as maintenance in [section 142] must  
5 be approved by the legislature.

6  
7 **NEW SECTION. Section 141. Good neighbor policy -- public recreational land.** (1) The good  
8 neighbor policy of public land use, as applied to public recreational land, seeks a goal of no impact upon adjoining  
9 private and public land by preventing impact on the adjoining land from noxious weeds, trespass, litter, noise and  
10 light pollution, streambank erosion, and loss of privacy.

11 (2) In order to implement the good neighbor policy expeditiously, the legislature finds it necessary to  
12 require the department to place maintenance as a priority over additional development at all fishing access sites.

13 (3) At the discretion of the department, the restriction in subsection (2) does not apply to:

14 (a) projects on the Missouri reach of the Missouri-Madison hydropower project or the Clark Fork basin  
15 hydropower project, undertaken pursuant to the federal energy regulatory commission's hydropower relicensing  
16 requirements and in conjunction with private entities, political subdivisions of the state of Montana, and federal  
17 agencies; or

18 (b) projects on Fort Peck reservoir undertaken in conjunction with the U.S. army corps of engineers.

19 (4) Any development in fishing access sites beyond those defined as maintenance in [section 143] must  
20 be approved by the legislature.

21  
22 **NEW SECTION. Section 142. Maintenance priority -- maintenance defined.** (1) With regard to fishing  
23 access sites, implementation of the good neighbor policy requires that priority is to be given to maintenance of  
24 existing facilities, rather than to development or improvement. For purposes of [section 140] and this subsection,  
25 "maintenance" means:

26 (a) weed control;

27 (b) fence installation and repair of existing fences;

28 (c) placing, cleaning, and stocking of latrines;

29 (d) garbage and litter removal;

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

- 1 (f) upkeep of established trails, roads, parking areas, boat docks, and similar facilities existing in fishing  
2 access sites on October 1, 1999;
- 3 (g) in-kind replacement of existing facilities, including electric lines or facilities, or replacement of those  
4 existing facilities with facilities that have less impact on the fishing access site;
- 5 (h) erosion control;
- 6 (i) streambank stabilization;
- 7 (j) erection of barriers necessary to preserve riparian vegetation and habitat;
- 8 (k) minimal signage necessary to inform users of appropriate fishing access site use and applicable  
9 regulations and of historical, natural, cultural, geographical, and geological features in the area;
- 10 (l) measures necessary to ensure compliance with the federal Americans With Disabilities Act of 1990,  
11 when applicable;
- 12 (m) planting of native trees, grasses, and shrubs for habitat stabilization and privacy shielding;
- 13 (n) installation of fire rings, picnic tables, and trash collection facilities; and
- 14 (o) other necessary activities and expenditures consistent with the good neighbor policy and the intent  
15 of [section 140], [section 146], and this section, including new trails, new boat ramps, and necessary new access  
16 roads into and within the fishing access site.
- 17 (2) With regard to recreational land or water rights acquired pursuant to 87-1-209 for public hunting,  
18 fishing, trapping, or outdoor recreation, implementation of the good neighbor policy requires that priority is to be  
19 given to maintenance. For purposes of [section 140(2)(b)] and this subsection, "maintenance" means:
- 20 (a) weed control;
- 21 (b) garbage and litter removal;
- 22 (c) repair of existing fences;
- 23 (d) implementation of safety and health measures required by law to protect the public;
- 24 (e) in-kind replacement of existing facilities, including electric lines or facilities, or replacement of those  
25 existing facilities with facilities that have less impact on the land or water;
- 26 (f) erosion control;
- 27 (g) streambank stabilization;
- 28 (h) erection of barriers necessary to preserve riparian vegetation and habitat;
- 29 (i) planting of native trees, grasses, and shrubs for habitat stabilization; and
- 30 (j) other necessary activities and expenditures consistent with the good neighbor policy and the intent

1 of [section 140] and this section.

2

3 **NEW SECTION. Section 143. Maintenance priority -- maintenance defined.** With regard to fishing  
4 access sites, implementation of the good neighbor policy requires that priority is to be given to maintenance of  
5 existing facilities, rather than to development or improvement. For purposes of [section 141] and this section,  
6 "maintenance" means:

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

8 (2) garbage and litter removal;

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

10 (4) weed control;

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

12 (6) upkeep of established trails, roads, parking areas, boat docks, and similar facilities existing in fishing  
13 access sites on October 1, 1999;

14 (7) in-kind replacement of existing facilities, including electric lines or facilities, or replacement of those  
15 existing facilities with facilities that have less impact on the fishing access site;

16 (8) erosion control;

17 (9) streambank stabilization;

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

19 (11) minimal signage necessary to inform users of appropriate fishing access site use and applicable  
20 regulations and of historical, natural, cultural, geographical, and geological features in the area;

21 (12) measures necessary to ensure compliance with the federal Americans With Disabilities Act of 1990,  
22 when applicable;

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

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

25 (15) other necessary activities and expenditures consistent with the good neighbor policy and the intent  
26 of [section 141], [section 146], and this section, including new trails, new boat ramps, and necessary new access  
27 roads into and within the fishing access site.

28

29 **NEW SECTION. Section 144. Fishing access sites -- fees and charges.** (1) The department may  
30 levy and collect reasonable fees or other charges for the use of privileges and conveniences that may be provided



1 at fishing access sites and to grant concessions that it considers advisable, except as provided in subsections  
2 (2) and (5). All money derived from the activities of the department must be deposited in the state treasury in a  
3 state special revenue fund to the credit of the department.

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

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

12 (4) Money received from the collection of fees and charges is subject to the deposit requirements of  
13 17-6-105(6) unless the department has submitted and received approval for a modified deposit schedule pursuant  
14 to 17-6-105(8).

