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PREFACE

Montana's first Bill Drafting Manual was written by the Legislative Council staff during the 1960-1961 interim to provide a uniform standard for bill drafting. Its main purpose was to provide the drafter with a reference source to the requirements of Senate and House rules, statutes, the Constitution, and case law, as well as suggestions on the mechanics, technique, and style of legislative drafting.

Our purpose remains the same. The Legislative Services Division staff directs your attention especially to the table of contents, the examples in the appendices, and the index. These resources can be very helpful in locating information pertinent to your needs. In addition, the manual is available online on the legislative website, and users may find it useful to search the text electronically.

The Bill Drafting Manual was revised in 1974, 1975, and 1978 and has been revised each interim since then in order to incorporate recent changes. We hope that you will find the manual with its many revisions and additions to be helpful.

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CHAPTER 1
Bill Drafting Generally

1-1. Policy and the Bill Drafter

Bills may be drafted for various persons and groups. Some bills are drafted by the Legislative Services Division staff at the request of a legislator or committee, some are drafted by personnel of departments of state government, and some are drafted by counsel retained by private individuals or groups. The Legislative Services Division bill drafter redrafts each submitted bill draft to meet the standards contained in this manual using the Legislative Automated Workflow System (LAWS). All bill draft requests are entered into the LAWS II Bill Draft Request System (BDR), and all bill drafts are put into the LAWS II Bill Draft Editor System, which retrieves the current Montana Code Annotated (MCA) sections and inserts standard language.

The drafter's function is to translate the objectives and policies of the person or group for whom the bill is drafted into clear, concise language. The drafter may not express personal thoughts or promote self-interest but must remain an impartial technician.

Bills requested by an agency or a legislative committee must be preintroduced and must contain a "By Request" line. Preintroduction is accomplished by having an individual legislator file a preintroduction form that is provided by and returned to the Legislative Services Division. A copy of the form is contained in Appendix S. See section 4-3(4) of this manual and Joint Rule 40-40.

1-2. Constitutionality — Statutory Provisions

A bill is, in essence, a proposed statute. A statute is the vehicle by which the Legislature exercises its lawmaking power. The United States and Montana Constitutions are the fundamental law on which our government is based, and any statute enacted by the Legislature must conform to them. The Legislature's lawmaking power is limited only by these two constitutions and by federal statutes. Under the Supremacy Clause (Article VI) of the U.S. Constitution, any act of Congress that is not itself in violation of the U.S. Constitution may not be contravened by a state legislature.

Thousands of volumes have been written on the subject of constitutionality of statutes.

The purpose of this manual is not to provide an exhaustive discussion of these problems as they may be encountered in bill drafting but to emphasize that constitutionality is a primary consideration and to bring to the reader's attention a few of the more frequently occurring problems. At a minimum, all bill drafters should periodically review the entire Montana Constitution, which contains many of the same provisions as the U.S. Constitution, and then refresh their memories by referring to the constitutions whenever a potential problem surfaces. The bill drafter is in a unique position with relation to the public sector in general and the legal community in particular because the drafter has the opportunity, with the concurrence of the bill requester, to forestall constitutional difficulties before they cause confusion, litigation, and expense. Frequently, a bill can be drafted to avoid an inherent constitutional problem while still accomplishing the basic goals of the requester.

Pursuant to section 5-11-112(1)(c), MCA, the Legislative Services Division is responsible for conducting a legal review of all submitted draft bills to assist the Legislature in ensuring conformity with the state and federal constitutions.

(1) Equal Protection

Many bill drafting requests arise from a particular problem as perceived by an individual or relatively small interest group. The legislator/requester who is solicited to provide a legislative remedy often wishes to address only the particular problem with a minimum of governmental expense and interference. For these reasons, problems involving equal protection of the law (Article II, section 4, Montana Constitution) and special legislation (Article V, section 12, Montana Constitution) tend to occur. Underlying these provisions is the basic precept that state policy should be made to apply evenhandedly to all persons. These provisions, however, are not absolute prohibitions of all forms of discrimination. The courts will apply various standards under these provisions, depending on the purpose of the statute and its relationship to the type of discrimination proposed, whether the discrimination involves a

suspect classification (e.g., race), or whether a fundamental right (e.g., free speech) is adversely affected or on other considerations. Whenever a requested bill draft would, if passed and approved, confer a benefit or impose a burden on certain individuals, groups, or classes of persons to the exclusion of others, the drafter should consider the constitutional implications.

(2) Delegation of Authority and Rulemaking

Because the Legislature is in session only periodically and because of the demands of an increasingly complex and technical society, the Legislature sometimes finds it appropriate to delegate some of its power to another entity. Under the separation of powers doctrine, a branch of government may not exercise the powers properly belonging to another branch (Article III, section 1, Montana Constitution). The Legislature may provide for Executive Branch discretion in carrying out the law only if it provides sufficient statutory standards and criteria to guide the executive agency (*In re Gate City Savings and Loan Association*, 182 Mont. 361, 597 P.2d 84 (1979), for insufficient guidelines, and *Grossman v. State*, 209 Mont. 427, 682 P.2d 1319 (1984), for sufficient guidelines). This guidance is particularly important in the context of administrative rulemaking through which the power to make rules having the force of law may be delegated. (See discussion of bills granting rulemaking authority in section 6-3.) On the other hand, the Legislature may not generally interfere with the Executive Branch in the purely administrative aspects of carrying out the law, such as by imposing a hiring freeze or otherwise making specific staffing and resource allocation decisions (*In re Opinion of the Justices to the Governor*, 341 NE 2d 254 (1976), and *Anderson v. Lamm*, 195 Colo. 437, 579 P.2d 620 (1978)). Further, the Legislature, within its sphere of power, must act as an entire body and may not delegate final decisionmaking authority to a legislative committee (*State ex rel. Judge v. Legislative Finance Committee*, 168 Mont. 470, 543 P.2d 1317 (1975)).

Legislative power and responsibility may not be abdicated to private organizations (*State v. Holland*, 37 Mont. 393, 96 P. 719 (1908)) or to the federal government (*Lee v. State*, 195 Mont. 1, 635 P.2d 1282 (1981), rehearing denied, 38 St. Rep. 1931 (1981)). It is a common temptation to simply incorporate the regulations of

a private organization or federal laws or regulations into Montana law by referential incorporation of laws or regulations "as amended". The problem lies in referentially incorporating future changes in those laws or regulations (i.e., as they may be amended from time to time) because this has the effect of allowing an entity other than the state Legislature to amend Montana law.

Rather than referentially incorporating the language of another law or regulation, it is generally preferable to simply include the specific language in the MCA. The inclusion of internal references to other MCA sections does not present constitutional problems and can often be used to good advantage. (See Internal References, section 2-17.)

(3) Statutory Construction

If a drafter must resort to the rules of statutory construction in order to explain the effect of a bill, the drafter has done a poor job. The exception to this is the plain meaning rule, which dictates that statutes are to be interpreted using the ordinary meaning of the language in the statutes unless a statute explicitly defines terms otherwise. Some of the rules of statutory construction are found in Title 1, chapter 2, MCA, and in the maxims of jurisprudence contained in Title 1, chapter 3, MCA.

For similar reasons, citing the Administrative Rules of Montana (ARMs) in statute is bad practice because it elevates the status of the rules and may lead to problems with the unlawful delegation of authority. The ARMs can also change fairly frequently, which would make the references in the MCA obsolete.

(4) Notwithstanding Any Other Provision of Law

The use of the phrase "notwithstanding any other provision of law" is not permitted in the MCA. According to the *Legislative Drafter's Deskbook: A Practical Guide, 2006,* by Tobias A. Dorsey: "The phrase 'notwithstanding any other provision of law' is popular with people who have not really thought through a problem. . . . Courts do not take the phrase very seriously, and for good reason: Even when Congress does use the phrase, Congress usually does not intend that all other laws are to be disregarded. . . . Congress usually does not mean that the secretary may violate criminal laws

and appropriations laws and administrative procedure laws and personnel laws and a whole host of other general laws. And yet that is literally what Congress seems to have said" (Dorsey, p. 255).

A definitive statement from the U.S. Supreme Court is hard to come by, but several federal appeals courts have held that the phrase is not always to be taken literally and does not require that all otherwise applicable laws be disregarded. For example, when Congress passed a law that required the award of timber sale contracts "notwithstanding any other provision of law", Congress meant to disregard environmental laws only; Congress did not mean to disregard other laws, such as federal contracting requirements (*Oregon Natural Resources Council v. Thomas,* 92 F.3d 792 (9th Cir. 1996)).

In short, a court will try to give "notwithstanding any other provision of law" some meaning, but it is never clear precisely what that meaning will be. The provision might end up disregarding too many laws or too few and might or might not disregard the ones with which your client was really concerned. In most cases, when the client proposes to use "notwithstanding any other provision of law", try to identify the specific laws with which the client is concerned and state that they do not apply or are to be disregarded (*Dorsey*, p. 256).

The phrase adds ambiguity and a state of uncertainty to the law, and therefore its use is to be avoided.

(5) Bill Titles

For discussion of the constitutional provision dealing with bill titles, see section 4-4.

1-3. Indian Issues

The bill drafter should consider whether the new legislation could affect the Montana Indian tribes. Certain topics, including mining, hunting, fishing, gambling, adoption, and taxation, may affect the Montana tribes. The Legislative Services Division has prepared standard language to provide notification to the tribes. See Appendix P for an example of this form.

Additionally, the bill drafter should be aware that because of the special status of tribal governments and certain attributes of tribal

sovereignty, the Legislature may not impose mandates on tribal governments.

If a bill relates to only one specific tribe, it is preferable to use the tribal name whenever possible (e.g., "Crow tribe" or "Blackfeet tribe" in the MCA; "Crow Tribe" or "Blackfeet Tribe" in resolutions). Otherwise, the term "Indian" is preferred. Use of the term "Native American" is discouraged because it is very broad and can properly apply to anyone born in America.

If a bill amends or establishes a program in which tribal governments may be interested in participating, the applicable definition section may need to include a definition of "tribal government". The term is usually defined as "a federally recognized Indian tribe located within the boundaries of the state of Montana". Federal recognition acknowledges the special relationship existing between the federal government and a tribe, confirms the inherent rights and self-governing powers of the tribe, and confers specific benefits and services on the tribe through various federal laws.

1-4. Research and Drafting

Research and organizing are steps inherent in all writing. Bill drafting is no exception.

Occasionally, a drafter will have the facts and law sufficiently well in mind so that drafting can be done with little research. However, the precision and complexity of the law usually require research.

The extent of research required depends on the complexity of the drafting problem. The drafter must define that problem and then determine how to achieve the purpose of the bill.

Analysis of the problem to be solved will enable the drafter to determine the sources to consult for more information. Sources of information that must be considered by the drafter include the federal and state constitutions (see section 1-2); existing federal, state, or local statutes; case law; pending law; and applicable federal, state, or local regulations.

The importance of reviewing existing Montana statutes in the area of law to which the draft relates cannot be overemphasized. Omission of this step often results in conflict, overlap, or redundancy, thus creating more problems than are solved.

Therefore, a determination as to which existing Montana statutes, if any, should be repealed or amended must be made with regard to every bill draft. (See section 1-8.)

Research preparation must be as thorough as time allows. A thorough understanding of the legal and practical factors involved in a bill is necessary to ensure production of a bill that will accomplish the purpose of its requester. The drafter has a professional obligation to advise the proponent of possible legal or practical problems of which the drafter is aware.

No one can tell the drafter when enough research is done. The drafter must determine when to stop gathering information and start writing. Legislative timeframes and workload preclude excessive research.

1-5. Organization

Organize the information at hand. Develop an outline that places the elements of the problem in a logical pattern. A bill for only a simple amendment to existing law will present no organizational problem. A major new body of law will require considerable effort to guarantee clarity. Some bill parts are so common that their placement in a bill has been standardized. A drafter must be familiar with the standard bill format discussed in Chapter 4 of this manual before beginning to organize the bill.

Begin to draft the bill when the work is outlined. Rewrite the bill as often as is necessary to achieve clarity, coherence, and unity. Revise the organization of the bill if revision contributes to clarity.

1-6. Preparation of Bill Drafts

(1) Bill Drafting Tools

The Legislative Services Division provides templates, macros, and drafting tools that streamline the drafting process. Sections of the MCA, along with various standard phrases and "housekeeping" (noncodified) sections, such as an effective date or severability section, are available to drafters who use the Legislative Services Division bill drafting macros or tools. The macros and tools automatically include certain provisions in the title, provide internal reference information, and renumber the sections of the bill as other sections are added or deleted during the drafting process.

(2) Retrieving Current MCA Section Text

All constitutional and MCA statute text must be retrieved from the most recent datastore prepared by the Legislative Services Division. In a section containing existing statute text, new language must be shown as underlined and deleted language must be shown as stricken.

(3) Internal References

Each existing MCA section that is retrieved into a bill will generate a list of any other MCA sections that contain references to that section. The drafter is responsible for checking the sections containing the references and including in the bill draft any necessary amendments to those sections. (See section 1-8.)

(4) No Underlining of New Language

The text of sections that are completely new and that do not amend an MCA section is not underlined.

(5) Junque

Attach copies of background material, preliminary drafts, or other documents to the bill draft. Electronic copies may be saved through the "Junque" tab in the LAWS II Bill Draft Management application. If a bill is drafted in response to a Supreme Court decision, that information should be included in the junque. All junque, along with the original draft of the bill, is kept on file by the Legislative Services Division.

(6) Submission of Bill Drafts to Legislative Services

Bill drafts may be submitted to the Legislative Services Division as a printed copy or by e-mail (preferred). Although the Legislative Services Division uses Microsoft Word, files from other word processing formats may be accepted by the Legislative Services Division and will be converted to Word. (If a drafter has a question concerning file compatibility, contact the Legislative Services Division.)

1-7. Drafting Aids

The following serve as aids in drafting bills.

(1) Existing Statutes

A bill may be patterned after existing Montana statutes. For example, when drafting a bill creating a board to license a particular occupation, the drafter should examine various licensing laws for a suitable model. The drafter, however, must be very careful to make all necessary adjustments to the model language. Not only is it a rare case that allows near verbatim use of existing law in a bill draft, but existing statutes are sometimes poorly organized and not worded clearly; this is particularly true of very old statutes.

(2) History and Final Status

Similarly, bills introduced in past sessions may be helpful. The publication *Montana History and Final Status* may be used to determine whether a bill on a particular topic was introduced in a previous session and, if so, the bill's number. The Office of the Secretary of State has copies of all introduced bills for all past sessions. All versions of bills from the 1991 session through the most recent session are available electronically through the Legislative Services Division. All versions of bills beginning with the 1999 session are available on the legislative website.

When using a bill from a previous session as a "model" for new legislation, all MCA sections must be retrieved from the existing datastore to ensure that the current version of the law is being amended, and all new language (underlined in an MCA section or contained in new sections) must be updated to ensure accurate references to the law.

(3) Bill Explorer Web Application

The Bill Explorer Web Application displays Bill Draft Requests and Introduced Bills, which can be filtered by subject to see whether an identical or similar bill draft or bill has been requested or introduced during the current session. (See Joint Rule 40-70.) The short titles can then be checked to help detect similar bills. Text of bills can also be searched using keywords.

(4) Laws in Other States

Examination of laws from other states on the same subject is usually very beneficial. When using a law from another state, the drafter must be very careful to make the bill language conform to Montana law and to Montana drafting practice and style. (Be especially careful to check the constitutions of both states. What is constitutional in another state may not be constitutional in Montana.) If the draft submitted to the Legislative Services Division is based on a bill or law from another state, attach a note indicating that fact. (If the bill becomes law, this information may be used in a "Source" compiler's comment included in the MCA Annotations.)

(5) Uniform and Model Acts

A list of uniform and model acts and the latest volume of *Shared State Legislation*, published by the Council of State Governments (CSG) and available on the CSG website, should be checked to see if a uniform act (which is intended to be followed exactly in substance), a model act, or a suggested act could be used as a guide. If not readily apparent from the draft, a note indicating the source of the draft should be attached as explained in section 1-7(4).

(6) Consultation

If time permits, the drafter should consult with experts on the subject matter addressed by the bill. If the bill affects a governmental or state agency, a discussion with an appropriate staff member from the agency is very helpful and a draft of the proposal may be sent to the agency for comment.

(7) Other Resources

See Chapter 9 for a list of constitutional and statutory provisions relating to bills.

See Chapter 11 for information on electronic bill drafting and searching the MCA.

1-8. Use of Online Internal Reference List

When amending or repealing an MCA section, the drafter must check the online internal reference list. The drafter may use a

macro or drafting tool to access a list of references to any particular MCA section, or they may electronically search the MCA.

Also, whenever an MCA section is retrieved using the bill drafting macros, any references to that section will be displayed directly below it. This is a reminder for the drafter to carefully check the listed sections to determine whether any of them should be amended (and therefore be included in the bill draft). When an MCA section is retrieved using the LAWS II Bill Draft Editor, internal references can be displayed under Drafting Tools.

Even if the section that is referred to is not being repealed or reoutlined, other sections referring to it may need to be amended. The drafter must read each of those sections in their entirety rather than reading just a few words around the internal reference. There may be a defined term or a concept, program, process, or requirement that is being changed and that is referred to in the other sections and therefore needs to be amended.

A drafter who needs information from the online internal reference list but who does not have access to the Legislative Services Division datastore should contact the Legislative Services Division.

example The internal reference list for section 30-4-104, MCA, may appear as follows:

Internal References to 30-4-104:

30-3-102	30-3-102	30-3-102
30-3-102	30-3-102	30-3-102
30-4A-105	30-4A-105	30-4A-105
30-9A-102		

In the example above, references to section 30-4-104 appear six times in section 30-3-102, as indicated by the six listings of section 30-3-102. References to section 30-4-104 appear three times in section 30-4A-105. A reference to section 30-4-104 appears once in section 30-9A-102.

When amending section 30-4-104, the drafter must read sections 30-3-102, 30-4A-105, and 30-9A-102 to determine whether the amendment to section 30-4-104 affects those sections. If a drafter is repealing section 30-4-104, it is mandatory that each

section that refers to section 30-4-104 be amended to delete the references and to make any other necessary modifications.

example The internal reference list for section 85-7-1832, MCA, may appear as follows:

Internal References to 85-7-1832:
85-7-1833*

In the example above, the asterisk indicates that a reference to section 85-7-1832 does not actually appear in section 85-7-1833 but is included in a larger reference, such as "85-7-1831 through 85-7-1833". If an affected reference appears in the middle of a span of references (rather than as the first or last section number in the span), the text of the span does not need to be amended.

The drafter must be extremely careful when renumbering subsections within a section. For instance, if the drafter amends section 1-1-101 by inserting a new subsection (2)(b) and must renumber the former subsection (2)(b) as (2)(c), all references within that section and in other statutes to subsection (2)(b) and to subsequent subsections of section 1-1-101 are rendered erroneous.

When renumbering subsections within a section, the entire section itself must be read carefully for references to subsections, such as "subsection (3)". These references are not listed on the online internal reference list because the entire section number does not appear in the reference; only the subsection number appears.

1-9. Bill Drafter Checklist

Appendix Q and the "Checklist" tab on the LAWS II BDM application provide a checklist that will help the drafter ensure that essential matters have been considered. The completed checklist will also provide the Legislative Services Division with useful information. If the drafter does not have access to the LAWS II BDM, the checklist in Appendix Q should be copied, filled out, and attached to any bill draft submitted to the Legislative Services Division. Each item on the list calls for a "yes", "no", or "N/A" (not applicable) entry.

CHAPTER 2
Style and Language

2-1. Introduction

Bills must be written in a simple, clear, and direct style using complete sentences and proper grammar.

A poorly drafted, ambiguous bill will waste the time of citizens affected, confuse those charged with its administration, lead to litigation, and likely fail to accomplish the purpose of the requester. Good drafting requires concise wording that is understandable by a person who has no special knowledge of the subject.

In Montana, the common-law tradition manifested itself in the timeworn, nonessential phrases and rhetorical flourishes found in our older legislative enactments. The suggestions contained in this chapter are designed to help the drafter avoid similar archaic style and language.

As authority for basic rules of writing, the Legislative Services Division uses the *Chicago Manual of Style* and the *Gregg Reference Manual*. Spelling and word hyphenation are done according to the *Merriam-Webster Dictionary*, the *Chicago Manual of Style,* and department guidelines.

2-2. Word Choice

The objective in legislative drafting is to make the final product as precise and understandable as possible. There are hundreds of expressions, legal and otherwise, that can be simplified. In general:

(1) never use a long word if a short one will do;

(2) if it is possible to omit a word and preserve the desired meaning, always omit it;

(3) never use a foreign phrase, a scientific word, slang, or a jargon word if there is an everyday English equivalent; and

(4) use the official name of an act of Congress (or a shortened version if defined for the MCA) rather than a popular expression used by the media or a political faction.

Remember that the bill must be both precise and clear. While striving for unstilted, clear, natural expression, the drafter must avoid becoming conversational. In conversation, the speaker

reserves the right to explain what is meant. The drafter is not granted this right. The entire meaning of a bill could be determined by the choice of one key word, so words must be chosen carefully.

2-3. Tense

Use the present tense. The law speaks in the present, and each law is designed to give a rule for the continuing present. The present tense is a simple and natural form of expression. "The present tense includes the future as well as the present." (See section 1-2-105(1), MCA.)

preferred ✓ The powers conferred in this part **are** in addition and supplemental to the powers conferred by any other general, special, or local law.

avoid The powers conferred in this part **shall be** in addition and supplemental to the powers conferred by any other general, special, or local law.

2-4. Shall, Must, and May

Do not use *will*, *should*, or *ought*.

(1) Shall

Use "shall" when imposing a duty on a person or entity. (Active voice)

examples The licensee shall give the debtor a copy of the signed contract.

Each member shall serve a term of 5 years.

An applicant shall pass an examination approved by the board.

Use "shall be" (passive voice) **only** when describing a penalty (also see section 4-16, which further describes this exception).

example A person convicted of a second offense shall be fined not more than $500 or be imprisoned in the county jail for not more than 6 months, or both.

(2) Must

Use "must" when the subject is a thing rather than a person or entity. (Passive voice)

preferred ✓ The information must be set forth in the application.

avoid The information shall be set forth in the application.

preferred ✓ The application must contain the applicant's name.

avoid The application shall contain the applicant's name.

Use "must" when the subject is a person or entity that is acted upon. (Passive voice)

preferred ✓ The judge must receive the application by the deadline.

avoid The judge shall receive the application by the deadline.

Use "must" to express requirements about what a person or an entity must be or have rather than what a person or entity must do.

preferred ✓ A candidate must be designated by the board and must be 18 years of age or older.

avoid A candidate shall be designated by the board and shall be 18 years of age or older.

preferred ✓ The nominee must meet the requirements of 37-3-305.

avoid The nominee shall meet the requirements of 37-3-305.

preferred ✓ The applicant must have a master's degree.

avoid The applicant shall have a master's degree.

preferred ✓ The committee must include four physical therapists.

avoid The committee shall include four physical therapists.

The examples above for when "must" should be used are very specific, and the general approach is if a particular situation does not fall under one of these descriptions, then "must" is not the appropriate language to be used.

Use "is" or "are" instead of "must be" or "must have" when the state is providing or allowing something by virtue of it being said in the law itself (i.e., a statement of law). It is not something a person must show that they have or something someone else is being given the duty to give to a person.

preferred ✓ A person who violates a provision of this section is liable in a civil action in a court of competent jurisdiction.

avoid A person who violates a provision of this section must be liable in a civil action in a court of competent jurisdiction.

preferred ✓ An individual's rights are freely transferable, licensable, and descendible, in whole or in part.

avoid An individual's rights must be freely transferable, licensable, and descendible, in whole or in part.

(3) May

Use "may" to confer a discretionary right, privilege, or power.

examples The applicant may renew the application.

The department may adopt rules to implement this section.

(4) May Not

Use "may not" to express a prohibition. Use "may not" if the verb that it qualifies is in the active voice.

preferred ✓ The applicant may not submit more than one application.

avoid The applicant must not submit more than one application.

preferred ✓ The applicant may not be a convicted embezzler.

avoid The applicant shall not be a convicted embezzler.

(5) Mandates and Prohibitions

When qualifying a verb in the active voice, "shall" is used as mandatory and "may not" or "may . . . only" as prohibitory.

preferred ✓ The applicant shall sign the application.

avoid The applicant must sign the application.

preferred ✓ The applicant may not submit more than one application.

avoid The applicant must not submit more than one application.

avoid The applicant shall not submit more than one application.

preferred ✓ Proceeds of the fund may be used only to pay claims under this chapter.

avoid Proceeds of the fund must be used only to pay claims under this chapter.

avoid Proceeds of the fund shall be used only to pay claims under this chapter.

Use "shall" only in an imperative or mandatory sense and "may" in a permissive sense. When a right, privilege, or power is conferred, "may" should be used.

Do not use "shall" to confer a right because that implies a duty to enjoy the right.

preferred ✓ The officer is entitled to an annual salary of $40,000.

✓ The officer must receive an annual salary of $40,000.

avoid The officer shall receive an annual salary of $40,000.

preferred ✓ The annual salary is $40,000.

avoid The annual salary shall be $40,000.

2-5. Negatives

"Nor" may be used alone as a conjunction or with "neither". Do not use "nor" in the same clause with any other negative; use "or" instead.

correct ✓ There are no pens or pencils in the storeroom.

incorrect There are no pens nor pencils in the storeroom.

2-6. Voice

Whenever possible, draft language in the active voice rather than the passive voice.

preferred ✓ The board shall appoint a director. (Active voice)

avoid A director must be appointed by the board. (Passive voice)

Because the subject does or "acts on" the verb in a sentence, the sentence is in the "active voice".

2-7. Number

Use the singular instead of the plural when possible. The singular includes the plural. (See section 1-2-105(3), MCA.)

preferred ✓ A defendant in a civil action who prevails in that action is entitled to the defendant's reasonable costs. (Singular)

avoid Defendants in civil actions who prevail in those actions are entitled to their reasonable costs. (Plural)

2-8. Articles and "Such"

"A person who violates" is preferred to "any person who violates", "each person who violates", or "all persons who violate". Consistent use of the articles "a" or "an" results in smoother writing and more precise expression.

"Such" or "said", as in "such person" or "said board", should also be avoided. Usually "such" can be avoided by referring to "the board", "an institution", "a person", "these laws", etc., or by employing the appropriate pronoun, such as "it". However, "such" may be needed occasionally to identify the thing to which it refers and should be used if necessary to avoid ambiguity or to avoid an excessive amount of language. "Said" is archaic and should never be used.

2-9. Pronouns

Use a pronoun only if its antecedent (the word for which the pronoun stands) is unmistakable. A pronoun must agree with its antecedent in number and person.

Use a plural pronoun when the antecedent consists of two nouns joined by "and" and a singular pronoun when the antecedent consists of two singular nouns joined by "or" or "nor". When "or" or "nor" joins a singular noun and a plural noun, a pronoun should agree in number with the nearer noun.

preferred ✓ A director, officer, or agent of a bank may not purchase an obligation of the bank for **the person's** own personal benefit.

avoid A director, officer, or agent of a bank may not purchase an obligation of the bank for **their** own personal benefit.

The use of "their" is allowed only when it is the best available option. Try to avoid using it whenever possible.

2-10. Gender

The Legislative Council has adopted a policy that all bills be drafted using gender-neutral terms. For example, in referring to a person who writes a statute, refer to the "drafter", not the "draftsman". An example of this type of gender neutrality can be found in the Workers' Compensation Act, in which "workers' compensation" was formerly referred to as "workmen's compensation". Creating an artificial gender-neutral term is unacceptable. Referring to a presiding officer as a "chair" or "chairperson" is an example of the use of an artificial designation. Use "presiding officer" instead.

There are two easy methods that the drafter may employ to avoid using gender-based pronouns. The first method omits the use of the pronoun. For example, instead of writing "A board member is entitled to $50 for each day that **he** attends a board meeting", write "A board member is entitled to $50 for each day of attendance at a board meeting". The second method is to repeat the noun instead of using a pronoun. For example, instead of writing "If the

director determines that the plan does not meet statutory requirements, **he** shall adopt a temporary plan", write "If the director determines that the plan does not meet statutory requirements, **the director** shall adopt a temporary plan".

The use of a combination of gender-specific pronouns is not an acceptable method of using gender-neutral language. For example, a drafter may not use "he or she", "his or her", or "he/she".

WAYS TO MAKE TERMS GENDER NEUTRAL

Old Term	**Gender-Neutral Term**
actor	no change
airman	aircrew member
alderman	city council member
bondsman	bonding agent
brakeman	brake tender
brother	sibling
brotherhood	fraternal organization
businessman	business person
businessmen	business people (persons)
care of himself	provide self-care
chainman	surveyor's assistant
chairman	presiding officer (not chair)
clergyman	member of the clergy
committeeman	committee representative
congressman	member of the U.S. house of representatives
councilman	council member
craftsman	skilled worker or artisan
dairyman	dairy producer
daughter	child
draftsman	drafter
eight-man board	eight-member board
entryman	no change
father	parent (some exceptions)
ferryman	ferry operator
fireman	firefighter
fisherman	angler

flagman	flag person
foreman	lead supervisor
foreman (jury)	jury supervisor
fraternal organization	no change
fraternity	no change
grandfather, grandmother	grandparent
grandfather clause	no change
guardsmen	guard members
his own	the person's own
holds himself out to be	a person represents to the public that the person is
housewife	homemaker
human	no change
husband	spouse
husbandry	no change
journeyman	no change
landlord	no change
layman	layperson
layman's terms	plain language
maiden name	birth name
mailman, postman	mail carrier
manhole	no change
mankind	humanity, humankind, the human race, people, society
manmade	artificial, synthetic, constructed, manufactured (changes caused by human activity)
manned, unmanned	staffed, unstaffed
manpower	personnel, staffing, workforce, labor force, labor supply
manslaughter	no change
marksmanship	no change
materialman's lien	use "construction lien" if possible
midwife	no change
militiaman	militia member
mother	parent (some exceptions)
nurseryman	nursery operator

ombudsman	no change
parts man	parts person
patrolman	patrol officer
policeman	police officer
postmaster; poundmaster	no change
quartermaster	no change
remainderman	no change
repairman	repair worker, repairer
salesman, salesmen	salesperson, salespeople
serviceman	service member
sister	sibling
son	child
spokesman	representative
sportsman	hunter or angler, recreational user, outdoor recreationist, conservationist
statesman	government leader
stepfather, stepmother	stepparent
stockman	stockgrower
supporting himself	providing self-support
tradesman	skilled worker
trainman	train operator, train worker, train crew member
warehouseman	warehouse agent, warehouse worker, warehouse operator
watchman	security guard
widow, widower	surviving spouse
wife	spouse
workmanlike, workmanship	no change

2-11. Redundant Adjectives and Adverbs

Avoid adjectives such as "real", "true", and "actual" and adverbs such as "duly" and "properly". Because these ideas are normally implied, expressing them in some instances may create doubt that they are implied elsewhere.

preferred ✓ The applicant shall write the applicant's age in the appropriate blank.

avoid The applicant shall write the applicant's **actual** age in the appropriate blank.

