

1
2 INTRODUCED BY

SENATE BILL NO. 156
Walt Tom Nelson Johnson

3 BY REQUEST OF THE BOARD OF REGENTS
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT RESTRUCTURING THE UNIVERSITY SYSTEM BY
6 INCORPORATING THE VOCATIONAL-TECHNICAL CENTERS INTO THE SYSTEM; REMOVING THE
7 VOCATIONAL-TECHNICAL CENTER REPRESENTATIVE FROM THE GUARANTEED STUDENT LOAN
8 ADVISORY COUNCIL; DELETING REFERENCES TO VOCATIONAL-EDUCATIONAL CENTERS; REMOVING
9 VOCATIONAL-TECHNICAL CENTER STUDENTS FROM WORKERS' COMPENSATION COVERAGE;
10 REQUIRING FIVE COUNTIES TO LEVY 1 1/2 MILLS TO SUPPORT VOCATIONAL-TECHNICAL EDUCATION;
11 AMENDING SECTIONS 2-15-1520, 2-18-401, 17-1-102, 17-2-102, 17-2-107, 17-2-110, 17-7-102,
12 17-7-304, 19-3-403, 19-20-302, 20-1-101, 20-5-402, 20-7-701, 20-9-212, 20-25-201, 20-25-211,
13 20-25-301, 20-25-303, 20-32-101, 20-32-102, 20-32-103, 23-1-313, 37-8-102, 37-31-304, 39-29-101,
14 39-30-103, 39-71-117, 39-71-118, 39-71-744, 50-40-204, AND 50-74-305, MCA; REPEALING SECTIONS
15 20-16-101, 20-16-102, 20-16-103, 20-16-104, 20-16-105, 20-16-106, 20-16-107, 20-16-108,
16 20-16-109, 20-16-201, 20-16-202, 20-16-203, 20-16-204, 20-16-205, 20-16-206, 20-16-207,
17 20-25-251, 20-25-401, 20-25-431, 20-25-432, 20-25-433, 20-25-434, AND 60-2-216, MCA; AND
18 PROVIDING EFFECTIVE DATES AND AN APPLICABILITY PROVISION."
19

20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
21

22 **Section 1.** Section 2-15-1520, MCA, is amended to read:

23 **"2-15-1520. Guaranteed student loan advisory council -- terms, ~~and~~ compensation.** (1) There is a
24 student loan advisory council appointed by the board of regents.

25 (2) The council consists of seven members. Each member ~~shall~~ must be appointed for a term of
26 3 years.

27 (3) Appointments to the council must conform to the following requirements:

28 (a) One member must be a representative of a private eligible educational institution, as defined
29 in 20-26-1101.

30 (b) Two members must be representatives of a public eligible educational institution, as defined

1 in 20-26-1101. ~~One must be a representative of higher education, and one must be a representative for~~
2 ~~the vocational technical centers.~~

3 (c) Two members must be representatives of approved lenders.

4 (d) One member must be a full-time student registered at an eligible educational institution, as
5 defined in 20-26-1101.

6 (e) One member must be a representative of the office of the commissioner of higher education.

7 (4) A ~~chairman~~ presiding officer must be selected by the council from its membership at the first
8 meeting of each fiscal year.

9 (5) Each member of the council is entitled to compensation and reimbursement for travel expenses
10 as provided in 2-15-122(5)."

11

12 **Section 2.** Section 2-18-401, MCA, is amended to read:

13 **"2-18-401. Central payroll system -- department to provide for inclusion of agencies.** The
14 department of administration shall install and operate a uniform state central payroll system for all state
15 agencies, including units of the Montana university system ~~and the vocational technical centers.~~ The
16 department may provide for the orderly inclusion of state agencies into the system and may make
17 exceptions from the operation of the system for periods that it determines necessary."

18

19 **Section 3.** Section 17-1-102, MCA, is amended to read:

20 **"17-1-102. Uniform accounting system and expenditure control.** (1) The department shall establish
21 a system of financial control so that the functioning of the various agencies of the state may be improved,
22 duplications of work by different state agencies and employees may be eliminated, public service may be
23 improved, and the cost of government may be reduced.

24 (2) The department shall prescribe and install uniform accounting and reporting for all state
25 agencies and institutions, showing the receipt, use, and disposition of all public money and property in
26 accordance with generally accepted accounting principles, and shall develop plans for improvements and
27 economies in the organization and operation ~~thereof~~ of state agencies and institutions, which ~~shall~~ must
28 be submitted to the respective heads of agencies and institutions. Copies of all ~~such~~ plans ~~shall~~ must
29 delivered to the governor, and additional copies ~~shall~~ must be retained in the office of the department for
30 inspection by the members of the legislature.

1 (3) The uniform accounting and reporting system must contain three levels of expenditure. The first
 2 level must include general categories, such as personal services, operating expenses, equipment, capital
 3 outlay, local assistance, grants, benefits and claims, transfers, and debt service. The second level of
 4 expenditure must include specific categories of expenditures within each first-level category. The third level
 5 of expenditure must include specific items of expenditure within each category of the second level.

6 (4) The department shall examine all financial affairs of ~~every~~ each state agency and institution for
 7 the purpose of developing plans for improvements and economies in the organization and operation ~~thereof~~
 8 of the agencies and institutions and for the purpose of enabling the department to properly perform any of
 9 the duties imposed upon the department by this part.

10 (5) All state agencies, including units of the university system, but excluding community colleges,
 11 ~~and the vocational technical centers~~, shall input all necessary transactions to the accounting system
 12 prescribed in subsection (2) before the accounts are closed at the end of the fiscal year in order to present
 13 the receipt, use, and disposition of all money and property for which the agency is accountable in
 14 accordance with generally accepted accounting principles, except that for budgetary control purposes,
 15 encumbrances ~~which~~ that are required by generally accepted accounting principles to be reported as a
 16 reservation of fund balance ~~shall~~ must be recorded as expenditures and liabilities on the accounting
 17 records."
 18

19 **Section 4.** Section 17-2-102, MCA, is amended to read:

20 **"17-2-102. Fund structure.** (1) There are in the state treasury only the following fund categories
 21 and types:

22 (a) the governmental fund category, which includes:

23 (i) the general fund, which accounts for all financial resources except those required to be
 24 accounted for in another fund;

25 (ii) the special revenue fund type, which accounts for the proceeds of specific revenue sources
 26 (other than expendable trusts or major capital projects) that are legally restricted to expenditure for specified
 27 purposes. The financial activities of the special revenue fund type are subdivided, for operational purposes,
 28 into the following funds to serve the purpose indicated:

29 (A) The state special revenue fund consists of money from state and other nonfederal sources
 30 deposited in the state treasury that is earmarked for the purposes of defraying particular costs of an

1 agency, program, or function of state government and money from other nonstate or nonfederal sources
2 that is restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation.

3 (B) The federal special revenue fund consists of money deposited in the treasury from federal
4 sources, including trust income, that is used for the operation of state government.

5 (iii) the capital projects fund type, which accounts for financial resources to be used for the
6 acquisition or construction of major capital facilities, other than those financed by proprietary funds or trust
7 funds; and

8 (iv) the debt service fund type, which accounts for the accumulation of resources for and the
9 payment of general long-term debt principal and interest;

10 (b) the proprietary fund category, which includes:

11 (i) the enterprise fund type, which accounts for operations:

12 (A) that are financed and operated in a manner similar to private business enterprises whenever
13 the intent of the legislature is that costs (i.e., expenses, including depreciation) of providing goods or
14 services to the general public on a continuing basis are to be financed or recovered primarily through user
15 charges; or

16 (B) whenever the legislature has decided that periodic determination of revenue earned, expenses
17 incurred, or net income is appropriate for capital maintenance, public policy, management control,
18 accountability, or other purposes; and

19 (ii) the internal service fund type, which accounts for the financing of goods or services provided
20 by one department or agency to other departments or agencies of state government or to other
21 governmental entities on a cost-reimbursed basis;

22 (c) the fiduciary fund category, which includes trust and agency fund types used to account for
23 assets held by state government in a trustee capacity or as an agent for individuals, private organizations,
24 other governmental entities, or other funds. These include the:

25 (i) expendable trust fund type;

26 (ii) nonexpendable trust fund type;

27 (iii) pension trust fund type; and

28 (iv) agency fund type.

29 (d) the higher education funds, which include:

30 (i) the current fund, which accounts for money deposited in the state treasury that is used to pay

1 current operating costs relating to instruction, research, public service, and allied support operations and
2 programs conducted within the Montana university system ~~and vocational-technical centers~~. The financial
3 activities of the current fund are subdivided, for operational purposes, into the four following subfunds to
4 serve the purpose indicated:

5 (A) The unrestricted subfund segregates that portion of the current fund's financial resources that
6 can be expended for general operations and is free of externally imposed restrictions, except those imposed
7 by the legislature.

8 (B) The restricted subfund segregates that portion of the current fund's financial resources that can
9 be expended for general operations but only for purposes imposed by sources external to the board of
10 regents and the legislature.

11 (C) The designated subfund segregates that portion of the current fund's financial resources that
12 is associated with general operations but is separately classified in order to accumulate costs that are to
13 be recharged as allocated to other funds or subfunds; identifies financial activities related to special
14 organized activities of educational departments ~~wherein~~ in which the activity is fully supported by
15 supplemental assessments; and identifies special supply and facility fees that are approved for collections
16 beyond normal course fees and their disposition.

17 (D) The auxiliary subfund segregates that portion of the current fund's financial resources that is
18 devoted to providing essential on-campus services primarily to students, faculty, or staff wherein a fee,
19 which is directly related to but does not necessarily equal the cost of the service provided, is charged to
20 the consumer.

21 (ii) the student loan fund, which accounts for money deposited in the state treasury that may be
22 loaned to students, faculty, or staff for purposes related to education, organized research, or public services
23 by the Montana university system ~~and vocational-technical centers~~;

24 (iii) the endowment fund, which accounts for money deposited in the state treasury by the Montana
25 university system ~~and vocational-technical centers~~ wherein the principal portion of the amount received is
26 nonexpendable but is available for investment, thus producing consumable income. Expendable earnings
27 on endowment funds are to be transferred to appropriate operating funds pursuant to prevailing
28 administrative requirements.

29 (iv) the annuity and life income fund, which accounts for money deposited in the state treasury by
30 the Montana university system ~~and vocational-technical centers~~ under an agreement whereby the money

1 is made available on condition that the receiving unit of the Montana university system or
 2 ~~vocational-technical-center~~ binds itself to pay stipulated amounts periodically to the donor or others
 3 designated by the donor over a specified period of time;

4 (v) the plant fund, which accounts for those financial resources allocated to or received by the
 5 Montana university system and ~~vocational-technical-centers~~ for capital outlay purposes or to retire long-term
 6 debts associated with construction or acquisition of fixed assets and the net accumulative results of these
 7 activities; and

8 (vi) the agency fund, which accounts for money deposited in the state treasury wherein the
 9 Montana university system or ~~a vocational-technical-center~~ acts in the capacity of a custodian or fiscal
 10 agent for individual students, faculty, staff, and qualified organizations.

11 (2) In addition to the funds provided for in subsection (1), there are in the state treasury the
 12 following account groups:

13 (a) the fixed assets account group, which is a self-balancing group of accounts set up to establish
 14 accounting control and accountability for the state's general fixed assets, except those accounted for in
 15 proprietary funds, trust funds, and the higher education funds designated in subsections (1)(d)(i)(D),
 16 (1)(d)(iii), and (1)(d)(v); and

17 (b) the long-term debt account group, which is a self-balancing group of accounts set up to
 18 establish accounting control and accountability for the state's unmatured general long-term liabilities, except
 19 those accounted for in proprietary funds, trust funds, and the higher education funds designated in
 20 subsections (1)(d)(i)(D), (1)(d)(iii), and (1)(d)(v)."

21

22 **Section 5.** Section 17-2-107, MCA, is amended to read:

23 **"17-2-107. Accurate accounting records and interentity loans.** (1) The department of administration
 24 shall record receipts and disbursements for treasury funds and for accounting entities within treasury funds
 25 and shall maintain records in such a manner as to reflect the total cash and invested balance of each fund
 26 and each accounting entity. The department of administration shall adopt the necessary procedures to
 27 ~~insure~~ ensure that interdepartmental or intradepartmental transfers of money or loans do not result in
 28 inflation of figures reflecting total governmental costs and ~~revenues~~ revenue.

29 (2) (a) When the expenditure of an appropriation from a fund designated in 17-2-102(1)(a) through
 30 (1)(c) is necessary and the cash balance in the accounting entity from which the appropriation was made

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

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

14 (ii) One accounting entity within each fund or subfund designated in 17-2-102(1)(d)(i)(A) through
15 (1)(d)(vi) must be established for the sole purpose of recording loans between the funds or subfunds. This
16 accounting entity is the only accounting entity within each fund or subfund that may receive a loan or from
17 which a loan may be made.

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

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

26 (4) Any loan from the current unrestricted subfund to funds designated in 17-2-102(1)(d)(i)(D) and
27 (1)(d)(ii) through (1)(d)(vi) must bear interest at a rate equivalent to the previous fiscal year's average rate
28 of return on the board of investments' short-term investment pool. Except for investment earnings on
29 restricted donations, all designated and restricted subfund investment earnings, other than investment
30 earnings on student activity fees used to support student governments at units of the university system,

1 are credited to the state general fund.

2 (5) If for ~~two~~ 2 consecutive fiscal yearends a loan or an extension of a loan has been authorized
3 to the same accounting entity as provided in subsection (2) or (3), the department of administration or the
4 commissioner of higher education shall submit to the legislative finance committee by September 1 of the
5 following fiscal year a written report containing an explanation as to why the second loan or extension was
6 made, an analysis of the solvency of the accounting entity or accounting entities within the university fund
7 or subfund, and a plan for repaying the loans.

8 (6) If for ~~two~~ 2 consecutive fiscal yearends an accounting entity in a fund or subfund designated
9 in 17-2-102(1)(d)(i) through (1)(d)(vi) has a negative cash balance, the commissioner of higher education
10 shall submit to the legislative finance committee by September 1 of the following fiscal year a written report
11 containing an explanation as to why the accounting entity has a negative cash balance, an analysis of the
12 solvency of the accounting entity, and a plan to address any problems concerning the accounting entity's
13 negative cash balance or solvency.

14 (7) (a) An accounting entity in a fund designated in 17-2-102(1)(a) through (1)(c) may not have
15 a negative cash balance at fiscal yearend. The department of administration may, however, allow an
16 accounting entity to carry a negative balance at any point during the fiscal year if the negative cash balance
17 does not exist for more than 7 working days.

18 (b) (i) Except as provided in subsection (7)(b)(ii), a unit of the university system ~~or~~
19 ~~vocational-technical center~~ shall maintain a positive cash balance in the funds and subfunds designated in
20 17-2-102(1)(d)(i)(A) through (1)(d)(i)(D) and (1)(d)(ii) through (1)(d)(vi).

21 (ii) If a fund or subfund inadvertently has a negative cash balance, the department of administration
22 may allow the fund or subfund to carry the negative cash balance for no more than 7 working days. If the
23 negative cash balance exists for more than 7 working days, a transaction may not be processed through
24 the statewide accounting system for that fund or subfund.

25 (8) Notwithstanding the provisions of subsections (2) through (4), the department of administration
26 may authorize loans to accounting entities in the federal and state special revenue funds with long-term
27 repayment whenever necessary ~~due to~~ because of the timing of the receipt of agreed upon reimbursements
28 from federal, private, or other governmental entity sources for disbursements made. The department of
29 administration may approve the loans if the requesting agency can demonstrate that the total loan balance
30 does not exceed total receivables from federal, private, or other governmental entity sources and

1 receivables have been billed on a timely basis. The loan must be repaid under ~~such~~ terms and conditions
2 as may be determined by the department of administration or by specific legislative authorization."
3

4 **Section 6.** Section 17-2-110, MCA, is amended to read:

5 **"17-2-110. Fiscal year and financial reports.** (1) The fiscal year for state purposes commences on
6 July 1 of each year and ends on June 30 of each year.

7 (2) At the close of each fiscal year, the fiscal records of each state office, department, bureau,
8 commission, institution, university unit, ~~vocational-technical-center,~~ and agency (hereinafter collectively
9 referred to as "state agency") ~~shall~~ must be closed as of the end of the fiscal year. Each state agency shall
10 prepare ~~such~~ the financial statements and reconciliations for the fiscal year as the department of
11 administration may prescribe. These financial reports are to be completed and distributed not more than
12 31 days following the close of each fiscal year. The department of administration may extend this time limit
13 if a state agency can show necessity ~~therefor~~ for the extension.

14 (3) The reports are to be distributed to the department of administration and the legislative auditor
15 and any other state agency that the department of administration may prescribe. It is the intent of this
16 provision that these reports accurately and comprehensively present the financial activities of the reporting
17 state agency in accordance with generally accepted accounting principles so that the reports can be
18 effectively ~~utilized~~ used by the executive and legislative branches of state government.

19 (4) Upon consolidation of the reports, the annual financial report by the department of
20 administration ~~will~~ must be available for other individuals and organizations interested in the financial affairs
21 of the state of Montana."
22

23 **Section 7.** Section 17-7-102, MCA, is amended to read:

24 **"17-7-102. Definitions.** As used in this chapter, the following definitions apply:

25 (1) "Additional services" means different services or more of the same services.

26 (2) "Agency" means each state office, department, division, board, commission, council,
27 committee, institution, university unit, or other entity or instrumentality of the executive branch, office of
28 the judicial branch, or office of the legislative branch of state government, except for purposes of capital
29 projects administered by the department of administration, for which institutions are treated as one
30 department and university units as one system.

1 (3) "Approved long-range building program budget amendment" means approval by the budget
2 director of a request submitted through the architecture and engineering division of the department of
3 administration to transfer excess funds appropriated to a capital project within an agency to increase the
4 appropriation of another capital project within that agency or to obtain financing to expand a project with
5 funds that were not available for consideration by the legislature.

6 (4) "Approving authority" means:

7 (a) the governor or the governor's designated representative for executive branch agencies;

8 (b) the chief justice of the supreme court or the chief justice's designated representative for judicial
9 branch agencies;

10 (c) the speaker for the house of representatives;

11 (d) the president for the senate;

12 (e) appropriate legislative committees or a designated representative for legislative branch agencies;

13 or

14 (f) the board of regents of higher education or its designated representative for the university
15 system.

16 (5) "Base budget" means that level of funding authorized by the previous legislature.

17 (6) "Budget amendment" means a legislative appropriation to increase spending authority for the
18 special revenue fund, proprietary funds, or unrestricted subfund, contingent on total compliance with all
19 budget amendment procedures.

20 (7) "Present law base" means that additional level of funding needed under present law to maintain
21 operations and services at the level authorized by the previous legislature, including but not limited to:

22 (a) changes resulting from legally mandated workload, caseload, or enrollment increases or
23 decreases;

24 (b) changes in funding requirements resulting from constitutional or statutory schedules or
25 formulas;

26 (c) inflationary or deflationary adjustments; and

27 (d) elimination of nonrecurring appropriations.

28 (8) "Effectiveness measure" means a criterion for measuring the degree to which the objective
29 sought is attained.

30 (9) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and

1 unanticipated circumstance that has occurred subsequent to the time that an agency's appropriation was
 2 made, that was clearly not within the contemplation of the legislature and the governor, and that affects
 3 one or more functions of a state agency and the agency's expenditure requirements for the performance
 4 of the function or functions.

5 (10) "Necessary" means essential to the public welfare and of a nature that cannot wait until the
 6 next legislative session for legislative consideration.

7 (11) "New proposals" means requests to provide new nonmandated services, to change program
 8 services, to eliminate existing services, or to change sources of funding. For purposes of establishing the
 9 present law base, the distinction between new proposals and the adjustments to the base budget to
 10 develop the present law base is to be determined by the existence of constitutional or statutory
 11 requirements for the proposed expenditure. Any proposed increase or decrease that is not based on those
 12 requirements is considered a new proposal.

13 (12) "Priority listing" means a ranking of proposed expenditures in order of importance.

14 (13) "Program" means a combination of resources and activities designed to achieve an objective
 15 or objectives.

16 (14) "Program size" means the magnitude of a program, such as the size of clientele served or the
 17 volume of service in relation to the population or area.

18 (15) "Program size indicator" means a measure to indicate the magnitude of a program.

19 (16) "Requesting agency" means the agency of state government that has requested a specific
 20 budget amendment.

21 (17) "University system unit" means the board of regents of higher education; ~~the~~ office of the
 22 commissioner of higher education; ~~the~~ university of Montana, with campuses at Missoula, Butte, Dillon, and
 23 Helena; Montana state university, with campuses at Bozeman, Billings, Havre, and Great Falls; Montana
 24 ~~college of mineral science and technology at Butte, eastern Montana college at Billings, northern Montana~~
 25 ~~college at Havre, western Montana college of the university of Montana at Dillon,~~ the agricultural
 26 experiment station, with central offices at Bozeman; ~~the~~ forest and conservation experiment station, with
 27 central offices at Missoula; ~~the~~ cooperative extension service, with central offices at Bozeman; ~~the~~ bureau
 28 of mines and geology, with central offices at Butte; ~~the~~ fire services training school at Great Falls; ~~the~~
 29 ~~vocational technical centers at Billings, Butte, Great Falls, Helena, and Missoula, or~~ and the community
 30 colleges at Miles City, Glendive, and Kalispell."

1 **Section 8.** Section 17-7-304, MCA, is amended to read:

2 **"17-7-304. (Temporary) Disposal of unexpended appropriations.** (1) All money appropriated for any
3 specific purpose except that appropriated for the university system units listed in subsection (2) and except
4 as provided in subsection (4) must, after the expiration of the time for which appropriated, revert to the
5 several funds and accounts from which originally appropriated. However, any unexpended balance in any
6 specific appropriation may be used for the years for which the appropriation was made.

7 (2) Except as provided in 17-2-108 and subsection (3) of this section, all money appropriated for
8 the university of Montana campuses at Missoula, Butte, Dillon, and Helena and the Montana state university
9 campuses at Bozeman, Billings, Havre, and Great Falls ~~Montana college of mineral science and technology~~
10 ~~at Butte, eastern Montana college at Billings, northern Montana college at Havre, western Montana college~~
11 ~~of the university of Montana at Dillon~~, the agricultural experiment station with central offices at Bozeman,
12 the forest and conservation experiment station with central offices at Missoula, the cooperative extension
13 service with central offices at Bozeman, and the bureau of mines and geology with central offices in Butte,
14 ~~and the vocational technical centers at Billings, Butte, Great Falls, Helena, and Missoula~~ must, after the
15 expiration of the time for which appropriated, revert to an account held by the board of regents. The board
16 of regents is authorized to maintain a fund balance. There is a statutory appropriation, as provided in
17 17-7-502, to use the funds held in this account in accordance with a long-term plan for major and deferred
18 maintenance expenditures and equipment or fixed assets purchases prepared by the affected university
19 system units and approved by the board of regents. The affected university system units may, with the
20 approval of the board of regents, modify the long-term plan at any time to address changing needs and
21 priorities. The board of regents shall communicate the plan to each legislature, to the finance committee
22 when requested by the committee, and to the office of budget and program planning.

23 (3) Subsection (2) does not apply to reversions that are the result of a reduction in spending
24 directed by the governor pursuant to 17-7-140. Any amount that is a result of a reduction in spending
25 directed by the governor must revert to the fund or account from which it was originally appropriated.

26 (4) For the 2 years following the end of a fiscal year, 30% of the money appropriated to an agency
27 for that year by the general appropriations act for personal services, operating expenses, and equipment
28 and remaining unexpended and unencumbered at the end of the year may be spent for any purpose that
29 is consistent with the goals and objectives of the agency. The dollar amount of the 30% amount that may
30 be carried forward and spent must be determined by the office of budget and program planning.

1 (Terminates June 30, 1996--sec. 23, Ch. 787, L. 1991; sec. 5, Ch. 5, Sp. L. July 1992.)

2 **17-7-304. (Effective July 1, 1996) Disposal of unexpended appropriations.** (1) Except as provided
3 in subsection (2), all money appropriated for any specific purpose must, after the expiration of the time for
4 which appropriated, revert to the several funds and accounts from which originally appropriated. However,
5 any unexpended balance in any specific appropriation may be used for the years for which the appropriation
6 was made.

7 (2) For the 2 years following the end of a fiscal year, 30% of the money appropriated to an agency
8 for that year by the general appropriations act for personal services, operating expenses, and equipment
9 and remaining unexpended and unencumbered at the end of the year may be spent for any purpose that
10 is consistent with the goals and objectives of the agency. The dollar amount of the 30% amount that may
11 be carried forward and spent must be determined by the office of budget and program planning.
12 (Terminates July 1, 1997--sec. 13, Ch. 23, Sp. L. November 1993.)

13 **17-7-304. (Effective July 1, 1997) Disposal of unexpended appropriations.** All money appropriated
14 for any specific purpose must, after the expiration of the time for which appropriated, revert to the several
15 funds and accounts from which originally appropriated. However, any unexpended balance in any specific
16 appropriation may be used for the years for which the appropriation was made."

17

18 **Section 9.** Section 19-3-403, MCA, is amended to read:

19 **"19-3-403. Exclusions from membership.** The following persons may not become members of the
20 retirement system:

21 (1) inmates of state institutions;

22 (2) persons in state institutions principally for the purpose of training, but who receive
23 compensation;

24 (3) independent contractors, unless there is a written contract that specifies the creation of an
25 employer-employee relationship for purposes of retirement coverage under the retirement system;

26 (4) persons who are members of any other retirement or pension system supported wholly or in
27 part by funds of the United States government, any state government, or political subdivision of the state
28 and who are receiving credit in the other system for service. It is the purpose of this subsection to prevent
29 a person from receiving credit for the same service in two retirement systems supported wholly or in part
30 by public funds, except when the service qualifies, is applied for, and is purchased pursuant to 19-3-503.

1 A member of the retirement system who, because of employment by the state, is required to become a
 2 member of any other system described in this subsection is considered, solely for the purposes of making
 3 regular contributions, as permanently separated from service. Exclusion under this subsection is subject to
 4 the following exceptions:

5 (a) When an employer has entered into a collective bargaining agreement that includes provisions
 6 for payments or contributions by the employer in lieu of wages to a retirement or pension plan qualified by
 7 the internal revenue service for its employees, the employees remain eligible, if otherwise qualified, for
 8 membership in the retirement system.

9 (b) For the purpose of this subsection (4), persons receiving pensions, retirement allowances, or
 10 other payments from any source on account of employment other than as an employee are not considered,
 11 because of receipt, members of any other retirement or pension system.

12 (5) court commissioners, elected officials, or appointive members of any board or commission who
 13 serve the state or any contracting employer intermittently and who are paid on a per diem basis;

14 (6) full-time students employed at and attending the same public elementary school, high school,
 15 ~~vocational technical center, or~~ community college, or any unit of the state university system, except that
 16 a person excluded from membership as a student of a public community college or a unit of the state
 17 university system who later becomes a member by otherwise becoming an employee may affirmatively
 18 exercise the option of qualifying the service excluded by this subsection by applying to the board in writing
 19 after becoming a member and become eligible to receive credited service for the excluded service under
 20 the provisions of 19-3-505."

21

22 **Section 10.** Section 19-20-302, MCA, is amended to read:

23 **"19-20-302. Active membership.** (1) Unless otherwise provided by this chapter, the following
 24 persons must be active members of the retirement system, with the exception that those persons who
 25 became eligible for membership on September 1, 1937, or on September 1, 1939, and who elected not to
 26 become members under the provisions of the law at that time are not required to be members:

27 (a) any person who is a teacher, principal, or district superintendent as defined in 20-1-101;

28 (b) any person who is an administrative officer or a member of the instructional or scientific staff
 29 of:

30 (i) ~~a vocational technical center; or~~

1 ~~(ii)~~ a unit of the Montana university system and who has not elected or is not required to participate
2 in the optional retirement program under Title 19, chapter 21;

3 (c) any person employed as a speech therapist, school nurse, or school psychologist or in an
4 instructional services capacity by the office of the superintendent of public instruction, the office of a
5 county superintendent, a special education cooperative, a public institution of the state of Montana, the
6 Montana state school for the deaf and blind, or a school district;

7 (d) any person who is an administrative officer or a member of the instructional staff of the board
8 of public education;

9 (e) any person who has elected not to become a member of the retirement system and who is
10 reentering service in a capacity prescribed by subsection (1)(a), (1)(b), (1)(c), or (1)(d) of this subsection
11 ~~(4)~~;

12 (f) any person who has elected not to become a member of the retirement system, who has been
13 continuously employed in a capacity prescribed by subsection (1)(a), (1)(b), (1)(c), or (1)(d) of this
14 subsection (4) since the time of the election, and who may elect to become a member of the retirement
15 system.

16 (2) In order to be eligible for active membership, any person described in subsection (1) must:

17 (a) be employed in the capacity prescribed for the person's eligibility for at least 30 days in any
18 fiscal year; and

19 (b) have the compensation for the person's creditable service totally paid by an employer.

20 (3) (a) A substitute teacher:

21 (i) may elect to become an active member of the retirement system on the first day of employment
22 in any fiscal year; or

23 (ii) ~~shall~~ is required to become an active member of the retirement system on the 31st day of
24 employment in any fiscal year if the substitute teacher has not elected membership under subsection
25 (3)(a)(i).

26 (b) The employer shall give written notification to a substitute teacher on the first day of
27 employment in any fiscal year of the option to elect membership under subsection (3)(a)(i).

28 (4) A substitute teacher who did not elect membership under subsection (3)(a)(i) and subsequently
29 becomes a member must be awarded creditable service for substitute teaching service if the substitute
30 teacher contributes:

1 (a) an amount equal to the combined employee and employer contributions that would have been
2 made if the substitute teacher had elected membership; plus

3 (b) interest at the rate that the contributions would have earned if they had been on deposit with
4 the retirement system.

5 (5) At any time that a person's eligibility to become a member of the retirement system is in doubt,
6 the retirement board shall determine the person's eligibility for membership. All persons in similar
7 circumstances ~~shall~~ must be treated alike."
8

9 **Section 11.** Section 20-1-101, MCA, is amended to read:

10 **"20-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the
11 following definitions apply:

12 (1) "Agricultural experiment station" means the agricultural experiment station established at
13 Montana state university-Bozeman.