15 (5) In recognition of the fact that individuals support fishing access sites through the payment of certain  
16 motor vehicle registration fees, persons who pay the fee provided for in 61-3-321(18)(a) may not be required to  
17 pay a day-use fee for access to fishing access sites. Other fees for the use of fishing access sites, such as  
18 overnight camping fees, are still chargeable and may be collected by the department.

19  
20 **NEW SECTION. Section 145. Fishing access sites -- improvement or development -- required**  
21 **public involvement -- rules.** (1) The commission shall adopt rules establishing a policy whereby any proposed  
22 improvement or development of a fishing access site that significantly changes fishing access site features or use  
23 patterns is subject to notice of proposed modifications, both statewide and locally, and to opportunity for a public  
24 meeting and public comment on the advisability and acceptability of the proposal.

25 (2) The department shall prepare a public report regarding any project that is subject to the provisions  
26 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;  
28 (b) the capacity of the 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 fishing access site features;
- 2 (f) potential impacts on tourism; and
- 3 (g) site-specific modifications as they relate to the fishing access site system as a whole.

4

5 **NEW SECTION. Section 146. Fishing access sites -- protection of riparian vegetation -- limit on**

6 **motorized camping, operation of off-highway vehicles.** In order to protect riparian vegetation, provide for

7 stable streambanks, reduce erosion, and provide for nutrient barriers to protect the quality of rivers and streams:

- 8 (1) camping in a motor vehicle, as defined in 61-1-101, is discouraged within 25 feet of a river or stream
- 9 in fishing access sites; and
- 10 (2) the off-road operation of an off-highway vehicle, as defined in 23-2-801, is prohibited within fishing
- 11 access sites except for administrative purposes.

12

13 **Section 147.** Section 87-1-301, MCA, is amended to read:

14 **"87-1-301. Powers of commission.** (1) The commission:

- 15 (a) shall set the policies for the protection, preservation, management, and propagation of the wildlife,
- 16 fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment
- 17 of all other responsibilities of the department as provided by law;
- 18 (b) shall establish the hunting, fishing, and trapping rules of the department;
- 19 (c) shall establish the rules of the department governing the use of lands owned or controlled by the
- 20 department and waters under the jurisdiction of the department;
- 21 (d) must have the power within the department to establish wildlife refuges and bird and game preserves;
- 22 (e) shall approve all acquisitions or transfers by the department of interests in land or water, except as
- 23 provided in 87-1-209~~(4)~~(3);
- 24 (f) shall review and approve the budget of the department prior to its transmittal to the budget office;
- 25 (g) shall review and approve construction projects that have an estimated cost of more than \$1,000 but
- 26 less than \$5,000; and
- 27 (h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided
- 28 in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as
- 29 provided in 87-1-323. In developing or implementing an elk management plan, the commission shall consider
- 30 landowner tolerance when deciding whether to restrict elk hunting on surrounding public land in a particular

1 hunting district. As used in this subsection (1)(h), "landowner tolerance" means the written or documented verbal  
2 opinion of an affected landowner regarding the impact upon the landowner's property within the particular hunting  
3 district where a restriction on elk hunting on public property is proposed.

4 (2) The commission may adopt rules regarding the use and type of archery equipment that may be  
5 employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in  
6 archery equipment change.

7 (3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons,  
8 conditions, programs, or other provisions that the commission considers appropriate to promote or enhance  
9 hunting by Montana's youth and persons with disabilities.

10 (4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

11 (i) separate deer licenses from nonresident elk combination licenses;

12 (ii) set the fees for the separated deer combination licenses and the elk combination licenses without the  
13 deer tag;

14 (iii) condition the use of the deer licenses; and

15 (iv) limit the number of licenses sold.

16 (b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and  
17 appropriate to regulate the harvest by nonresident big game combination license holders:

18 (i) for the biologically sound management of big game populations of elk, deer, and antelope;

19 (ii) to control the impacts of those elk, deer, and antelope populations on uses of private property; and

20 (iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-321  
21 through 87-1-325.

22 (5) The commission may adopt rules establishing license preference systems to distribute hunting  
23 licenses and permits:

24 (a) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant  
25 who has been unsuccessful for a shorter period of time; and

26 (b) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(b), "qualifying  
27 landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by  
28 the commission.

29 (6) (a) The commission may adopt rules to:

30 (i) limit the number of nonresident mountain lion hunters in designated hunting districts; and

1 (ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting  
2 districts.

3 (b) The commission shall consider, but is not limited to consideration of, the following factors:

4 (i) harvest of lions by resident and nonresident hunters;

5 (ii) history of quota overruns;

6 (iii) composition, including age and sex, of the lion harvest;

7 (iv) historical outfitter use;

8 (v) conflicts among hunter groups;

9 (vi) availability of public and private lands; and

10 (vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters."  
11

12 **Section 148.** Section 87-1-603, MCA, is amended to read:

13 **"87-1-603. Payments to counties for department-owned land -- exceptions.** (1) Except as provided  
14 in subsection (3), before November 30 of each year, the treasurer of each county in which the department owns  
15 any land shall describe the land, state the number of acres in each parcel, and request the drawing of a warrant  
16 to the county in a sum equal to the amount of taxes that would be payable on county assessment of the property  
17 if it was taxable to a private citizen. The director shall approve or disapprove the request. The director may  
18 disapprove a request only if the director finds it to be inconsistent with this section. If the director disapproves a  
19 request, the director shall return it with an explanation detailing the reasons for the disapproval to the appropriate  
20 county treasurer for correction. If the director approves a request, the director shall transmit it to the department  
21 of administration, which shall draw a warrant payable to the county in the amount shown on the request and shall  
22 send the warrant to the county treasurer. The warrant is payable out of any funds to the credit of the department  
23 of fish; ~~and~~ wildlife; ~~and~~ parks. A payment may not be made to a county in which the department owns less than  
24 100 acres. A payment may not be made to a county for lands owned by the department for game or bird farms  
25 or for fish hatchery purposes ~~or lands acquired and managed for the purposes of Title 23, chapter 1.~~

26 (2) After May 10, 2009, for every department purchase of land, the department shall notify the treasurer  
27 in the county where land was purchased.