2-12. Consistency

To avoid confusion, the drafter must be consistent in word usage. For instance, if the drafter uses "employee" in one section, "worker" should not be used in another section merely for the sake of literary variety. ("Poetic licenses" are never issued to bill drafters.) Also, the drafter should not use the same word to denote different things.

2-13. Provisos

Provisos are clauses introduced by "provided, however", "provided that", and "provided further". They should be avoided.

The word "provided" has been so overworked in legislative drafting that it has no definite meaning. It must be defined by the court before it can be interpreted. "The word 'provided', when used in a legislative enactment, may create a condition, limitation, or exception to the Act itself, or it may be used merely as a conjunction meaning 'and' or 'before', and as to what sense the word was used must be determined from the context of the Act." (*State ex rel. Board of County Commissioners v. Bruce*, 104 Mont. 500, 516, 69 P.2d 97 (1937).)

Introduce an exception or limitation with "except that", "but", or "however" or, better yet, simply start a new sentence. If there are many conditions or exceptions, they should be placed in a separate subsection or in an outlined list following the introductory sentence.

2-14. The Exception

The exception is used to exempt something from the application of the law and should be stated precisely in order to describe only those persons or things intended to be excepted. The direct statement should include all persons and things to be covered by the rule. If there is a simple exception to the rule, the exception may be placed at the end of the rule.

example A license must be obtained by each person except a person who:

(1) is 65 years of age or older;

(2) has resided in the state for less than 1 year; and

(3) claims . . . .

An alternative is to place the exception in a separate subsection and incorporate it by reference into the subsection stating the rule.

example (1) Except as provided in subsection (2), the board may . . . .

(2) The provisions of this section do not apply to . . . .

2-15. Use of "That" or "Which"

The word "that" begins a restrictive clause that:

(1) restricts, limits, or describes the word modified; and

(2) is necessary to the meaning of the sentence.

The clause is essential rather than parenthetical, so commas **should not** be used to enclose the clause.

example A fence that conforms to the provisions of 81-4-101 is a legal fence.

The word "which" begins a nonrestrictive clause that:

(1) does not restrict the word modified; and

(2) gives additional, supplemental, or descriptive information about the word modified.

The meaning of the sentence is complete without the "which" clause, so commas **should be** used to enclose the clause.

example A fence, which may be a legal fence according to the provisions of 81-4-101, must be built within 30 days after receiving the permit.

2-16. If, When, Where, or Whenever

The word "where" denotes place only.

If the application of a provision of an act is limited by the single occurrence of a condition that may never occur, use "if" to introduce the condition, not "when".

example If the suspect resists arrest, the officer may use force to subdue the suspect.

If the condition may occur more than once with respect to the object to which it applies, use "whenever", not "if", or "when".

example Whenever the officer receives a call, the time must be noted in the officer's report.

If the condition is certain to occur, use "when", not "if" or "whenever".

example When the statute takes effect, all pending proceedings must be dismissed.

2-17. Internal References

Prior to 1979, creation of internal references to other sections, parts, or chapters of the MCA was discouraged in bill drafting because of the ruling in *Gustafson v. Hammond Irrigation District*, 87 Mont. 217, 287 P. 640 (1930). In *Gustafson*, the Supreme Court held that a reference to a statute is to that statute as it existed at the time of its adoption and that subsequent repeal or modification of the statute does not affect the reference to the statute in another statute. This rule had the effect of requiring the statutory researcher to trace through the Session Laws to determine when each internal reference was created and how the referenced section read at that time.

At the request of the Code Commissioner, the 1979 Legislature amended section 1-2-108, MCA, to add a subsection (2) reversing the *Gustafson* rule. The use of internal references is, therefore, no longer discouraged and can often be used to provide brevity. However, see *State v. Conrad*, 197 Mont. 406, 643 P.2d 239 (1982),

for a discussion of the applicability of this statute to criminal matters involving retroactive application of an internal reference. (Note that, subsequent to *Conrad*, the retroactivity issue was resolved by a 1983 amendment that added a new subsection (3) to section 1-2-108, MCA.) Avoid overusing internal references because it is difficult to comprehend a section of the law when it has to be read together with many other sections. (For a discussion of related issues, see section 2-18.)

2-18. Use of "This Act"

Use of the words "this act" is not acceptable except in noncodified sections (see section 4-2) or when used in brackets with "[the effective date of this act]". The use of "this act" often creates a problem because the word "act" must be changed to an appropriate term, such as "title", "chapter", "part", or "section", when the law is codified. References to "this act" may be avoided by substituting references to specific bill sections that will be codified (e.g., "[sections 1 through 24]" when sections 25 and 26 are a repealer section and an effective date section).

It is particularly important to avoid use of "this act" if a bill contains amendments to existing MCA sections because technically the act includes only the deletions or additions, or both, to the amended MCA sections and not the remainder of those sections. Therefore, use of "this act" could cause confusion concerning its specific reference and present difficulties in changing "this act" to an MCA reference during codification. In these cases, specific references (whether to the MCA sections being amended, to other MCA sections, parts, or chapters, to new bill sections, or to any combination of these) must be substituted for "this act". For the same reason, when referring to an MCA section that is being amended, reference must be made to the MCA section number, not the bill section number; to refer to the bill section is to refer only to the amendment.

This admonition does not apply to use of "this act" in housekeeping sections that will not be codified, such as effective date, severability, and applicability sections.

2-19. Words to Be Avoided

The left-hand column of the list includes words and phrases that should be avoided unless there are special reasons to the contrary. Some are flowery, some are archaic, and some are vague; all lack the precision needed for clear expression. The words in the right-hand column are those that the average reader understands more readily.

Avoid	**Use**
absolutely null and void and of no effect	void
aforesaid; aforementioned; beforementioned	the; that; those (see "hereinafter")
afforded or accorded	given
and/or	either X or Y, or both; X and Y or either of them
any and all	(either word)
as (in clauses of reason)	because
at such time as	when; whenever
attorney-at-law and counselor-at-law	attorney
be and the same is hereby	is
biannual	semiannual for twice a year; biennial for every 2 years
bonds, notes, checks, drafts, and other evidences of indebtedness	evidence of indebtedness
bring an action	sue
carry out	execute; complete; administer
chairman	presiding officer
deal with	address; conduct
deem	consider
does not operate to	does not
due to (normally used only after some form of the verb "to be")	because
during such time as	while

during the course of	during
each and all	(either word)
employ (meaning to use)	use
enter into a contract with	contract with
every	each
every person; all persons	a person
evidence, documentary or otherwise	evidence
evince	show
examine witnesses and hear testimony	take testimony
fail, refuse, or neglect	fail
for the duration of	during
for the purpose of	for
for the reason that	because
forthwith	immediately
from and after	after
full and complete	full
full force and effect (use with regard to surety bonds)	force; effect
give consideration to	consider
give recognition to	recognize
have knowledge of	know
have need of	need
he or she; his or her; he/she	refer to the subject – "the licensee", "permitholder", etc.
hereafter	after [the effective date of this act]; after (calendar date)
hereinafter; hereinbefore; hereinabove; heretofore; above; below; following; preceding	(these are objectionable when referring to the position of a section or other statutory provision; if reference is necessary, specify the chapter, part, section, or subsection by number)

in 1-1-501 to 1-1-511, inclusive	in 1-1-501 through 1-1-511
in case; in the event that	if
in cases in which	when; if; whenever
in order to	to
institute; initiate	begin; start
insure (verb, to make sure)	ensure
is applicable	applies
is authorized to; is empowered to	may
is binding upon	binds
is defined and shall be construed to mean	means
is dependent on	depends on
is directed to; is hereby authorized and it shall be the person's duty to	shall
is hereby vested with power and authority and it shall be the person's duty in carrying out the provisions of this part to	shall
it is lawful to	may
it is the person's duty to	shall
law passed	law enacted
legislative assembly	legislature
make application	apply
make payment	pay
make provision for	provide for
matter transmitted through the mail	mail
means and includes	means; includes
monies, moneys	money
Native American	Indian
necessitate	require
nexus	connection; link; tie
none whatever	none; no
null and void	void
occasion (verb)	cause
of a technical nature	technical

or, in the alternative	or
ordered, adjudged, and decreed	ordered
party	person (unless referring to a party to a suit or action)
per annum	a year
per day	a day
period of time	period; time
person of suitable age and discretion	adult (or state age)
pled	pleaded
prosecute its business	conduct its business
proven	proved
provided (conjunction)	if; but
provided, further; provided, however; provided that	if; except; but; however (or start a new sentence)
provision of law	law
registered or certified mail	certified mail
render (meaning to give)	give
revenues	revenue (except where defined in law)
rules and regulations	rules (or, if federal, regulations)
said (as adjective)	the; that; those
same	it
section 1-1-101	1-1-101
shall have the power to	may
sole and exclusive	exclusive
subdivision; clause; paragraph	subsection
subsequent to	after
such	(do not use if an article can be used with equal clarity)
the place of abode	residence
thereafter	after that/it; afterward; subsequently
thereof	of it; of that; from it; from that
thereon	this/it; on this/it; of this/it
thereunder	under this/it

to wit	(this is verbiage; delete it)
unless and until	unless; until
until such time as	until
whatsoever	whatever
whensoever	when; if; whenever
wheresoever	where
while (in clauses of reason)	although; because
whomsoever	(archaic; improper)
whosoever	whoever

2-20. Citations

(1) MCA

The statutes of Montana are cited as the "Montana Code Annotated" or "MCA". The MCA is arranged topically by title (see preface to the MCA) and is further subdivided into chapters, parts, and sections. Section 1-2-108, MCA, provides that a statute that refers to another portion of the MCA is presumed to refer to the Montana Code Annotated. Therefore, the designation "Montana Code Annotated" or "MCA" is omitted within the MCA or within language intended to be codified. Section 1-2-108, MCA, also provides that a reference to a portion of the MCA is presumed to be a reference to that portion as it may be amended. In other words, no reference to the year of enactment or amendment is necessary to cite the MCA. Citations to the MCA include:

- as provided in Title 2, chapter 4, part 2, (use even when in that specific title; avoid: "in this title")
- as provided in part 3 of this chapter
- as provided in 19-5-401 or 19-5-409(2) or (4)
- in resolutions or preambles, "as provided in section 19-5-401, MCA, . . ."
- for repealed sections, "former 20-9-630"

(2) Montana Constitution

The Montana Constitution is formally cited as "The Constitution of the State of Montana" and more usually cited as "the Montana constitution" in the MCA or "the Montana Constitution" (capitalized) in other references. The Montana Constitution is arranged topically in articles and sections and may be cited as follows:

- as provided in Article X, sections 5 and 7, of the Montana constitution
- Article V of The Constitution of the State of Montana
- in resolutions or preambles, "as provided in Article IX, section 5, of the Montana Constitution"

(3) United States Constitution

The federal Constitution may be cited as "the United States constitution" in the MCA and as "the United States Constitution" or "the U.S. Constitution" (capitalized) in other references. Citations to the federal Constitution in bill drafts may include:

- Article I, section 8, paragraph 17, of the constitution of the United States
- fifth amendment to the United States constitution
- 5th and 14th amendments to the United States constitution
- Article VI, clause 2, of the United States constitution
- Article II, section 2, clause 2, of the United States constitution
- in resolutions or preambles, "as provided in Article II, section 1, of the United States Constitution"

(4) Session Laws

Session Laws are the compilation of all legislation passed into law during a specific legislative session. Session Laws are arranged by legislative session year and are divided into chapters (one chapter for each bill that is passed), which are further divided into sections. Session Laws may be cited as follows:

- Chapter 5, Laws of 2007,
- section 2, Chapter 5, Laws of 2007,
- sections 2, 3, and 4, Chapter 5, Laws of 2007,
- section 5, Chapter 1, Special Laws of August 2010,

(5) Rules

Official rules are occasionally cited in legislation as follows:

- Rule 4.1, Montana Rules of Civil Procedure,
- Rule 4(l), M.R.Civ.P.,
- Rule 26(b)(4)(A) through (4)(C) of the Montana Rules of Civil Procedure
- Rule 202(b) of the Montana Rules of Evidence

(6) Federal Materials

Federal materials are occasionally cited in legislation. Citations may include:

- 18 U.S.C. 922 (no section symbol or word "section") (no additional citation of act unless specifically needed)
- 42 U.S.C. 409(b) and (d)
- 26 U.S.C. 105 and 106
- Title 10, U.S.C.,
- Title 42, chapter 7, Subchapter IV, Part D, of the United States Code
- Title 10, chapter 55, of the United States Code
- 42 U.S.C. 1396a(e)(2)(A)(ii) through (e)(2)(C)(x)
- 42 U.S.C. 7401, et seq.,
- 10 U.S.C. 672(a), (d), or (g), 10 U.S.C. 673, 10 U.S.C. 673b,
- 50 App. U.S.C. 460
- 42 CFR, part 441, subpart G, / 45 CFR, parts 160 and 164,
- 40 CFR 60.533 / with paragraph cite: 49 CFR 382.501(a)
- Subchapter V of the federal Clean Air Act
- Subchapter IV of the Social Security Act
- subchapter S. of the Internal Revenue Code
- section 125 of the Internal Revenue Code, 26 U.S.C. 125,
- section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), as amended,
- section 501(c)(3) and (c)(4) of the Internal Revenue Code, 26 U.S.C. 501(c)(3) and (c)(4),
- Public Law 100-485 / section 2 of Public Law 99-145

(7) Miscellaneous (in preambles or resolutions; note capitals)

- Supreme Court Order No. 86-223, dated . . .
- Initiative Measure No. 5
- House Bill No. 567, Laws of 1989, (old appropriation bills)
- Cause No. CV-78-110-BLG-JDS (D. Mont.)
- Hotel Venture East v. State, Cause No. CDV-2002-493 (2005),
- Shammel v. Canyon Resources Corp., 2007 MT 206, 338 Mont. 541, 167 P.3d 886,
- Wisconsin v. Yoder, 406 U.S. 205 (1972),
- an opinion by the Attorney General, issued on December 3, 2007, 52 A.G. Op. 4, held that . . .
- Montana Constitutional Convention, Verbatim Transcripts, Volume VI, page 2097,
- 9th Circuit Court
- Cox v. Yellowstone County, 795 F. Supp. 2d 1128 (2011),
- Article II, section 2, clause 2, of the Constitution of the United States
- Executive Order No. 13706, September 7, 2015,
- The Enabling Act

CHAPTER 3
Form Guide

3-1. Capitalization

Capitalization rules for bill drafting represent an exception to standard usage. When drafting bills, capitalize as little as possible. Capitalization has no legal significance, and lowercase words are easier to read and write.

(1) Capitalize the first word in a sentence. The first word in each subsection following a colon must also be capitalized if each item expresses a complete thought and follows a complete introductory sentence.

(2) Capitalize months and days of the week.

(3) Capitalize names of specific publications:
- North American Industry Classification System Manual
- Survey of Current Business

(4) Capitalize "Montana" (but not "state") in "state of Montana".

Capitalize "County" but not "city" in the name of a county or city:
- Cascade County
- Cascade and Chouteau Counties
- city of Missoula

(5) Capitalize names of specific persons or places and specific national regions:
- Charles Marion Russell
- Rocky Mountains
- Sluice Boxes state park
- Pacific Northwest

Capitalize "North American continent". Capitalize geographic names, such as Flathead Valley (but not "community college") in "Flathead Valley community college".

Capitalize the names of lakes and rivers:

- Yellowstone River
- Ackley Lake
- Jefferson and Missouri Rivers

Do not capitalize the words "basin", "canal", "dam", "watershed", or "reservoir". Do not capitalize words that indicate state geographic locations, such as "northern Montana". Do not capitalize "street", "road", and similar terms: "north 27th street".

(6) Capitalize names of historic events and holidays:

- World War II
- Christmas Day
- Lincoln's and Washington's Birthdays

(7) Capitalize works of art according to MCA style rules:

- the statue by Robert Scriver entitled "symbol of the pros"
- the paintings entitled "farm girl", "the Bozeman trail", and "the Mullan road"

(8) Capitalize references to a statute compilation, such as "MCA". Do not capitalize "the statutes", "the codes", or "the Montana constitution" unless the full and exact title is used (e.g., "The Constitution of the State of Montana"). Capitalize and spell out terms such as "Montana Rules of Civil Procedure".

Do not capitalize the words "chapter" or "section" when referring to the MCA or the Constitution, but capitalize the name of a particular title in the MCA, the name of an article in the Constitution, and the name of a specific chapter in the Session Laws:

- Title 19
- Article V, The Legislature
- Chapter 5, Laws of 2007

(9) Capitalize scientific names, including kingdom, phylum, class, order, family, and genus, but not the species name:
- species of the family Salmonidae
- species of the genus Sander
- walleye (Sander vitreus)

(10) Capitalize names of races, citizens, and languages:
- the tribal councils of the respective Indian tribes
- Blackfeet Indian reservation
- Spanish or French

(11) Capitalize words referring to a deity:
- an act of God

(12) Capitalize the name of a particular act:
- Montana Major Facility Siting Act

(13) Do not capitalize official titles of state, county, or municipal officers, agencies, or institutions:
- governor
- department of transportation
- board of county commissioners
- Montana state university-northern

The same style is used for officers, agencies, or institutions at the federal level and for national organizations:
- president
- U.S. department of agriculture
- congress
- supreme court
- American red cross

(14) Do not capitalize a class designation, such as "class one". (See section 3-5 for exceptions for certain classifications.)

(15) Do not capitalize "subchapter" or "section" when referring to the Internal Revenue Code:
- subchapter S. of Chapter 1
    - section 985 of the Internal Revenue Code

(16) Because a resolution is usually a more formal document and because the resolution itself is presented or mailed to an agency or person and is not printed in the MCA, standard capitalization rules are followed when drafting a resolution. The following examples are **only for resolutions and preambles**:
- State of Montana
- Department of Agriculture; Department
- Legislative Branch; Legislature
- Montana University System
- Montana Congressional Delegation

3-2. Punctuation

In addition to striving for clear expression through the proper use of words, the drafter must employ correct punctuation to support the words and avoid ambiguity.

(1) Comma

If a sentence consists of two independent clauses, each with a subject and predicate, use a comma before the conjunction.

example The commission shall report annually to the governor, and it must have the report printed for public distribution.

An exception to this rule occurs when a sentence starts with a dependent clause that applies to both independent clauses that follow. No comma separates the independent clauses because it would make the introductory dependent clause seem to apply only to the first independent clause.

example If a conference committee fails to reach agreement or if its report is not adopted by both houses, the governor's recommendation is considered not approved and the bill is returned to the governor for further consideration.

Do not use a comma to separate two predicates joined by a coordinating conjunction.

example The commission **shall report** annually to the governor and **must have** the report printed for public distribution.

Set off a parenthetical phrase or clause with two commas.

example Any affected person, including but not limited to a representative of the news media, has standing to contest a final order.

Words, phrases, or clauses in a series are separated by commas.

example The department shall provide the board with reasonably necessary supplies, equipment, and clerical services.

A comma (also known as the Oxford comma or series comma) is used before the conjunction connecting the last two items in a series (e.g., "dogs, cats**,** and parrots").

example wheat, corn, barley, and rye

Do not set off an essential clause with a comma. An essential clause is one that is necessary to the meaning of the sentence and cannot be omitted.

correct ✓ Application must be made by July 1 if a permit is wanted.

incorrect Application must be made by July 1, if a permit is wanted.

correct ✓ An insurer may not disburse $100 or more unless a signed voucher is received.

incorrect An insurer may not disburse $100 or more, unless a signed voucher is received.

(2) Semicolon

Use a semicolon between two main clauses not joined by one of the simple coordinating conjunctions (and, but, or, nor).

example Letters and other private communications in writing belong to the person to whom they are addressed and delivered; however, they cannot be published against the will of the writer.

A semicolon is used at the end of subsections that do not contain complete sentences.

(3) Colon

A colon is used in legislative drafting to introduce a series in outline form.

example Each policy must contain:
(1) the names of the parties to the contract;
(2) the subject of the insurance; and
(3) the risks insured against.

(4) Parentheses and Brackets

Do not use parentheses or brackets as punctuation. Parentheses are used to enclose numerals or letters in outline designations. Use brackets to enclose internal references, such as "[section 3]", to enclose "this act", and to enclose references to the effective date of a section or an act. In rare instances, brackets may be inserted in the MCA during the codification process to denote erroneous language or language that becomes effective or that terminates on the occurrence of a contingency or a particular date.

(5) Quotation Marks

In American usage, a period or comma is usually placed inside closing quotation marks whether it belongs logically to the quoted matter or to the whole sentence or context. In bill drafting, a period or a comma should be placed outside quotation marks if it does not belong to the quoted matter. In drafting, always use double quotes.

In legislative drafting, quotation marks are used only to enclose titles or texts of acts or laws referred to or incorporated by reference, to enclose defined words or phrases, or to enclose amended MCA sections. In addition, quotation marks are used to enclose text following terms such as "entitled", "the word", "the term", "marked", "designated", "classified", "named", "endorsed", "cited as", "referred to as", "known as", or "signed". Quote marks are not used around the names of acts in the title of a bill or resolution.

example (4) The state of Montana accepts and assents to the terms and provisions of the act of congress, approved May 8, 1914, entitled "An Act to Provide for Cooperative Agricultural Extension Work".

example A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING THE TERM "GAME" TO INCLUDE THE JAVELINA."

example (1) "Agency" means an authority, board, bureau, commission, department, or other entity of state or local government.

example (2) For the purposes of this section, the term "agency" includes the Montana university system.

example Section 1-1-218, MCA, is amended to read:

"**1-1-218. Words giving joint authority.** Words giving a joint authority to three or more public officers or other persons are construed as giving ~~such~~ the authority to a majority of them unless it is otherwise expressed in the ~~act~~ law giving the authority."

example A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE MONTANA ADMINISTRATIVE PROCEDURE ACT TO INCLUDE . . ."

3-3. Abbreviations and Acronyms

Abbreviations are seldom used in the MCA and other legislative writing, except that "Montana Code Annotated" should be abbreviated to "MCA" in resolutions and preambles. Do not add "MCA" to a section number within the text of a section of the MCA. (See section 1-2-108(1), MCA, which provides that it is presumed that the section number refers to the Montana Code Annotated.)

One example of the acceptable use of an abbreviation in the MCA is "et seq." when referring to the United States Code or the Code of Federal Regulations.

The use of acronyms should be avoided in the MCA. Because the reader may not be familiar with a particular acronym, the full expression should be used. Exceptions include "CFR" for Code of Federal Regulations and "U.S.C." for United States Code.

3-4. Numbers

Except as listed below, numbers one through nine are spelled out, and numbers 10 and over are written in numerals. Numbers at the beginning of a sentence should be spelled out.

- five, 22, 1,000, 1 million, 1.5 billion
- Fifteen members serve on the committee.

(1) Money

- 6 mills
- 0.02 cent
- 0.1 cent (use for 1/10 of 1 cent), 0.5 cent, 1 cent
- 1 1/2 cents, 3.7 cents, 25 cents
- $1, $25, $37.50, $100, $2,000, $25,000
- $1.25 million, $1.259 million (three digits after the decimal point), $1,369,400, $3 million, $3.5 million

(2) Measurements

- 2 inches (feet, yards, meters, acres, etc.)
- 8 feet 2 inches
- 2 feet x 3 inches
- 15 x 30 feet (but a "15-foot by 30-foot room")
- 7.5 milligrams
- 1.5 liters
- 5 pounds (bushels, barrels, gallons, etc.)
- 3 ounces
- 3 acres (horsepower, etc.)
- 35 degrees F
- 1 megawatt hour; 1 megawatt-hour unit
- one-half mile
- 0.5% of alcohol by volume

(3) Age

- 6 years old (not people)
- 52 years, 10 months, 6 days
- a 3-year-old child
- 65th birthday
- "a person who is 18 years of age or older" (not "over 18 years of age")
- "a person who is under 6 years of age"
- "a person who is 18 years of age or older and under 66 years of age" (not "between the ages of 18 and 65")

(4) Time

- 3 days
- 5th and 20th days (but: "fifth day")
- 2 weeks
- 2 1/2 months
- 2 decades
- 4 calendar quarters
- ninth year; 12th year (unless together: "9th and 12th years")
- 3 fiscal years

- 2 bienniums (not "biennia")
- 6 credit hours
- noon (not "12 noon")
- midnight (not "12 midnight")
- 9 a.m. (not "9:00 a.m." or "9 o'clock a.m.")
- 1:30 p.m.
- one-half hour before sunset

(5) Percentages

- 0.3%
- 3%, 25%
- 3/4 of 1%
- 1/2 of 1% or 0.5% (not "1/2%")
- 57.5%
- 2 percentage points

An irregular fraction should not be expressed as a decimal: 1/3 of 1% (not "0.333%") and 8 1/3% (not "8.333%").

(6) Unit Modifiers

- 5-day week (measurement)
- 10-year sentence (measurement)
- 1-year term (measurement)
- five-person board (not unit of measurement)
- 1-year, 2-year, and 3-year terms (but "term of 5 years")
- four-wheel-drive vehicle
- 20-cent raise (but "$1 million limit")
- 4.0 cumulative grade point average

(7) Ordinals

First through ninth are spelled out; 10th and over are numerals.

- first term (but "1st grade"; see section 3-5)
- fifth tax year
- fourth amendment
- 15th amendment

- 4th and 15th amendments (see section 3-4(9))
- 15th birthday
- eighth day; 35th day (but: "8th and 35th days")

(8) Fractions

Fractions standing alone or followed by "of a" or "of an" are spelled out, such as "one-half day", "one fifty-sixth", "two-thirds vote", or "three-fourths of an inch". Mixed fractions are written in numerals, such as "2 1/2 times". (This rule holds true even in measurements, but see exception under "Percentages" in subsection (5).)

In a unit modifier, use figures, such as "1/2-inch pipe" or "3/4-ton truck".

(9) Numbers in Series

Numerals are used in a group of two or more numbers when any one is 10 or greater: "The farm has 3 cows and 12 sheep."

3-5. Classes, Grades, and Other Classifications

The drafter should search the existing MCA to determine if there are references to certain classifications and should follow the capitalization used in current law.

- property tax classification — class one, class twelve
- animals — class 1
- hazardous waste management facility — class III
- compensation plan No. 2
- school grades — 1st grade, 2nd grade, 12th grade
- teacher or specialist certificates — see section 20-4-106, MCA
- hunting and trapping licenses — Class A-6, Class C-2
- fishing licenses — Class A, Class B-4
- railroads — Class III
- state lands — Class 4
- tow truck operators, equipment, trucks — class C, class D, etc.
- waters — class I waters; see section 23-2-301, MCA
- motor carriers — Class A, Class B
- motor carrier authority — Class A, Class B

3-6. Dates — Fiscal Years

(1) Dates

- December 31 (not "December 31st" or "31st day of December")
- December 31, 2028, (with comma following year in a complete date, unless at the end of a sentence)
- December 2028
- October, November, and December 2028
- 2027-2028 interim (not "2027-28")

(2) Periods of time

- For the fiscal year beginning July 1, 2028,
- For the biennium beginning July 1, 2027,
- For school fiscal years beginning on or after July 1, 2028,
- For the period beginning July 1, 2027, and ending June 30, 2028,
- For fiscal years 2028 and 2029
- *Avoid:* For the 2029 biennium (meaning the period from July 1, 2027, through June 30, 2029)

Fiscal year 2028 begins July 1, 2027, and ends June 30, 2028.

Fiscal year 2029 begins July 1, 2028, and ends June 30, 2029.

If statutory language takes effect on July 1, it should be written as "tobacco settlement proceeds received after June 30, 2027" or "Effective July 1, 2027, a member who completes . . .". ("From July 1, 2027", "after July 1", or "between July 1 and" might be construed to mean a beginning date of July 2 and should be avoided.)

It is better to refer to a day rather than to the time that an event will occur, such as "90 days after the day on which judgment is entered", not "90 days after the time". Usually, a period is measured in whole days, not the time of day.

3-7. Bill Titles and Catchlines

In bill titles and catchlines, follow the rules listed in sections 3-1 through 3-6.

Bills must be drafted so that all title provisions are in the "-ING" form.

examples "AN ACT **ALLOWING** A DISTRICT COURT . . ."

"AN ACT GENERALLY **REVISING** . . ."

"AN ACT **CREATING** THE CLEAN AIR ACT OF MONTANA; . . ."

3-8. Amending Text

(1) Strike before adding (also **strike the following space** rather than the preceding space wherever possible), and keep blocks of striking and adding together whenever possible.

preferred ✓ "State ~~food stamp~~ supplemental nutrition assistance program agency" means . . . .

preferred ✓ The information contained ~~therein shall not be an official accounting~~ in the certificate is not a public record. (end-of-line example – strike the *preceding* space instead of the following one)

avoid The information contained in the certificate is not a public record ~~therein shall not be an official accounting~~.

avoid The information contained ~~therein~~ in the certificate ~~shall~~ is not ~~be an~~ a ~~official~~ public ~~accounting~~ record.

(2) Do not strike a portion of a "unit", whether it is a single word, a hyphenated word, a parenthetical phrase, a quoted word or words, or a number with a symbol.

To change a capitalized word to a lowercase word:

correct ✓ ~~The~~ Except as otherwise provided, the vehicle . . .

incorrect Except as otherwise provided, ~~T~~the vehicle . . .

To change a plural term to a singular term:

correct ✓ The ~~persons~~ person shall . . .

incorrect The person~~s~~ shall . . .

To change a percentage:

correct ✓ Each taxpayer shall pay ~~25%~~ 50% to the state.

incorrect Each taxpayer shall pay ~~25~~50% to the state.

To change a dollar amount:

correct ✓ The school district allowance is ~~$7,000~~ $6,000 a year.

✓ The principal of the account is ~~$30~~ $40 million.

incorrect The school district allowance is $~~7,000~~6,000 a year.

To change a hyphenated word to one word:

correct ✓ The program is not ~~on-site~~ onsite currently.

incorrect The program is not on~~-~~site currently. (striking only the hyphen)

To change a quoted word or phrase:

correct ✓ ~~"Book value"~~ "Book" value

incorrect "Book" value~~"~~

To remove parentheses:

correct ✓ as provided in ~~(26 U.S.C. 1603)~~ 26 U.S.C. 1603,

incorrect as provided in ~~(~~26 U.S.C. 1603~~)~~,

3-9. Striking and Adding Subsection References

The following approach must be used when striking or adding subsection references in an MCA section:

(1) Striking, Adding, and Changing Subsection References in Section Text

Striking subsections:

- 1-2-345(6) 1-2-345~~(6)~~
- 1-2-345(6)(a) 1-2-345~~(6)(a)~~
- 1-2-345(6)(a)(i) 1-2-345(6)(a)~~(i)~~

Adding subsections:

- 1-2-345(6) 1-2-345(6)(a)
- 1-2-345(6)(a) 1-2-345(6)(a)(ii)
- 1-2-345 1-2-345(2)(a)

Changing subsections:

- 1-2-345(6)(a) 1-2-345~~(6)(a)~~(7)(a)
  or
  ~~1-2-345(6)(a)~~ 1-2-345(7)(a)
- subsection (2)(c) subsection ~~(2)(c)~~ (2)(d)
- subsection (6)(a) subsection ~~(6)(a)~~ (7)(a)
- 1-2-345(6)(b) 1-2-345(6)(a) and (6)(b)
- 1-2-345(6) through (9) 1-2-345~~(6)~~(7) through (9)

(2) Striking a Subsection and Renumbering Subsequent Subsections

example ~~(1) "Application" means an official form provided by the department and used to record information.~~
~~(2)~~(1) (a) "Citizen group" means a gathering of concerned persons.
(b) The term does not include persons under 18 years of age.
~~(3)~~(2) "Department" means the department of environmental quality.