14 (2) "Average number belonging" or "ANB" ~~shall mean~~ means the average number of regularly
15 enrolled, full-time pupils attending the public schools of a district.

16 (3) ~~The board~~ Board of public education" ~~is~~ means the board created by Article X, section 9,
17 subsection (3), of the ~~1972~~ Montana constitution and 2-15-1507.

18 (4) "Board of regents" means the board of regents of higher education created by Article X, section
19 9, subsection (2), of the ~~1972~~ Montana constitution and 2-15-1505.

20 (5) "Commissioner" means the commissioner of higher education created by Article X, section 9,
21 subsection (2), of the ~~1972~~ Montana constitution and 2-15-1506.

22 (6) "County superintendent" means the county government official who is the school officer of the
23 county.

24 (7) "District superintendent" means ~~any~~ a person who holds a valid class 3 Montana teacher
25 certificate with a superintendent's endorsement that has been issued by the superintendent of public
26 instruction under the provisions of this title and the policies adopted by the board of public education and
27 who has been employed by a district as a district superintendent.

28 (8) "K-12 vocational education" means vocational education in public school kindergarten through
29 grade 12.

30 (9) "Principal" means ~~any~~ a person who holds a valid class 3 Montana teacher certificate with an

1 applicable principal's endorsement that has been issued by the superintendent of public instruction under
 2 the provisions of this title and the policies adopted by the board of public education and who has been
 3 employed by a district as a principal. For the purposes of this title, any reference to a teacher ~~shall~~ must
 4 be construed as including a principal, ~~as herein defined.~~

5 (10) "Pupil" means ~~any~~ a child who is 6 years of age or older on or before September 10 of the year
 6 in which the child is to enroll or has been enrolled by special permission of the board of trustees under
 7 20-5-101(3) but has not yet reached ~~his 19th birthday~~ 19 years of age and who is enrolled in a school
 8 established and maintained under the laws of the state ~~of Montana~~ at public expense. For purposes of
 9 calculating the average number belonging ~~(ANB)~~ pursuant to 20-9-311, the definition of pupil includes a
 10 person who has not yet reached ~~his 19th birthday~~ 19 years of age by September 10 of the year and is
 11 enrolled under 20-5-101(3) in a school established and maintained under the laws of the state at public
 12 expense.

13 (11) "Pupil instruction" means the conduct of organized instruction of pupils enrolled in public
 14 schools while under the supervision of a teacher.

15 (12) "Regents" means the board of regents of higher education.

16 (13) "School food services" means a service of providing food for the pupils of a district on a
 17 nonprofit basis and ~~shall include~~ includes any food service financially assisted through funds or commodities
 18 provided by the United States government.

19 (14) ~~The "state~~ "State board of education" ~~is~~ means the board composed of the board of public
 20 education and the board of regents as specified in Article X, section 9, subsection (1), of the ~~1972~~ Montana
 21 constitution.

22 (15) "State university" means ~~the Montana state university, located at Bozeman~~
 23 university-Bozeman.

24 (16) "Superintendent of public instruction" means that state government official designated as a
 25 member of the executive branch by the ~~constitution of Montana~~ constitution.

26 (17) "System" means the Montana university system.

27 (18) "Teacher" means ~~any~~ a person, except a district superintendent, who holds a valid Montana
 28 teacher certificate that has been issued by the superintendent of public instruction under the provisions of
 29 this title and the policies adopted by the board of public education and who is employed by a district as
 30 a member of its instructional, supervisory, or administrative staff. This definition of a teacher ~~shall also~~

1 ~~include~~ includes a ~~any~~ person for whom an emergency authorization of employment ~~of such person~~ has
2 been issued under the provisions of 20-4-111.

3 (19) "Textbook" means a book or manual used as a principal source of study material for a given
4 class or group of students.

5 (20) "Textbook dealer" means ~~any~~ a party, company, corporation, or other organization selling,
6 offering to sell, or offering for adoption textbooks to districts in the state ~~of Montana~~.

7 (21) "Trustees" means the governing board of a district.

8 (22) "University" means the university of ~~Montana, located at Missoula~~ Montana-Missoula.

9 (23) "Vocational education" means the instruction to prepare or improve the pupil for gainful
10 employment that does not require a baccalaureate or higher degree. This definition of vocational education
11 ~~shall include~~ includes guidance and prevocational, related, or technical instruction necessary to prepare the
12 pupil for further vocational education or for entry into employment.

13 ~~(24) "Vocational technical center" means an institution used principally for the provision of~~
14 ~~vocational technical education to persons who qualify as vocational technical students. These centers are~~
15 ~~designated by the board of regents upon direction by the legislature. All other public or private institutions~~
16 ~~or schools are hereby prohibited from using this title.~~

17 ~~(25)~~(24) "Vocational-technical education" means vocational-technical education of
18 vocational-technical students that is conducted by a ~~vocational technical center~~, a unit of the Montana
19 university system, or a community college, as designated by the board of regents."

20

21 **Section 12.** Section 20-5-402, MCA, is amended to read:

22 **"20-5-402. Definitions.** For the purposes of this part, the following definitions apply:

23 (1) "Department" means the department of health and environmental sciences provided for in Title
24 2, chapter 15, part 21.

25 (2) "Governing authority" means the board of trustees of a school district or the administrator of
26 a private school, preschool, or postsecondary school.

27 (3) "Immunization" means induction of a state of resistance to a disease through administration
28 of an immunizing agent.

29 (4) "Local health department" means a city, city-county, county, or district health department.

30 (5) "Local health officer" means a city, city-county, county, or district health officer.

1 (6) "Postsecondary school" means ~~a vocational technical center~~, a community college, a unit of
2 the Montana university system, or a private university or college.

3 (7) "Preschool" means a place or facility that provides, on a regular basis and as its primary
4 purpose, educational instruction designed for children 5 years of age or younger and that:

5 (a) serves no child under 5 years of age for more than 3 hours a day; and

6 (b) serves no child 5 years of age for more than 6 hours a day.

7 (8) "School" means a place or institution for the teaching of individuals, the curriculum of which
8 is ~~comprised~~ composed of the work of:

9 (a) any combination of kindergarten through grade 12;

10 (b) a postsecondary school; or

11 (c) a preschool."

12
13 **Section 13.** Section 20-7-701, MCA, is amended to read:

14 **"20-7-701. Definition of adult basic education and adult education.** ~~(4)~~ As used in this title, unless
15 the context clearly indicates otherwise, the following definitions apply:

16 ~~(a)(1) The term "adult~~ "Adult basic education" means instruction in basic skills, such as reading,
17 writing, arithmetic, and other skills required to function in society, offered to persons 16 years of age or
18 older who are not regularly enrolled, full-time pupils for the purposes of ANB computation. Adult basic
19 education may include any subject normally offered in the basic curricula of an accredited elementary or
20 secondary school in the state.

21 ~~(b)(2) The term "adult~~ "Adult education" means the instruction of persons 16 years of age or older
22 who are not regularly enrolled, full-time pupils for the purposes of ANB computation.

23 ~~(2) Neither definition may include the instruction in vocational technical centers."~~

24
25 **Section 14.** Section 20-9-212, MCA, is amended to read:

26 **"20-9-212. Duties of county treasurer.** The county treasurer of each county shall:

27 (1) receive and hold all school money subject to apportionment and keep a separate accounting
28 of its apportionment to the several districts that are entitled to a portion of the money according to the
29 apportionments ordered by the county superintendent or by the superintendent of public instruction. A
30 separate accounting must be maintained for each county fund supported by a countywide levy for a

1 specific, authorized purpose, including:

2 (a) the basic county tax in support of the elementary BASE aid;

3 (b) the basic special tax for high schools in support of the high school BASE aid;

4 (c) the county tax in support of the transportation schedules;

5 (d) the county tax in support of the elementary and high school district retirement obligations; and

6 (e) any other county tax for schools, including the community colleges, ~~which~~ that may be
7 authorized by law and levied by the county commissioners.

8 (2) whenever requested, notify the county superintendent and the superintendent of public
9 instruction of the amount of county school money on deposit in each of the funds enumerated in subsection
10 (1) and the amount of any other school money subject to apportionment and apportion the county and other
11 school money to the districts in accordance with the apportionment ordered by the county superintendent
12 or the superintendent of public instruction;

13 (3) keep a separate accounting of the receipts, expenditures, and cash balances for each fund;

14 (4) except as otherwise limited by law, pay all warrants properly drawn on the county or district
15 school money and properly endorsed by their holders;

16 (5) receive all revenue collected by and for each district and deposit these receipts in the fund
17 designated by law or by the district if a fund is not designated by law. Interest and penalties on delinquent
18 school taxes must be credited to the same fund and district for which the original taxes were levied.

19 (6) send all revenue received for a joint district, part of which is situated in the county, to the
20 county treasurer designated as the custodian of the revenue, no later than December 15 of each year and
21 every 3 months after that date until the end of the school fiscal year;

22 (7) at the direction of the trustees of a district, assist the district in the issuance and sale of tax
23 and revenue anticipation notes as provided in Title 7, chapter 6, part 11;

24 (8) register district warrants drawn on a budgeted fund in accordance with 7-6-2604 when there
25 is insufficient money available in all funds of the district to make payment of the warrant. Redemption of
26 registered warrants must be made in accordance with 7-6-2116, 7-6-2605, and 7-6-2606.

27 (9) invest the money of any district as directed by the trustees of the district within 3 working days
28 of the direction;

29 (10) each month give to the trustees of each district an itemized report for each fund maintained
30 by the district, showing the paid warrants, outstanding warrants, registered warrants, amounts and types

1 of revenue received, and the cash balance;

2 (11) remit promptly to the state treasurer receipts for the county tax for a vocational-technical
3 ~~center~~ education when levied by the board of county commissioners under the provisions of ~~20-16-202~~
4 [section 32];

5 (12) invest the money received from the basic county tax, the basic special tax, the county levy
6 in support of the elementary and high school district retirement obligations, and the county levy in support
7 of the transportation schedules within 3 working days of receipt. The money must be invested until the
8 working day before it is required to be distributed to school districts within the county or remitted to the
9 state. Permissible investments are specified in 20-9-213(4). All investment income must be deposited, and
10 credited proportionately, in the funds established to account for the taxes received for the purposes
11 specified in subsections (1)(a) through (1)(d).

12 (13) remit on a monthly basis to the state treasurer, in accordance with the provisions of 15-1-504,
13 all county equalization revenue received under the provisions of 20-9-331 and 20-9-333, including all
14 interest earned and excluding any amount required for high school out-of-county tuition under the
15 provisions of 20-9-334, in repayment of the state advance for county equalization prescribed in 20-9-347.
16 Any funds in excess of a state advance must be used as required in 20-9-331(1)(b) and 20-9-333(1)(b)."

17

18 **Section 15.** Section 20-25-201, MCA, is amended to read:

19 **"20-25-201. Units constituting university system.** The Montana university system is composed of
20 the following units, each designated by its legal name:

21 (1) ~~University~~ The university of Montana, with campuses located at the following locations:

22 (a) Missoula;

23 (b) Butte;

24 (c) Dillon; and

25 (d) Helena.

26 (2) Montana state university, with campuses located at the following locations:

27 (a) Bozeman;

28 (b) Billings;

29 (c) Havre; and

30 (d) Great Falls.

- 1 ~~(3) Montana college of mineral science and technology, located at Butte;~~
 2 ~~(4) Western Montana college of the university of Montana, located at Dillon;~~
 3 ~~(5) Eastern Montana college, located at Billings; and~~
 4 ~~(6) Northern Montana college, located at Havre."~~

5

6 **Section 16.** Section 20-25-211, MCA, is amended to read:

7 **"20-25-211. Montana college of mineral science and technology tech of the university of Montana**

8 -- **purpose -- fees for assays.** (1) ~~The Montana college of mineral science and technology tech of the~~
 9 university of Montana has for its purpose instruction and education in chemistry, metallurgy, mineralogy,
 10 geology, mining, milling, engineering, mathematics, mechanics and drawing, and the laws of the United
 11 States and Montana relating to mining.

12 (2) A department designated as "the Montana state bureau of mines and geology", which ~~shall be~~
 13 is under the direction of the regents, is established at ~~the college~~ Montana tech of the university of
 14 Montana.

15 (3) The ~~president~~ chancellor of ~~Montana college of mineral science and technology tech of the~~
 16 university of Montana may charge and collect reasonable fees for any assays and analyses made by the
 17 college.

18 (4) The ~~president~~ chancellor shall keep an account of ~~such the~~ fees and pay them monthly to the
 19 treasurer for deposit to the college fund."

20

21 **Section 17.** Section 20-25-301, MCA, is amended to read:

22 **"20-25-301. Regents' powers and duties.** The board of regents of higher education shall serve as
 23 regents of the Montana university system, shall use and adopt this style in all its dealings with the
 24 university system, and ~~shall~~:

25 (1) must have general control and supervision of the units of the Montana university system, which
 26 is considered for all purposes one university;

27 (2) shall adopt rules, ~~not inconsistent~~ for its own government that are consistent with the
 28 constitution and the laws of the state, ~~for its own government which~~ and that are proper and necessary
 29 for the execution of the powers and duties conferred upon it by law;

30 (3) shall provide, subject to the laws of the state, rules for the government of the system;

1 (4) shall grant diplomas and degrees to the graduates of the system upon the recommendation of
2 the faculties and have discretion to confer honorary degrees upon persons other than graduates upon the
3 recommendation of the faculty of the institutions;

4 (5) shall keep a record of its proceedings;

5 (6) must have, when not otherwise provided by law, control of all books, records, buildings,
6 grounds, and other property of the system;

7 (7) must receive from the board of land commissioners, from other boards, or persons, or from the
8 government of the United States all funds, incomes, and other property the system may be entitled to and
9 use and appropriate the property for the specific purpose of the grant or donation;

10 (8) must have general control of all receipts and disbursements of the system;

11 (9) shall appoint a president or chancellor and faculty for each of the institutions of the system,
12 appoint any other necessary officers, agents, and employees, and fix their compensation;

13 (10) shall confer upon the executive board of each of the units of the system authority that may
14 be considered expedient relating to immediate control and management, other than authority relating to
15 financial matters or the selection of the teachers, employees, and faculty;

16 (11) shall confer, at the regents' discretion, upon the president and faculty of each of the units of
17 the system for the best interest of the unit authority relating to the immediate control and management,
18 other than financial, and the selection of teachers and employees;

19 (12) shall prevent unnecessary duplication of courses at the units of the system;

20 (13) shall appoint a certified professional geologist or registered mining engineer as the director of
21 the Montana state bureau of mines and geology, who is the state geologist, and appoint any other
22 necessary assistants and employees and fix their compensation.

23 (14) shall supervise and control the agricultural experiment station, along with any executive or
24 subordinate board or authority ~~which~~ that may be appointed by the governor with the advice and consent
25 of the regents;

26 (15) shall adopt a seal bearing on its face the words "Montana university system", which must be
27 affixed to all diplomas and all other papers, instruments, or documents ~~which~~ that may require it;

28 (16) shall ~~assure~~ ensure an adequate level of security for data and information technology
29 resources, as defined in 2-15-102, within the state university system. In carrying out this responsibility,
30 the board of regents shall, at a minimum, address the responsibilities prescribed in 2-15-114.

1 (17) shall offer courses in vocational-technical education of a type and in a manner considered
 2 necessary or practical by the regents."

3
 4 **Section 18.** Section 20-25-303, MCA, is amended to read:

5 **"20-25-303. Local executive boards -- terms and compensation.** (1) There is a local executive
 6 board ~~for each unit of the~~ within each county in which a university system campus is located.

7 (2) (a) Each local executive board ~~shall consist~~ consists of three members appointed by the
 8 governor with the advice and consent of the regents.

9 (b) The president of ~~each a unit shall~~ or the chancellor of a campus may not be a member of the
 10 local executive board.

11 (c) Two of the members must reside in the county where the unit is located.

12 (d) The members shall hold office for 3 years beginning the third Monday in April of the year
 13 appointed. The term of office of one member shall expire each year.

14 (e) The members may be removed by the governor or the regents.

15 (f) The members shall qualify by filing their oath of office with the regents.

16 (3) All vacancies ~~shall~~ must be filled by appointment by the governor and referred for confirmation
 17 to the regents at their first meeting ~~thereafter for confirmation~~ after appointment.

18 (4) Each local executive board shall elect a ~~chairman~~ presiding officer and appoint a secretary.

19 (5) The compensation for the members ~~shall~~ must be fixed by the regents. It ~~shall~~ may not exceed
 20 \$5 for each day spent in discharging their duties or \$125 in any ~~one~~ year for each member. The members
 21 ~~shall~~ must be reimbursed from the amount appropriated by the legislature for the maintenance and support
 22 of the units for all expenses necessarily incurred in discharge of their duties."

23
 24 **Section 19.** Section 20-32-101, MCA, is amended to read:

25 **"20-32-101. Purpose -- definition.** (1) The purpose of this part is to establish a Montana
 26 educational telecommunications network.

27 (2) For the purposes of this part, "network" means the Montana educational telecommunications
 28 network (METNET).

29 (3) The aims of the network are to provide:

30 (a) instructional and educational coursework and materials through telecommunications delivery

1 to students in kindergarten through 12th grade in the Montana public school system;

2 (b) instructional and educational coursework and materials through telecommunications delivery
3 to students enrolled in units of the Montana university system, ~~the vocational-technical centers,~~ and the
4 community colleges;

5 (c) instructional and professional development or other appropriate inservice training for teachers
6 in the schools of the state; and

7 (d) telecommunications capabilities to agencies, subdivisions of state government, and public
8 libraries in order to improve their ability to perform their responsibilities and duties."

9

10 **Section 20.** Section 20-32-102, MCA, is amended to read:

11 **"20-32-102. Agency cooperation -- responsibilities.** (1) To meet the objectives of the network, the
12 following entities shall cooperate with one another:

13 (a) the department of administration, with its responsibilities for telecommunications for agencies
14 of state government;

15 (b) the superintendent of public instruction, with a supervisory role over the public system of
16 elementary and high schools; and

17 (c) the commissioner of higher education, with responsibilities to the Montana university system,
18 ~~the vocational-technical centers,~~ and the community colleges.

19 (2) The responsibilities of the superintendent of public instruction to the network include but are
20 not limited to:

21 (a) general supervision of delivery of educational materials through telecommunications to
22 elementary and high school districts in the state;

23 (b) compilation, maintenance, and dissemination to participating school districts of information that
24 identifies the educational programming available from within and from outside the state;

25 (c) training of teachers and other school personnel in the use of telecommunications technologies
26 for instructional purposes;

27 (d) assistance to school districts in identifying and procuring the telecommunications technologies
28 needed to interface with the network;

29 (e) identification of production capability for telecommunication of educational materials;

30 (f) assistance to participating school districts with group purchases of instructional and educational

1 materials;

2 (g) coordination with the commissioner of higher education and the units of the Montana university
3 system to offer advanced placement courses, teacher inservice training, and other instruction through the
4 network;

5 (h) payment of the superintendent's share of the network costs to the department of
6 administration, as provided in 20-32-104;

7 (i) coordination with the department of administration to ensure compatibility of network
8 components, to minimize duplication of efforts on behalf of the network, and to maximize use of the
9 network by school districts; and

10 (j) determination of kinds of equipment, inservice, and district accounting necessary to implement
11 the provisions of this part for school districts.

12 (3) The responsibilities of the department of administration to the network include but are not
13 limited to:

14 (a) provision of technical support to the coordinating agencies referred to in subsection (1);

15 (b) development of standards of compatibility for the network;

16 (c) procurement and management of network equipment and facilities that have shared use by
17 multiple users or agencies;

18 (d) assistance with procurement, installation, maintenance, and operation of end-terminal
19 equipment and facilities of the network;

20 (e) minimizing any duplication of equipment and facilities within the network and in conjunction
21 with the department of administration's other networking capabilities;

22 (f) coordination of use of the network by state agencies, subdivisions of the state, and public
23 libraries in a manner that does not interfere with the delivery of the primary network function of providing
24 educational services to school districts and state units of higher education;

25 (g) studying the use of the network by Native American tribal colleges and other nonpublic
26 education institutions in the state, with the long-range goal of coordinating the use of the network with
27 those entities; and

28 (h) maintenance of cost and usage records and a billing system for user agencies for services
29 rendered that incur marginal costs for the network.

30 (4) The responsibilities of the commissioner of higher education to the network include but are not

1 limited to:

2 (a) coordination of the use of the network among the units of higher education and with the
3 superintendent of public instruction and the department of administration;

4 (b) assistance to the units of the Montana university system to provide college credit courses
5 through the network to students throughout the state;

6 (c) coordination with the superintendent of public instruction to develop advance placement
7 courses for high school students in Montana, teacher inservice training, and other services and instruction
8 through the network;

9 (d) assistance to the units of the Montana university system, ~~the vocational technical centers,~~ and
10 the community colleges in defining their specific needs for interfacing with the network;

11 (e) assistance to participating units, centers, and colleges with group purchases of instructional
12 and educational materials; and

13 (f) determination of the kinds of equipment, inservice, and accounting necessary to implement the
14 provisions of this part for the university system, and community colleges, ~~and vocational technical centers.~~"

15

16 **Section 21.** Section 20-32-103, MCA, is amended to read:

17 **"20-32-103. Fee collection and disposition for operational costs.** As a condition of participation
18 in the network, the Montana university system, ~~vocational technical centers,~~ and community colleges shall
19 collect from appropriate discretionary funds in a manner approved by the board of regents an amount not
20 to exceed \$5 for each full-time equivalent student enrolled in the units, ~~centers,~~ or colleges. The funds
21 collected must be deposited with the commissioner of higher education by July 1 for the purposes of
22 20-32-102(4). The commissioner of higher education shall pay the department of administration the
23 commissioner's share of the network costs."

24

25 **Section 22.** Section 23-1-313, MCA, is amended to read:

26 **"23-1-313. Term of enrollment -- compensation -- exemption from employee benefits.** (1) A
27 corpsmember will be placed for a period not to exceed 12 months. The program operator shall refer the
28 names of corpsmembers who successfully complete their participation in the corps to the job service for
29 assistance in securing private sector employment or for enrollment in additional job training programs. The
30 program operator may also, upon approval of the corpsmember, provide the name of a corpsmember who

1 successfully completes his participation in the corps to private sector employers requesting referrals.

2 (2) A corpsmember may not be scheduled to work for more than 40 hours per week. Job training
3 and placement services must be provided to corpsmembers during regular work hours. Corpsmembers must
4 be compensated as provided in subsection (3) for participation in job training and placement service
5 programs.

6 (3) A corpsmember must be compensated at a rate set by the department that is not less than the
7 federal minimum wage.

8 (4) A corpsmember is not entitled to any employee benefits provided to permanent department or
9 agency employees except for holiday pay and workers' compensation benefits that are provided through
10 the funds appropriated to carry out this part. Service as a corpsmember does not qualify an individual for
11 unemployment compensation benefits.

12 (5) If funds are available, a person who is employed as a corpsmember for the full period of
13 enrollment and who receives a satisfactory employment evaluation may be awarded an incentive voucher
14 valid for up to 3 years at any Montana institution of higher education ~~or vocational-technical center.~~"

15

16 **Section 23.** Section 37-8-102, MCA, is amended to read:

17 **"37-8-102. Definitions.** Unless the context requires otherwise, in this chapter, the following
18 definitions apply:

19 (1) "Advanced practice registered nurse" means a registered professional nurse who has completed
20 educational requirements related to the nurse's specific practice role, in addition to basic nursing education,
21 as specified by the board pursuant to 37-8-202(5)(a).

22 (2) "Board" means the board of nursing provided for in 2-15-1844.

23 (3) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

24 (4) "Nursing education program" means any board-approved school that prepares graduates for
25 initial licensure under this chapter. Nursing education programs for:

26 (a) professional nursing may be a department, school, division, or other administrative unit in a
27 senior or junior college or university;

28 (b) practical nursing may be a department, school, division, or other administrative unit in a
29 vocational-technical ~~center~~ institution or junior college.

30 (5) "Practice of nursing" embraces two classes of nursing service and activity, as follows:

1 (a) "Practice of practical nursing" means the performance for compensation of services requiring
2 basic knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of
3 nursing procedures. Practical nursing practice ~~utilizes~~ uses standardized procedures in the observation and
4 care of the ill, injured, and infirm; in the maintenance of health; in action to safeguard life and health; and
5 in the administration of medications and treatments prescribed by a physician, advanced practice registered
6 nurse, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments.
7 These services are performed under the supervision of a registered nurse or a physician, dentist, osteopath,
8 or podiatrist authorized by state law to prescribe medications and treatments.

9 (b) "Practice of professional nursing" means the performance for compensation of services requiring
10 substantial specialized knowledge of the biological, physical, behavioral, psychological, and sociological
11 sciences and of nursing theory as a basis for the nursing process. The nursing process is the assessment,
12 nursing analysis, planning, nursing intervention, and evaluation in the promotion and maintenance of health;
13 the prevention, casefinding, and management of illness, injury, or infirmity; and the restoration of optimum
14 function. The term also includes administration, teaching, counseling, supervision, delegation, and
15 evaluation of nursing practice and the administration of medications and treatments prescribed by
16 physicians, advanced practice registered nurses, dentists, osteopaths, or podiatrists authorized by state law
17 to prescribe medications and treatments. Each registered nurse is directly accountable and responsible to
18 the consumer for the quality of nursing care rendered. As used in this subsection (5)(b):

19 (i) "nursing analysis" is the identification of those client problems for which nursing care is
20 indicated and may include referral to medical or community resources;

21 (ii) "nursing intervention" is the implementation of a plan of nursing care necessary to accomplish
22 defined goals."
23

24 **Section 24.** Section 37-31-304, MCA, is amended to read:

25 **"37-31-304. Qualifications of applicants for license to practice.** (1) Before a person may practice
26 cosmetology, the person shall obtain a license to practice cosmetology from the department. Before a
27 person may practice manicuring, the person shall obtain a license to practice manicuring from the
28 department unless the person is licensed to practice cosmetology.

29 (2) (a) To be eligible to take the examination to practice cosmetology, the applicant may not be
30 less than 18 years of age, must be of good moral character, and must possess a high school diploma or

1 the equivalent of a high school diploma recognized by the superintendent of public instruction. A person
2 may apply to the board for an exception to the educational requirement of a high school diploma or the
3 equivalent of a high school diploma. The board shall adopt by rule procedures for granting an exception.
4 The applicant must have completed a course of study of at least 2,000 hours in a registered cosmetology
5 school and must have received a diploma from the cosmetology school or must have completed the course
6 of study in cosmetology prescribed by the board.

7 (b) A person qualified under subsection (2)(a) shall file with the department a written application
8 to take the examination and shall deposit with the department the required examination fee and pass an
9 examination as to fitness to practice cosmetology.

10 (3) (a) To be eligible to take the examination to practice manicuring, an applicant may not be less
11 than 18 years of age; must be of good moral character; possess a high school diploma, the equivalent of
12 a high school diploma recognized by the superintendent of public instruction, or a certificate of completion
13 from a vocational-technical ~~center~~ program; and must have completed a course of study prescribed by the
14 board in a registered school of cosmetology or a registered school of manicuring. A person may apply to
15 the board for an exception to the educational requirement of a high school diploma, the equivalent of a high
16 school diploma, or a vocational-technical ~~center~~ program certificate of completion. The board shall adopt
17 by rule procedures for granting an exception.

18 (b) A person qualified under subsection (3)(a) shall file with the department a written application
19 to take the examination and deposit with the department the required examination fee."

20

21 **Section 25.** Section 39-29-101, MCA, is amended to read:

22 **"39-29-101. Definitions.** For the purposes of this chapter, the following definitions apply:

23 (1) "Active duty" means full-time duty with military pay and allowances in the armed forces, except
24 for training, determining physical fitness, or service in the reserve or national guard.

25 (2) "Armed forces" means the United States:

26 (a) army, navy, air force, marine corps, and coast guard; and

27 (b) merchant marine for service recognized by the United States department of defense as active
28 military service for the purpose of laws administered by the department of veterans affairs.

29 (3) "Disabled veteran" means a person:

30 (a) whether or not the person is a veteran as defined in this section, who was separated under

1 honorable conditions from active duty in the armed forces and has established the present existence of a
 2 service-connected disability or is receiving compensation, disability retirement benefits, or pension because
 3 of a law administered by the department of veterans affairs or a military department; or

4 (b) who has received a purple heart medal.

5 (4) "Eligible relative" means:

6 (a) the unmarried surviving spouse of a veteran or disabled veteran;

7 (b) the spouse of a disabled veteran who is unable to qualify for appointment to a position;

8 (c) the mother of a veteran who died under honorable conditions while serving in the armed forces

9 if:

10 (i) the mother's spouse is totally and permanently disabled; or

11 (ii) the mother is the widow of the father of the veteran and has not remarried;

12 (d) the mother of a service-connected permanently and totally disabled veteran if:

13 (i) the mother's spouse is totally and permanently disabled; or

14 (ii) the mother is the widow of the father of the veteran and has not remarried.

15 (5) "Position" means a permanent, temporary, or seasonal position as defined in 2-18-101 for a
 16 state position or a similar permanent, temporary, or seasonal position with a public employer other than the
 17 state. The term does not include:

18 (a) a state or local elected office;

19 (b) appointment by an elected official to a body such as a board, commission, committee, or
 20 council;

21 (c) appointment by an elected official to a public office if the appointment is provided for by law;

22 (d) a department head appointment by the governor or an executive department head appointment
 23 by a mayor, city manager, county commissioner, or other chief administrative or executive officer of a local
 24 government; or

25 (e) engagement as an independent contractor or employment by an independent contractor.

26 (6) "Public employer" means:

27 (a) a department, office, board, bureau, commission, agency, or other instrumentality of the
 28 executive, legislative, or judicial branches of the government of this state;

29 (b) a unit of the Montana university system ~~or a vocational-technical center;~~

30 (c) a school district or community college; and

1 (d) a county, city, or town.

2 (7) "Scored procedure" means a written test, structured oral interview, performance test, or other
3 selection procedure or a combination of these procedures that result in a numerical score to which
4 percentage points may be added.

5 (8) "Under honorable conditions" means a discharge or separation from active duty characterized
6 by the armed forces as under honorable conditions. The term includes honorable discharges and general
7 discharges but does not include dishonorable discharges or other administrative discharges characterized
8 as other than honorable.