28 (3) (a) After May 10, 2009, and before November 30 of each subsequent year, the treasurer of each  
29 county in which the department owns land purchased after May 10, 2009, shall describe the land, state the  
30 number of acres in each parcel, and request the drawing of a warrant to the county in a sum equal to the amount

1 of taxes that would be payable on county assessment of the property if it was taxable to a private citizen.

2 (b) The director shall approve or disapprove the request. The director may disapprove a request only  
3 if the director finds it to be inconsistent with this subsection (3). If the director disapproves a request, the director  
4 shall return it with an explanation detailing the reasons for the disapproval to the appropriate county treasurer for  
5 correction. If the director approves a request, the director shall transmit it to the department of administration,  
6 which shall draw a warrant payable to the county in the amount shown on the request and shall send the warrant  
7 to the county treasurer. The warrant is payable out of any funds to the credit of the department of fish; and wildlife;  
8 ~~and parks~~.

9 (c) All land purchased by the department after May 10, 2009, is subject to this subsection (3).

10 (4) The amount to be paid to each county pursuant to this section is statutorily appropriated, as provided  
11 in 17-7-502."  
12

13 **Section 149.** Section 87-1-621, MCA, is amended to read:

14 **"87-1-621. (Temporary) Forest management account.** (1) There is a special revenue account called  
15 the forest management account to the credit of the department of fish; and wildlife; ~~and parks~~.

16 (2) The forest management account consists of money deposited into the account from forest  
17 management projects undertaken pursuant to 87-1-201(9)(a)(iv) and from any other source. Any interest earned  
18 by the account must be deposited into the account.

19 (3) Except as otherwise directed by state or federal law, funds from the forest management account are  
20 statutorily appropriated, as provided in 17-7-502, to the department and must be used by the department to  
21 implement forest management projects that may result pursuant to the provisions of 87-1-201(9)(a)(iv).  
22 (Terminates June 30, 2013--sec. 8, Ch. 330, L. 2009.)

23 **87-1-621. (Effective July 1, 2013) Forest management account.** (1) There is a special revenue  
24 account called the forest management account to the credit of the department of fish; and wildlife; ~~and parks~~.

25 (2) The forest management account consists of money deposited into the account from forest  
26 management projects undertaken pursuant to 87-1-201(9)(a)(iv) and from any other source. Any interest earned  
27 by the account must be deposited into the account.

28 (3) Except as otherwise directed by state or federal law, funds from the forest management account must  
29 be used by the department to implement forest management projects that may result pursuant to the provisions  
30 of 87-1-201(9)(a)(iv)."

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**Section 150.** Section 87-2-101, MCA, is amended to read:

**"87-2-101. Definitions.** As used in 87-1-102, chapter 3, and this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Angling" or "fishing" means to take or the act of a person possessing any instrument, article, or substance for the purpose of taking fish in any location that a fish might inhabit.

(2) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area inhabited by wildlife for the purpose of attracting game animals or game birds.

(b) The term does not include:

(i) decoys, silhouettes, or other replicas of wildlife body forms;

(ii) scents used only to mask human odor; or

(iii) types of scents that are approved by the commission for attracting game animals or game birds.

(3) "Closed season" means the time during which game birds, fish, and game and fur-bearing animals may not be lawfully taken.

(4) "Commission" means the state fish, and wildlife, ~~and parks~~ commission.

(5) "Fur-bearing animals" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox, and beaver.

(6) "Game animals" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, mountain lion, bear, and wild buffalo.

(7) "Game fish" means all species of the family salmonidae (chars, trout, salmon, grayling, and whitefish); all species of the genus stizostedion (sandpike or sauger and walleyed pike or yellowpike perch); all species of the genus esox (northern pike, pickerel, and muskellunge); all species of the genus micropterus (bass); all species of the genus polyodon (paddlefish); all species of the family acipenseridae (sturgeon); all species of the genus lota (burbot or ling); the species perca flavescens (yellow perch); all species of the genus pomoxis (crappie); and the species ictalurus punctatus (channel catfish).

(8) "Hunt" means to pursue, shoot, wound, kill, chase, lure, possess, or capture or the act of a person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of shooting, wounding, killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take by any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or

1 capturing.

2 (9) "Migratory game birds" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes,  
3 including little brown and sandhill; rails, including coots; wilson's snipes or jacksnipes; and mourning doves.

4 (10) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or  
5 other animal not otherwise legally classified by statute or regulation of this state.

6 (11) "Open season" means the time during which game birds, fish, and game and fur-bearing animals  
7 may be lawfully taken.

8 (12) "Person" means individuals, associations, partnerships, and corporations.

9 (13) "Predatory animals" means coyote, weasel, skunk, and civet cat.

10 (14) "Trap" means to take or participate in the taking of any wildlife protected by the laws of the state by  
11 setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove  
12 wildlife from any of these devices.

13 (15) "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse, prairie  
14 chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild  
15 turkey, and chukar partridge.

16 (16) "Wild buffalo" means buffalo or bison that have not been reduced to captivity."  
17

18 **Section 151.** Section 87-2-504, MCA, is amended to read:

19 **"87-2-504. Class B-7 and B-8--nonresident deer licenses.** (1) (a) Except as otherwise provided in this  
20 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  
21 turn 12 years old before or during the season for which the license is issued and is a holder of a nonresident  
22 conservation license may, upon payment of the proper fee or fees and subject to the limitations prescribed by  
23 law and department regulation, be entitled to apply to the fish, and wildlife, ~~and parks~~ office, Helena, Montana,  
24 to purchase one each of the following licenses:

25 (i) Class B-7, deer A tag, \$250;

26 (ii) Class B-8, deer B tag, \$75.

27 (b) The license entitles a holder who is 12 years of age or older to hunt the game animal or animals  
28 authorized by the license and to possess the carcasses of those animals as authorized by commission rules.