3-10. References to MCA Sections

(1) List multiple references in order by title, chapter, and part.

- 3-6-101 and 3-6-102
- 2-4-410, 2-8-304, and 10-3-403
- Title 2, chapter 3, part 1, and 20-4-301
- 40-6-201 and Title 42, chapter 1, part 3,

(2) Refer first to the other section, part, or chapter and then to the section, part, or chapter that you are in.

- 52-3-101 and this section
- Title 15, chapter 30, 33-2-705, and this chapter
- 1-1-101, 15-1-503, 20-9-421, and this section
- 20-9-525(2)(a)(i)(D) and subsections (4) and (6) of this section

In the last example, use both the terms "subsections" and "of this section" in order to clarify that subsections (4) and (6) belong to the section that you are in.

(3) List the section number before the subsections.

- 30-10-103(4) and (5)
- 30-10-103(6) through (8)
- 30-10-103(18)(a), (18)(c), or (18)(d)
- 30-10-103(12)(c)(i), (12)(c)(ii), (12)(c)(iv), or (12)(c)(viii)
- 30-10-103(22)(b)(i)(A)

(4) Refer to subsections within the section that you are in by using the word "subsection" before the outline designation. The outline designation always begins with the first level of outlining.

- subsections (5) and (6)
- subsection (2)(a)(ii)(C) or (2)(a)(iii)(A)
- subsections (16) through (20)
- subsection (2), (3), or (4)

(5) When the language is in a subsection that refers only to that level, e.g., (ii), the reference should still begin with the first level of outlining. If the language is in subsection (4)(a)(ii) and a provision applies only to (ii):

example applies only to this subsection (4)(a)(ii)

(6) When the language is in subsection (4), use "this subsection", not "this subsection (4)" unless there are multiple levels of outlining. If the language is in subsection (4)(a)(ii) and a provision applies to all of subsection (4):

example applies to this subsection (4)

(7) Never refer to the MCA section by its own number—always use "this section". Do not put brackets around "this section". (*Exception:* "As used in . . . " introductory language for definition sections may refer to the current MCA section by section number when part of a span — e.g., section 2-15-141, MCA, currently begins with "As used in 2-15-141 through 2-15-143, the following definitions apply:".)

CHAPTER 4
The Bill and Its Parts

4-1. Introduction

A bill is a proposed law as introduced in the Legislature. The bill does not become a law (an "act" or "statute") until passed by the Legislature and signed by the Governor or passed over the Governor's veto or, in the case of a referendum, on approval by the electorate. If the Governor does not sign or veto a bill within 10 days after receiving it, it becomes a law without signature. (See Appendix T for an overview of how a bill becomes a law.)

A bill that has become a law is delivered to the Secretary of State, who assigns a chapter number to it in the order that the bill is received by that office. All laws that pass in any one legislative session are first published in the order of passage in a publication entitled *Laws of Montana* (Year). This publication is referred to as the "Session Laws". All permanent new provisions are assigned MCA section numbers by the Code Commissioner's staff and are incorporated into the Montana Code Annotated.

The proper form and arrangement of a bill have been defined primarily by custom. The Montana Constitution addresses bill titles in Article V, section 11. Section 5-4-101, MCA, prescribes the form of the enacting clause. None of the other bill parts are mandated by law or rule. However, the following form is now used by the Legislative Services Division. By legislative rule, all bills, before they are introduced, must comply with the format, style, and legal form prescribed by the Legislative Services Division. Bills not prepared by the Legislative Services Division staff must be reviewed by that staff and entered in the LAWS II bill drafting system before introduction.

4-2. Bill Arrangement

(* a mandatory part of a bill)

1. Bill Identification*
   - (a) bill draft number (LC ____)
   - (b) House or Senate designation and number
   - (c) sponsor line
   - (d) "By Request" line (not on all bills — only agency or committee)

2. Title*
3. Preamble
4. Enacting Clause*
5. Body*

Codified

(a) short title
(b) purpose section
(c) definitions
(d) basic provisions
(e) penalty

Noncodified

(f) amended session law
(g) repealer
(h) transfer of funds
(i) appropriation
(j) unfunded mandate laws superseded
(k) transition
(l) notification to tribal governments
(m) directions to code commissioner
(n) codification instruction
(o) coordination instruction
(p) saving clause
(q) severability clause or nonseverability clause
(r) extraordinary vote required
(s) contingent voidness
(t) effective date
(u) retroactive applicability
(v) applicability
(w) termination
(x) submission to electorate

4-3. Bill Identification

(1) Bill Draft Number

The number appearing at the top right-hand corner of a bill, such as "LC 0001.01", is the number assigned by the Legislative Services Division staff as the bill request is received. The LC number is used to identify the bill during the drafting process prior to the time of introduction and assignment of a House or Senate bill number.

(2) Designation and Number

The blank preceding the words "BILL NO." is used to identify the bill as a House or Senate bill, and the blank following will contain the number of the bill, which will be filled in when the bill is introduced.

(3) Sponsor Line

The second line of a bill is used to identify the sponsor. The sponsor signs the bill prior to introduction. If there is more than one sponsor, the chief sponsor signs first.

(4) By Request Line

Bills formally proposed by an agency or committee are subject to specific rules regarding preintroduction deadlines. Joint Rule 40-40 provides that if a bill is proposed by a legislative committee or is introduced by request of a state agency, that fact must be indicated by inserting "By Request of the _____" after the names of the sponsors. Because the "By Request" line gives the public notice that the bill was proposed and introduced on behalf of an agency or committee, it may not be removed from a bill.

70th Legislature LC 0001.01

_____BILL NO.____

INTRODUCED BY _____

BY REQUEST OF _____

4-4. Title

(1) General

The title identifies the bill to the legislators and the public and must clearly summarize the contents of the bill. The drafter should be familiar with the substantial body of case law that has developed over defects in titles.

Article V, section 11(3), of the Montana Constitution provides:

> Each bill, except general appropriation bills and bills for the codification and general revision of the laws, shall contain only one subject, clearly expressed in its title. If any subject is embraced in any act and is not expressed in the title, only so much of the act not so expressed is void.

The main purpose of the constitutional provision is to ensure that the title of a bill gives reasonable notice of the content to legislators and the public. It also prevents multisubject legislation from being passed by the combined votes of the advocates of separate measures when no single measure could be passed on its own merits. The Montana Supreme Court has interpreted this provision to require a clause in the title to reflect an issue that would be considered important by legislators voting on the bill (*White v. State*, 233 Mont. 81, 759 P.2d 971 (1988)).

Title challenges under this section of the Constitution may be brought on the grounds that the title or the body of the bill indicates that the bill contains more than one subject or that the title does not clearly express the subject of the bill, or both.

The Montana Supreme Court has considered the question of sufficiency of title numerous times. In order to comprehend title drafting problems more fully, the drafter should read the cases cited in this section or at least review the case notes and Attorney General's opinions contained in the MCA Annotations to Article V, section 11, of the Montana Constitution. Under the 1972 Constitution, if a law is challenged as having a defective title, the action must be brought within 2 years after the effective date of the law.

The following statement from the 1962 Bill Drafting Manual still holds true today:

> A comparison of legislative acts passed through the years shows an evolution from simple, concise one-sentence titles used during early legislative sessions to the drawn-out detailed and sometimes incomprehensible titles of today. The inclusion of excessive detail in a title often obscures the primary purpose of the bill; it also compounds the opportunity for error.

If a title is too lengthy, it becomes more difficult for the amendment drafter to find and remove provisions that correspond to language being removed from the bill by amendment.

(2) Exceptions to Sufficiency of Title Provision

As stated in Article V, section 11(3), of the Montana Constitution, general appropriation bills and bills for the codification and general revision of the laws are exempt from the unity of subject and clear expression of subject rules.

(3) General Appropriation Bills

In order to fall within the exception referred to in subsection (2), an appropriation bill must be a general appropriation bill; that is, it may embrace nothing but appropriations for "the ordinary expenses of the legislative, executive, and judicial branches, for interest on the public debt, and for public schools". (See Article V, section 11(4), of the Montana Constitution and section 17-8-103(2), MCA.) Further, an incidental provision in an appropriation bill must be germane to the appropriation if it is to fall within the exception.

The Supreme Court has held that provisions relating to the expenditure of the money appropriated or its accounting may be included in an appropriation bill without being mentioned in the title (*State ex rel. Davidson v. Ford*, 115 Mont. 165, 171, 141 P.2d 373 (1943)). However, in *Helena v. Omholt*, 155 Mont. 212, 468 P.2d 764 (1970), the Supreme Court stated that "appropriation bills should not be held to amend substantive statutes by implication. . . . Such tactics are recognized as exceedingly bad legislative

practice". (The appropriation bill in question contained a section that was irreconcilable with an existing statute, and the lower court had held that the appropriation measure, being a later bill, impliedly repealed the earlier statute.)

The Attorney General relied on *Helena v. Omholt* in finding that a provision in the 1981 general appropriations act should not be given effect because it was in conflict with a permanent substantive statute. Therefore, provisions other than actual appropriations should be included in a general appropriation bill only if they are germane to expenditures or accounting and consistent with permanent substantive law.

See section 6-1 for additional information on appropriation bills.

(4) General Revision

In *State ex rel. Cotter v. District Court*, 49 Mont. 146, 150, 140 P. 732 (1914), the Supreme Court stated that a bill whose plain purpose was to revise the laws on a particular subject, as well as an omnibus revision bill covering many subjects, is within the revision exception.

In the past, the Supreme Court has found that certain bills come within the general revision exception although the titles do not specifically designate the bills as such. To date, the Supreme Court has always found a bill within the exception when the title indicated that the bill was a general revision.

If a bill is intended to be a general revision, the title should state it as such.

example "AN ACT GENERALLY REVISING THE LAWS RELATING TO PUBLIC SCHOOLS; AMENDING . . ."

The drafter may wish to advise the requester that a bill that generally revises the law may be expanded to address numerous other matters (some of which may not be supported by the original requester) through later amendments in either the House or Senate.

(5) Including List of Amended or Repealed Sections

There is diversity of opinion as to whether reference by number only to an MCA section to be amended or repealed is sufficient in a title. Therefore, the number of each section to be amended or repealed and an indication of the subject matter of the amendment or repeal must be included in the title of a bill. "Reference in the title of the amendatory Act to the subject matter of the section to be amended need not be so comprehensive as to constitute a complete index to or abstract of the section. 'All that is required in such case is a reasonable degree of certainty as to the statute to be amended.'" (See *State v. Duncan*, 74 Mont. 428, 437, 240 P. 978 (1925).)

Section 5-4-102, MCA, requires that the title of all bills referred by the Legislature to a vote of the people may not exceed 100 words. A 2021 amendment to section 5-4-102, MCA, excludes section numbers of amended or repealed statutes from the 100-word limit. (See section 5-5 for guidance regarding drafting legislative referendums.)

The title of each bill must indicate the general purpose of the amendment and list the MCA sections being amended or repealed. The section numbers must be listed in numerical order.

example "AN ACT AMENDING THE LAWS RELATING TO THE SALE OF LANDS FOR TAXES BY COUNTY TREASURERS; ELIMINATING CERTAIN REQUIREMENTS; AMENDING SECTIONS 7-1-101 AND 7-1-102, MCA; AND REPEALING SECTIONS 7-1-109 AND 7-1-110, MCA."

If the only purpose of a bill is to repeal one or more sections, the title must indicate the subject matter and list the section numbers.

example "AN ACT DELETING THE DEFINITION OF "REGISTERED MAIL"; AND REPEALING SECTION 1-1-202, MCA."

(6) Including Appropriations

In *Hill v. Rae*, 52 Mont. 378, 158 P. 826 (1916), the Supreme Court held that when an appropriation is incidental to the larger single subject of legislation, it need not be made by a separate bill. In order to facilitate legislative handling of appropriations, it is necessary to mention the appropriation in the title by including the provision "PROVIDING AN APPROPRIATION". If a bill contains a statutory appropriation (which must reference and be listed in section 17-7-502, MCA), that fact must also be mentioned in the title by including the provision "PROVIDING A STATUTORY APPROPRIATION".

(7) Including Provision Regarding Creation of State Debt

When a bill creates a state debt, that fact must be stated in the title. (See Appendix P for an example.)

When the state pledges its full faith and credit and taxing power to the payment of bonds, a "debt" is created and the enacting legislation must be approved by either a two-thirds vote of the members of each house of the Legislature or a majority of the electors voting on the issue. General obligation bonds always constitute debt. When the state issues "revenue bonds" for which the principal and interest are payable from revenue derived from the project created by the bond proceeds, those bonds do not constitute "debt" and may be approved by a majority of the Legislature.

It is unresolved whether the Legislature may by a majority vote issue revenue bonds for which the principal and interest are payable from revenue derived from a specific tax dedicated to a specific fund and that are statutorily required to contain a statement that they do not constitute a debt within the meaning of Article VIII, section 8, of the Montana Constitution. Other authorizations, such as a long-term lease with an option to purchase, have been held to constitute debt. The drafter should research the issue thoroughly and include appropriate language intended to give notice in the title.

(8) Including Provision When Unfunded Mandate Superseded

When a bill contains a section that specifies that the provisions of the bill expressly supersede and modify the requirements of sections 1-2-112 through 1-2-116, MCA, which require the Legislature to provide funding for any new duties imposed on local governments or school districts, there must be a provision in the title that states "SUPERSEDING THE UNFUNDED MANDATE LAWS". (See section 6-2 and Appendix P.)

(9) Including Provision Regarding Rulemaking Authority

If the bill establishes new rulemaking authority or if it expands the rulemaking authority of an Executive Branch entity, a provision must be added to the title that states "PROVIDING RULEMAKING AUTHORITY" (it is better to avoid the term "EXPANDING . . ." or "EXTENDING . . ."). This provision must be included in the title even if more descriptive language detailing the rulemaking authority is present. (See section 6-3 regarding bills granting rulemaking authority.)

(10) Including Effective Dates, Applicability Dates, and Termination Dates

It is necessary to include effective dates other than October 1 in the title. (See section 4-26 for detailed information about effective dates.)

examples PROVIDING AN EFFECTIVE DATE

PROVIDING EFFECTIVE DATES

PROVIDING AN IMMEDIATE EFFECTIVE DATE

PROVIDING A DELAYED EFFECTIVE DATE (must be included if effective after October 1 of the session year)

PROVIDING A CONTINGENT EFFECTIVE DATE

If a specific effective date is not provided, an appropriation law becomes effective on July 1 following passage and approval. A statute providing for the taxation or imposition of a fee on motor vehicles becomes effective on January 1 following passage and approval unless a different effective date is specified. All other statutes take effect on October 1. Delayed and contingent effective dates should be used only in extraordinary circumstances.

In addition to listing an effective date or dates in the title, the drafter must also include title provisions relating to applicability dates, contingent voidness, and termination dates.

examples PROVIDING AN APPLICABILITY DATE

PROVIDING A RETROACTIVE APPLICABILITY DATE

PROVIDING FOR CONTINGENT VOIDNESS

PROVIDING A TERMINATION DATE

PROVIDING A CONTINGENT TERMINATION DATE

(11) Short Bill Title

One of the main ways to identify a bill, in addition to the bill number itself, is the short bill title. The short bill title is limited to a length of 80 characters (letters, hyphens, and spaces between words). The short bill title accompanies the bill number when information about the bill is displayed on the legislative website.

For example, the short bill title accompanies the bill number when bills are listed on the Senate and House agendas, on the committee hearing schedules listed on the legislative website, and on the daily status reports.

The short bill title is originally written when a bill draft request is first entered on the LAWS II BDR system. The drafter may revise the short bill title on the LAWS II BDM system.

The short bill title may be updated at various times as the bill moves through the legislative process, but it must be revised by the amendment drafter if amendments change the title of the bill significantly. The drafter of the amendments receives a prompt to consider revising the short title when adopted committee amendments are transmitted electronically ("beamed up") to the

amendments coordinator. This prompt will not appear when floor amendments are beamed up because they have not yet been voted on.

The short bill title typically begins with an active verb, such as "Revise", "Establish", "Provide", "Allow", "Remove", "Extend", etc., or with a qualifying adverb, such as "Generally Revise". It may include abbreviations. The short bill title does not include the formal bill title introduction ("A BILL FOR AN ACT ENTITLED: "AN ACT . . . ."") or a listing of the sections amended or repealed.

4-5. Preamble

The preamble, which is optional and generally not recommended, follows the title and precedes the enacting clause. Because of its placement, it is not part of the text of the act and does not become a part of the law. It is a preliminary statement of the reasons for the enactment of the law and begins with the word "WHEREAS". A preamble may be used as an extrinsic aid in construing a law. (See section 4-8 and Appendix B.)

example WHEREAS, in City of Revere v. Massachusetts General Hospital, 463 U.S. 239 (1983), the United States Supreme Court held that due process requires that persons under official detention have a constitutional right to receive adequate medical care regardless of their ability to pay and further held that responsibility for costs is a matter of state law.

4-6. Enacting Clause

The enacting clause, which is prescribed by law, separates the identification portion of the bill from the body of the bill.

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

4-7. Short Title

Not to be confused with the short bill title discussed in section 4-4(11), a section creating a short title for a significant new area of law is suitable if an act creates new law in a definable area. A short title enables quick future identification. A short title section should

not include references to amended MCA sections. Do not include a year in the short title.

example NEW SECTION. **Section 1. Short title.** [Sections 1 through 17] may be cited as the "Reclamation and Development Grants Program Act".

Personalizing the short title should be avoided.

preferred ✓ may be cited as the "Home Improvement Act"

avoid may be cited as the "John Smith Home Improvement Act"

Although short title sections have increased in popularity among legislators, it may be advisable not to codify that language, particularly if the bill contains amendments to multiple areas of existing law. The drafter should consult the Code Commissioner to determine if a short title section should be excluded from the codification instruction in a bill.

4-8. Purpose Section

Courts have relied on purpose sections to construe unclear and ambiguous language. Of course, clear and unambiguous language is always preferable to reliance on a purpose section. A well-drafted act should not require an extraneous statement to recite reasons for its enactment or what it seeks to accomplish. However, occasionally it is necessary to express the reason prompting enactment or the policy or purpose of an act. A good example is when the statute imposes a burden on a particular class of persons, thus requiring at least a rational basis for treating them differently from other persons. In *Oberg v. Billings*, 207 Mont. 277, 674 P.2d 494 (1983), the Montana Supreme Court stated that "[w]hile the courts are seldom concerned with the wisdom of legislation, the purpose of the legislation is of vital concern where the constitutionality of a statute is challenged as a denial of equal protection".

If a purpose section is preferred to a preamble, it becomes a part of the law. A purpose section should not contain language, such as a reference to a court case, that is not appropriate for a codified section. The purpose should be stated concisely in a section at the beginning of the bill following the enacting clause (or following the short title section, if there is one). The purpose section is generally used for new law and not for amendments to existing law.

It is important for drafters to advise legislators about section 5-4-104, MCA, which encourages the inclusion of a purpose section in tax expenditure legislation.

example NEW SECTION. **Section 2. Purpose.** The purpose of [sections 1 through 10] is to allow for the creation and governance of special districts.

4-9. Definitions

(1) To avoid repetition and to ensure clarity, a well-drafted bill often contains a definition section that precedes the basic provisions of the bill. A definition section is of definite advantage to:

(a) define a general term in order to avoid frequent repetition of explanatory language, such as ""Employee deductions" means all authorized deductions made from the salary and wages of an officer or employee of a state agency";

(b) avoid repeating the full title of an officer or of an agency, such as ""Board" means the board of environmental review";

(c) give an exact meaning to a word that has several dictionary meanings;

(d) define a technical word that has no popular meaning in commonly understood language; or

(e) limit the meaning of a term that, if not defined, would have a broader meaning than intended.

example

NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 12], unless the context requires otherwise, the following definitions apply:

(1) "Board" means the board of oil and gas conservation provided for in 2-15-3303.

(2) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(3) "Mutual aid agreement" or "agreement" means an agreement between . . . .

(4) "Peace officer" has the same meaning as provided in 46-1-202.

(5) "Person" means an individual, association, partnership, corporation, or estate or another entity.

(6) (a) "Sharps" means any discarded health care article that may cause punctures or cuts, including but not limited to:

(i) broken glass that may be contaminated with blood;

(ii) needles; and

(iii) scalpel blades.

(b) **The term** does not include scissors.

(2) (a) Do not define a word if it is used in the sense of its ordinary dictionary meaning.

(b) Certain words are defined in Title 1, chapter 1, MCA. If a word is used in the same sense as it is defined in that chapter, it is unnecessary to define it again in a bill. There are also definition sections that apply to entire titles, such as section 45-2-101, MCA (Criminal Code), or to several chapters, such as section 72-1-103, MCA (Probate Code).

(c) Section 1-2-107, MCA, provides: "Whenever the meaning of a word or phrase is defined in any part of this code, such definition is applicable to the same word or phrase wherever it occurs, except where a contrary intention plainly appears." The courts have held that standard introductory language, such as "as used in this part", indicates a contrary intention.

(3) (a) Definitions must be arranged alphabetically in word-by-word order.

(b) If the alphabetical order is incorrect in the existing text of an amended section, add that to the "Codifier Note" box under the bill draft task's Review tab in the LAWS II BDM application rather than correcting it in the draft.

example

NEW SECTION. **Section 3. Definitions.** As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "9-1-1 system" means . . .
(2) "Motor home" means . . .
(3) "Motorboat" means . . . .
(4) "Motorcycle" means . . . .
(5) "Motor-driven cycle" means . . . .
(6) "Motorized nonstandard vehicle" means . . . .

(4) Do not include substantive provisions in definition sections.

(5) After a word is defined, use the defined word consistently, not the description or a synonym.

(6) (a) If there are definitions already in the MCA that the drafter wants to apply to the bill, the following examples of language can be used:

(i) a mental disorder as defined in 53-21-102;
(ii) the term "mental disorder" as defined in 53-21-102;
(iii) "mental disorder" has the same meaning as provided in 53-21-102; or
(iv) "navigable stream" has the same meaning as "navigable river" as defined in 77-1-1110.

(b) Do not refer to the subsection in which the definition is contained, such as "53-21-102(9)", because definition sections are always in alphabetical order and subsection numbers are often affected by amendment.

(c) If appropriate, draft a codification instruction incorporating the new act into the title, chapter, or part of the MCA where the definitions are already contained. Do not repeat the definitions. (See section 4-19.)

(7) Do not define a word that is never used in the bill.

(8) If a bill deletes all references to a defined term, the definition of that term must also be deleted.

(9) For definition subsections that are part of a regular section, the preferred placement is at the end of the section. If necessary, a definition subsection may also appear at the beginning of a regular section.

example

NEW SECTION. **Section 3. Homeowners association -- remote meetings -- definitions.** (1) Unless the terms of the articles of incorporation or bylaws provide otherwise, a homeowners' association or an association of unit owners may hold a meeting by remote means.

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

(a) "Association of unit owners" has the same meaning as provided in 70-23-102, except that the unit owners do not have to have submitted their property to the provisions of Title 70, chapter 23, and the association is organized under the provisions of Title 35, chapter 2.

(b) "Homeowners' association" means a corporation organized under the provisions of Title 35, chapter 2, that is responsible for the operation of a community or a mobile home subdivision in which:

(i) the voting membership is made up of parcel owners or their agents, or a combination of parcel owners and their agents;

(ii) membership is a mandatory condition of parcel ownership; and

(iii) the corporation is authorized to impose assessments that, if unpaid, may become a lien on the parcel.

(c) "Remote means" includes telephone audio, teleconference, or videoconference.

example

NEW SECTION. **Section 5. School enrollment procedures to aid identification of missing children.** (1) When a child enrolls in a school district for the first time, the school district shall:

(a) require that the child's parent, guardian, or legal custodian present to the school, within 40 days of enrollment, proof of identity of the child; and

(b) request the appropriate school records of the child from the previous school attended by the child. The school enrolling the child shall make the request within 40 days of enrollment of the child.

(2) For the purposes of this section:

(a) "proof of identity" means a certified copy of a birth certificate, a certified transcript or similar student records from the previous school, or any documentary evidence that a school district considers to be satisfactory proof of identity; and

(b) "school district" means a school district as defined in 20-6-101 or a nonpublic elementary school or high school in the state.

4-10. Organization of Provisions

A bill that only amends or repeals existing laws may not present any organizational problem. Sections of the MCA are always amended in the bill in numerical order. However, an act that creates a new body of law must be thoughtfully organized.

(1) One Main Provision

Most new legislation is concerned with just one main idea. Generally, the substantive provisions of an act (section 4 in the example below) will be followed by subordinate provisions, including the authority to administer it and the means to make it effective (sections 5 and 6 in the example below).

example

NEW SECTION. **Section 4. Registration of tramways required.** A passenger tramway may not be operated in the state unless it is registered with the board. . . .

NEW SECTION. **Section 5. Powers and duties of board.** The board shall:

(1) adopt rules to implement the provisions of [sections 1 through 12];

(2) hold hearings relating to the granting, suspension, or revocation of the registration; and

(3) grant registration and issue registration certificates to applicants who have complied with [sections 1 through 12] and rules adopted under [sections 1 through 12].

NEW SECTION. **Section 6. Remedies to enforce compliance.** If an operator fails to comply with an order or rule of the board, the board may:

(1) suspend or revoke the registration of the tramway;

(2) bring injunctive proceedings . . . .

Do not include unnecessary procedural provisions that are already contained in the Montana Administrative Procedure Act or court rules. Authorization for the adoption of procedural provisions may be delegated through rulemaking authority.

(2) Several Related Main Provisions

Each main provision with its related subordinate provisions should be separate from the other main provisions and drafted in detail as if it constituted the entire bill.

(3) Series of Related and Equal Provisions

Bills containing equal provisions relating to a common subject are arranged in a logical order. A bill may address the same provisions

as they relate to several state agencies. In this case, the new material should be organized so that the sections that apply to a particular agency appear adjacent to one another in the bill.

4-11. New Sections — Catchlines

Sections creating new law in an area not covered by present statutes are referred to as "new sections". The basic provisions of a new law should be divided into sections, each of which contains one idea or thought.

Each section must begin with a boldfaced caption or "catchline". With the exception of the Uniform Commercial Code, catchlines are not part of the law. (See sections 1-11-103 and 30-1-109, MCA.) The catchline should be as brief as possible and should indicate the section topic clearly. If the drafter feels that the catchline must be quite long to cover the meaning of the section, the content of the section itself is probably too broad. If more than one thought is set forth in a catchline, each thought is separated by a long dash (--), also known as an em dash. The catchline should not be a complete sentence and should not contain articles ("a", "an", "the").

New sections in a bill are generally placed in the order that they will appear when codified. For example, if a new part of law is being enacted, the sections would start with a short title, followed by definitions, then the remainder of the sections of new law. If the bill also contains amended sections, new sections that will be codified in Title 15, chapter 65, MCA, for example, could be placed after or interspersed among the amended sections in Title 15, chapter 65, MCA, and before the amended sections in Title 20, chapter 9, MCA. However, it may be advisable to place all of the new sections at the beginning of the bill to minimize having to amend section references during the amendment process.

In new language, internal references to other sections of the bill that are new sections should be bracketed. The Code Commissioner's staff will insert the proper section number before the MCA is published. (See section 4-19 for discussion of how the placement of new sections in the MCA is determined.)

example NEW SECTION. **Section 7. Department head -- appointment -- powers and duties.** (1) The governor shall appoint each department head.

(2) Each department head shall supervise, direct, account for, organize, plan, administer, and execute the functions vested in the department in accordance with 2-15-112, 2-15-113, and [section 20].

4-12. Amendatory Language

Sections of a bill amending present law are arranged in numerical order by MCA section number. There must be a separate bill section for each section amended. The sections must be from the most current version of the Montana Code Annotated. The brief, simple amending clause must be used. ("Section ____ , MCA, is amended to read:") The Joint Rules provide: "In a section amending an existing statute, matter to be stricken out must be indicated with a line through the words or part to be deleted, and new matter must be underlined." (See Joint Rule 10-130.) This means that new language added to an existing MCA section is underlined and new language that will become an entirely new MCA section is not underlined and is designated "NEW SECTION".

example **Section 8.** Section 2-17-301, MCA, is amended to read:

"**2-17-301. Supervision of mailing facilities.** The ~~controller~~ department shall maintain and supervise any central mailing facilities."

Amendments to an existing section of the MCA may not strike all of the substantive language in the section and replace it with new language. This procedure has the effect of repealing existing law and enacting new law and is not acceptable.

The Joint Rules also provide: "A statute may not be amended or its provisions extended by reference to its title only, but the statute section that is amended or extended must be reproduced or published at length." (See Joint Rule 40-80.) The question of whether a subsection may be amended without setting out the entire section at length has never been adjudicated in Montana. (Ease of amendment is just one more reason for dividing new law into short, concise sections.) The updating of the MCA datastore requires that an entire section be amended, not just a subsection. As noted earlier, all bills that are not prepared by the Legislative Services Division staff must be reviewed by the staff and entered on the automated bill drafting system before introduction.

If it is necessary to amend the Session Laws, the drafter must refer to the Session Law chapter number. (See Appendix E for examples of bills amending the Session Laws.)

4-13. Designating New Sections

Any section that does not amend the MCA, the Session Laws, the Constitution, or the Administrative Rules of Montana (ARMs) must be designated "NEW SECTION". (See section 5-7 regarding amendment of ARMs.) This designation includes noncodified housekeeping sections, such as repealers and effective dates, and sections in bills containing all new language. Section 4-2 contains a list of noncodified sections and shows the order in which they must appear in a bill. Coordination sections have a special designation of "COORDINATION SECTION".

4-14. Name Change Amendments

When a name change is made in a bill, the drafter must search the MCA for that term. (See Appendix R for tips on searching.) Each section that contains an occurrence of the term must be amended in the bill to reflect the name change.

In addition, a section must be included in the bill that directs the Code Commissioner to make the name change wherever a reference to the term appears in legislation that is enacted or amended by the 2027 Legislature.

Example NEW SECTION. **Section 9. Name change -- directions to code commissioner.** Wherever a reference to a county welfare office appears in legislation enacted by the 2027 legislature, the code commissioner is directed to change it to a reference to a local office of public assistance.

4-15. Outline Style and Spacing

There is no rule fixing the length of a section. Generally, a section should include only a single idea. The shorter the section, the more quickly it may be understood and the easier it is to amend if amendment is needed. Each paragraph in a bill must be given a subsection designation. Although a large amount of text in a single subsection that contains numerous ideas is difficult for the reader to comprehend and should be outlined or broken into separate subsections, outlining can be overused and may make further amendment of the section text more difficult and references elsewhere in the law more complex. Outline order for subsections is as follows:

(1) If (1) is used, there must be a (2).
(2)
(3)
(a) If (a) is used, there must be a (b).
(b)
(c)
(i) If (i) is used, there must be a (ii).
(ii)
(iii)
(A) If (A) is used, there must be a (B).
(B)
(C)
(I) If (I) is used, there must be a (II).
(II)
(III)
(4)

Each item of each level must be parallel. If (2)(a) is a complete sentence, then (2)(b) must be a complete sentence.