9 (9) "Veteran" means a person who:

10 (a) was separated under honorable conditions from active duty in the armed forces after having
11 served more than 180 consecutive days, other than for training; or

12 (b) as a member of a reserve component under an order of active duty pursuant to 10 U.S.C.
13 672(a), (d), or (g), 10 U.S.C. 673, or 10 U.S.C. 673b served on active duty during a period of war or in
14 a campaign or expedition for which a campaign badge is authorized and was discharged or released from
15 duty under honorable conditions."

16

17 **Section 26.** Section 39-30-103, MCA, is amended to read:

18 **"39-30-103. Definitions.** For the purposes of this chapter, the following definitions apply:

19 (1) "Eligible spouse" means the spouse of a handicapped person determined by the department of
20 social and rehabilitation services to have a 100% disability who is unable to use ~~his~~ the employment
21 preference because of ~~his~~ the person's disability.

22 (2) "Handicapped person" means an individual certified by the department of social and
23 rehabilitation services to have a physical or mental impairment that substantially limits one or more major
24 life activities, such as writing, seeing, hearing, speaking, or mobility, and that limits the individual's ability
25 to obtain, retain, or advance in employment.

26 (3) (a) "Initial hiring" means a personnel action for which applications are solicited from outside the
27 ranks of the current employees of:

28 (i) a department, as defined in 2-15-102, for a position within the executive branch;

29 (ii) a legislative agency, such as the consumer counsel, environmental quality council, office of the
30 legislative auditor, legislative council, or office of the legislative fiscal analyst, for a position within the

1 legislative branch;

2 (iii) a judicial agency, such as the office of supreme court administrator, office of supreme court
3 clerk, state law library, or similar office in a state district court for a position within the judicial branch;

4 (iv) a city or town for a municipal position, including a city or municipal court position; and

5 (v) a county for a county position, including a justice's court position.

6 (b) A personnel action limited to current employees of a specific public entity identified in
7 subsections ~~(3)(a)(i) through (3)(a)(v) of this subsection (3)~~, current employees in a reduction-in-force pool
8 who have been laid off from a specific public entity identified in subsections ~~(3)(a)(i) through (3)(a)(v) of~~
9 ~~this subsection (3)~~, or current participants in a federally authorized employment program is not an initial
10 hiring.

11 (4) (a) "Mental impairment" means:

12 (i) suffering from a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or
13 any other neurologically handicapping condition closely related to mental retardation and requiring treatment
14 similar to that required by mentally retarded individuals; or

15 (ii) an organic or mental impairment that has substantial adverse effects on an individual's cognitive
16 or volitional functions.

17 (b) The term mental impairment does not include alcoholism or drug addiction and does not include
18 any mental impairment, disease, or defect that has been asserted by the individual claiming the preference
19 as a defense to any criminal charge.

20 (5) "Position" means a permanent or seasonal position as defined in 2-18-101 for a state position
21 or a similar permanent or seasonal position with a public employer other than the state. However, the term
22 does not include:

23 (a) a temporary position as defined in 2-18-101 for a state position or similar temporary position
24 with a public employer other than the state;

25 (b) a state or local elected official;

26 (c) employment as an elected official's immediate secretary, legal advisor, court reporter, or
27 administrative, legislative, or other immediate or first-line aide;

28 (d) appointment by an elected official to a body such as a board, commission, committee, or
29 council;

30 (e) appointment by an elected official to a public office if the appointment is provided for by law;

1 (f) a department head appointment by the governor or an executive department head appointment
 2 by a mayor, city manager, county commissioner, or other chief administrative or executive officer of a local
 3 government; or

4 (g) engagement as an independent contractor or employment by an independent contractor.

5 (6) (a) "Public employer" means:

6 (i) any department, office, board, bureau, commission, agency, or other instrumentality of the
 7 executive, judicial, or legislative branch of the government of the state of Montana; and

8 (ii) any county, city, or town.

9 (b) The term does not include a school district, a vocational-technical ~~center or~~ program, a
 10 community college, the board of regents of higher education, the Montana university system, a special
 11 purpose district, an authority, or any political subdivision of the state other than a county, city, or town.

12 (7) "Substantially equal qualifications" means the qualifications of two or more persons among
 13 whom the public employer cannot make a reasonable determination that the qualifications held by one
 14 person are significantly better suited for the position than the qualifications held by the other persons."

15

16 **Section 27.** Section 39-71-117, MCA, is amended to read:

17 **"39-71-117. Employer defined.** (1) "Employer" means:

18 (a) the state and each county, city and county, city school district, and irrigation district; ~~and~~ all other
 19 districts established by law; ~~and~~ all public corporations and quasi-public corporations and public agencies
 20 therein; ~~and every~~ each person; ~~every~~ each prime contractor; ~~and every~~ each firm, voluntary association,
 21 and private corporation, including any public service corporation and including an independent contractor
 22 who has any person in service under any appointment or contract of hire, expressed or implied, oral or
 23 written; ~~and~~ the legal representative of any deceased employer or the receiver or trustee ~~thereof~~ of the
 24 deceased employer;

25 (b) any association, corporation, or organization that seeks permission and meets the requirements
 26 set by the department by rule for a group of individual employers to operate as self-insured under plan No.
 27 1 of this chapter; and

28 (c) any nonprofit association or corporation or other entity funded in whole or in part by federal,
 29 state, or local government funds that places community service participants, as ~~defined~~ described in
 30 39-71-118(4)(f)(1)(e), with nonprofit organizations or associations or federal, state, or local government

1 entities.

2 (2) A temporary service contractor is the employer of a temporary worker for premium and loss
3 experience purposes.

4 (3) An employer defined in subsection (1) who utilizes the services of a worker furnished by
5 another person, association, contractor, firm, or corporation, other than a temporary service contractor,
6 is presumed to be the employer for workers' compensation premium and loss experience purposes for work
7 performed by the worker. The presumption may be rebutted by substantial credible evidence of the
8 following:

9 (a) the person, association, contractor, firm, or corporation, other than a temporary service
10 contractor, furnishing the services of a worker to another retains control over all aspects of the work
11 performed by the worker, both at the inception of employment and during all phases of the work; and

12 (b) the person, association, contractor, firm, or corporation, other than a temporary service
13 contractor, furnishing the services of a worker to another has obtained workers' compensation insurance
14 for the worker in Montana both at the inception of employment and during all phases of the work
15 performed.

16 (4) Notwithstanding the provisions of subsection (3), an interstate or intrastate common or contract
17 motor carrier doing business in this state who utilizes drivers in this state is considered the employer, is
18 liable for workers' compensation premiums, and is subject to loss experience rating in this state unless:

19 (a) the driver in this state is certified as an independent contractor as provided in 39-71-401(3);
20 or

21 (b) the person, association, contractor, firm, or corporation furnishing drivers in this state to a
22 motor carrier has obtained workers' compensation insurance on the drivers in Montana both at the inception
23 of employment and during all phases of the work performed."
24

25 **Section 28.** Section 39-71-118, MCA, is amended to read:

26 **"39-71-118. Employee, worker, and volunteer firefighter defined.** (1) The terms "employee" or
27 "worker" means:

28 (a) each person in this state, including a contractor other than an independent contractor, who is
29 in the service of an employer, as defined by 39-71-117, under any appointment or contract of hire,
30 expressed or implied, oral or written. The terms include aliens and minors, whether lawfully or unlawfully

1 employed, and all of the elected and appointed paid public officers and officers and members of boards of
 2 directors of quasi-public or private corporations while rendering actual service for the corporations for pay.
 3 Casual employees as defined by 39-71-116 are included as employees if they are not otherwise covered
 4 by workers' compensation and if an employer has elected to be bound by the provisions of the
 5 compensation law for these casual employments, as provided in 39-71-401(2). Household or domestic
 6 service is excluded.

7 (b) any juvenile performing work under authorization of a district court judge in a delinquency
 8 prevention or rehabilitation program;

9 (c) a person receiving on-the-job vocational rehabilitation training or other on-the-job training under
 10 a state or federal vocational training program, whether or not under an appointment or contract of hire with
 11 an employer as defined in this chapter and whether or not receiving payment from a third party. However,
 12 this subsection does not apply to students enrolled in vocational training programs as outlined in this
 13 subsection while they are on the premises of a public school or community college.

14 ~~(d) students enrolled and in attendance in programs of vocational technical education at designated~~
 15 ~~vocational technical centers;~~

16 ~~(e)(d)~~ an aircrew member or other person employed as a volunteer under 67-2-105;

17 ~~(f)(e)~~ a person, other than a juvenile as defined in subsection (1)(b), performing community service
 18 for a nonprofit organization or association or for a federal, state, or local government entity under a court
 19 order, or an order from a hearings officer as a result of a probation or parole violation, whether or not under
 20 appointment or contract of hire with an employer as defined in this chapter and whether or not receiving
 21 payment from a third party. For a person covered by the definition in this subsection ~~(f)(e)~~:

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

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

28 ~~(g)(f)~~ an inmate working in a federally certified prison industries program authorized under
 29 53-1-301.

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

1 (a) participating in recreational activity and who at the time is relieved of and is not performing
2 prescribed duties, regardless of whether the person is using, by discount or otherwise, a pass, ticket,
3 permit, device, or other emolument of employment; or

4 (b) performing voluntary service at a recreational facility and who receives no compensation for
5 those services other than meals, lodging, or the use of the recreational facilities.

6 (3) The term "volunteer firefighter" means a firefighter who is an enrolled and active member of
7 a fire company organized and funded by a county, a rural fire district, or a fire service area.

8 (4) (a) If the employer is a partnership or sole proprietorship, the employer may elect to include as
9 an employee within the provisions of this chapter any member of the partnership or the owner of the sole
10 proprietorship devoting full time to the partnership or proprietorship business.

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

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

17 (d) All weekly compensation benefits must be based on the amount of elected wages, subject to
18 the minimum and maximum limitations of this subsection. For premium ratemaking and for the
19 determination of weekly wage for weekly compensation benefits, the electing employer may elect not less
20 than \$900 a month and not more than 1 ½ times the average weekly wage as defined in this chapter.

21 (5) The trustees of a rural fire district, a county governing body providing rural fire protection, or
22 the county commissioners or trustees for a fire service area may elect to include as an employee within the
23 provisions of this chapter any volunteer firefighter. A volunteer firefighter who receives workers'
24 compensation coverage under this section may not receive disability benefits under Title 19, chapter 17.

25 (6) An employee or worker in this state whose services are furnished by a person, association,
26 contractor, firm, or corporation, other than a temporary service contractor, to an employer as defined in
27 39-71-117 is presumed to be under the control and employment of the employer. This presumption may
28 be rebutted as provided in 39-71-117(3).

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

30 (a) a resident of Montana who is employed by an employer and whose employment duties are

1 primarily carried out or controlled within this state;

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

4 (c) a nonresident employee of an employer from another state engaged in the construction industry,
5 as defined in 39-71-116, within this state; or

6 (d) a nonresident of Montana who does not meet the requirements of subsection (7)(b) and whose
7 employer elects coverage with an insurer that allows an election for an employer whose:

8 (i) nonresident employees are hired in Montana;

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

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

11 (iv) business records are maintained in Montana.

12 (8) An insurer may require coverage for all nonresident employees of a Montana employer who do
13 not meet the requirements of subsection (7)(b) or (7)(d) as a condition of approving the election under
14 subsection (7)(d)."

15

16 **Section 29.** Section 39-71-744, MCA, is amended to read:

17 **"39-71-744. Benefits not due while claimant is incarcerated -- exceptions.** (1) Except as provided
18 in subsection (2), a claimant is not eligible for disability or rehabilitation compensation benefits while the
19 claimant is incarcerated in a correctional institution, such as the Montana state prison or the Montana
20 women's correctional center, as the result of conviction of a felony. The insurer remains liable for medical
21 benefits. A time limit on benefits otherwise provided in this chapter is not extended due to a period of
22 incarceration.

23 (2) A person who is employed while participating in a prerelease center program or a diversionary
24 program is eligible for temporary total benefits as provided in 39-71-701 and medical benefits for a
25 work-related injury received while participating in a prerelease center program or a diversionary program.
26 Other disability or rehabilitation benefits are not payable while the worker is participating in a prerelease
27 center. This subsection does not prohibit the reinstatement of other benefits upon release from
28 incarceration, nor does it apply to an employee performing community service described in
29 39-71-118~~(4)(e)~~(1)(e)."

30

1 **Section 30.** Section 50-40-204, MCA, is amended to read:

2 **"50-40-204. Smoke-free buildings -- designated smoking areas.** (1) In buildings both owned and
3 occupied by the state, smoking is prohibited in the following areas:

- 4 (a) general office space;
- 5 (b) auditoriums, classrooms, and conference rooms;
- 6 (c) elevators;
- 7 (d) corridors, lobbies, restrooms, and stairways;
- 8 (e) medical care facilities;
- 9 (f) libraries; and
- 10 (g) hazardous areas.

11 (2) (a) Subject to subsection (1), in state-owned buildings, an agency head shall establish at least
12 one designated smoking area in the building occupied by the agency, provided that the building is suited
13 by architectural design and functional purpose to have a designated smoking area as defined in 50-40-203.

14 (b) Buildings in the Montana university system, ~~including the vocational technical centers,~~ and
15 buildings housing items of artistic or historic value that may be damaged by smoke are exempt from the
16 provisions of subsection (2)(a).

17 (3) In establishing designated smoking areas, as provided in subsection (2), an agency head shall
18 consider:

- 19 (a) the number of smokers and nonsmokers in the agency;
- 20 (b) the building ventilation system;
- 21 (c) the availability of space;
- 22 (d) the protection of nonsmokers from involuntary exposure to smoke; and
- 23 (e) available resources.

24 (4) (a) Agencies in multitenant buildings are encouraged to work together to identify designated
25 smoking areas.

26 (b) The legislature shall establish designated smoking areas in the capitol in areas used by the
27 legislature."

28

29 **Section 31.** Section 50-74-305, MCA, is amended to read:

30 **"50-74-305. Exceptions to requirements for engineer's license.** Allowable exceptions or variances

1 to the minimum requirements set out in 50-74-304 are as follows:

2 (1) An applicant for an engineer's license in any classification ~~holding~~ who holds a valid license in
3 that classification from another state having licensing requirements equal to or exceeding the minimum
4 requirements set out in 50-74-304, who successfully ~~passing~~ passes a written examination prescribed by
5 the department, and who is found to be competent to operate a boiler and steam-driven machinery in that
6 classification ~~shall~~ must be granted a license in that classification.

7 (2) Operating experience in a classification accumulated in the United States military services or
8 the merchant marine service satisfactory to the department may be accepted in lieu of the operating
9 experience required for licensing of engineers in each of the license classifications.

10 (3) An applicant having training in the operation of steam or water boilers and steam machinery
11 who has been certified as having satisfactorily completed a prescribed training course from a ~~recognized~~
12 ~~vocational-technical training school or center or other~~ department-approved institution or training program
13 in the classification for which ~~he~~ the applicant is applying may, at the discretion of the department, be
14 credited with a maximum of 6 months' experience toward a first-, second-, or third-class engineer's
15 license."

16

17 **NEW SECTION. Section 32. Vocational-technical education -- mill levy required.** (1) The boards
18 of county commissioners of Cascade, Lewis and Clark, Missoula, Silver Bow, and Yellowstone Counties
19 shall in each calendar year levy a tax of 1 1/2 mills on the dollar value of all taxable property, real and
20 personal, located within the respective county.

21 (2) The funds from the mill levy must be deposited in the general fund and must be distributed for
22 vocational-technical education on the basis of budgets approved by the board of regents.

23

24 **NEW SECTION. Section 33. Repealer.** (1) Sections 20-16-101, 20-16-102, 20-16-103,
25 20-16-104, 20-16-105, 20-16-106, 20-16-107, 20-16-108, 20-16-109, 20-16-201, 20-16-203,
26 20-16-204, 20-16-205, 20-16-206, 20-16-207, 20-25-251, 20-25-401, 20-25-431, 20-25-432,
27 20-25-433, 20-25-434, and 60-2-216, MCA, are repealed.

28 (2) Section 20-16-202, MCA, is repealed.

29

30 **NEW SECTION. Section 34. Name change -- directions to code commissioner.** (1) Wherever the

1 name "university of Montana" appears in the Montana Code Annotated or in legislation enacted by the
2 1995 legislature, the code commissioner is directed to change the name to "university of
3 Montana-Missoula".

4 (2) Wherever the name "Montana state university" appears in the Montana Code Annotated or
5 in legislation enacted by the 1995 legislature, the code commissioner is directed to change the name to
6 "Montana state university-Bozeman".

7 (3) Wherever the name "eastern Montana college" appears in the Montana Code Annotated or in
8 legislation enacted by the 1995 legislature, the code commissioner is directed to change the name to
9 "Montana state university-Billings".

10 (4) Wherever the name "northern Montana college" appears in the Montana Code Annotated or
11 in legislation enacted by the 1995 legislature, the code commissioner is directed to change the name to
12 "Montana state university-northern".

13 (5) Wherever the name "Montana college of mineral science and technology" or "Montana tech"
14 appears in the Montana Code Annotated or in legislation enacted by the 1995 legislature, the code
15 commissioner is directed to change the name to "Montana tech of the university of Montana".

16

17 **NEW SECTION. Section 35. Codification instruction.** [Section 32] is intended to be codified as
18 an integral part of Title 20, chapter 25, and the provisions of Title 20, chapter 25, apply to [section 32].

19

20 **NEW SECTION. Section 36. Effective dates -- applicability.** (1) [Section 33(2)] is effective
21 December 31, 1995.

22 (2) [Section 32] is effective January 1, 1996, and applies to the operation of the
23 vocational-technical system beginning in fiscal year 1997.

24 (3) [Sections 1 through 31, 33(1), 34, and 35 and this section] are effective July 1, 1995.

25

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0156, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: A bill for an act entitled: "An act restructuring the university system by incorporating the vocational-technical centers into the system; removing the vocational-technical center representative from the guaranteed student loan advisory council; deleting references to vocational-educational centers; removing vocational-technical center students from workers' compensation coverage; requiring five counties to levy 1 1/2 mills to support vocational-technical education; amending other sections and providing an effective date and an applicability provision."

ASSUMPTIONS:

1. The Board of Regents has the constitutional authority to make management structural changes in the university system.
2. The Board of Regents has used this authority to restructure the university system and this bill, with the exception in the workers' compensation section, merely recognizes the changes that have been made.
3. The Executive budget has recognized the savings from the restructuring.
4. The workers' compensation section of the bill is the only section that would be impacted by passage of this bill. This section removes the requirement that vocational-technical centers (now colleges/division of technology) pay workers' compensation insurance for their students.

FISCAL IMPACT:

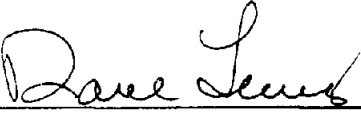
Expenditures:

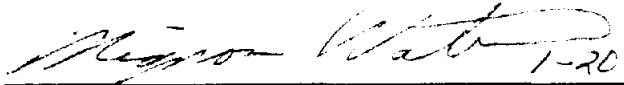
The following amounts are contained in the executive budget recommendations for worker's compensation contributions for students:

	FY96	FY97
	<u>Difference</u>	<u>Difference</u>
MSU College of Tech. Billings	(11,426)	(11,426)
Montana Tech Div. of Technology	(7,947)	(7,947)
MSU College of Tech. Great Falls	(16,515)	(16,515)
UM College of Tech. Helena	(12,160)	(12,188)
UM College of Tech. Missoula	<u>(14,042)</u>	<u>(14,042)</u>
Total General Fund reduction	(62,090)	(62,118)

Net Impact:

General fund expenditure reduction	(62,090)	(62,118)
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 1-19-95
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

 1-20-95
 MIGNON WATERMAN, PRIMARY SPONSOR DATE

APPROVED BY COM ON EDUCATION
AND CULTURAL RESOURCES

SENATE BILL NO. 156

INTRODUCED BY WATERMAN, T. NELSON, R. JOHNSON

BY REQUEST OF THE BOARD OF REGENTS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CERTAIN STATUTES RELATING TO THE UNIVERSITY SYSTEM; RESTRUCTURING THE UNIVERSITY SYSTEM BY INCORPORATING THE VOCATIONAL-TECHNICAL CENTERS INTO THE SYSTEM; REMOVING THE VOCATIONAL-TECHNICAL CENTER REPRESENTATIVE FROM THE GUARANTEED STUDENT LOAN ADVISORY COUNCIL; DELETING REFERENCES TO VOCATIONAL-EDUCATIONAL CENTERS; REMOVING VOCATIONAL-TECHNICAL CENTER STUDENTS FROM WORKERS' COMPENSATION COVERAGE; REQUIRING FIVE COUNTIES TO LEVY 1 1/2 MILLS TO SUPPORT VOCATIONAL-TECHNICAL EDUCATION; ELIMINATING CERTAIN MISCELLANEOUS FINANCE PROVISIONS RELATING TO UNIVERSITY SYSTEM CONSTRUCTION AND BOND PROJECTS; REVISING THE NAMES OF THE UNITS OF THE UNIVERSITY SYSTEM; CLARIFYING THE DEFINITION OF RESIDENT STUDENT AND PROVISIONS RELATING TO DOMICILE; AMENDING SECTIONS 2-15-1520, 2-18-401, 17-1-102, 17-2-102, 17-2-107, 17-2-110, 17-7-102, 17-7-304, 19-3-403, 19-20-302, 20-1-101, 20-5-402, 20-7-701, 20-9-212, 20-25-201, 20-25-211, 20-25-301, 20-25-303, 20-25-501, 20-25-503, 20-32-101, 20-32-102, 20-32-103, 23-1-313, 37-8-102, 37-31-304, 39-29-101, 39-30-103, 39-71-117, 39-71-118, 39-71-744, 50-40-204, AND 50-74-305, MCA; REPEALING SECTIONS 20-16-101, 20-16-102, 20-16-103, 20-16-104, 20-16-105, 20-16-106, 20-16-107, 20-16-108, 20-16-109, 20-16-201, 20-16-202, 20-16-203, 20-16-204, 20-16-205, 20-16-206, 20-16-207, 20-25-251, 20-25-401, 20-25-431, 20-25-432, 20-25-433, 20-25-434, AND 60-2-216, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY PROVISION."

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

Section 1. Section 2-15-1520, MCA, is amended to read:

"2-15-1520. Guaranteed student loan advisory council -- terms -- compensation. (1) There is a student loan advisory council appointed by the board of regents.

(2) The council consists of seven members. Each member ~~shall~~ must be appointed for a term of 3 years.

1 (3) Appointments to the council must conform to the following requirements:

2 (a) One member must be a representative of a private eligible educational institution, as defined
3 in 20-26-1101.

4 (b) Two members must be representatives of a public eligible educational institution, as defined
5 in 20-26-1101. ~~One must be a representative of higher education, and one must be a representative for
6 the vocational technical centers.~~

7 (c) Two members must be representatives of approved lenders.

8 (d) One member must be a full-time student registered at an eligible educational institution, as
9 defined in 20-26-1101.

10 (e) One member must be a representative of the office of the commissioner of higher education.

11 (4) A ~~chairman~~ presiding officer must be selected by the council from its membership at the first
12 meeting of each fiscal year.

13 (5) Each member of the council is entitled to compensation and reimbursement for travel expenses
14 as provided in 2-15-122(5)."

15

16 **Section 2.** Section 2-18-401, MCA, is amended to read:

17 **"2-18-401. Central payroll system -- department to provide for inclusion of agencies.** The
18 department of administration shall install and operate a uniform state central payroll system for all state
19 agencies, including units of the Montana university system ~~and the vocational technical centers.~~ The
20 department may provide for the orderly inclusion of state agencies into the system and may make
21 exceptions from the operation of the system for periods that it determines necessary."

22

23 **Section 3.** Section 17-1-102, MCA, is amended to read:

24 **"17-1-102. Uniform accounting system and expenditure control.** (1) The department shall establish
25 a system of financial control so that the functioning of the various agencies of the state may be improved,
26 duplications of work by different state agencies and employees may be eliminated, public service may be
27 improved, and the cost of government may be reduced.

28 (2) The department shall prescribe and install uniform accounting and reporting for all state
29 agencies and institutions, showing the receipt, use, and disposition of all public money and property in
30 accordance with generally accepted accounting principles, and shall develop plans for improvements and

1 economies in the organization and operation ~~thereof~~ of state agencies and institutions, which ~~shall~~ must
 2 be submitted to the respective heads of agencies and institutions. Copies of all ~~such~~ plans ~~shall~~ must be
 3 delivered to the governor, and additional copies ~~shall~~ must be retained in the office of the department for
 4 inspection by the members of the legislature.

5 (3) The uniform accounting and reporting system must contain three levels of expenditure. The first
 6 level must include general categories, such as personal services, operating expenses, equipment, capital
 7 outlay, local assistance, grants, benefits and claims, transfers, and debt service. The second level of
 8 expenditure must include specific categories of expenditures within each first-level category. The third level
 9 of expenditure must include specific items of expenditure within each category of the second level.

10 (4) The department shall examine all financial affairs of ~~every~~ each state agency and institution for
 11 the purpose of developing plans for improvements and economies in the organization and operation ~~thereof~~
 12 of the agencies and institutions and for the purpose of enabling the department to properly perform any of
 13 the duties imposed upon the department by this part.

14 (5) All state agencies, including units of the university system, but ~~excluding~~ community colleges,
 15 ~~and the vocational technical centers~~, shall input all necessary transactions to the accounting system
 16 prescribed in subsection (2) before the accounts are closed at the end of the fiscal year in order to present
 17 the receipt, use, and disposition of all money and property for which the agency is accountable in
 18 accordance with generally accepted accounting principles, except that for budgetary control purposes,
 19 encumbrances ~~which~~ that are required by generally accepted accounting principles to be reported as a
 20 reservation of fund balance ~~shall~~ must be recorded as expenditures and liabilities on the accounting
 21 records."
 22

23 **Section 4.** Section 17-2-102, MCA, is amended to read:

24 "**17-2-102. Fund structure.** (1) There are in the state treasury only the following fund categories
 25 and types:

26 (a) the governmental fund category, which includes:

27 (i) the general fund, which accounts for all financial resources except those required to be
 28 accounted for in another fund;

29 (ii) the special revenue fund type, which accounts for the proceeds of specific revenue sources
 30 (other than expendable trusts or major capital projects) that are legally restricted to expenditure for specified

1 purposes. The financial activities of the special revenue fund type are subdivided, for operational purposes,
2 into the following funds to serve the purpose indicated:

3 (A) The state special revenue fund consists of money from state and other nonfederal sources
4 deposited in the state treasury that is earmarked for the purposes of defraying particular costs of an
5 agency, program, or function of state government and money from other nonstate or nonfederal sources
6 that is restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation.

7 (B) The federal special revenue fund consists of money deposited in the treasury from federal
8 sources, including trust income, that is used for the operation of state government.

9 (iii) the capital projects fund type, which accounts for financial resources to be used for the
10 acquisition or construction of major capital facilities, other than those financed by proprietary funds or trust
11 funds; and

12 (iv) the debt service fund type, which accounts for the accumulation of resources for and the
13 payment of general long-term debt principal and interest;

14 (b) the proprietary fund category, which includes:

15 (i) the enterprise fund type, which accounts for operations:

16 (A) that are financed and operated in a manner similar to private business enterprises whenever
17 the intent of the legislature is that costs (i.e., expenses, including depreciation) of providing goods or
18 services to the general public on a continuing basis are to be financed or recovered primarily through user
19 charges; or

20 (B) whenever the legislature has decided that periodic determination of revenue earned, expenses
21 incurred, or net income is appropriate for capital maintenance, public policy, management control,
22 accountability, or other purposes; and

23 (ii) the internal service fund type, which accounts for the financing of goods or services provided
24 by one department or agency to other departments or agencies of state government or to other
25 governmental entities on a cost-reimbursed basis;

26 (c) the fiduciary fund category, which includes trust and agency fund types used to account for
27 assets held by state government in a trustee capacity or as an agent for individuals, private organizations,
28 other governmental entities, or other funds. These include the:

29 (i) expendable trust fund type;

30 (ii) nonexpendable trust fund type;

1 (iii) pension trust fund type; and

2 (iv) agency fund type.

3 (d) the higher education funds, which include:

4 (i) the current fund, which accounts for money deposited in the state treasury that is used to pay
5 current operating costs relating to instruction, research, public service, and allied support operations and
6 programs conducted within the Montana university system ~~and vocational-technical centers~~. The financial
7 activities of the current fund are subdivided, for operational purposes, into the four following subfunds to
8 serve the purpose indicated:

9 (A) The unrestricted subfund segregates that portion of the current fund's financial resources that
10 can be expended for general operations and is free of externally imposed restrictions, except those imposed
11 by the legislature.

12 (B) The restricted subfund segregates that portion of the current fund's financial resources that can
13 be expended for general operations but only for purposes imposed by sources external to the board of
14 regents and the legislature.

15 (C) The designated subfund segregates that portion of the current fund's financial resources that
16 is associated with general operations but is separately classified in order to accumulate costs that are to
17 be recharged as allocated to other funds or subfunds; identifies financial activities related to special
18 organized activities of educational departments ~~wherein~~ in which the activity is fully supported by
19 supplemental assessments; and identifies special supply and facility fees that are approved for collections
20 beyond normal course fees and their disposition.

21 (D) The auxiliary subfund segregates that portion of the current fund's financial resources that is
22 devoted to providing essential on-campus services primarily to students, faculty, or staff wherein a fee,
23 which is directly related to but does not necessarily equal the cost of the service provided, is charged to
24 the consumer.

25 (ii) the student loan fund, which accounts for money deposited in the state treasury that may be
26 loaned to students, faculty, or staff for purposes related to education, organized research, or public services
27 by the Montana university system ~~and vocational-technical centers~~;

28 (iii) the endowment fund, which accounts for money deposited in the state treasury by the Montana
29 university system ~~and vocational-technical centers~~ wherein the principal portion of the amount received is
30 nonexpendable but is available for investment, thus producing consumable income. Expendable earnings

1 on endowment funds are to be transferred to appropriate operating funds pursuant to prevailing
2 administrative requirements.