29 (2) Unless purchased as part of a Class B-10 or Class B-11 license, a Class B-7 license may be  
30 assigned for use in a specific administrative region or regions or a portion of a specific administrative region or

1 regions or in a specific hunting district or districts or a portion of a specific hunting district or districts. If purchased  
2 as part of a Class B-10 or Class B-11 license, the Class B-7 license is valid throughout the state, except as  
3 provided in 87-2-512(1)(d). Not more than 5,000 Class B-7 licenses may be sold in any license year.

4 (3) The commission may prescribe the use of and set quotas for the sale of Class B-8 licenses by  
5 hunting districts, portions of a hunting district, groups of districts, or administrative regions."  
6

7 **Section 152.** Section 87-2-505, MCA, is amended to read:

8 **"87-2-505. (Temporary) Class B-10--nonresident big game combination license.** (1) Except as  
9 otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years  
10 of age or older or who will turn 12 years old before or during the season for which the license is issued may, upon  
11 payment of the fee of \$628 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d) or upon  
12 payment of the fee established as provided in 87-1-268 if the license is one of the licenses reserved pursuant to  
13 87-2-511 for applicants indicating their intent to use the services of a licensed outfitter and subject to the  
14 limitations prescribed by law and department regulation, apply to the fish; and wildlife; ~~and parks~~ office, Helena,  
15 Montana, to purchase a B-10 nonresident big game combination license that entitles a holder who is 12 years  
16 of age or older to all the privileges of Class B, Class B-1, and Class B-7 licenses and an elk tag. This license  
17 includes the nonresident conservation license as prescribed in 87-2-202. Not more than 11,500 unreserved Class  
18 B-10 licenses may be sold in any 1 license year.

19 (2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big  
20 game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk  
21 permits established by the commission.

22 **87-2-505. (Effective March 1, 2011) Class B-10--nonresident big game combination license.** (1) (a)  
23 Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is  
24 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued  
25 may, upon payment of the fee of \$897 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d)  
26 and subject to the limitations prescribed by law and department regulation, apply to the fish; and wildlife; ~~and~~  
27 ~~parks~~ office, Helena, Montana, to purchase a B-10 nonresident big game combination license that entitles a  
28 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 an  
29 elk tag. This license includes the nonresident conservation license as prescribed in 87-2-202.

30 (b) Not more than 17,000 Class B-10 licenses may be sold in any 1 license year.



1 (c) Of the fee paid for the purchase of a Class B-10 nonresident big game combination license pursuant  
2 to subsection (1)(a), 25% must be deposited in the account established in 87-1-290.

3 (d) The cost of the Class B-10 nonresident big game combination license must be adjusted annually  
4 based on any change to the consumer price index from the previous year. The consumer price index to be used  
5 for calculations is the consumer price index for all urban consumers (CPI-U).

6 (2) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-10 big  
7 game combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk  
8 permits established by the commission."

9

10 **Section 153.** Section 87-2-510, MCA, is amended to read:

11 **"87-2-510. (Temporary) Class B-11--nonresident deer combination license.** (1) Except as otherwise  
12 provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or  
13 older or who will turn 12 years old before or during the season for which the license is issued may, upon payment  
14 of a fee of \$328 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d), upon payment of the  
15 fee established as provided in 87-1-268 if the license is one of those reserved pursuant to 87-2-511 for applicants  
16 indicating their intent to use the services of a licensed outfitter or upon payment of the fee of \$328 plus the  
17 nonresident hunting access enhancement fee in 87-2-202(3)(d), if the license is one of those reserved pursuant  
18 to 87-2-511 for applicants indicating their intent to hunt with a resident sponsor on land owned by that sponsor  
19 and subject to the limitations prescribed by law and department regulation, apply to the fish, ~~and~~ wildlife, ~~and~~  
20 ~~park~~ office, Helena, Montana, to purchase a Class B-11 nonresident deer combination license that entitles a  
21 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. This  
22 license includes the nonresident wildlife conservation license as prescribed in 87-2-202.

23 (2) Not more than 2,300 unreserved Class B-11 licenses may be sold in any 1 license year.

24 (3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer  
25 combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits  
26 established by the commission.

27 **87-2-510. (Effective March 1, 2011) Class B-11--nonresident deer combination license.** (1) (a)  
28 Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is  
29 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued  
30 may, upon payment of a fee of \$527 plus the nonresident hunting access enhancement fee in 87-2-202(3)(d) and

1 subject to the limitations prescribed by law and department regulation, apply to the fish; and wildlife, ~~and parks~~  
2 office, Helena, Montana, to purchase a Class B-11 nonresident deer combination license that entitles a holder  
3 who is 12 years of age or older to all the privileges of the Class B, Class B-1, and Class B-7 licenses. This license  
4 includes the nonresident wildlife conservation license as prescribed in 87-2-202.

5 (b) Of the fee paid for the purchase of a Class B-11 nonresident deer combination license pursuant to  
6 subsection (1)(a), 25% must be deposited in the account established in 87-1-290.

7 (c) The cost of the Class B-11 nonresident deer combination license must be adjusted annually based  
8 on any change to the consumer price index from the previous year. The consumer price index to be used for  
9 calculations is the consumer price index for all urban consumers (CPI-U).

10 (2) Not more than 4,600 unreserved Class B-11 licenses may be sold in any 1 license year.

11 (3) A person who is not a resident, as defined in 87-2-102, who is unsuccessful in the Class B-11 deer  
12 combination license drawing may pay a fee of \$25 to participate in a preference system for deer and elk permits  
13 established by the commission."  
14

15 **Section 154.** Section 87-2-522, MCA, is amended to read:

16 **"87-2-522. Class B-13--nonresident youth big game combination license.** (1) Except as otherwise  
17 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  
18 older or will turn 12 years old before or during the season for which the license is issued and who is under 18  
19 years of age may, upon payment of a fee of one-half the cost of a regularly priced Class B-10 nonresident big  
20 game combination license, plus the nonresident hunting access enhancement fee in 87-2-202(3)(d), and subject  
21 to the limitations prescribed by law and department regulation, apply to the fish; and wildlife, ~~and parks~~ office in  
22 Helena, Montana, to purchase a Class B-13 nonresident youth big game combination license.