Only the second-to-last item of a series may have an "and" or an "or" (e.g., (a), (b), or (c)).

Sections or subsections are indented except when the "(1)" follows the catchline. If there is a lead-in phrase or sentence that ends with a colon and is followed by a "(1)", that "(1)" is indented.

example **15-2-101. Duties of board.** (1) The board shall adopt rules relating to public safety . . . .
(2) The board shall hold hearings . . . .

example **15-2-101. Duties of board.** The board, under the provisions of 15-2-102, shall:
(1) adopt rules relating to public safety;
(2) hold hearings . . . ; and
(3) arrange all meetings . . . .

When a complete sentence follows a dependent clause within a subsection, the dependent clause and the sentence end with periods.

example

2-7-506. Duties of department. The department shall adopt rules governing the:

(1) criteria for the selection of the independent auditor;

(2) procedures and qualifications for placing applicants on the roster;

(3) procedures for reviewing the qualifications of independent auditors on the roster. **The review must be used to justify continued inclusion on the roster.**

(4) fees payable to the department for application for placement on the roster.

Note that when a sentence is added to the next-to-last outline designation, the coordinating conjunction ("and" or "or") is lost. The drafter may wish to insert language in the lead-in to specify that "any" or "all" of the following outline designations apply or may wish to reorder the outline designations to keep the coordinating conjunction.

If language preceding a colon is a complete thought and each of the numbered (and indented) subsections can stand alone, the first letter is capitalized and the sentence ends with a period. Otherwise, the first letter is in lowercase and the sentence ends with a semicolon.

example

NEW SECTION. **Section 7. Definitions.** As used in this part, the following definitions apply:

(1) "Bonds" includes all instruments representing indebtedness, the borrowing of money, or a charge on specific revenue.

(2) "Public body" means any political or governmental subdivision of the state.

example

NEW SECTION. **Section 8. Budget amendment.** (1) An approved budget amendment is an approval by the budget director of a request submitted through the budget division to:

(a) obtain financing . . . ;

(b) transfer excess funds . . . ; or

(c) increase the appropriation as provided in subsection (2).

If possible, include all identical language in the section in the lead-in phrase before the colon. Do not repeat it in each subsection.

preferred

✓ **17-7-201. Definitions.** As used in this part, the following definitions apply:

(1) (a) "Building" includes **a facility or structure**:

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

(ii) at a state institution; or

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

(b) The term does not include **a facility or structure**:

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

(ii) used as a component part of a highway or water conservation project.

(2) "Construction" includes construction, repair, alteration, and equipping and furnishing during construction, repair, or alteration.

avoid

17-7-201. Definitions. As used in this part, the following definitions apply:

(1) "Building" includes a:

(a) facility or structure constructed or purchased wholly or in part with state money;

(b) **facility or structure** at a state institution; or

(c) **facility or structure** owned or to be owned by a state agency, including the department of transportation.

(2) The term does not include a:

(a) **facility or structure** owned or to be owned by a county, city, town, school district, or special improvement district; or

(b) **facility or structure** used as a component part of a highway or water conservation project.

(3) "Construction" includes construction, repair, alteration, and equipping and furnishing during construction, repair, or alteration.

Em and en spaces are no longer used in outline spacing. The new approach uses simple tabs and single spaces. (See Appendix U.) Drafters need to incorporate this approach when inserting new text, such as in new sections or in entirely new subsections in amended sections. The editors will adjust outline spacing in already existing section text. Single spaces are used after outlining directly following a catchline (e.g., "(1)**SPACE**(a)**SPACE**"), and tabs are used afterward following the outlining appearing first on each line throughout the section (e.g., "(2)**TAB**"). Single spaces are used after the second and third outlining appearing on the same line as the first outlining and the tab (e.g., "(3)**TAB**(a)**SPACE**(i)**SPACE**").

example

2-15-1512. Boards and offices associated with state historical society. (1) (a) There is a board of trustees of the state historical society that is created in Title 22, chapter 3.

(b) The composition, method of appointment, terms of office, and qualifications of board members remain as prescribed by law.

(2) (a) There is a preservation review board within the Montana historical society consisting of nine members.

(b) Members must be appointed by the governor in the following manner:

(i) five professional persons recognized in the fields of archaeology, history, paleontology, historic property administration, curation, planning, landscape architecture, conservation, folklore, cultural anthropology, traditional cultural property expertise, architecture, or architectural history. However, no more than two members may be appointed from any one of these fields.

(ii) four members of the public who represent a broad spectrum of Montana society, who have demonstrated an interest in historic preservation, and whose views reflect the rich cultural heritage of the past as well as the opportunities of the future.

(c) Each member shall serve a 4-year term. A member may be reappointed.

4-16. Penalty

If a violation of an act is to result in a penalty, a separate section may be devoted to setting forth the penalty. The wording of this section is patterned after that used in the Montana Criminal Code of 1973. Consequently, penalty language uses the words "shall be", which is an exception to the "shall/must" rule stated in section 2-4.

example NEW SECTION. **Section 10. Penalty.** (1) A person convicted of violating 45-9-107 **is** guilty of a misdemeanor and **shall be** fined an amount not to exceed $500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(2) A person convicted of criminal distribution of dangerous drugs **shall be** sentenced as provided in 45-9-102.

4-17. Repealer

It may be necessary to repeal one or more statutes that conflict with a new act. Each statute to be repealed must be listed separately. If an entire chapter or part is to be repealed, list the sections separately but do not include reserved sections.

A statement that "all acts or parts of acts in conflict herewith are repealed" is improper and ineffective.

The entire text of a section of existing law may not be stricken and replaced by new language because doing so would, by implication, repeal the existing law.

Pursuant to section 1-2-207, MCA, a section of Session Law that repeals a statute or statutes may not be itself repealed as a means of reenacting the section or sections of law that it repealed.

Whenever a bill repealing a section is drafted, the same bill must amend any other section in the MCA containing a reference to the section being repealed. (See section 1-8.)

example NEW SECTION. **Section 11. Repealer.** The following sections of the Montana Code Annotated are repealed:

2-2-101. Statement of purpose.
2-2-102. Definitions.
2-2-103. Public trust -- public duty.
2-2-104. Rules of conduct for public officers, legislators, and public employees.
5-16-101. Appointment and composition.
5-16-102. Qualifications.

5-16-103. Term of office.
5-16-104. Vacancies.

A section of Session Law, such as a termination section, from a previous session may also be repealed. For example, if substantive law was to terminate after a certain period of time, the law can be made permanent by repealing the termination section of the act. The Session Law must be amended because termination sections (and other housekeeping and appropriation sections) are not codified and assigned section numbers in the MCA.

If both MCA sections and Session Law sections are being repealed in the same bill, there must be two separate repealer sections.

When more than one section of the same Session Law chapter is repealed, the section numbers must be listed individually rather than referring to "sections 4 through 7".

example

NEW SECTION. **Section 11. Repealer.** The following sections of the Montana Code Annotated are repealed:
2-2-101. Statement of purpose.
2-2-102. Definitions.
2-2-103. Public trust -- public duty.
15-24-1101. Federal property held under contract by private person subject to taxation.

NEW SECTION. **Section 12. Repealer.** Sections 4, 5, 6, and 7, Chapter 568, Laws of 2003, are repealed.

If a bill repeals a termination provision, the parenthetical material at the beginning and end of any affected section (known as the effective clauses or the "garbage") must be stricken. If the section has two versions, the effective clauses are stricken from the temporary version and the second version is stricken in its entirety to reflect the repeal of the termination provision. If an affected section is contained in the bill for purposes of some other amendment, these changes are made in the bill. If the section is not in the bill, these changes are made to the section during the codification process.

example **15-1-230. ~~(Temporary)~~ Report on income tax credit to committee.** The department shall report to the revenue interim committee biennially, in accordance with 5-11-210, the number and type of taxpayers claiming the credit under 15-30-2328, the total amount of the credit claimed, ~~the total amount of the credit recaptured,~~ and the department's cost associated with administering the credit. ~~(Terminates December 31, 2029 -- secs. 1 through 15, Ch. 254, L. 2019.)~~

example **2-15-3114. ~~(Temporary)~~ Funding of programs -- contingency.** The awarding of grants and reimbursements and the performance of duties pursuant to 2-15-3111 through 2-15-3113 are contingent on the amount of money available in the accounts provided for in 81-1-110 through 81-1-113. ~~(Terminates June 30, 2029 -- sec. 3, Ch. 20, L. 2023.)~~

~~2-15-3114. (Effective July 1, 2029) Funding of programs -- contingency.~~ ~~The awarding of grants and reimbursements and the performance of duties pursuant to 2-15-3111 through 2-15-3113 are contingent upon the amount of money available in the accounts provided for in 81-1-110 through 81-1-112.~~

Changes to unamended sections that are necessitated by the repeal of the termination section must be listed by the drafter in the LAWS II BDM application under the bill draft task's Review tab using the box labeled "Codifier Note".

4-18. Transition

A transition section sets out provisions to ensure the orderly implementation of legislation. A transition section can help avoid problems that may result from an abrupt change in law. A transition section usually has a continuing effect for a temporary period of time. A transition section is not codified.

example NEW SECTION. **Section 13. Transition**. Persons who are members of the board of optometrists on [the effective date of this act] shall serve the remainder of their 6-year terms. All appointments or reappointments to the board made after [the effective date of this act] are for 4-year terms.

example NEW SECTION. **Section 13. Transition.** A local government that is imposing impact fees adopted on or before [the effective date of this act] shall bring those fees into compliance with [this act] by October 1, 2028.

4-19. Placement and Applicability — Codification Instruction — Directions to Code Commissioner

(1) Placement

The drafter may not assign section numbers to new sections or assign specific section numbers when renumbering existing MCA sections because of the possibility of the same number being assigned to more than one section and because logical placement cannot be determined until all of the legislation passed during a session is studied as a whole. However, the drafter may suggest the assignment of specific section numbers by adding a note in the "Codifier Note" box in the LAWS II BDM application under the bill draft task's Review tab.

(2) Applicability of Existing Law

Often it is not enough merely to suggest where a section should be codified. In most instances, it is vital that the drafter express the intent to apply present law to the new law. Present law may be incorporated by reference into a bill by use of a codification instruction. A codification instruction ensures that definitions, penalties, and other provisions in the existing title, chapter, or part will apply to the section being codified there.

(3) Codification Instruction

A codification instruction is used to avoid repeating definitions, rulemaking authority, penalties, other substantive law, and so forth, and to ensure that an established body of law with its previously construed terms will apply to new law. If a bill contains new sections, a codification instruction must be included in the draft. The standard codification instruction must be used in its entirety.

example NEW SECTION. **Section 14. Codification instruction.** [Sections 1 through 5] are intended to be codified as **an integral part of** Title 2, chapter 6, part 7, and the provisions of Title 2, chapter 6, part 7, apply to [sections 1 through 5].

If sections are intended to be codified as a new part within an existing chapter or as a new chapter within an existing title, see the following examples.

example NEW SECTION. **Section 14. Codification instruction.** [Sections 1 through 5] are intended to be codified **as a new part in** Title 2, chapter 6, and the provisions of Title 2, chapter 6, apply to [sections 1 through 5].

example NEW SECTION. **Section 14. Codification instruction.** [Sections 1 through 5] are intended to be codified **as a new chapter in** Title 2, and the provisions of Title 2 apply to [sections 1 through 5].

In rare instances, directions to the Code Commissioner may also be used to effect renumbering and reintegrating of MCA sections into a different title, chapter, or part of the MCA. If a section is being renumbered, the drafter must ensure that the language in that section conforms to the language of the existing statutes in the new location. If it does not conform, the section being renumbered must be amended in the bill in order to ensure conformance.

example NEW SECTION. **Section 15. Directions to code commissioner.** Sections 20-25-901 and 20-25-902 are intended to be renumbered and codified as a new part in Title 19, chapter 4.

(4) Sections With a Short Duration

Sections that are applicable for only a short time, such as creating a temporary study commission that expires in 2 years, do not always need to be codified and have a codification instruction associated with those sections. However, if there are ongoing reports associated with an otherwise short-term act, such as for follow-up reporting after a temporary grant program ends, then the part of the act containing the ongoing reporting requirement should be codified and have an associated codification instruction.

(5) Codification in Relation to an Existing Part or Chapter

If a codification instruction specifies that a new section is to be codified in an existing part or chapter, references to "this part" or "this chapter" are allowed in the new section. If not, the internal references should be to "[sections 1 through 5]" rather than "this part".

(6) Changes to Existing Part or Chapter Names

If a bill enacts or amends sections within an existing chapter or part and those changes would necessitate changing the part or chapter name, the drafter must add a note detailing the suggested revision in the "Codifier Note" box under the bill draft task's Review tab in the LAWS II BDM application.

4-20. Coordination Instruction

Frequently, the Legislature considers two or more bills that conflict with each other or that must be coordinated in order to allow implementation of the bills. A coordination instruction is drafted as an amendment to one of the affected bills **after transmittal**, when the bills have been transmitted to the second house of the Legislature. A coordination instruction may not be added to the initial draft of a bill or while a bill is still in the first house unless specific permission to do so has been obtained from the Code Commissioner.

To determine whether there is a bill that conflicts with another bill, a committee staffer must perform a "conflict check" on the bills being heard in that staffer's committee by consulting the Code Sections Affected and Conflict Checking reports after the transmittal deadline for the affected bills. The Code Sections Affected report contains a list, in numerical order, of all MCA sections proposed for amendment and the bills amending them. Assuming that other means are not available to resolve conflicts (e.g., negotiation between the bill's sponsor and the sponsor of the conflicting bill; consultation with the committee staffer to gather information and coordinate a solution), a coordination instruction may be necessary. A typical coordination instruction will void or amend the conflicting provision if the other bill or bills are passed and approved with the troublesome provisions intact.

(amended section)

example

COORDINATION SECTION. **Section 16. Coordination instruction.** If both House Bill No. 645 and [this act] are passed and approved and if both contain a section that amends 1-1-101, then [section 1 of this act], amending 1-1-101, is void.

(amended section)

example COORDINATION SECTION. **Section 8. Coordination instruction.** If both House Bill No. 543 and [this act] are passed and approved and if both contain a section that amends 20-9-426, then the sections amending 20-9-426 are void and 20-9-426 must be amended as follows:

"20-9-426. Preparation and form of ballots for bond election. ~~The~~ Each school district . . . ."

(enacted section replaced)

example COORDINATION SECTION. **Section 14. Coordination instruction.** If both House Bill No. 227 and [this act] are passed and approved, then [section 1 of this act] is void and must be replaced with:

"NEW SECTION. **Section 1. Rulemaking authority for management of court-ordered child support obligations.** The department shall adopt . . ."

(enacted section amended)

example COORDINATION SECTION. **Section 11. Coordination instruction.** If both House Bill No. 543 and [this act] are passed and approved, then [section 1 of House Bill No. 543] is void and [section 1 of this act] must be amended as follows:

"NEW SECTION. **Section 1. Bond election -- impact on value.** (1) ~~The~~ Except as provided in subsection (2), the form of the ballot for a bond election . . . ."

(voiding only)

example COORDINATION SECTION. **Section 20. Coordination instruction.** (1) If both House Bill No. 22 and [this act] are passed and approved, then House Bill No. 22 is void.

(2) If both House Bill No. 231 and [this act] are passed and approved and if both contain a section that amends 20-4-109, then the section amending 20-4-109 in House Bill No. 231 is void.

(more than two bills)

example COORDINATION SECTION. **Section 5. Coordination instruction.** If either House Bill No. 294 or Senate Bill No. 284, or both, and [this act] are passed and approved and if either or both and [this act] contain a section that amends 19-8-502, then the sections amending 19-8-502 are void and 19-8-502 must be amended as follows:

"**19-8-502. Member's contribution.** (1) Each member's annual contribution . . . ."

(more than two bills)

example COORDINATION SECTION. **Section 13. Coordination instruction.** If House Bill No. 215, Senate Bill No. 110, and [this act] are all passed and approved and if all three contain a section that amends 19-8-504, then the sections amending 19-8-504 are void and 19-8-504 must be amended as follows:

"**19-8-504. State employer's contribution.** ~~Each~~ For each month . . . ."

If a conflict requires the amendment or inclusion of more than one section, each amended MCA section or new section must be contained in a **separate coordination section** in a bill, as shown below.

(1 of 3 in same bill)

example COORDINATION SECTION. **Section 10. Coordination instruction.** If both House Bill No. 112 and [this act] are passed and approved and if both contain a section that amends 46-23-502, then the sections amending 46-23-502 are void and 46-23-502 must be amended as follows:

"**46-23-502. Definitions.** As used in Title 45, chapter 5, part 3 and parts 5 through 7, 46-18-225, and . . . ."

(2 of 3 in same bill)

example COORDINATION SECTION. **Section 11. Coordination instruction.** If both House Bill No. 112 and [this act] are passed and approved and if both contain a section that amends 46-23-508, then the sections amending 46-23-508 are void and 46-23-508 must be amended as follows:

"**46-23-508. Dissemination of information.** (1) Information ~~maintained~~ gathered under this part is confidential . . . ."

(3 of 3 in same bill)

example COORDINATION SECTION. **Section 12. Coordination instruction.** If both House Bill No. 112 and [this act] are passed and approved, then [section 5 of this act] must be amended as follows:

"NEW SECTION. **Section 5. Payment of contributions.** The board shall prescribe . . . ."

A coordination section that coordinates a section in a bill or bills with a section in a referendum must be placed in the referendum, not in the other bill or bills being coordinated. If the referendum does not pass, there would be no need for coordination, and the coordination instruction cannot be implemented during codification of the other bill or bills because there is no way of knowing if the referendum will pass.

See Appendix P for many more examples of coordination instructions.

4-21. Saving Clause

Because it is presumed that changes in the law are in full force beginning on the effective date of the act, new laws could disrupt transactions already in progress. The saving clause preserves rights and duties that already have matured or proceedings already begun.

example NEW SECTION. **Section 17. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

If a criminal statute is repealed, unless the act itself contains language to the contrary, section 1-2-205, MCA, applies. It provides that the repeal of a law creating a crime does not bar prosecution of or punishment for an act already committed in violation of that law.

Another method of preserving rights and duties that have matured, particularly with regard to licensure, is to choose a date on which the persons governed by the act must comply with its operative provision.

example NEW SECTION. **Section 18. Grandfather clause.** The board shall grant a license to practice respiratory care without examination or completion of the requisite educational program to a person

who has been performing respiratory care in this state for at least 1 year on [the effective date of this section].

4-22. Severability Section

If a statute is found to be unconstitutional or invalid in part, the court must decide if the invalid portion is severable from the valid portion and looks to legislative intent. The Montana Supreme Court has held that inclusion of a severability clause in a bill creates a presumption that the valid portions of a bill would have been enacted without the invalid portions (*Bacus v. Lake County*, 138 Mont. 69, 354 P.2d 1056, 1083 (1960), and *Sheehy v. Public Employees Retirement Division.*, 262 Mont. 129, 864 P.2d 762 (1993)) and thus only the invalid portions are voidable. See, however, *White v. State*, 233 Mont. 81, 759 P.2d 971 (1988), and Judge Rapkoch's dissent in *Sheehy*.

The Montana Supreme Court has also held, in apparent contradiction to Judge Rapkoch's dissent in *Sheehy*, that there is a presumption that the Legislature intended all severable portions of an act to be upheld regardless of whether an express severability clause appears in the act (*Gullickson v. Mitchell*, 113 Mont. 359, 375, 126 P.2d 1106 (1942)). Therefore, there is probably no reason to include a severability clause in every bill, but one may be included if the drafter has particularized concerns. Severability clauses are not codified but are published in the Annotations.

example

NEW SECTION. **Section 19. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

4-23. Nonseverability Section

In the rare instance that the sponsor intends that the entire act should fail if one of the provisions is declared unconstitutional, a nonseverability clause may be added.

example NEW SECTION. **Section 20. Nonseverability.** It is the intent of the legislature that each part of [this act] is essentially dependent upon every other part, and if one part is held unconstitutional or invalid, all other parts are invalid.

4-24. Extraordinary Vote Provision

Certain types of bills require extraordinary votes for approval. (See section 5-6.)

example NEW SECTION. **Section 22. Two-thirds vote required.** Because [section 2] limits governmental liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage.

4-25. Contingent Voidness

Except as provided below, a contingent voidness section is used to void the act or portion of the act contingent on the occurrence of an external action. A coordination section is used to void the act contingent on passage or nonpassage of another act in the current legislature. To assist with updating the MCA in a timely manner, it is helpful to have the relevant state agency notify the Code Commissioner when the contingency occurs.

example NEW SECTION. **Section 21. Contingent voidness.** If the REAL ID Act of 2005, Public Law 109-13, is repealed or if the federal government notifies the state of Montana that compliance with the REAL ID Act is not required, then [this act] is void. The attorney general shall notify the code commissioner within 15 days of the occurrence of the contingency.

According to the Joint Rules, a bill that includes a request for an interim study may not be transmitted to the Governor unless the bill contains an appropriation sufficient to conduct the study.

The bill must include a contingent voidness section that would void the bill if an appropriation is not included. (See Joint Rule 40-65.)

example

NEW SECTION. **Section 21. Contingent voidness.** (1) Pursuant to Joint Rule 40-65, if [this act] does not include an appropriation prior to being transmitted to the governor, then [this act] is void.

(2) If the appropriation in [section 3] is vetoed, then [this act] is void.

4-26. Effective Date

Section 1-2-201(1), MCA, provides:

> (1) (a) Except as provided in subsection (1)(b), (1)(c), or (1)(d), every statute adopted after January 1, 1981, takes effect on the first day of October following its passage and approval unless a different time is prescribed in the enacting legislation.
>
> (b) Subject to subsection (1)(d), every statute providing for appropriation by the legislature for public funds for a public purpose takes effect on the first day of July following its passage and approval unless a different time is prescribed in the enacting legislation.
>
> (c) Subject to subsection (1)(d), every statute providing for the taxation of or the imposition of a fee on motor vehicles takes effect on the first day of January following its passage and approval unless a different time is prescribed in the enacting legislation.
>
> (d) Every statute enacted during a special session of the legislature takes effect upon passage and approval unless a different time is prescribed in the enacting legislation.

Passage and approval means the time that a measure either is signed by the Governor or becomes law automatically if not signed within the prescribed time. An effective date should not be included

in a bill unless the sponsor wants to delay the effective date (which should be done only in extraordinary circumstances), there is a reason requiring an early effective date, the bill has fiscal impact necessitating a July 1 effective date (an appropriation bill has a July 1 effective date under section 1-2-201(1)(b), MCA, but this does not apply to other bills with fiscal impact; see section 6-1), the bill taxes motor vehicles, or the bill is drafted for a special session. It is not necessary to include an effective date section if the effective date is the same as the date provided for in section 1-2-201, MCA. An effective date before October 1 may deprive the general public of sufficient notice and deprive administrators of the act of sufficient time to prepare procedures for the new act. (See also section 13-27-105, MCA, for the effective date of a referendum.)

example NEW SECTION. **Section 23. Effective date.** [This act] is effective November 1, 2027. **(delayed)**

example NEW SECTION. **Section 23. Effective date.** [This act] is effective January 1, 2028. **(delayed)**

example NEW SECTION. **Section 23. Effective date.** [This act] is effective on passage and approval. **(immediate)**

example NEW SECTION. **Section 23. Effective date.** [This act] is effective June 1, 2027. **(early)**

example NEW SECTION. **Section 23. Effective date.** [This act] is effective [30 days after this act is passed and approved]. **(relative)**

Occasionally, it is desirable to make only a portion of the act effective before October 1. In such a case, it is essential to make sure that the effective date section is itself made effective on the earlier date. An effective date section that does not become effective until October 1 cannot operate until October 1 and therefore cannot make other provisions of the act effective before October 1.

preferred

✓NEW SECTION. **Section 23. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective October 1, 2027.

(2) [Sections 3, 5, and 7] and this section are effective on passage and approval.

avoid

NEW SECTION. **Section 23. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective October 1, 2027.

(2) [Sections 3, 5, and 7] are effective on passage and approval.

Additional effective date subsections are ordered sequentially by section number rather than by effective date.

example

NEW SECTION. **Section 10. Effective dates.** (1) Except as provided in subsections (2) and (3), [this act] is effective October 1, 2027.

(2) [Section 2] is effective January 1, 2028.

(3) [Sections 3, 5, and 7] and this section are effective on passage and approval.

If a section containing a statutory appropriation has a delayed effective date or other special date (e.g., termination date), the reference to that section in section 17-7-502, MCA, must have a corresponding effective date or other special date.

Whenever substantive amendments are made to an existing section of the MCA that has a contingent effective date or delayed effective date, the amendments to that section must have the same effective date as the section, i.e., the amendments cannot become effective before the section itself is effective and must terminate when the section terminates.

example

NEW SECTION. **Section 23. Contingent effective date.** [Section 2] is effective on occurrence of the contingency contained in section 15, Chapter 471, Laws of 1999.

A bill that extends or repeals a termination date must become effective **before** that termination date.

Whenever there is more than one effective date, the effective date section must specify effective dates for all sections in the bill, including October 1, and the title must specify "AND PROVIDING EFFECTIVE DATES".

4-27. Applicability Date

Do not confuse an applicability date with an effective date. A bill may apply retroactively or prospectively. To apply retroactively, a law must expressly state that fact (section 1-2-109, MCA). However, see Article II, section 31, of the Montana Constitution for types of law that may not be retroactive. In order for a bill or sections of a bill to apply retroactively, the bill or sections should have an immediate effective date.

example NEW SECTION. **Section 24. Retroactive applicability.** [Sections 1 through 5 and 7 through 9] apply retroactively, within the meaning of 1-2-109, to all occurrences on or after December 1, 2026.

example NEW SECTION. **Section 24. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to instruments severing mineral estates from surface estates that do not convey fossils by a clear and express grant.

example NEW SECTION. **Section 24. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to court administrators appointed on or before [the effective date of this act].

example NEW SECTION. **Section 24. Applicability.** [This act] applies to property tax years beginning after December 31, 2027.

example NEW SECTION. **Section 24. Applicability.** [This act] applies to contracts or policies issued or renewed **on or after** January 1, 2028.

example NEW SECTION. **Section 24. Applicability.** [This act] applies to notarial acts performed **on or after** [the effective date of this act].

4-28. Termination

If substantive law in a bill is to terminate after a certain period of time, termination is accomplished by use of a termination section. The sections of the bill that are to terminate are listed in the termination section. Noncodified sections should not be terminated.

A repealer section may not be terminated, i.e., after MCA sections are repealed, they may not be "unrepealed". (See section 4-2 for a list of codified and noncodified sections.)

example NEW SECTION. **Section 25. Termination.** [Sections 1 through 16] terminate June 30, 2028.

As the example above shows, sections terminating at the end of a fiscal year should terminate on **June 30, not July 1**. Sections terminating at the end of a calendar year should terminate on **December 31, not January 1**.

If substantive law in a bill is to terminate after some other requirement takes place, termination is accomplished by use of a contingent termination section. Termination and contingent termination dates should be used only in extraordinary circumstances.

example

NEW SECTION. **Section 25. Contingent termination.** (1) [Sections 1 through 16] terminate on the date that the director of the department of public health and human services certifies to the governor that the federal government has terminated the program or that federal funding for the program has been discontinued.

(2) The governor shall transmit a copy of the certification to the code commissioner.

Whenever amendments are made to an existing section of the MCA that has a termination date, the amendments to that section must have the same termination date as the section.

example

NEW SECTION. **Section 25. Contingent termination.** [Section 2] terminates on occurrence of the contingency contained in section 15, Chapter 571, Laws of 1999.

The process for extending a termination date by amending session law was simplified by the enactment of section 1-2-209, MCA, in the 2025 session.

Previously, the extension of a termination date required amending not only the original termination section but all sections that subsequently amended the original termination section.

This example from HB 158 (2025) shows the original termination section from 2019 as well as the 2023 amendment of that section:

Section 2. Section 4, Chapter 307, Laws of 2019, is amended to read:

"**Section 4. Termination.** [This act] terminates June 30, ~~2025~~ 2029."

Section 3. Section 4, Chapter 135, Laws of 2023, is amended to read:

"**Section 4.** Section 4, Chapter 307, Laws of 2019, is amended to read:

"**Section 4. Termination.** [This act] terminates June 30, ~~2025~~ ~~2027~~ 2029.""

Section 1-2-209, MCA, provides that a termination date "may be revised by amending the session law for the initial legislation that provided for the termination date". The above example can now be drafted by amending only the original termination section, eliminating the need to amend multiple layers of session law. (See appendix E.)

> **Section 2.** Section 4, Chapter 307, Laws of 2019, is amended to read:
> "**Section 4. Termination.** [This act] terminates June 30, ~~2025~~ 2029."

Be aware that this may cause confusion for legislators and the public because the date being stricken is in the past and would have already occurred had it not been extended previously.

Section 1-2-209, MCA, provides that a termination date *may* be extended this way. It is still acceptable to amend multiple layers of session law if the situation calls for it. (See Appendix P for an example of amending multiple layers of session law.) For instance, if a previous session law amendment introduced multiple subsections in the termination section to extend the termination of some sections while allowing others to terminate, it may be clearer to amend the original termination section and the session law that amended it previously.

CHAPTER 5
Special Types of Bills

5-1. Validating Bills

A validating bill is used to cure any irregularities in actions, proceedings, or transactions carried out under authority of existing law. A bond validating act is passed each session by the Montana Legislature. This type of bill may be used to validate other types of actions (such as approval of plats, distribution of revenue according to a prior census, petitions for creation of districts, etc.) as long as it does not impair the obligation of contracts or disturb a vested right. (See Appendix G for a sample validating act.)

5-2. Compacts

Compacts are usually enacted as one single MCA section containing the entire compact.

(1) Interstate Compacts

An interstate compact is an agreement among several states that is enacted into law in each participating state. A compact must be enacted in substantially the same form in each party state, but minor changes to conform to MCA style are acceptable. For example, the drafter may inspect the various interstate compacts adopted by Montana, such as the Interstate Compact on Educational Opportunity for Military Children (section 20-1-230, MCA), Audiology and Speech-Language Pathology Interstate Compact (section 37-15-401, MCA), Respiratory Care Interstate Compact (section 37-28-401, MCA), and Interstate Counseling Compact (section 37-39-401, MCA).

(2) Tribal Compacts and Water Compacts

Language contained in tribal compacts and water compacts is negotiated and thus is not subject to MCA style requirements. Changes for MCA style or other reasons may not be made to these types of compacts.

(3) Other Compacts

For other types of compacts, discuss with the Code Commissioner what types of changes, if any, can be made in those specific situations.

5-3. Uniform or Model Acts

(1) Uniform acts are developed by the National Conference of Commissioners on Uniform State Laws and are intended to be followed exactly in substance. The purpose of a uniform act is to cover an area of law by a method that will avoid conflicts among the laws of different states. An example is the Uniform Declaratory Judgments Act, Title 27, chapter 8, MCA.