3 (iv) the annuity and life income fund, which accounts for money deposited in the state treasury by
4 the Montana university system ~~and vocational-technical centers~~ under an agreement whereby the money
5 is made available on condition that the receiving unit of the Montana university system ~~or~~
6 ~~vocational-technical center~~ binds itself to pay stipulated amounts periodically to the donor or others
7 designated by the donor over a specified period of time;

8 (v) the plant fund, which accounts for those financial resources allocated to or received by the
9 Montana university system ~~and vocational-technical centers~~ for capital outlay purposes or to retire long-term
10 debts associated with construction or acquisition of fixed assets and the net accumulative results of these
11 activities; and

12 (vi) the agency fund, which accounts for money deposited in the state treasury wherein the
13 Montana university system ~~or a vocational-technical center~~ acts in the capacity of a custodian or fiscal
14 agent for individual students, faculty, staff, and qualified organizations.

15 (2) In addition to the funds provided for in subsection (1), there are in the state treasury the
16 following account groups:

17 (a) the fixed assets account group, which is a self-balancing group of accounts set up to establish
18 accounting control and accountability for the state's general fixed assets, except those accounted for in
19 proprietary funds, trust funds, and the higher education funds designated in subsections (1)(d)(i)(D),
20 (1)(d)(iii), and (1)(d)(v); and

21 (b) the long-term debt account group, which is a self-balancing group of accounts set up to
22 establish accounting control and accountability for the state's unmatured general long-term liabilities, except
23 those accounted for in proprietary funds, trust funds, and the higher education funds designated in
24 subsections (1)(d)(i)(D), (1)(d)(iii), and (1)(d)(v)."

25

26 **Section 5.** Section 17-2-107, MCA, is amended to read:

27 **"17-2-107. Accurate accounting records and interentity loans.** (1) The department of administration
28 shall record receipts and disbursements for treasury funds and for accounting entities within treasury funds
29 and shall maintain records in such a manner as to reflect the total cash and invested balance of each fund
30 and each accounting entity. The department of administration shall adopt the necessary procedures to

1 ~~insure~~ ensure that interdepartmental or intradepartmental transfers of money or loans do not result in
2 inflation of figures reflecting total governmental costs and ~~revenues~~ revenue.

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

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

18 (ii) One accounting entity within each fund or subfund designated in 17-2-102(1)(d)(i)(A) through
19 (1)(d)(vi) must be established for the sole purpose of recording loans between the funds or subfunds. This
20 accounting entity is the only accounting entity within each fund or subfund that may receive a loan or from
21 which a loan may be made.

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

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

30 (4) Any loan from the current unrestricted subfund to funds designated in 17-2-102(1)(d)(i)(D) and

1 (1)(d)(ii) through (1)(d)(vi) must bear interest at a rate equivalent to the previous fiscal year's average rate
2 of return on the board of investments' short-term investment pool. Except for investment earnings on
3 restricted donations, all designated and restricted subfund investment earnings, other than investment
4 earnings on student activity fees used to support student governments at units of the university system,
5 are credited to the state general fund.

6 (5) If for ~~two~~ 2 consecutive fiscal yearends a loan or an extension of a loan has been authorized
7 to the same accounting entity as provided in subsection (2) or (3), the department of administration or the
8 commissioner of higher education shall submit to the legislative finance committee by September 1 of the
9 following fiscal year a written report containing an explanation as to why the second loan or extension was
10 made, an analysis of the solvency of the accounting entity or accounting entities within the university fund
11 or subfund, and a plan for repaying the loans.

12 (6) If for ~~two~~ 2 consecutive fiscal yearends an accounting entity in a fund or subfund designated
13 in 17-2-102(1)(d)(i) through (1)(d)(vi) has a negative cash balance, the commissioner of higher education
14 shall submit to the legislative finance committee by September 1 of the following fiscal year a written report
15 containing an explanation as to why the accounting entity has a negative cash balance, an analysis of the
16 solvency of the accounting entity, and a plan to address any problems concerning the accounting entity's
17 negative cash balance or solvency.

18 (7) (a) An accounting entity in a fund designated in 17-2-102(1)(a) through (1)(c) may not have
19 a negative cash balance at fiscal yearend. The department of administration may, however, allow an
20 accounting entity to carry a negative balance at any point during the fiscal year if the negative cash balance
21 does not exist for more than 7 working days.

22 (b) (i) Except as provided in subsection (7)(b)(ii), a unit of the university system or
23 ~~vocational-technical center~~ shall maintain a positive cash balance in the funds and subfunds designated in
24 17-2-102(1)(d)(i)(A) through (1)(d)(i)(D) and (1)(d)(ii) through (1)(d)(vi).

25 (ii) If a fund or subfund inadvertently has a negative cash balance, the department of administration
26 may allow the fund or subfund to carry the negative cash balance for no more than 7 working days. If the
27 negative cash balance exists for more than 7 working days, a transaction may not be processed through
28 the statewide accounting system for that fund or subfund.

29 (8) Notwithstanding the provisions of subsections (2) through (4), the department of administration
30 may authorize loans to accounting entities in the federal and state special revenue funds with long-term

1 repayment whenever necessary ~~due to~~ because of the timing of the receipt of agreed upon reimbursements
 2 from federal, private, or other governmental entity sources for disbursements made. The department of
 3 administration may approve the loans if the requesting agency can demonstrate that the total loan balance
 4 does not exceed total receivables from federal, private, or other governmental entity sources and
 5 receivables have been billed on a timely basis. The loan must be repaid under ~~such~~ terms and conditions
 6 as may be determined by the department of administration or by specific legislative authorization."

7
 8 **Section 6.** Section 17-2-110, MCA, is amended to read:

9 **"17-2-110. Fiscal year and financial reports.** (1) The fiscal year for state purposes commences on
 10 July 1 of each year and ends on June 30 of each year.

11 (2) At the close of each fiscal year, the fiscal records of each state office, department, bureau,
 12 commission, institution, university unit, ~~vocational technical center,~~ and agency (~~hereinafter~~ collectively
 13 referred to as "state agency") ~~shall~~ must be closed as of the end of the fiscal year. Each state agency shall
 14 prepare ~~such~~ the financial statements and reconciliations for the fiscal year as the department of
 15 administration may prescribe. These financial reports are to be completed and distributed not more than
 16 31 days following the close of each fiscal year. The department of administration may extend this time limit
 17 if a state agency can show necessity ~~therefor~~ for the extension.

18 (3) The reports are to be distributed to the department of administration and the legislative auditor
 19 and any other state agency that the department of administration may prescribe. It is the intent of this
 20 provision that these reports accurately and comprehensively present the financial activities of the reporting
 21 state agency in accordance with generally accepted accounting principles so that the reports can be
 22 effectively ~~utilized~~ used by the executive and legislative branches of state government.

23 (4) Upon consolidation of the reports, the annual financial report by the department of
 24 administration ~~will~~ must be available for other individuals and organizations interested in the financial affairs
 25 of the state of Montana."

26
 27 **Section 7.** Section 17-7-102, MCA, is amended to read:

28 **"17-7-102. Definitions.** As used in this chapter, the following definitions apply:

29 (1) "Additional services" means different services or more of the same services.

30 (2) "Agency" means each state office, department, division, board, commission, council,

1 committee, institution, university unit, or other entity or instrumentality of the executive branch, office of
2 the judicial branch, or office of the legislative branch of state government, except for purposes of capital
3 projects administered by the department of administration, for which institutions are treated as one
4 department and university units as one system.

5 (3) "Approved long-range building program budget amendment" means approval by the budget
6 director of a request submitted through the architecture and engineering division of the department of
7 administration to transfer excess funds appropriated to a capital project within an agency to increase the
8 appropriation of another capital project within that agency or to obtain financing to expand a project with
9 funds that were not available for consideration by the legislature.

10 (4) "Approving authority" means:

11 (a) the governor or the governor's designated representative for executive branch agencies;

12 (b) the chief justice of the supreme court or the chief justice's designated representative for judicial
13 branch agencies;

14 (c) the speaker for the house of representatives;

15 (d) the president for the senate;

16 (e) appropriate legislative committees or a designated representative for legislative branch agencies;

17 or

18 (f) the board of regents of higher education or its designated representative for the university
19 system.

20 (5) "Base budget" means that level of funding authorized by the previous legislature.

21 (6) "Budget amendment" means a legislative appropriation to increase spending authority for the
22 special revenue fund, proprietary funds, or unrestricted subfund, contingent on total compliance with all
23 budget amendment procedures.

24 (7) "Present law base" means that additional level of funding needed under present law to maintain
25 operations and services at the level authorized by the previous legislature, including but not limited to:

26 (a) changes resulting from legally mandated workload, caseload, or enrollment increases or
27 decreases;

28 (b) changes in funding requirements resulting from constitutional or statutory schedules or
29 formulas;

30 (c) inflationary or deflationary adjustments; and

1 (d) elimination of nonrecurring appropriations.

2 (8) "Effectiveness measure" means a criterion for measuring the degree to which the objective
3 sought is attained.

4 (9) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and
5 unanticipated circumstance that has occurred subsequent to the time that an agency's appropriation was
6 made, that was clearly not within the contemplation of the legislature and the governor, and that affects
7 one or more functions of a state agency and the agency's expenditure requirements for the performance
8 of the function or functions.

9 (10) "Necessary" means essential to the public welfare and of a nature that cannot wait until the
10 next legislative session for legislative consideration.

11 (11) "New proposals" means requests to provide new nonmandated services, to change program
12 services, to eliminate existing services, or to change sources of funding. For purposes of establishing the
13 present law base, the distinction between new proposals and the adjustments to the base budget to
14 develop the present law base is to be determined by the existence of constitutional or statutory
15 requirements for the proposed expenditure. Any proposed increase or decrease that is not based on those
16 requirements is considered a new proposal.

17 (12) "Priority listing" means a ranking of proposed expenditures in order of importance.

18 (13) "Program" means a combination of resources and activities designed to achieve an objective
19 or objectives.

20 (14) "Program size" means the magnitude of a program, such as the size of clientele served or the
21 volume of service in relation to the population or area.

22 (15) "Program size indicator" means a measure to indicate the magnitude of a program.

23 (16) "Requesting agency" means the agency of state government that has requested a specific
24 budget amendment.

25 (17) "University system unit" means the board of regents of higher education; ~~the~~ office of the
26 commissioner of higher education; ~~the~~ university of Montana, with campuses at Missoula, Butte, Dillon, and
27 Helena; Montana state university, with campuses at Bozeman, Billings, Havre, and Great Falls; Montana
28 ~~college of mineral science and technology at Butte, eastern Montana college at Billings, northern Montana~~
29 ~~college at Havre, western Montana college of the university of Montana at Dillon, the agricultural~~
30 ~~experiment station, with central offices at Bozeman; the forest and conservation experiment station, with~~

1 central offices at Missoula; the cooperative extension service, with central offices at Bozeman; the bureau
 2 of mines and geology, with central offices at Butte; the fire services training school at Great Falls; the
 3 ~~vocational technical centers at Billings, Butte, Great Falls, Helena, and Missoula, or~~ and the community
 4 colleges at Miles City, Glendive, and Kalispell."

5

6 **Section 8.** Section 17-7-304, MCA, is amended to read:

7 **"17-7-304. (Temporary) Disposal of unexpended appropriations.** (1) All money appropriated for any
 8 specific purpose except that appropriated for the university system units listed in subsection (2) and except
 9 as provided in subsection (4) must, after the expiration of the time for which appropriated, revert to the
 10 several funds and accounts from which originally appropriated. However, any unexpended balance in any
 11 specific appropriation may be used for the years for which the appropriation was made.

12 (2) Except as provided in 17-2-108 and subsection (3) of this section, all money appropriated for
 13 the university of Montana campuses at Missoula, Butte, Dillon, and Helena and the Montana state university
 14 campuses at Bozeman, Billings, Havre, and Great Falls ~~Montana college of mineral science and technology~~
 15 ~~at Butte, eastern Montana college at Billings, northern Montana college at Havre, western Montana college~~
 16 ~~of the university of Montana at Dillon, the agricultural experiment station with central offices at Bozeman,~~
 17 the forest and conservation experiment station with central offices at Missoula, the cooperative extension
 18 service with central offices at Bozeman, and the bureau of mines and geology with central offices in Butte,
 19 ~~and the vocational technical centers at Billings, Butte, Great Falls, Helena, and Missoula~~ must, after the
 20 expiration of the time for which appropriated, revert to an account held by the board of regents. The board
 21 of regents is authorized to maintain a fund balance. There is a statutory appropriation, as provided in
 22 17-7-502, to use the funds held in this account in accordance with a long-term plan for major and deferred
 23 maintenance expenditures and equipment or fixed assets purchases prepared by the affected university
 24 system units and approved by the board of regents. The affected university system units may, with the
 25 approval of the board of regents, modify the long-term plan at any time to address changing needs and
 26 priorities. The board of regents shall communicate the plan to each legislature, to the finance committee
 27 when requested by the committee, and to the office of budget and program planning.

28 (3) Subsection (2) does not apply to reversions that are the result of a reduction in spending
 29 directed by the governor pursuant to 17-7-140. Any amount that is a result of a reduction in spending
 30 directed by the governor must revert to the fund or account from which it was originally appropriated.

1 (4) For the 2 years following the end of a fiscal year, 30% of the money appropriated to an agency
 2 for that year by the general appropriations act for personal services, operating expenses, and equipment
 3 and remaining unexpended and unencumbered at the end of the year may be spent for any purpose that
 4 is consistent with the goals and objectives of the agency. The dollar amount of the 30% amount that may
 5 be carried forward and spent must be determined by the office of budget and program planning.
 6 (Terminates June 30, 1996--sec. 23, Ch. 787, L. 1991; sec. 5, Ch. 5, Sp. L. July 1992.)

7 **17-7-304. (Effective July 1, 1996) Disposal of unexpended appropriations.** (1) Except as provided
 8 in subsection (2), all money appropriated for any specific purpose must, after the expiration of the time for
 9 which appropriated, revert to the several funds and accounts from which originally appropriated. However,
 10 any unexpended balance in any specific appropriation may be used for the years for which the appropriation
 11 was made.

12 (2) For the 2 years following the end of a fiscal year, 30% of the money appropriated to an agency
 13 for that year by the general appropriations act for personal services, operating expenses, and equipment
 14 and remaining unexpended and unencumbered at the end of the year may be spent for any purpose that
 15 is consistent with the goals and objectives of the agency. The dollar amount of the 30% amount that may
 16 be carried forward and spent must be determined by the office of budget and program planning.
 17 (Terminates July 1, 1997--sec. 13, Ch. 23, Sp. L. November 1993.)

18 **17-7-304. (Effective July 1, 1997) Disposal of unexpended appropriations.** All money appropriated
 19 for any specific purpose must, after the expiration of the time for which appropriated, revert to the several
 20 funds and accounts from which originally appropriated. However, any unexpended balance in any specific
 21 appropriation may be used for the years for which the appropriation was made."

22
 23 **Section 9.** Section 19-3-403, MCA, is amended to read:

24 "19-3-403. **Exclusions from membership.** The following persons may not become members of the
 25 retirement system:

26 (1) inmates of state institutions;

27 (2) persons in state institutions principally for the purpose of training, but who receive
 28 compensation;

29 (3) independent contractors, unless there is a written contract that specifies the creation of an
 30 employer-employee relationship for purposes of retirement coverage under the retirement system;

1 (4) persons who are members of any other retirement or pension system supported wholly or in
2 part by funds of the United States government, any state government, or political subdivision of the state
3 and who are receiving credit in the other system for service. It is the purpose of this subsection to prevent
4 a person from receiving credit for the same service in two retirement systems supported wholly or in part
5 by public funds, except when the service qualifies, is applied for, and is purchased pursuant to 19-3-503.
6 A member of the retirement system who, because of employment by the state, is required to become a
7 member of any other system described in this subsection is considered, solely for the purposes of making
8 regular contributions, as permanently separated from service. Exclusion under this subsection is subject to
9 the following exceptions:

10 (a) When an employer has entered into a collective bargaining agreement that includes provisions
11 for payments or contributions by the employer in lieu of wages to a retirement or pension plan qualified by
12 the internal revenue service for its employees, the employees remain eligible, if otherwise qualified, for
13 membership in the retirement system.

14 (b) For the purpose of this subsection (4), persons receiving pensions, retirement allowances, or
15 other payments from any source on account of employment other than as an employee are not considered,
16 because of receipt, members of any other retirement or pension system.

17 (5) court commissioners, elected officials, or appointive members of any board or commission who
18 serve the state or any contracting employer intermittently and who are paid on a per diem basis;

19 (6) full-time students employed at and attending the same public elementary school, high school,
20 ~~vocational technical center, or community college,~~ or any unit of the state university system, except that
21 a person excluded from membership as a student of a public community college or a unit of the state
22 university system who later becomes a member by otherwise becoming an employee may affirmatively
23 exercise the option of qualifying the service excluded by this subsection by applying to the board in writing
24 after becoming a member and become eligible to receive credited service for the excluded service under
25 the provisions of 19-3-505."
26

27 **Section 10.** Section 19-20-302, MCA, is amended to read:

28 **"19-20-302. Active membership.** (1) Unless otherwise provided by this chapter, the following
29 persons must be active members of the retirement system, with the exception that those persons who
30 became eligible for membership on September 1, 1937, or on September 1, 1939, and who elected not to

1 become members under the provisions of the law at that time are not required to be members:

2 (a) any person who is a teacher, principal, or district superintendent as defined in 20-1-101;

3 (b) any person who is an administrative officer or a member of the instructional or scientific staff
4 of:

5 ~~(i) a vocational technical center; or~~

6 ~~(ii) a unit of the Montana university system and who has not elected or is not required to participate~~
7 in the optional retirement program under Title 19, chapter 21;

8 (c) any person employed as a speech therapist, school nurse, or school psychologist or in an
9 instructional services capacity by the office of the superintendent of public instruction, the office of a
10 county superintendent, a special education cooperative, a public institution of the state of Montana, the
11 Montana state school for the deaf and blind, or a school district;

12 (d) any person who is an administrative officer or a member of the instructional staff of the board
13 of public education;

14 (e) any person who has elected not to become a member of the retirement system and who is
15 reentering service in a capacity prescribed by subsection (1)(a), (1)(b), (1)(c), or (1)(d) of this subsection
16 ~~(1)~~;

17 (f) any person who has elected not to become a member of the retirement system, who has been
18 continuously employed in a capacity prescribed by subsection (1)(a), (1)(b), (1)(c), or (1)(d) of this
19 subsection (1) since the time of the election, and who may elect to become a member of the retirement
20 system.

21 (2) In order to be eligible for active membership, any person described in subsection (1) must:

22 (a) be employed in the capacity prescribed for the person's eligibility for at least 30 days in any
23 fiscal year; and

24 (b) have the compensation for the person's creditable service totally paid by an employer.

25 (3) (a) A substitute teacher:

26 (i) may elect to become an active member of the retirement system on the first day of employment
27 in any fiscal year; or

28 (ii) ~~shall~~ is required to become an active member of the retirement system on the 31st day of
29 employment in any fiscal year if the substitute teacher has not elected membership under subsection
30 (3)(a)(i).

1 (b) The employer shall give written notification to a substitute teacher on the first day of
2 employment in any fiscal year of the option to elect membership under subsection (3)(a)(i).

3 (4) A substitute teacher who did not elect membership under subsection (3)(a)(i) and subsequently
4 becomes a member must be awarded creditable service for substitute teaching service if the substitute
5 teacher contributes:

6 (a) an amount equal to the combined employee and employer contributions that would have been
7 made if the substitute teacher had elected membership; plus

8 (b) interest at the rate that the contributions would have earned if they had been on deposit with
9 the retirement system.

10 (5) At any time that a person's eligibility to become a member of the retirement system is in doubt,
11 the retirement board shall determine the person's eligibility for membership. All persons in similar
12 circumstances ~~shall~~ must be treated alike."

13
14 **Section 11.** Section 20-1-101, MCA, is amended to read:

15 **"20-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the
16 following definitions apply:

17 (1) "Agricultural experiment station" means the agricultural experiment station established at
18 Montana state university-Bozeman.

19 (2) "Average number belonging" or "ANB" ~~shall mean~~ means the average number of regularly
20 enrolled, full-time pupils attending the public schools of a district.

21 (3) ~~The "board~~ "Board of public education" ~~is~~ means the board created by Article X, section 9,
22 subsection (3), of the ~~1972~~ Montana constitution and 2-15-1507.

23 (4) "Board of regents" means the board of regents of higher education created by Article X, section
24 9, subsection (2), of the ~~1972~~ Montana constitution and 2-15-1505.

25 (5) "Commissioner" means the commissioner of higher education created by Article X, section 9,
26 subsection (2), of the ~~1972~~ Montana constitution and 2-15-1506.

27 (6) "County superintendent" means the county government official who is the school officer of the
28 county.

29 (7) "District superintendent" means ~~any a~~ a person who holds a valid class 3 Montana teacher
30 certificate with a superintendent's endorsement that has been issued by the superintendent of public

1 instruction under the provisions of this title and the policies adopted by the board of public education and
 2 who has been employed by a district as a district superintendent.

3 (8) "K-12 vocational education" means vocational education in public school kindergarten through
 4 grade 12.

5 (9) "Principal" means ~~any~~ a person who holds a valid class 3 Montana teacher certificate with an
 6 applicable principal's endorsement that has been issued by the superintendent of public instruction under
 7 the provisions of this title and the policies adopted by the board of public education and who has been
 8 employed by a district as a principal. For the purposes of this title, any reference to a teacher ~~shall~~ must
 9 be construed as including a principal, ~~as herein defined~~.

10 (10) "Pupil" means ~~any~~ a child who is 6 years of age or older on or before September 10 of the year
 11 in which the child is to enroll or has been enrolled by special permission of the board of trustees under
 12 20-5-101(3) but has not yet reached ~~his 19th birthday~~ 19 years of age and who is enrolled in a school
 13 established and maintained under the laws of the state ~~of Montana~~ at public expense. For purposes of
 14 calculating the average number belonging ~~(ANB)~~ pursuant to 20-9-311, the definition of pupil includes a
 15 person who has not yet reached ~~his 19th birthday~~ 19 years of age by September 10 of the year and is
 16 enrolled under 20-5-101(3) in a school established and maintained under the laws of the state at public
 17 expense.

18 (11) "Pupil instruction" means the conduct of organized instruction of pupils enrolled in public
 19 schools while under the supervision of a teacher.

20 (12) "Regents" means the board of regents of higher education.

21 (13) "School food services" means a service of providing food for the pupils of a district on a
 22 nonprofit basis and ~~shall include~~ includes any food service financially assisted through funds or commodities
 23 provided by the United States government.

24 (14) ~~The "state~~ "State board of education" ~~is~~ means the board composed of the board of public
 25 education and the board of regents as specified in Article X, section 9, subsection (1), of the ~~1972~~ Montana
 26 constitution.

27 (15) "State university" means ~~the Montana state university, located at Bozeman~~
 28 university-Bozeman.

29 (16) "Superintendent of public instruction" means that state government official designated as a
 30 member of the executive branch by the ~~constitution of Montana~~ constitution.

1 (17) "System" means the Montana university system.

2 (18) "Teacher" means ~~any~~ a person, except a district superintendent, who holds a valid Montana
3 teacher certificate that has been issued by the superintendent of public instruction under the provisions of
4 this title and the policies adopted by the board of public education and who is employed by a district as
5 a member of its instructional, supervisory, or administrative staff. This definition of a teacher ~~shall also~~
6 ~~include~~ includes a ~~any~~ person for whom an emergency authorization of employment ~~of such person~~ has
7 been issued under the provisions of 20-4-111.

8 (19) "Textbook" means a book or manual used as a principal source of study material for a given
9 class or group of students.

10 (20) "Textbook dealer" means ~~any~~ a party, company, corporation, or other organization selling,
11 offering to sell, or offering for adoption textbooks to districts in the state ~~of Montana~~.

12 (21) "Trustees" means the governing board of a district.

13 (22) "University" means the university of ~~Montana, located at Missoula~~ Montana-Missoula.

14 (23) "Vocational education" means the instruction to prepare or improve the pupil for gainful
15 employment that does not require a baccalaureate or higher degree. This definition of vocational education
16 ~~shall include~~ includes guidance and prevocational, related, or technical instruction necessary to prepare the
17 pupil for further vocational education or for entry into employment.

18 ~~(24) "Vocational-technical center" means an institution used principally for the provision of~~
19 ~~vocational-technical education to persons who qualify as vocational-technical students. These centers are~~
20 ~~designated by the board of regents upon direction by the legislature. All other public or private institutions~~
21 ~~or schools are hereby prohibited from using this title.~~

22 ~~(25)~~(24) "Vocational-technical education" means vocational-technical education of
23 vocational-technical students that is conducted by ~~a vocational-technical center,~~ a unit of the Montana
24 university system, or a community college, as designated by the board of regents."

25

26 **Section 12.** Section 20-5-402, MCA, is amended to read:

27 **"20-5-402. Definitions.** For the purposes of this part, the following definitions apply:

28 (1) "Department" means the department of health and environmental sciences provided for in Title
29 2, chapter 15, part 21.

30 (2) "Governing authority" means the board of trustees of a school district or the administrator of

1 a private school, preschool, or postsecondary school.

2 (3) "Immunization" means induction of a state of resistance to a disease through administration
3 of an immunizing agent.

4 (4) "Local health department" means a city, city-county, county, or district health department.

5 (5) "Local health officer" means a city, city-county, county, or district health officer.

6 (6) "Postsecondary school" means ~~a vocational technical center,~~ a community college, a unit of
7 the Montana university system, or a private university or college.

8 (7) "Preschool" means a place or facility that provides, on a regular basis and as its primary
9 purpose, educational instruction designed for children 5 years of age or younger and that:

10 (a) serves no child under 5 years of age for more than 3 hours a day; and

11 (b) serves no child 5 years of age for more than 6 hours a day.

12 (8) "School" means a place or institution for the teaching of individuals, the curriculum of which
13 is ~~comprised~~ composed of the work of:

14 (a) any combination of kindergarten through grade 12;

15 (b) a postsecondary school; or

16 (c) a preschool."

17

18 **Section 13.** Section 20-7-701, MCA, is amended to read:

19 **"20-7-701. Definition of adult basic education and adult education.** ~~{1}~~ As used in this title, unless
20 the context clearly indicates otherwise, the following definitions apply:

21 ~~(a)(1) The term "adult~~ **"Adult basic education"** means instruction in basic skills, such as reading,
22 writing, arithmetic, and other skills required to function in society, offered to persons 16 years of age or
23 older who are not regularly enrolled, full-time pupils for the purposes of ANB computation. Adult basic
24 education may include any subject normally offered in the basic curricula of an accredited elementary or
25 secondary school in the state.

26 ~~(b)(2) The term "adult~~ **"Adult education"** means the instruction of persons 16 years of age or older
27 who are not regularly enrolled, full-time pupils for the purposes of ANB computation.

28 ~~(2) Neither definition may include the instruction in vocational technical centers."~~

29

30 **Section 14.** Section 20-9-212, MCA, is amended to read:

1 **"20-9-212. Duties of county treasurer.** The county treasurer of each county shall:

2 (1) receive and hold all school money subject to apportionment and keep a separate accounting
3 of its apportionment to the several districts that are entitled to a portion of the money according to the
4 apportionments ordered by the county superintendent or by the superintendent of public instruction. A
5 separate accounting must be maintained for each county fund supported by a countywide levy for a
6 specific, authorized purpose, including:

7 (a) the basic county tax in support of the elementary BASE aid;

8 (b) the basic special tax for high schools in support of the high school BASE aid;

9 (c) the county tax in support of the transportation schedules;

10 (d) the county tax in support of the elementary and high school district retirement obligations; and

11 (e) any other county tax for schools, including the community colleges, ~~which~~ that may be
12 authorized by law and levied by the county commissioners.

13 (2) whenever requested, notify the county superintendent and the superintendent of public
14 instruction of the amount of county school money on deposit in each of the funds enumerated in subsection
15 (1) and the amount of any other school money subject to apportionment and apportion the county and other
16 school money to the districts in accordance with the apportionment ordered by the county superintendent
17 or the superintendent of public instruction;

18 (3) keep a separate accounting of the receipts, expenditures, and cash balances for each fund;

19 (4) except as otherwise limited by law, pay all warrants properly drawn on the county or district
20 school money and properly endorsed by their holders;

21 (5) receive all revenue collected by and for each district and deposit these receipts in the fund
22 designated by law or by the district if a fund is not designated by law. Interest and penalties on delinquent
23 school taxes must be credited to the same fund and district for which the original taxes were levied.

24 (6) send all revenue received for a joint district, part of which is situated in the county, to the
25 county treasurer designated as the custodian of the revenue, no later than December 15 of each year and
26 every 3 months after that date until the end of the school fiscal year;

27 (7) at the direction of the trustees of a district, assist the district in the issuance and sale of tax
28 and revenue anticipation notes as provided in Title 7, chapter 6, part 11;

29 (8) register district warrants drawn on a budgeted fund in accordance with 7-6-2604 when there
30 is insufficient money available in all funds of the district to make payment of the warrant. Redemption of

1 registered warrants must be made in accordance with 7-6-2116, 7-6-2605, and 7-6-2606.

2 (9) invest the money of any district as directed by the trustees of the district within 3 working days
3 of the direction;

4 (10) each month give to the trustees of each district an itemized report for each fund maintained
5 by the district, showing the paid warrants, outstanding warrants, registered warrants, amounts and types
6 of revenue received, and the cash balance;

7 (11) remit promptly to the state treasurer receipts for the county tax for a vocational-technical
8 ~~center~~ education when levied by the board of county commissioners under the provisions of ~~20-16-202~~
9 [section 32 34];

10 (12) invest the money received from the basic county tax, the basic special tax, the county levy
11 in support of the elementary and high school district retirement obligations, and the county levy in support
12 of the transportation schedules within 3 working days of receipt. The money must be invested until the
13 working day before it is required to be distributed to school districts within the county or remitted to the
14 state. Permissible investments are specified in 20-9-213(4). All investment income must be deposited, and
15 credited proportionately, in the funds established to account for the taxes received for the purposes
16 specified in subsections (1)(a) through (1)(d).

17 (13) remit on a monthly basis to the state treasurer, in accordance with the provisions of 15-1-504,
18 all county equalization revenue received under the provisions of 20-9-331 and 20-9-333, including all
19 interest earned and excluding any amount required for high school out-of-county tuition under the
20 provisions of 20-9-334, in repayment of the state advance for county equalization prescribed in 20-9-347.
21 Any funds in excess of a state advance must be used as required in 20-9-331(1)(b) and 20-9-333(1)(b)."
22

23 **Section 15.** Section 20-25-201, MCA, is amended to read:

24 **"20-25-201. Units constituting university system.** The Montana university system is composed of
25 the following units, each designated by its legal name:

26 (1) ~~University~~ The university of Montana, with campuses located at the following locations:

27 (a) Missoula;

28 (b) Butte;

29 (c) Dillon; and

30 (d) Helena.