23 (2) The holder of a Class B-13 license is entitled to all the privileges of a Class B license, a Class B-1  
24 license, a Class B-7 license, an elk tag, and a nonresident wildlife conservation license. When using a Class B-13  
25 license, the holder must be accompanied by an adult immediate family member who is the holder of a valid  
26 nonresident Class B-10 or Class B-11 combination license or who is the holder of a valid resident deer or elk tag.  
27 As used in this subsection, an adult immediate family member means an applicant's natural or adoptive parent,  
28 grandparent, brother, or sister who is 18 years of age or older.

29 (3) Not more than 300 Class B-13 licenses are authorized for sale each license year. Class B-13 licenses  
30 are not included in the limit on the number of available Class B-10 nonresident big game combination licenses

1 issued pursuant to 87-2-505.

2 (4) The holder of a valid Class B-13 license may apply for a Class B-12 nonresident elk B tag license  
3 when authorized by the commission pursuant to 87-2-104. The fee for a Class B-12 license is \$270. The license  
4 entitles the holder to hunt in the hunting district or portion of a hunting district and under the terms and conditions  
5 specified by the commission."

6

7 **Section 155.** Section 87-2-803, MCA, is amended to read:

8 **"87-2-803. Persons with disabilities -- service members -- definitions.** (1) Persons with disabilities  
9 are entitled to fish and to hunt game birds, not including turkeys, with only a conservation license if they are  
10 residents of Montana not residing in an institution and are certified as disabled as prescribed by departmental  
11 rule. A person who has purchased a conservation license and a resident fishing license or game bird license for  
12 a particular license year and who is subsequently certified as disabled is entitled to a refund for the fishing license  
13 or game bird license previously purchased for that license year. A person who is certified as disabled pursuant  
14 to subsection (3) and who was issued a permit to hunt from a vehicle for license year 2000 or a subsequent  
15 license year is automatically entitled to a permit to hunt from a vehicle for subsequent license years if the criteria  
16 for obtaining a permit does not change.

17 (2) A resident of Montana who is certified as disabled by the department and who is not residing in an  
18 institution may purchase a Class A-3 deer A tag for \$6.50 and a Class A-5 elk tag for \$8. A person who has  
19 purchased a conservation license and a resident deer license or resident elk license for a particular license year  
20 and who is subsequently certified as disabled is entitled to a refund for the deer license or elk license previously  
21 purchased and reissuance of the license for that license year at the rate established in this subsection.

22 (3) A person may be certified as disabled by the department and issued a permit to hunt from a vehicle,  
23 on a form prescribed by the department, if the person establishes one or more of the disabilities pursuant to  
24 subsection (9).

25 (4) (a) A person with a disability carrying a permit to hunt from a vehicle, referred to in this subsection  
26 (4) as a permit holder, may hunt by shooting a firearm from:

27 (i) the shoulder, berm, or barrow pit right-of-way of a public highway, as defined in 61-1-101, except a  
28 state or federal highway;

29 (ii) within a self-propelled or drawn vehicle that is parked on a shoulder, berm, or barrow pit right-of-way  
30 in a manner that will not impede traffic or endanger motorists or that is parked in an area, not a public highway,

1 where hunting is permitted; or

2 (iii) an off-highway vehicle or snowmobile, as defined in 61-1-101, in any area where hunting is permitted  
3 and that is open to motorized use, unless otherwise prohibited by law, as long as the off-highway vehicle or  
4 snowmobile is marked as described in subsection (4)(d) of this section.

5 (b) This subsection (4) does not allow a permitholder to shoot across the roadway of any public highway  
6 or to hunt on private property without permission of the landowner.

7 (c) A permitholder must have a companion to assist in immediately dressing any killed game animal. The  
8 companion may also assist the permitholder by hunting a game animal that has been wounded by the  
9 permitholder when the permitholder is unable to pursue and kill the wounded game animal.

10 (d) Any vehicle from which a permitholder is hunting must be conspicuously marked with an  
11 orange-colored international symbol of persons with disabilities on the front, rear, and each side of the vehicle,  
12 or as prescribed by the department.

13 (5) A veteran who meets the qualifications in subsection (9) as a result of a combat-connected injury may  
14 apply at a fish; ~~and~~ wildlife; ~~and~~ parks office for a regular Class A-3 deer A tag, a Class A-4 deer B tag, a Class  
15 B-7 deer A tag, a Class B-8 deer B tag, and a special antelope license at one-half the license fee. Fifty licenses  
16 of each license type must be made available annually. Licenses issued to veterans under this part do not count  
17 against the number of special antelope licenses reserved for people with permanent disabilities, as provided in  
18 87-2-706.

19 (6) (a) A resident of Montana who is certified by the department as experiencing blindness, as defined  
20 in 53-7-301, may be issued a lifetime fishing license for the blind upon payment of a one-time fee of \$10. The  
21 license is valid for the lifetime of the blind individual and allows the licensee to fish as authorized by department  
22 rule. An applicant for a license under this subsection need not obtain a wildlife conservation license as a  
23 prerequisite to licensure.

24 (b) A person who is certified by the department as experiencing blindness, as defined in 53-7-301, may  
25 be issued regular resident deer and elk licenses, in the manner provided in subsection (2) of this section, and  
26 must be accompanied by a companion, as provided in subsection (4)(c) of this section.

27 (7) The department shall adopt rules to establish the qualifications that a person must meet to be a  
28 companion and may adopt rules to establish when a companion can be a designated shooter for a disabled  
29 person.