(2) Model or "suggested" acts are prepared by the Shared State Legislation committee of the Council of State Governments (CSG) and by other persons and organizations and are intended as guides for legislation in which uniformity is not necessary. A model act is essentially a suggested method for handling a given area of law by providing guidelines within which a state may substitute sections to accommodate local peculiarities. An example is the Montana Business Corporation Act, Title 35, chapter 14, MCA. The most recent volume of *Shared State Legislation* is available online through the CSG website.

(3) The substance of uniform acts may not be modified except to conform to MCA style. Model acts may be modified, and they must be edited to conform to MCA style. A note indicating the source should be attached to the bill draft.

5-4. Constitutional Amendments

Article XIV, section 8, of the Montana Constitution provides for constitutional amendment by legislative referendum. The proposed amendment must receive an affirmative vote by two-thirds of the Legislature before it is referred to the people. Article VI, section 10, provides that bills proposing amendments to the Montana

Constitution need not be submitted to the Governor for the Governor's signature. Title 13, chapter 27, MCA, contains the general law relating to procedures to be followed by the Secretary of State and other officials when submitting a constitutional amendment (and other ballot issues) to the electorate. Article XIV, section 8, provides that, unless the amendment provides otherwise, the amendment becomes effective on July 1 following certification of the election returns. (See Appendix H for sample formats.)

Constitutional amendments should not be overly detailed or contain language best addressed by statute. As described in the *Legislative Council Report on the Montana Constitution*, prepared by the Montana Constitutional Convention Commission:

> [A] constitution expresses fundamental law, or law which provides the basic foundation for a political system. Although "fundamental" defies a precise definition in this context, the term implies law of great permanence and minimal detail thus requiring few amendments to meet changing conditions. Fundamental law must reflect a fair degree of unanimity of thought among the citizens and must be concerned with principles rather than with the mechanical means of implementing principles. Statutory law, on the other hand, should deal with emerging problems faced by the state within the broad framework of principles established by the fundamental law of the constitution. Statutory law lacks the permanency of constitutional law and must often be detailed to accomplish its purpose.

5-5. Referendums

Article III, section 5, of the Montana Constitution provides that the people may approve or reject by referendum any act of the Legislature except an appropriation of money. The Legislature may order a proposed law to be voted on by the people, or the people may petition to vote on a law enacted by the Legislature during the immediately preceding session. An "act" does not include a joint resolution ratifying an amendment to the United States Constitution (*State ex rel. Hatch v. Murray*, 165 Mont. 90, 526 P.2d 1369 (1974))

and does not include any resolution passed by the Montana Legislature. (See section 7-5.)

When the Legislature refers an act or a proposed constitutional amendment to the people, the Secretary of State transmits a copy of the act or proposed constitutional amendment to the Attorney General (section 13-27-246, MCA). The Attorney General, pursuant to section 13-27-220, MCA, prepares and forwards ballot statements to the Secretary of State. However, the Attorney General may not prepare statements of implication if the statements were provided by the Legislature. The drafter should become acquainted with Title 13, chapter 27, MCA, Statewide Ballot Issues.

The drafter should also be aware that section 5-4-102, MCA, states that the bill title of a referendum may not exceed 100 words. A 2021 amendment to section 5-4-102, MCA, provides that citations to amended or repealed sections of the MCA do not count against the 100-word limit. (See Appendix I for an example.)

5-6. Bills Requiring Extraordinary Votes

Certain types of bills require extraordinary votes in order to become effective. Examples of bills requiring extraordinary votes include the following:

- a bill to grant to a public entity immunity from suit — two-thirds of each house, Article II, section 18
- a vetoed bill — two-thirds of each house to override, Article VI, section 10
- a bill to appropriate highway revenue for nonhighway purposes — three-fifths of each house, Article VIII, section 6
- a bill creating state debt — two-thirds of each house, Article VIII, section 8
- a bill to appropriate coal severance tax trust fund principal — three-fourths of each house, Article IX, section 5
- a bill to appropriate noxious weed management trust funds — three-fourths of each house, Article IX, section 6

- a bill to appropriate tobacco settlement trust fund principal and one-tenth of interest and income — two-thirds of each house, Article XII, section 4
- a bill to propose calling a constitutional convention — two-thirds of all members, Article XIV, section 1
- a bill to propose amendment to the Montana Constitution — two-thirds of all members, Article XIV, section 8

A section establishing that an extraordinary vote is required must be included in the bill; however, a provision regarding the extraordinary vote is **not** included in the title of the bill with the exception of a bill that limits governmental liability, which must list "LIMITING GOVERNMENTAL LIABILITY" in the title.

5-7. Bills Affecting Administrative Rules

The Legislature may request the adoption, amendment, or repeal of an administrative rule (ARM) in a joint resolution or may direct the adoption, amendment, or repeal of any rule by bill. The Legislature may, by bill, repeal any rule in the ARM. The reason for the change or addition of a rule must be stated in the resolution or bill. (See section 2-4-412, MCA.)

With regard to the amendment of administrative rules, it is preferable to amend the authorizing statute or implemented statute to impel the agency to amend the rule rather than directing or requesting the amendment of an administrative rule in a bill or resolution.

CHAPTER 6
Bills With Special Provisions

6-1. Bills With Fiscal Impact

The state's treasury fund structure is described in section 17-2-102, MCA. Accounts are established within the treasury for the receipt and distribution of the state's money. There is a distinction between appropriations, allocations, fund transfers, and the establishment of or changes to a fee or tax. The drafter must be careful in the choice of words used in legislative drafting, particularly in drafting bills with fiscal impact, and must be careful when using the word "appropriate" or derivations of the word "appropriate", which indicate an authority to spend. Improper use of the word may cause confusion and result in otherwise avoidable legal challenges. Use of the term "allocate" may be more accurate when there is no intent to confer an authority to spend.

(1) Allocations

Allocations are legislative directions to deposit state funds into one or more accounts within the state's treasury fund structure. "Allocation" refers to legislative direction for the deposit of money as the money initially comes into the state treasury. Allocations are not appropriations. A bill changing the allocation of money is not a revenue bill. Bills making changes to allocations will probably not require a fiscal note.

(2) Fund Transfers

A fund transfer is legislative direction to move money that is already in the state's treasury from one fund or account to another with the intent that the money is to be appropriated for the purposes specified for that fund or account. A transfer of funds within the state treasury is not an appropriation and is not a payment of funds out of the state treasury as contemplated by Article VIII, section 14, of the Montana Constitution. In 44 A.G. Op. 43 (1992), Attorney General Marc Racicot determined that an appropriation is not required under either the Montana Constitution or Montana statutes when the transfer between accounts within the state treasury is statutorily authorized or directed.

Transferred money is available for appropriation by the Legislature, but the transfer of the money alone does not authorize expenditure of the money unless the expenditure of money from the receiving fund or account is already authorized by means of a statutory appropriation. Therefore, an appropriation is required to authorize spending of the money after the money has been transferred. The drafter should determine the manner in which the appropriation of the money is to be made.

If the money is transferred **into** an account for which there is a statutory appropriation or if the appropriation of the money transferred into the account is to be made in another bill, such as a general appropriations bill, no additional appropriation language is needed in the bill making the transfer of funds. However, if money is transferred **from** an account for which there **is** a statutory appropriation **to** an account for which there **is not** a statutory appropriation, the money loses its "appropriated" status and additional appropriation language is required to appropriate the transferred funds.

If the appropriation of the money is to be made in the same bill, an appropriation section is needed and a fiscal note is not required.

As an example, a transfer from the general fund to a state special revenue account is a transfer, not an appropriation, and does not require an appropriation bill or appropriation language.

A fund transfer does not make a bill a revenue bill.

Fund transfers should specify:

(1) the dollar amount of the transfer or a mathematical calculation of the amount;

(2) who is to make the transfer (usually the state treasurer); and

(3) the date when the transfer is to be made.

(3) Revenue Bills

Note: Review Joint Rule 40-200 for the most up-to-date description of a revenue bill. The Joint Rules may have changed after publication of this manual.

A revenue bill is one that either increases or decreases revenue by enacting, eliminating, increasing, or decreasing fees or taxes. A bill that only suspends or otherwise changes the allocation of revenues is not a revenue bill.

The establishment of a fee or tax or changes to an existing fee or tax are not appropriations or fund transfers. A bill that does this is a revenue bill and will require a fiscal note.

A bill that enacts a new fee or tax will always require provisions for the deposit and use of the funds. The funds may be deposited in the general fund, another fund, an existing account in the state special revenue fund, or a new account in the state special revenue fund. When drafting legislation that creates a state special revenue account, include at a minimum the name of the account, the purposes of the account, how the account is funded, and the specific phrase "in the state special revenue fund established in 17-2-102". (See Appendix F-2.)

In general, a bill should not create a new state special revenue account unless there is a dedicated source of funding for the account, such as a fee or tax. Creating a state special revenue account that is solely or primarily funded from the general fund is disfavored. Similarly, general fund transfers into a state special revenue account may likely receive additional scrutiny. In both cases, an appropriation from the general fund is more efficient. See section 17-1-505, MCA, on dedicated revenue provisions for guidelines on when creating a new state special revenue account is appropriate.

The bill may include a statutory appropriation, or an appropriation may be added by amendment later to an appropriation bill, such as House Bill 2. (See section 6-1(4).) If it seems a bill needs to have an appropriation added to a different piece of legislation, the drafter should discuss this possibility with the requester before proceeding. An appropriation bill may be introduced only by a member of the House of Representatives.

During the legislative session, the Legislative Fiscal Division tracks the bills that need to have appropriations added to separate legislation.

(4) Appropriation Bills

General

An appropriation is legislative authority, implemented by bill, for a government entity to expend money from the state treasury for a specified public purpose. An appropriation authorizes the payment of money **out** of the state's treasury. The fact that the Legislature has allocated money to an agency's account does not authorize the agency to expend that money. An appropriation of the money is required before the agency may spend it. For example, an authorization for a state agency to spend money from the general fund is an appropriation and needs to be accomplished in an appropriation section. Payments to state retirement funds require appropriation because section 17-8-101(3), MCA, provides that retirement funds are not part of the state treasury for appropriation purposes. Ongoing payments made from the state treasury to retirement funds are generally made by statutory appropriation.

Article V, section 11(4), of the Montana Constitution requires every appropriation other than general appropriations for the operation of government, for interest on the public debt, and for public schools to be "made by a separate bill, containing but one subject". (See also discussion of general appropriation bills in section 4-4(3).) The general appropriation bills covering the usual expenses of state government are prepared in accordance with a predetermined format. When amending Session Law to modify a general appropriation bill, the Legislative Fiscal Division staff should be advised of the amendment.

An appropriation section must specify:

(1) the dollar amount of the appropriation or a mathematical calculation to determine the amount;
(2) the source from which the appropriation is being made (e.g., the general fund);
(3) the agency to which the appropriation is being made;
(4) the purpose for the appropriation;
(5) the fiscal year or biennium in which the funds are appropriated (typically beginning July 1); and
(6) whether the appropriation is to be considered as part of the ongoing base for the next legislative session. (See Appendix F and Appendix P.)

example

NEW SECTION. **Section 3. Appropriation.** The following money is appropriated from the account established by 69-1-223 to the office of the consumer counsel for the purposes established in [sections 1 and 2]:

Fiscal year 2028 $200,000

Fiscal year 2029 300,000

example

NEW SECTION. **Section 3. Appropriation.** There is appropriated $1,000 from the general fund to the department of agriculture for the fiscal year ending June 30, 2028, for [insert purpose].

example

NEW SECTION. **Section 1. Appropriation.** (1) There is appropriated $500,000 from the general fund to the department of public health and human services for the biennium beginning July 1, 2027.

(2) The appropriation must be used to pay for costs billed to the state for the precommitment psychiatric detention, precommitment psychiatric examination, or precommitment psychiatric treatment of a person in an involuntary commitment proceeding, as provided in 53-21-132.

example *[additional subsections, if needed]*

(3) The legislature intends that the appropriation in this section be considered part of the ongoing base for the next legislative session.

or

(3) The legislature intends that this is a one-time-only appropriation.

(4) Money from the appropriation that is not spent during the biennium must revert to the general fund.

example **Section 6.** Section 4(2), Chapter 710, Laws of 2023, is amended to read:

(1) The portion of section 4(2), Chapter 710, Laws of 2023, appropriating money from the historic preservation grant program account to the department of commerce for the indicated project is amended to read:

"~~15 Rocky Mountain Building Community Health Care Center, Inc. dba Alluvion Health $400,000~~"

(2) The portion of section 4(2), Chapter 710, Laws of 2023, appropriating money from the historic preservation grant program account to the department of commerce for the indicated project is amended to read:

"20 Montana Club ~~Original Montana Club Cooperative Association~~ Rathskeller, LLC $90,040"

The Montana Supreme Court has held that an appropriation may be part of a nonappropriation bill without violating the unity of subject rule if the appropriation is incidental to the single subject of the bill (*Hill v. Rae*, 52 Mont. 378, 158 P. 826 (1916), and *State ex rel. Veeder v. State Board of Education*, 97 Mont. 121, 33 P.2d 516 (1934)). For example, if a bill creates a governmental agency or

program, a section of the bill appropriating money to fund the agency or program would be proper.

Only a member of the House of Representatives may introduce an appropriation bill.

Legislative Intent

Bills that appropriate money outside of House Bill 2, the main budget bill, are commonly known as "cat-and-dog" bills. These bills make money available for the biennium for which it is appropriated. However, that funding might not be carried into future state budgets unless the legislative intent is clear.

When the Office of Budget and Program Planning and the Legislative Fiscal Division are preparing for the next budget cycle, they review each cat-and-dog appropriation that was passed during the previous legislative session to see if the bill appropriated money for what was expected to be an ongoing government expense. Deciding that question is easier if the Legislature indicates its intent in the bill itself. If the Legislature intends for an appropriation to continue into future bienniums, the bill should clearly state that intent with language such as the following: "The Legislature intends that the appropriation in this section be considered part of the ongoing base for the next legislative session."

Conversely, if the Legislature wants the appropriation to be made only for the 2027 biennium, the bill should state that it is providing a one-time-only appropriation. Without explicit direction, the Budget Office and the Legislative Fiscal Division will try to determine legislative intent.

A bill may designate an appropriation as either an annual amount for one or both years of the 2-year budget period or a biennial amount.

An appropriation that is not designated as biennial and that contains a specific amount for each fiscal year gives a state agency authority to spend that amount of money in the given year. If expenses are higher than expected in either of the fiscal years, the agency can spend only up to the amount that was appropriated. If expenses are lower, the unspent money cannot be carried into the next fiscal year.

An agency may spend a biennial amount as needed throughout the biennium. If the agency is starting a new program and does not

spend half of the appropriation in the first year, it is able to spend all of the remaining funds in the second year if its costs reach that level. Conversely, if it spends more than half of the appropriation in the first half of the biennium, it generally would be able to spend only the remaining amount in the second year even if expenses were higher.

When money in a cat-and-dog bill is designated for a specific purpose, it must be spent in the manner outlined in the bill. If the agency is unable to spend all of the appropriation, the money reverts to the account from which it was appropriated unless the bill specifically allows for the funds to be used for another purpose.

Statutory Appropriations

A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment. In general, statutory appropriations are disfavored and usually more heavily scrutinized by the Legislature. Unlike a biennial appropriation, a statutory appropriation continues each biennium unless and until it expires or is amended by subsequent legislation.

The criteria for determining whether a statutory appropriation is appropriate appear in section 17-1-508(2), MCA. With rare exceptions, a statutory appropriation may not be used to fund administrative costs.

Although there is a temptation to include a termination or "sunset" provision in a bill providing a statutory appropriation, the preferred method of rescinding a statutory appropriation is to repeal the affected sections in a subsequent session.

Bills statutorily appropriating money by permanent law must conform to the requirements of section 17-7-502, MCA, in order to be effective. Any enacted statute that establishes a statutory appropriation must be listed in section 17-7-502(3), MCA. If the section in a bill that contains the statutory appropriation does not currently appear in section 17-7-502, MCA, then section 17-7-502, MCA, must also be included in the bill and amended to add the section containing the new statutory appropriation.

example NEW SECTION. **Section 3. Crime victims compensation account.** There is an account in the state special revenue fund for crime victims compensation. The money in the account is statutorily appropriated, as provided in 17-7-502, to the department of justice for the purposes provided in [sections 1 through 5].

(5) Fiscal Notes

Section 5-4-201, MCA, provides that a bill that has an effect on revenue, expenditures, or the fiscal liability of the state or a local government may not be reported out of committee without an attached fiscal note estimating the dollar amount of the fiscal impact.

The drafter can simplify the process of judging fiscal impact by keeping the fiscal note requirement in mind when drafting bills and indicating on the bill draft that a fiscal note may be required. (See the Bill Drafter Checklist found in Appendix Q and the "Checklist" tab in the LAWS II BDM application.)

The fiscal note requirement does not apply to an appropriation bill carrying a specific dollar amount. However, if a bill contains an appropriation incidental to the single subject of the bill but the bill has other fiscal implications, the drafter should indicate that the bill may need a fiscal note.

When a bill is reviewed by the Legislative Services Division staff prior to introduction, its possible fiscal impact is considered. If the staff determines that a fiscal note appears to be needed, that information is stamped on the bill by the Legislative Services Division staff prior to introduction. At the time that a bill is introduced, the President of the Senate or the Speaker of the House must determine whether the bill needs a fiscal note based on the recommendation of the Legislative Services Division staff (Joint Rule 40-100). The stamp helps save the presiding officer time in determining whether a fiscal note should be ordered. On determination of the need for a fiscal note, the presiding officer requests it from the Budget Director, who is required by law to return the note within 6 days.

The fiscal note is attached to the bill, and the committee considers it with the bill. If a bill is introduced without a request for

a fiscal note or is amended in some way that affects the fiscal impact of the bill, the sponsor, the committee considering the bill, or the majority of the house considering the bill on second reading may request the presiding officer to request a fiscal note or a revised fiscal note.

If a sponsor disagrees with a fiscal note, the sponsor may prepare a fiscal note rebuttal under section 5-4-204, MCA.

(6) Special Effective Dates

A bill's fiscal impact may also necessitate the inclusion of a special effective date. Under section 1-2-201, MCA, unless a different time is prescribed, all bills except appropriation bills and those portions of bills containing statutes providing for taxation or the imposition of a fee on motor vehicles are effective on October 1 following passage and approval. Appropriation bills become effective on July 1, and statutes providing for the taxation of or the imposition of a fee on motor vehicles become effective on January 1 following passage and approval. Statutes enacted during a special session of the Legislature take effect on passage and approval unless the enacting legislation prescribes a different time. It is not necessary to include an effective date section unless the date differs from the default date provided by section 1-2-201, MCA. (See section 4-26.)

Frequently, a nonappropriation bill will have an impact on local or state finances that makes it highly desirable to provide an effective date coinciding with the beginning of the fiscal year. See 39 A.G. Op. 29 (1981), which discusses the problems associated with a bill increasing the county road tax levy without providing a July 1 effective date.

6-2. Local Government Impact — Unfunded Mandate

Sections 1-2-112 and 1-2-113, MCA, prohibit the Legislature from creating an unfunded mandate by imposing new duties on local governments and school districts without providing funding to cover the costs of the new duties. Section 1-2-114, MCA, prohibits even the introduction of a bill that increases local government or school district duties without providing the requisite funding through an additional mill levy or remittance of state funds sufficient to fund the new activity to be performed or the new service or facility to be

provided. Section 1-2-115, MCA, provides a means for local governments and school districts to avoid the requirements of any bill that is passed in violation of section 1-2-112 or 1-2-113, MCA.

When drafting bills imposing additional local government or school district duties, a drafter must carefully analyze the draft to determine if the bill falls under the provisions of the applicable statutes by determining if there is funding provided for the new duties, consult with the requester to determine if an alternative is available when funding is not provided, and if there are no alternatives, consider expressly superseding or modifying the statutory restriction. If the provisions of sections 1-2-112 through 1-2-116, MCA, are to be superseded, a section must be contained in the bill and a provision must be contained in the title. (See section 4-4(8) and Appendix P.)

6-3. Bills Granting Rulemaking Authority

(1) In highly complex, technical fields in which the degree of specificity required is not considered appropriate for comprehensive statutory treatment or when interim authority is necessary to provide for continuing compliance with ever-changing federal law and regulations, the requester may wish to delegate rulemaking authority to an Executive Branch agency. Rules have the force of law (i.e., an enforceable prohibition or mandate of behavior or activity) only if they are:
   (a) adopted under an express grant of legislative authority;
   (b) adopted under statutory guidelines sufficiently specific to satisfy the constitutional separation of powers requirement for a delegation of rulemaking authority;
   (c) adopted in compliance with the procedures outlined in Title 2, chapter 4, part 3, MCA; and
   (d) consistent with and reasonably necessary to effectuate the purpose of the implemented statutes (section 2-4-305(6), MCA).

(2) Subsections (1)(a) and (1)(b) are most significant from the bill drafting standpoint. An express grant of rulemaking authority is created for a new body of law by stating

substantially that "[t]he department shall [may] adopt rules to implement [sections 1 through 12]". Section 5-4-103, MCA, provides that a statute delegating rulemaking authority to an agency must contain specific guidelines describing for the agency and the public what the rules may and may not contain.

(3) A statement that something must be in accordance with rules adopted by the department or that a person or entity is required to follow rules to be adopted by the department or similar language is **not** a grant of rulemaking authority—it is merely a mandate that department rules on the subject be followed.

(4) An existing program that already includes an express grant of rulemaking authority may be modified or expanded by amendment of MCA sections to which the existing express grant of authority applies or by enactment of a new bill section along with a codification instruction making the existing authority apply to the new bill section. (See section 4-19.) The drafter must indicate on the Bill Drafter Checklist whether new rulemaking authority is granted or whether existing rulemaking authority is expanded to the new provisions in the bill, and a provision specifying that rulemaking authority is granted in the bill must be included in the title. (See section 4-4(9).)

(5) A mere implication of power to adopt rules gleaned from implemented statutes because of a perceived necessity for rules is not a sufficient reason to adopt substantive rules as defined in section 2-4-102(14)(a), MCA. Moreover, even a clearly expressed grant of rulemaking authority will be ineffective if it is so broad and unrestricted as to constitute an unconstitutional delegation of legislative authority. (See *In re Gate City Savings and Loan Association*, 182 Mont. 361, 597 P.2d 84 (1979).)

(6) Basic policy and guidelines must be determined by the Legislature as set forth in statutory restrictions, standards, and criteria to be followed by the agency in adopting rules. For further discussion of constitutional problems related to delegation of authority and separation of powers generally, see Chapter 1.

(7) Pursuant to section 2-4-309, MCA, an agency may proceed with rulemaking under Title 2, chapter 4, MCA, after the enactment of a statute to be implemented by rule, but a rule may not become effective prior to the effective date of the statute.

(8) A bill may also specifically repeal a rule or may direct adoption, amendment, or repeal of an administrative rule. (See section 5-7 and Appendix K.)

6-4. Bills Creating a New Agency

Title 2, chapter 15, MCA, contains a reference to each agency in the Executive Branch created by statute. In the MCA, the creation of an agency is separated from the functions of that agency.

Whenever an Executive Branch agency is created by bill, one or more sections should deal with its creation and internal organization. These sections will be codified in Title 2, MCA. Article VI, section 7, of the Montana Constitution limits the number of principal departments in the Executive Branch to 20.

In addition, the bill must contain a definition section that includes a definition of the new agency, which in this example is a board.

example

NEW SECTION. **Section 2. Definitions.** In [sections 2 through 12], the following definitions apply:

(1) "Board" means the board of dogcatchers provided for in [section 1].

(2) "Dogcatcher" means . . . .

In this example, the reference to "[sections 2 through 12]" will be changed to "this chapter", "this part", or "___ through ___"

(assigned section numbers), as appropriate, and "[section 1]", which creates the board, will be codified as a section in Title 2, chapter 15, MCA. The definition section will be codified with the part of the bill dealing with the functions, powers, and duties of the new agency.

The same rule applies to the creation of any new Legislative or Judicial Branch agency. For example, the composition, terms, and officers of the Environmental Quality Council are provided for in Title 5, MCA, because the Council is a legislative agency. However, the functions of the Council are codified in Title 75, MCA, concerning environmental protection. (See sections 5-16-101 through 5-16-105, MCA, and Title 75, chapter 1, part 3, MCA.)

Whenever a drafter is dealing with a change of an agency's functions or duties, the statutes relating to the creation and composition of the agency must be checked as well as the substantive area of the law.

6-5. Bills Making Legislative Appointments

If a bill contains a provision for the appointment of **legislators** to a committee or other entity, follow the traditional appointment methods in the Legislative Rules. Appointing authority for standing, interim, and joint committee members is the Committee on Committees in the Senate and the Speaker of the House (see Legislative Rules S30-10, H30-05, and H30-10).

For other types of entities, such as a task force, commission, interim study committee, or select committee, **the appointing authority** must be specified (e.g., appointed by the Governor; appointed by the director or the director's designee). The President of the Senate, Speaker of the House, majority leader, or minority leader is the appointing authority for each caucus's legislative members.

In addition, make sure that the subject "Legislature" is noted as a subject category for that bill in the LAWS II BDM system, and send the Executive Director and the Research Director an e-mail providing notice of the proposed new legislative function.

(1) If a bill or amendment provides for **legislators** to be appointed to a new committee, commission, or task force, the bill or amendment must contain:
   (a) the term of the appointment, and whether or not the appointment may exceed a legislator's term of office;
   (b) a provision specifying that the appointments must be made by a certain date, preferably within 10 days following session and no later than June 30 of the session year;
   (c) a specific appointing authority;
   (d) a provision that the appointments follow section 5-5-211, MCA, to the extent possible regarding numbers of members from each chamber and each party; and
   (e) a provision specifying whether compensation **for legislators** as provided in section 5-2-302, MCA, is or is not authorized.

(2) If a **legislator** is appointed by someone other than the legislator's respective legislative leadership for any **nonlegislative** committee, the entity receiving the appropriation must be responsible for any authorized compensation (see (4)(g)).

(3) The bill or amendment must provide that a vacancy must be filled in the same manner as the original appointment.

(4) A bill or amendment creating a statutory interim study committee, commission, or task force that includes nonlegislator members must contain:
   (a) (i) direction on the appointment or election of a presiding officer; and
   (ii) responsibility for staffing or other administrative duties related to committee operations. There is a preference for the presiding officer to relate to the administrative and staffing agency, i.e., legislator presiding officer if attached to a legislative division for administration and staffing.
   (b) if the entity is staffed by the Legislative Services Division, a date by which the interim work must be completed (by rule, traditional interim committees must end by

September 15 prior to a session; a later deadline is discouraged);

(c) a termination date of the study and committee (preferably prior to the next session) if the bill does not terminate prior to the next session;

(d) the term of the appointment of members;

(e) a deadline by which the members must be appointed;

(f) a specific appointing authority;

(g) (i) a provision specifying whether the appointment does or does not authorize compensation as provided in:

(A) section 5-2-302, MCA, for legislators;

(B) section 2-15-122(5)(a) and (5)(b), MCA, for nonlegislators; or

(C) sections 2-18-501 through 2-18-503, MCA, for reimbursement of expenses; and

(ii) if reimbursement is authorized, identification of the party or agency responsible for reimbursement (i.e., the entity that receives the appropriation); and

(h) an appropriation if any payment has been authorized in (4)(g). The bill or amendment must contain a contingent voidness clause in the event that the appropriation is vetoed after transmittal to Governor, and the bill title must contain "PROVIDING FOR CONTINGENT VOIDNESS".

example NEW SECTION. **Section 2. Contingent voidness.** If the appropriation in [section 1] is vetoed and the veto is not overridden, then [section 1] is void.

(5) (a) Pursuant to Joint Rule 40-65, a bill or amendment that includes a request for an interim study may not be transmitted to the Governor unless the bill contains an appropriation sufficient to conduct the study as determined by the fiscal note. The committee is limited to expending only the amount of the appropriation passed in the bill.

(b) The bill should contain an appropriation when introduced. However, if a bill is to be introduced in the Senate, subsection (1) of the contingent voidness clause below must be included.

(c) A study bill must contain a contingent voidness clause in the event that the appropriation is vetoed after transmittal to the Governor, and the bill title must contain "PROVIDING FOR CONTINGENT VOIDNESS".

example

NEW SECTION. **Section 2. Contingent voidness.** (1) Pursuant to Joint Rule 40-65, if [this act] does not include an appropriation prior to being transmitted to the governor, then [this act] is void.

(2) If the appropriation in [section 3] is vetoed and the veto is not overridden, then [this act] is void.

6-6. Bills Creating New Workers' Compensation Exemptions

A bill draft request to create an additional workers' compensation exemption under Title 39, chapter 71, MCA, must include a letter of intent not exceeding 1,000 words that addresses criteria listed in section 2-8-501(2), MCA. A bill draft request submitted without the letter of intent may not be processed for introduction to the Legislature. The legislative fiscal analyst shall provide to the bill draft requester an independent assessment of the letter of intent.

6-7. Bills Creating Licensing Boards

Title 2, chapter 8, part 4, MCA, contains procedures for creating new professional or occupational boards and for review of existing boards. Section 2-8-402, MCA, requires that a bill draft request to create a licensing board must include a report that addresses criteria listed in that section.

6-8. Bills Requiring Reports to the Legislature

For a **new report to the Legislature that will be recurring** (annual, biennial, or periodic), the provision in the bill language requiring that the report be submitted to the Legislature must include the phrase "in accordance with 5-11-210".

example (3) By September 15 of each even-numbered year, the board shall report to the law and justice interim committee **in accordance with 5-11-210** on the status of the program.

example (5) The department shall report annually to the children, families, health, and human services committee **in accordance with 5-11-210** on the information required by this section.

The provision "ESTABLISHING REPORTING REQUIREMENTS" also must be added to the bill title. The report will ultimately be added to the appropriate subsection in section 5-11-222, MCA, but section 5-11-222 should not be pulled into the bill draft itself. The addition to section 5-11-222 will be made during the codification cycle per a specific Directions to Code Commissioner section that is included in the Code Commissioner bill.

For all new reporting requirements, the bill drafter must add a note about the reporting to the "Codifier Note" box under the bill draft task's Review tab in the LAWS II BDM application.

For a **new one-time-only report,** such as a report required by an interim study resolution, or for a **new report that is in a short-duration section** that terminates before the start of the following legislative session:

- do not include the "in accordance with 5-11-210" phrase;
- do not add a reference to the report to section 5-11-222, MCA;
- do add the provision "ESTABLISHING REPORTING REQUIREMENTS" to the bill title; and

- add a note about the type of new report and the fact that it does not need to be added to section 5-11-222 to the "Codifier Note" box under the bill draft task's Review tab in the LAWS II BDM application.

For an **existing report that is being removed** (stricken or repealed) completely:

- do not include section 5-11-222, MCA, in the bill draft in order to remove the reference to the report (if the stricken or repealed existing language of the report requirement includes a reference to section 5-11-210, then the report description will be removed from section 5-11-222 during codification);
- do add the provision "ELIMINATING REPORTING REQUIREMENTS" (with specific details as desired) to the bill title; and
- add a note about the reporting change to the "Codifier Note" box under the bill draft task's Review tab in the LAWS II BDM application.