1 (2) Montana state university, with campuses located at the following locations:

2 (a) Bozeman;

3 (b) Billings;

4 (c) Havre; and

5 (d) Great Falls.

6 ~~(3) Montana college of mineral science and technology, located at Butte;~~

7 ~~(4) Western Montana college of the university of Montana, located at Dillon;~~

8 ~~(5) Eastern Montana college, located at Billings; and~~

9 ~~(6) Northern Montana college, located at Havre."~~

10
11 **Section 16.** Section 20-25-211, MCA, is amended to read:

12 "**20-25-211. Montana college of mineral science and technology tech of the university of Montana**

13 -- **purpose -- fees for assays.** (1) ~~The Montana college of mineral science and technology~~ tech of the
14 university of Montana has for its purpose instruction and education in chemistry, metallurgy, mineralogy,
15 geology, mining, milling, engineering, mathematics, mechanics and drawing, and the laws of the United
16 States and Montana relating to mining.

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

20 (3) The ~~president~~ chancellor of Montana ~~college of mineral science and technology~~ tech of the
21 university of Montana may charge and collect reasonable fees for any assays and analyses made by the
22 college.

23 (4) The ~~president~~ chancellor shall keep an account of ~~such~~ the fees and pay them monthly to the
24 treasurer for deposit to the college fund."

25
26 **Section 17.** Section 20-25-301, MCA, is amended to read:

27 "**20-25-301. Regents' powers and duties.** The board of regents of higher education shall serve as
28 regents of the Montana university system, shall use and adopt this style in all its dealings with the
29 university system, and ~~shall:~~

30 (1) must have general control and supervision of the units of the Montana university system, which

1 is considered for all purposes one university;

2 (2) shall adopt rules, ~~not inconsistent for its own government~~ that are consistent with the
3 constitution and the laws of the state, ~~for its own government which~~ and that are proper and necessary
4 for the execution of the powers and duties conferred upon it by law;

5 (3) shall provide, subject to the laws of the state, rules for the government of the system;

6 (4) shall grant diplomas and degrees to the graduates of the system upon the recommendation of
7 the faculties and have discretion to confer honorary degrees upon persons other than graduates upon the
8 recommendation of the faculty of the institutions;

9 (5) shall keep a record of its proceedings;

10 (6) must have, when not otherwise provided by law, control of all books, records, buildings,
11 grounds, and other property of the system;

12 (7) must receive from the board of land commissioners, from other boards, or persons, or from the
13 government of the United States all funds, incomes, and other property the system may be entitled to and
14 use and appropriate the property for the specific purpose of the grant or donation;

15 (8) must have general control of all receipts and disbursements of the system;

16 (9) shall appoint a president or chancellor and faculty for each of the institutions of the system,
17 appoint any other necessary officers, agents, and employees, and fix their compensation;

18 (10) shall confer upon the executive board of each of the units of the system authority that may
19 be considered expedient relating to immediate control and management, other than authority relating to
20 financial matters or the selection of the teachers, employees, and faculty;

21 (11) shall confer, at the regents' discretion, upon the president and faculty of each of the units of
22 the system for the best interest of the unit authority relating to the immediate control and management,
23 other than financial, and the selection of teachers and employees;

24 (12) shall prevent unnecessary duplication of courses at the units of the system;

25 (13) shall appoint a certified professional geologist or registered mining engineer as the director of
26 the Montana state bureau of mines and geology, who is the state geologist, and appoint any other
27 necessary assistants and employees and fix their compensation.

28 (14) shall supervise and control the agricultural experiment station, along with any executive or
29 subordinate board or authority ~~which~~ that may be appointed by the governor with the advice and consent
30 of the regents;

1 (15) shall adopt a seal bearing on its face the words "Montana university system", which must be
 2 affixed to all diplomas and all other papers, instruments, or documents ~~which~~ that may require it;

3 (16) shall ~~assure~~ ensure an adequate level of security for data and information technology
 4 resources, as defined in 2-15-102, within the state university system. In carrying out this responsibility,
 5 the board of regents shall, at a minimum, address the responsibilities prescribed in 2-15-114.

6 (17) shall offer courses in vocational-technical education of a type and in a manner considered
 7 necessary or practical by the regents."

8
 9 **Section 18.** Section 20-25-303, MCA, is amended to read:

10 **"20-25-303. Local executive boards -- terms and compensation.** (1) There is a local executive
 11 board ~~for each unit of the~~ within each county in which a university system campus is located.

12 (2) (a) Each local executive board ~~shall consist~~ consists of three members appointed by the
 13 governor with the advice and consent of the regents.

14 (b) The president of ~~each a unit shall~~ or the chancellor of a campus may not be a member of the
 15 local executive board.

16 (c) Two of the members must reside in the county where the unit is located.

17 (d) The members shall hold office for 3 years beginning the third Monday in April of the year
 18 appointed. The term of office of one member shall expire each year.

19 (e) The members may be removed by the governor or the regents.

20 (f) The members shall qualify by filing their oath of office with the regents.

21 (3) All vacancies ~~shall~~ must be filled by appointment by the governor and referred for confirmation
 22 to the regents at their first meeting ~~thereafter for confirmation~~ after appointment.

23 (4) Each local executive board shall elect a ~~chairman~~ presiding officer and appoint a secretary.

24 (5) The compensation for the members ~~shall~~ must be fixed by the regents. It ~~shall~~ may not exceed
 25 \$5 for each day spent in discharging their duties or \$125 in any ~~one~~ year for each member. The members
 26 ~~shall~~ must be reimbursed from the amount appropriated by the legislature for the maintenance and support
 27 of the units for all expenses necessarily incurred in discharge of their duties."

28
 29 **SECTION 19. SECTION 20-25-501, MCA, IS AMENDED TO READ:**

30 **"20-25-501. Definitions.** (1) Terms used in this part are defined as follows:

1 (a) "Domicile" means a person's true, fixed, and permanent home and place of habitation.

2 (b) "Emancipated minor" means a person under the age of 18 years who ~~supports himself is~~
 3 self-supporting from ~~his own~~ personal earnings or is married. A person who received more than 25% of the
 4 cost of ~~supporting himself~~ support from any person other than an agency of the government ~~shall~~ may not
 5 be considered an emancipated minor.

6 (c) "Minor" means a male or female person who has not obtained the age of 18 years.

7 (d) "Qualified person" means a person legally qualified to determine ~~his~~ the person's own domicile.

8 (e) "Resident student" means:

9 (i) a student who has been domiciled in Montana for 1 year immediately preceding registration at
 10 any unit for any term or session for which resident classification is claimed. Attendance as a full-time
 11 student at any college, university, or other institution of higher education ~~shall is~~ not alone ~~be~~ sufficient to
 12 qualify for residence in Montana.

13 (ii) any graduate of a Montana high school who is a citizen or resident alien of the United States
 14 and whose parents, parent, or guardian ~~have~~ has resided in Montana at least 1 full year of the 2 years
 15 immediately preceding ~~his~~ the student's graduation from high school. ~~Such~~ The classification ~~shall continue~~
 16 continues for not more than 4 academic years if the student remains in continuous attendance at a unit;
 17 or

18 (iii) a member of the armed forces of the United States assigned to and residing in Montana, ~~his~~
 19 the member's spouse, or ~~his~~ the member's dependent children.

20 (2) In the event that the definition of residency or any portion thereof is declared unconstitutional
 21 as it is applied to payment of nonresident fees and tuition, the regents of the Montana university system
 22 ~~shall have authority to~~ may make rules on what constitutes adequate evidence of residency status not
 23 inconsistent with ~~such~~ those court decisions."
 24

25 **SECTION 20. SECTION 20-25-503, MCA, IS AMENDED TO READ:**

26 **"20-25-503. Presumptions and rules as to domicile.** (1) Unless the contrary appears to the unit
 27 registering authority, it is presumed the domicile of a minor is that:

28 (a) of the parents or, if one of them is deceased or they do not share the same domicile, of the
 29 parent having legal custody or, if neither parent has legal custody, the parent with whom the minor
 30 customarily resides; or

1 (b) of ~~his~~ the minor's guardian when the court appointing the guardian certifies that the primary
2 purpose of the appointment is not to qualify the minor as a resident of this state.

3 (2) A resident student who marries a nonresident does not by that fact alone lose resident status
4 for tuition and fee purposes for a period of 4 years after marriage.

5 (3) Residence is not lost because of relocation as a member of the armed forces of the United
6 States.

7 (4) A new domicile is established by a qualified person if ~~he~~ the person is physically present in
8 Montana with no intention to acquire a domicile outside of Montana.

9 (5) Domicile is not lost by absence from Montana with no intention to establish a new domicile.

10 (6) Montana high school graduates who are citizens or resident aliens of the United States are
11 resident students of the system for 4 consecutive years of attendance if:

12 (a) they apply for admittance to the system within 1 year after graduation; or

13 (b) their parents or the parent having legal custody or, if neither parent has legal custody, the
14 parent with whom they customarily reside has resided in Montana in one of the 2 years immediately
15 preceding the graduation.

16 (7) Upon moving to Montana, an adult employed on a full-time basis within the state of Montana
17 may apply for in-state tuition classification for ~~his~~ the adult's spouse or any dependent minor child, or both.
18 If ~~such~~ the person meets the requirement of full-time employment within the state of Montana and files for
19 the payment of Montana state income taxes or files estimates of those taxes or is subject to withholding
20 of those taxes and renounces ~~his~~ residency in any other state and is not ~~himself~~ in the state primarily as
21 a student, ~~his~~ the person's spouse or any dependent minor child, or both, may at the next registration after
22 qualifying be classified at the in-state rate so long as ~~he~~ the person continues ~~his~~ A Montana domicile. In
23 the administration of this subsection, neither the full-time employee or spouse ~~shall be~~ is eligible for in-state
24 tuition classification if the primary purpose for coming to Montana was the education of the employee or
25 spouse."
26

27 **Section 21.** Section 20-32-101, MCA, is amended to read:

28 **"20-32-101. Purpose -- definition.** (1) The purpose of this part is to establish a Montana
29 educational telecommunications network.

30 (2) For the purposes of this part, "network" means the Montana educational telecommunications

1 network (METNET).

2 (3) The aims of the network are to provide:

3 (a) instructional and educational coursework and materials through telecommunications delivery
4 to students in kindergarten through 12th grade in the Montana public school system;

5 (b) instructional and educational coursework and materials through telecommunications delivery
6 to students enrolled in units of the Montana university system, ~~the vocational technical centers,~~ and the
7 community colleges;

8 (c) instructional and professional development or other appropriate inservice training for teachers
9 in the schools of the state; and

10 (d) telecommunications capabilities to agencies, subdivisions of state government, and public
11 libraries in order to improve their ability to perform their responsibilities and duties."

12

13 **Section 22.** Section 20-32-102, MCA, is amended to read:

14 **"20-32-102. Agency cooperation -- responsibilities.** (1) To meet the objectives of the network, the
15 following entities shall cooperate with one another:

16 (a) the department of administration, with its responsibilities for telecommunications for agencies
17 of state government;

18 (b) the superintendent of public instruction, with a supervisory role over the public system of
19 elementary and high schools; and

20 (c) the commissioner of higher education, with responsibilities to the Montana university system,
21 ~~the vocational technical centers,~~ and the community colleges.

22 (2) The responsibilities of the superintendent of public instruction to the network include but are
23 not limited to:

24 (a) general supervision of delivery of educational materials through telecommunications to
25 elementary and high school districts in the state;

26 (b) compilation, maintenance, and dissemination to participating school districts of information that
27 identifies the educational programming available from within and from outside the state;

28 (c) training of teachers and other school personnel in the use of telecommunications technologies
29 for instructional purposes;

30 (d) assistance to school districts in identifying and procuring the telecommunications technologies

1 needed to interface with the network;

2 (e) identification of production capability for telecommunication of educational materials;

3 (f) assistance to participating school districts with group purchases of instructional and educational
4 materials;

5 (g) coordination with the commissioner of higher education and the units of the Montana university
6 system to offer advanced placement courses, teacher inservice training, and other instruction through the
7 network;

8 (h) payment of the superintendent's share of the network costs to the department of
9 administration, as provided in 20-32-104;

10 (i) coordination with the department of administration to ensure compatibility of network
11 components, to minimize duplication of efforts on behalf of the network, and to maximize use of the
12 network by school districts; and

13 (j) determination of kinds of equipment, inservice, and district accounting necessary to implement
14 the provisions of this part for school districts.

15 (3) The responsibilities of the department of administration to the network include but are not
16 limited to:

17 (a) provision of technical support to the coordinating agencies referred to in subsection (1);

18 (b) development of standards of compatibility for the network;

19 (c) procurement and management of network equipment and facilities that have shared use by
20 multiple users or agencies;

21 (d) assistance with procurement, installation, maintenance, and operation of end-terminal
22 equipment and facilities of the network;

23 (e) minimizing any duplication of equipment and facilities within the network and in conjunction
24 with the department of administration's other networking capabilities;

25 (f) coordination of use of the network by state agencies, subdivisions of the state, and public
26 libraries in a manner that does not interfere with the delivery of the primary network function of providing
27 educational services to school districts and state units of higher education;

28 (g) studying the use of the network by Native American tribal colleges and other nonpublic
29 education institutions in the state, with the long-range goal of coordinating the use of the network with
30 those entities; and

1 (h) maintenance of cost and usage records and a billing system for user agencies for services
2 rendered that incur marginal costs for the network.

3 (4) The responsibilities of the commissioner of higher education to the network include but are not
4 limited to:

5 (a) coordination of the use of the network among the units of higher education and with the
6 superintendent of public instruction and the department of administration;

7 (b) assistance to the units of the Montana university system to provide college credit courses
8 through the network to students throughout the state;

9 (c) coordination with the superintendent of public instruction to develop advance placement
10 courses for high school students in Montana, teacher inservice training, and other services and instruction
11 through the network;

12 (d) assistance to the units of the Montana university system, ~~the vocational technical centers,~~ and
13 the community colleges in defining their specific needs for interfacing with the network;

14 (e) assistance to participating units, centers, and colleges with group purchases of instructional
15 and educational materials; and

16 (f) determination of the kinds of equipment, inservice, and accounting necessary to implement the
17 provisions of this part for the university system, and community colleges, ~~and vocational technical centers.~~"

18

19 **Section 23.** Section 20-32-103, MCA, is amended to read:

20 **"20-32-103. Fee collection and disposition for operational costs.** As a condition of participation
21 in the network, the Montana university system, ~~vocational technical centers,~~ and community colleges shall
22 collect from appropriate discretionary funds in a manner approved by the board of regents an amount not
23 to exceed \$5 for each full-time equivalent student enrolled in the units, ~~centers,~~ or colleges. The funds
24 collected must be deposited with the commissioner of higher education by July 1 for the purposes of
25 20-32-102(4). The commissioner of higher education shall pay the department of administration the
26 commissioner's share of the network costs."

27

28 **Section 24.** Section 23-1-313, MCA, is amended to read:

29 **"23-1-313. Term of enrollment -- compensation -- exemption from employee benefits.** (1) A
30 corpsmember will be placed for a period not to exceed 12 months. The program operator shall refer the

1 names of corpsmembers who successfully complete their participation in the corps to the job service for
2 assistance in securing private sector employment or for enrollment in additional job training programs. The
3 program operator may also, upon approval of the corpsmember, provide the name of a corpsmember who
4 successfully completes his participation in the corps to private sector employers requesting referrals.

5 (2) A corpsmember may not be scheduled to work for more than 40 hours per week. Job training
6 and placement services must be provided to corpsmembers during regular work hours. Corpsmembers must
7 be compensated as provided in subsection (3) for participation in job training and placement service
8 programs.

9 (3) A corpsmember must be compensated at a rate set by the department that is not less than the
10 federal minimum wage.

11 (4) A corpsmember is not entitled to any employee benefits provided to permanent department or
12 agency employees except for holiday pay and workers' compensation benefits that are provided through
13 the funds appropriated to carry out this part. Service as a corpsmember does not qualify an individual for
14 unemployment compensation benefits.

15 (5) If funds are available, a person who is employed as a corpsmember for the full period of
16 enrollment and who receives a satisfactory employment evaluation may be awarded an incentive voucher
17 valid for up to 3 years at any Montana institution of higher education ~~or vocational technical center.~~"

18

19 **Section 25.** Section 37-8-102, MCA, is amended to read:

20 **"37-8-102. Definitions.** Unless the context requires otherwise, in this chapter, the following
21 definitions apply:

22 (1) "Advanced practice registered nurse" means a registered professional nurse who has completed
23 educational requirements related to the nurse's specific practice role, in addition to basic nursing education,
24 as specified by the board pursuant to 37-8-202(5)(a).

25 (2) "Board" means the board of nursing provided for in 2-15-1844.

26 (3) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

27 (4) "Nursing education program" means any board-approved school that prepares graduates for
28 initial licensure under this chapter. Nursing education programs for:

29 (a) professional nursing may be a department, school, division, or other administrative unit in a
30 senior or junior college or university;

1 (b) practical nursing may be a department, school, division, or other administrative unit in a
2 vocational-technical center ~~center~~ institution or junior college.

3 (5) "Practice of nursing" embraces two classes of nursing service and activity, as follows:

4 (a) "Practice of practical nursing" means the performance for compensation of services requiring
5 basic knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of
6 nursing procedures. Practical nursing practice ~~utilizes~~ uses standardized procedures in the observation and
7 care of the ill, injured, and infirm; in the maintenance of health; in action to safeguard life and health; and
8 in the administration of medications and treatments prescribed by a physician, advanced practice registered
9 nurse, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments.
10 These services are performed under the supervision of a registered nurse or a physician, dentist, osteopath,
11 or podiatrist authorized by state law to prescribe medications and treatments.

12 (b) "Practice of professional nursing" means the performance for compensation of services requiring
13 substantial specialized knowledge of the biological, physical, behavioral, psychological, and sociological
14 sciences and of nursing theory as a basis for the nursing process. The nursing process is the assessment,
15 nursing analysis, planning, nursing intervention, and evaluation in the promotion and maintenance of health;
16 the prevention, casefinding, and management of illness, injury, or infirmity; and the restoration of optimum
17 function. The term also includes administration, teaching, counseling, supervision, delegation, and
18 evaluation of nursing practice and the administration of medications and treatments prescribed by
19 physicians, advanced practice registered nurses, dentists, osteopaths, or podiatrists authorized by state law
20 to prescribe medications and treatments. Each registered nurse is directly accountable and responsible to
21 the consumer for the quality of nursing care rendered. As used in this subsection (5)(b):

22 (i) "nursing analysis" is the identification of those client problems for which nursing care is
23 indicated and may include referral to medical or community resources;

24 (ii) "nursing intervention" is the implementation of a plan of nursing care necessary to accomplish
25 defined goals."
26

27 **Section 26.** Section 37-31-304, MCA, is amended to read:

28 **"37-31-304. Qualifications of applicants for license to practice.** (1) Before a person may practice
29 cosmetology, the person shall obtain a license to practice cosmetology from the department. Before a
30 person may practice manicuring, the person shall obtain a license to practice manicuring from the

1 department unless the person is licensed to practice cosmetology.

2 (2) (a) To be eligible to take the examination to practice cosmetology, the applicant may not be
3 less than 18 years of age, must be of good moral character, and must possess a high school diploma or
4 the equivalent of a high school diploma recognized by the superintendent of public instruction. A person
5 may apply to the board for an exception to the educational requirement of a high school diploma or the
6 equivalent of a high school diploma. The board shall adopt by rule procedures for granting an exception.
7 The applicant must have completed a course of study of at least 2,000 hours in a registered cosmetology
8 school and must have received a diploma from the cosmetology school or must have completed the course
9 of study in cosmetology prescribed by the board.

10 (b) A person qualified under subsection (2)(a) shall file with the department a written application
11 to take the examination and shall deposit with the department the required examination fee and pass an
12 examination as to fitness to practice cosmetology.

13 (3) (a) To be eligible to take the examination to practice manicuring, an applicant may not be less
14 than 18 years of age; must be of good moral character; possess a high school diploma, the equivalent of
15 a high school diploma recognized by the superintendent of public instruction, or a certificate of completion
16 from a vocational-technical ~~center~~ program; and must have completed a course of study prescribed by the
17 board in a registered school of cosmetology or a registered school of manicuring. A person may apply to
18 the board for an exception to the educational requirement of a high school diploma, the equivalent of a high
19 school diploma, or a vocational-technical ~~center~~ program certificate of completion. The board shall adopt
20 by rule procedures for granting an exception.

21 (b) A person qualified under subsection (3)(a) shall file with the department a written application
22 to take the examination and deposit with the department the required examination fee."
23

24 **Section 27.** Section 39-29-101, MCA, is amended to read:

25 **"39-29-101. Definitions.** For the purposes of this chapter, the following definitions apply:

26 (1) "Active duty" means full-time duty with military pay and allowances in the armed forces, except
27 for training, determining physical fitness, or service in the reserve or national guard.

28 (2) "Armed forces" means the United States:

29 (a) army, navy, air force, marine corps, and coast guard; and

30 (b) merchant marine for service recognized by the United States department of defense as active

1 military service for the purpose of laws administered by the department of veterans affairs.

2 (3) "Disabled veteran" means a person:

3 (a) whether or not the person is a veteran as defined in this section, who was separated under
4 honorable conditions from active duty in the armed forces and has established the present existence of a
5 service-connected disability or is receiving compensation, disability retirement benefits, or pension because
6 of a law administered by the department of veterans affairs or a military department; or

7 (b) who has received a purple heart medal.

8 (4) "Eligible relative" means:

9 (a) the unmarried surviving spouse of a veteran or disabled veteran;

10 (b) the spouse of a disabled veteran who is unable to qualify for appointment to a position;

11 (c) the mother of a veteran who died under honorable conditions while serving in the armed forces

12 if:

13 (i) the mother's spouse is totally and permanently disabled; or

14 (ii) the mother is the widow of the father of the veteran and has not remarried;

15 (d) the mother of a service-connected permanently and totally disabled veteran if:

16 (i) the mother's spouse is totally and permanently disabled; or

17 (ii) the mother is the widow of the father of the veteran and has not remarried.

18 (5) "Position" means a permanent, temporary, or seasonal position as defined in 2-18-101 for a
19 state position or a similar permanent, temporary, or seasonal position with a public employer other than the
20 state. The term does not include:

21 (a) a state or local elected office;

22 (b) appointment by an elected official to a body such as a board, commission, committee, or
23 council;

24 (c) appointment by an elected official to a public office if the appointment is provided for by law;

25 (d) a department head appointment by the governor or an executive department head appointment
26 by a mayor, city manager, county commissioner, or other chief administrative or executive officer of a local
27 government; or

28 (e) engagement as an independent contractor or employment by an independent contractor.

29 (6) "Public employer" means:

30 (a) a department, office, board, bureau, commission, agency, or other instrumentality of the

1 executive, legislative, or judicial branches of the government of this state;

2 (b) a unit of the Montana university system ~~or a vocational technical center~~;

3 (c) a school district or community college; and

4 (d) a county, city, or town.

5 (7) "Scored procedure" means a written test, structured oral interview, performance test, or other
6 selection procedure or a combination of these procedures that result in a numerical score to which
7 percentage points may be added.

8 (8) "Under honorable conditions" means a discharge or separation from active duty characterized
9 by the armed forces as under honorable conditions. The term includes honorable discharges and general
10 discharges but does not include dishonorable discharges or other administrative discharges characterized
11 as other than honorable.

12 (9) "Veteran" means a person who:

13 (a) was separated under honorable conditions from active duty in the armed forces after having
14 served more than 180 consecutive days, other than for training; or

15 (b) as a member of a reserve component under an order of active duty pursuant to 10 U.S.C.
16 672(a), (d), or (g), 10 U.S.C. 673, or 10 U.S.C. 673b served on active duty during a period of war or in
17 a campaign or expedition for which a campaign badge is authorized and was discharged or released from
18 duty under honorable conditions."

19

20 **Section 28.** Section 39-30-103, MCA, is amended to read:

21 **"39-30-103. Definitions.** For the purposes of this chapter, the following definitions apply:

22 (1) "Eligible spouse" means the spouse of a handicapped person determined by the department of
23 social and rehabilitation services to have a 100% disability who is unable to use ~~his~~ the employment
24 preference because of ~~his~~ the person's disability.

25 (2) "Handicapped person" means an individual certified by the department of social and
26 rehabilitation services to have a physical or mental impairment that substantially limits one or more major
27 life activities, such as writing, seeing, hearing, speaking, or mobility, and that limits the individual's ability
28 to obtain, retain, or advance in employment.

29 (3) (a) "Initial hiring" means a personnel action for which applications are solicited from outside the
30 ranks of the current employees of:

1 (i) a department, as defined in 2-15-102, for a position within the executive branch;

2 (ii) a legislative agency, such as the consumer counsel, environmental quality council, office of the
3 legislative auditor, legislative council, or office of the legislative fiscal analyst, for a position within the
4 legislative branch;

5 (iii) a judicial agency, such as the office of supreme court administrator, office of supreme court
6 clerk, state law library, or similar office in a state district court for a position within the judicial branch;

7 (iv) a city or town for a municipal position, including a city or municipal court position; and

8 (v) a county for a county position, including a justice's court position.

9 (b) A personnel action limited to current employees of a specific public entity identified in
10 subsections (3)(a)(i) through (3)(a)(v) ~~of this subsection (3)~~, current employees in a reduction-in-force pool
11 who have been laid off from a specific public entity identified in subsections (3)(a)(i) through (3)(a)(v) ~~of~~
12 ~~this subsection (3)~~, or current participants in a federally authorized employment program is not an initial
13 hiring.

14 (4) (a) "Mental impairment" means:

15 (i) suffering from a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or
16 any other neurologically handicapping condition closely related to mental retardation and requiring treatment
17 similar to that required by mentally retarded individuals; or

18 (ii) an organic or mental impairment that has substantial adverse effects on an individual's cognitive
19 or volitional functions.

20 (b) The term mental impairment does not include alcoholism or drug addiction and does not include
21 any mental impairment, disease, or defect that has been asserted by the individual claiming the preference
22 as a defense to any criminal charge.

23 (5) "Position" means a permanent or seasonal position as defined in 2-18-101 for a state position
24 or a similar permanent or seasonal position with a public employer other than the state. However, the term
25 does not include:

26 (a) a temporary position as defined in 2-18-101 for a state position or similar temporary position
27 with a public employer other than the state;

28 (b) a state or local elected official;

29 (c) employment as an elected official's immediate secretary, legal advisor, court reporter, or
30 administrative, legislative, or other immediate or first-line aide;

1 (d) appointment by an elected official to a body such as a board, commission, committee, or
2 council;

3 (e) appointment by an elected official to a public office if the appointment is provided for by law;

4 (f) a department head appointment by the governor or an executive department head appointment
5 by a mayor, city manager, county commissioner, or other chief administrative or executive officer of a local
6 government; or

7 (g) engagement as an independent contractor or employment by an independent contractor.

8 (6) (a) "Public employer" means:

9 (i) any department, office, board, bureau, commission, agency, or other instrumentality of the
10 executive, judicial, or legislative branch of the government of the state of Montana; and

11 (ii) any county, city, or town.

12 (b) The term does not include a school district, a vocational-technical ~~center or~~ program, a
13 community college, the board of regents of higher education, the Montana university system, a special
14 purpose district, an authority, or any political subdivision of the state other than a county, city, or town.

15 (7) "Substantially equal qualifications" means the qualifications of two or more persons among
16 whom the public employer cannot make a reasonable determination that the qualifications held by one
17 person are significantly better suited for the position than the qualifications held by the other persons."

18

19 **Section 29.** Section 39-71-117, MCA, is amended to read:

20 **"39-71-117. Employer defined.** (1) "Employer" means:

21 (a) the state and each county, city and county, city school district, and irrigation district;; all other
22 districts established by law;; ~~and~~ all public corporations and quasi-public corporations and public agencies
23 therein; ~~and every~~ each person;; ~~every~~ each prime contractor;; ~~and every~~ each firm, voluntary association,
24 and private corporation, including any public service corporation and including an independent contractor
25 who has any person in service under any appointment or contract of hire, expressed or implied, oral or
26 written;; and the legal representative of any deceased employer or the receiver or trustee ~~thereof~~ of the
27 deceased employer;

28 (b) any association, corporation, or organization that seeks permission and meets the requirements
29 set by the department by rule for a group of individual employers to operate as self-insured under plan No.
30 1 of this chapter; and

1 (c) any nonprofit association or corporation or other entity funded in whole or in part by federal,
 2 state, or local government funds that places community service participants, as ~~defined~~ described in
 3 39-71-118(1)(e), with nonprofit organizations or associations or federal, state, or local government
 4 entities.

5 (2) A temporary service contractor is the employer of a temporary worker for premium and loss
 6 experience purposes.

7 (3) An employer defined in subsection (1) who utilizes the services of a worker furnished by
 8 another person, association, contractor, firm, or corporation, other than a temporary service contractor,
 9 is presumed to be the employer for workers' compensation premium and loss experience purposes for work
 10 performed by the worker. The presumption may be rebutted by substantial credible evidence of the
 11 following:

12 (a) the person, association, contractor, firm, or corporation, other than a temporary service
 13 contractor, furnishing the services of a worker to another retains control over all aspects of the work
 14 performed by the worker, both at the inception of employment and during all phases of the work; and

15 (b) the person, association, contractor, firm, or corporation, other than a temporary service
 16 contractor, furnishing the services of a worker to another has obtained workers' compensation insurance
 17 for the worker in Montana both at the inception of employment and during all phases of the work
 18 performed.