30 (8) As used in this section, "disabled person", "person with a disability", or "disabled" means or refers

1 to a person experiencing a condition medically determined to be permanent and substantial and resulting in  
2 significant impairment of the person's functional ability.

3 (9) A person is entitled to a permit to hunt from a vehicle if the person:

4 (a) is certified by a licensed physician, a licensed chiropractor, an advanced practice registered nurse,  
5 or a licensed physician assistant to be dependent on an oxygen device or dependent on a wheelchair, crutch,  
6 or cane for mobility;

7 (b) is an amputee above the wrist or ankle; or

8 (c) is certified by a licensed physician, a licensed chiropractor, an advanced practice registered nurse,  
9 or a licensed physician assistant to be unable to walk, unassisted, 600 yards over rough and broken ground while  
10 carrying 15 pounds within 1 hour and to be unable to handle and maneuver up to 25 pounds.

11 (10) Certification by a licensed physician, a licensed chiropractor, an advanced practice registered nurse,  
12 or a licensed physician assistant under subsection (9) must be on a form provided by the department.

13 (11) The department or a person who disagrees with a determination of disability or eligibility for a permit  
14 to hunt from a vehicle may request a review by the board of medical examiners pursuant to 37-3-203.

15 (12) (a) A Montana resident who is a member of the Montana national guard or the federal reserve as  
16 provided in 10 U.S.C. 10101 or who was otherwise engaged in active duty and who participated in a contingency  
17 operation as provided in 10 U.S.C. 101(a)(13) that required the member to serve at least 2 months outside of the  
18 state, upon request and upon presentation of the documentation described in subsection (12)(b), must be issued  
19 a free resident wildlife conservation license or a Class AAA resident combination sports license, which may not  
20 include a bear license, upon payment of the resident hunting access enhancement fee provided for in  
21 87-2-202(3)(c), in the license year that the member returns from military service or in the year following the  
22 member's return, based on the member's election, and in any of the 4 years after the member's election. A  
23 member who participated in a contingency operation after September 11, 2001, that required the member to  
24 serve at least 2 months outside of the state may make an election in 2007 or in the year following the member's  
25 return, based on the member's election, and in any of the 4 years after the member's election and be entitled to  
26 a free resident wildlife conservation license or a free Class AAA resident combination sports license in the year  
27 of election and in any of the 4 years after the member's election.

28 (b) To be eligible for the free resident wildlife conservation license or free Class AAA resident  
29 combination sports license provided for in subsection (12)(a), an applicant shall, in addition to the written  
30 application and proof of residency required in 87-2-202(1), provide to any regional department office or to the

1 department headquarters in Helena, by mail or in person, the member's DD form 214 verifying the member's  
2 release or discharge from active duty. The applicant is responsible for providing documentation showing that the  
3 applicant participated in a contingency operation as provided in 10 U.S.C. 101(a)(13).

4 (c) A Montana resident who meets the service qualifications of subsection (12)(a) and the documentation  
5 required in subsection (12)(b) is entitled to a free Class A resident fishing license in the license year that the  
6 member returns from military service or in the year following the member's return, based on the member's  
7 election, and in any of the 4 years after the member's election.

8 (d) The department's general license account must be reimbursed by a quarterly transfer of funds from  
9 the general fund to the general license account for costs associated with the free licenses granted pursuant to  
10 this subsection (12) during the preceding calendar quarter. Reimbursement costs must be designated as license  
11 revenue.

12 (13) A member of the armed forces who forfeited a license or permit issued through a drawing as a result  
13 of deployment outside of the continental United States in support of a contingency operation as provided in  
14 U.S.C. 101(a)(13) is guaranteed the same license or permit, without additional fee, upon application in the year  
15 of the member's return from deployment or in the first year that the license or permit is made available after the  
16 member's return."

17

18 **Section 156.** Section 87-4-406, MCA, is amended to read:

19 **"87-4-406. Definitions.** As used in this part, the following definitions apply:

20 (1) "Alternative livestock" means a privately owned caribou, white-tailed deer, mule deer, elk, moose,  
21 antelope, mountain sheep, or mountain goat indigenous to the state of Montana, a privately owned reindeer, or  
22 any other cloven-hoofed ungulate as classified by the department. Black bear and mountain lion must be  
23 regulated pursuant to Title 87, chapter 4, part 8.

24 (2) "Alternative livestock ranch" means the enclosed land area upon which alternative livestock may be  
25 kept for purposes of obtaining, rearing in captivity, keeping, or selling alternative livestock or parts of alternative  
26 livestock, as authorized under this part.

27 (3) "Cloven-hoofed ungulate" means an animal of the order Artiodactyla, except a member of the families  
28 suidae, camelidae, or hippopotamidae. The term does not include domestic pigs, domestic cows, domestic yaks,  
29 domestic sheep, domestic goats that are not naturally occurring in the wild in their country of origin, or bison.

30 (4) "Department" means the department of fish; and wildlife; ~~and parks~~.

1 (5) "Facilities" means perimeter fences and other enclosures that provide for the confinement, handling,  
2 and quarantine of alternative livestock.

3 (6) "Game animals" means game animals, as defined in 87-2-101, that are not the lawful property of any  
4 private person.

5 (7) "Person" means an individual, firm, corporation, association, or partnership."  
6

7 **Section 157.** Section 87-4-422, MCA, is amended to read:

8 **"87-4-422. Rulemaking.** (1) The department may adopt and enforce rules that are necessary to  
9 implement the provisions of this part over which the department has primary jurisdiction and to coordinate  
10 regulation of alternative livestock ranches with the department of livestock.

11 (2) The department of livestock may adopt and enforce rules that are necessary to implement the  
12 provisions of this part over which the department of livestock has primary jurisdiction and to coordinate regulation  
13 of alternative livestock ranches with the department of fish; and wildlife, ~~and parks~~."  
14

15 **Section 158.** Section 87-4-432, MCA, is amended to read:

16 **"87-4-432. Alternative livestock advisory council -- appointment of members -- duties.** (1) There  
17 is an alternative livestock advisory council to advise the department on the administration of alternative livestock  
18 ranches in this state.