For an **existing report that is being retained but is being amended** in a way that makes the existing descriptive or section reference to it in section 5-11-222, MCA, inaccurate:

- do not include section 5-11-222 in the bill draft (the report description in 5-11-222 will be changed during codification to reflect the amendments to the actual reporting requirement);
- do add the provision "REVISING REPORTING REQUIREMENTS" (with specific details as desired) to the bill title; and
- add a note about the reporting change to the "Codifier Note" box under the bill draft task's Review tab in the LAWS II BDM application.

CHAPTER 7
Resolutions

The only type of legislation other than a bill that may be introduced in either house of the Legislature is a resolution.

7-1. Simple Resolution

A simple resolution may be used to amend the rules of or to provide for the internal affairs of the house adopting it. A simple resolution does not require three readings or a roll call vote as does a bill or joint resolution. See Senate Rule 40-10 for examples of permissible purposes.

7-2. Joint Resolution

A joint resolution is effective on passage by both houses and need not be submitted to the Governor for the Governor's signature (Article VI, section 10, Montana Constitution). See Joint Rule 40-60 for a list of permissible purposes.

The law provides that disasters and emergencies be dealt with by the Legislature by joint resolution (sections 10-3-303(3) and (4), 10-3-505(5), and 90-4-310, MCA). A negotiated labor settlement may also be submitted by joint resolution (section 39-31-305(3), MCA).

Resolutions do not have the force of law. In *Gildroy v. Anderson*, 162 Mont. 26, 507 P.2d 1069 (1973), the Supreme Court stated: "The effect and validity of a joint legislative resolution must be decided upon a consideration of the purpose intended to be accomplished and in light of the applicable provisions of the Montana Constitution." The court went on to say: "A joint resolution is not a general law and cannot be used to control the discretion of the governor."

The format of resolutions has been prescribed by custom, and bill drafting tools provide the basic structure. The preamble of a resolution is identical to the preamble of a bill. It begins with "WHEREAS" and states the purpose of or reason for the resolution. The WHEREAS clauses in a resolution may not contain complete sentences. Examples are presented in Appendix M and Appendix N.

In a resolution, a resolving clause "NOW, THEREFORE, BE IT RESOLVED BY . . ." takes the place of the enacting clause of a bill.

The body of a resolution may consist of one or more paragraphs, each beginning with the statement "BE IT FURTHER RESOLVED". The drafter may wish to number the paragraphs, as shown in in Appendix N-2, as an alternative, rather than continue to repeat language.

Standard capitalization rules are followed when drafting a resolution. (See section 3-1(16).)

The language in resolving clauses is generally written in the subjunctive mood.

Distribution instructions at the end of a resolution should name both the sender and the recipient (i.e., "BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to each member of the Montana Congressional Delegation").

7-3. Resolutions to Request Interim Studies

Joint resolutions may be used to request interim studies of the traditional interim committees found in Title 5, chapter 5, part 2, MCA. The format for an interim study resolution has a specific bill drafting macro or Bill Draft Editor template that will provide the basic structure and standard language to which specific directions on the topic of study must be added. See Appendix N.

7-4. Montana Honor and Remember Act

Section 10-2-806, MCA, provides for the request and introduction of a joint resolution naming eligible service members for which a first medallion under Title 10, chapter 2, part 8, MCA, has been requested.

7-5. Prohibition on Submission to Electorate

A resolution may not be submitted to the electorate. Article III, section 5(1), of the Montana Constitution states that the people may approve or reject by referendum "any act of the legislature except an appropriation of money". Pursuant to *Black's Law Dictionary*, the term "legislative act" is an alternative name for statutory law and a resolution is the formal expression of the opinion or will of an official body and consists of subject matter that would not properly constitute a statute.

CHAPTER 8
Bill Amendments

8-1. Introduction

Amendments may be proposed by lobbyists, legislators, department personnel, or others. All amendments must be electronically prepared and edited by Legislative Services Division staff before they can be included in a Standing Committee Report, and a staff member may not prepare amendments unless specifically requested to do so by a legislator. Floor amendments must also be drafted and edited by Legislative Services Division staff.

The set of amendments must identify the specific copy of the bill to be amended, i.e., introduced (white if on hard copy); second reading (yellow); third reading (blue); second house, second reading (tan); or reference bill (salmon). Only the most recent copy of the bill may be amended.

8-2. Reminders When Amending Bills

(1) (a) Check that changes made by amendment are reflected in the title if necessary. These changes include the insertion or removal of all amended or repealed MCA section numbers (listed in numerical order) and related descriptive language.

(b) Update the short bill title, if necessary. (See section 4-4(11).)

(c) Remember that appropriation, effective date, applicability, and termination provisions must be reflected in the title, as well as provisions regarding creating a state debt, providing rulemaking authority, providing for contingent voidness, and superseding the unfunded mandate laws. Provisions regarding extraordinary vote requirements are not included in the title.

(d) Watch for the 100-word limitation in the title of a referendum, keeping in mind the exception described in section 5-5 of this manual and in section 5-4-102, MCA.

(2) Amend the catchline, if necessary.

(3) Amend entire words, not portions of words (e.g., to change spelling or capitalization).

(4) Check amendment language for clarity, spelling, punctuation, outlining, style, and consistency with the rest of the bill.

(5) Make sure that new internal references in the amendment are accurate.

(6) Check the entire bill for any references to terms, figures, or dates that are being changed or provisions that are being deleted (i.e., the amendment appears in all appropriate places).

(7) (a) If "department", "board", or similar terms are used in new language, check that the terms are defined for the title, chapter, or part where the language is being added to an MCA section or for the title, chapter, or part where a new section will be codified.
(b) Check that new definitions are in alphabetical order (see section 4-9(3)) and that they are used and used consistently.
(c) If a defined term is added, deleted, or changed, check that language in the bill works with the term as amended and check all existing sections of law to which the definition applies to see if additional sections will require amendment. (If a defined term is deleted by amendment, there should be no reference to that term in the title, chapter, or part to which the definition had applied.) (See Appendix R for tips on searching.)

(8) If a program or concept is amended out of the bill, make sure that all references to the program or concept are taken out everywhere in the bill.

(9) If bill section numbers are changed, check the entire bill for internal references to those sections. Especially watch "housekeeping" (noncodified) sections. Run an electronic search of the bill for brackets to find all bracketed internal references. Search for "[".

(10) If an amendment causes reoutlining:
(a) check that section's outlining and recheck subsection references in that section;
(b) search the entire bill for internal references to the former subsection numbers of the reoutlined section; and
(c) check the online internal reference list unless the provision being amended is a new section. (See section 1-8.)

(11) (a) If additional sections are being repealed, be sure to check that both the title and repealer section reflect the amendment. Also check the online internal reference list and amend any sections affected (unless they're in the middle of a span of section numbers that does not show the actual affected section number — e.g., section 33-15-335, MCA, in "sections 33-15-333 through 33-15-340").
(b) Make sure that an MCA section is not being both amended and repealed in the bill (unless a delayed effective date for the repealer allows both).
(c) If an amendment removes the repeal of a section, address any stricken references to the repealed section and strike any sections in the bill that were included only because of references to the repealed section.

(12) If an amendment removes the repeal of a section, check to see if any section is in the bill because it contained a concept relating to the repealed section. For example, if a repealed section providing for an account is unrepealed, then any section containing language that was stricken regarding the account needs to be amended to reinsert the stricken language. (Check to make sure that the section is still substantively amended.)

(13) (a) Note that if there is more than one effective date in the bill, amendments may not include references to "[the effective date of this act]"; use "[the effective date of this section]".

(b) To avoid listing references to many sections in the bill, use the following language in an effective date section (this applies to an original bill draft as well):

example

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

(2) [Sections 3, 7, and 52] are effective January 1, 2028.

(14) Check that a termination provision does not terminate a repealer section. A repealer section, along with other housekeeping sections, must be excluded from the termination.

(15) If an amendment is adding a coordination instruction, check the bill referenced in the amendment and make sure that the coordination provisions work.

(16) Remember that Article V, section 11, of the Montana Constitution states that a bill may not be altered or amended on its passage through the Legislature so as to change its original purpose. This particularly applies to substitute bills. If the amendment would entirely change the original direction of the bill or enter a new subject area not covered by the original bill, a constitutional problem is likely.

(17) An amendment may not strike the entire text of an existing section of the MCA and replace it with new language. (See section 4-17.)

(18) If an amendment removes the only substantive amendment from an MCA section, amend the entire section out of the bill because it no longer relates to the stated purpose of the bill. When a section is removed from a bill for this reason, the title and any affected internal references must also be amended.

(19) Do not draft an amendment to strike the end of one section and to continue striking through the catchline or the middle of the following section (this cannot be done because of the coding that appears around sections in the bill).

(20) Previously adopted amendments may not be "stripped". A new set of amendments must be drafted and voted on to strike and reinsert the previous language, or a motion may be made to reconsider the action adopting floor amendments if a committee report on second reading adopting those floor amendments has not yet been adopted by the Committee of the Whole.

(21) If an amendment changes a codification instruction, make sure any references in the bill to "this chapter" or "this part" are still applicable.

(22) It can help readability to strike an entire sentence and insert a whole new sentence rather than insert many "choppy" amendments into a sentence. It is acceptable to strike an entire sentence even if there are words in the sentence that are already shown as stricken. Similarly, striking an entire amended section and inserting the same section with different amendments rather than inserting many "choppy" amendments into a section that is already heavily amended can also help readability.

8-3. Substitute Bill

If the proposed amendment is very extensive, it may be easier to rewrite the entire bill. This is called a substitute bill. The Joint Rules provide that if the amendment is relevant to the title and subject matter of the original bill and is so extensive that a standard amendment would be long and difficult to comprehend, the bill may be amended by striking all of the bill following the enacting clause and substituting an entirely new bill. (See Appendix O.)

The title of a bill may not be stricken in its entirety and replaced. The subject matter of a bill with a "generally revising" title may be narrowed to a single subject by amendments and may revert to a general revision bill through a later set of amendments. However, a bill that originally addresses a narrow subject may not be amended to become a bill "generally revising" the law.

8-4. Governor's Amendments

The Governor's amendatory veto power, provided for in Article VI, section 10, of the Montana Constitution, authorizes the Governor to return a bill to the Legislature with recommendations for amendment. The Governor's staff submits the proposed amendments electronically to the Executive Director or the Legal Services Director. The recipient may draft the amendments or assign the drafting to staff. The process is then the same as for all other amendments, including drafting, editing, and correcting the amendments and transmitting them electronically. However, prior to transmitting the amendments to the amendments coordinator, the amendment drafter must return the drafted amendments to the member of the Governor's staff who transmitted the proposed amendments to the Legislative Services Division. The Governor's staff will then notify the drafter as to whether the amendments are correct. When the amendments are approved, they are then transmitted to the appropriate amendments coordinator for consideration by the Committee of the Whole.

CHAPTER 9
Selected Provisions
Relating to Bill Drafting

The following is a list of constitutional and statutory provisions that a bill drafter should review and consult.

9-1. Montana Constitution

Article II. Declaration of Rights
- Section 4. Equal protection
- Section 5. Freedom of religion
- Section 7. Freedom of speech, expression, and press
- Section 18. State subject to suit
- Section 31. Ex post facto, obligation of contracts, and irrevocable privileges

Article III. General Government
- Section 1. Separation of powers
- Section 5. Referendum

Article V. The Legislature
- Section 9. Disqualification of legislator to hold civil office
- Section 11. Bills
- Section 12. Local and special legislation

Article VI. The Executive
- Section 10. Veto power

Article VIII. Revenue and Finance
- Section 1. Tax purposes
- Section 2. Tax power inalienable
- Section 6. Highway revenue nondiversion
- Section 8. State debt
- Section 9. Balanced budget

Article XIII. General Provisions
Section 1(3). No retrospective law

Article XIV. Constitutional Revision
Section 8. Amendment by legislative referendum

9-2. Montana Code Annotated

Title 1: General Laws and Definitions, especially:
Chapter 1, part 2: General Definitions of Terms Used in Code
Chapter 2: Statutory Construction
Chapter 11: Publication and Updating of the Code — Code Commissioner

Title 2, chapter 4, part 4: Legislative Review of Rules

Title 5, chapter 4: Legislative Branch — Bills

Title 13, chapter 27: Statewide Ballot Issues

CHAPTER 10
Subject Areas in Bill Drafting

10-1. Health Insurance Statutes and Mandates

Health insurance laws fall into two general categories:

- private insurance, which is regulated under Title 33, MCA; and
- public insurance, with various aspects regulated under Titles 2, 20, and 53, MCA.

These categories are described in the first two subsections below, followed by a note about the Affordable Care Act and related mandates.

(1) Title 33: Private Insurance

Most insurance bills involve mandating coverage of a specific service or otherwise establishing coverage requirements. These will generally be made in Title 33, chapter 22, MCA, which is called disability insurance but is really health insurance. Changes can be made in one or all of the following areas of Title 33, chapter 22, MCA:

- Part 1, which contains general provisions that often apply to both individual and group benefit plans. Many mandated benefits are contained in this part.

  Tip: There are many terms for insurance policies. The following standard language is often used to capture all of them: "Each group or individual policy, certificate of disability insurance, subscriber contract, membership contract, or health care services agreement that provides coverage for health care services must . . . ."

- Part 2, which applies only to individual insurance policies.
- Part 5, which applies to group policies.

  Tip: Ask whether the requester wants the change to apply to both individual and group policies or just one of those types of policies.

Tip: Placing a new section in part 1 with language saying "each group or individual policy" will cover both types of policies. If a new section does not specify whether it applies to an individual or group policy, the codification instructions should indicate whether it should be codified in part 2 or part 5 or in both parts.

Other chapters within Title 33, MCA, deal with various permutations of health insurance. Check to see if the bill requester wants to extend the requirements to these types of policies to capture as many types of insurance as possible. The pertinent parts include the following:

- Chapter 30, health service corporations. These entities are nonprofit insurers. Blue Cross and Blue Shield of Montana used to be regulated under this part, until it was bought by a for-profit insurer.

  Tip: Check section 33-30-102, MCA. This section specifies which health insurance laws apply to health service corporations. When drafting a new section, there is no need to amend section 33-30-102 if the section will be codified in a part already listed in section 33-30-102. If the part is not listed, add the new section to section 33-30-102.

- Chapter 31, health maintenance organizations (HMOs). There are not many of these in the state, but new mandates are usually written to apply to HMOs as well.

  Tip: Check section 33-31-111, MCA. This section specifies which health insurance laws apply to HMOs. When drafting a new section, follow the instructions above to see whether section 33-31-111 will cover the new section or if it needs to be added to section 33-31-111.

- Chapter 35, multiple employer welfare arrangements (MEWAs). These are self-funded insurance plans usually offered by large employers or associations that cover specific industries, such as timber workers. Federal law covers most self-funded plans, but some MEWAs are subject to state regulation.

  Tip: Check section 33-35-306, MCA. This section specifies which health insurance laws apply to MEWAs. When drafting a new section, follow the instructions above to see whether section 33-35-306 will cover the new section or if it needs to be added to section 33-35-306.

(2) Public Insurance Programs

When drafting insurance mandates, ask bill requesters whether they also want to apply the mandate to public employee insurance plans, the Medicaid program for low-income children and adults, and the Healthy Montana Kids (HMK) Plan for low-income children whose family income is higher than the Medicaid limit.

> **IMPORTANT NOTE:** All of these programs are also funded with state general fund and special revenue fund dollars, so making any changes here will result in a fiscal note. Bill requesters should be made aware of this and decide whether they want to include these programs.

Following are the relevant titles, chapters, and parts for public insurance/health coverage programs:

- Public employee insurance plans for the state and its political subdivisions are covered in Title 2, chapter 18, parts 7 and 8, MCA.

  Tip: Most changes are made to section 2-18-704, MCA.

- Montana University System insurance plans are covered in Title 20, chapter 25, MCA. Part 13 covers employee plans and part 14 covers student plans.

  Note: These sections are not changed often, with requirements typically being put in section 2-18-704, MCA, instead. That statute shows how the University System employee plans have sometimes been grouped with the state employee plan.

- The state Medicaid program is provided for in Title 53, chapter 6, MCA, and is commonly referred to as the "medical assistance program". Technically, it is not insurance but it does pay for health care services for low-income people, and the Legislature does sometimes either require or allow it to cover certain types of health care services.

  Tip: To *require* Medicaid coverage of a specific service, amend section 53-6-101(3), MCA. To *allow* Medicaid coverage of a specific service, amend section 53-6-101(4), MCA.

The Healthy Montana Kids (HMK) plan covers two groups of children: Medicaid kids who get the Medicaid-required services in Title 53, chapter 6, MCA, and are referred to as "HMK-Plus kids", and Children's Health Insurance Program (CHIP) kids, who get the services outlined in Title 53, chapter 4, part 10, MCA, and are referred to as "HMK kids" or "CHIP-funded kids".

Tip: To require the CHIP-funded portion of HMK to cover a new health service, amend section 53-4-1005, MCA.

Trivia Tidbit: HMK is established in Title 53, chapter 4, part 11, MCA, so some language there seems as if it might apply to HMK. But HMK was created by an initiative, and the initiative actually amended the services and eligibility for CHIP, which was already enacted in Title 53, chapter 4, part 10, MCA. So the benefits covered by HMK are listed under the CHIP part.

(3) Affordable Care Act and Insurance Mandates

The Patient Protection and Affordable Care Act, also known as "ACA", required states to pay the cost differential in insurance premiums for any new mandates added to individual and small group plans after 2014 if the mandates exceed the federally required essential health benefits. That point is important for bill requesters to note, as it may come up in testimony.

CHAPTER 11
Electronic Bill Drafting

11-1. Bill Drafting System

The Legislative Services Division staff drafts bills using the LAWS II Bill Draft Editor and Microsoft Word. Drafters retrieve existing MCA sections from the MCA datastore directly into their bill draft documents.

The bill identification information, the enacting clause, and introductory amending clauses are inserted into the bill draft document automatically.

The Bill Draft Editor provides sequential numbering of sections and special publishing codes used in preparing camera-ready copy for publishing the Session Laws and the MCA.

Following the legislative session, the newly enacted or amended laws are incorporated into the existing MCA datastore during the codification process to create the updated text of the Montana Code Annotated.

11-2. Electronic Search Capabilities

The Legislative Services Division uses Rocket Folio Views (available for purchase) as its electronic search engine to search the MCA. Rocket Folio Views now also includes the unofficial electronic text of the 2025 Montana Session Laws as well as the Montana Supreme Court cases from January 1, 2006, through 2025. These can be searched using the "Advanced Query" search option.

Bill drafters are expected to electronically search the MCA when drafting bills and amendments. (See Appendix R for tips on searching.)

When framing a search, it is important that the drafter have a good idea of the words or phrases that might have been used to express the concept being searched. For example, if the search is for all sections of the MCA providing statutes of limitations, the phrase "statute of limitations" may not have been used. Instead, the language in the MCA may read "suit must be brought within 6 years", "if the action is not brought within 6 years, it is barred", or even "the period of limitations is 6 years". A search for sections that define criminal conduct might include "felony", "misdemeanor", "fine", "may be fined", "may be imprisoned", "punishable by", "it is

unlawful to", "guilty", "upon conviction of", and possibly "crime", "criminal", or "offense".

A word may be used in a sense other than the one for which the drafter is searching. For example, a drafter may wish to search for language relating to arrest or search warrants. A search for the word "warrant" alone would include not only search and arrest warrants but warrants issued by the State Auditor, warrants for distraint, and the verb form "if conditions warrant".

Certain concepts are so narrow in scope that all or most references are likely to appear in one title of the MCA. A search may be made of only certain designated portions of the MCA by limiting the search to a title, chapter, or part using the search functions of Rocket Folio Views.

Persons who have access to the LEXIS or WESTLAW legal research systems may conduct their own searches of the MCA using those systems, or a search may be done in the Rocket Folio Views or Internet version of the MCA.

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70th Legislature LC 0001.01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A MUNICIPAL COURT JUDGE AND THE JUDGE'S LAW PARTNERS TO PRACTICE LAW BEFORE ANY COURT OF THIS STATE EXCEPT THE MUNICIPAL COURT OF THAT JUDGE; PROVIDING DEFINITIONS; PROVIDING PENALTIES; AMENDING SECTIONS 3-1-601, 3-1-603, AND 3-1-604, MCA; AND PROVIDING EFFECTIVE DATES."

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

Section 1. Section 3-1-601, MCA, is amended to read:

"**3-1-601. Certain officers not eligible to practice law or administer estates.** (1) ~~A~~ Except as provided in 3-1-604, a justice or judge of a court of record or clerk of a court may not practice law in a court in this state or act as attorney, agent, or solicitor in the prosecution of a claim or application for lands, pensions, or patent rights or other proceedings before a department of the state or general government or a court of the United States during the justice's or judge's continuance in office.

(2) The court administrator or an assistant of the court administrator may not practice law in a court of this state while holding the position of court administrator or assistant.

(3) A justice or judge of a court of record may not act as administrator or executor of any estate for compensation."

Section 2. Section 3-1-603, MCA, is amended to read:

"**3-1-603. No judicial officer of court of record to have partner practicing law.** (1) ~~A~~ Except as provided in subsection (2), a judicial officer of a court of record may not have a partner acting as attorney or counsel in any court of this state.

(2) An attorney who is a partner of a municipal court judge may act as attorney or counsel in a court of this state except in the municipal court of the attorney's partner."

Section 3. Section 3-1-604, MCA, is amended to read:

"**3-1-604. Restrictions on municipal court judges.** A municipal court judge may not practice law before the judge's own municipal court or hold office in a political party during the judge's term of office."

NEW SECTION. **Section 4. Definitions.** As used in this part, the following definitions apply:

(1) "Court administrator" means a management professional who oversees the nonjudicial operations of a court, working with judges to ensure daily proceedings run smoothly.

(2) "Court of record" means a judicial body that maintains a permanent, official archive of its proceedings, rulings, and evidence.

(3) "Judicial officer" means an individual authorized to preside over legal proceedings, interpret the law, and make binding decisions in a court of law. The term includes judges, magistrates, and court commissioners.

NEW SECTION. **Section 5. Penalties.** (1) It is unlawful for:

(a) a justice or judge of a court of record or clerk of a court of record to practice law in a court in this state during the justice's or judge's continuance in office;

(b) a court administrator or an assistant of the court administrator to practice law in a court of this state while holding the position of court administrator or assistant; or

(c) a justice or judge of a court of record to act as an administrator or executor of any estate for compensation.

(2) A person convicted of an offense under this section shall be fined an amount not to exceed $10,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both.

NEW SECTION. **Section 6. Codification instruction.** [Sections 4 and 5] are intended to be codified as an integral part of Title 3, chapter 1, part 6, and the provisions of Title 3, chapter 1, part 6, apply to [sections 4 and 5].

NEW SECTION. **Section 7. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 2] is effective October 1, 2027.

-END-

70th Legislature LC 0012.01

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE OFFICE OF BUDGET AND PROGRAM PLANNING

A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO TRANSFER TO THE GENERAL FUND FROM THE HAZARDOUS WASTE/CERCLA ACCOUNT AN AMOUNT NOT TO EXCEED $1 MILLION; AMENDING SECTION 75-10-621, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 75-10-621, MCA, is amended to read:

"**75-10-621. Hazardous waste/CERCLA.** (1) There is a hazardous waste/CERCLA special revenue account in the state special revenue fund established in 17-2-102.

(2) There must be paid into the hazardous waste/CERCLA account:

(a) revenue obtained from the interest income of the resource indemnity trust fund under the provisions of 15-38-202, together with interest accruing on that revenue;

(b) all proceeds of bonds or notes issued under 75-10-623 and all interest earned on proceeds of the bonds or notes; and

(c) revenue from penalties or damages collected under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended in 1986 (CERCLA).

(3) ~~Appropriations~~ Except as provided in subsection (6), appropriations may be made from the hazardous waste/CERCLA account only for the following purposes and subject to the following conditions:

(a) Not more than one-half of the interest income received for any biennium from the resource indemnity trust fund may be appropriated on a biennial basis for:

(i) implementation of the Montana Hazardous Waste Act, including regulation of underground storage tanks and the state share to obtain matching federal funds;

(ii) implementation of Title 75, chapter 10, part 6, pertaining to state assistance to and cooperation with the federal government for remedial action under CERCLA;

(iii) expenses of the department in administering and overseeing the implementation of Title 75, chapter 10, parts 4 and 6; and

(iv) state expenses relating to investigation and remedial action for any hazardous substance defined in 75-10-602.

(b) To the extent funds are available after the appropriations in subsection (3)(a), the department may, as appropriate, seek authorization from the legislature or, when the legislature is not in session, through the budget amendment process provided for in Title 17, chapter 7, part 4, to spend funds for:

(i) state participation in remedial action under section 104 of CERCLA;

(ii) state costs for maintenance of sites at which remedial action under CERCLA has been completed; and

(iii) the state share to obtain matching federal funds for underground storage tank corrective action.

(4) (a) For the purposes of subsection (3)(b), the legislature finds that a need for state special revenue to obtain matching federal funds for underground storage tank corrective action or for remedial action under section 104 of CERCLA constitutes a serious unforeseen and unanticipated circumstance for the purpose of meeting the definition of "emergency" in 17-7-102.

(b) The legislature further finds that the inability of the department to match the federal funds as the funds become available would seriously impair the functions of the department in carrying out its responsibilities under Title 75, chapter 10, parts 4 and 6.

(5) There is no dollar limit to the hazardous waste/CERCLA account. ~~Unused~~ Except as provided in subsection (6), unused balances remain in the account until appropriated by the legislature for the purposes specified in this section.

(6) Before June 30, 2027, the department shall transfer from the hazardous waste/CERCLA account to the general fund an amount not to exceed $1 million."

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

-END-

70th Legislature LC 0032.01

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING PROCEDURES FOR DISCIPLINING ATTORNEYS THAT ARE INCONSISTENT WITH ORDERS AND RULES OF THE SUPREME COURT; REPEALING SECTIONS 37-61-304, 37-61-305, AND 37-61-306, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the Montana Supreme Court has original and exclusive jurisdiction to discipline persons admitted to practice law in Montana pursuant to Article VII, section 2(3), of the Montana Constitution and Title 37, chapter 61, MCA, and its inherent jurisdiction; and

WHEREAS, the Montana Supreme Court, by its orders governing the disciplining of persons admitted to practice law in Montana, established a Commission on Practice to receive and investigate complaints of misconduct by lawyers in Montana; and

WHEREAS, the Montana Supreme Court, by its orders governing the disciplining of persons admitted to practice law in Montana, also established grievance committees in each judicial district to assist the Commission on Practice in its investigation and processing of complaints of misconduct by attorneys in Montana; and

WHEREAS, sections 37-61-304 through 37-61-306, MCA, also address procedures for investigating and processing complaints of misconduct by attorneys in Montana; and

70th Legislature LC 0032.01

WHEREAS, the procedures set forth in sections 37-61-304 through 37-61-306, MCA, are inconsistent with the procedures established by the Montana Supreme Court in its orders.

THEREFORE, the Legislature of the State of Montana finds that it is appropriate to repeal these inconsistent sections.

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

NEW SECTION. **Section 1. Repealer.** The following sections of the Montana Code Annotated are repealed:

37-61-304. Complaints filed in office of clerk.

37-61-305. Complaints filed with attorney general or district judge.

37-61-306. Special investigator.

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

-END-

70th Legislature LC 00145.01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A SCHOOL DISTRICT TO ESTABLISH AND MAINTAIN A FIREARMS SAFETY EDUCATION COURSE; AND AUTHORIZING A DISTRICT TO USE A COURSE DEVELOPED BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS, A LAW ENFORCEMENT AGENCY, OR A FIREARMS ASSOCIATION."

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

NEW SECTION. **Section 1. Firearms safety education.** (1) The trustees of a district shall establish and maintain a firearms safety education course.

(2) (a) The trustees may adopt a course of instruction developed by the department of fish, wildlife, and parks, a law enforcement agency, or a firearms association as its firearms safety education course.

(b) Instructors from the department of fish, wildlife, and parks, a law enforcement agency, or a firearms association or a person recognized by the trustees as having expertise in firearms safety education may be used to provide the instruction.

NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 20, chapter 7, part 1, and the provisions of Title 20, chapter 7, part 1, apply to [section 1].

-END-

70th Legislature LC 0522.01

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE JOINT SUBCOMMITTEE ON
HIGHWAYS AND TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT EMPOWERING THE TRANSPORTATION COMMISSION TO ESTABLISH PRIORITIES AND TO SELECT ROADS FOR CONSTRUCTION AND RECONSTRUCTION; AMENDING SECTION 60-2-201, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Setting priorities and selecting projects.** (1) The commission shall establish priorities and select and designate segments for construction and reconstruction on federal-aid interstate and federal-aid primary and state highway systems.

(2) The commission shall use information gathered or discovered by and documents prepared by the department. Department officials and employees shall provide assistance and advice.

Section 2. Section 60-2-201, MCA, is amended to read:

"**60-2-201. General powers of department -- rulemaking.** (1) The department may plan, lay out, alter, construct, reconstruct, improve, repair, and maintain highways on the federal-aid systems and state highways according to priorities established by and on projects selected and designated by the commission.

(2) The department may cooperate and contract with counties and municipalities to provide assistance in performing these functions on other highways and streets.

(3) The department may review and approve projects for the installation of public works on state highway rights-of-way and authorize a county or municipality to let contracts related to the improvements.

(4) The department shall adopt necessary rules for the construction, repair, maintenance, and marking of state highways and bridges."

NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 60, chapter 2, part 1, and the provisions of Title 60, chapter 2, part 1, apply to [section 1].

NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, 2028.

-END-

70th Legislature LC 0068.01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT MAKING PERMANENT THE PROVISION THAT ELIMINATES USURY LIMITS UNDER THE MONTANA RETAIL INSTALLMENT SALES ACT; AMENDING SECTION 5, CHAPTER 276, LAWS OF 1985; REPEALING SECTION 7, CHAPTER 554, LAWS OF 1987, SECTIONS 2 AND 5, CHAPTER 155, LAWS OF 1989, AND SECTION 4, CHAPTER 498, LAWS OF 1995; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 5, Chapter 276, Laws of 1985, is amended to read:

"**Section 5. Effective date ~~-- termination~~.** [This act] is effective on passage and approval ~~and terminates July 1, 1987~~."

NEW SECTION. **Section 2. Repealer.** Section 7, Chapter 554, Laws of 1987, sections 2 and 5, Chapter 155, Laws of 1989, and section 4, Chapter 498, Laws of 1995, are repealed.

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

-END-

70th Legislature LC 0227.01

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE JUDICIAL UNIFICATION
AND FINANCE COMMISSION

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A PUBLIC HEARING BEFORE THE LOCAL OPTION TAX ON LIGHT VEHICLES MAY BE CHANGED; EXTENDING THE CURRENT DISPOSITION OF THE LOCAL OPTION TAX REVENUE BETWEEN THE COUNTY AND CITIES WITHIN THE COUNTY; AMENDING SECTION 61-3-537, MCA; AMENDING SECTION 4, CHAPTER 749, LAWS OF 1991; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 61-3-537, MCA, is amended to read:

"**61-3-537.** ***(Temporary)*** **Local option vehicle tax.** (1) A county may impose a local vehicle tax on vehicles subject to a tax under 61-3-504 at a rate of up to 0.7% of the value determined under 61-3-503, in addition to the tax imposed under 61-3-504.