19 (4) Notwithstanding the provisions of subsection (3), an interstate or intrastate common or contract
 20 motor carrier doing business in this state who utilizes drivers in this state is considered the employer, is
 21 liable for workers' compensation premiums, and is subject to loss experience rating in this state unless:

22 (a) the driver in this state is certified as an independent contractor as provided in 39-71-401(3);
 23 or

24 (b) the person, association, contractor, firm, or corporation furnishing drivers in this state to a
 25 motor carrier has obtained workers' compensation insurance on the drivers in Montana both at the inception
 26 of employment and during all phases of the work performed."
 27

28 **Section 30.** Section 39-71-118, MCA, is amended to read:

29 **"39-71-118. Employee, worker, and volunteer firefighter defined.** (1) The terms "employee" or
 30 "worker" means:

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

10 (b) any juvenile performing work under authorization of a district court judge in a delinquency
 11 prevention or rehabilitation program;

12 (c) a person receiving on-the-job vocational rehabilitation training or other on-the-job training under
 13 a state or federal vocational training program, whether or not under an appointment or contract of hire with
 14 an employer as defined in this chapter and whether or not receiving payment from a third party. However,
 15 this subsection does not apply to students enrolled in vocational training programs as outlined in this
 16 subsection while they are on the premises of a public school or community college.

17 ~~(d) students enrolled and in attendance in programs of vocational technical education at designated~~
 18 ~~vocational technical centers;~~

19 ~~(e)(d)~~ an aircrew member or other person employed as a volunteer under 67-2-105;

20 ~~(f)(e)~~ a person, other than a juvenile as defined in subsection (1)(b), performing community service
 21 for a nonprofit organization or association or for a federal, state, or local government entity under a court
 22 order, or an order from a hearings officer as a result of a probation or parole violation, whether or not under
 23 appointment or contract of hire with an employer as defined in this chapter and whether or not receiving
 24 payment from a third party. For a person covered by the definition in this subsection ~~(f)(e)~~:

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

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

1 ~~(e)~~(f) an inmate working in a federally certified prison industries program authorized under
2 53-1-301.

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

4 (a) participating in recreational activity and who at the time is relieved of and is not performing
5 prescribed duties, regardless of whether the person is using, by discount or otherwise, a pass, ticket,
6 permit, device, or other emolument of employment; or

7 (b) performing voluntary service at a recreational facility and who receives no compensation for
8 those services other than meals, lodging, or the use of the recreational facilities.

9 (3) The term "volunteer firefighter" means a firefighter who is an enrolled and active member of
10 a fire company organized and funded by a county, a rural fire district, or a fire service area.

11 (4) (a) If the employer is a partnership or sole proprietorship, the employer may elect to include as
12 an employee within the provisions of this chapter any member of the partnership or the owner of the sole
13 proprietorship devoting full time to the partnership or proprietorship business.

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

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

20 (d) All weekly compensation benefits must be based on the amount of elected wages, subject to
21 the minimum and maximum limitations of this subsection. For premium ratemaking and for the
22 determination of weekly wage for weekly compensation benefits, the electing employer may elect not less
23 than \$900 a month and not more than 1½ times the average weekly wage as defined in this chapter.

24 (5) The trustees of a rural fire district, a county governing body providing rural fire protection, or
25 the county commissioners or trustees for a fire service area may elect to include as an employee within the
26 provisions of this chapter any volunteer firefighter. A volunteer firefighter who receives workers'
27 compensation coverage under this section may not receive disability benefits under Title 19, chapter 17.

28 (6) An employee or worker in this state whose services are furnished by a person, association,
29 contractor, firm, or corporation, other than a temporary service contractor, to an employer as defined in
30 39-71-117 is presumed to be under the control and employment of the employer. This presumption may

1 be rebutted as provided in 39-71-117(3).

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

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

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

7 (c) a nonresident employee of an employer from another state engaged in the construction industry,
8 as defined in 39-71-116, within this state; or

9 (d) a nonresident of Montana who does not meet the requirements of subsection (7)(b) and whose
10 employer elects coverage with an insurer that allows an election for an employer whose:

11 (i) nonresident employees are hired in Montana;

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

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

14 (iv) business records are maintained in Montana.

15 (8) An insurer may require coverage for all nonresident employees of a Montana employer who do
16 not meet the requirements of subsection (7)(b) or (7)(d) as a condition of approving the election under
17 subsection (7)(d)."

18

19 **Section 31.** Section 39-71-744, MCA, is amended to read:

20 **"39-71-744. Benefits not due while claimant is incarcerated -- exceptions.** (1) Except as provided
21 in subsection (2), a claimant is not eligible for disability or rehabilitation compensation benefits while the
22 claimant is incarcerated in a correctional institution, such as the Montana state prison or the Montana
23 women's correctional center, as the result of conviction of a felony. The insurer remains liable for medical
24 benefits. A time limit on benefits otherwise provided in this chapter is not extended due to a period of
25 incarceration.

26 (2) A person who is employed while participating in a prerelease center program or a diversionary
27 program is eligible for temporary total benefits as provided in 39-71-701 and medical benefits for a
28 work-related injury received while participating in a prerelease center program or a diversionary program.
29 Other disability or rehabilitation benefits are not payable while the worker is participating in a prerelease
30 center. This subsection does not prohibit the reinstatement of other benefits upon release from

1 incarceration, nor does it apply to an employee performing community service described in
2 39-71-118(1)(f)(1)(e)."

3

4 **Section 32.** Section 50-40-204, MCA, is amended to read:

5 **"50-40-204. Smoke-free buildings -- designated smoking areas.** (1) In buildings both owned and
6 occupied by the state, smoking is prohibited in the following areas:

7 (a) general office space;

8 (b) auditoriums, classrooms, and conference rooms;

9 (c) elevators;

10 (d) corridors, lobbies, restrooms, and stairways;

11 (e) medical care facilities;

12 (f) libraries; and

13 (g) hazardous areas.

14 (2) (a) Subject to subsection (1), in state-owned buildings, an agency head shall establish at least
15 one designated smoking area in the building occupied by the agency, provided that the building is suited
16 by architectural design and functional purpose to have a designated smoking area as defined in 50-40-203.

17 (b) Buildings in the Montana university system, ~~including the vocational technical centers,~~ and
18 buildings housing items of artistic or historic value that may be damaged by smoke are exempt from the
19 provisions of subsection (2)(a).

20 (3) In establishing designated smoking areas, as provided in subsection (2), an agency head shall
21 consider:

22 (a) the number of smokers and nonsmokers in the agency;

23 (b) the building ventilation system;

24 (c) the availability of space;

25 (d) the protection of nonsmokers from involuntary exposure to smoke; and

26 (e) available resources.

27 (4) (a) Agencies in multitenant buildings are encouraged to work together to identify designated
28 smoking areas.

29 (b) The legislature shall establish designated smoking areas in the capitol in areas used by the
30 legislature."

1 **Section 33.** Section 50-74-305, MCA, is amended to read:

2 **"50-74-305. Exceptions to requirements for engineer's license.** Allowable exceptions or variances
3 to the minimum requirements set out in 50-74-304 are as follows:

4 (1) An applicant for an engineer's license in any classification ~~holding~~ who holds a valid license in
5 that classification from another state having licensing requirements equal to or exceeding the minimum
6 requirements set out in 50-74-304, who successfully ~~passing~~ passes a written examination prescribed by
7 the department, and who is found to be competent to operate a boiler and steam-driven machinery in that
8 classification ~~shall~~ must be granted a license in that classification.

9 (2) Operating experience in a classification accumulated in the United States military services or
10 the merchant marine service satisfactory to the department may be accepted in lieu of the operating
11 experience required for licensing of engineers in each of the license classifications.

12 (3) An applicant having training in the operation of steam or water boilers and steam machinery
13 who has been certified as having satisfactorily completed a prescribed training course from a ~~recognized~~
14 ~~vocational-technical training school or center or other~~ department-approved institution or training program
15 in the classification for which ~~he~~ the applicant is applying may, at the discretion of the department, be
16 credited with a maximum of 6 months' experience toward a first-, second-, or third-class engineer's
17 license."

18
19 NEW SECTION. **Section 34. Vocational-technical education -- mill levy required.** (1) The boards
20 of county commissioners of Cascade, Lewis and Clark, Missoula, Silver Bow, and Yellowstone Counties
21 shall in each calendar year levy a tax of 1 1/2 mills on the dollar value of all taxable property, real and
22 personal, located within the respective county.

23 (2) The funds from the mill levy must be deposited in the general fund and must be distributed for
24 vocational-technical education on the basis of budgets approved by the board of regents.

25
26 NEW SECTION. **Section 35. Repealer.** (1) Sections 20-16-101, 20-16-102, 20-16-103,
27 20-16-104, 20-16-105, 20-16-106, 20-16-107, 20-16-108, 20-16-109, 20-16-201, 20-16-203,
28 20-16-204, 20-16-205, 20-16-206, 20-16-207, 20-25-251, 20-25-401, 20-25-431, 20-25-432,
29 20-25-433, 20-25-434, and 60-2-216, MCA, are repealed.

30 (2) Section 20-16-202, MCA, is repealed.

SENATE BILL NO. 156

INTRODUCED BY WATERMAN, T. NELSON, R. JOHNSON

BY REQUEST OF THE BOARD OF REGENTS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CERTAIN STATUTES RELATING TO THE UNIVERSITY SYSTEM; RESTRUCTURING THE UNIVERSITY SYSTEM BY INCORPORATING THE VOCATIONAL-TECHNICAL CENTERS INTO THE SYSTEM; REMOVING THE VOCATIONAL-TECHNICAL CENTER REPRESENTATIVE FROM THE GUARANTEED STUDENT LOAN ADVISORY COUNCIL; DELETING REFERENCES TO VOCATIONAL-EDUCATIONAL CENTERS; REMOVING VOCATIONAL-TECHNICAL CENTER STUDENTS FROM WORKERS' COMPENSATION COVERAGE; REQUIRING FIVE COUNTIES TO LEVY 1 1/2 MILLS TO SUPPORT VOCATIONAL-TECHNICAL EDUCATION; ELIMINATING CERTAIN MISCELLANEOUS FINANCE PROVISIONS RELATING TO UNIVERSITY SYSTEM CONSTRUCTION AND BOND PROJECTS; REVISING THE NAMES OF THE UNITS OF THE UNIVERSITY SYSTEM; CLARIFYING THE DEFINITION OF RESIDENT STUDENT AND PROVISIONS RELATING TO DOMICILE; AMENDING SECTIONS 2-15-1520, 2-18-401, 17-1-102, 17-2-102, 17-2-107, 17-2-110, 17-7-102, 17-7-304, 19-3-403, 19-20-302, 20-1-101, 20-5-402, 20-7-701, 20-9-212, 20-25-201, 20-25-211, 20-25-301, 20-25-303, 20-25-501, 20-25-503, 20-32-101, 20-32-102, 20-32-103, 23-1-313, 37-8-102, 37-31-304, 39-29-101, 39-30-103, 39-71-117, 39-71-118, 39-71-744, 50-40-204, AND 50-74-305, MCA; REPEALING SECTIONS 20-16-101, 20-16-102, 20-16-103, 20-16-104, 20-16-105, 20-16-106, 20-16-107, 20-16-108, 20-16-109, 20-16-201, 20-16-202, 20-16-203, 20-16-204, 20-16-205, 20-16-206, 20-16-207, 20-25-251, 20-25-401, 20-25-431, 20-25-432, 20-25-433, 20-25-434, AND 60-2-216, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY PROVISION."

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

THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE REPRINTED. PLEASE REFER TO SECOND READING COPY (YELLOW) FOR COMPLETE TEXT.

1 SENATE BILL NO. 156

2 INTRODUCED BY WATERMAN, T. NELSON, R. JOHNSON

3 BY REQUEST OF THE BOARD OF REGENTS

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CERTAIN STATUTES RELATING TO THE UNIVERSITY

6 SYSTEM; RESTRUCTURING THE UNIVERSITY SYSTEM BY INCORPORATING THE

7 VOCATIONAL-TECHNICAL CENTERS INTO THE SYSTEM; REMOVING THE VOCATIONAL-TECHNICAL

8 CENTER REPRESENTATIVE FROM THE GUARANTEED STUDENT LOAN ADVISORY COUNCIL; DELETING

9 REFERENCES TO VOCATIONAL-EDUCATIONAL CENTERS; REMOVING VOCATIONAL-TECHNICAL CENTER

10 STUDENTS FROM WORKERS' COMPENSATION COVERAGE; REQUIRING FIVE COUNTIES TO LEVY 1 1/2

11 MILLS TO SUPPORT VOCATIONAL-TECHNICAL EDUCATION; ELIMINATING CERTAIN MISCELLANEOUS

12 FINANCE PROVISIONS RELATING TO UNIVERSITY SYSTEM CONSTRUCTION AND BOND PROJECTS;

13 REVISING THE NAMES OF THE UNITS OF THE UNIVERSITY SYSTEM; CLARIFYING THE DEFINITION OF

14 RESIDENT STUDENT AND PROVISIONS RELATING TO DOMICILE; AMENDING SECTIONS 2-15-1520,

15 2-18-401, 17-1-102, 17-2-102, 17-2-107, 17-2-110, 17-7-102, 17-7-304, 19-3-403, 19-20-302,

16 20-1-101, 20-5-402, 20-7-701, 20-9-212, 20-25-201, 20-25-211, 20-25-301, 20-25-303, 20-25-501,

17 20-25-503, 20-32-101, 20-32-102, 20-32-103, 23-1-313, 37-8-102, 37-31-304, 39-29-101, 39-30-103,

18 39-71-117, 39-71-118, 39-71-744, 50-40-204, AND 50-74-305, MCA; REPEALING SECTIONS 20-16-101,

19 20-16-102, 20-16-103, 20-16-104, 20-16-105, 20-16-106, 20-16-107, 20-16-108, 20-16-109,

20 20-16-201, 20-16-202, 20-16-203, 20-16-204, 20-16-205, 20-16-206, 20-16-207, 20-25-251,

21 20-25-401, 20-25-431, 20-25-432, 20-25-433, 20-25-434, AND 60-2-216, MCA; AND PROVIDING

22 EFFECTIVE DATES AND AN APPLICABILITY PROVISION."

23

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

25

26 **Section 1.** Section 2-15-1520, MCA, is amended to read:

27 **"2-15-1520. Guaranteed student loan advisory council -- terms, -- compensation.** (1) There is a

28 student loan advisory council appointed by the board of regents.

29 (2) The council consists of seven members. Each member ~~shall~~ must be appointed for a term of

30 3 years.

1 (3) Appointments to the council must conform to the following requirements:

2 (a) One member must be a representative of a private eligible educational institution, as defined
3 in 20-26-1101.

4 (b) Two members must be representatives of a public eligible educational institution, as defined
5 in 20-26-1101. ~~One must be a representative of higher education, and one must be a representative for
6 the vocational technical centers.~~

7 (c) Two members must be representatives of approved lenders.

8 (d) One member must be a full-time student registered at an eligible educational institution, as
9 defined in 20-26-1101.

10 (e) One member must be a representative of the office of the commissioner of higher education.

11 (4) A ~~chairman~~ presiding officer must be selected by the council from its membership at the first
12 meeting of each fiscal year.

13 (5) Each member of the council is entitled to compensation and reimbursement for travel expenses
14 as provided in 2-15-122(5)."

15

16 **Section 2.** Section 2-18-401, MCA, is amended to read:

17 **"2-18-401. Central payroll system -- department to provide for inclusion of agencies.** The
18 department of administration shall install and operate a uniform state central payroll system for all state
19 agencies, including units of the Montana university system ~~and the vocational technical centers.~~ The
20 department may provide for the orderly inclusion of state agencies into the system and may make
21 exceptions from the operation of the system for periods that it determines necessary."

22

23 **Section 3.** Section 17-1-102, MCA, is amended to read:

24 **"17-1-102. Uniform accounting system and expenditure control.** (1) The department shall establish
25 a system of financial control so that the functioning of the various agencies of the state may be improved,
26 duplications of work by different state agencies and employees may be eliminated, public service may be
27 improved, and the cost of government may be reduced.

28 (2) The department shall prescribe and install uniform accounting and reporting for all state
29 agencies and institutions, showing the receipt, use, and disposition of all public money and property in
30 accordance with generally accepted accounting principles, and shall develop plans for improvements and

1 economies in the organization and operation ~~thereof~~ of state agencies and institutions, which ~~shall~~ must
 2 be submitted to the respective heads of agencies and institutions. Copies of all ~~such~~ plans ~~shall~~ must be
 3 delivered to the governor, and additional copies ~~shall~~ must be retained in the office of the department for
 4 inspection by the members of the legislature.

5 (3) The uniform accounting and reporting system must contain three levels of expenditure. The first
 6 level must include general categories, such as personal services, operating expenses, equipment, capital
 7 outlay, local assistance, grants, benefits and claims, transfers, and debt service. The second level of
 8 expenditure must include specific categories of expenditures within each first-level category. The third level
 9 of expenditure must include specific items of expenditure within each category of the second level.

10 (4) The department shall examine all financial affairs of ~~every~~ each state agency and institution for
 11 the purpose of developing plans for improvements and economies in the organization and operation ~~thereof~~
 12 of the agencies and institutions and for the purpose of enabling the department to properly perform any of
 13 the duties imposed upon the department by this part.

14 (5) All state agencies, including units of the university system, but excluding community colleges,
 15 ~~and the vocational technical centers~~, shall input all necessary transactions to the accounting system
 16 prescribed in subsection (2) before the accounts are closed at the end of the fiscal year in order to present
 17 the receipt, use, and disposition of all money and property for which the agency is accountable in
 18 accordance with generally accepted accounting principles, except that for budgetary control purposes,
 19 encumbrances ~~which~~ that are required by generally accepted accounting principles to be reported as a
 20 reservation of fund balance ~~shall~~ must be recorded as expenditures and liabilities on the accounting
 21 records."

22

23 **Section 4.** Section 17-2-102, MCA, is amended to read:

24 **"17-2-102. Fund structure.** (1) There are in the state treasury only the following fund categories
 25 and types:

26 (a) the governmental fund category, which includes:

27 (i) the general fund, which accounts for all financial resources except those required to be
 28 accounted for in another fund;

29 (ii) the special revenue fund type, which accounts for the proceeds of specific revenue sources
 30 (other than expendable trusts or major capital projects) that are legally restricted to expenditure for specified

1 purposes. The financial activities of the special revenue fund type are subdivided, for operational purposes,
2 into the following funds to serve the purpose indicated:

3 (A) The state special revenue fund consists of money from state and other nonfederal sources
4 deposited in the state treasury that is earmarked for the purposes of defraying particular costs of an
5 agency, program, or function of state government and money from other nonstate or nonfederal sources
6 that is restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation.

7 (B) The federal special revenue fund consists of money deposited in the treasury from federal
8 sources, including trust income, that is used for the operation of state government.

9 (iii) the capital projects fund type, which accounts for financial resources to be used for the
10 acquisition or construction of major capital facilities, other than those financed by proprietary funds or trust
11 funds; and

12 (iv) the debt service fund type, which accounts for the accumulation of resources for and the
13 payment of general long-term debt principal and interest;

14 (b) the proprietary fund category, which includes:

15 (i) the enterprise fund type, which accounts for operations:

16 (A) that are financed and operated in a manner similar to private business enterprises whenever
17 the intent of the legislature is that costs (i.e., expenses, including depreciation) of providing goods or
18 services to the general public on a continuing basis are to be financed or recovered primarily through user
19 charges; or

20 (B) whenever the legislature has decided that periodic determination of revenue earned, expenses
21 incurred, or net income is appropriate for capital maintenance, public policy, management control,
22 accountability, or other purposes; and

23 (ii) the internal service fund type, which accounts for the financing of goods or services provided
24 by one department or agency to other departments or agencies of state government or to other
25 governmental entities on a cost-reimbursed basis;

26 (c) the fiduciary fund category, which includes trust and agency fund types used to account for
27 assets held by state government in a trustee capacity or as an agent for individuals, private organizations,
28 other governmental entities, or other funds. These include the:

29 (i) expendable trust fund type;

30 (ii) nonexpendable trust fund type;

1 (iii) pension trust fund type; and

2 (iv) agency fund type.

3 (d) the higher education funds, which include:

4 (i) the current fund, which accounts for money deposited in the state treasury that is used to pay
5 current operating costs relating to instruction, research, public service, and allied support operations and
6 programs conducted within the Montana university system ~~and vocational technical centers~~. The financial
7 activities of the current fund are subdivided, for operational purposes, into the four following subfunds to
8 serve the purpose indicated:

9 (A) The unrestricted subfund segregates that portion of the current fund's financial resources that
10 can be expended for general operations and is free of externally imposed restrictions, except those imposed
11 by the legislature.

12 (B) The restricted subfund segregates that portion of the current fund's financial resources that can
13 be expended for general operations but only for purposes imposed by sources external to the board of
14 regents and the legislature.

15 (C) The designated subfund segregates that portion of the current fund's financial resources that
16 is associated with general operations but is separately classified in order to accumulate costs that are to
17 be recharged as allocated to other funds or subfunds; identifies financial activities related to special
18 organized activities of educational departments ~~wherein~~ in which the activity is fully supported by
19 supplemental assessments; and identifies special supply and facility fees that are approved for collections
20 beyond normal course fees and their disposition.

21 (D) The auxiliary subfund segregates that portion of the current fund's financial resources that is
22 devoted to providing essential on-campus services primarily to students, faculty, or staff wherein a fee,
23 which is directly related to but does not necessarily equal the cost of the service provided, is charged to
24 the consumer.

25 (ii) the student loan fund, which accounts for money deposited in the state treasury that may be
26 loaned to students, faculty, or staff for purposes related to education, organized research, or public services
27 by the Montana university system ~~and vocational technical centers~~;

28 (iii) the endowment fund, which accounts for money deposited in the state treasury by the Montana
29 university system ~~and vocational technical centers~~ wherein the principal portion of the amount received is
30 nonexpendable but is available for investment, thus producing consumable income. Expendable earnings

1 on endowment funds are to be transferred to appropriate operating funds pursuant to prevailing
2 administrative requirements.

3 (iv) the annuity and life income fund, which accounts for money deposited in the state treasury by
4 the Montana university system ~~and vocational-technical centers~~ under an agreement whereby the money
5 is made available on condition that the receiving unit of the Montana university system ~~or~~
6 ~~vocational-technical center~~ binds itself to pay stipulated amounts periodically to the donor or others
7 designated by the donor over a specified period of time;

8 (v) the plant fund, which accounts for those financial resources allocated to or received by the
9 Montana university system ~~and vocational-technical centers~~ for capital outlay purposes or to retire long-term
10 debts associated with construction or acquisition of fixed assets and the net accumulative results of these
11 activities; and

12 (vi) the agency fund, which accounts for money deposited in the state treasury wherein the
13 Montana university system ~~or a vocational-technical center~~ acts in the capacity of a custodian or fiscal
14 agent for individual students, faculty, staff, and qualified organizations.

15 (2) In addition to the funds provided for in subsection (1), there are in the state treasury the
16 following account groups:

17 (a) the fixed assets account group, which is a self-balancing group of accounts set up to establish
18 accounting control and accountability for the state's general fixed assets, except those accounted for in
19 proprietary funds, trust funds, and the higher education funds designated in subsections (1)(d)(i)(D),
20 (1)(d)(iii), and (1)(d)(v); and

21 (b) the long-term debt account group, which is a self-balancing group of accounts set up to
22 establish accounting control and accountability for the state's unmatured general long-term liabilities, except
23 those accounted for in proprietary funds, trust funds, and the higher education funds designated in
24 subsections (1)(d)(i)(D), (1)(d)(iii), and (1)(d)(v)."

25

26 **Section 5.** Section 17-2-107, MCA, is amended to read:

27 **"17-2-107. Accurate accounting records and interentity loans.** (1) The department of administration
28 shall record receipts and disbursements for treasury funds and for accounting entities within treasury funds
29 and shall maintain records in such a manner as to reflect the total cash and invested balance of each fund
30 and each accounting entity. The department of administration shall adopt the necessary procedures to

1 ~~insure~~ ensure that interdepartmental or intradepartmental transfers of money or loans do not result in
2 inflation of figures reflecting total governmental costs and ~~revenues~~ revenue.

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

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

18 (ii) One accounting entity within each fund or subfund designated in 17-2-102(1)(d)(i)(A) through
19 (1)(d)(vi) must be established for the sole purpose of recording loans between the funds or subfunds. This
20 accounting entity is the only accounting entity within each fund or subfund that may receive a loan or from
21 which a loan may be made.

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

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

30 (4) Any loan from the current unrestricted subfund to funds designated in 17-2-102(1)(d)(i)(D) and

1 (1)(d)(ii) through (1)(d)(vi) must bear interest at a rate equivalent to the previous fiscal year's average rate
2 of return on the board of investments' short-term investment pool. Except for investment earnings on
3 restricted donations, all designated and restricted subfund investment earnings, other than investment
4 earnings on student activity fees used to support student governments at units of the university system,
5 are credited to the state general fund.

6 (5) If for ~~two~~ 2 consecutive fiscal yearends a loan or an extension of a loan has been authorized
7 to the same accounting entity as provided in subsection (2) or (3), the department of administration or the
8 commissioner of higher education shall submit to the legislative finance committee by September 1 of the
9 following fiscal year a written report containing an explanation as to why the second loan or extension was
10 made, an analysis of the solvency of the accounting entity or accounting entities within the university fund
11 or subfund, and a plan for repaying the loans.

12 (6) If for ~~two~~ 2 consecutive fiscal yearends an accounting entity in a fund or subfund designated
13 in 17-2-102(1)(d)(i) through (1)(d)(vi) has a negative cash balance, the commissioner of higher education
14 shall submit to the legislative finance committee by September 1 of the following fiscal year a written report
15 containing an explanation as to why the accounting entity has a negative cash balance, an analysis of the
16 solvency of the accounting entity, and a plan to address any problems concerning the accounting entity's
17 negative cash balance or solvency.

18 (7) (a) An accounting entity in a fund designated in 17-2-102(1)(a) through (1)(c) may not have
19 a negative cash balance at fiscal yearend. The department of administration may, however, allow an
20 accounting entity to carry a negative balance at any point during the fiscal year if the negative cash balance
21 does not exist for more than 7 working days.

22 (b) (i) Except as provided in subsection (7)(b)(ii), a unit of the university system ~~or~~
23 ~~vocational-technical center~~ shall maintain a positive cash balance in the funds and subfunds designated in
24 17-2-102(1)(d)(i)(A) through (1)(d)(i)(D) and (1)(d)(ii) through (1)(d)(vi).

25 (ii) If a fund or subfund inadvertently has a negative cash balance, the department of administration
26 may allow the fund or subfund to carry the negative cash balance for no more than 7 working days. If the
27 negative cash balance exists for more than 7 working days, a transaction may not be processed through
28 the statewide accounting system for that fund or subfund.

29 (8) Notwithstanding the provisions of subsections (2) through (4), the department of administration
30 may authorize loans to accounting entities in the federal and state special revenue funds with long-term

1 repayment whenever necessary ~~due to~~ because of the timing of the receipt of agreed upon reimbursements
 2 from federal, private, or other governmental entity sources for disbursements made. The department of
 3 administration may approve the loans if the requesting agency can demonstrate that the total loan balance
 4 does not exceed total receivables from federal, private, or other governmental entity sources and
 5 receivables have been billed on a timely basis. The loan must be repaid under ~~such~~ terms and conditions
 6 as may be determined by the department of administration or by specific legislative authorization."

7
 8 **Section 6.** Section 17-2-110, MCA, is amended to read:

9 **"17-2-110. Fiscal year and financial reports.** (1) The fiscal year for state purposes commences on
 10 July 1 of each year and ends on June 30 of each year.

11 (2) At the close of each fiscal year, the fiscal records of each state office, department, bureau,
 12 commission, institution, university unit, ~~vocational-technical center,~~ and agency (~~hereinafter~~ collectively
 13 referred to as "state agency") ~~shall~~ must be closed as of the end of the fiscal year. Each state agency shall
 14 prepare ~~such~~ the financial statements and reconciliations for the fiscal year as the department of
 15 administration may prescribe. These financial reports are to be completed and distributed not more than
 16 31 days following the close of each fiscal year. The department of administration may extend this time limit
 17 if a state agency can show necessity ~~therefor~~ for the extension.

18 (3) The reports are to be distributed to the department of administration and the legislative auditor
 19 and any other state agency that the department of administration may prescribe. It is the intent of this
 20 provision that these reports accurately and comprehensively present the financial activities of the reporting
 21 state agency in accordance with generally accepted accounting principles so that the reports can be
 22 effectively ~~utilized~~ used by the executive and legislative branches of state government.

23 (4) Upon consolidation of the reports, the annual financial report by the department of
 24 administration ~~will~~ must be available for other individuals and organizations interested in the financial affairs
 25 of the state of Montana."

26
 27 **Section 7.** Section 17-7-102, MCA, is amended to read:

28 **"17-7-102. Definitions.** As used in this chapter, the following definitions apply:

29 (1) "Additional services" means different services or more of the same services.

30 (2) "Agency" means each state office, department, division, board, commission, council,

1 committee, institution, university unit, or other entity or instrumentality of the executive branch, office of
2 the judicial branch, or office of the legislative branch of state government, except for purposes of capital
3 projects administered by the department of administration, for which institutions are treated as one
4 department and university units as one system.

5 (3) "Approved long-range building program budget amendment" means approval by the budget
6 director of a request submitted through the architecture and engineering division of the department of
7 administration to transfer excess funds appropriated to a capital project within an agency to increase the
8 appropriation of another capital project within that agency or to obtain financing to expand a project with
9 funds that were not available for consideration by the legislature.

10 (4) "Approving authority" means:

11 (a) the governor or the governor's designated representative for executive branch agencies;

12 (b) the chief justice of the supreme court or the chief justice's designated representative for judicial
13 branch agencies;

14 (c) the speaker for the house of representatives;

15 (d) the president for the senate;

16 (e) appropriate legislative committees or a designated representative for legislative branch agencies;

17 or

18 (f) the board of regents of higher education or its designated representative for the university
19 system.

20 (5) "Base budget" means that level of funding authorized by the previous legislature.

21 (6) "Budget amendment" means a legislative appropriation to increase spending authority for the
22 special revenue fund, proprietary funds, or unrestricted subfund, contingent on total compliance with all
23 budget amendment procedures.

24 (7) "Present law base" means that additional level of funding needed under present law to maintain
25 operations and services at the level authorized by the previous legislature, including but not limited to:

26 (a) changes resulting from legally mandated workload, caseload, or enrollment increases or
27 decreases;

28 (b) changes in funding requirements resulting from constitutional or statutory schedules or
29 formulas;

30 (c) inflationary or deflationary adjustments; and

1 (d) elimination of nonrecurring appropriations.

2 (8) "Effectiveness measure" means a criterion for measuring the degree to which the objective
3 sought is attained.