19 (2) The alternative livestock advisory council is composed of five members, appointed by the governor  
20 as follows:

21 (a) one member of the board of livestock or the department of livestock;

22 (b) one member of the fish; and wildlife, ~~and parks~~ commission or the department;

23 (c) one member who is a representative of the alternative livestock industry;

24 (d) one member who is a veterinarian licensed to practice veterinary medicine in this state; and

25 (e) one member who is a representative of the sportspersons of Montana.

26 (3) Members of the alternative livestock advisory council shall serve staggered 2-year terms. A member  
27 may serve one additional consecutive 2-year term.

28 (4) The alternative livestock advisory council is attached to the department and the department of  
29 livestock in an advisory capacity only, as defined in 2-15-102. The department and the department of livestock  
30 shall provide staff support and assistance necessary for the council to perform its functions."

1

2       **Section 159.** Section 87-5-601, MCA, is amended to read:

3       "**87-5-601. Short title.** This part may be cited as the "Fish; and Wildlife, ~~and Parks~~ Crimestoppers Act".

4

5       **Section 160.** Section 87-5-602, MCA, is amended to read:

6       "**87-5-602. Definitions.** As used in this part, the following definitions apply:

7       (1) "Board" means the fish; and wildlife, ~~and parks~~ crimestoppers board created in 2-15-3404.

8       (2) "Department" means the department of fish; and wildlife, ~~and parks~~.

9       (3) "Program" means the fish; and wildlife, ~~and parks~~ crimestoppers program created under 87-5-605."

10

11       **Section 161.** Section 87-5-603, MCA, is amended to read:

12       "**87-5-603. Functions of board.** The board shall recommend to the department:

13       (1) the names of individuals to be rewarded for providing information used in detecting and combating  
14 fish, ~~wildlife~~, and ~~parks-related~~ wildlife-related crimes;

15       (2) the amount of any reward recommended; and

16       (3) means for promoting the program."

17

18       **Section 162.** Section 87-5-605, MCA, is amended to read:

19       "**87-5-605. Powers and duties of department -- rules.** (1) The department shall:

20       (a) create, maintain, and promote a statewide fish; and wildlife, ~~and parks~~ crimestoppers program in  
21 order to assist law enforcement agencies in detecting and combating fish, ~~wildlife~~, and ~~parks-related~~  
22 wildlife-related crimes; and

23       (b) consider the board's recommendations and take action on them.

24       (2) The department may:

25       (a) advise and assist in the creation and maintenance of local programs, including neighborhood watch  
26 programs;

27       (b) encourage the channeling of information from state and local programs to law enforcement agencies;

28       (c) foster the detection of fish, ~~wildlife~~, and ~~parks-related~~ wildlife-related crimes by the public;

29       (d) encourage the public, through a reward program or otherwise, to provide information that assists in  
30 the prosecution of fish, ~~wildlife~~, and ~~parks-related~~ wildlife-related crimes;



- 1 (e) promote state and local programs through the media;
- 2 (f) accept gifts, grants, or donations for the furtherance of the program and spend these in compliance
- 3 with the conditions of the gifts, grants, or donations; and
- 4 (g) adopt rules necessary to administer the provisions of this part."

5

6 **Section 163.** Section 90-14-105, MCA, is amended to read:

7 **"90-14-105. Duties and powers of state agencies.** (1) The following state agencies are responsible

8 for developing and implementing community service opportunities consistent with the mission and functions of

9 each agency:

10 (a) The office of public instruction implements volunteer projects in elementary and secondary public,

11 private, and home schools in Montana, including activities sponsored by schools or community-based agencies,

12 to involve school-age youth, including dropouts and out-of-school youth, in service to the community, as well as

13 for programs that involve adult volunteers in the schools. A school district is expected to be the first agency that

14 informs students about the many opportunities to participate in broader community service under this part through

15 federal service learning grants and any other revenue received for purposes consistent with this part.

16 (b) The Montana university system assists institutions of higher education in Montana, explores new

17 ways to integrate service into the curriculum, supports model community service programs on campus, develops

18 teacher and volunteer training programs, and involves students in community service. The community service

19 may complement a student's course of study through the federal higher education innovative projects grants and

20 any other revenue received for purposes consistent with this part.

21 (c) The departments of environmental quality, natural resources and conservation, transportation,

22 commerce, and fish; and wildlife; ~~and parks~~ are the agencies for community and volunteer projects in

23 conservation and natural resource settings that are designed to support and enhance state parks, wildlife,

24 watchable wildlife, productivity of state lands, streams and lakes, county and city parks, tribal parks, scenic beauty

25 and access, trails and signs, visitor information centers and rest areas, fairgrounds, and any other projects related

26 to conservation or the environment that involve teenagers, young adults, or special community service members,

27 such as adults or senior citizens who provide special skills for a project. Other projects may include bicycle paths

28 and pedestrian trails, landscaping and scenic enhancements, historical and cultural preservation, roadside and

29 stream restoration and enhancement, erosion control, disability enhancement, and experimental and research

30 projects.

1 (d) The department of military affairs may support community and volunteer projects that are designed  
2 to involve the national guard in leadership or support roles for service through the provision of organizational and  
3 leadership skills, equipment, volunteer crewleaders, and other support, as well as the command and coordination  
4 of activities that may be mobilized for emergency projects, such as fire suppression or search and rescue.

5 (e) The governor may designate other agencies, after consultation with the director and the commission,  
6 for community service projects that focus on improving the quality of life for all Montanans, particularly low-income  
7 persons, senior citizens, homebound persons, disabled persons, or institutionalized persons, through preparing  
8 and delivering meals, assisting with shopping or other tasks, repairing and painting or otherwise modifying homes  
9 of qualifying persons, providing transportation to and from health care and other appointments, providing respite  
10 care, cataloging library books, assisting rural health care providers, providing recreational aides, arranging for  
11 tutoring and literacy training, restoring historical photographs, and offering other human service support and  
12 community services.