(2) A local vehicle tax is payable at the same time and in the same manner as the tax imposed under 61-3-504. The local option vehicle tax is distributed as follows:

(a) 50% to the county; and

(b) the remaining 50% to the county and the incorporated cities and towns within the county, apportioned on the basis of population. The distribution to a city or town is determined by multiplying the amount of money available by the ratio of the population of the city or town to the total county population. The distribution to the county is determined by multiplying the amount of money

available by the ratio of the population of unincorporated areas within the county to the total county population.

(3) The governing body of a county may impose, revise, or revoke a local vehicle tax ~~for a fiscal year~~ by adopting a resolution before July 1 ~~of the fiscal year~~, after conducting a public hearing on the proposed resolution. The resolution may provide for the distribution of the local vehicle tax. *(Terminates June 30, ~~2021~~ 2029 ~~— sec. 1, Ch. 217, L. 1993~~.)*

61-3-537. ***(Effective July 1, ~~2021~~ 2029)*** **Local option vehicle tax.** (1) A county may impose a local vehicle tax on vehicles subject to a tax under 61-3-504 at a rate of up to 0.7% of the value determined under 61-3-503, in addition to the tax imposed under 61-3-504.

(2) A local vehicle tax is payable at the same time and in the same manner as the tax imposed under 61-3-504 and is distributed in the same manner, based on the registration address of the owner of the motor vehicle.

(3) The governing body of a county may impose, revise, or revoke a local vehicle tax ~~for a fiscal year~~ by adopting a resolution before July 1 ~~of the fiscal year~~, after conducting a public hearing on the proposed resolution."

Section 2. Section 4, Chapter 749, Laws of 1991, is amended to read:

"**Section 4. Termination.** [This act] terminates June 30, ~~1993~~ 2029."

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

-END-

70th Legislature LC 0048.01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT ENCOURAGING MUNICIPALITIES AND SCHOOL DISTRICTS TO DEVELOP ACCESSIBLE PLAYGROUNDS; APPROPRIATING FUNDS TO THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO DISTRIBUTE GRANTS TO HELP MUNICIPALITIES AND SCHOOL DISTRICTS SECURE ADDITIONAL FUNDING TO DEVELOP ACCESSIBLE PLAYGROUNDS; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, there are 8,674 children with disabilities between the ages of 1 and 17 living in communities across Montana; and

WHEREAS, many playgrounds across Montana are not accessible to or usable by children with disabilities; and

WHEREAS, many communities throughout Montana lack the funding needed to develop accessible playgrounds; and

WHEREAS, other federal and private funding sources often require matching funds; and

WHEREAS, a modest state investment will allow communities to leverage limited resources to allow children and adults of all abilities the opportunity to play together.

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

NEW SECTION. **Section 1. Appropriation.** (1) There is appropriated $100,000 from the state special revenue account created in 61-3-321(19)(a) for state parks to the department of fish, wildlife, and parks, parks division, for the biennium beginning July 1, 2027, to distribute grants to municipalities and school

districts to supplement local and private funds in order to secure other grant funding for developing accessible playgrounds that requires a match.

(2) Any state funds distributed must be matched at a rate of 1 to 1, with $1 in state funds to $1 in local funds. A grant may not exceed $10,000. The department shall ensure that funds are distributed only as necessary to secure other grant funding.

(3) The money must be used to leverage other grant funding that will increase accessibility in existing playgrounds or for the costs of accessibility features in new playgrounds. The money may not be used during initial construction for accessibility features required by the Americans With Disabilities Act for newly constructed playgrounds or to upgrade existing restroom or parking facilities that are not compliant with applicable accessibility standards.

NEW SECTION. **Section 2. Effective date.** [This act] is effective July 1, 2027.

-END-

70th Legislature LC 0148.01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A MONTANA HISTORICAL SOCIETY MEMBERSHIP SPECIAL REVENUE ACCOUNT; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Montana historical society membership special revenue account -- use -- statutory appropriation.** (1) There is a Montana historical society membership account in the state special revenue fund established in 17-2-102.

(2) There must be deposited in the account money received from the purchases of memberships to the Montana historical society.

(3) Money deposited in the account is statutorily appropriated, as provided in 17-7-502, to the Montana historical society and may not be used for any purposes other than the improvement, development, and operation of the society.

Section 2. Section 17-7-502, MCA, is amended to read:

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

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

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

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

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-1304;10-4-301; [10-4-304;] 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; [section 1]; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-150; 76-13-416; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. *(In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; . . . pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; . . . and pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2029.)*"

NEW SECTION. **Section 3. Codification instruction**. [Section 1] is intended to be codified as an integral part of Title 22, chapter 3, part 1, and the provisions of Title 22, chapter 3, part 1, apply to [section 1].

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

-END-

70th Legislature LC 0925.01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT APPROPRIATING MONEY TO THE DEPARTMENT OF LIVESTOCK TO SATISFY A FINAL JUDGMENT IN CAUSE NO. 79-14-GF, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA, GREAT FALLS DIVISION, IF THE CASE IS UPHELD ON APPEAL."

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

NEW SECTION. **Section 1. Appropriation.** (1) There is appropriated $391,500 from the general fund to the department of livestock for full payment of all obligations and judgments against the defendants in Cause No. 79-14-GF, United States district court, district of Montana, Great Falls division, entitled "M. P. Doran, et al., Plaintiffs v. James W. Glosser, et al., Defendants".

(2) The appropriation is effective only if the United States district court judgment filed and entered on March 23, 2006, is expressly upheld and made final following appeal to the United States court of appeals, ninth circuit.

(3) Money from the appropriation that is not spent must revert to the general fund.

-END-

70th Legislature LC 1010.01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE APPLICATION OF THE BOND VALIDATING ACT; AMENDING SECTION 17-5-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 17-5-205, MCA, is amended to read:

"**17-5-205. Application.** The application of the Bond Validating Act, Title 17, chapter 5, part 2, is extended to bonds issued and proceedings taken prior to ~~February 1, 2007~~ [the effective date of this act]."

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

-END-

70th Legislature LC 0911.01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE V, SECTION 6, OF THE MONTANA CONSTITUTION TO PROVIDE THAT THE LEGISLATURE SHALL MEET IN ANNUAL SESSIONS; AND PROVIDING AN EFFECTIVE DATE."*

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

Section 1. Article V, section 6, of The Constitution of the State of Montana is amended to read:

"**Section 6. Sessions.** The legislature shall ~~meet each odd-numbered year in regular session of not more than 90 legislative days~~ be a continuous body for two-year periods beginning when newly elected members take office. Any business, bill, or resolution pending at adjournment of a session shall carry over with the same status to any other session of the legislature during the biennium. The legislature shall meet at least once a year in regular session of not more than 60 legislative days. Any legislature may increase the limit on the length of any subsequent session. The legislature may be convened in special sessions by the governor or at the written request of a majority of the members."

NEW SECTION. **Section 2. Two-thirds vote required.** Because [section 1] is a legislative proposal to amend the constitution, Article XIV, section 8, of the Montana constitution requires an affirmative roll call vote of two-thirds of all the members of the legislature, whether one or more bodies, for passage.

70th Legislature LC 0911.01

NEW SECTION. **Section 3. Effective date.** [This act] is effective on approval by the electorate.

NEW SECTION. **Section 4. Submission to electorate.** [This act] shall be submitted to the qualified electors of Montana at the general election to be held in November 2028 by printing on the ballot the full title of [this act] and the following:

[ ] YES on Constitutional Amendment ____.

[ ] NO on Constitutional Amendment ____.

-END-

*Note: The title is limited to 100 words.

70th Legislature LC 1212.01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO THE MONTANA CONSTITUTION TO REPEAL ARTICLE VIII, SECTIONS 3 AND 4, WHICH PROVIDE FOR STATEWIDE PROPERTY TAX APPRAISAL, ASSESSMENT, AND EQUALIZATION; AND PROVIDING AN EFFECTIVE DATE."*

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

NEW SECTION. **Section 1. Repealer.** Article VIII, sections 3 and 4, of The Constitution of the State of Montana are repealed.

NEW SECTION. **Section 2. Two-thirds vote required.** Because [section 1] is a legislative proposal to amend the constitution, Article XIV, section 8, of the Montana constitution requires an affirmative roll call vote of two-thirds of all the members of the legislature, whether one or more bodies, for passage.

NEW SECTION. **Section 3. Effective date.** If approved by the electorate, [this act] is effective January 1, 2029.

NEW SECTION. **Section 4. Submission to electorate.** [This act] shall be submitted to the qualified electors of Montana at the general election to be held

in November 2028 by printing on the ballot the full title of [this act] and the following:

[ ] YES on Constitutional Amendment ____.

[ ] NO on Constitutional Amendment ____.

-END-

*Note: The title is limited to 100 words.

70th Legislature LC 0013.01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VIII OF THE MONTANA CONSTITUTION TO PROHIBIT STATE-IMPOSED TAXES ON REAL OR PERSONAL PROPERTY AND ALLOW A LOCAL GOVERNMENT OPTION TO TAX REAL AND PERSONAL PROPERTY."*

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

NEW SECTION. **Section 1.** Article VIII of The Constitution of the State of Montana is amended by adding a new section 17 that reads:

"**Section 17. State prohibited from levying property tax -- local option.** The legislature is prohibited from imposing a tax on the value of real or personal property. A local government may, at its option, impose a tax on real and personal property to defray the expenses of the local government."

NEW SECTION. **Section 2. Two-thirds vote required.** Because [section 1] is a legislative proposal to amend the constitution, Article XIV, section 8, of the Montana constitution requires an affirmative roll call vote of two-thirds of all the members of the legislature, whether one or more bodies, for passage.

NEW SECTION. **Section 3. Submission to electorate.** [This act] shall be submitted to the qualified electors of Montana at the general election to be held

in November 2028 by printing on the ballot the full title of [this act] and the following:

[ ] YES on Constitutional Amendment ____.

[ ] NO on Constitutional Amendment ____.

-END-

*Note: The title is limited to 100 words.

70th Legislature LC 0414.01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE STUDENT LOAN ADVISORY COUNCIL; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AMENDING SECTIONS 20-26-103, 20-26-104, AND 20-26-201, MCA; REPEALING SECTIONS 2-15-1520 AND 20-26-1104, MCA; AND PROVIDING AN EFFECTIVE DATE."*

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

Section 1. Section 20-26-103, MCA, is amended to read:

"**20-26-103. Definitions.** As used in parts 1 and 2, the following definitions apply:

(1) "Postsecondary institution" includes the units of the university system and any private postsecondary institution.

~~(2) "Program advisory council" means the student loan advisory council created by 2-15-1520.~~

~~(3)~~(2) "Resident student" means a person who was a resident of Montana prior to enrolling and who is attending a qualified postsecondary institution within Montana."

Section 2. Section 20-26-104, MCA, is amended to read:

"**20-26-104. Resident student financial assistance program created.** There is a resident student financial assistance program administered by the commissioner of higher education ~~in consultation with the program advisory council~~."

70th Legislature LC 0414.01

Section 3. Section 20-26-201, MCA, is amended to read:

"**20-26-201. Duties of commissioner of higher education relative to program.** ~~In consultation with the program advisory council, the~~ The commissioner of higher education shall:

(1) adopt policies to administer the resident student financial assistance program, including the establishment of criteria for student eligibility that must consider financial need;

(2) determine the amount of individual grants; and

(3) apply for, receive, and administer federal and private ~~moneys~~ money."

NEW SECTION. **Section 4. Repealer.** The following sections of the Montana Code Annotated are repealed:

2-15-1520. Student loan advisory council -- terms -- compensation.

20-26-1104. Student loan advisory council -- duties.

NEW SECTION. **Section 5. Effective date.** If approved by the electorate, [this act] is effective January 1, 2027.

NEW SECTION. **Section 6. Submission to electorate.** [This act] shall be submitted to the qualified electors of Montana at the general election to be held in November 2028 by printing on the ballot the full title of [this act] and the following:

[ ] YES on Legislative Referendum ____.

[ ] NO on Legislative Referendum ____.

-END-

*Note: The title is limited to 100 words. Section numbers of amended or repealed statutes do not count against the 100-word limit.

70th Legislature LC 0515.01

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 11 OF INITIATIVE MEASURE NO. 149; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 11 of Montana Initiative Measure No. 149 is amended to read:

"**Section 11. Applicability.** [This act] applies to cigarettes and other tobacco products received by wholesalers on or after ~~December 31, 2021~~ July 1, 2028."

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

-END-

70th Legislature LC 1116.01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING AN AMENDMENT TO ARM 4.6.607 TO PERMIT A HUSBAND AND WIFE FILING SEPARATE INCOME TAX RETURNS TO DIVIDE THE INCOME FROM A JOINT VENTURE OR PARTNERSHIP ACTIVELY MANAGED BY BOTH; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

WHEREAS, income tax regulations promulgated by the Department of Revenue now provide that net income from a business operated jointly by a husband and wife, such as a farm or ranch, is the income of only one spouse unless the spouses file as a partnership on their federal income tax return; and

WHEREAS, ARM 4.6.607 is arbitrary in that it obliges married taxpayers to forego either the federal tax advantages of joint filing or the state tax advantages of separate filing; and

WHEREAS, ARM 4.6.607 is against public policy in that it fails to recognize the equal contributions of both spouses to the management of many farms, ranches, small businesses, and firms.

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

NEW SECTION. **Section 1. Department to amend rule.** The department of revenue shall amend ARM 4.6.607 to delete the requirement that spouses dividing income from a joint venture must organize a bona fide partnership and file federal income tax returns as such and to provide that spouses may allocate the income from a jointly managed business according to their respective

contributions of time, labor, and capital to the business. The amendment must be made to apply to tax years beginning after December 31, 2026.

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

NEW SECTION. **Section 3. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2026.

-END-

70th Legislature LC 0017.01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE TAX CREDIT FOR NEW OR EXPANDING MANUFACTURERS; DIRECTING THE AMENDMENT OF ARM 42.23.511; REPEALING ARM 42.23.517; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

WHEREAS, the law allows a tax credit for new or expanding corporations; and

WHEREAS, the Legislature, in passing that law, intended to limit the law to manufacturers only and to give a tax credit to any form of manufacturing business, such as a sole proprietorship or partnership, and not just to corporations.

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

Section 1. The department of revenue shall amend ARM 42.23.511 to read:

"42.23.511 CREDIT FOR NEW OR EXPANDING ~~CORPORATIONS~~ MANUFACTURERS (1) Sections 15-31-124 through 15-31-127, MCA, as amended, allow a tax credit equal to 1% of wages paid by a new or expanding ~~corporation~~ manufacturer. Any ~~corporation~~ manufacturer seeking credit under 15-31-124 through 15-31-127, MCA, shall conclusively demonstrate its eligibility to the department. The department's decision shall be final.

(2) Each ~~corporation~~ manufacturer seeking a credit under 15-31-124 through 15-31-127, MCA, shall show:

(a) that ~~it is a corporation preregistered pursuant to Title 35, chapter 1, MCA, as amended~~ the manufacturer is preregistered as a valid existing business under the laws of this state;

(b) that it was registered for the first time during the tax year for which the first credit is claimed or that the industry meets the definition of expanding per 15-31-124, MCA, as amended; and

(c) that ~~the corporation is engaged in manufacturing~~ the applicant is a manufacturer as that term is defined in 15-31-124, MCA~~; and~~

~~(d) that the product manufactured is one, which prior to its production by the corporation, was not then currently produced in this state~~."

NEW SECTION. **Section 2. Repealer.** ARM 42.23.517 is repealed.

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

NEW SECTION. **Section 4. Applicability.** [This act] applies to tax years beginning after December 31, 2027.

-END-

70th Legislature LC 0218.01

_____ JOINT RESOLUTION NO. _____

INTRODUCED BY _____

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THE ADOPTION OF A RULE BY THE FISH AND WILDLIFE COMMISSION PROVIDING FOR THE EXAMINATION OF APPLICANTS FOR OUTFITTERS' LICENSES AT LOCATIONS OUTSIDE OF HELENA.

WHEREAS, the Department of Fish, Wildlife, and Parks licenses outfitters by examining applicants for licenses at its Helena offices; and

WHEREAS, the Department could examine applicants at its regional headquarters with little administrative inconvenience and by so doing would relieve the license applicants of an unwarranted burden.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Fish and Wildlife Commission be requested to immediately initiate proceedings to adopt a rule setting out procedures for the examination of applicants for outfitters' licenses at the various regional headquarters of the Department of Fish, Wildlife, and Parks.

-END-

70th Legislature LC 0619.01

_____ JOINT RESOLUTION NO. _____

INTRODUCED BY _____

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN AMENDMENT TO ARM 4.6.607 TO PERMIT A HUSBAND AND WIFE FILING SEPARATE INCOME TAX RETURNS TO DIVIDE THE INCOME FROM A JOINT VENTURE OR PARTNERSHIP ACTIVELY MANAGED BY BOTH.

WHEREAS, income tax regulations promulgated by the Department of Revenue now provide that net income from a business operated jointly by a husband and wife, such as a farm or ranch, is the income of only one spouse unless the spouses file as a partnership on their federal income tax return; and

WHEREAS, ARM 4.6.607 is arbitrary in that it obliges married taxpayers to forego either the federal tax advantages of joint filing or the state tax advantages of separate filing; and

WHEREAS, ARM 4.6.607 is against public policy in that it fails to recognize the equal contributions of both spouses to the management of many farms, ranches, small businesses, and firms.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Department of Revenue be strongly urged to proceed within 30 days to amend ARM 4.6.607 to delete the requirement that spouses dividing income from a joint venture must organize a bona fide partnership and file federal income tax returns as such and to provide that spouses may allocate the income from a jointly managed business according to their respective contributions of time, labor, and capital to the business.

-END-

70th Legislature LC 0420.01

HOUSE RESOLUTION NO. _____

INTRODUCED BY _____

A RESOLUTION OF THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA THAT, WHENEVER PRACTICABLE, ITS MEMBERS SHALL SALVAGE USED PAPER FOR RECYCLING.

WHEREAS, the Legislature and offices of state government use large amounts of paper each year; and

WHEREAS, the Legislature, the state, and the nation are concerned about the waste of paper; and

WHEREAS, the efficient use of forest products is of great concern to all of our citizens; and

WHEREAS, the House of Representatives desires to make a concerted effort toward a continual program of salvaging paper products for reuse; and

WHEREAS, a new industry in the State of Montana has indicated its willingness to cooperate with an immediate program of recycling.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the members of the House of Representatives immediately institute a used-paper recycling program by depositing used paper in the proper receptacles.

BE IT FURTHER RESOLVED, that the Chief Clerk of the House contact the proper authorities and make all arrangements necessary to carry out this program.

-END-

70th Legislature LC 0021.01

SENATE RESOLUTION NO. _____

INTRODUCED BY _____

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF HOUSING AND THE BOARD OF PERSONNEL APPEALS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 5, 2027, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Board of Housing, in accordance with section 2-15-1814, MCA:

Johnnie McClusky, Billings, Montana, appointed to serve a term ending January 1, 2029.

Pat Melby, Helena, Montana, appointed to serve a term ending January 1, 2029.

(2) As a member of the Board of Personnel Appeals, in accordance with section 2-15-1705, MCA:

Quint Nyman, Helena, Montana, appointed to serve a term ending January 1, 2029.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 70th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments

and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

-END-

70th Legislature LC 0222.01

_____ JOINT RESOLUTION NO. _____

INTRODUCED BY _____

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING MOTORISTS TO DRIVE WITH THEIR HEADLIGHTS ON DURING THE DAYTIME.

WHEREAS, hundreds of Montanans lose their lives in traffic accidents each year; and

WHEREAS, one out of every five traffic accidents on the open highways is the result of a head-on collision; and

WHEREAS, the use of headlights during the daytime is likely to reduce the number of traffic accidents.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That members of the motoring public of Montana be encouraged to drive with their headlights on low beam in the daytime to deter head-on collisions on the open highways.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to each member of the Montana Congressional Delegation.

-END-

70th Legislature LC 0723.01

_____ JOINT RESOLUTION NO. _____

INTRODUCED BY _____

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE UNITED STATES CONGRESS TO TAKE ACTION TO REQUIRE COVERAGE OF THE COST OF LONG-TERM CARE AND PRESCRIPTION DRUGS BY THE FEDERAL MEDICARE PROGRAM.

WHEREAS, the ever-increasing cost of prescription drugs and long-term care is beyond the income of most senior citizens; and

WHEREAS, the Medicare program omits prescription coverage; and

WHEREAS, billions of dollars are wasted because the United States Congress will not allow Medicare to use competitive bidding in ordering supplies.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the United States Congress be urged to enact legislation to place long-term care and prescription drugs in the Medicare program and give Medicare the right to use competitive bidding for purchasing prescription drugs and other supplies.

(2) That the United States Congress revise or eliminate those statutes and regulations that cause or contribute to the high cost of research and development of prescription drugs in the United States.

(3) That the Secretary of State send a copy of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the Majority Leader of the United States Senate, and each member of the Montana Congressional Delegation.

-END-

70th Legislature LC 0024.01

_____ JOINT RESOLUTION NO. _____

INTRODUCED BY _____

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO INVESTIGATE OPTIONS FOR IMPROVING ENERGY EFFICIENCY BUILDING CODE LAWS AND OTHER ENERGY EFFICIENCY AND CONSERVATION PRACTICES; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 70TH LEGISLATURE.

WHEREAS, section 50-60-201, MCA, establishes the purpose of the state building code; and

WHEREAS, section 50-60-201(6), MCA, provides that the state building code must be designed to "encourage efficiencies of design and insulation that enable buildings to be heated in the winter with the least possible quantities of energy and to be kept cool in the summer without air conditioning equipment or with the least possible use of the equipment"; and

WHEREAS, section 50-60-201(7), MCA, provides that the state building code must be designed to "encourage efficiencies and criteria directed toward design of building envelopes with high thermal resistance and low air leakage and toward requiring practices in the design and selection of mechanical, electrical, and illumination systems that promote the efficient use of energy".

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee or statutory committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(1) evaluate the state's current energy-efficient building policies and practices;

(2) investigate options for improving the energy-efficient building codes and practices in Montana; and

(3) study current technology related to improving energy efficiency in residential and office buildings.

BE IT FURTHER RESOLVED, that the study consider:

(1) the results of recent state and regional studies on the characteristics of nonresidential and residential building practices; and

(2) other information provided by state and local government agencies.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2028.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 70th Legislature.

-END-

70th Legislature LC 0625.01

_____ JOINT RESOLUTION NO. _____

INTRODUCED BY _____

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA AMENDING JOINT RULE 40-70 OF THE LEGISLATURE TO PROVIDE THAT A BILL EARMARKING FUNDING MAY NOT BE CONSIDERED UNLESS THE FUNDS ARE USED FOR THOSE FROM WHOM THEY ARE DERIVED OR UNLESS THE CONSTITUTION PROVIDES FOR THE EARMARKING; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That Joint Rule 40-70 be amended to read:

"**40-70. Bills with same purpose -- vetoes.** (1) A bill may not be introduced or received in a house after that house, during that session, has finally rejected a bill designed to accomplish the same purpose, except with the approval of the Rules Committee of the house in which the bill is offered for introduction or reception.

(2) Failure to override a veto does not constitute final rejection.

(3) It is not in order for either house to consider any bill providing for the earmarking of funding for the purpose of defraying particular costs of an agency, program, or function unless the funds are to be used for those from whom they are derived or are earmarked by the Montana Constitution. The determination of whether earmarking in a bill is permissible must be made by the Rules Committee of the house considering the bill."

~~(3)~~(4) That this resolution be effective on passage.

-END-

70th Legislature LC 0826.01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING SALES OF NEW DRUGS ~~AND OTHER PHARMACEUTICAL PRODUCTS~~; AND AMENDING SECTION 50-31-111, MCA."

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

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

NEW SECTION. **Section 1. Sale or donation of new drug unlawful -- exceptions.** Except as provided in [section 2], a person may not sell, offer for sale, hold for sale, or give away a new drug unless:

(1) a federal application has been approved;

(2) the drug is not subject to federal law; or

(3) an application has been filed with the department containing:

(a) a summary of the conclusions drawn from investigation of the drug;

(b) a list of the substances of which the drug is composed; and

(c) a sample of the label proposed as identification for the drug, which may not:

(i) be false or misleading; or

(ii) contain a name used by a registered drug unless:

(A) permission has been granted and a license has been obtained; or

(B) the name is for temporary use.

NEW SECTION. **Section 2. Nonapplication.** [Section 1] does not apply to any drug subject to 50-31-102 if the drug:

(1) is commercially sold in the United States; and

(2) has been tested by the department.

Section 3. Section 50-31-111, MCA, is amended to read:

"**50-31-111. When labeling requirement complied with.** (1) A requirement made by or under authority of this chapter that a word, statement, or other information ~~shall~~ must appear on the label is not complied with unless the word, statement, or other information also appears on the outside container or wrapper, if ~~any~~ there ~~be~~ is one, of the retail package of the article or is easily legible through the outside container or wrapper.

(2) A new drug must meet the labeling requirements provided for in [section 1]."

NEW SECTION. **Section 4. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 50, chapter 31, and the provisions of Title 50, chapter 31, apply to [sections 1 and 2].

-END-

70th Legislature LC 0027.01

BILL IDENTIFICATION

(Designation & No.) _____ BILL NO. _____

(Sponsor) INTRODUCED BY _____

(State agency or committee requester, if any) BY REQUEST OF_____

TITLE A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A SAMPLE BILL FOR THE BILL DRAFTING MANUAL; ELIMINATING STATUTES RELATED TO PASSENGER ROPEWAYS; PROVIDING DEFINITIONS; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING PENALTIES; PROVIDING AN APPROPRIATION; CREATING A STATE DEBT; SUPERSEDING THE UNFUNDED MANDATE LAWS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-17-301 AND 17-7-502, MCA; AMENDING SECTION 4, CHAPTER 749, LAWS OF 1991, AND SECTION 1, CHAPTER 217, LAWS OF 1993; REPEALING SECTIONS 23-2-702, 23-2-703, AND 23-2-704, MCA; REPEALING SECTION 6, CHAPTER 20, SPECIAL LAWS OF NOVEMBER 1993; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING EFFECTIVE DATES, A RETROACTIVE APPLICABILITY DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE."

PREAMBLE (Optional)

WHEREAS, the Montana Supreme Court stated in State v. Aakre, 2002 MT 101, 309 Mont. 403, 46 P.3d 648, that the federal exceptions to the other crime rule for sex crimes have not been adopted in Montana; and

WHEREAS, the Montana Supreme Court also stated in State v. Aakre that if there is to be an automatic exception to

Rule 404(b) of the Montana Rules of Evidence for sex crimes in Montana, it is appropriate for the Legislature to address that issue; and

WHEREAS, it is the Legislature's desire to create a limited exception to the prohibition against admission of evidence of other crimes found in Rule 404(b) of the Montana Rules of Evidence for the purposes of criminal prosecutions involving child molestation and for the purposes of civil actions involving sexual assault or child molestation.

ENACTING CLAUSE (Mandatory)

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

BODY (Short title)

NEW SECTION. **Section 1. Short title.** [Sections 1 through 4 and 6 through 8] may be cited as the "Bill Sample Act".

(Purpose)

NEW SECTION. **Section 2. Purpose.** The purpose of [sections 1 through 4 and 6 through 8] is to create a bill, the structure of which may be used by drafters as an example of correct style and form.

(Definitions)

NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 4 and 6 through 8], unless the context requires otherwise, the following definitions apply:

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

(2) "Legislative services division" has the same meaning as provided in 5-11-111.

(3) "Montana constitution" or "constitution" means The Constitution of the State of Montana.

(4) "Navigable stream" has the same meaning as "navigable river" as defined in 77-1-1110.

(5) "Recodify" means to compile, arrange, rearrange, and prepare the Montana Code Annotated for publication.

(Basic provisions)

NEW SECTION. **Section 4. Department head.** Each department head shall supervise the functions vested in the department and represent the department in communications with the governor.

(Amendatory language)

Section 5. Section 2-17-301, MCA, is amended to read:

"**2-17-301. Supervision of mailing facilities.** The ~~controller~~ department shall maintain and supervise the central mailing facilities."

(New language)

NEW SECTION. **Section 6. Code commissioner.** There is within the legal services office of the legislative services division a code commissioner.

(Outline form)

NEW SECTION. **Section 7. Sale or donation of new drug unlawful -- exceptions -- rulemaking authority.** A person may not sell, offer for sale, hold for sale, or give away a new drug unless:

(1) a federal application has been approved;

(2) the drug is not subject to federal law; or

(3) an application has been filed with the department containing:

(a) a summary of the conclusions drawn from investigation of the drug;

(b) a list of the substances of which the drug is composed; and

(c) a sample of the label proposed as identification for the drug, which may not:

(i) be false or misleading; or

(ii) contain a name used by a registered drug unless:

(A) permission has been granted and a license has been obtained; or

(B) the name is for temporary use.

(Reporting requirement)

NEW SECTION. **Section 8. Fentanyl mandatory minimum report.** Pursuant to the attorney general's duty provided in 2-15-501(5) to exercise supervisory control over the county attorneys and to require of them reports as to the public business entrusted to their charge, beginning on September 1, 2028, the attorney general shall report annually by September 1 to the law and justice interim committee and the judicial branch, law enforcement, and justice budget committee in accordance with 5-11-210 on the number of times a court imposed a mandatory minimum required by 45-9-101(6) or 45-9-103(3) in the previous fiscal year.

(Penalty)

NEW SECTION. **Section 9. Penalty.** A person convicted of violating 45-2-102 shall be fined an amount not to exceed $500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(Amend session law)

Section 10. Section 4, Chapter 749, Laws of 1991, is amended to read:

"**Section 4. Termination.** [This act] terminates June 30, ~~1993~~ 2027."

Section 11. Section 1, Chapter 217, Laws of 1993, is amended to read:

"**Section 1.** Section 4, Chapter 749, Laws of 1991, is amended to read:

"**Section 4. Termination.** [This act] terminates June 30, ~~1993 2021~~ 2027.""

(Repealer)

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

23-2-702. Definitions.

23-2-703. Ropeways not common carriers or public utilities.

23-2-704. Unlawful to endanger life or cause damage.

NEW SECTION. **Section 13. Repealer.** Section 6, Chapter 20, Special Laws of November 1993, is repealed.

(Transfer of funds)

NEW SECTION. **Section 14. Transfer of funds.** The department of fish, wildlife, and parks is authorized to transfer money appropriated in [sections 1 through 4] among fund types.

NEW SECTION. **Section 15. Transfer of funds.** Any general fund reversions for fiscal year 2027 in excess of $15.9 million and any general fund reversions for fiscal year 2028 in

excess of $6 million must be transferred to the long-range program account to be used to fund capital projects.

(Appropriation)

NEW SECTION. **Section 16. Appropriation.** There is appropriated $1 million from the state special revenue account created in [section 4] to the department of transportation for the fiscal year ending June 30, 2029, for the purposes described in [section 1].

NEW SECTION. **Section 17. Appropriation.** (1) There is appropriated $500,000 from the general fund to the department of public health and human services for the biennium beginning July 1, 2027.