4 (9) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and
5 unanticipated circumstance that has occurred subsequent to the time that an agency's appropriation was
6 made, that was clearly not within the contemplation of the legislature and the governor, and that affects
7 one or more functions of a state agency and the agency's expenditure requirements for the performance
8 of the function or functions.

9 (10) "Necessary" means essential to the public welfare and of a nature that cannot wait until the
10 next legislative session for legislative consideration.

11 (11) "New proposals" means requests to provide new nonmandated services, to change program
12 services, to eliminate existing services, or to change sources of funding. For purposes of establishing the
13 present law base, the distinction between new proposals and the adjustments to the base budget to
14 develop the present law base is to be determined by the existence of constitutional or statutory
15 requirements for the proposed expenditure. Any proposed increase or decrease that is not based on those
16 requirements is considered a new proposal.

17 (12) "Priority listing" means a ranking of proposed expenditures in order of importance.

18 (13) "Program" means a combination of resources and activities designed to achieve an objective
19 or objectives.

20 (14) "Program size" means the magnitude of a program, such as the size of clientele served or the
21 volume of service in relation to the population or area.

22 (15) "Program size indicator" means a measure to indicate the magnitude of a program.

23 (16) "Requesting agency" means the agency of state government that has requested a specific
24 budget amendment.

25 (17) "University system unit" means the board of regents of higher education; office of the
26 commissioner of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and
27 Helena; Montana state university, with campuses at Bozeman, Billings, Havre, and Great Falls; Montana
28 ~~college of mineral science and technology at Butte, eastern Montana college at Billings, northern Montana~~
29 ~~college at Havre, western Montana college of the university of Montana at Dillon,~~ the agricultural
30 experiment station, with central offices at Bozeman; the forest and conservation experiment station, with

1 central offices at Missoula;² the cooperative extension service,² with central offices at Bozeman;² the bureau
 2 of mines and geology,² with central offices at Butte;² the fire services training school at Great Falls;² ~~the~~
 3 ~~vocational technical centers at Billings, Butte, Great Falls, Helena, and Missoula, or~~ and the community
 4 colleges at Miles City, Glendive, and Kalispell."

5

6 **Section 8.** Section 17-7-304, MCA, is amended to read:

7 **"17-7-304. (Temporary) Disposal of unexpended appropriations.** (1) All money appropriated for any
 8 specific purpose except that appropriated for the university system units listed in subsection (2) and except
 9 as provided in subsection (4) must, after the expiration of the time for which appropriated, revert to the
 10 several funds and accounts from which originally appropriated. However, any unexpended balance in any
 11 specific appropriation may be used for the years for which the appropriation was made.

12 (2) Except as provided in 17-2-108 and subsection (3) of this section, all money appropriated for
 13 the university of Montana campuses at Missoula, Butte, Dillon, and Helena and the Montana state university
 14 campuses at Bozeman, Billings, Havre, and Great Falls ~~Montana college of mineral science and technology~~
 15 ~~at Butte, eastern Montana college at Billings, northern Montana college at Havre, western Montana college~~
 16 ~~of the university of Montana at Dillon~~, the agricultural experiment station with central offices at Bozeman,
 17 the forest and conservation experiment station with central offices at Missoula, the cooperative extension
 18 service with central offices at Bozeman, and the bureau of mines and geology with central offices in Butte,
 19 ~~and the vocational technical centers at Billings, Butte, Great Falls, Helena, and Missoula~~ must, after the
 20 expiration of the time for which appropriated, revert to an account held by the board of regents. The board
 21 of regents is authorized to maintain a fund balance. There is a statutory appropriation, as provided in
 22 17-7-502, to use the funds held in this account in accordance with a long-term plan for major and deferred
 23 maintenance expenditures and equipment or fixed assets purchases prepared by the affected university
 24 system units and approved by the board of regents. The affected university system units may, with the
 25 approval of the board of regents, modify the long-term plan at any time to address changing needs and
 26 priorities. The board of regents shall communicate the plan to each legislature, to the finance committee
 27 when requested by the committee, and to the office of budget and program planning.

28 (3) Subsection (2) does not apply to reversions that are the result of a reduction in spending
 29 directed by the governor pursuant to 17-7-140. Any amount that is a result of a reduction in spending
 30 directed by the governor must revert to the fund or account from which it was originally appropriated.

1 (4) For the 2 years following the end of a fiscal year, 30% of the money appropriated to an agency
 2 for that year by the general appropriations act for personal services, operating expenses, and equipment
 3 and remaining unexpended and unencumbered at the end of the year may be spent for any purpose that
 4 is consistent with the goals and objectives of the agency. The dollar amount of the 30% amount that may
 5 be carried forward and spent must be determined by the office of budget and program planning.
 6 (Terminates June 30, 1996--sec. 23, Ch. 787, L. 1991; sec. 5, Ch. 5, Sp. L. July 1992.)

7 **17-7-304. (Effective July 1, 1996) Disposal of unexpended appropriations:** (1) Except as provided
 8 in subsection (2), all money appropriated for any specific purpose must, after the expiration of the time for
 9 which appropriated, revert to the several funds and accounts from which originally appropriated. However,
 10 any unexpended balance in any specific appropriation may be used for the years for which the appropriation
 11 was made.

12 (2) For the 2 years following the end of a fiscal year, 30% of the money appropriated to an agency
 13 for that year by the general appropriations act for personal services, operating expenses, and equipment
 14 and remaining unexpended and unencumbered at the end of the year may be spent for any purpose that
 15 is consistent with the goals and objectives of the agency. The dollar amount of the 30% amount that may
 16 be carried forward and spent must be determined by the office of budget and program planning.
 17 (Terminates July 1, 1997--sec. 13, Ch. 23, Sp. L. November 1993.)

18 **17-7-304. (Effective July 1, 1997) Disposal of unexpended appropriations.** All money appropriated
 19 for any specific purpose must, after the expiration of the time for which appropriated, revert to the several
 20 funds and accounts from which originally appropriated. However, any unexpended balance in any specific
 21 appropriation may be used for the years for which the appropriation was made."
 22

23 **Section 9.** Section 19-3-403, MCA, is amended to read:

24 **"19-3-403. Exclusions from membership.** The following persons may not become members of the
 25 retirement system:

26 (1) inmates of state institutions;

27 (2) persons in state institutions principally for the purpose of training, but who receive
 28 compensation;

29 (3) independent contractors, unless there is a written contract that specifies the creation of an
 30 employer-employee relationship for purposes of retirement coverage under the retirement system;

1 (4) persons who are members of any other retirement or pension system supported wholly or in
2 part by funds of the United States government, any state government, or political subdivision of the state
3 and who are receiving credit in the other system for service. It is the purpose of this subsection to prevent
4 a person from receiving credit for the same service in two retirement systems supported wholly or in part
5 by public funds, except when the service qualifies, is applied for, and is purchased pursuant to 19-3-503.
6 A member of the retirement system who, because of employment by the state, is required to become a
7 member of any other system described in this subsection is considered, solely for the purposes of making
8 regular contributions, as permanently separated from service. Exclusion under this subsection is subject to
9 the following exceptions:

10 (a) When an employer has entered into a collective bargaining agreement that includes provisions
11 for payments or contributions by the employer in lieu of wages to a retirement or pension plan qualified by
12 the internal revenue service for its employees, the employees remain eligible, if otherwise qualified, for
13 membership in the retirement system.

14 (b) For the purpose of this subsection (4), persons receiving pensions, retirement allowances, or
15 other payments from any source on account of employment other than as an employee are not considered,
16 because of receipt, members of any other retirement or pension system.

17 (5) court commissioners, elected officials, or appointive members of any board or commission who
18 serve the state or any contracting employer intermittently and who are paid on a per diem basis;

19 (6) full-time students employed at and attending the same public elementary school, high school,
20 ~~vocational-technical center, or community college,~~ or any unit of the state university system, except that
21 a person excluded from membership as a student of a public community college or a unit of the state
22 university system who later becomes a member by otherwise becoming an employee may affirmatively
23 exercise the option of qualifying the service excluded by this subsection by applying to the board in writing
24 after becoming a member and become eligible to receive credited service for the excluded service under
25 the provisions of 19-3-505."
26

27 **Section 10.** Section 19-20-302, MCA, is amended to read:

28 **"19-20-302. Active membership.** (1) Unless otherwise provided by this chapter, the following
29 persons must be active members of the retirement system, with the exception that those persons who
30 became eligible for membership on September 1, 1937, or on September 1, 1939, and who elected not to

1 become members under the provisions of the law at that time are not required to be members:

2 (a) any person who is a teacher, principal, or district superintendent as defined in 20-1-101;

3 (b) any person who is an administrative officer or a member of the instructional or scientific staff
4 of:

5 ~~(i) a vocational technical center; or~~

6 ~~(ii) a unit of the Montana university system and who has not elected or is not required to participate~~
7 in the optional retirement program under Title 19, chapter 21;

8 (c) any person employed as a speech therapist, school nurse, or school psychologist or in an
9 instructional services capacity by the office of the superintendent of public instruction, the office of a
10 county superintendent, a special education cooperative, a public institution of the state of Montana, the
11 Montana state school for the deaf and blind, or a school district;

12 (d) any person who is an administrative officer or a member of the instructional staff of the board
13 of public education;

14 (e) any person who has elected not to become a member of the retirement system and who is
15 reentering service in a capacity prescribed by subsection (1)(a), (1)(b), (1)(c), or (1)(d) of this subsection
16 ~~(1)~~;

17 (f) any person who has elected not to become a member of the retirement system, who has been
18 continuously employed in a capacity prescribed by subsection (1)(a), (1)(b), (1)(c), or (1)(d) of this
19 ~~subsection (1)~~ since the time of the election, and who may elect to become a member of the retirement
20 system.

21 (2) In order to be eligible for active membership, any person described in subsection (1) must:

22 (a) be employed in the capacity prescribed for the person's eligibility for at least 30 days in any
23 fiscal year; and

24 (b) have the compensation for the person's creditable service totally paid by an employer.

25 (3) (a) A substitute teacher:

26 (i) may elect to become an active member of the retirement system on the first day of employment
27 in any fiscal year; or

28 (ii) shall be required to become an active member of the retirement system on the 31st day of
29 employment in any fiscal year if the substitute teacher has not elected membership under subsection
30 (3)(a)(i).

1 (b) The employer shall give written notification to a substitute teacher on the first day of
2 employment in any fiscal year of the option to elect membership under subsection (3)(a)(i).

3 (4) A substitute teacher who did not elect membership under subsection (3)(a)(i) and subsequently
4 becomes a member must be awarded creditable service for substitute teaching service if the substitute
5 teacher contributes:

6 (a) an amount equal to the combined employee and employer contributions that would have been
7 made if the substitute teacher had elected membership; plus

8 (b) interest at the rate that the contributions would have earned if they had been on deposit with
9 the retirement system.

10 (5) At any time that a person's eligibility to become a member of the retirement system is in doubt,
11 the retirement board shall determine the person's eligibility for membership. All persons in similar
12 circumstances ~~shall~~ must be treated alike."

13

14 **Section 11.** Section 20-1-101, MCA, is amended to read:

15 **"20-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the
16 following definitions apply:

17 (1) "Agricultural experiment station" means the agricultural experiment station established at
18 Montana state university-Bozeman.

19 (2) "Average number belonging" or "ANB" ~~shall mean~~ means the average number of regularly
20 enrolled, full-time pupils attending the public schools of a district.

21 (3) ~~The "board~~ "Board of public education" ~~is~~ means the board created by Article X, section 9,
22 subsection (3), of the ~~1972~~ Montana constitution and 2-15-1507.

23 (4) "Board of regents" means the board of regents of higher education created by Article X, section
24 9, subsection (2), of the ~~1972~~ Montana constitution and 2-15-1505.

25 (5) "Commissioner" means the commissioner of higher education created by Article X, section 9,
26 subsection (2), of the ~~1972~~ Montana constitution and 2-15-1506.

27 (6) "County superintendent" means the county government official who is the school officer of the
28 county.

29 (7) "District superintendent" means ~~any~~ a person who holds a valid class 3 Montana teacher
30 certificate with a superintendent's endorsement that has been issued by the superintendent of public

1 instruction under the provisions of this title and the policies adopted by the board of public education and
 2 who has been employed by a district as a district superintendent.

3 (8) "K-12 vocational education" means vocational education in public school kindergarten through
 4 grade 12.

5 (9) "Principal" means ~~any~~ a person who holds a valid class 3 Montana teacher certificate with an
 6 applicable principal's endorsement that has been issued by the superintendent of public instruction under
 7 the provisions of this title and the policies adopted by the board of public education and who has been
 8 employed by a district as a principal. For the purposes of this title, any reference to a teacher ~~shall~~ must
 9 be construed as including a principal, ~~as herein defined.~~

10 (10) "Pupil" means ~~any~~ a child who is 6 years of age or older on or before September 10 of the year
 11 in which the child is to enroll or has been enrolled by special permission of the board of trustees under
 12 20-5-101(3) but has not yet reached ~~his 19th birthday~~ 19 years of age and who is enrolled in a school
 13 established and maintained under the laws of the state ~~of Montana~~ at public expense. For purposes of
 14 calculating the average number belonging (~~ANS~~) pursuant to 20-9-311, the definition of pupil includes a
 15 person who has not yet reached ~~his 19th birthday~~ 19 years of age by September 10 of the year and is
 16 enrolled under 20-5-101(3) in a school established and maintained under the laws of the state at public
 17 expense.

18 (11) "Pupil instruction" means the conduct of organized instruction of pupils enrolled in public
 19 schools while under the supervision of a teacher.

20 (12) "Regents" means the board of regents of higher education.

21 (13) "School food services" means a service of providing food for the pupils of a district on a
 22 nonprofit basis and ~~shall include~~ includes any food service financially assisted through funds or commodities
 23 provided by the United States government.

24 (14) ~~The "state~~ "State board of education" ~~is~~ means the board composed of the board of public
 25 education and the board of regents as specified in Article X, section 9, subsection (1), of the ~~1972~~ Montana
 26 constitution.

27 (15) "State university" means ~~the Montana state university, located at Bozeman~~
 28 university-Bozeman.

29 (16) "Superintendent of public instruction" means that state government official designated as a
 30 member of the executive branch by the ~~constitution of Montana~~ constitution.

1 (17) "System" means the Montana university system.

2 (18) "Teacher" means ~~any a~~ person, except a district superintendent, who holds a valid Montana
3 teacher certificate that has been issued by the superintendent of public instruction under the provisions of
4 this title and the policies adopted by the board of public education and who is employed by a district as
5 a member of its instructional, supervisory, or administrative staff. This definition of a teacher ~~shall also~~
6 ~~include~~ includes a ~~any~~ person for whom an emergency authorization of employment ~~of such person~~ has
7 been issued under the provisions of 20-4-111.

8 (19) "Textbook" means a book or manual used as a principal source of study material for a given
9 class or group of students.

10 (20) "Textbook dealer" means ~~any a~~ party, company, corporation, or other organization selling,
11 offering to sell, or offering for adoption textbooks to districts in the state ~~of Montana~~.

12 (21) "Trustees" means the governing board of a district.

13 (22) "University" means the university of ~~Montana, located at Missoula~~ Montana-Missoula.

14 (23) "Vocational education" means the instruction to prepare or improve the pupil for gainful
15 employment that does not require a baccalaureate or higher degree. This definition of vocational education
16 ~~shall include~~ includes guidance and prevocational, related, or technical instruction necessary to prepare the
17 pupil for further vocational education or for entry into employment.

18 ~~(24) "Vocational technical center" means an institution used principally for the provision of~~
19 ~~vocational technical education to persons who qualify as vocational technical students. These centers are~~
20 ~~designated by the board of regents upon direction by the legislature. All other public or private institutions~~
21 ~~or schools are hereby prohibited from using this title.~~

22 ~~(25)~~ (24) "Vocational-technical education" means vocational-technical education of
23 vocational-technical students that is conducted by ~~a vocational technical center~~, a unit of the Montana
24 university system, or a community college, as designated by the board of regents."
25

26 **Section 12.** Section 20-5-402, MCA, is amended to read:

27 **"20-5-402. Definitions.** For the purposes of this part, the following definitions apply:

28 (1) "Department" means the department of health and environmental sciences provided for in Title
29 2, chapter 15, part 21.

30 (2) "Governing authority" means the board of trustees of a school district or the administrator of

1 a private school, preschool, or postsecondary school.

2 (3) "Immunization" means induction of a state of resistance to a disease through administration
3 of an immunizing agent.

4 (4) "Local health department" means a city, city-county, county, or district health department.

5 (5) "Local health officer" means a city, city-county, county, or district health officer.

6 (6) "Postsecondary school" means ~~a vocational technical center~~, a community college, a unit of
7 the Montana university system, or a private university or college.

8 (7) "Preschool" means a place or facility that provides, on a regular basis and as its primary
9 purpose, educational instruction designed for children 5 years of age or younger and that:

10 (a) serves no child under 5 years of age for more than 3 hours a day; and

11 (b) serves no child 5 years of age for more than 6 hours a day.

12 (8) "School" means a place or institution for the teaching of individuals, the curriculum of which
13 is ~~emprised~~ composed of the work of:

14 (a) any combination of kindergarten through grade 12;

15 (b) a postsecondary school; or

16 (c) a preschool."

17

18 **Section 13.** Section 20-7-701, MCA, is amended to read:

19 **"20-7-701. Definition of adult basic education and adult education.** ~~(1)~~ As used in this title, unless
20 the context clearly indicates otherwise, the following definitions apply:

21 ~~(a)(1) The term "adult~~ **"Adult basic education"** means instruction in basic skills, such as reading,
22 writing, arithmetic, and other skills required to function in society, offered to persons 16 years of age or
23 older who are not regularly enrolled, full-time pupils for the purposes of ANB computation. Adult basic
24 education may include any subject normally offered in the basic curricula of an accredited elementary or
25 secondary school in the state.

26 ~~(b)(2) The term "adult~~ **"Adult education"** means the instruction of persons 16 years of age or older
27 who are not regularly enrolled, full-time pupils for the purposes of ANB computation.

28 ~~(2) Neither definition may include the instruction in vocational technical centers."~~

29

30 **Section 14.** Section 20-9-212, MCA, is amended to read:

1 **"20-9-212. Duties of county treasurer.** The county treasurer of each county shall:

2 (1) receive and hold all school money subject to apportionment and keep a separate accounting
3 of its apportionment to the several districts that are entitled to a portion of the money according to the
4 apportionments ordered by the county superintendent or by the superintendent of public instruction. A
5 separate accounting must be maintained for each county fund supported by a countywide levy for a
6 specific, authorized purpose, including:

7 (a) the basic county tax in support of the elementary BASE aid;

8 (b) the basic special tax for high schools in support of the high school BASE aid;

9 (c) the county tax in support of the transportation schedules;

10 (d) the county tax in support of the elementary and high school district retirement obligations; and

11 (e) any other county tax for schools, including the community colleges, ~~which~~ that may be
12 authorized by law and levied by the county commissioners.

13 (2) whenever requested, notify the county superintendent and the superintendent of public
14 instruction of the amount of county school money on deposit in each of the funds enumerated in subsection
15 (1) and the amount of any other school money subject to apportionment and apportion the county and other
16 school money to the districts in accordance with the apportionment ordered by the county superintendent
17 or the superintendent of public instruction;

18 (3) keep a separate accounting of the receipts, expenditures, and cash balances for each fund;

19 (4) except as otherwise limited by law, pay all warrants properly drawn on the county or district
20 school money and properly endorsed by their holders;

21 (5) receive all revenue collected by and for each district and deposit these receipts in the fund
22 designated by law or by the district if a fund is not designated by law. Interest and penalties on delinquent
23 school taxes must be credited to the same fund and district for which the original taxes were levied.

24 (6) send all revenue received for a joint district, part of which is situated in the county, to the
25 county treasurer designated as the custodian of the revenue, no later than December 15 of each year and
26 every 3 months after that date until the end of the school fiscal year;

27 (7) at the direction of the trustees of a district, assist the district in the issuance and sale of tax
28 and revenue anticipation notes as provided in Title 7, chapter 6, part 11;

29 (8) register district warrants drawn on a budgeted fund in accordance with 7-6-2604 when there
30 is insufficient money available in all funds of the district to make payment of the warrant. Redemption of

1 registered warrants must be made in accordance with 7-6-2116, 7-6-2605, and 7-6-2606.

2 (9) invest the money of any district as directed by the trustees of the district within 3 working days
3 of the direction;

4 (10) each month give to the trustees of each district an itemized report for each fund maintained
5 by the district, showing the paid warrants, outstanding warrants, registered warrants, amounts and types
6 of revenue received, and the cash balance;

7 (11) remit promptly to the state treasurer receipts for the county tax for a vocational-technical
8 ~~center education~~ when levied by the board of county commissioners under the provisions of ~~20-16-202~~
9 [section 32 34];

10 (12) invest the money received from the basic county tax, the basic special tax, the county levy
11 in support of the elementary and high school district retirement obligations, and the county levy in support
12 of the transportation schedules within 3 working days of receipt. The money must be invested until the
13 working day before it is required to be distributed to school districts within the county or remitted to the
14 state. Permissible investments are specified in 20-9-213(4). All investment income must be deposited, and
15 credited proportionately, in the funds established to account for the taxes received for the purposes
16 specified in subsections (1)(a) through (1)(d).

17 (13) remit on a monthly basis to the state treasurer, in accordance with the provisions of 15-1-504,
18 all county equalization revenue received under the provisions of 20-9-331 and 20-9-333, including all
19 interest earned and excluding any amount required for high school out-of-county tuition under the
20 provisions of 20-9-334, in repayment of the state advance for county equalization prescribed in 20-9-347.
21 Any funds in excess of a state advance must be used as required in 20-9-331(1)(b) and 20-9-333(1)(b)."
22

23 **Section 15.** Section 20-25-201, MCA, is amended to read:

24 **"20-25-201. Units constituting university system.** The Montana university system is composed of
25 the following units, each designated by its legal name:

26 (1) ~~University~~ The university of Montana, with campuses located at the following locations:

27 (a) Missoula;

28 (b) Butte;

29 (c) Dillon; and

30 (d) Helena.

1 (2) Montana state university, with campuses located at the following locations:

2 (a) Bozeman;

3 (b) Billings;

4 (c) Havre; and

5 (d) Great Falls.

6 ~~(3) Montana college of mineral science and technology, located at Butte;~~

7 ~~(4) Western Montana college of the university of Montana, located at Dillon;~~

8 ~~(5) Eastern Montana college, located at Billings; and~~

9 ~~(6) Northern Montana college, located at Havre."~~

10
11 **Section 16.** Section 20-25-211, MCA, is amended to read:

12 "**20-25-211. Montana college of mineral science and technology tech of the university of Montana**

13 -- purpose -- fees for assays. (1) The Montana ~~college of mineral science and technology~~ tech of the
14 university of Montana has for its purpose instruction and education in chemistry, metallurgy, mineralogy,
15 geology, mining, milling, engineering, mathematics, mechanics and drawing, and the laws of the United
16 States and Montana relating to mining.

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

20 (3) The ~~president~~ chancellor of Montana ~~college of mineral science and technology~~ tech of the
21 university of Montana may charge and collect reasonable fees for any assays and analyses made by the
22 college.

23 (4) The ~~president~~ chancellor shall keep an account of ~~such~~ the fees and pay them monthly to the
24 treasurer for deposit to the college fund."

25
26 **Section 17.** Section 20-25-301, MCA, is amended to read:

27 "**20-25-301. Regents' powers and duties.** The board of regents of higher education shall serve as
28 regents of the Montana university system, shall use and adopt this style in all its dealings with the
29 university system, and ~~shall~~:

30 (1) must have general control and supervision of the units of the Montana university system, which

1 is considered for all purposes one university;

2 (2) shall adopt rules, ~~not inconsistent for its own government that are consistent~~ with the
3 constitution and the laws of the state, ~~for its own government which~~ and that are proper and necessary
4 for the execution of the powers and duties conferred upon it by law;

5 (3) shall provide, subject to the laws of the state, rules for the government of the system;

6 (4) shall grant diplomas and degrees to the graduates of the system upon the recommendation of
7 the faculties and have discretion to confer honorary degrees upon persons other than graduates upon the
8 recommendation of the faculty of the institutions;

9 (5) shall keep a record of its proceedings;

10 (6) must have, when not otherwise provided by law, control of all books, records, buildings,
11 grounds, and other property of the system;

12 (7) must receive from the board of land commissioners, from other boards, or persons, or from the
13 government of the United States all funds, incomes, and other property the system may be entitled to and
14 use and appropriate the property for the specific purpose of the grant or donation;

15 (8) must have general control of all receipts and disbursements of the system;

16 (9) shall appoint a president or chancellor and faculty for each of the institutions of the system,
17 appoint any other necessary officers, agents, and employees, and fix their compensation;

18 (10) shall confer upon the executive board of each of the units of the system authority that may
19 be considered expedient relating to immediate control and management, other than authority relating to
20 financial matters or the selection of the teachers, employees, and faculty;

21 (11) shall confer, at the regents' discretion, upon the president and faculty of each of the units of
22 the system for the best interest of the unit authority relating to the immediate control and management,
23 other than financial, and the selection of teachers and employees;

24 (12) shall prevent unnecessary duplication of courses at the units of the system;

25 (13) shall appoint a certified professional geologist or registered mining engineer as the director of
26 the Montana state bureau of mines and geology, who is the state geologist, and appoint any other
27 necessary assistants and employees and fix their compensation.

28 (14) shall supervise and control the agricultural experiment station, along with any executive or
29 subordinate board or authority ~~which~~ that may be appointed by the governor with the advice and consent
30 of the regents;

1 (15) shall adopt a seal bearing on its face the words "Montana university system", which must be
2 affixed to all diplomas and all other papers, instruments, or documents ~~which~~ that may require it;

3 (16) shall ~~assure~~ ensure an adequate level of security for data and information technology
4 resources, as defined in 2-15-102, within the state university system. In carrying out this responsibility,
5 the board of regents shall, at a minimum, address the responsibilities prescribed in 2-15-114.

6 (17) shall offer courses in vocational-technical education of a type and in a manner considered
7 necessary or practical by the regents."

8

9 **Section 18.** Section 20-25-303, MCA, is amended to read:

10 "20-25-303. **Local executive boards -- terms and compensation.** (1) There is a local executive
11 board ~~for each unit of the~~ within each county in which a university system campus is located.

12 (2) (a) Each local executive board ~~shall consist~~ consists of three members appointed by the
13 governor with the advice and consent of the regents.

14 (b) The president of ~~each~~ a unit shall or the chancellor of a campus may not be a member of the
15 local executive board.

16 (c) Two of the members must reside in the county where the unit is located.

17 (d) The members shall hold office for 3 years beginning the third Monday in April of the year
18 appointed. The term of office of one member shall expire each year.

19 (e) The members may be removed by the governor or the regents.

20 (f) The members shall qualify by filing their oath of office with the regents.

21 (3) All vacancies ~~shall~~ must be filled by appointment by the governor and referred for confirmation
22 to the regents at their first meeting thereafter for confirmation after appointment.

23 (4) Each local executive board shall elect a ~~chairman~~ presiding officer and appoint a secretary.

24 (5) The compensation for the members ~~shall~~ must be fixed by the regents. It ~~shall~~ may not exceed
25 \$5 for each day spent in discharging their duties or \$125 in any ~~one~~ year for each member. The members
26 ~~shall~~ must be reimbursed from the amount appropriated by the legislature for the maintenance and support
27 of the units for all expenses necessarily incurred in discharge of their duties."

28

29 **SECTION 19. SECTION 20-25-501, MCA, IS AMENDED TO READ:**

30 "20-25-501. **Definitions.** (1) Terms used in this part are defined as follows:

1 (a) "Domicile" means a person's true, fixed, and permanent home and place of habitation.

2 (b) "Emancipated minor" means a person under the age of 18 years who ~~supports himself~~ is
3 self-supporting from ~~his own personal~~ earnings or is married. A person who received more than 25% of the
4 cost of ~~supporting himself~~ support from any person other than an agency of the government ~~shall~~ may not
5 be considered an emancipated minor.

6 (c) "Minor" means a male or female person who has not obtained the age of 18 years.

7 (d) "Qualified person" means a person legally qualified to determine ~~his~~ the person's own domicile.

8 (e) "Resident student" means:

9 (i) a student who has been domiciled in Montana for 1 year immediately preceding registration at
10 any unit for any term or session for which resident classification is claimed. Attendance as a full-time
11 student at any college, university, or other institution of higher education ~~shall~~ is not alone ~~be~~ sufficient to
12 qualify for residence in Montana.

13 (ii) any graduate of a Montana high school who is a citizen or resident alien of the United States
14 and whose parents, parent, or guardian ~~have~~ has resided in Montana at least 1 full year of the 2 years
15 immediately preceding ~~his~~ the student's graduation from high school. ~~Such~~ The classification ~~shall continue~~
16 continues for not more than 4 academic years if the student remains in continuous attendance at a unit;
17 or

18 (iii) a member of the armed forces of the United States assigned to and residing in Montana, ~~his~~
19 the member's spouse, or ~~his~~ the member's dependent children.

20 (2) In the event that the definition of residency or any portion thereof is declared unconstitutional
21 as it is applied to payment of nonresident fees and tuition, the regents of the Montana university system
22 ~~shall have authority to~~ may make rules on what constitutes adequate evidence of residency status not
23 inconsistent with ~~such~~ those court decisions."

24

25 **SECTION 20. SECTION 20-25-503, MCA, IS AMENDED TO READ:**

26 **"20-25-503. Presumptions and rules as to domicile.** (1) Unless the contrary appears to the unit
27 registering authority, it is presumed the domicile of a minor is that:

28 (a) of the parents or, if one of them is deceased or they do not share the same domicile, of the
29 parent having legal custody or, if neither parent has legal custody, the parent with whom the minor
30 customarily resides; or

1 (b) of ~~his~~ the minor's guardian when the court appointing the guardian certifies that the primary
2 purpose of the appointment is not to qualify the minor as a resident of this state.

3 (2) A resident student who marries a nonresident does not by that fact alone lose resident status
4 for tuition and fee purposes for a period of 4 years after marriage.

5 (3) Residence is not lost because of relocation as a member of the armed forces of the United
6 States.

7 (4) A new domicile is established by a qualified person if ~~he~~ the person is physically present in
8 Montana with no intention to acquire a domicile outside of Montana.