13 (2) Each agency designated by the governor shall ensure that service opportunities that result in a public  
14 value are developed for everyone, regardless of race, creed, national origin, or geographical location, by providing  
15 leadership through its own network and by forming partnerships with other public or private, nonprofit entities.

16 (3) Each agency involved in community service shall coordinate and integrate its plans with and through  
17 the office of community service.

18 (4) Projects developed or approved under this part and funded by an agency must be limited to service  
19 projects that provide community service, conservation service, educational service, or other public service and  
20 that provide documented public value or benefit.

21 (5) The state agencies engaged in community service may:

22 (a) designate an agency volunteer coordinator to implement its responsibilities under this part;

23 (b) develop and approve work experience and volunteer projects that meet the requirements of this part;

24 (c) execute contracts or cooperative agreements that contain the terms and conditions necessary and  
25 desirable for the employment of volunteer crewleaders and other volunteers in approved work experience projects  
26 with federal, state, or local agencies, persons, firms, partnerships, associations, or corporations;

27 (d) execute contracts or cooperative agreements with federal, state, or local agencies, persons, firms,  
28 partnerships, associations, or corporations for the purpose of administering the requirements of this part;

29 (e) under the supervision of the office of community service, apply for and accept grants or contributions  
30 of services, funds, or lands from any public or private donors, including appropriations;

- 1 (f) develop procedures for participants to achieve incentive vouchers, education, credit toward education,  
 2 skill training, scholarships, housing benefits, or other benefits upon completion of their term of service;
- 3 (g) purchase, rent, acquire, or obtain personal property, supplies, instruments, tools, or equipment  
 4 necessary to complete work experience or volunteer projects;
- 5 (h) authorize use of volunteers for emergency projects, including but not limited to natural disasters, fire  
 6 prevention and suppression, and rescue of lost or injured persons, and provide adequate training to volunteers  
 7 prior to participation in an emergency project; and
- 8 (i) adopt rules and guidelines necessary to implement the provisions of this part and to effectively  
 9 administer the program."

10

11 **Section 164.** Section 90-15-102, MCA, is amended to read:

12 **"90-15-102. Definitions.** As used in this chapter, the following definitions apply:

13 (1) "Committee" means the natural resource data system advisory committee created by 2-15-1514.

14 (2) "Library" means the state library provided for in 22-1-201.

15 (3) "Natural heritage program" means a program of information acquisition, storage, and retrieval for data  
 16 relating to the flora, fauna, and biological community types of Montana.

17 (4) "Principal data source agencies" means any of the following state agencies: the department of natural  
 18 resources and conservation; the department of fish, and wildlife, ~~and parks~~; the department of environmental  
 19 quality; the department of agriculture; the department of transportation; the state historical society; and the  
 20 Montana university system."

21

22 **NEW SECTION. Section 165. Repealer.** The following sections of the Montana Code Annotated are  
 23 repealed:

24 22-3-1002. Montana heritage preservation and development commission.

25 23-1-103. Acceptance of title to recreational and camping grounds by board of land commissioners.

26 23-1-109. Establishment of Montana agricultural center and museum of the Northern Great Plains.

27 23-2-652. Definitions.

28

29 **NEW SECTION. Section 166. Transfer of funds.** The department of fish and wildlife shall transfer to  
 30 the state special revenue account established in 23-1-105 to the credit of the state parks, recreation, and heritage

1 board all revenue held in benefit of state parks for state park management and operation on [the effective date  
2 of this act].

3  
4 **NEW SECTION. Section 167. Name change -- directions to code commissioner.** (1) Unless  
5 otherwise provided, wherever a reference to the fish, wildlife, and parks commission, meaning the commission  
6 established in 2-15-3402, appears in legislation enacted by the 2011 legislature that refers to functions of the  
7 commission related to fish and wildlife, the code commissioner is directed to change it to an appropriate reference  
8 to the fish and wildlife commission.

9 (2) Unless otherwise provided, wherever a reference to the department of fish, wildlife, and parks,  
10 meaning the department established in 2-15-3401, appears in legislation enacted by the 2011 legislature that  
11 refers to functions of the department related to fish and wildlife, the code commissioner is directed to change it  
12 to an appropriate reference to the department of fish and wildlife.

13 (3) Unless otherwise provided, wherever a reference to the fish, wildlife, and parks commission, meaning  
14 the commission established in 2-15-3402, or a reference to the department of fish, wildlife, and parks, meaning  
15 the department established in 2-15-3401, appears in legislation enacted by the 2011 legislature that refers to  
16 functions of the commission or the department related to state parks, heritage, or outdoor recreational resources  
17 under Title 22, chapter 3, part 10, Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 5, 6, 8, and 9, the code  
18 commissioner is directed to change it to an appropriate reference to the state parks, recreation, and heritage  
19 board or the department of commerce.

20  
21 **NEW SECTION. Section 168. Codification instruction.** (1) [Section 1] is intended to be codified as  
22 an integral part of Title 2, chapter 15, part 18, and the provisions of Title 2, chapter 15, part 18, apply to [section  
23 1].

24 (2) [Sections 48 through 54] are intended to be codified as an integral part of Title 23, chapter 1, part 1,  
25 and the provisions of Title 23, chapter 1, part 1, apply to [sections 48 through 54].

26 (3) [Sections 140 through 143] are intended to be codified as an integral part of Title 87, chapter 1, part  
27 2, and the provisions of Title 87, chapter 1, part 2, apply to [sections 140 through 143].

28 (4) [Sections 144 through 146] are intended to be codified as an integral part of Title 87, chapter 1, and  
29 the provisions of Title 87, chapter 1, apply to [sections 144 through 146].

30