(2) The appropriation must be used to pay for costs billed to the state for the precommitment psychiatric detention, precommitment psychiatric examination, or precommitment psychiatric treatment of a person in an involuntary commitment proceeding as provided in 53-21-132.

[additional subsections below, if needed]

(3) The legislature intends that the appropriation in this section be considered part of the ongoing base for the next legislative session.

(4) Money from the appropriation that is not spent during the biennium must revert to the general fund.

(Unfunded mandate)

NEW SECTION. **Section 18. Unfunded mandate laws superseded.** The provisions of [this act] expressly supersede and modify the requirements of 1-2-112 through 1-2-116.

(Transition)

NEW SECTION. **Section 19. Transition.** A general powers local government that is imposing impact fees adopted on or before [the effective date of this section] shall bring those fees into compliance with [this act] by October 1, 2028.

(Tribal notification)

NEW SECTION. **Section 20. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

(Name change)

NEW SECTION. **Section 21. Name change -- directions to code commissioner.** Wherever a reference to the fish, wildlife, and parks commission appears in legislation enacted by the 2027 legislature, the code commissioner is directed to change it to an appropriate reference to the fish and wildlife commission.

(Renumber to new chapter)

NEW SECTION. **Section 22. Directions to code commissioner.** (1) The code commissioner is instructed to renumber sections currently in Title 19, chapter 3, part 21, into a new chapter in Title 19.

(2) The code commissioner is instructed to change all internal references within and to the renumbered sections in the Montana Code Annotated, including within sections enacted or amended by the 2027 legislature, to reflect the new section numbers assigned pursuant to this section.

(3) Any section enacted by the 2027 legislature that is to be codified in Title 19, chapter 3, part 21, must be codified as an integral part of the new chapter, and the provisions of the new chapter apply to the enacted sections.

(Renumber to different title, chapter, and part)

NEW SECTION. **Section 23. Directions to code commissioner.** (1) Section 53-1-216 is intended to be renumbered and codified as an integral part of Title 5, chapter 5, part 2.

(2) The code commissioner is instructed to change all internal references within and to 53-1-216 in the Montana Code Annotated, including within sections enacted or amended by the 2027 legislature, to reflect the new section number assigned pursuant to this section.

(Codification instruction)

NEW SECTION. **Section 24. Codification instruction.** [Sections 1 through 8] are intended to be codified as an integral part of Title 2, chapter 6, part 15, and the provisions of Title 2, chapter 6, part 15, apply to [sections 1 through 8].

NEW SECTION. **Section 25. Codification instruction -- directions to code commissioner.** (1) [Sections 1 through 3 and 6 through 8] are intended to be codified as an integral part of Title 2, chapter 6, part 7, and the provisions of Title 2, chapter 6, part 7, apply to [sections 1 through 3 and 6 through 8].

(2) [Section 4] is intended to be codified as an integral part of Title 2, chapter 5, and the provisions of Title 2, chapter 5, apply to [section 4].

(3) Title 5, chapter 23, parts 8 and 9, are intended to be renumbered and codified as an integral part of Title 2, chapter 7.

(Coordination)

(also see section 4-20)

COORDINATION SECTION. **Section 26. Coordination instruction.** If House Bill No. 56 is passed and approved and if it includes a section that amends 56-4-401, then [section 5 of this act], amending 56-4-401, is void.

COORDINATION SECTION. **Section 27. Coordination instruction.** If both House Bill No. 69 and [this act] are passed and approved and if both contain a section that amends 16-2-203, then the sections amending 16-2-203 are void and 16-2-203 must be amended as follows:

"**16-2-203. Sales to licensees.** Agency liquor stores may sell to licensees ~~licensed under this code~~ all kinds of liquor at the posted price. All sales must be paid for at the time of sale or made as provided in 16-2-111."

COORDINATION SECTION. **Section 28. Coordination instruction.** If both House Bill No. 140 and [this act] are passed and approved, then the reference to "mechanized equipment fuels reduction pilot program account" in [section 1(5)(b) of this act] must be changed to "forest health account".

COORDINATION SECTION. **Section 29. Coordination instruction.** If House Bill No. 284, House Bill No. 546, and [this act] are all passed and approved, then [section 1 of House Bill No. 284] must be amended as follows:

"NEW SECTION. **Section 1. Environmental rehabilitation and prevention account.** (1) There is an environmental rehabilitation and prevention account in the state special revenue fund provided for in 17-2-102.

(2) There must be deposited in the account unclaimed or excess reclamation bond money received, pursuant to 82-4-141, and interest earned on the account.

(3) Money in the account is available to the department of environmental quality by appropriation and must be used to pay for reclamation of unclaimed mine lands.

(4) Whenever money deposited in the account during a fiscal year exceeds ~~$250,000~~ $100,000, the amount deposited in the account during the fiscal year in excess of ~~$250,000~~ $100,000 must, at the end of the fiscal year, be transferred to the general fund."

COORDINATION SECTION. **Section 30. Coordination instruction.** If either House Bill No. 294 or Senate Bill No. 284, or both, and [this act] are passed and approved and if either or both and [this act] contain a section that amends 19-8-502, then the sections amending 19-8-502 are void and 19-8-502 must be amended as follows:

"**19-8-502. Member's contribution.** (1) Each member is required to contribute into the pension trust fund ~~8.5%~~ 10% of

the member's monthly compensation, which must be deposited to the member's credit in the pension trust fund.

(2) Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code of 1954, as amended and applicable on July 1, 1985, shall pick up and pay the contributions that would be payable by the member under subsection (1) for service rendered after June 30, 1985.

(3) The member's contributions picked up by the employer must be designated for all purposes of the retirement system as the member's contributions, except for the determination of a tax upon a distribution from the retirement system. These contributions must become part of the member's accumulated contributions but must be accounted for separately from those previously accumulated.

(4) The member's contributions picked up by the employer must be payable from the same source as is used to pay compensation to the member and must be included in the member's wages, as defined in 19-1-102, and the member's compensation as used to define the member's highest average compensation in 19-8-101. The employer shall deduct from the member's compensation an amount equal to the amount of the member's contributions picked up by the employer and remit the total of the contributions to the board."

COORDINATION SECTION. **Section 31. Coordination instruction.** If either House Bill No. 294 or Senate Bill No. 284, or both, and [this act] are passed and approved and if either or both and [this act] contain a section that amends 19-8-504, then

the sections amending 19-8-504 are void and 19-8-504 must be amended as follows:

"**19-8-504. State employer's contribution.** Each month, state employers shall pay to the pension trust fund a sum equal to ~~9%~~ 12% of the total compensation paid to their covered employees. The department of fish, wildlife, and parks shall include in its budget and shall request for legislative appropriation an amount necessary to defray the state's portion of the costs of this section."

(Sections 30 and 31 are separate coordination instructions for the same bill. Two coordination sections are required because a conflict requires that two MCA sections be amended.)

COORDINATION SECTION. **Section 32. Coordination instruction.** (1) If both Senate Bill No. 7 and [this act] are passed and approved, then Senate Bill No. 7 is void.

(2) If both Senate Bill No. 377 and [this act] are passed and approved, then [sections 1 through 4 of this act] are void. If Senate Bill No. 377 is not passed and approved, then [this act] is void.

COORDINATION SECTION. **Section 33. Coordination instruction.** If House Bill No. 352 is passed and approved, then [section 3(2) of this act] is amended to insert:

"(b) early literacy targeted interventions pursuant to [sections 1 through 4 of House Bill No. 352];"

COORDINATION SECTION. **Section 34. Coordination instruction.** If both House Bill No. 543 and [this act] are passed and approved, then [section 1 of House Bill No. 543] is void and [section 1 of this act] must be amended as follows:

"**Section 1. Bond election -- impact on value.** (1) ~~The~~ Except as provided in subsection (2), the form of the ballot for a bond election . . ."

COORDINATION SECTION. **Section 35. Coordination instruction.** If both House Bill No. 167 and [this act] are passed and approved and if House Bill No. 167 contains a section that amends 2-2-121(3)(b) to include a new subsection (3)(b)(ii), then the section in House Bill No. 167 amending 2-2-121 is void and [section 1 of this act] must be amended to include a new subsection (3) that reads as follows:

"(3) It is a properly incidental activity for personal staff of legislative leadership who are exempt as provided in 2-18-104 to support nonelection political caucus activity involving legislative business in the normal course of duties as directed by legislative leadership."

(Saving clause)

NEW SECTION. **Section 36. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

(Severability)

NEW SECTION. **Section 37. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or

more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

(Nonseverability)

NEW SECTION. **Section 38. Nonseverability.** It is the intent of the legislature that each part of [this act] is essentially dependent upon every other part, and if one part is held unconstitutional or invalid, all other parts are invalid.

(Extraordinary vote)

NEW SECTION. **Section 39. Three-fifths vote required.** Because [section 1] authorizes the expenditure of a portion of the gasoline dealers' license tax for weed control along the state road system, Article VIII, section 6, of the Montana constitution requires a vote of three-fifths of the members of each house of the legislature for passage.

NEW SECTION. **Section 40. Three-fourths vote required.** Because [section 2] appropriates money from the coal severance tax trust fund, Article IX, section 5, of the Montana constitution requires a vote of three-fourths of the members of each house of the legislature for passage.

NEW SECTION. **Section 41. Three-fourths vote required.** Because [section 1] creates a subfund in the coal severance tax trust fund, Article IX, section 5, of the Montana constitution, as interpreted by the Montana supreme court in Montanans for the Coal Trust v. State, requires a vote of three-fourths of the members of each house of the legislature for passage.

NEW SECTION. **Section 42. Two-thirds vote required.** Because [section 2] limits governmental liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage.

NEW SECTION. **Section 43. Two-thirds vote required -- contingent voidness.** Because [section 2] limits governmental liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage. If [this act] is not approved by at least two-thirds of the members of each house of the legislature, then [section 2] is void.

NEW SECTION. **Section 44. Two-thirds vote required.** Because [section 1] authorizes the creation of state debt, Article VIII, section 8, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage.

NEW SECTION. **Section 45. Two-thirds vote required.** Because [section 1] is a legislative proposal to amend the constitution, Article XIV, section 8, of the Montana constitution requires an affirmative roll call vote of two-thirds of all the members of the legislature, whether one or more bodies, for passage.

(Contingent voidness)

NEW SECTION. **Section 46. Contingent voidness.** If the defined contribution retirement plan enacted by Chapter 498, Laws of 2007, cannot be implemented because of an unfavorable internal revenue service determination or ruling, then [this act] is void.

NEW SECTION. **Section 47. Contingent voidness.** If the department of transportation receives notice that the increase in the combined trailer length in [this act] will threaten federal highway funding, then [this act] is void. The department shall notify the code commissioner of the notice and the date on which the notice was received.

NEW SECTION. **Section 48. Contingent voidness.** (1) Pursuant to Joint Rule 40-65, if [this act] does not include an appropriation prior to being transmitted to the governor, then [this act] is void.

(2) If the appropriation in [section 3] is vetoed, then [this act] is void.

(Effective date)

(also see section 4-26)

NEW SECTION. **Section 49. Effective dates.** (1) Except as provided in subsections (2) and (3), [this act] is effective October 1, 2027.

(2) [Sections 1 and 2] are effective January 1, 2028.

(3) [Sections 3 through 5 and 9] and this section are effective on passage and approval.

NEW SECTION. **Section 50. Effective date.** [This act] is effective on passage and approval.

(Retroactive applicability) NEW SECTION. **Section 51. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2026.

(Applicability) NEW SECTION. **Section 52. Applicability.** [This act] applies to proceedings begun on or after [the effective date of this act].

(Termination) NEW SECTION. **Section 53. Termination.** [Sections 1 through 6] terminate September 30, 2028.*

-END-

*Noncodified sections should not be terminated. A repealer section **may not** be terminated (i.e., once MCA sections are repealed, they may not be "unrepealed"). See section 4-2 for a listing of codified and noncodified sections from the bill body.

New amendments to a temporary section must terminate when the temporary section terminates pursuant to section 1-2-203, MCA.

Bill Drafter Checklist

Note: Each question on the checklist calls for a "yes", "no", or "N/A" response. Section number references are to the Bill Drafting Manual.

1 - Conformity with state and federal Constitutions considered (section 1-2)? _____

2 - Existing Montana statutes reviewed to avoid conflicts, duplication, or confusion (section 1-4)? _____

3 - Internal references checked (section 1-8)? _____

4 - Title contains one subject clearly expressed (section 4-4)? _____

5 - Code placement and applicability considered, added note to codifier on Review tab if needed (section 4-19)? _____

6 - Fiscal note probable (section 6-1)? _____

7 - Local government unfunded mandate not superseded by 1-2-112 through 1-2-116 (section 6-2)? _____

8 - Fiscal impact requiring July 1 effective date (sections 4-26, 6-1)? _____

9 - Appropriations bill (section 6-1)? _____

10 - Revenue bill (section 6-1)? _____

11 - Note provided indicating source of draft (e.g., model act, other state statute, etc.) (section 1-7)? _____

12 - Tribal notification required (section 1-3)? _____

13 - Short bill title revised to reflect draft (section 4-4(11))? _____

14 - Changed/added bill subjects (revenue, local government impact, and constitutional amendment)? _____

15 - Grants or extends rulemaking authority (section 6-3)? _____

FOLIO VIEWS

The MCA on Folio is one huge file beginning with the Constitution and going through the MCA. The MCA is broken down into location of data (Constitution, Title) and type of data (MCA section text, case notes, etc.). A user can page up and down to see the entire database. The database contains section text and annotations merged so that the user can check for applicable annotations under each code section.

Folio provides hypertext links for all MCA section references, whether occurring in an MCA section or in an annotation element. Linked material is blue and underlined. A single click on the link takes you to the section. To return to where you were, simply use the Go Back arrow button on the toolbar at the top of the screen.

THE SCREEN

Folio Views provides six different ways of looking at the MCA. The screen has six tabs in the lower part of the screen, which, from left to right, are as follows:

All -- a busy screen with the main middle frame showing the MCA; the top frame (the Reference frame) showing the cursor location in the MCA; the Contents frame on the left; and the Hit List frame at the bottom.

Search -- the main middle frame shows the MCA, with the Reference frame at the top and the Hit List frame at the bottom.

Browse -- the main middle frame shows the MCA with the Reference frame at the top and the Contents frame at the left.

Document -- the main frame shows the MCA with the Reference frame at the top.

Contents -- shows the Contents for the MCA.

Hit List -- lists the hits from the last search (it is blank until a search is conducted).

The size of each of the frames may be adjusted in the same way as any other Windows frame by putting the cursor on the frame divider and, when it turns into a line with arrows, holding the left mouse button to enlarge or contract the size of the frame.

SEARCHING -- MCA SEARCH TEMPLATE

The easiest way to conduct a search of the MCA text is through the use of the **MCA Search** template found at the bottom of the drop-down **Search** menu. When the **MCA Search** template appears, by default it will search just MCA section text for the words you type in the **Search** box. Type in a word or phrase and hit the **OK** button. The controls work as follows:

Search -- Type in a word, section number, phrase in quotes, or other search term (note that Folio Views does not recognize punctuation or special characters such as a dollar sign). Some simple examples can be found below.

COMMON QUERY SYNTAX FOR FOLIO

AND

EXAMPLES: purple and heart
purple & heart
purple heart

These queries will return all MCA sections with both the word "purple" and the word "heart". Folio assumes that there is an "and" between words if no connector is typed in.

OR

EXAMPLES: purple or heart
purple|heart

These queries will return all MCA sections that have either the word "purple" or the word "heart" or both "purple" and "heart". This search will return more hits than in the examples for "and". (The "|" symbol can be used instead of "or".)

NOT

EXAMPLES: purple not heart
purple^heart

These queries will return all MCA sections that contain the word "purple" but do not contain the word "heart".

EXCLUSIVE OR (Xor)

EXAMPLES: purple xor heart
purple~heart

These queries will return all MCA sections that contain either the word "purple" or the word "heart" but not both "purple" and "heart".

PHRASE

EXAMPLE: "purple heart"

This query in quotes returns MCA sections with the phrase "purple heart" exactly as in the quotes.

SINGLE CHARACTER WILDCARD

EXAMPLES: wom?n
g??b?r

This query will locate words with the same sequence of letters listed but with a different letter in place of a single question mark.

MULTIPLE CHARACTER WILDCARD

EXAMPLES: work*
h*t*

This query will locate words with the same sequence of letters listed but with multiple different letters in place of a single asterisk.

ORDERED PROXIMITY

EXAMPLE: "purple heart"/5

This query (words in quotes followed by a slash and a number) returns MCA sections where the word "purple" is found within five words of the word "heart" in the order given in the quotes.

UNORDERED PROXIMITY)

EXAMPLE: "purple heart"@5

This query returns unordered proximity—the word "purple" must be within five words of the word "heart", but they can be in any order.

STEM (WORD FORM)

EXAMPLES: run%
great%

This query will locate the base word in question with different endings, such as "runner", "running", and "runs".

THESAURUS (SYNONYMS)

EXAMPLES: flying$
alterations$

This query will display a list of synonyms of the word in question with the number of record hits in the MCA per word.

NOTE: Punctuation is recognized in various ways by Folio. The apostrophe in **officer's** will be found, but the apostrophe after **s** in the word **citizens'** will not be found. If you type "tax-exempt", the search will show all hyphenated and unhyphenated occurrences.

REPEALING, RENUMBERING, OR TERMINATING AN ENTIRE CHAPTER OR PART

EXAMPLE: repealing Title 15, chapter 71, part 1

Search section text for: "title 15, chapter 71, part 1"
"title 15, chapter 71, parts" (finds "parts 1 through 4")
"title 15, chapter 71" & part or parts (finds "part 1 of Title 15, chapter 71" or "parts 1 through 4 of Title 15, chapter 71")

Search section text in Title 15 only (limit search) for: "chapter 71, parts"
"part 1"
parts & 1 (finds "parts 1 through 4 of this chapter")

EXAMPLE: repealing Title 30, chapter 8

Search section text for: "title 30, chapter 8"
"title 30, chapters"

Search section text in Title 30 only (limit search) for: "chapter 8"
chapters & 8

CHANGING A DEFINED TERM

Anytime that you change a term that is defined in a definition section, you **must** search the appropriate part of the MCA for that term and change each occurrence. Think of as many possible (some bad) ways of using the term.

EXAMPLE: "child with disabilities" to "child with a disability"

Search section text for: "child with disabilities"
"children with disabilities"
any other variation that you can think of

CHANGING A PHRASE (DEFINED OR NOT)

EXAMPLE: youth in need of supervision

Search section text for: "youths in need of supervision"
"youth" and "supervision" (finds "a youth who is determined to be in need of supervision")

EXAMPLE: game wardens' retirement system

Search section text for: "game wardens retirement" (Folio does not recognize the apostrophe in wardens'")
"game wardens" and "retirement" (finds "highway patrol officers', sheriffs', game wardens', firefighters' unified, or municipal police officers' retirement system")

Limit Search to Specific MCA Element -- Click on the appropriate "radio button" to choose the element you wish to search. To search the whole MCA database regardless of element, use either **Query** or **Advanced Query** in the **Search** drop-down menu.

Checked Branches -- Before you open the MCA Search template, go to the Contents tab and use your mouse to check the boxes for the parts of the MCA that you want to search. If you don't see check boxes in your Contents, open the **View** drop-down menu and select **Show Check Boxes**. Note that each plus sign in the table of contents opens up when clicked. Open a Title and see all of the chapters in the Title; open a chapter to see all of the parts in the chapter; open the part to see all of the sections in the part; and open a section to see the annotations to the section. With check boxes, you can choose as many items as you wish and you may choose the most specific level you wish. A check in front of Title 7 will cause all of Title 7 to be searched, but nothing else. Checks in front of Titles 7, 20, and 53 will cause all of those Titles to be searched. You can check just a part to limit your search to that part. The **View** drop-down menu under Contents allows you to remove all checks at once.

Word -- This is a word wheel that shows every word in the database. It is useful

to see plurals and derivations of words. The words change as you type in search terms. To choose words on the word wheel, double click on them -- note that they enter the search box separated by "|" (the "or" symbol).

Records With Hits -- After you run a search, you may click on **View** and then select **Records With Hits** to show only those records on your screen. To print only those sections containing hits, go to **File**, then **Print**, and then select the **All** radio button. **WARNING!** Be sure that you don't select **All** if you have not selected **Records With Hits** or the entire database will print.

SEARCHING – QUERY

A query searches the whole database (there is no weight given to the elements or location) and gives the hits in order of relevance. Relevance means that the record with the most hits is shown first and the one with the fewest is shown last. Use the **Hit List** to view them in relevance order or just go from hit to hit in relevance order. A search by **Query** uses the same rules as for the **MCA Search**.

SEARCHING – ADVANCED QUERY

Advanced Query provides more control over a search than does **Query**. You can use the word wheel to see variations of words, and you can use more complex commands. The search is of the whole database. The results of an **Advanced Query** appear in order of their appearance in the MCA: Results in the Constitution come first, followed by Titles in numerical order.

MOVING THROUGH SEARCH RESULTS

To see your search results, hit **OK** after the **MCA Search**, **Query**, or **Advanced Query**. You then return to the view you were on when you started the search.

You are taken to the first hit, either the most relevant hit if the search was **Query** or the first in the MCA for the other searches. While in the document, you can go to the next hit by using the **Next Hit** (double arrow) button at the bottom of the screen. The cursor moves to the next hit. To go to the next record with hits -- for instance to avoid clicking through all of the subsequent hits in the same section -- use **Next Partition Hit** -- the smaller (double arrow) buttons on a picture of a page to the right of the **Next Hit** buttons. You may use these buttons to go backward through the search results as well.

CHEAT SHEET FOR SEARCHING THE MCA

RUNNING A BASIC SEARCH

Click on MCA icon on your desktop or otherwise access Folio.
On main Folio screen, click on **Search** on top toolbar.
Click on **MCA Search** at bottom of drop-down menu.
The **Section Text** radio button will be automatically selected.
The cursor will appear in the search window.
Type the section number or word or words that you want to find.
Click on **OK** (found under the search window).

HOW TO SEARCH WITHIN A PARTICULAR TITLE, CHAPTER, OR PART

Click on the **Contents** tab at the bottom of the main Folio screen.

To search within a Title, click on the box in front of that Title.

To search within a chapter, do not click on the box in front of the Title -- instead, click on the + sign in front of the Title and then click on the box in front of the chapter.

To search within a part, do not click on the box in front of the chapter-- instead, click on the + sign in front of the chapter and then click on the box in front of the part.

After selecting the portion of the MCA that is to be searched, click on the **Document** tab at the bottom of the main Folio screen to return to the text of the MCA, then follow the instructions for running a basic search.

Note that the **Checked Branches** box at the top center of the search window now has a checkmark in it. DO NOT forget to go back to the **Contents** tab after you have run your search so that you can uncheck the Title, chapter, or part that you selected before you run any other searches.

HOW TO PRINT THE SEARCH

Click on **View** on top toolbar.

Click on **Records with Hits**.

Click on **File** on top toolbar.

Click on **Print** on drop-down menu.

Select **All** radio button. (WARNING: Make sure “Records with Hits” is selected.)

Click on **OK** in lower right corner of print box.

For additional information on searching the MCA, see sections 4-14, 8-2, and 10-2.

PRESESSION AUTHORITY TO PREINTRODUCE

DO NOT RETURN THIS FORM EXCEPT TO INTRODUCE THIS BILL

SIGNING THIS FORM IS THE SAME AS SIGNING THE BILL

(Joint Rule 40-40(6))

To the Executive Director of the Montana Legislative Services Division:

I understand that signing and returning this form has the same effect as introducing the bill during the session. This preintroduction form will authorize the assignment of a bill number and distribution of the bill prior to the convening of the legislative session.

Please PREINTRODUCE this bill by typing my name and the names of the additional sponsors (if any) on the bill, numbering the bill, and distributing the bill prior to the convening of the legislative session.

You are hereby authorized to number and distribute LC____.01 prior to the convening of the legislative session.

SPONSORED BY _____

CHIEF SPONSOR (SIGN)

_____

CHIEF SPONSOR (PRINT)

_____

(DATE)

Additional sponsors must sign and print their names here:

DO NOT RETURN THIS FORM EXCEPT TO INTRODUCE THIS BILL.

TO PREINTRODUCE THIS BILL, MAIL THIS FORM, SIGNED AND DATED, TO THE EXECUTIVE DIRECTOR, LEGISLATIVE SERVICES DIVISION, PO BOX 201706, HELENA, MONTANA 59620-1706, OR FAX THE FORM TO (406) 444-3036, OR E-MAIL SCANNED FORM TO LEGBILLS@MT.GOV. A BILL NUMBER WILL BE ASSIGNED, YOUR NAME WILL BE TYPED ON THE BILL, AND THE BILL WILL BE DISTRIBUTED PRIOR TO THE CONVENING OF THE LEGISLATIVE SESSION.

Note: You do <u>not</u> need to return the bill with this form.

(1) Bill drafting request
- (a) draft
- (b) draft given to requester
- (c) legal review
- (d) edit
- (e) data entry
- (f) proof
- (g) final drafter review
- (h) assembled
- (i) bill given to requester

(2) Redo (optional)
repeat all steps from (1)

(3) Introduction

(4) Printing

(5) First reading
- (a) fiscal note (if required)
- (b) referral to committee
- (c) hearing
- (d) committee report
- (e) placed on calendar

(6) Second reading
- (a) committee of the whole
- (b) amendment and engrossing

(7) Third reading
- (a) final vote
  - (i) failure — death or rereferral to committee
  - (ii) approval — transmittal to other house

(8) First reading (second house)
- (a) referral to committee
- (b) hearing
- (c) report of committee
- (d) placed on calendar

(9) Second reading (second house)
- (a) committee of the whole
- (b) amendment and engrossing

(10) Third reading (second house)

(a) final vote
  (i) failure — death or rereferral to committee
  (ii) approval in same form as received
  (iii) approval in form different from how received
    (A) conference committee
    (B) free conference committee
    (C) death or enrolling

(11) Transmittal to Governor

(a) sign bill or fail to act within time limit (automatically becomes law)
(b) veto bill
(c) amendatory veto of bill — return to house of origin to begin process anew or poll conducted

(12) Nonvetoed bills or veto override bills transmitted to Secretary of State and chapter number assigned

OUTLINE SPACING

Em and en spaces are no longer used in outline spacing. The new approach uses simple tabs and single spaces. Drafters need to incorporate this approach when inserting new text, such as in new sections or in entirely new subsections in amended sections. The editors will adjust outline spacing in already existing section text. Single spaces are used after outlining directly following a catchline (e.g., "(1)**SPACE**(a)**SPACE**"), and tabs are used afterward following the outlining appearing first on each line throughout the section (e.g., "(2)**TAB**"). Single spaces are used after the second and third outlining appearing on the same line as the first outlining and the tab (e.g., "(3)**TAB**(a)**SPACE**(i)**SPACE**").

EXAMPLE:

NEW SECTION. **Section 6. Custodial care of capitol buildings and grounds.** (1)**SPACE**The department of administration is custodian of all state property and grounds in the capitol complex.

(2)**TAB**(a)**SPACE**The department shall supervise and direct the work of caring for and maintaining buildings and equipment in the capitol complex.

(b)**TAB**The department shall provide or approve all custodial, maintenance, and security work done on state-owned or leased buildings in the capitol complex.

(c)**TAB**The legislature shall pay the maintenance service fee rate approved by the legislature for:

(i)**TAB**the legislative space for nonpartisan legislative staff within the capitol; and

(ii)**TAB**the old board of health building, including common space.

(3)**TAB**(a)**SPACE**Except as provided in subsection (3)(b), a state agency may not alter, improve, repair, or remodel a state building in the state capitol area without the approval of the department.

(b)**TAB**(i)**SPACE**After giving notice to the department, the legislative council may alter, improve, or remodel legislative space that only affects legislative space and that complies with all laws, including Title 22, chapter 3, and 18-2-108.

(ii)**TAB**(A)**SPACE**The department shall consult the legislative council regarding the department's approval and timing of any alteration, improvement, remodel, or major repair of legislative space.

(B)**TAB**The department shall notify the legislative council if the department lacks sufficient resources to complete a legislative space project or to satisfy the timing of a project.

(c)**TAB**(i)**SPACE**Except as provided in subsection (3)(c)(ii), if the department disapproves an alteration, improvement, or remodel of legislative space, the legislative council may override that disapproval and direct the department to proceed with the project.

(ii)**TAB**A legislative space project may not impair building infrastructure or systems that serve an entire building or facility.

(4)**TAB**The department shall maintain or approve the maintenance of the grounds in the state capitol area.

TRACK CHANGES

When possible, make sure there is a "visual break" between a stricken word and an insertion following it. Depending on the situation, that visual break may be a stricken space or an inserted space (i.e., always strike the space **after** a word rather than the space before it when that is an option). Double-clicking to select a word will also automatically select the following space when present.

EXAMPLE:

"**15-35-102. ~~(Temporary)~~ Definitions.** As used in this chapter, the following definitions apply:

...

(5) "Contract sales price" means ~~either~~ the price of coal extracted and prepared for shipment ~~f.o.b. mine~~, excluding ~~that~~ the amount charged by the seller to pay taxes paid on ~~production~~ procrastination, or a price imputed by the department under 15-35-107. ~~Contract sales price includes all royalties paid on production, no matter how the royalties are calculated.~~ However, with respect to royalties paid to the government of the United States, the state of Montana, or a federally recognized Indian tribe, the contract sales price includes 15 cents per ton. Contract sales price does not include the costs specific to the act of coal washing.

(6) "Energy conversion process" includes ~~any~~ the process by which coal in the solid state is transformed into slurry, gas, electrical energy, or any other form of ~~energy~~ coal.

(7) "Prepared for shipment" includes but is not limited to services such as in-mine movement, crushing, sizing, screening, storing, mixing, loading of rocks, treatment with substances including chemicals or oils, and other preparation of the coal for disposition.

(8) (a) ~~"Produced"~~ "Protracted" means severed from the earth.

(b) The term does not include fracking.

(9) "Purchaser" means ~~a person who purchases or contracts to purchase~~ an individual who regularly buys Montana coal directly from a ~~coal~~ mine operator or indirectly from a coal broker and who utilizes that coal in any industrial, commercial, or energy conversion process. ~~A coal broker or any other third-party intermediary is not a purchaser under the provisions of this chapter.~~

~~(10) "Strip mining" is defined in 82-4-203 and includes "surface mining".~~

~~(11)~~(10) "Underground mining" means a coal mining method utilizing shafts and tunnels and as further defined in 82-4-203. ~~*(Terminates July 1, 2027--sec. 1, Ch. 352, L. 2015.)*~~

~~15-35-102. (Effective July 2, 2027) Definitions.~~ ~~As used in this chapter, the following definitions apply:~~

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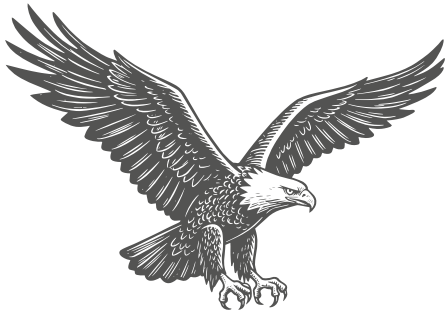
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