9 (5) Domicile is not lost by absence from Montana with no intention to establish a new domicile.

10 (6) Montana high school graduates who are citizens or resident aliens of the United States are
11 resident students of the system for 4 consecutive years of attendance if:

12 (a) they apply for admittance to the system within 1 year after graduation; or

13 (b) their parents or the parent having legal custody or, if neither parent has legal custody, the
14 parent with whom they customarily reside has resided in Montana in one of the 2 years immediately
15 preceding the graduation.

16 (7) Upon moving to Montana, an adult employed on a full-time basis within the state of Montana
17 may apply for in-state tuition classification for ~~his~~ the adult's spouse or any dependent minor child, or both.
18 If ~~such~~ the person meets the requirement of full-time employment within the state of Montana and files for
19 the payment of Montana state income taxes or files estimates of those taxes or is subject to withholding
20 of those taxes and renounces ~~his~~ residency in any other state and is not ~~himself~~ in the state primarily as
21 a student, ~~his~~ the person's spouse or any dependent minor child, or both, may at the next registration after
22 qualifying be classified at the in-state rate so long as ~~he~~ the person continues ~~his~~ A Montana domicile. In
23 the administration of this subsection, neither the full-time employee or spouse ~~shall be~~ is eligible for in-state
24 tuition classification if the primary purpose for coming to Montana was the education of the employee or
25 spouse."

26

27 **Section 21.** Section 20-32-101, MCA, is amended to read:

28 "20-32-101. **Purpose -- definition.** (1) The purpose of this part is to establish a Montana
29 educational telecommunications network.

30 (2) For the purposes of this part, "network" means the Montana educational telecommunications

1 network (METNET).

2 (3) The aims of the network are to provide:

3 (a) instructional and educational coursework and materials through telecommunications delivery
4 to students in kindergarten through 12th grade in the Montana public school system;

5 (b) instructional and educational coursework and materials through telecommunications delivery
6 to students enrolled in units of the Montana university system, ~~the vocational technical centers,~~ and the
7 community colleges;

8 (c) instructional and professional development or other appropriate inservice training for teachers
9 in the schools of the state; and

10 (d) telecommunications capabilities to agencies, subdivisions of state government, and public
11 libraries in order to improve their ability to perform their responsibilities and duties."

12

13 **Section 22.** Section 20-32-102, MCA, is amended to read:

14 "20-32-102. **Agency cooperation -- responsibilities.** (1) To meet the objectives of the network, the
15 following entities shall cooperate with one another:

16 (a) the department of administration, with its responsibilities for telecommunications for agencies
17 of state government;

18 (b) the superintendent of public instruction, with a supervisory role over the public system of
19 elementary and high schools; and

20 (c) the commissioner of higher education, with responsibilities to the Montana university system,
21 ~~the vocational technical centers,~~ and the community colleges.

22 (2) The responsibilities of the superintendent of public instruction to the network include but are
23 not limited to:

24 (a) general supervision of delivery of educational materials through telecommunications to
25 elementary and high school districts in the state;

26 (b) compilation, maintenance, and dissemination to participating school districts of information that
27 identifies the educational programming available from within and from outside the state;

28 (c) training of teachers and other school personnel in the use of telecommunications technologies
29 for instructional purposes;

30 (d) assistance to school districts in identifying and procuring the telecommunications technologies

- 1 needed to interface with the network;
- 2 (e) identification of production capability for telecommunication of educational materials;
- 3 (f) assistance to participating school districts with group purchases of instructional and educational
4 materials;
- 5 (g) coordination with the commissioner of higher education and the units of the Montana university
6 system to offer advanced placement courses, teacher inservice training, and other instruction through the
7 network;
- 8 (h) payment of the superintendent's share of the network costs to the department of
9 administration, as provided in 20-32-104;
- 10 (i) coordination with the department of administration to ensure compatibility of network
11 components, to minimize duplication of efforts on behalf of the network, and to maximize use of the
12 network by school districts; and
- 13 (j) determination of kinds of equipment, inservice, and district accounting necessary to implement
14 the provisions of this part for school districts.
- 15 (3) The responsibilities of the department of administration to the network include but are not
16 limited to:
- 17 (a) provision of technical support to the coordinating agencies referred to in subsection (1);
- 18 (b) development of standards of compatibility for the network;
- 19 (c) procurement and management of network equipment and facilities that have shared use by
20 multiple users or agencies;
- 21 (d) assistance with procurement, installation, maintenance, and operation of end-terminal
22 equipment and facilities of the network;
- 23 (e) minimizing any duplication of equipment and facilities within the network and in conjunction
24 with the department of administration's other networking capabilities;
- 25 (f) coordination of use of the network by state agencies, subdivisions of the state, and public
26 libraries in a manner that does not interfere with the delivery of the primary network function of providing
27 educational services to school districts and state units of higher education;
- 28 (g) studying the use of the network by Native American tribal colleges and other nonpublic
29 education institutions in the state, with the long-range goal of coordinating the use of the network with
30 those entities; and

1 (h) maintenance of cost and usage records and a billing system for user agencies for services
2 rendered that incur marginal costs for the network.

3 (4) The responsibilities of the commissioner of higher education to the network include but are not
4 limited to:

5 (a) coordination of the use of the network among the units of higher education and with the
6 superintendent of public instruction and the department of administration;

7 (b) assistance to the units of the Montana university system to provide college credit courses
8 through the network to students throughout the state;

9 (c) coordination with the superintendent of public instruction to develop advance placement
10 courses for high school students in Montana, teacher inservice training, and other services and instruction
11 through the network;

12 (d) assistance to the units of the Montana university system, ~~the vocational technical centers,~~ and
13 the community colleges in defining their specific needs for interfacing with the network;

14 (e) assistance to participating units, centers, and colleges with group purchases of instructional
15 and educational materials; and

16 (f) determination of the kinds of equipment, inservice, and accounting necessary to implement the
17 provisions of this part for the university system, and community colleges, ~~and vocational technical centers.~~"

18
19 **Section 23.** Section 20-32-103, MCA, is amended to read:

20 **"20-32-103. Fee collection and disposition for operational costs.** As a condition of participation
21 in the network, the Montana university system, ~~vocational technical centers,~~ and community colleges shall
22 collect from appropriate discretionary funds in a manner approved by the board of regents an amount not
23 to exceed \$5 for each full-time equivalent student enrolled in the units, ~~centers,~~ or colleges. The funds
24 collected must be deposited with the commissioner of higher education by July 1 for the purposes of
25 20-32-102(4). The commissioner of higher education shall pay the department of administration the
26 commissioner's share of the network costs."

27
28 **Section 24.** Section 23-1-313, MCA, is amended to read:

29 **"23-1-313. Term of enrollment -- compensation -- exemption from employee benefits.** (1) A
30 corpsmember will be placed for a period not to exceed 12 months. The program operator shall refer the

1 names of corpsmembers who successfully complete their participation in the corps to the job service for
 2 assistance in securing private sector employment or for enrollment in additional job training programs. The
 3 program operator may also, upon approval of the corpsmember, provide the name of a corpsmember who
 4 successfully completes ~~his~~ participation in the corps to private sector employers requesting referrals.

5 (2) A corpsmember may not be scheduled to work for more than 40 hours per week. Job training
 6 and placement services must be provided to corpsmembers during regular work hours. Corpsmembers must
 7 be compensated as provided in subsection (3) for participation in job training and placement service
 8 programs.

9 (3) A corpsmember must be compensated at a rate set by the department that is not less than the
 10 federal minimum wage.

11 (4) A corpsmember is not entitled to any employee benefits provided to permanent department or
 12 agency employees except for holiday pay and workers' compensation benefits that are provided through
 13 the funds appropriated to carry out this part. Service as a corpsmember does not qualify an individual for
 14 unemployment compensation benefits.

15 (5) If funds are available, a person who is employed as a corpsmember for the full period of
 16 enrollment and who receives a satisfactory employment evaluation may be awarded an incentive voucher
 17 valid for up to 3 years at any Montana institution of higher education ~~or vocational-technical center.~~"

18

19 **Section 25.** Section 37-8-102, MCA, is amended to read:

20 **"37-8-102. Definitions.** Unless the context requires otherwise, in this chapter, the following
 21 definitions apply:

22 (1) "Advanced practice registered nurse" means a registered professional nurse who has completed
 23 educational requirements related to the nurse's specific practice role, in addition to basic nursing education,
 24 as specified by the board pursuant to 37-8-202(5)(a).

25 (2) "Board" means the board of nursing provided for in 2-15-1844.

26 (3) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

27 (4) "Nursing education program" means any board-approved school that prepares graduates for
 28 initial licensure under this chapter. Nursing education programs for:

29 (a) professional nursing may be a department, school, division, or other administrative unit in a
 30 senior or junior college or university;

1 (b) practical nursing may be a department, school, division, or other administrative unit in a
2 vocational-technical ~~center~~ institution or junior college.

3 (5) "Practice of nursing" embraces two classes of nursing service and activity, as follows:

4 (a) "Practice of practical nursing" means the performance for compensation of services requiring
5 basic knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of
6 nursing procedures. Practical nursing practice ~~utilizes~~ uses standardized procedures in the observation and
7 care of the ill, injured, and infirm; in the maintenance of health; in action to safeguard life and health; and
8 in the administration of medications and treatments prescribed by a physician, advanced practice registered
9 nurse, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments.
10 These services are performed under the supervision of a registered nurse or a physician, dentist, osteopath,
11 or podiatrist authorized by state law to prescribe medications and treatments.

12 (b) "Practice of professional nursing" means the performance for compensation of services requiring
13 substantial specialized knowledge of the biological, physical, behavioral, psychological, and sociological
14 sciences and of nursing theory as a basis for the nursing process. The nursing process is the assessment,
15 nursing analysis, planning, nursing intervention, and evaluation in the promotion and maintenance of health;
16 the prevention, casefinding, and management of illness, injury, or infirmity; and the restoration of optimum
17 function. The term also includes administration, teaching, counseling, supervision, delegation, and
18 evaluation of nursing practice and the administration of medications and treatments prescribed by
19 physicians, advanced practice registered nurses, dentists, osteopaths, or podiatrists authorized by state law
20 to prescribe medications and treatments. Each registered nurse is directly accountable and responsible to
21 the consumer for the quality of nursing care rendered. As used in this subsection (5)(b):

22 (i) "nursing analysis" is the identification of those client problems for which nursing care is
23 indicated and may include referral to medical or community resources;

24 (ii) "nursing intervention" is the implementation of a plan of nursing care necessary to accomplish
25 defined goals."

26
27 **Section 26.** Section 37-31-304, MCA, is amended to read:

28 **"37-31-304. Qualifications of applicants for license to practice.** (1) Before a person may practice
29 cosmetology, the person shall obtain a license to practice cosmetology from the department. Before a
30 person may practice manicuring, the person shall obtain a license to practice manicuring from the

1 department unless the person is licensed to practice cosmetology.

2 (2) (a) To be eligible to take the examination to practice cosmetology, the applicant may not be
3 less than 18 years of age, must be of good moral character, and must possess a high school diploma or
4 the equivalent of a high school diploma recognized by the superintendent of public instruction. A person
5 may apply to the board for an exception to the educational requirement of a high school diploma or the
6 equivalent of a high school diploma. The board shall adopt by rule procedures for granting an exception.
7 The applicant must have completed a course of study of at least 2,000 hours in a registered cosmetology
8 school and must have received a diploma from the cosmetology school or must have completed the course
9 of study in cosmetology prescribed by the board.

10 (b) A person qualified under subsection (2)(a) shall file with the department a written application
11 to take the examination and shall deposit with the department the required examination fee and pass an
12 examination as to fitness to practice cosmetology.

13 (3) (a) To be eligible to take the examination to practice manicuring, an applicant may not be less
14 than 18 years of age; must be of good moral character; possess a high school diploma, the equivalent of
15 a high school diploma recognized by the superintendent of public instruction, or a certificate of completion
16 from a vocational-technical ~~center~~ program; and must have completed a course of study prescribed by the
17 board in a registered school of cosmetology or a registered school of manicuring. A person may apply to
18 the board for an exception to the educational requirement of a high school diploma, the equivalent of a high
19 school diploma, or a vocational-technical ~~center~~ program certificate of completion. The board shall adopt
20 by rule procedures for granting an exception.

21 (b) A person qualified under subsection (3)(a) shall file with the department a written application
22 to take the examination and deposit with the department the required examination fee."
23

24 **Section 27.** Section 39-29-101, MCA, is amended to read:

25 **"39-29-101. Definitions.** For the purposes of this chapter, the following definitions apply:

26 (1) "Active duty" means full-time duty with military pay and allowances in the armed forces, except
27 for training, determining physical fitness, or service in the reserve or national guard.

28 (2) "Armed forces" means the United States:

29 (a) army, navy, air force, marine corps, and coast guard; and

30 (b) merchant marine for service recognized by the United States department of defense as active

1 military service for the purpose of laws administered by the department of veterans affairs.

2 (3) "Disabled veteran" means a person:

3 (a) whether or not the person is a veteran as defined in this section, who was separated under
4 honorable conditions from active duty in the armed forces and has established the present existence of a
5 service-connected disability or is receiving compensation, disability retirement benefits, or pension because
6 of a law administered by the department of veterans affairs or a military department; or

7 (b) who has received a purple heart medal.

8 (4) "Eligible relative" means:

9 (a) the unmarried surviving spouse of a veteran or disabled veteran;

10 (b) the spouse of a disabled veteran who is unable to qualify for appointment to a position;

11 (c) the mother of a veteran who died under honorable conditions while serving in the armed forces

12 if:

13 (i) the mother's spouse is totally and permanently disabled; or

14 (ii) the mother is the widow of the father of the veteran and has not remarried;

15 (d) the mother of a service-connected permanently and totally disabled veteran if:

16 (i) the mother's spouse is totally and permanently disabled; or

17 (ii) the mother is the widow of the father of the veteran and has not remarried.

18 (5) "Position" means a permanent, temporary, or seasonal position as defined in 2-18-101 for a
19 state position or a similar permanent, temporary, or seasonal position with a public employer other than the
20 state. The term does not include:

21 (a) a state or local elected office;

22 (b) appointment by an elected official to a body such as a board, commission, committee, or
23 council;

24 (c) appointment by an elected official to a public office if the appointment is provided for by law;

25 (d) a department head appointment by the governor or an executive department head appointment
26 by a mayor, city manager, county commissioner, or other chief administrative or executive officer of a local
27 government; or

28 (e) engagement as an independent contractor or employment by an independent contractor.

29 (6) "Public employer" means:

30 (a) a department, office, board, bureau, commission, agency, or other instrumentality of the

1 executive, legislative, or judicial branches of the government of this state;

2 (b) a unit of the Montana university system ~~or a vocational technical center;~~

3 (c) a school district or community college; and

4 (d) a county, city, or town.

5 (7) "Scored procedure" means a written test, structured oral interview, performance test, or other
6 selection procedure or a combination of these procedures that result in a numerical score to which
7 percentage points may be added.

8 (8) "Under honorable conditions" means a discharge or separation from active duty characterized
9 by the armed forces as under honorable conditions. The term includes honorable discharges and general
10 discharges but does not include dishonorable discharges or other administrative discharges characterized
11 as other than honorable.

12 (9) "Veteran" means a person who:

13 (a) was separated under honorable conditions from active duty in the armed forces after having
14 served more than 180 consecutive days, other than for training; or

15 (b) as a member of a reserve component under an order of active duty pursuant to 10 U.S.C.
16 672(a), (d), or (g), 10 U.S.C. 673, or 10 U.S.C. 673b served on active duty during a period of war or in
17 a campaign or expedition for which a campaign badge is authorized and was discharged or released from
18 duty under honorable conditions."

19

20 **Section 28.** Section 39-30-103, MCA, is amended to read:

21 **"39-30-103. Definitions.** For the purposes of this chapter, the following definitions apply:

22 (1) "Eligible spouse" means the spouse of a handicapped person determined by the department of
23 social and rehabilitation services to have a 100% disability who is unable to use ~~his~~ the employment
24 preference because of ~~his~~ the person's disability.

25 (2) "Handicapped person" means an individual certified by the department of social and
26 rehabilitation services to have a physical or mental impairment that substantially limits one or more major
27 life activities, such as writing, seeing, hearing, speaking, or mobility, and that limits the individual's ability
28 to obtain, retain, or advance in employment.

29 (3) (a) "Initial hiring" means a personnel action for which applications are solicited from outside the
30 ranks of the current employees of:

- 1 (i) a department, as defined in 2-15-102, for a position within the executive branch;
- 2 (ii) a legislative agency, such as the consumer counsel, environmental quality council, office of the
3 legislative auditor, legislative council, or office of the legislative fiscal analyst, for a position within the
4 legislative branch;
- 5 (iii) a judicial agency, such as the office of supreme court administrator, office of supreme court
6 clerk, state law library, or similar office in a state district court for a position within the judicial branch;
- 7 (iv) a city or town for a municipal position, including a city or municipal court position; and
- 8 (v) a county for a county position, including a justice's court position.
- 9 (b) A personnel action limited to current employees of a specific public entity identified in
10 subsections ~~(3)(a)(i) through (3)(a)(v) of this subsection (3)~~, current employees in a reduction-in-force pool
11 who have been laid off from a specific public entity identified in subsections ~~(3)(a)(i) through (3)(a)(v) of~~
12 ~~this subsection (3)~~, or current participants in a federally authorized employment program is not an initial
13 hiring.
- 14 (4) (a) "Mental impairment" means:
- 15 (i) suffering from a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or
16 any other neurologically handicapping condition closely related to mental retardation and requiring treatment
17 similar to that required by mentally retarded individuals; or
- 18 (ii) an organic or mental impairment that has substantial adverse effects on an individual's cognitive
19 or volitional functions.
- 20 (b) The term mental impairment does not include alcoholism or drug addiction and does not include
21 any mental impairment, disease, or defect that has been asserted by the individual claiming the preference
22 as a defense to any criminal charge.
- 23 (5) "Position" means a permanent or seasonal position as defined in 2-18-101 for a state position
24 or a similar permanent or seasonal position with a public employer other than the state. However, the term
25 does not include:
- 26 (a) a temporary position as defined in 2-18-101 for a state position or similar temporary position
27 with a public employer other than the state;
- 28 (b) a state or local elected official;
- 29 (c) employment as an elected official's immediate secretary, legal advisor, court reporter, or
30 administrative, legislative, or other immediate or first-line aide;

1 (d) appointment by an elected official to a body such as a board, commission, committee, or
2 council;

3 (e) appointment by an elected official to a public office if the appointment is provided for by law;

4 (f) a department head appointment by the governor or an executive department head appointment
5 by a mayor, city manager, county commissioner, or other chief administrative or executive officer of a local
6 government; or

7 (g) engagement as an independent contractor or employment by an independent contractor.

8 (6) (a) "Public employer" means:

9 (i) any department, office, board, bureau, commission, agency, or other instrumentality of the
10 executive, judicial, or legislative branch of the government of the state of Montana; and

11 (ii) any county, city, or town.

12 (b) The term does not include a school district, a vocational-technical ~~center or~~ program, a
13 community college, the board of regents of higher education, the Montana university system, a special
14 purpose district, an authority, or any political subdivision of the state other than a county, city, or town.

15 (7) "Substantially equal qualifications" means the qualifications of two or more persons among
16 whom the public employer cannot make a reasonable determination that the qualifications held by one
17 person are significantly better suited for the position than the qualifications held by the other persons."

18

19 **Section 29.** Section 39-71-117, MCA, is amended to read:

20 **"39-71-117. Employer defined.** (1) "Employer" means:

21 (a) the state and each county, city and county, city school district, and irrigation district_; all other
22 districts established by law_; ~~and~~ all public corporations and quasi-public corporations and public agencies
23 therein_; ~~and every each~~ person_; ~~every each~~ prime contractor_; ~~and every each~~ firm, voluntary association,
24 and private corporation, including any public service corporation and including an independent contractor
25 who has any person in service under any appointment or contract of hire, expressed or implied, oral or
26 written_; and the legal representative of any deceased employer or the receiver or trustee ~~thereof~~ of the
27 deceased employer;

28 (b) any association, corporation, or organization that seeks permission and meets the requirements
29 set by the department by rule for a group of individual employers to operate as self-insured under plan No.
30 1 of this chapter; and

1 (c) any nonprofit association or corporation or other entity funded in whole or in part by federal,
2 state, or local government funds that places community service participants, as ~~defined~~ described in
3 39-71-118~~(1)(f)~~(1)(e), with nonprofit organizations or associations or federal, state, or local government
4 entities.

5 (2) A temporary service contractor is the employer of a temporary worker for premium and loss
6 experience purposes.

7 (3) An employer defined in subsection (1) who utilizes the services of a worker furnished by
8 another person, association, contractor, firm, or corporation, other than a temporary service contractor,
9 is presumed to be the employer for workers' compensation premium and loss experience purposes for work
10 performed by the worker. The presumption may be rebutted by substantial credible evidence of the
11 following:

12 (a) the person, association, contractor, firm, or corporation, other than a temporary service
13 contractor, furnishing the services of a worker to another retains control over all aspects of the work
14 performed by the worker, both at the inception of employment and during all phases of the work; and

15 (b) the person, association, contractor, firm, or corporation, other than a temporary service
16 contractor, furnishing the services of a worker to another has obtained workers' compensation insurance
17 for the worker in Montana both at the inception of employment and during all phases of the work
18 performed.

19 (4) Notwithstanding the provisions of subsection (3), an interstate or intrastate common or contract
20 motor carrier doing business in this state who utilizes drivers in this state is considered the employer, is
21 liable for workers' compensation premiums, and is subject to loss experience rating in this state unless:

22 (a) the driver in this state is certified as an independent contractor as provided in 39-71-401(3);
23 or

24 (b) the person, association, contractor, firm, or corporation furnishing drivers in this state to a
25 motor carrier has obtained workers' compensation insurance on the drivers in Montana both at the inception
26 of employment and during all phases of the work performed."

27
28 **Section 30.** Section 39-71-118, MCA, is amended to read:

29 **"39-71-118. Employee, worker, and volunteer firefighter defined.** (1) The terms "employee" or
30 "worker" means:

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

10 (b) any juvenile performing work under authorization of a district court judge in a delinquency
 11 prevention or rehabilitation program;

12 (c) a person receiving on-the-job vocational rehabilitation training or other on-the-job training under
 13 a state or federal vocational training program, whether or not under an appointment or contract of hire with
 14 an employer as defined in this chapter and whether or not receiving payment from a third party. However,
 15 this subsection does not apply to students enrolled in vocational training programs as outlined in this
 16 subsection while they are on the premises of a public school or community college.

17 ~~(d) students enrolled and in attendance in programs of vocational technical education at designated~~
 18 ~~vocational technical centers;~~

19 ~~(d)~~ (d) an aircrew member or other person employed as a volunteer under 67-2-105;

20 ~~(e)~~ (e) a person, other than a juvenile as defined in subsection (1)(b), performing community service
 21 for a nonprofit organization or association or for a federal, state, or local government entity under a court
 22 order, or an order from a hearings officer as a result of a probation or parole violation, whether or not under
 23 appointment or contract of hire with an employer as defined in this chapter and whether or not receiving
 24 payment from a third party. For a person covered by the definition in this subsection ~~(e)~~:

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

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

1 ~~(g)~~(f) an inmate working in a federally certified prison industries program authorized under
2 53-1-301.

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

4 (a) participating in recreational activity and who at the time is relieved of and is not performing
5 prescribed duties, regardless of whether the person is using, by discount or otherwise, a pass, ticket,
6 permit, device, or other emolument of employment; or

7 (b) performing voluntary service at a recreational facility and who receives no compensation for
8 those services other than meals, lodging, or the use of the recreational facilities.

9 (3) The term "volunteer firefighter" means a firefighter who is an enrolled and active member of
10 a fire company organized and funded by a county, a rural fire district, or a fire service area.

11 (4) (a) If the employer is a partnership or sole proprietorship, the employer may elect to include as
12 an employee within the provisions of this chapter any member of the partnership or the owner of the sole
13 proprietorship devoting full time to the partnership or proprietorship business.

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

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

20 (d) All weekly compensation benefits must be based on the amount of elected wages, subject to
21 the minimum and maximum limitations of this subsection. For premium ratemaking and for the
22 determination of weekly wage for weekly compensation benefits, the electing employer may elect not less
23 than \$900 a month and not more than 1 ½ times the average weekly wage as defined in this chapter.

24 (5) The trustees of a rural fire district, a county governing body providing rural fire protection, or
25 the county commissioners or trustees for a fire service area may elect to include as an employee within the
26 provisions of this chapter any volunteer firefighter. A volunteer firefighter who receives workers'
27 compensation coverage under this section may not receive disability benefits under Title 19, chapter 17.

28 (6) An employee or worker in this state whose services are furnished by a person, association,
29 contractor, firm, or corporation, other than a temporary service contractor, to an employer as defined in
30 39-71-117 is presumed to be under the control and employment of the employer. This presumption may

1 be rebutted as provided in 39-71-117(3).

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

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

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

7 (c) a nonresident employee of an employer from another state engaged in the construction industry,
8 as defined in 39-71-116, within this state; or

9 (d) a nonresident of Montana who does not meet the requirements of subsection (7)(b) and whose
10 employer elects coverage with an insurer that allows an election for an employer whose:

11 (i) nonresident employees are hired in Montana;

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

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

14 (iv) business records are maintained in Montana.

15 (8) An insurer may require coverage for all nonresident employees of a Montana employer who do
16 not meet the requirements of subsection (7)(b) or (7)(d) as a condition of approving the election under
17 subsection (7)(d)."

18

19 **Section 31. Section 39-71-744, MCA, is amended to read:**

20 **"39-71-744. Benefits not due while claimant is incarcerated -- exceptions.** (1) Except as provided
21 in subsection (2), a claimant is not eligible for disability or rehabilitation compensation benefits while the
22 claimant is incarcerated in a correctional institution, such as the Montana state prison or the Montana
23 women's correctional center, as the result of conviction of a felony. The insurer remains liable for medical
24 benefits. A time limit on benefits otherwise provided in this chapter is not extended due to a period of
25 incarceration.

26 (2) A person who is employed while participating in a prerelease center program or a diversionary
27 program is eligible for temporary total benefits as provided in 39-71-701 and medical benefits for a
28 work-related injury received while participating in a prerelease center program or a diversionary program.
29 Other disability or rehabilitation benefits are not payable while the worker is participating in a prerelease
30 center. This subsection does not prohibit the reinstatement of other benefits upon release from

1 incarceration, nor does it apply to an employee performing community service described in
2 39-71-118(1)(e)."

3

4 **Section 32.** Section 50-40-204, MCA, is amended to read:

5 **"50-40-204. Smoke-free buildings -- designated smoking areas.** (1) In buildings both owned and
6 occupied by the state, smoking is prohibited in the following areas:

- 7 (a) general office space;
- 8 (b) auditoriums, classrooms, and conference rooms;
- 9 (c) elevators;
- 10 (d) corridors, lobbies, restrooms, and stairways;
- 11 (e) medical care facilities;
- 12 (f) libraries; and
- 13 (g) hazardous areas.

14 (2) (a) Subject to subsection (1), in state-owned buildings, an agency head shall establish at least
15 one designated smoking area in the building occupied by the agency, provided that the building is suited
16 by architectural design and functional purpose to have a designated smoking area as defined in 50-40-203.

17 (b) Buildings in the Montana university system, ~~including the vocational technical centers,~~ and
18 buildings housing items of artistic or historic value that may be damaged by smoke are exempt from the
19 provisions of subsection (2)(a).

20 (3) In establishing designated smoking areas, as provided in subsection (2), an agency head shall
21 consider:

- 22 (a) the number of smokers and nonsmokers in the agency;
- 23 (b) the building ventilation system;
- 24 (c) the availability of space;
- 25 (d) the protection of nonsmokers from involuntary exposure to smoke; and
- 26 (e) available resources.

27 (4) (a) Agencies in multitenant buildings are encouraged to work together to identify designated
28 smoking areas.

29 (b) The legislature shall establish designated smoking areas in the capitol in areas used by the
30 legislature."

1 **Section 33.** Section 50-74-305, MCA, is amended to read:

2 "50-74-305. **Exceptions to requirements for engineer's license.** Allowable exceptions or variances
3 to the minimum requirements set out in 50-74-304 are as follows:

4 (1) An applicant for an engineer's license in any classification ~~holding~~ who holds a valid license in
5 that classification from another state having licensing requirements equal to or exceeding the minimum
6 requirements set out in 50-74-304, who successfully ~~passing~~ passes a written examination prescribed by
7 the department, and who is found to be competent to operate a boiler and steam-driven machinery in that
8 classification ~~shall~~ must be granted a license in that classification.

9 (2) Operating experience in a classification accumulated in the United States military services or
10 the merchant marine service satisfactory to the department may be accepted in lieu of the operating
11 experience required for licensing of engineers in each of the license classifications.

12 (3) An applicant having training in the operation of steam or water boilers and steam machinery
13 who has been certified as having satisfactorily completed a prescribed training course from a ~~recognized~~
14 ~~vocational-technical training school or center or other~~ department-approved institution or training program
15 in the classification for which ~~he~~ the applicant is applying may, at the discretion of the department, be
16 credited with a maximum of 6 months' experience toward a first-, second-, or third-class engineer's
17 license."
18

19 **NEW SECTION. Section 34. Vocational-technical education -- mill levy required.** (1) The boards
20 of county commissioners of Cascade, Lewis and Clark, Missoula, Silver Bow, and Yellowstone Counties
21 shall in each calendar year levy a tax of 1 1/2 mills on the dollar value of all taxable property, real and
22 personal, located within the respective county.

23 (2) The funds from the mill levy must be deposited in the general fund and must be distributed for
24 vocational-technical education on the basis of budgets approved by the board of regents.
25

26 **NEW SECTION. Section 35. Repealer.** (1) Sections 20-16-101, 20-16-102, 20-16-103,
27 20-16-104, 20-16-105, 20-16-106, 20-16-107, 20-16-108, 20-16-109, 20-16-201, 20-16-203,
28 20-16-204, 20-16-205, 20-16-206, 20-16-207, 20-25-251, 20-25-401, 20-25-431, 20-25-432,
29 20-25-433, 20-25-434, and 60-2-216, MCA, are repealed.

30 (2) Section 20-16-202, MCA, is repealed.

